

WATER PERMIT NO. 2836-2

Name of Applicant: Lisa O'Rourke-Fulton

Address: 29392 272nd Ave, Valentine NE 69201

Phone: 402 322-0110

Amount of Water Claimed: 1.89 cfs

Total Acres: 135 acres

Source of Water Supply: groundwater (2 wells)

Water to be used for: irrigation

County: Todd

Type of Waste Disposal System:

Location: 11 miles southwest of Mission

PRIORITY

Date Received: 1-10-22

Application/License Fee: \$ 1050

Corrected Application Received:

Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: NE 1/4 Sec 25-T37N-R29W

Land to be Irrigated: NE 1/4 Sec 25-T37N-R29W

Depth of Well: 210 feet deep

Well Driller:

Remarks:

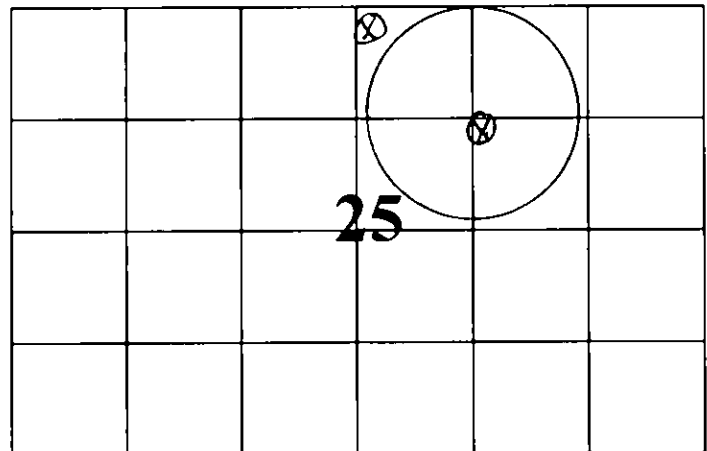
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 1-13-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 2836-2**

Date of first receipt of application January 10, 2022.

The Water Management Board approved Water Permit No. 2836-2 on May 4, 2022 for Lisa O'Rourke-Fulton, 29393 272nd Ave, Valentine NE 69201 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. 2836-2 appropriates 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 210 feet deep) located in the NW 1/4 NE 1/4 and the approximate center of the NE 1/4 Section 25 for irrigation of 135 acres located in the NE 1/4 Section 25; all in T37N-R29W. This site is located approximately 11 miles southwest of Mission SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is January 10, 2022.
4. One-fifth of the construction is to be completed on or before November 4, 2024.
5. All construction is to be completed on or before May 4, 2027.
6. Water is to be put to beneficial use on or before May 4, 2031.
7. 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. 2836-2 are located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals 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 wells authorized by Permit No. 2836-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

MAY 11 2022
date



FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to:	(office use only) No. <u>2836-2</u> Hydrologic Unit <u>10150006</u>
DENR - Water Rights 523 E. Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	Basin <u>Niobrara Trib</u> Newspaper <u>Todd County Tribune</u> <u>Rapid City Journal</u>

PAID

JAN 10 2022

Ck# 5772

Rec't# _____

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit Lisa O'Rourke-Fulton

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in

Mailing Address 29393 272ND AVE VALENTINE NE 69201
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 402-322-0110 Email lisa@fultonranch.com

2. Amount of water claimed 1.89 *CFS or 850 **GPM ***AF Total Acreage 135
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ogallala Sand Aquifer

4. Location of point of diversion 2 Wells NE1/4 Sec25 T37N R29W
(example - 3 wells in SW1/4 NE1/4 section 12-T36N-R53W)

(NW1/4 NE1/4 is approximate center NE1/4) County TODD

5. County or counties where water will be used TODD COUNTY6. Annual period during which water is to be used May - September

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NE1/4 NE1/4 Sec25 T37N R29W	<u>33.75</u> <u>37.5</u>	SE1/4 NE1/4 Sec25 T37N R29W	<u>33.75</u> <u>37.5</u>
NW1/4 NE1/4 Sec25 T37N R29W	<u>33.75</u> <u>37.5</u>	SW1/4 NE1/4 Sec 25 T37N R29W	<u>33.75</u> <u>37.5</u>

8. Give a description of the project. (Attach sheet if more space is needed)

New Center Pivot Development 135 Acres field dimension

1 - Well in 20' West of Pivot Center GPS Location N43 09 15.06 W 100 41 39.30

1 - Well in NW Corner Just Outside Of Pivot Field Border N43 09 27.28 W100 41 49.73

RECEIVED

JAN 10 2022

WATER RIGHTS
PROGRAM

I, Lisa O'Rourke-Fulton 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

(Complete required and applicable portions only)

(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 2 Have test holes been drilled ☒ Yes ☐ No Drilled by Beck's Well & Irrigation, Inc.
(if yes, please provide copies of logs)b) If existing wells, how many Provide copy of log(s), if available. Drilled by

For either Existing or Proposed Wells:

c) Well Depth (required) 210 Depth to Top of Water Bearing Material 120 Depth to Water from Surface 50-60'd) Distance to nearest domestic well on applicant's property 1900' Property owned by others 1800'

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) b) System Capacity (gallons) Year Constructed c) Connected to the City of Sanitary System

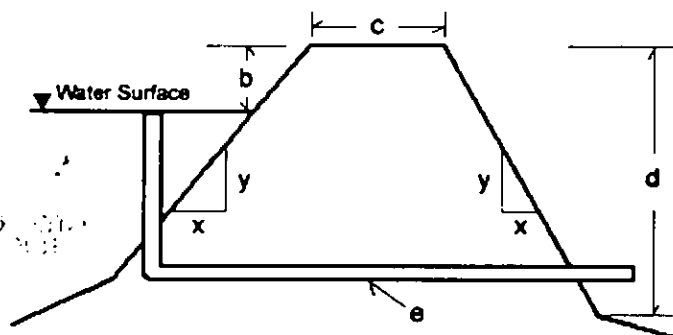
3. Dugout Information

a) Surface Dimensions Depth b) Depth to water (ground surface to water level)

4. Water Storage Dams

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 Feetj) Drainage Area Above Dam Acres

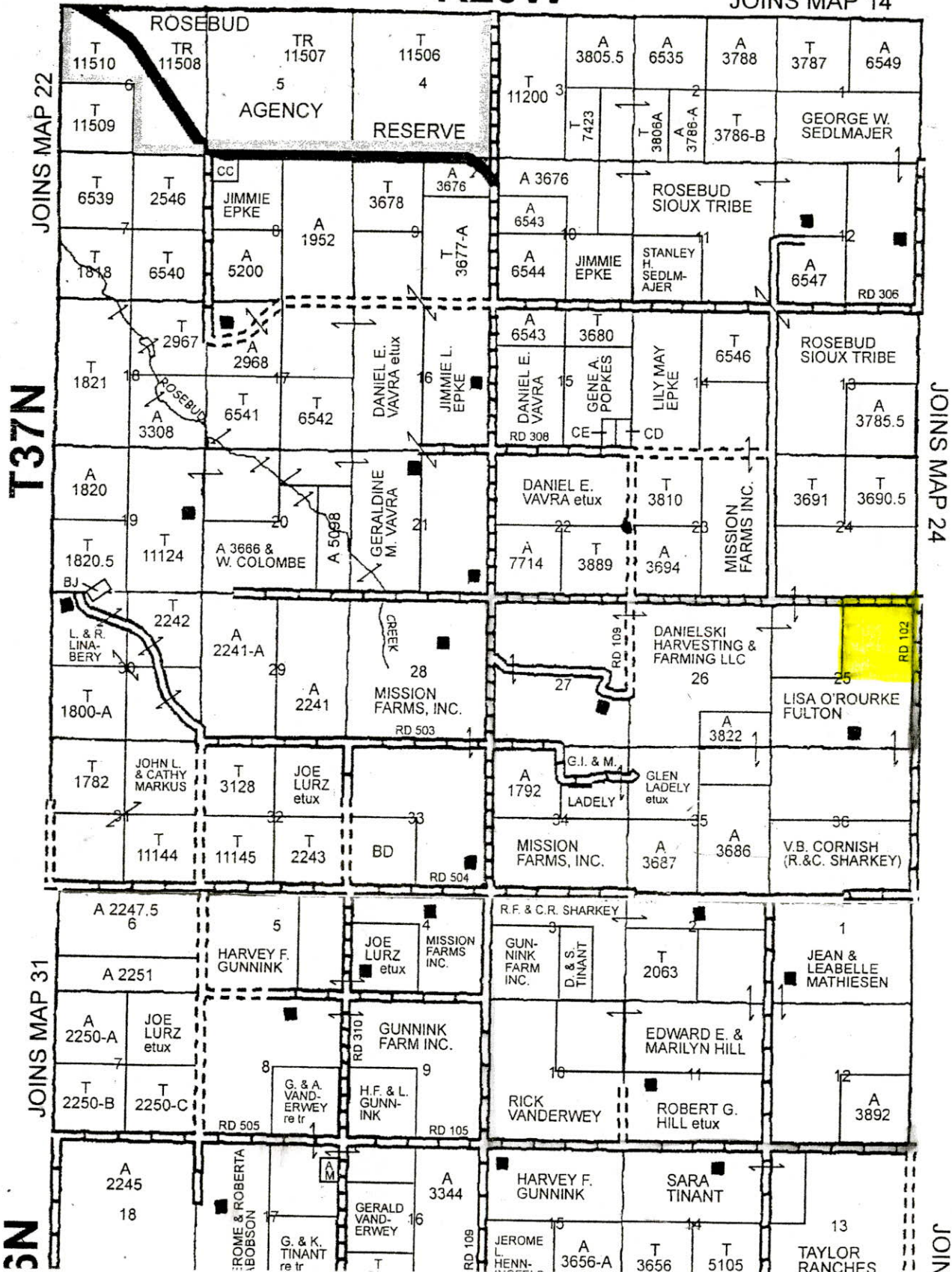
QTY	MATERIAL	PRICE	AMOUNT
	O-3 Topsoil		
	3-18 Sandstone		
	18-36 Fine Sand and Sandstone layers		
	36-60 Fine Sand		
	60-80 Hard White Siltstone		
	80-90 Hard Sandstone		
	90-108 Fine Hard Sandstone		
	108-120 Sandstone		
	120-130 Fine to Medium Sand		
	130-140 Sandstone		
	140-144 Brown Clay		
	144- 162 Clean Coarse Sand		
	162-180 Med-Coarse Clean Sand		
	180-198 Clean Coarse Sand		
	198-206 Clean Med- Coarse Sand		
	206-225 Brown Clay		
	225-232 Red Rock		
	I would set screen from 120'-210'		
	Proposed Well Depth 210'		

