

WATER PERMIT NO. 2831-2

Name of Applicant: **Hell Canyon Horse Camp & RV Resort**

Address: **11596 US Hwy 16, Custer SD 57730**

Phone: **337-764-7141**

Amount of Water Claimed: **0.07 cfs (1 AF)**

Total Acres: **NA**

Source of Water Supply: **groundwater (2 existing wells)**

Water to be used for: **commercial**

County: **Custer**

Type of Waste Disposal System:

Location: **7 miles southwest of Custer**

PRIORITY

Date Received: **10-20-21**

Application/License Fee: **\$ 300**

Corrected Application Received:

Period of Annual Use: **Jan 1- Dec 31**

Remarks:

Diversion Point: **NE 1/4 SE 1/4 Sec 34, NW 1/4**

SW 1/4 Sec 35; all in T3S-R3E (Lots 1 & 2

Andrews Subdivision)

Land to be Irrigated: **NA**

Depth of Well: **140 feet deep**

Well Driller:

Remarks:

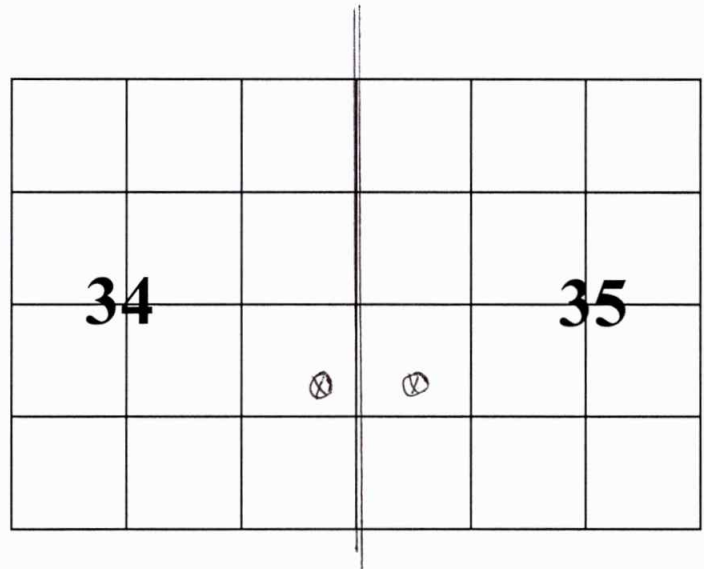
Type of Map: **plat**

Prepared by:

Reviewed and the Number Assigned on: **10-20-21**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 2831-2**

Date of first receipt of application October 20, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2831-2 to Hell Canyon Horse Camp & RV Resort, c/o Paul Constance, 11596 US Hwy 16, Custer SD 57730 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2831-2 appropriates an amount not exceeding 1.0 acre-feet of water annually at a maximum pump rate of 0.07 cubic feet of water per second from two existing wells completed into the Crystalline Rock Aquifer (140 feet deep) located in the NE 1/4 SE 1/4 (Lot 1 Andrews Subdivision) Section 34 and the NW 1/4 SW 1/4 (Lot 2 Andrews Subdivision) Section 35; all in T3S-R3E. This site is located approximately 7 miles southwest of Custer SD.
2. The water appropriated shall be used for the purpose of commercial and domestic use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is October 20, 2021.
5. The date of approval of Permit No. 2831-2 is January 3, 2022.
6. One-fifth of the construction is to be completed on or before July 3, 2024.
7. All construction is to be completed on or before January 3, 2027.
8. Water is to be put to beneficial use on or before January 3, 2031.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

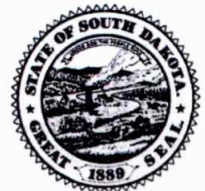
QUALIFICATIONS

1. The wells approved under Water Permit No. 2831-2 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals under this Permit shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2831-2 authorizes a total annual diversion of up to 1.0 acre-feet of water.

WATER MANAGEMENT BOARD

By: Eric Grönlund
Eric Grönlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

MAR 30 2022
date



RECEIVED

OCT 20 2021

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2831-2</u> (office use only) Hydrologic Unit <u>1012010</u> WATER RIGHTS PROGRAM
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Custer Co Chronicle</u> <u>Rapid City Journal</u>

PAID
OCT 20 2021
Ck# 1096

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other	

Type of Application: (check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

Change from residential to commercial

- Name to Appear on Water Permit Hell Canyon Horse Camp & RV Resort
Mailing Address 11596 US HWY 16 Custer SD 57730
(Address) (City) (State) (Zip Code)
Phone 605-673-4333 Mobile 337-764-7141 Email hellcanyonhorsecamp@goldenwe
- Amount of water claimed 0.07 *CFS or 30 **GPM and 1 ***AF or 32585 Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use)
- Source of water supply 2 existing wells Well #1 - NE 1/4 SE 1/4 Sec 34 Well #2 - NW 1/4 SW 1/4 Sec 35 T35-R3E
- Location of point of diversion 2 wells see attached well reports County Custer
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No
If "Yes," where will water be used? Lots 1 & 2 Andrews Subdivision
(example - NW 1/4 section 12-T104N-R53W)
- County or counties where water will be used Custer
- Annual period during which water is to be used Year Around Jan 1 - Dec 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Plan to use 2 existing wells which were previously used as residential and will now be used for a horse camp. Residential use will also continue.

I, Paul Constance Owner, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☒ Using existing well(s)

a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many 2 Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

See Attached Reports

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field)

#1 septic drainfield
#2 septic drainfield
#3 septic drainfield

b) System Capacity (gallons) #1 1000
#2 2500
#3 2000

Year Constructed #1 2002
#2 2003
#3 2021

c) Connected to the City of N/A Sanitary System

3. Dugout Information

a) Surface Dimensions N/A Depth ____

b) Depth to water (ground surface to water level) ____

4. Water Storage Dams

N/A

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

b) Freeboard ____

c) Crest Width ____

Crest Length ____

d) Height ____

e) Primary Outlet Capacity ____

If pipe, diameter ____

f) Secondary Spillway Capacity ____

Spillway Width ____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

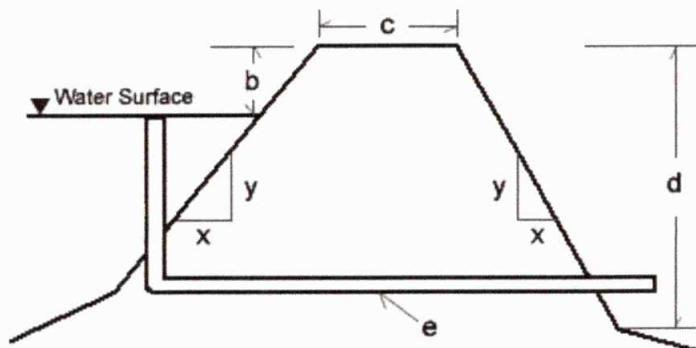
Upstream ____

Downstream ____

h) Surface Area of Impoundment ____

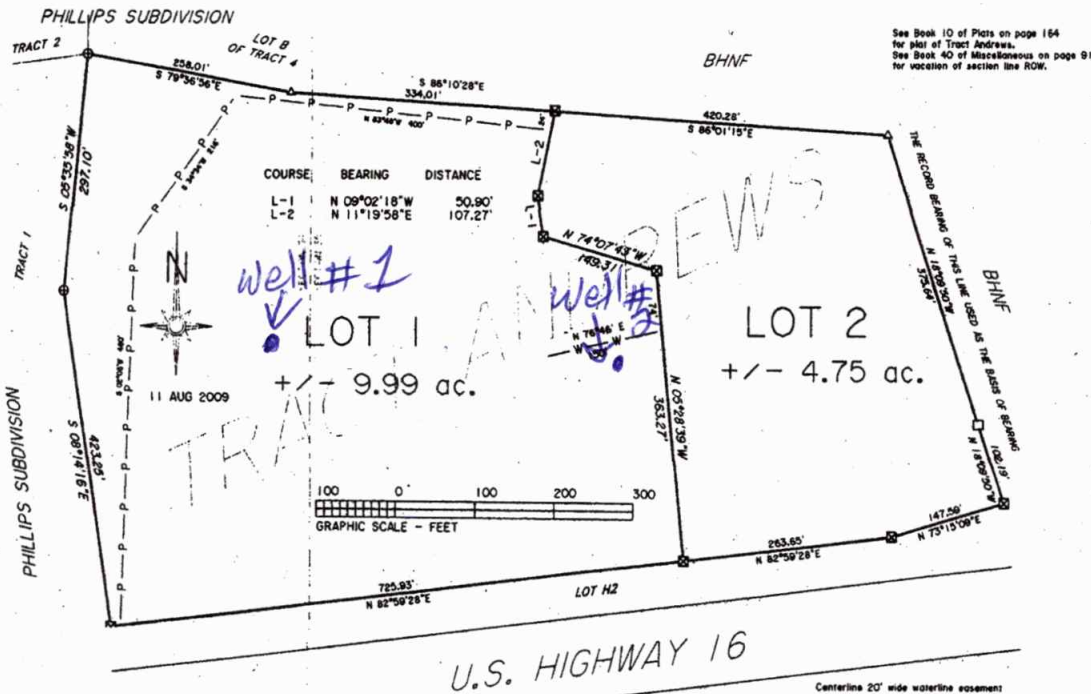
i) Storage ____ Acre Feet

j) Drainage Area Above Dam ____ Acres



ANDREWS SUBDIVISION

A PLAT OF LOTS 1 AND 2 OF ANDREWS SUBDIVISION
OF TRACT ANDREWS, A PORTION OF MS No. 1297 AND MS No. 1968,
SITUATED IN THE SE 1/4 OF SECTION 34 AND THE SW 1/4 OF
SECTION 35, T3S, R3E, BHM, CUSTER COUNTY, SD



CERTIFICATE OF SURVEYOR

I, Keith E. Andersen, Registered Land Surveyor No. 2842 in the State of South Dakota, do hereby certify that being so authorized I have prepared the within plat of land shown and described by from notes taken during an actual survey made by me or under my direct supervision, and that to the best of my knowledge and belief, the same is a true and correct representation of the survey.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this 9th day of September, 2007.



STATE OF SOUTH DAKOTA
COUNTY OF CUSTER

We, Leslie B. and Linda A. Fleming, do hereby certify that we are the owners of the within described lands and that the within plat was made at our direction for the purposes indicated therein, and that the development of this land shall conform to all existing zoning, subdivision, and zoning and sediment control regulations.

ACKNOWLEDGEMENT OF OWNERSHIP

STATE OF SOUTH DAKOTA
COUNTY OF CUSTER

On this 9th day of Sept., 2007, before me, a Notary Public, personally appeared Leslie B. and Linda A. Fleming, known to me to be the person described in the foregoing instrument, and acknowledged to me that they signed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, this 9th day of Sept., 2007.

Notary Public

CERTIFICATE OF COUNTY TREASURER

I, Leslie B. and Linda A. Fleming, Treasurer, do hereby certify that all taxes and special assessments which are liens upon the within described lands are fully paid according to the records of this office.

Dated this 9th day of Sept., 2007.

County Clerk

CERTIFICATE OF COUNTY DIRECTOR OF EQUALIZATION

I, Director of Equalization of Custer County, do hereby certify that my office has been furnished with a true copy of the within plat. Dated this 10th day of Sept., 2007.

Director of Equalization of Custer County

OFFICE OF THE REGISTER OF DEEDS

Filed for record this 14th day of Sept., 2007, at 4:00 P.M. and recorded in Book 12 of Plats on page 444.

County Register of Deeds

Our 1 P658

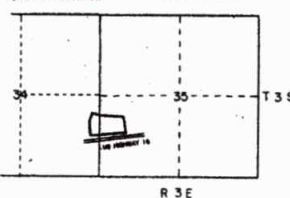
LEGEND

- Found MS Stone Monument
- Found Rebar w/AL Cap marked "SSS LS 3603"
- Found Bureau of Roads Brass Cap
- Set Rebar w/AL Cap marked "ANDERSEN PLS 2842"

A 20' wide utility easement is reserved on all lot lines not adjacent to public ROW or unplatted land. Said easement is reserved on the interior side of lot lines which border unplatted lands, unless waived by action of the platting authority.

Centerline of 20' wide powerline easement

VICINITY MAP



CERTIFICATE OF HIGHWAY AUTHORITY

Whereas it appears that every lot has an acceptable approach location onto a public road and the location of the intersection(s) of the proposed subdivision (road(s)) with the existing public road(s) is hereby approved.

Signature: R. J. [unclear] Date: 9/10/07
Highway Authority

WATER PROTECTION STATEMENT

Pursuant to SDCL 11-3-8.1 and 11-3-8.2, the developer of the property described within this plat shall be responsible for protecting any waters of the state, including groundwater, located adjacent to or within such platted area from pollution from sewage from such subdivision and shall in prosecution of such protections, conform to and follow all regulations of the South Dakota Department of Environment and Natural Resources relating to the same.

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

Whereas, there has been presented to the County Commissioners of Custer County, South Dakota, the within plat of the above described lands, and it appearing to this Board that the system of streets conforms to the system of streets of existing plats and section lines of the county; adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible; all provisions of the county subdivision regulations have been complied with; all taxes and special assessments upon the property have been fully paid; and the plat and survey have been lawfully executed; now therefore,

BE IT RESOLVED that said plat is hereby approved in all respects.

Dated at Custer County, South Dakota this 11th day of Sept., 2007.

Chairperson, Custer County Board of Commissioners

CERTIFICATE OF COUNTY AUDITOR

I, Leslie B. and Linda A. Fleming, County Auditor, do hereby certify that the above instrument is a true and correct copy of the resolution adopted by the Board of County Commissioners of Custer County, South Dakota, at a meeting held on 9th day of September, 2007.