BECK'S WELL & IRRIGATION, INC.			
P.O. Box 27 - Ainsworth, NE 69210 - 402-387-2052			
Stock, Domestic & Irrigation Wells Spies & Service		DATE	9-17-21
NAME	Fulton Ranch		
ADDRESS			
CITY	STATE	ZIP CODE	
JOB LOCATION			
JOB PHONE	ORDER TAKEN BY	STARTING DATE	
DESCRIPTION OF WORK			
Test Hole at NW Corner of Proposed Pivot Project Expected Static 65-70' GPS N 43° 09' 27.28" W 100° 41' 49.73"			
Todd County, NE Sec 25 T37N R29W			
This well Elevation is Approximately 10' Higher than Pivot Point Elevation. Estimated Production 300-400 GPM			
	FIELD WISE MATERIAL		
	FIELD WISE LABOR		
	SUBSCRIPTION		
	ELECTRICAL MATERIAL		
	ELECTRICAL LABOR		
	PUMP MATERIAL		
	IRRIGATION MATERIAL		
	WELL MATERIAL		
	TOTAL LABOR		
232' Drilling @ 7.5¢/ft	TOTAL DRILLING	1740.00	
63 miles @ 2.5¢/mile	PERMIT		
	MILEAGE	157.50	
	FREIGHT		
SD 2% Excise Tax	TAX	37.95	
Thank You	TOTAL THIS INVOICE →	1935.45	

MAP 23

R29W

JOINS MAP 14



Land Owned by Lisa O'Rourke-Fulton
Todd County, South Dakota

review

Well 1

R29W T37N NE1/4 SECTION 25

Well 2

Land Owned by Lisa O'Rourke-Fulton
Todd County, South Dakota

Capture this view



Land Owned by Lisa O'Rourke-Fulton
Todd County, South Dakota

R29W T37N NE1/4 SECTION 25

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 10, 2022

RECEIVED OF Fulton Performance Horses LLC/Lisa O'Rourke-Fulton 29393 272nd Ave., Valentine SD 69201

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

Fee for Application for Permit No. <u>2836-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</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>2836-2</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>1050.00</u>

By Eric Gronlund
Chief Engineer
EG

Schlaak, Karen

From: Lisa Fulton <Lisa@fultonranch.com>
Sent: Thursday, January 13, 2022 11:42 AM
To: Schlaak, Karen
Subject: RE: [EXT] Fulton Application for Irrigation Wells
Attachments: Beck's Well & Irrigation Logs for Fulton test wells.pdf

Karen,
Attached are the logs. If you need anything else please let me know.
Megan

Fulton Performance Horses LLC
29393 272nd Ave – Valentine, NE 69201
Lisa 402-322-0110 Jake 402-326-9990

Home of A Streak Of Fling

www.fultonranch.com

Like us on FaceBook – A Streak Of Fling & Fulton Ranch

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Thursday, January 13, 2022 11:28 AM
To: Lisa Fulton <Lisa@fultonranch.com>
Cc: fultonjared@gmail.com; jakefulton14@gmail.com
Subject: RE: Fulton Application for Irrigation Wells

Lisa,
We have received your application. If you have the well drillers logs available, please email me a copy of them.
Karen

From: Lisa Fulton <Lisa@fultonranch.com>
Sent: Friday, January 7, 2022 11:50 AM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Cc: fultonjared@gmail.com; jakefulton14@gmail.com
Subject: RE: [EXT] Fulton Application for Irrigation Wells

Karen,
Do you need the well drillers logs also?
Thank you,
Lisa O'Rourke-Fulton

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Wednesday, January 5, 2022 4:57 PM
To: Lisa Fulton <Lisa@fultonranch.com>
Subject: FW: Fulton Application for Irrigation Wells

Eric forwarded your email to me. After a quick review, it looks fine. I'll let you know if I have questions, once the application is received.

Karen Schlaak



**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. 2836-2, Lisa O'Rourke-Fulton**

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. 2836-2, Lisa O'Rourke-Fulton, 29393 272nd Avenue, Valentine NE 69201.

The Chief Engineer is recommending APPROVAL of Application No. 2836-2 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. 2836-2 are located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals 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 wells authorized by Permit No. 2836-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
March 3, 2022

Report to the Chief Engineer
On Water Permit Application No. 2836-2

Lisa O'Rourke-Fulton

February 9, 2022

Water Permit Application No. 2836-2 proposes to appropriate water at a maximum instantaneous diversion rate of 1.89 cubic feet of water per second (cfs) from two wells to be completed into the Ogallala aquifer (approximately 210 feet deep) located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and the approximate center of the NE $\frac{1}{4}$ of Section 25 for the irrigation of 135 acres located in the NE $\frac{1}{4}$ of Section 25; all in T37N-R29W. The site is located in Todd County approximately 11 miles southwest of Mission, SD.

AQUIFER: Ogallala (OGLL)

The Ogallala aquifer is encompassed within the High Plains aquifer. The High Plains aquifer underlies eight states in the central United States (Gutentag et al., 1984). The High Plains aquifer contains geologic units of late Tertiary and Quaternary age that consist of the Brule Formation, Arikaree Group, Ogallala Group, as well as other alluvial, dune-sand, and valley-fill deposits (Gutentag et al., 1984). The Ogallala Group is composed of the Fort Randall, Ash Hollow and Valentine Formations (Hammond, 1994; Filipovic, 2011). Within the High Plains aquifer system in South Dakota, the Ogallala aquifer is the uppermost, most readily available aquifer (Hammond, 1994). The South Dakota Department of Agriculture and Natural Resources (SD DANR) Water Rights Program and the South Dakota Water Management Board have historically considered the High Plains aquifer to be comprised of the Ogallala aquifer and the Arikaree aquifer to manage this regional resource and treat the two aquifers as separate water sources.

The Ogallala Group is comprised of gravel, fine to medium sand and sandstone, and poorly consolidated sand, silt and clay that were deposited from eastward flowing braided streams (Gutentag et al., 1984; Hammond, 1994). The Ogallala Group has a recorded maximum cumulative thickness of 700 ft; however, the thickness ranges from approximately 76 to 230 feet in Todd County (Gutentag et al., 1984; Hammond, 1994). The saturated thickness of the Ogallala aquifer ranges from approximately 57 to 160 feet (Hammond, 1994). The top of the Ogallala aquifer materials is on average approximately 0 to 164 feet below the land surface (Hammond, 1994). The static water levels within the Ogallala aquifer can generally range from approximately 3 to 164 feet below the land surface (Hammond, 1994). The Ogallala aquifer is hydrologically connected to the Batesland Formation, Arikaree Group, as well as alluvial and eolian deposits (Filipovic, 2011). The Ogallala aquifer is generally under unconfined conditions but can be overlain by unconsolidated alluvium and eolian deposits (Carter, 1998). If these overlying sediments are highly transmissive, they have historically been considered as a portion of the Ogallala aquifer by the Water Rights Program. The direction of groundwater movement of the Ogallala aquifer is locally to the southeast and naturally discharges into streams and springs (Carter, 1998; Gutentag et al., 1984).

The Ogallala aquifer underlies approximately 1,140,360 acres and contains approximately 19,929,600 acre-feet (ac-ft) of recoverable water in storage within Bennett, Gregory, Shannon, Todd, and Trip Counties (Allen et al., 1985). The Ogallala aquifer is composed of a main body and an erosional remnant body that is hydraulically disconnected from the main body due to Ponca Creek eroding through the High Plains aquifer leaving only the underlying Pierre Shale (Filipovic, 2004 and 2011). The main body of the Ogallala aquifer is located west of Ponca Creek and the erosional remnant body is located east of Ponca Creek (Filipovic, 2004). The proposed wells for this application would be completed into the main body of the Ogallala aquifer. The areal extent of the main body of the Ogallala aquifer is approximately 1,005,360 acres (Allen et al., 1985; Filipovic, 2004; Magstadt, 2019; Martin et al., 2004). It should be noted that the proposed diversion points are approximately one mile north of the approximate formation boundary of the Ogallala Group. However, the proposed diversion points are still incorporated with the Ogallala aquifer as the formation log provided with Water Permit Application No. 2836-2 is consistent with other nearby wells completed into the Ogallala aquifer (SDGS, 2022).

Two formation logs were submitted with Water Permit Application No. 2836-2. The formation logs for both proposed wells were recreated and are shown in Table 1 and Table 2. The static water levels were not recorded at the time the test holes were drilled (September 2021). The Ogallala aquifer is expected to be unconfined at the proposed diversion points based on the submitted formation logs, water levels, and lithologic logs on file for nearby observation wells (SDGS, 2022; Water Rights, 2022b and 2022d). The Ogallala aquifer starts near land surface and ends at 206 and 196 feet below land surface as shown in Tables 1 and 2, respectively

Table 1: Formation log for the proposed well located at NW ¼ NE ¼ of Section 25-T37N-R29W.

Formation Log	Starting Depth (ft)	Ending Depth (ft)
Topsoil	0	3
Sandstone	3	18
Fine Sand and Sandstone Layers	18	36
Fine Sand	36	60
Hard White Siltstone	60	80
Hard Sandstone	80	90
Fine Hard Sandstone	90	108
Sandstone	108	120
Fine to Medium Sand	120	130
Sandstone	130	140
Brown Clay	140	144
Clean Coarse Sand	144	162
Medium -Course Clean Sand	162	180
Clean Coarse Sand	180	198
Clean Medium Course Sand	198	206
Brown Clay	206	225
Red Rock	225	232

Table 2: Formation log for the proposed well located at the approximate center of the NE ¼ of Section 25-T37N-R29W.