County Auditor

PREPARED BY:
ANDERSEN ENGINEERS, INC.
P.O. BOX 448
EDMONT, SOUTH DAKOTA 57135
(605) 662-5500

442

3S 3E
Section: 28

3S 3E
Section: 27

3S 3E
Section: 26

3S 3E
Section: 33

3S 3E
Section: 34

3S 3E
Section: 35

4S 3E
Section: 03

4S 3E
Section: 02



10-85

Date:

7-25-86

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date October 20, 2021

RECEIVED OF Hell Canyon Horse Camp and RV 11596 US Hwy 16 Custer SD 57730

The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2831-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>100.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2831-2</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>300.00</u>

By Eric Gronlund
Chief Engineer
dm



OFFICE OF THE SECRETARY OF STATE

STEVEN J. BARNETT, SECRETARY OF STATE

JASON LUTZ, DEPUTY SECRETARY OF STATE

Filing Information

Name: **Hell Canyon Horse Camp and RV Resort, LLC**

General Information

SOS Business ID DL195314
Filing Type: Limited Liability Company - Domestic
01/25/2021
Status: Good Standing
Duration Term: Perpetual
Managed By: Member-Managed

Registered Agent Address

Jerry Paul Constance
11596 U S HWY 16
CUSTER, SD 57730

Principal Address

11596 HWY 16
CUSTER, SD 57730

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
01/25/2021	Initial Filing	B0162-8092



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2831-2, Hell Canyon Horse Camp & RV Resort**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2831-2, Hell Canyon Horse Camp & RV Resort, 11596 US Hwy 16, Custer SD 57730.

The Chief Engineer is recommending APPROVAL of Application No. 2831-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The wells approved under Water Permit No. 2831-2 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals under this Permit shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Crystalline Rock aquifer.
3. Water Permit No. 2831-2 authorizes a total annual diversion of up to 1.0 acre-feet of water.

See report on application for additional information.

Eric Gronlund, Chief Engineer
December 13, 2021

Report to the Chief Engineer
On Water Permit Application No. 2831-2
Hell Canyon Horse Camp & RV Resort
c/o Paul Constance

December 13, 2021

Water Permit Application No. 2831-2 proposes to appropriate an amount of water not exceeding 1.0 acre-feet annually at a maximum instantaneous diversion rate of 0.07 cubic feet per second (cfs) from two existing wells completed into the Crystalline Rock aquifer (140 feet deep) and located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ (Lot 1 Andrews Subdivision) of Section 34 and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 2 Andrews Subdivision) of Section 35; all in T3S-R3E for commercial and domestic uses. The site is located in Custer County approximately seven miles southwest of Custer, South Dakota.

AQUIFER: Crystalline Rock (CRSL)

HYDROGEOLOGY:

The Crystalline Rock aquifer consists of many localized aquifers within the Precambrian-aged, crystalline core of the Black Hills, where extensive fractures and weathering zones allow for the transmission of water (Driscoll and Carter, 2001). The crystalline rock is generally exposed at land surface except where overlain by localized gravel deposits and alluvium along stream beds and top soil (Martin et al., 2004; Fagnan et al., 2009; Redden et al., 2001; and Redden and Fahrenbach, 2021). The crystalline rocks that comprise the aquifer have very low primary porosity, so water movement in the aquifer is controlled by secondary porosity, where groundwater flow is through fractures and faults (Rahn, 1979). The nature of secondary porosity is highly variable and unpredictable; therefore, local aquifer characteristics are highly site specific. The Crystalline Rock aquifer is estimated to have an outcrop area of 574,000 acres (Rahn, 1979). Rahn (1979) estimated the effective porosity of the Crystalline Rock aquifer to be one percent of the outcrop area, while assuming groundwater is only recoverable in fractures and joints that typically only occur within a depth of 500 feet of ground surface, resulting in an estimated 2,900,000 acre-feet of recoverable water in storage for the Crystalline Rock aquifer in western South Dakota. Driscoll and Carter (2001) estimated the outcrop of the “Localized aquifers in the crystalline core area (Precambrian/Tertiary/Other)” to be approximately 616,800 acres.

The geology underlying the general location of the existing wells proposed to be used by Water Permit Application No. 2831-2 consists primarily of Metagraywacke (siliceous mica schist with impure quartz) and Metamorphosed dolomite (marble, phyllite, and calcareous phyllite) (Martin et al., 2004; Redden & Fahrenbach, 2021).

Due to the unpredictable nature of secondary porosity, and the very low primary porosity of crystalline rock, it is very difficult to determine if the aquifer is confined or unconfined at a specific site. Depending on exactly what depth the secondary porosity was encountered in the well bore and the water level in the well compared to the secondary porosity features, the well

may change from acting as a confined well to an unconfined well at various water levels that are not comparable to adjacent wells completed into the same aquifer.

Two water well completion reports were submitted with Water Permit Application No. 2831-2 for the Crystalline Rock aquifer wells the applicant proposes to use. The first report lists “Topsoil” from 0 to 15 feet below the ground surface, and “Grey Schist” from 15 to 140 feet below the ground surface (Water Rights, 2021c). The well completion report noted water was encountered in fractures approximately 105 and 125 feet below the ground surface (Water Rights, 2021c). The well completion report noted the static water level in the well was 37 feet below the ground surface at the time of completion (June 17, 1986) (Water Rights, 2021c). The second report lists “Shale (soft)” from 0 to 54 feet below the ground surface, and “Mica schist Med hard” from 54 to 140 feet below the ground surface (Water Rights, 2021c). The well completion report noted the static water level in the well was 25 feet below the ground surface at the time of completion (July, 2003) (Water Rights, 2021c).

Figure 1 displays the location of the existing wells proposed to be used by Water Permit Application No. 2831-2, with the nearby water rights/permits authorized to appropriate water from the Crystalline Rock aquifer (Water Rights, 2021b), the Crystalline Rock aquifer observation well (Water Rights, 2021a), and significant local faults (modified from Fagnan et al., 2009; Redden et al., 1968; Redden et al., 2001; and Redden and Fahrenbach, 2021). Table 1 lists the water rights/permits as displayed in Figure 1. It is highly likely the localized portion of the Crystalline Rock aquifer this application proposes to use is limited by these mapped faults and other significant geological features (such as, synclines and anticlines). Furthermore, the actual areal extent of the localized aquifer is likely even further limited by localized secondary porosity. However, information is not available to delineate an exact extent of the localized aquifer.

South Dakota Codified Law (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, “A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant’s proposed use, that the diversion point can be developed without unlawful impairment of existing domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Crystalline Rock aquifer.

WATER AVAILABILITY:

Water Permit Application No. 2831-2 proposes to appropriate water from a localized Crystalline Rock aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater

formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Crystalline Rock aquifer is older than and stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010); however, the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Crystalline Rock aquifer must be considered.

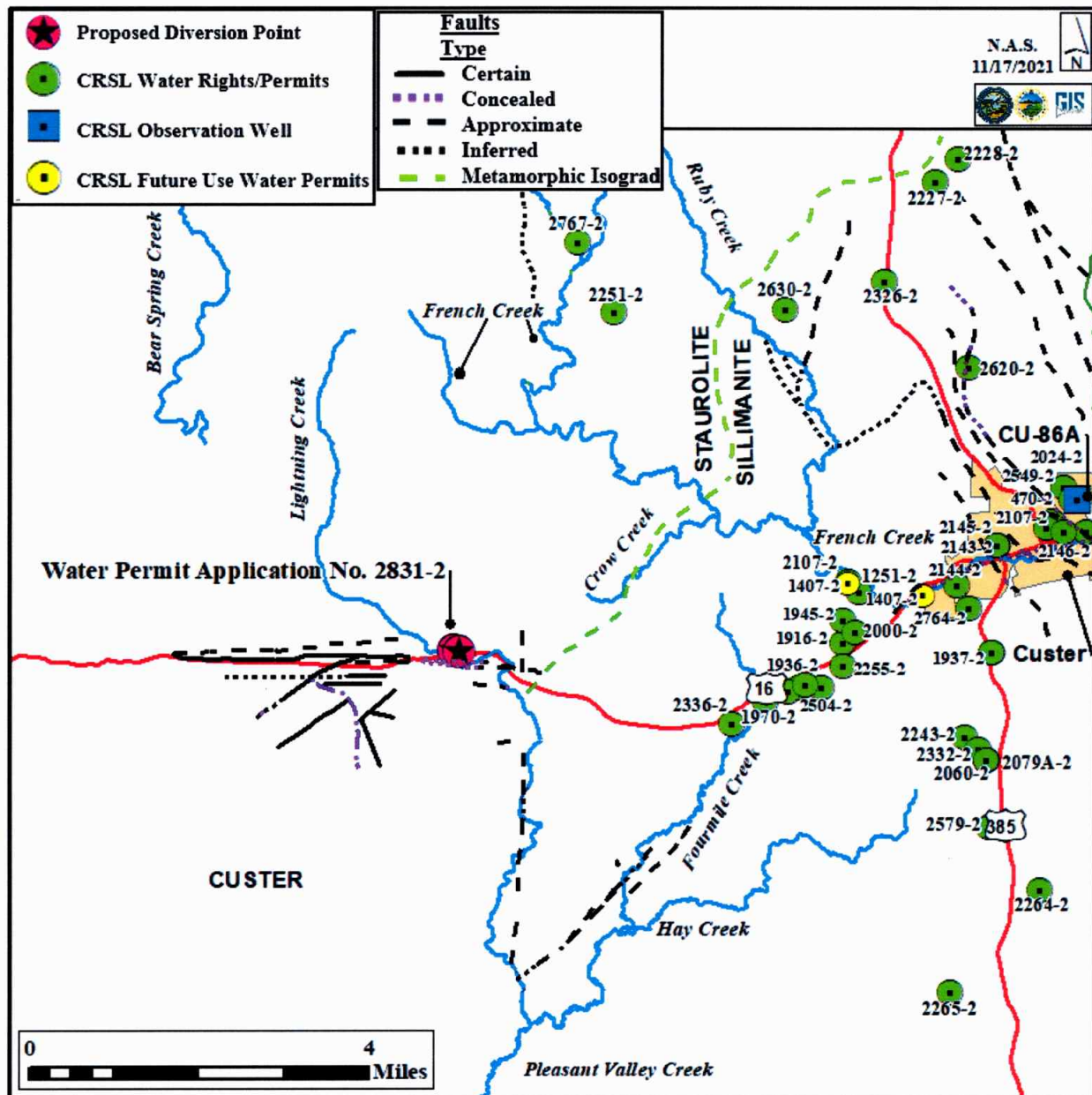


Figure 1. Location of the existing wells proposed to be used by Water Permit Application No. 2831-2 with the Crystalline Rock aquifer water rights/permits and observation well within approximately 7.5 miles of the well site (Water Rights, 2021a and 2021b), and significant fault locations (modified from Fagnan et al., 2009; Redden et al., 1968; Redden et al., 2001; and Redden and Fahrenbach, 2021)

Table 1. Water rights/permits authorized to appropriate water from the Crystalline Rock aquifer within approximately 7.5 miles of the existing wells, as shown in Figure 1 (Water Rights, 2021b)

Permit No.	Name	Status	Use	Authorized Diversion Rate (cfs)	Authorized or Reserved Annual Volume (acre-feet)
470-2	City of Custer	LC	MUN	0.1	
1251-2	City of Custer	LC	MUN	0.56	
1407-2	City of Custer	FU	MUN		434
1916-2	Mineral Technology Corp	LC	IND	0.03	
1936-2	Custer/ Mt Rushmore KOA	LC	COM, DOM	0.27	120
1937-2	Gray Rocks LLC	LC	COM	0.05	
1945-2	Big Pine Campground	LC	COM	0.033	
1970-2	Westward Ho Trailer Court	LC	COM	0.04	
2000-2	Larry Mathis	LC	COM	0.34	
2024-2	Custer School District 16-1	LC	IRR	0.02	
2060-2	Robert N Wittrock	LC	COM	0.033	
2079A-2	T & E Enterprises	LC	COM	0.06	
2107-2	City of Custer	LC	MUN	2.03	
2143-2	City of Custer	LC	MUN	0.35	
2144-2	City of Custer	LC	MUN	0.45	
2145-2	City of Custer	LC	MUN	0.56	
2146-2	City of Custer	LC	MUN	0.5	
2227-2	Crazy Horse Memorial Foundation	LC	COM	0.155	
2228-2	Crazy Horse Memorial Foundation	LC	COM	0.042	
2243-2	Custer County Airport	LC	COM	0.015	
2251-2	Eagle Properties LLC	LC	INS	0.011	
2255-2	Wild Bills Antique Mall	LC	COM	0.02	
2264-2	SD Department of Corrections	LC	INS	0.18	
2265-2	SD Department of Corrections	LC	INS	0.09	
2326-2	Heritage Village	LC	COM, SHD	0.033	
2332-2	First Baptist Church	LC	INS	0.022	
2336-2	Roger & Mary Krogman	LC	COM	0.033	
2504-2	Beaver Lake Campground	LC	SHD	0.122	
2549-2	City of Custer	LC	MUN	0.76	
2579-2	Pacer Corporation	LC	COM	0.022	
2620-2	Brenda Lee Hellwig	LC	COM	0.022	
2630-2	Crazy Horse Memorial Foundation	LC	COM	0.08	
2764-2	Vicki L Bartz	LC	COM	0.067	0.31
2767-2	Sheri Spurlock	PE	COM, DOM	0.055	3.8

LC: Licensed Water Right; PE: Water Permit; FU: Future Use; COM: Commerical; DOM: Domestic;
 IND: Industrial; INS: Institutional; IRR: Irrigation; MUN: Municipal; SHD: Suburban Housing Development

HYDROLOGIC BUDGET:

Recharge

Recharge to the Crystalline Rock aquifer is through the infiltration of precipitation and streamflow losses (likely to Lightning Creek near the existing well site) (Driscoll and Carter, 2001).

Driscoll and Carter (2001) estimated the average recharge rate, over the water years 1950 to 1998, to the Crystalline Rock aquifer in its entirety within the core of the Black Hills, must be at least equal to the average withdrawal rate of 3,600 acre-feet per year. Driscoll and Carter (2001) further concluded that the recharge to the Crystalline Rock aquifer must be much larger than the estimated 3,600 acre-feet per year to account for discharge to streams. Driscoll and Carter (2001) stated, in regard to the Crystalline Rock aquifer, "Recharge conditions are highly transient and have large spatial variability; thus, quantification is not attempted." While looking at faults and other significant geological features may allow for some limiting of the areal extent, there is not sufficient data available to attempt a delineation of the localized Crystalline Rock aquifer at the existing well site with any level of certainty. Furthermore, the spatial variability and transient nature of the recharge means that even if there was a delineation for this Crystalline Rock aquifer at the applicant's proposed location, simply applying the 3,600 acre-feet per year equally over the entirety of the aquifer is inappropriate. However, by utilizing Driscoll and Carter's (2001) estimated recharge rate of 3,600 acre-feet per year, or 0.07 inches per year, for the Crystalline Rock aquifer, a general sense of the minimum average annual recharge rate is provided. It must be emphasized that, due to the transient and variable nature of the recharge conditions, this number is not necessarily reliable. Furthermore, Driscoll and Carter (2001) noted that average annual recharge rate must be much greater to account for discharge from the Crystalline Rock aquifer to streamflow. Therefore, there is no estimated average annual recharge rate available for the localized Crystalline Rock aquifer the applicant proposes to use.