Formation Log	Starting Depth (ft)	Ending Depth (ft)
Topsoil	0	3
Fine Sandstone	3	18
Fine Sand	18	36
Fine Sand	36	54
Hard White Siltstone	54	65
Fine Sand	65	72
Fine Sand	72	80
Sandstone	80	90
Fine-Medium Sand	90	126
Brown Clay	126	132
Fine-Medium Sand	132	146
Medium Sand	146	162
Coarse Sand	162	196
Brown Clay	196	216
Red Rock	216	232

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 Ogallala aquifer.

WATER AVAILABILITY:

Water Permit Application No. 2836-2 proposes to appropriate water from the Ogallala aquifer for irrigation. 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. However, an application may be approved for a water distribution system 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.” The Ogallala aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al, 2010), and 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 Ogallala aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Ogallala aquifer is primarily through the infiltration of precipitation where the aquifer is at or near land surface (Carter, 1998). Another source of recharge to the Ogallala aquifer is stream loss when the stream stage is higher than the hydraulic head in the aquifer (Carter, 1998). The average annual recharge rate to the Ogallala aquifer was estimated by Hedges and others (1985) as well as Kolm and Case (1983). The average annual recharge rate was estimated by utilizing observation well data, analyzing base-flow recession, and through computer models as shown in Table 3.

Table 3: Estimated average annual recharge rate to the main body Ogallala aquifer (Kolm and Case, 1983; Hedges et al., 1985).

Est. Avg. Ann. Recharge rate (in/yr)	Method	Source	Est. Avg. Ann. Recharge (ac-ft/yr)
1.3	Computer model	Kolm and Case, 1983	108,914
1.8	Computer model	Kolm and Case, 1983	150,804
1.88	Base-flow recession	Hedges and Burch, 1985	157,506
3.4	Observation well data	Hedges and Burch, 1985	284,852

The areal extent of the Ogallala aquifer in the main body was estimated to be approximately 1,005,360 acres (Hedges et al., 1985; Filipovic, 2004; Magstadt, 2019; Martin et al., 2004). Therefore, the average annual recharge rate to the main body of the Ogallala aquifer in South Dakota ranges between approximately 108,914 to 284,852 acre-feet/year (ac-ft/yr).

Discharge

Discharge from the Ogallala aquifer is primarily through direct evapotranspiration where the aquifer is near or at land surface, loss to surface features and adjacent aquifers when the hydraulic head of the Ogallala aquifer is higher than the stage of surface water features and that of aquifers that the Ogallala aquifer is in hydraulic connection with, and well withdrawals (Carter, 1998; Filipovic, 2004 and 2011). Currently, there are 167 water rights/permits authorized to appropriate water from the Ogallala aquifer (Water Rights, 2022c). Out of the 167 water rights/permits are authorized to appropriate water from the Ogallala aquifer, 149 (135 irrigation and 14 non-irrigation) are within the main body (Water Rights, 2022c). There are four future use permits (Permit Nos. 551-2, 882-2, 1622-2, and 1660-2) reserving water from the Ogallala aquifer presently. For the purpose of estimating the average annual withdrawal rate from the Ogallala aquifer, the four future use permits are assumed to be fully developable for a total of 2,233 ac-ft/yr (Water Rights, 2022c).

Table 4 summarizes the 30 non-irrigation water rights/permits authorized to appropriate water from the Ogallala aquifer with the estimated annual use for each water right/permit as determined by their maximum permitted diversion rate or annual volume. It should be noted that Table 4 also includes water rights/permits that are completed into the erosional remnant of the

Ogallala aquifer. The amount of water that can be withdrawn was estimated by assuming the non-irrigation water rights/permits limited by an annual volume will withdraw their entire appropriated volume every year. It is estimated that the non-irrigation water rights/permits limited only by a diversion rate will pump at their maximum permitted diversion rate for 60 percent of the time. Six municipal water rights were identified as being connected to a rural water system and maintain their wells for standby purposes (Friedeman, 2020; Water Rights, 2022c); as such, the average annual water use for these water rights has been estimated to be zero ac-ft per year in Table 4. It is worth noting, Water Permit No. 2804-2 is authorized to withdraw from both the Ogallala and Dakota aquifers (Water Rights, 2021c). However, it was noted in the file that 16.12 acre-feet of the authorized volume is authorized for their Ogallala well, and for the purpose of estimated average annual withdrawals, this permit is expected to withdraw only that amount. Overall, the average annual withdrawal rate for the main body of the Ogallala aquifer for non-irrigation water rights/permits is approximately 6,289 ac-ft/yr (Table 4) (Water Rights, 2022c).

Table 4: Estimated annual water use for non-irrigation water rights/permits authorized to appropriate water within the Ogallala aquifer (Water Rights, 2022c).

Permit No.	Name	Status	Use	Aquifer	County	Rate (cfs)	Authorized Volume (ac-ft/yr)	Estimated use (ac-ft/yr)
2758-2	Estate of James Riley Willingford	PE	COM	OGLL	BT	0	63	63
1942-2	Littau & Massa Et Al	LC	DOM	OGLL	TR	0.090	N/A	39.1**
2455-2	Martin J Vanderploeg	LC	FWP	OGLL	BT	0.045	N/A	19.5**
2505-2	Lakeview Christian Reform	LC	INS	OGLL	TD	0.033	N/A	14.3**
2621-2	Tuthill Community Presbyterian Church	LC	INS	OGLL	BT	0.020	N/A	8.7**
1031-2	City of Gregory	LC	MUN	OGLL	GY	0.600	N/A	260.6
1038-2	City of Winner	LC	MUN	OGLL	TR	0.870	N/A	377.9**
1285-2	City of Winner	LC	MUN	OGLL	TR	0.670	N/A	291**
1286-2	City of Winner	LC	MUN	OGLL	TR	0.720	N/A	312.8**
1416-2	City of Winner	LC	MUN	OGLL	TR	0.690	N/A	299.7**
1603-2	City of Bonesteel	LC	MUN	OGLL	GY	0.070	N/A	0*
1661-2	City of Burke	LC	MUN	OGLL	GY	0.100	N/A	0*
1668-2	City of Gregory	LC	MUN	OGLL	GY	0.140	N/A	60.8
1842-2	Town of Herrick	LC	MUN	OGLL	GY	0.160	N/A	69.5
2065A-2	City of Burke	LC	MUN	OGLL	GY	0.210	N/A	0*
2091-2	City of Bonesteel	LC	MUN	OGLL	GY	0.100	N/A	0*
256-2	Town of Fairfax	LC	MUN	OGLL	GY	0.250	N/A	108.6
455-2	City of Burke	LC	MUN	OGLL	GY	0.330	N/A	0*
521-2	City of Winner	LC	MUN	OGLL	TR	4.110	N/A	1785.4**
632-2	City of Colome	LC	MUN	OGLL	TR	0.220	N/A	95.6**
872-2	City of Burke	LC	MUN	OGLL	GY	0.260	N/A	0*
976-2	City of Colome	LC	MUN	OGLL	TR	0.330	N/A	143.4**
2339-2	Town of Herrick	LC	MUN	OGLL	GY	0.220	N/A	95.6
2728-2	City of Gregory	LC	MUN	OGLL	GY	3.880	309	309.0
1085-2	Schitz Well Group	LC	RWS	OGLL	GY	0.060	N/A	26.1
1719-2	Tripp County Water User District	LC	RWS	OGLL	GY	0.200	N/A	86.9
2293-2	Tripp County Water User District	LC	RWS	OGLL	TR	3.880	N/A	1685.5**
2435-2	Tripp County Water User District	LC	RWS	OGLL	GY	0.280	N/A	121.6
2515-2	Tripp County Water User District	LC	RWS	OGLL	TR	2.680	1,200	1200**
2804-2	Dougherty Cattle Company Inc	PE	COM	DKOT, OGLL	TR	0.130	77	16.12***
LC Licensed Water Permit, PE Water Permit							TOTAL:	7,491
OGLL Ogallala, DKOT Dakota							MAIN BODY TOTAL:	6,289
BT Bennett, GY Gregory, TD Todd, TR Tripp								
COM Commercial, MUN Municipal, INS Institutional, FWP Fish and Wildlife Propagation, RWS Rural Water System								
*Identified as being connected to a Rural Water System, **Water Rights/Permits within main body ***Multiple aquifer permit								

Currently, there are 135 irrigation water rights/permits appropriating water from the main body of the Ogallala aquifer (Water Rights, 2022c). However, there are only 130 water rights/permits that have been fully developed and are reporting to the SD DANR - Water Rights Program.

Water Right Nos. 475 -2 and 1114-2 were suspended in 2000 for three years and the land was subsequently sold to a nearby tribe, Permit Nos. 2678-2 and 2679-2 were never developed and sold their authorized acres to a nearby tribe, and Water Permit No. 2822-2 was issued in 2021 and has not yet reported water usage to the SD DANR-Water Rights Program irrigation questionnaire (Water Rights, 2022c). Water Permit No. 2822-2 is expected to appropriate approximately 180 ac-ft/yr (assuming an application rate of 1 ft/ac). The reported annual irrigation withdrawals from the Ogallala aquifer are shown in Table 5. The average annual withdrawal rate within the main body of the Ogallala aquifer irrigation water rights/permits that have reported over the period of record is approximately 18,952 ac-ft/yr (Table 5) (Water Rights, 2022a).

Since the number of irrigation water rights/permits has continued to increase over the period of record, the estimated average annual withdrawal rate for irrigation appropriations for the entire period of record may not accurately reflect the current level of development. The average annual withdrawal rate for irrigation appropriations from 2012 to 2020 better represents the current level of irrigation developments in the main body of the Ogallala aquifer. The average annual withdrawal rate within the main body of the Ogallala aquifer from 2012 to 2020 is approximately 23,207 ac-ft/yr (Table 5) (Water Rights, 2022a).