Carter and Driscoll (2001) also estimated average annual yield potential. The average annual yield potential is essentially how much precipitation is left after subtracting evapotranspiration. Carter and Driscoll (2001) utilized a recharge factor to estimate how much of the annual yield could infiltrate and recharge a bedrock aquifer in the Black Hills, such as the Madison and Minnelusa aquifers. However, Carter and Driscoll (2001) did not estimate a recharge factor for the crystalline core of the Black Hills because the localized Crystalline Rock aquifers are not extensive regional aquifers and are highly variable in nature. Figure 2 displays a map of the estimated annual yield potential from Carter and Driscoll's (2001) report, with the location of the existing wells proposed to be used by Water Permit Application No. 2831-2 (Water Rights, 2021b), and the Crystalline Rock aquifer observation wells (Water Rights, 2021a). The Crystalline Rock aquifer near the existing wells has an estimated average annual yield potential of approximately one inch per year (Driscoll and Carter, 2001). Average annual yield potential is not appropriate to use as a recharge rate for the Crystalline Rock aquifer, but it does provide a general sense of an upper limit of a possible recharge rate.

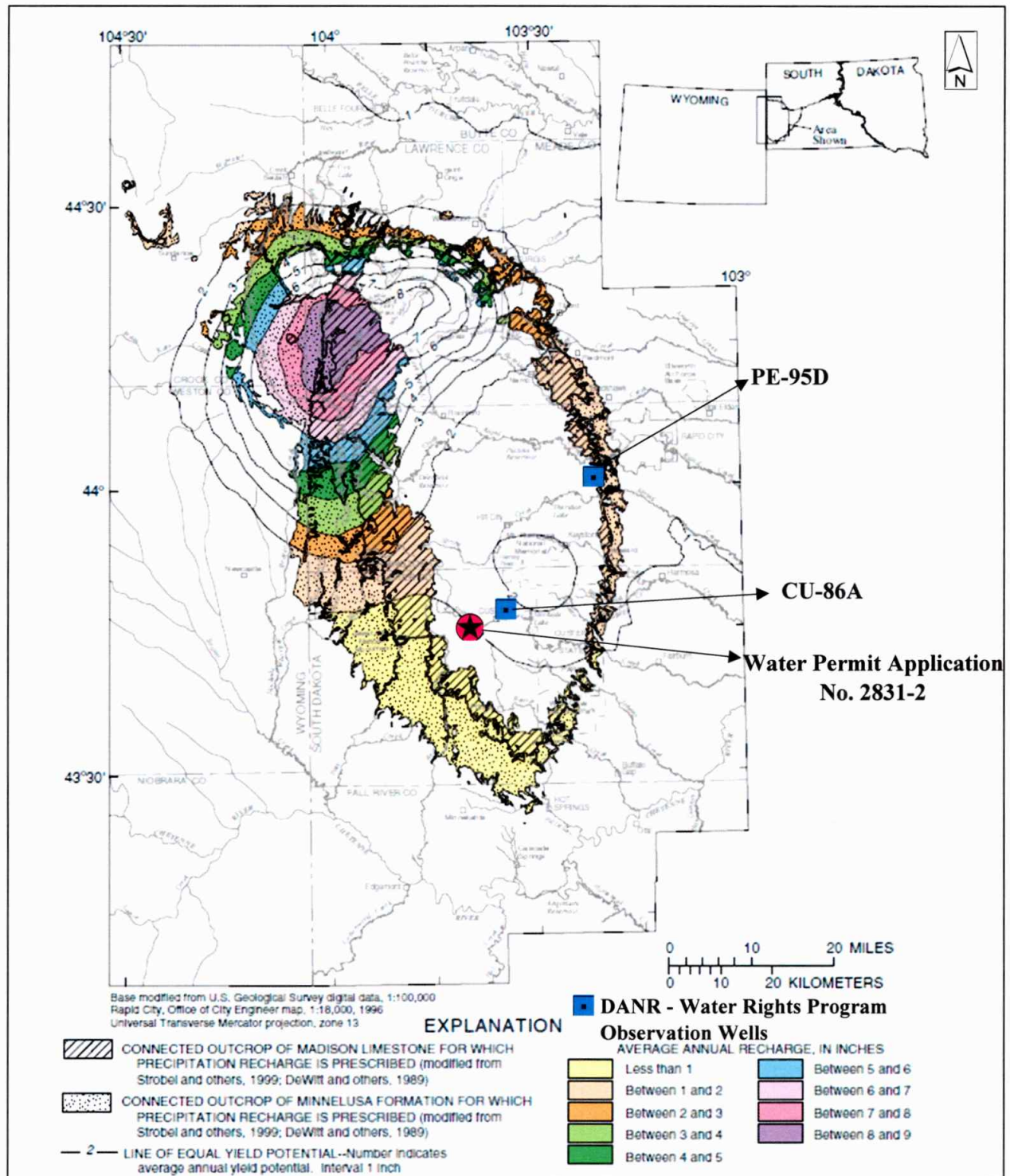


Figure 2. Estimated annual yield potential for the Black Hills in South Dakota and Wyoming for water years 1950 to 1998 (modified from Carter, J. M., Driscoll, D. G., Hamade, G. R., & Jarrell, G.J., 2001), with the location of the existing wells proposed to be used by Water Permit Application No. 2831-2 (Water Rights, 2021b), and the Crystalline Rock aquifer observation wells (Water Rights, 2021a)

Discharge

Discharge from the Crystalline Rock aquifer is primarily through well withdrawals (Water Rights, 2021b and 2021c), seepage to streams (likely to Lightning Creek near the existing well site) (Driscoll and Carter, 2001), and evapotranspiration where the static water level of the aquifer is at or near the ground surface.

The nearest (approximately 3.3 miles southeast) appropriative water user to the existing wells is Water Right No. 2336-2, which is held by Roger and Mary Krogman for commercial use (Table 1) (Figure 1) (Water Rights, 2021b). Water Right No. 2336-2 is located southeast of the fault on the eastern side of the existing wells proposed to be used by the applicant (as shown in Figure 1) (Redden, J. A., and Fahrenbach, M.D., 2021; Water Rights, 2021b). As noted earlier, it is highly likely the localized portion of the Crystalline Rock aquifer this application proposes to use is limited by mapped faults and other geological features (such as, synclines and anticlines). Furthermore, the actual areal extent of the localized aquifer is likely even further limited by localized secondary porosity.

Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2021b). The estimated average annual withdrawal rate for Water Permit Application No. 2831-2 is one acre-foot per year.

There are 18 well completion reports on file with the DANR-Water Rights Program for domestic wells that appear to be completed into the Crystalline Rock aquifer, within approximately one mile of the existing wells the applicant proposes to use (Water Rights, 2021c). There are five well completion reports on file with the DANR-Water Rights Program for domestic wells that appear to be completed into the Crystalline Rock aquifer, within approximately 0.5 miles of the existing wells the applicant proposes to use (Water Rights, 2021c). Domestic wells that divert water at an instantaneous diversion rate below the limit for reasonable domestic use as detailed in ARSD 74:02:01:01(7) do not require a right/permit to divert water, and the withdrawal amount from these domestic wells is unknown (Water Rights, 2021c). The Water Rights Program Well Completion Report database maps well completion reports at the centroid of the smallest geographically division provided on the well completion report (Mathiowetz, 2021b). Therefore, the locations as mapped are not the exact locations of the wells. However, the data provides a sense of how many wells are within a general area. There could potentially be other domestic wells completed into the Crystalline Rock aquifer near the existing wells that are not on file with the DANR-Water Rights Program. Additionally, there could potentially be domestic wells in the area that are no longer in use.

It is possible some of the domestic wells near the applicant's existing wells are completed into the same fracture system and thus, the same localized portion of the Crystalline Rock aquifer as the applicant's existing wells. In general, the volume of water pumped by the domestic users is not a significant component of the hydrologic budget when compared to appropriate withdrawals from an aquifer due to the limited diversion rate and needs of domestic users. However, due to what is likely a relatively small areal extent of the localized portion of the Crystalline Rock aquifer, it is possible that domestic use is a significant portion of the localized budget.

In the past, the Water Rights Program has used, and the Water Management Board has accepted, a domestic water use estimation using the following assumptions: 1) 2.5 residents per rural dwelling, and 2) either the average per capita use by self-serve well users for the county in question, or an average use from across the state if county specific data is not available in Carter and Neitzert's (2008) report on estimated water use in South Dakota. In this case, Custer County self-supplied domestic users withdrew approximately 69 gallons per day, per capita. That is equal to 0.193 acre-feet per year for each rural dwelling, assuming each dwelling has one well, using the previously discussed assumptions, and that the dwelling is occupied year-round.

Using the estimated usage per dwelling, 0.193 acre-feet per year, the 18 wells within approximately one mile equates to approximately 3.47 acre-feet per year (Carter and Neitzert, 2008; Water Rights, 2021c). Using the estimated usage per dwelling, 0.193 acre-feet per year, the five wells within approximately 0.5 miles equates to approximately 0.965 acre-feet per year (Carter and Neitzert, 2008; Water Rights, 2021c). These estimates for domestic use presented in this report are provided to give a general sense of scale of local domestic use from the Crystalline Rock aquifer, rather than the average annual use of each domestic well.

Hydrologic Budget Summary

There is no estimated average annual recharge rate available for the localized Crystalline Rock aquifer. However, to provide a general sense of minimum and maximum recharge to the aquifer, Driscoll and Carter (2001) estimated a minimum recharge rate of 3,600 acre-feet per year, or 0.07 inches per year. It must be emphasized that, due to the transient and variable nature of the recharge conditions, this number is not necessarily reliable. Additionally, the average annual recharge rate must be much greater to account for losses from the Crystalline Rock aquifer to streamflow (Driscoll and Carter, 2001). Utilizing average annual yield potential, Driscoll and Carter (2001) provided a general sense of an upper limit of a possible recharge rate of approximately one inch per year to the Crystalline Rock aquifer at the applicant's location.

If approved, the estimated average annual withdrawal rate for Water Permit Application No. 2831-2 is one acre-foot per year. If approved, it is likely Water Permit Application No. 2831-2 would be the only authorized water right/permit within this localized portion of the Crystalline Rock aquifer (as shown in Figure 1).

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors two observation wells that have been historically considered as completed into the Crystalline Rock aquifer in western South Dakota (Water Rights, 2021a). These observation wells are PE-95D (approximately 26.5 miles northeast of the existing well site) and CU-86A (approximately 7.5 miles northeast of the existing well site) (Water Rights, 2021a). Kilts (2018) determined that observation well PE-95D is open to both the Deadwood Formation and the Crystalline Rock, so it is uncertain how representative observation well PE-95D is of either the Deadwood or Crystalline Rock aquifer. Therefore, only observation well CU-86A will be used in this analysis. The hydrograph for observation well CU-86A is displayed in Figure 3 (Water Rights, 2021a). The data points utilized to construct the hydrographs are measurements of the static water level in the observation well from the top of the well casing.

The hydrograph for CU-86A indicates the aquifer responds well to climatic conditions because water levels are rising during wetter periods (early spring snowmelt and precipitation) and declining to a stable water level during drier periods. Over the period of record, the water levels displayed on the hydrograph for observation well CU-86A have fluctuated approximately 45 feet in response to climatic conditions (Water Rights, 2021a). An examination of the hydrograph shows that any effects caused by pumping on the water levels of CU-86A are masked by climatic conditions indicating that changes in water levels are governed by natural conditions, that is to say recharge to and natural discharge from the aquifer. Both recharge to and natural discharge from an aquifer can be captured for pumping. Although observation well CU-86A is located approximately 7.5 miles northeast of the existing wells, the hydrograph still provides proof of recharge to the Crystalline Rock aquifer over the period of record.

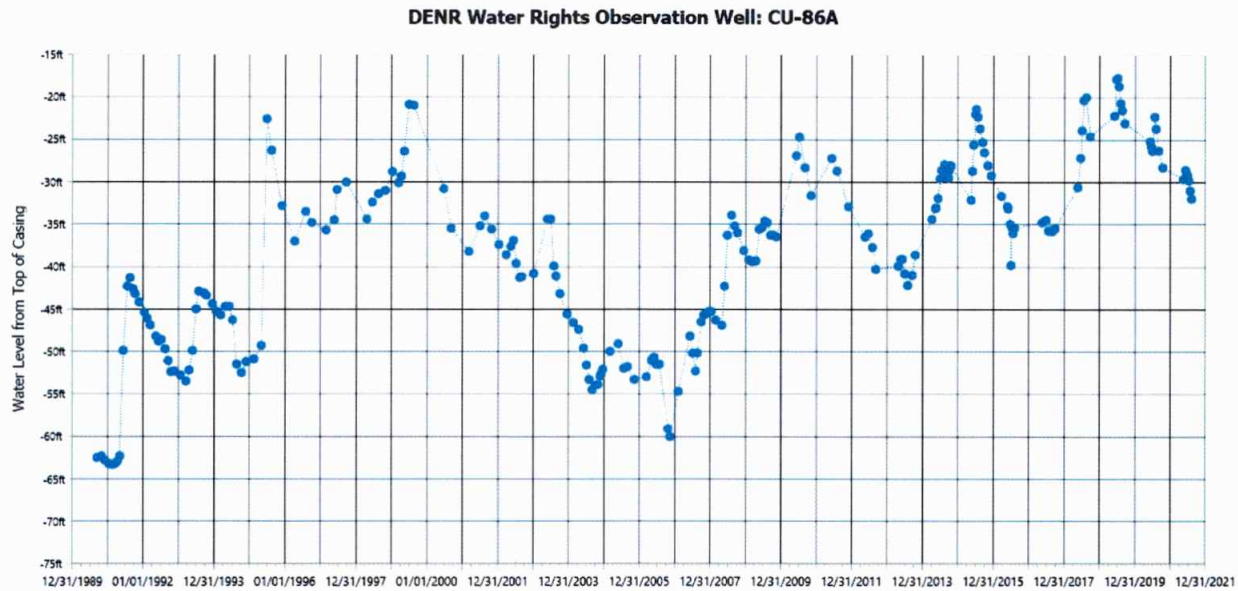


Figure 3. Hydrograph for observation well CU-86A (Water Rights, 2021a)

Driscoll and Carter (2001) stated that recharge to the Crystalline Rock aquifer must be much greater than the estimated 3,600 acre-feet per year to account for the groundwater discharge that contributes to the base flow to many streams and this statement is supported by the hydrograph for observation well CU-86A (Figure 3), which displays the water level generally rising over its period of record despite increased development of the localized aquifer in the area of the observation well.