There are domestic wells completed into the main body of the Ogallala aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2022d). Withdrawals from domestic wells on an average annual basis are not considered to be a significant portion of the hydrologic budget due to their relatively low diversion rates. Additionally, with the development of rural water systems in areas where the Ogallala aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the main body of the Ogallala aquifer.

Valseth and Driscoll (2020) compiled data for selected irrigation and municipal wells operated by the Rosebud Sioux Tribe. However, it is not likely all municipal and irrigation wells that are operated by the tribe were included, because the report notes these are selected wells. Furthermore, many of the wells do not include well depth or aquifer assignment to determine if the wells are completed into the Ogallala aquifer. The data does not include an estimated annual volume pumped from each well, just an estimated mean production (pumping) rate.

It is worth noting that Water Permit Application Nos. 2833-2 and 2834-2 will be completed into relatively small sand and gravel deposits that have a significant hydrologic connection to the Ogallala aquifer, deposits of quaternary Eolian and Quaternary Terrace aquifers, respectively. However, these deposits are geologically distinct from the Ogallala Group, and do not directly overlie the Ogallala aquifer and have subsequently been identified as independent formations from the Ogallala aquifer. Due to the nature of natural discharge from the Ogallala aquifer flowing into and subsequently through these two particular deposits before discharging to the Keya Paha River, the estimated annual use by Application Nos. 2833-2 and 2834-2 will be accounted for as Ogallala aquifer withdrawals. A more detailed discussion is available in Mathiowetz (2022).

Table 5: Reported historic irrigation use from the main body of the Ogallala aquifer (Water Rights, 2022a).

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1982	92	9,217
1983	99	10,162
1984	107	13,273
1985	106	18,537
1986	102	12,933
1987	101	12,342
1988	100	16,141
1989	101	27,240
1990	104	16,502
1991	105	16,029
1992	105	11,985
1993	103	11,100
1994	105	16,676
1995	104	14,253
1996	107	21,168
1997	108	18,661
1998	106	13,739
1999	107	13,704
2000	108	16,096
2001	107	17,990
2002	102	24,091
2003	102	22,039
2004	104	23,840
2005	105	20,026
2006	108	25,630
2007	110	23,976
2008	111	24,456
2009	111	22,070
2010	110	21,187
2011	111	15,214
2012	113	33,111
2013	123	26,459
2014	130	22,060
2015	130	23,928
2016	133	23,231
2017	134	27,253
2018	131	19,336
2019	130	11,464
2020	130	22,024
MIN	92	9,217
MAX	134	33,111
AVG	110	18,952
AVG 2012-2020	128	23,207

Hydrologic Budget Summary

The average annual withdrawal rate from the main body of the Ogallala aquifer totals approximately 32,304 ac-ft/yr (irrigation: 23,207 ac-ft/yr; non-irrigation: 6,289 ac-ft/yr; future use: 2,233 ac-ft/yr; Water Permit No. 2822: 180 ac-ft/yr; Water Permit Application Nos. 2833-2 and 2834-2: 260 ac-ft/yr; Water Permit Application No. 2836-2 (if approved) (assuming an application rate of 1 ft/ac): 135 ac-ft/yr) (Water Rights 2022a and 2022c). The estimated average annual recharge rate to the main body of the Ogallala aquifer ranges from approximately 108,914 to 284,852 ac-ft/yr. Overall, the estimated average annual recharge to the main body of the Ogallala is greater than the estimated average annual withdrawal rate from the aquifer. Therefore, there is a reasonable probability that unappropriated water is available for the appropriation proposed by this permit application.

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.

The DANR-Water Rights Program monitors 69 observation wells completed into the main body of the Ogallala aquifer (Water Rights, 2022b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. There are two observation wells within approximately two and one-half miles of the proposed diversion points. The closest observation well to the proposed diversion points is observation well TD-76G (approximately 0.8 miles southeast). The hydrographs for these two observation wells are displayed in Figures 1 and 2 (Water Rights, 2022b).

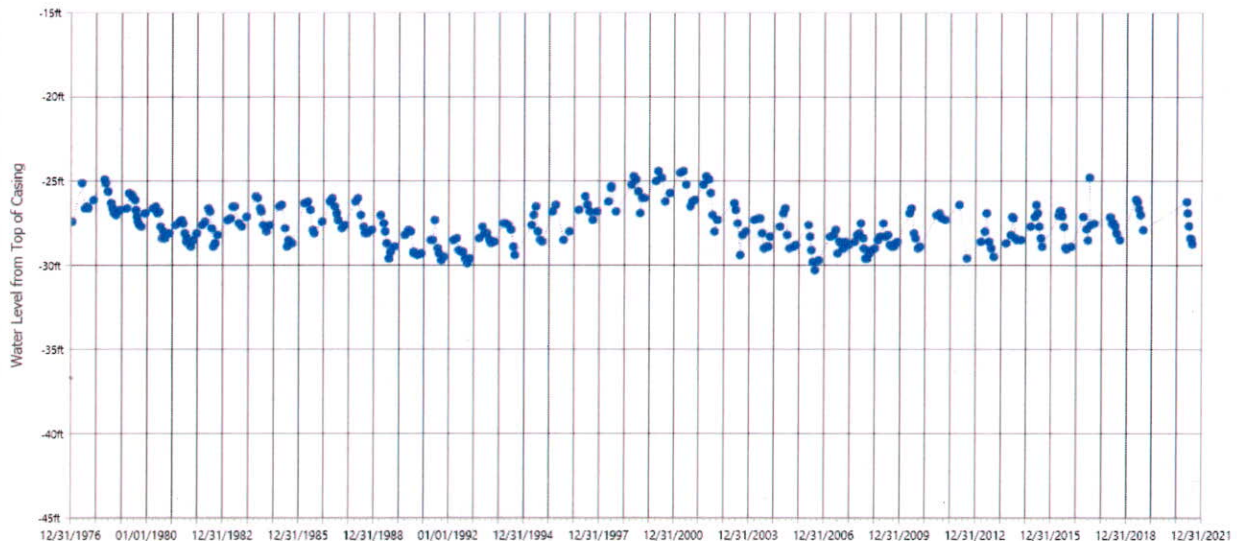


Figure 1: Hydrograph of the Ogallala aquifer observation well TD-76G, located approximately 0.8 miles southeast of the proposed diversion points (Water Rights, 2022b).

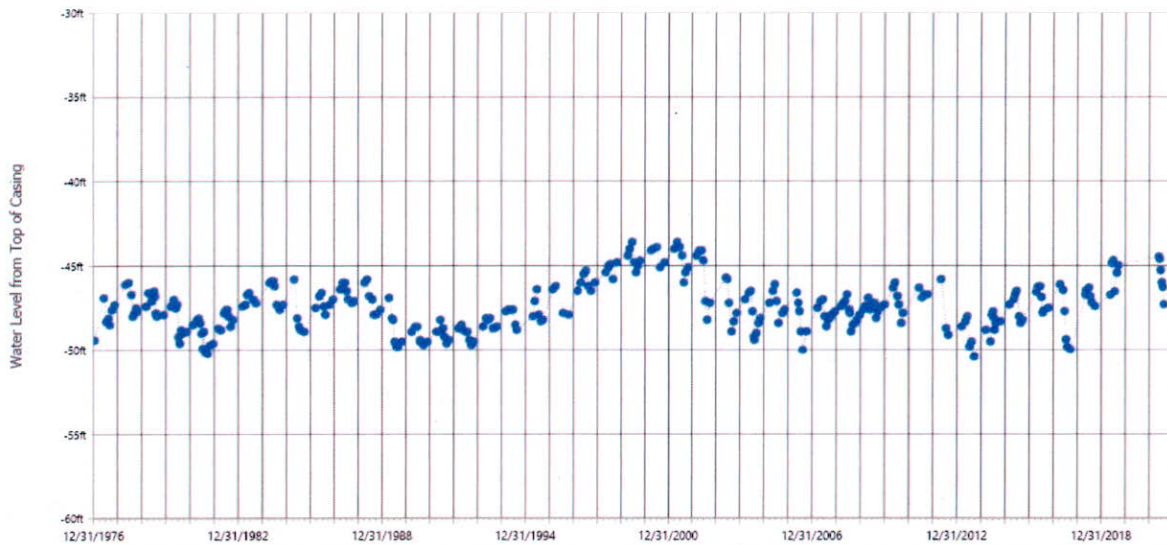


Figure 2: Hydrograph of the Ogallala aquifer observation well TD-76H, located approximately 2.3 miles east of the proposed diversion points (Water Rights, 2022b).

The hydrographs for the observation wells display stable water levels over their respective periods of record, except in areas of significant recent development such as Bennett County. In the areas of significant recent development, some hydrographs show a slight recent decline in water levels. This is representative of the potentiometric surface of the aquifer equilibrating to new and increased pumping and not indicative of over appropriation.

The hydrographs for the Ogallala aquifer indicate that 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. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. This recovery of the aquifer indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping from the Ogallala aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 167 water rights/permits authorized to appropriate water from the main body of the Ogallala aquifer, including four future use permits (Water Rights, 2022c). Out of the 167 water rights/permits are authorized to appropriate water from the Ogallala aquifer, 149 are within the main body (Water Rights, 2022c). There are 18 water rights/permits authorized to appropriate water from the main body of the Ogallala aquifer within approximately three miles of the proposed diversion points (Water Rights, 2022c). The 18 water rights/permits are shown in Figure 3 and identified in Table 6. The nearest water right/permit (not held by the applicant) to

There are domestic wells on file with the DANR-Water Rights Program that are completed into the main body of the Ogallala aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.4 miles southwest of the proposed diversion points (Water Rights, 2022d). There could potentially be other domestic wells completed into the main body of the Ogallala aquifer near the proposed diversion points that are not on file with the DANR-Water Rights Program.