When considering the hydrograph for observation well CU-86A, Driscoll's and Carter's (2001) commentary regarding recharge to the Crystalline Rock aquifer, and the relatively small annual appropriation requested by this application, there is a reasonable probability unappropriated water is available for this proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

The nearest (approximately 3.3 miles southeast) appropriative water user to the existing wells is Water Right No. 2336-2, which is held by Roger and Mary Krogman for commercial use (Table 1) (Figure 1) (Water Rights, 2021b).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Crystalline Rock aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.1 miles northeast of the existing wells the applicant proposes to use (Water Rights, 2021c). There could potentially be other domestic wells completed into the Crystalline Rock aquifer near the existing wells that are not on file with the DANR-Water Rights Program.

In Custer County, there are no complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Crystalline Rock aquifer (Water Rights, 2021d).

In Pennington County, there has been one complaint submitted to the DANR-Water Rights Program regarding potential well interference for wells completed into the Crystalline Rock aquifer (Water Rights, 2021d). The complaint involved Water Right No. 2572-2, held by Sheridan Lake Highlands HOA, during the initial development of the permit. In October of 2006, the Chief Engineer limited Water Right No. 2572-2 to a maximum diversion rate of 18 gallons per minute, also known as the limit for reasonable domestic use detailed in ARSD 74:02:01:01(7) (Water Rights, 2021b and 2021d). The permit holder reported to the Water Rights Program that the issue was resolved sometime before January of 2009 (Water Rights, 2021d). The diversion points authorized under Water Right No. 2572-2 are located approximately 25 miles northeast of the existing well site (Water Rights, 2021b and 2021d). There have been no other complaints submitted to the DANR-Water Rights Program regarding well interference for adequate wells completed into the Crystalline Rock aquifer within Pennington County (Water Rights, 2021d).

In May of 2021, the Chief Engineer received a complaint regarding a number of entities near Rockerville, South Dakota (Pennington County) that were suspected of using water without proper permitting. Since then, the entities mentioned in this complaint have either obtained or shown the proper permitting necessary for their respective water withdrawals (Mathiowetz, 2021a and 2021b; Water Rights, 2021c).

The development of both appropriative and domestic users' wells completed into the Crystalline Rock aquifer has continued with minimal history of well interference complaints in Pennington and Custer Counties. Water Permit Application No. 2831-2 is requesting a relatively limited diversion rate, appropriation volume, and the Crystalline Rock aquifer has large natural fluctuations of water levels that often mask or exceed drawdown caused by well pumping. Therefore, there is a reasonable probability this application can be developed without unlawful impairment of existing water right/permit holders or domestic users with adequate wells (Water Rights, 2021b, 2021c, and 2021d).

An adequate well as defined in ARSD 74:02:04:20(6):

“A well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.”

The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

Due to the very low primary porosity of the Crystalline Rock aquifer, and the highly variable and uneven nature of secondary porosity, 20 feet of saturated thickness for a pump to be placed may not be sufficient for a dependable water supply. Without conducting an aquifer performance test, the precise drawdown effects caused by pumping a well cannot be determined. Over the period of record, the water levels seen on the hydrograph for observation well CU-86A (Figure 3) have fluctuated approximately 45 feet due to climatic conditions. Pump depth requirements for a well are detailed in ARSD 74:02:04:60(2), which states in part, “The depth of the pump setting shall be determined by dividing the specific capacity into the required yield and adding at least 10 additional feet to maintain pump inlet submergence below the maximum anticipated drawdown, where possible.”

There is a reasonable probability that the proposed diversion by Water Permit Application No. 2831-2 will not unlawfully impair adequate wells for existing water rights/permits and domestic users because:

- Continued development of the Crystalline Rock aquifer has occurred without a significant history of well interference complaints (Water Rights, 2021d);
- The hydrograph for observation well CU-86A (Figure 3) showing natural fluctuations in water levels over the period of record (Water Rights, 2021a), along with Driscoll’s and Carter’s (2001) commentary, indicate recharge occurs to the Crystalline Rock aquifer;
- Adequate domestic wells are protected under South Dakota Codified Water Law; and
- Water Permit Application No. 2831-2 seeks to appropriate a relatively small annual volume of water.
- The proposed wells are existing wells that have been in place and are presumed to have been in use for some time without any reported well interference complaints on file with the DANR-Water Rights Program (Water Rights, 2021b, 2021c and 2021d).

If this application is approved, a qualification requiring the applicant to control their water withdrawals, so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights, should be included.

CONCLUSIONS:

1. Water Permit Application No. 2831-2 proposes to appropriate an amount of water not exceeding 1.0 acre-feet annually at a maximum instantaneous diversion rate of 0.07 cfs from two existing wells completed into the Crystalline Rock aquifer (140 feet deep) for commercial and domestic uses. The site is located in Custer County approximately seven miles southwest of Custer, South Dakota.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Crystalline Rock aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 2831-2 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.
4. If this application is approved, a qualification requiring the applicant to control their water withdrawals, so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights, should be included.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer I
SD DANR - Water Rights Program

Reviewed by:

Adam Mathiowetz

Adam Mathiowetz, PE
Natural Resources Engineer IV
SD DANR - Water Rights Program

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Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, December 14, 2021 9:37 AM
To: hellcanyonhorsecamp@goldenwest.net
Subject: Water Permit Application No. 2831-2
Attachments: 2312.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the papers as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

S.D. DEPT. OF AGRICULTURE
AGRICULTURAL SERVICES
523 E. CAPITOL AVE.
PIERRE SD 57501

ORDER NUMBER 40259

The undersigned, being duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, a clerk of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published for at least one year prior to the first date of the published notice.

This affidavit is a true and corrected copy of notice which appeared

in said newspaper once each day for 1

successive day the first publication there of being on the

22 day of December, 2021.

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 12/22/2021

TOTAL AD COST: 71.40

FILED ON: 12/22/2021

Subscribed and sworn to before me this

22 day of December, 2021.