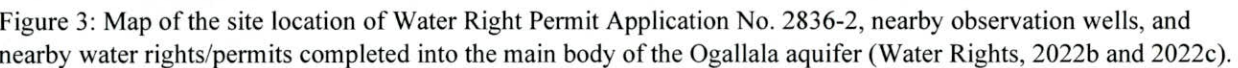


Table 6: Water rights/permits from the main body of the Ogallala aquifer within approximately three miles of the proposed diversion points (Water Rights, 2022c).

Permit No.	Name	Use	Status	Rate (cfs)	Acres
861-2	Bobbi Reagle	IRR	LC	1.75	122.6
1115-2	Scott/Samantha Flannery	IRR	LC	1.6	112
1224-2	Mission Farms	IRR	LC	14.3	1048
1253A-2	Daniel & Gerry Vavra	IRR	LC	5.3	389
1294-2A	Mission Farms	IRR	LC	3.6	255
1311-2	Gene Popkes	IRR	LC	1.89	142
1353B-2	Danielski Harvesting & Farming LLC	IRR	LC	1.78	129
1353D-2	Bobbi Reagle	IRR	LC	1.74	133.4
1353E-2	Danielski Harvesting & Farming LLC	IRR	LC	1.7	129.5
1476-2	Mission Farms	IRR	LC	1.8	128
1545-2	Scott/Samantha Flannery	IRR	LC	1.15	80.6
1565-2	Bobbi Reagle	IRR	LC	7.6	554
1922-2	Danielski Harvesting & Farming	IRR	LC	5.57	401
1950-2	Bobbi Reagle	IRR	LC	5.53	450.9
2096-2	Mission Farms Inc	IRR	LC	1.78	132
2571-2	Jay & Malinda Gunnink	IRR	LC	1.56	132
2663-2	Danielski Harvesting And Farming	IRR	LC	14.5	1017
2744-2	Rocking J Taylor Company	IRR	LC	1.78	150
LC: Licenced Water Right; IRR: Irrigation					

The Ogallala aquifer is generally under unconfined conditions in Todd County (Carter, 1998; SDGS, 2022; Water Rights, 2022c and 2022d). The diversion points are expected to be under unconfined conditions based on the submitted formation logs, water levels, and lithologic logs on file for the nearby observation wells (Water Rights, 2022d). Observation well data (see Figures 2 and 3) documents minimal drawdown from withdrawals of existing wells near the proposed diversion points. Therefore, pumping from the proposed diversion points is not expected to significantly lower water levels within the aquifer. Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer. However, the exact drawdown behavior cannot be known without an aquifer performance test. In Todd County, there have been no complaints submitted to the DANR-Water Rights Program regarding potential well interference for adequate wells completed into the Ogallala aquifer (Water Rights, 2022c).

Within approximately one mile of the proposed diversion points for this application, the Ogallala aquifer has a saturated aquifer thickness ranging from approximately 150 to 200 feet, with the depth to the top of aquifer materials ranging from approximately 2 to 40 feet below land surface, and static water levels at well completion varying from approximately 15 to 70 feet below land surface (SDGS, 2022; Water Rights 2022b and 2022d). This would allow for sufficient saturated thickness for a pump to be placed 20 feet below the top of the aquifer; which is required for the well to be considered adequate under ARSD 74:02:04:20(6).

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."

Any drawdown created from pumping these proposed diversion points is not expected to cause unlawful impairment on existing water right/permit holders or domestic users with adequate wells considering the location of the diversion point, the saturated thickness, and the lack of complaints for adequate wells completed into the Ogallala aquifer. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 2836-2 proposes to appropriate water at a maximum instantaneous diversion rate of 1.89 cfs from two wells completed into the main body of the Ogallala aquifer for the irrigation of 135 acres. The site is located in Todd County approximately 11 miles Southwest of Mission, SD.
2. There is a reasonable probability that unappropriated water is available from the Ogallala aquifer for this proposed appropriation based on the hydrological budget and observation well data.
3. There is a reasonable probability this diversion will not unlawfully impair adequate wells authorized by existing water rights or domestic use wells.


Lindsey Cederberg
Natural Resources Engineer I
SD DANR - Water Rights Program

Reviewed by:


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

References

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- Water Rights, 2021d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2021e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, March 3, 2022 9:54 AM
To: Rapid City Journal (legals@rapidcityjournal.com)
Subject: 2836-2, Lisa O'Rourke-Fulton
Attachments: 2836-2public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on March 9, 2022 in the Todd County Tribune.

Lisa O'Rourke-Fulton, 29393 272 Ave, Valentine NE 69201 (402 322-0110) 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: Thursday, March 3, 2022 9:54 AM
To: tribnews@gwtc.net
Subject: 2836-2, Lisa O'Rourke-Fulton
Attachments: 2836-2public.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.**

March 3, 2022

Lisa O'Rourke-Fulton
29393 272nd Ave
Valentine NE 69201

Dear Ms. O'Rourke-Fulton:

Water Permit Application No. 2836-2 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Todd County Tribune printed at Mission (Ph # 605 856-4469) 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. 2836-2 to Appropriate Water

Notice is given that Lisa O'Rourke-Fulton, 29393 272nd Ave, Valentine NE 69201 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 210 feet deep) located in the NW 1/4 NE 1/4 and the approximate center of the NE 1/4 Section 25 for irrigation of 135 acres located in the NE 1/4 Section 25; all in T37N-R29W. This site is located approximately 11 miles southwest of Mission SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2836-2 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 March 21, 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 March 21, 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_.

Affidavit of Publication

State of South Dakota

County of Todd

RECEIVED**MAR 11 2022**WATER RIGHTS
PROGRAM

Taylor Risse, being, first duly sworn, on oath, says: That he/she is an employee of Scherer Publishing, LLC, Inc., and that the Todd County Tribune is, and during all the times hereinafter mentioned was, a weekly legal newspaper as defined in the SDCL 17-2-2.1 through the 17-2-2.4 inclusive; that said newspaper has been published within the said county of Todd and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for **1** successive week(s) to wit:

March 9, 2022

That the full amount of the fee charged for the publication of the attached public notice, **\$48.18** insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Signed: _____

Subscribed and sworn to before me this 9 day of March, 2022.

Notary Public

My Commission Expires
December 9, 2027

Legal Notices

Notice of Hearing

Rosebud Sioux Tribal Court
Rosebud Indian Reservation
Rosebud, South Dakota

IN CIVIL COURT
JSS

IN THE MATTER OF THE NAME CHANGE:

Nivea Lourdes Santistevan

NOTICE OF HEARING
ON NAME CHANGE

MINOR

TO: THE PUBLIC
Please take notice that on the 5th day of April, 2022, at 1:00 p.m. a hearing shall be held to change the name of:
Nivea Lourdes Santistevan to Nivea Lourdes Menard
at the Rosebud Sioux Tribal Court House, Rosebud, South Dakota. All persons seeking to enter objections should appear at such time. Dated this 4th day of March, 2022.

/s/ Ron High Rock
Ron High Rock, Jr.
Clerk of Courts
Rosebud Sioux Tribal Court

Published four times at the total approximate cost of \$75.00
Published: March 9, 16, 23, 30, 2022

Summons

Rosebud Sioux Tribal Court
Rosebud Indian Reservation
Rosebud, South Dakota

In Children's Court
JSS

The People of the Rosebud Sioux
Tribe in the Interest of:

Docket #CC 22-07

A.W.

Summons

Minor child(ren) and concerning,

TO: BRANDON WITT,
PLEASE TAKE NOTICE that the Hearing on the Petition for Review Hearing and concerning the above named minor(s) has been set for the Day of 24th of MARCH, 2022 at 2:00 p.m. in the Rosebud Sioux Children's Court House at the Wanblei Wicounti Tipi Wellness and Renewal Center (JCQ) at Ring Thunder, South Dakota. This is your official notice of said hearing.
Date This 23rd Day of February, 2022

By The Court
Janet Rontzen
Tribal Court Judge

Attest:
Lynn Meaus
Clerk of Courts
Published three times at the total approximate cost of \$68.04
Published: March 9, 16, 23, 2022

Notice Of Application No. 2836-2 To Appropriate Water

Notice is given that Lisa O'Rourke-Fulton, 29393 272nd Ave, Valentine NE 69201 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 210 feet deep) located in the NW 1/4 NE 1/4 and the approximate center of the NE 1/4 Section 25, all in T37N R29W. This site is located approximately 11 miles southeast of Mission SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2836-2 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 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://darr.sd.gov/public> or contact Ron Dussell 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://darr.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 March 21, 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://darr.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 March 21, 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 \$48.18
Published: March 9, 2022

REPORTER Register

The Brookings Register is looking for an ambitious and talented individual to fill a news reporter position. Coverage areas include city government, law enforcement, and general assignment news and feature stories. Candidates should be self-starters who can generate story ideas and meet deadlines. Requires the ability to work nights and weekends, strong writing and grammar skills, knowledge of AP style and solid photography skills. This is an hourly position with a full benefits package. EOE.
Any persons interested should send a cover letter and resume, along with professional writing samples to:
c/o Jill Flier, Managing Editor, jflier@brookingsregister.com
312 5th Street, Brookings, SD 57006 www.brookingsregister.com

Request for Bids

TLE Shareholders Meeting

TLE is seeking sealed bids for a meal to be served at a scheduled shareholders meeting. The meeting is scheduled for March 26, 2022. This meal is for 75 people and is a "full" course meal with a

1. Meat entrée
2. Side dishes
3. "Breads"
4. A Dessert & Drinks

6. Bidders must provide plates, cups, spoons/forks/knives and napkins. Bidders will also be responsible for serving the meal. Bidders will need to identify each entrée, the dessert and the drink. Once the bid is awarded the vendor can receive half of the bid amount to help buy supplies.

The bids will be sealed therefore faxes, phone and e-mails will not be accepted. The deadline is Friday March 18, 2022 at 4:30 p.m. Please mark envelope "TLE Meal"

For more information concerning this meal, contact the Executive Director of Tribal Land Enterprise at (605) 747-2371.

Published twice at the total approximate cost of \$31.44
Published: March 9, 16, 2022

Notice Of Bid For Star Quilts

Notice is hereby given that St. Francis Indian School will accept sealed bids and will be reviewed at each regular board meeting, until 5:00 p.m., Wednesday, March 9, 2022, or until three (3) Bidders have been awarded. Sealed bids will be received in the office of the Executive Assistant, Grueter Hall Building, St. Francis Indian School, St. Francis, SD, for the cost of ten (10) Star Quilts to be made as described in Item Description. Three (3) bidders will be selected to furnish ten (10) Star Quilts each by May 6, 2022 to the school. Bids will be opened and read at each regular Board meeting by the Board Treasurer and Business Manager. Local and Tribal preference claimed.

Item Ten (10) Star Quilts, each approximate size 80 x 90 inches, and in the following colors or shades: white, red, yellow, blue, green, orange, pink, purple. The Star Quilts can either be hand or machine quilted. Please provide star quilts only quilts with cartoon characters, eagles, buffaloes, or other animals will not be accepted, and quilts made smaller or larger than the requested size will not be accepted.

Quilt delivery date will be May 6, 2022. Each star quilt will be inspected upon delivery.

The approval of bid will be made at a meeting of the Board of Directors.

Bids must be in a sealed envelope and addressed to BID-STAR QUILTS, c/o Executive Assistant, Siyagwa Ovale Ho, Inc., P.O. Box 379, St. Francis, SD 57572. Bids can be mailed by USPS or other delivery service. Bids can be hand delivered to the Executive Assistant.

The Board reserves the right to accept or reject any and all bids.

For more information, please contact the SFBIS Superintendent Danielle Walking Eagle at
(605) 747-2299. FAX or email transmittals will not be accepted.

Marlene E. Short Bull
Executive Assistant

Published seven times at the total approximate cost of \$159.98
Published: January 26, February 2, 9, 16, 23, March 2, 9, 2022



You can get along without electricity and advertising... BUT WHY TRY?

Todd County Tribune 856-4469
tribnews@gwtc.net

Job Openings

Cherry-Todd Electric has a position opening for Cashier/Secretary effective immediately.

Candidate must have excellent customer service and communication skills and be proficient in the use of Microsoft Office Excel and Word software along with some knowledge of Microsoft PowerPoint software. Candidate needs to be excellent in cashier skills including balancing a cash drawer and confident in using a computer. The candidate must be proficient in the operation of office machines, including calculator, copier, fax and, printing machines.

Cherry-Todd Electric has a position opening for a Bookkeeper effective immediately.

Cherry-Todd Electric is a high paced work environment. Candidate must have excellent customer service and communication skills and be proficient in the use of Microsoft Office Excel and Word software along with some knowledge of Microsoft PowerPoint software. The candidate must be proficient in the operation of office machines, including calculator, copier, fax and printing machines.

Job description includes but not limited to: maintaining financial records; capital credits; general ledger; accounts payable and receivable; transportation; purchase orders & employee payroll. Ideal candidate will have a Bachelor's Degree in accounting, business administration, economics or related field. An Associate Degree in any of the above listed fields and/or work experience in lieu of a Bachelor's Degree will be considered.

Applications are available at the Cherry-Todd office located in Mission, SD or can be found on-line on our website: www.cherry-todd.com. All applications must be submitted to the Cherry-Todd Office no later than 5 p.m. on March 30, 2022. If you have questions, please call 605-856-4416.

Cherry-Todd Electric is an equal opportunity provider and employer.

Contact Information:
Cherry-Todd Electric Cooperative, Inc.
PO Box 169
Mission SD 57555
Phone: 605-856-4416
Fax: 605-856-4268
Attn: Colleen Farley
e-mail: colleen@cherry-todd.com



Dusty Johnson

U.S. Representative of South Dakota

ICYMI—A State of the Union Recap

On Tuesday, President Biden visited the U.S. Capitol to address both chambers of Congress while 37 million Americans tuned in at home to listen to the annual State of the Union.

While the current outlook of our nation and the world may appear bleak to many, I was proud to see Republicans and Democrats alike stand in unity to support Ukraine and its people at the start of his address.

RUSSIA—UKRAINE: This was President Biden's first major point in his State of the Union address. He spoke of increased sanctions on Russia and Russian oligarchs and closing off American airspace to all Russian flights, further cutting off Putin and the Russians off from the rest of the world and the global economy. We must continue to support Ukraine by escalating our economic response with unrelenting sanctions. The U.S. should set its sights on bringing back the energy independence we gained during the last administration. Putin should reap the consequences for what he's done.

BORDER SECURITY: "We need to secure the Border and fix the immigration system," President Biden said. He mentioned new technology that better detects drug smuggling, as well as new joint patrols with Mexico and Guatemala to stop human traffickers. This was surprising to hear from the President. For the last year, the administration's actions have basically been the opposite of the President's State of the Union remarks. President Biden has the tools at his disposal to secure the border—like the REMAIN in Mexico Act, the Finish the Wall Act, and the Transparency of Migration Act—he just needs to take action.

CRIME: President Biden urged that instead of defunding the police, the answer is to "fund the police." This is a major turnaround, I agree with this, which is why I proudly cosponsored the Invest to Protect Act, a bill that makes critical investments in local police departments for training, body cameras, mental health resources, recruitment, and retention that are needed resources for our local communities.

INFLATION: While there was no talk of inflation being a result of overspending, President Biden did call out the ocean carriers that are driving up prices due to port backlogs and unfair shipping practices. I know this impacts more than just ocean carriers and port employees, but its effects reach all the way to consumers, manufacturers, family farms, and small businesses in South Dakota. That is why I led the Ocean Shipping Reform Act that passed the House in December and is on track to pass in the Senate soon. The quicker this gets signed into law by the President, the sooner American companies, producers, and consumers will start to feel some relief of high prices.

There is a lot that Congress—as well as the President—can be working on to get us through the crises we are facing as a nation. President Biden signaled he would support legislation that both parties can agree on—time will tell if that proves to be true.



Sinte Gleska University

Job Announcement

Position: Faculty, Construction Trades

Department: Institute Of Technology-IOT

Supervisor: Department Chairperson/IOT Director

Classification: Full-Time Faculty Contract: 12 month/Salary
JOB SUMMARY: Faculty member will prepare for and teach Construction Trades curriculum.

DUTIES & RESPONSIBILITIES:

1. Faculty member will prepare for and teach Construction Trades curriculum at minimum of 30 credits contract year.
2. Prepare course schedule for each academic semester.
3. Keep record of student's degree plan in collaboration with Program Director.
4. Attend mandatory professional development trainings.
5. Assist with academic registration.
6. Serve on and contribute to campus-wide committees.
7. Support the mission of the University, and the mission of the Institute of Technology Department.
8. Provide office hours according to department requirements.
9. Follow the policies and procedures of the University.
10. Participate in the development, evaluation and revision of the curriculum in collaboration with Program director.
11. Develop and update syllabi based upon the approved curriculum.
12. Conduct on-going assessment of student progress.
13. Advise students in the Construction Trades Program.
14. Follow and adhere to SGU's Faculty contract's responsibilities and duties.

QUALIFICATIONS:

Two-year associates degree in Construction Trades with Certification(s) in related field. 5-10 year work experience in related field. Knowledge working with basic computers (printing etc.) and Microsoft word documents. Or- 10-15 years of work experience in related field with certification(s) in related field. Knowledge in carpentry work, plumbing and electrical. Knowledge working with basic computers (printing etc.) and Microsoft word documents.

Preferred:

Preferred teaching experience, but not required. (Higher education level/or Secondary) Preferred online teaching experience, but not required.

Salary dependent upon experience and education in related field

To Apply: Submit a completed SGU job application with a copy of your HS Diploma or equivalent, Resume, Transcripts, verification of College Degree(s), Certificates, Driver's license, Tribal ID or abstract, proof of COVID-19 vaccination to the HR Department. Applications are available on the SGU Website under job opportunities.
Open until filled.

For further information and position description contact Brenda I. Farmer, Acting HR Director in care of the SGU HR office at the Antelope lake campus. Administration Bldg. 605-856-8262. Brenda.Farmer@sintegleska.edu.

Incomplete applications will not be considered.

*** 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

RECEIVED

MAR 11 2022

WATER RIGHTS
PROGRAM

ORDER NUMBER 43617

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 week for one

successive week, the first publication there of being on the

9 day of March, 20 22.

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 03/09/2022

TOTAL AD COST: 69.12

FILED ON: 3/9/2022

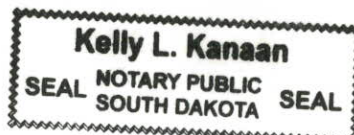
Subscribed and sworn to before me this

9th day of March, 20 22.

Kelly L. Kanaan Notary Public

My commission expires

Jan 17, 20 25



March 9 L43617

NOTICE OF APPLICATION NO. 2836-2 to Appropriate Water

Notice is given that Lisa O'Rourke-Fulton, 29393 272nd Ave, Valentine NE 69201 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 210 feet deep) located in the NW 1/4 NE 1/4 and the approximate center of the NE 1/4 Section 25 for irrigation of 135 acres located in the NE 1/4 Section 25; all in T37N-R29W. This site is located approximately 11 miles southwest of Mission SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2836-2 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 March 21, 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 March 21, 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 one time at the approximate cost of \$69.12)

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, March 3, 2022 9:57 AM
To: Lisa Fulton
Subject: Water Permit Application No. 2836-2
Attachments: 2596.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 paper(s) 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>



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, March 3, 2022 1:20 PM
To: Lisa Fulton
Subject: RE: [EXT] Water Permit Application No. 2836-2

Lisa,
Once we have gotten through the public notice process and barring no comments or petitions from the public, your permit will be issued. Permits are issued with a 5 year construction period and another 4 years to put the water to beneficial use. With the permit, we send a Notice of Completion of Works form. This form is to be submitted once your permit is fully constructed. At this point, you have done what is required. The water license is not issued until your project has been inspected by a staff member. Inspections are conducted on a county-by-county basis, so that may not happen for a couple of years.