Karisa Carmichael Notary Public

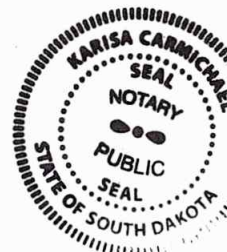
My commission expires

May 18, 2027

RECEIVED

DEC 27 2021

WATER RIGHTS
PROGRAM



Dec 22 L40259
NOTICE OF APPLICATION NO.
2831-2 to Appropriate Water
Notice is given that Hell Canyon
Horse Camp & RV Resort, c/o Paul
Constance, 11596 US Hwy 16,
Custer SD 57730 has filed an
application for a water permit to
appropriate an amount not exceed-
ing 1.0 acre-feet of water annually
at a maximum pump rate of 0.07
cubic feet of water per second from
two existing wells completed into
the Crystalline Rock Aquifer (140
feet deep) located in the NE 1/4 SE
1/4 (Lot 1 Andrews Subdivision)
Section 34 and the NW 1/4 SW 1/4
(Lot 2 Andrews Subdivision) Sec-
tion 35, all in T35-R3E for
commercial and domestic uses.
This site is located approximately 7
miles southwest of Custer SD.
Pursuant to SDCL 46-2A-2, the
Chief Engineer recommends AP-
PROVAL of Application No. 2831-2
with qualifications because 1) unap-
propriated water is available, 2)
existing domestic water uses and
water rights will not be unlawfully
impaired, 3) it is a beneficial use of
water, and 4) it is in the public
interest as it pertains to matters
within the regulatory authority of the
Water Management Board. The
Chief Engineer's recommendation
with qualifications, the application,
and staff report are available at
<https://danr.sd.gov/public> or contact
Ron Duvall for this information, or
other information, at the Water
Rights Program address provided
below.
Any person interested in opposing
this application or recommendation
shall allege that the application,
upon approval, will cause injury to
the person that is unique from any
injury suffered by the public in
general. The injury must concern a
matter either within the regulatory
authority found in SDCL 46-2A-9
for approval or denial of the
application, or other matter con-
cerning the application within the
regulatory authority of the board to
act upon as defined by SDCL
46-2-9 and 46-2-11, or both. Any
person meeting the petitioner re-
quirements and wishing to be a
party of record in a contested case
hearing shall file a written petition
to oppose the application with
BOTH the applicant and Chief
Engineer. A petition opposing the
application shall be filed on a form
provided by the Chief Engineer.
The petition form is available online
at <https://danr.sd.gov/public> or by
contacting the Chief Engineer. The
Chief Engineer's address is "Water
Rights Program, Foss Building, 523
E Capitol, Pierre SD 57501" or call
(605) 773-3352. The applicant's
mailing address is given above. If
contesting the Chief Engineer's
recommendation, the applicant
shall also file a petition. A petition
filed by either an interested person
or the applicant must be filed by
January 3, 2022.
The petition shall include a state-
ment describing the unique injury
upon approval of the application on
the petitioner, the petitioner's reas-
ons for opposing the application,
and the name and mailing address
of the petitioner or the petitioner's
legal counsel, if legal counsel is
obtained.
Any interested person may file a
comment on the application with
the Chief Engineer. The comment
shall be filed on a form provided by
the Chief Engineer and is available
online at <https://danr.sd.gov/public>
or by calling (605) 773-3352 or
writing the Chief Engineer at the
address provided above. Filing a
comment does not make the
commenter a party of record or a
participant in any hearing that may
be held. Any comment must be
filed by January 3, 2022.
If the applicant does not contest the
recommendation of the Chief Engi-
neer and no petition to oppose the
application is received, the Chief
Engineer shall act on the application
pursuant to the recommendation
with no hearing held before the
Water Management Board. If a
petition opposing the application or
contesting the recommendation is
filed, then a hearing will be
scheduled, and the Water Manage-
ment Board will consider this
application. Notice of the hearing
will be given to the applicant and
any person filing a petition.
(Published one time at the approxi-
mate cost of \$71.40)

RECEIVED

JAN 03 2022

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer)

Jerry Lee Lenander of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of publication: that the

*Dept of Environment - Water
Rights Program Hell Canyon
Horse Camp & RV Resort*

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for one successive week(s), on which said newspaper was regularly published, to wit:

Dec 22, 2021; _____;
_____, _____; _____;
_____, _____; _____;
_____, _____; _____;

the full amount of the fees for the publication of the annexed notice is \$ 37.07

Subscribed and sworn to me before this 22nd
of December, 2021;

Jeanne Furstenberg
NOTARY PUBLIC
MY COMMISSION EXPIRES: 11-30-2027



NOTICE OF APPLICATION

NO. 2831-2 TO
APPROPRIATE WATER

Notice is given that Hell Canyon Horse Camp & RV Resort, c/o Paul Constance, 11596 US Hwy 16, Custer SD 57730 has filed an application for a water permit to appropriate an amount not exceeding 1.0 acre-feet of water annually at a maximum pump rate of 0.07 cubic feet of water per second from two existing wells completed into the Crystalline Rock Aquifer (140 feet deep) located in the NE 1/4 SE 1/4 (Lot 1 Andrews Subdivision) Section 34 and the NW 1/4 SW 1/4 (Lot 2 Andrews Subdivision) Section 35; all in T3S-R3E for commercial and domestic uses. This site is located approximately 7 miles southwest of Custer SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2831-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by January 3, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by January 3, 2022.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at an approximate cost of \$37.07.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, December 14, 2021 9:32 AM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 2831-2, Hell Canyon Horse Camp & RV Resort
Attachments: 2831-2public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on December 22, 2021.

Hell Canyon Horse Camp & RV Resort, c/o Paul Constance 11596 US Hwy 16, Custer SD 57730 (337-764-7141) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, December 14, 2021 9:32 AM
To: 'custernews@gwtc.net'
Subject: 2831-2, Hell Canyon Horse Camp & RV Resort
Attachments: 2831-2public.short_final.docx; FORM8.FRM.doc

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Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

December 14, 2021

Hell Canyon Horse Camp & RV Resort
c/o Paul Constance
11596 US Hwy 16
Custer SD 57730

Dear Mr. Constance:

Water Permit Application No. 2831-2 for commercial and domestic use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Custer Co Chronicle printed at Custer (Ph # 605 673-2217) and the Rapid City Journal printed at Rapid City (Ph # 605 394-8336). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

NOTICE OF APPLICATION NO. 2831-2 to Appropriate Water

Notice is given that Hell Canyon Horse Camp & RV Resort, c/o Paul Constance, 11596 US Hwy 16, Custer SD 57730 has filed an application for a water permit to appropriate an amount not exceeding 1.0 acre-feet of water annually at a maximum pump rate of 0.07 cubic feet of water per second from two existing wells completed into the Crystalline Rock Aquifer (140 feet deep) located in the NE 1/4 SE 1/4 (Lot 1 Andrews Subdivision) Section 34 and the NW 1/4 SW 1/4 (Lot 2 Andrews Subdivision) Section 35; all in T3S-R3E for commercial and domestic uses. This site is located approximately 7 miles southwest of Custer SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2831-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by January 3, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by January 3, 2022.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

MAR 30 2022

Hell Canyon Horse Camp & RV Resort
c/o Paul Constance
11596 US Hwy 16
Custer SD 57730

Dear Mr. Constance:

Enclosed is Water Permit No. 2831-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

A Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An information sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program
605 773-3352

enclosures