Hope that answers your questions.
Karen

From: Lisa Fulton <Lisa@fultonranch.com>
Sent: Thursday, March 3, 2022 1:02 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] Water Permit Application No. 2836-2

Karen,
Thank you for your prompt response and I took care of the payment for both papers this morning and the Notice is scheduled for March 9th in both papers. The week long Notice will be done on March 16th. Can you please tell me "(If your application is approved, a licensing inspection will be completed following development of your water use project. Issuance of a water license is the final step in obtaining a water right in South Dakota.)" how long the process of the in parenthesis will take approximately?

Thank you for your time,
Lisa O'Rourke-Fulton

Home of A Streak Of Fling

Fulton Performance Horses LLC
Lisa, Jake, Jared & John Lloyd
Mailing address: 29393 272nd Ave Valentine, NE 69201
The Ranch is located in Todd County, South Dakota
Lisa -402-322-0110 Jake - 402-326-9990 Jared - 402-326-9511
www.fultonranch.com

Follow Us on FaceBook - A Streak Of Fling - Fulton Ranch - A Dash Ta Streak
Follow Us on Instagram - A Streak Of Fling

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Thursday, March 3, 2022 9:57 AM



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 3, 2022

Syed Huq
Water Resources
Rosebud Sioux Tribe
PO Box 910
Rosebud SD 57570

Mr. Huq:

Lisa O'Rourke-Fulton has filed a water right permit application with the state of South Dakota for irrigation from the Ogallala Aquifer in Todd County. Enclosed is a copy of the public notice, report and recommendation regarding Application No 2836-2.

This information is being sent to you as part of the DANR's commitment to keep the Rosebud Sioux Tribe informed of water permitting issues in Todd County. Please let us know by if there are concerns that the Tribe feels need to be addressed.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 25, 2022

NOTICE OF HEARING

TO: Lisa O'Rourke-Fulton Rosebud Sioux Tribe
29393 272nd Ave c/o Scott Herman, Tribal President
Valentine NE 69201 Box 430
 Rosebud SD 57570

Syed Huq Ann Mines Bailey, Assistant Attorney General
PO Box 910 1302 East Highway 14, Suite 1
Rosebud SD 57570 Pierre SD 57501-8501

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DANR, Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 2836-2, Lisa O'Rourke-Fulton

A petition has been filed in the matter of Water Permit Application No. 2836-2 in response to the Notice of Application published in the Todd County Tribune and Rapid City Journal on March 9, 2022. This notice schedules a hearing on Application No. 2836-2 before the South Dakota Water Management Board.

Water Permit Application No. 2836-2 proposes to appropriate 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 210 feet deep) located in the NW 1/4 NE 1/4 and the approximate center of the NE 1/4 Section 25 for irrigation of 135 acres located in the NE 1/4 Section 25; all in T37N-R29W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends approval of Application No. 2836-2 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 Water Management Board will conduct a hearing to consider Application No. 2836-2 at 11:00 AM (Central Time), on Wednesday, May 4, 2022, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda. Notice will be provided if there is a change in the time or date of the hearing.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application after it reaches a conclusion based on the facts presented at the public hearing.

The May 4, 2022 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition opposing the application. A request for an automatic delay must be filed by **April 4, 2022**. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol Ave, Pierre SD 57501." If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

The hearing is an adversary proceeding and any party has the right to be present at the hearing and may be represented by legal counsel. As a legal entity (Rosebud Sioux Tribe), the petitioner, is required to be represented by legal counsel in this administrative proceeding. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of the report, recommendation, and affidavit of publication. In addition, a copy of the petition filed in the matter of Water Permit Application No. 2836-2 is being provided to the applicant and legal counsel for DANR. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. Notices, orders, and other pleadings filed in this matter are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." If you intend to participate in the hearing, you are encouraged to review these documents prior to the hearing.

Contact Ron Duvall at the above Chief Engineer's address to request a copy of the staff report, recommendation, application or other information related to the application. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is April 4, 2022. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated March 25, 2022, with attachments regarding Water Permit Application No. 2836-2 - Lisa O'Rourke-Fulton, was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on March 25, 2022.

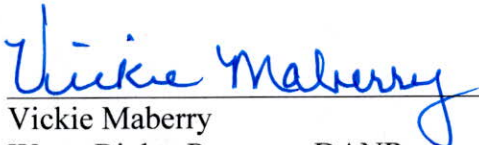
Lisa O'Rourke-Fulton
29393 272nd Ave
Valentine NE 69201

Rosebud Sioux Tribe
c/o Scott Herman, Tribal President
Box 430
Rosebud SD 57570

Syed Huq
PO Box 910
Rosebud SD 57570

Above also Sent Inter-office to:

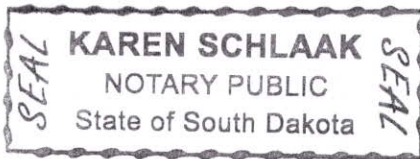
Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of March, 2022.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025





RECEIVED
MAR 21 2022
WATER RIGHTS
PROGRAM

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

Petition

Opposing Application for a Water Right Permit

Application No. 2836-2 **Name of Applicant** Lisa O'Rourke- Fulton

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

Note. According to South Dakota Codified Law section 46-2A-4(5), all the following information is required.

Describe the unique injury approval of this application will have upon you:

1. The permit is being issued within the exterior boundary of the Rosebud Sioux Tribe Reservation to withdraw ground water from the Ogallala Aquifer. The Water Resources of Rosebud Reservation is managed by the Tribe using the Rosebud Sioux Tribe Water Code and any water withdrawal permit must be issued by the Rosebud Sioux Tribal Water Resources Program as per the Water Code. Lisa O'Rourke-Fulton must be directed to adhere to the Rosebud Sioux Tribal Water Code. A copy of the water code is attached.

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Issuing this permit by the State of South Dakota can jeopardize groundwater resources managed by Rosebud Sioux Tribe.

List the reasons for your opposition to this application:

2. There are 28 monitor wells on the Ogallala Aquifer (Figure 1) and the water table fluctuation is monitored at least once a month by the Rosebud Sioux Tribal Water Resources Program. Hydrographs have been generated, for data for over 30 years of the water table fluctuation and the water table has a falling trend in several of the wells (copies of hydrographs are attached) Climate change and drought can cause synergistic impact to the water table fall along with the water withdrawal, should the permit be approved.

There are 5 production wells south of Rosebud and 4 production wells in the St. Francis area that supplies 70 percent of the drinking water to the Rosebud Sioux Tribal population. The water withdrawal as per the permit 2836-2 can jeopardize the drinking water supply to the tribal population. There are tribal center pivot irrigation systems using the Ogallala Aquifer water near the location of permit 2836-2 that can be interfered with water withdrawal by the issuance of the permit

Rosebud Sioux Tribe opposes the permit, first because the State must not issue water permit within the exterior boundary of Rosebud Reservation, such permits must be issued by Rosebud Sioux Tribe as per the Tribal Water Code. Second the State did not complete a thorough hydrologic study to determine the impact of the permit 2836-2 on existing tribal water wells for domestic drinking and center pivot irrigation. State has provided some arbitrary recharge amounts to the Aquifer but the most important criteria should be the specific yield of the Aquifer and the hydrographs of water table fluctuation trend. (Continued)

Type text here

Provide name and mailing address of the person filing this petition or the petitioner's legal counsel:

First Name: Scott **Last Name:** Herman

Mailing Address: Box # 430

City: Rosebud **State:** SD **Zip:** 57570

Note. This petition needs to be submitted via mail or personally served upon Water Rights no later than the deadline date provided in the public notice. The mailing address is provided above and should be sent to "Attention - Water Rights Program." A copy of this petition also needs to be mailed to, or personally served upon, the applicant whose mailing address is provided in the public notice.

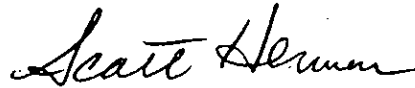
Application No. 2836-2

Petitioner's Name Lisa O'Rourke- Fulton

Any additional description of the unique injury or reasons for opposing this application:

2. The water table fluctuation data shows ominous trend and the drought monitor map (attached) of South Dakota is more ominous and hence the permit 2836-2 must be rejected. The Tribe was provided with a very short notice to comment on this permit, less than 10 days from the receipt of the letter from the State Chief Engineer.

Any response can be sent to me as the Tribal President with a copy to the Director of the Office of Water Resources Syed Huq. thank you

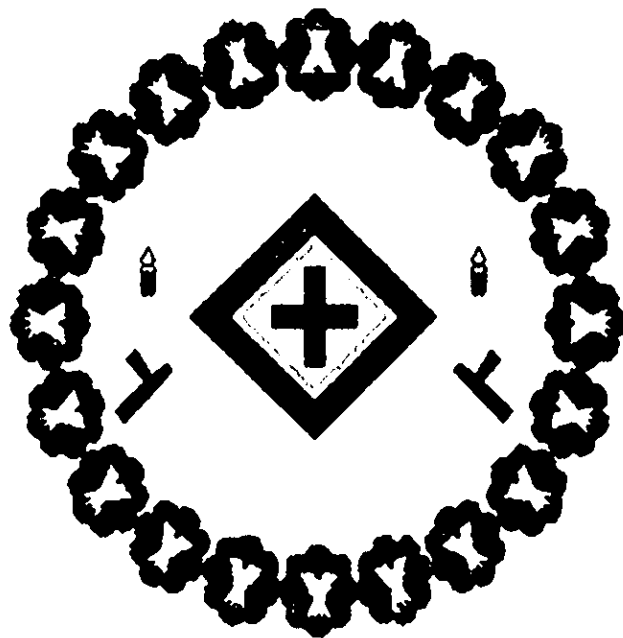


Mr. Scott Herman, Tribal President
Rosebud Sioux Tribe

ROSEBUD SIOUX TRIBE

WATER CODE

Tribal Council Resolution 2015- 337



May 2015

Rosebud Sioux Tribe

June 2015

WATER CODE

President – William Kindle

Vice President – Richard “Tuffy” Lunderman

Secretary – Julie Peneaux

Treasurer – Byron “Barney” Wright

Land and Natural Resources Committee

Chairman – William Bear Shield

Members: Wayne Fredrick

Brian Dillon

Michael Boltz

Mary Waln

Richard “Smokey” Whipple

Keith Fielder

Lydia Whirlwind Solder

Keith Horse Looking Sr.

Eric Antoine – RST Attorney

Syed Huq, Director
RST Water Resources

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2015-339**

WHEREAS, the Rosebud Sioux Tribe is a federally recognized Indian tribe organized pursuant to the Indian Reorganization Act of 1934 and all pertinent amendments thereof; and

WHEREAS, the Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and Bylaws; and

WHEREAS, free access and unhindered control of the water of the Rosebud Sioux Tribe is essential to the existence of the Rosebud Sioux Tribe and its people and without such access and control, the viability of the Rosebud Sioux Indian Reservation as a permanent home and abiding place will be increasingly threatened and the economic development of the Rosebud Sioux Indian Reservation thwarted; and

WHEREAS, the uncontrolled use and obstruction of the water of the Rosebud Sioux Indian Reservation causes or will cause over appropriation, waste, interference between users, unreliable water supplies, lowering of water quality, dangerously low lake and stream levels, destruction of fish and other wildlife habitats, and the loss of other economic and environmental amenities needed to ensure an acceptable quality of life within the Rosebud Sioux Indian Reservation; and

WHEREAS, the Rosebud Sioux Tribe has sovereign jurisdiction over and beneficial ownership of waters of the Rosebud Sioux Tribe and the Rosebud Sioux Indian Reservation; and

WHEREAS, the current Rosebud Sioux Tribe Water Code contains outdated provisions, is difficult to administer, and does not address issues of current importance such as extended droughts, climate change, depletion of aquifers, and risks to the quality of the waters of the Rosebud Sioux Tribe; and

WHEREAS, the water resources of the Rosebud Sioux Tribe has to be protected from potential contamination by pipelines carrying hazardous materials and injection of hazardous materials into or through the aquifers; and

WHEREAS, assessment, evaluation, monitoring, protection and development of the water resources of Rosebud Sioux Tribe is in need of a framework such as the Water Code; and

WHEREAS, comprehensive management of the water resources on the Rosebud Reservation is in need of an up to date Water Code; and

WHEREAS, the enforcement of the Rosebud Sioux Tribal Water Code will allow the RST Water Resources Program to implement a fair water use permit system for all residing within the exterior boundary of the reservation in Todd County and tribal lands in Mellette, Tripp, Lyman and Gregory counties; and

WHEREAS, the previous resolution no. 77-32 adopting a water code for Rosebud Sioux Tribe is rescinded and is replaced by a new one under this resolution; and

WHEREAS, the new Water Code has gone through the process of a public hearing, review by a tribal attorney, and Land & Natural Resources Committee; now

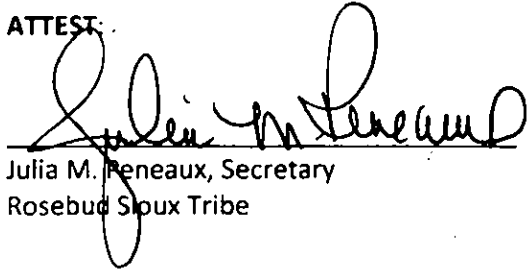
THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council approved the new RST Water Code and direct the RST Water Resources Program Director for implementation.

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2015-339**

CERTIFICATION

This is to certify that the above Resolution No. 2015-339 establishing the Water Code was duly approved by the Rosebud Sioux Tribal Council in session on June 14, 2016, for a first reading with a vote of fifteen (15) in favor, zero (0) opposed and zero (0) not voting. A second reading was duly approved on January 31, 2017, by a vote of fifteen (15) in favor, zero (0) opposed and zero (0) not voting. The said Water Code was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:


Julia M. Peneaux, Secretary
Rosebud Sioux Tribe

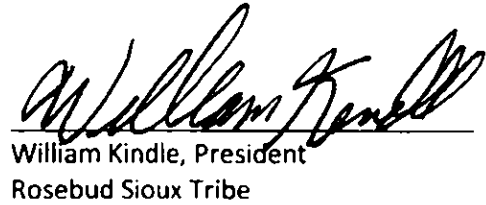

William Kindle, President
Rosebud Sioux Tribe

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CHAPTER 11 - ROSEBUD SIOUX TRIBE WATER CODE

100 General Provisions

101 Declarations of Rights and Ownership

(A) Declaration

The Rosebud Sioux Tribe hereby asserts its prior, exclusive, and supreme rights in ownership of and jurisdiction over the Waters of the Rosebud Sioux Indian Reservation, defined herein, for all purposes for a homeland.

The Rosebud Sioux Tribal Council has the right to amend this Water Code by a 2/3rds majority of the Tribal Council, and any amendment will be published in a newspaper of general circulation and all Water Use Permits held shall be reviewed by RST Land and Natural Resources Committee for approval in writing.

(B) Nature of Ownership

- (1) The Rosebud Sioux Tribe is the owner of the full equitable title to the rights to the use of all of the Waters of the Rosebud Sioux Indian Reservation, as defined herein, and that the United States holds only the naked legal title to those waters solely as trustee for the Rosebud Sioux Tribe.
- (2) All rights to the use of the Waters of the Rosebud Sioux Indian Reservation, as defined herein, are held by the Rosebud Sioux Tribe in perpetuity, for the use and benefit of the Rosebud Sioux Tribe and the lands and other resources of the Rosebud Sioux Indian Reservation. No right or privilege of any kind, from whatever source shall be recognized or granted unless the same shall be subject to overriding, prior and supreme right and interest of the Rosebud Sioux Tribe, and the policy and provisions contained in this Code, amendments hereto, and administrative regulations and determinations hereunder. No agent of the Rosebud Sioux Tribe or the United States shall take any action or grant or recognize any right affecting the water resources of the Rosebud Sioux Indian Reservation which in any way decreases or threatens to decrease the prior and supreme rights and interests of the Rosebud Sioux Tribe.

(C) Waters of the Rosebud Sioux Indian Reservation Defined

- (1) All waters located within the exterior boundaries of the Rosebud Sioux Indian Reservation whether flowing or stationary, whether above or below the surface of the ground, and whether diffused or contained within a defined water course or water body of any kind
- (2) All waters reserved at any time to the Rosebud Sioux Tribe and the Rosebud Sioux Indian Reservation by the United States and the Rosebud Sioux Tribe
- (3) All water which, in the course of nature or as the result of artificial works, flows into or otherwise enhances such waters.

102 Purposes

- (A) To promote the general welfare of the Rosebud Sioux Tribe and develop, manage, and preserve the waters and other resources of the Rosebud Sioux Indian Reservation
- (B) To provide for the exercise by the United States of its duties to preserve and protect in perpetuity all waters reserved for the Rosebud Sioux Tribe and the Rosebud Sioux Indian Reservation as a homeland
- (C) To provide for the exercise of the inherent sovereign power of self-government by the Rosebud Sioux Tribe
- (D) To further the present and future preservation and development of the water resources of the Rosebud Sioux Tribe as a homeland
- (E) To protect the health and welfare of the Rosebud Sioux Tribal population from any adverse impact of any pipeline carrying hazardous materials traversing tribal lands or adjacent to tribal lands.

103 Application of Code

Ninety (90) days after the effective date of this Code, it shall be unlawful to divert or withdraw or otherwise make any use of, or take any action of whatever kind substantially affecting, the Waters of the Rosebud Sioux Indian Reservation unless the applicable provisions of this Code and the regulations and determinations made hereunder have been complied with. No water rights, from whatever source, shall be recognized, except rights obtained under and subject to this Code.

104 Notice of Enactment and Effect

(A) Notice Required

To ensure that all persons and entities affected by this Code are given adequate notice of the enactment and effect of this Code, the Director of the Office of Water Resources shall, within 15 days after the enactment date of this Code, provide for public notice of its enactment and effect in accordance with the provisions of this Section.

(B) Contents of Notice

- (1) Such public notice shall contain the following statement, prominently displayed and in large, boldface type:

NOTICE: AFTER _____ NO PERSON OR PUBLIC OR PRIVATE ENTITY OF ANY KIND SHALL BE ENTITLED TO MAKE ANY USE OF OR OTHERWISE AFFECT THE WATERS OF THE ROSEBUD SIOUX INDIAN RESERVATION, AS DEFINED IN SECTION 101 OF THE ROSEBUD SIOUX TRIBE WATER CODE, UNLESS SUCH USE IS AUTHORIZED BY A WATER USE PERMIT AS

PROVIDED FOR BY THE ROSEBUD SIOUX TRIBE WATER CODE. NO OTHER WATER RIGHTS OF ANY KIND, FROM WHATEVER SOURCE, SHALL BE RECOGNIZED. APPLICABLE PORTIONS OF THE ROSEBUD SIOUX TRIBE WATER CODE ARE QUOTED BELOW. THE NECESSARY FORMS FOR WATER USE PERMIT APPLICATIONS HAVE BEEN INCLUDED WITH THIS NOTICE WHENEVER POSSIBLE. SUCH FORMS MAY ALSO BE PROCURED FROM THE ROSEBUD SIOUX TRIBE OFFICE OF WATER RESOURCES OR THE ROSEBUD SIOUX TRIBE AT THE FOLLOWING ADDRESS OR TELEPHONE NUMBER: Office of Water Resources, BIA Road 903 Hospital Complex, Rosebud, South Dakota, 57570, (605) 747-2559
COMPLETE COPIES OF THE ROSEBUD SIOUX TRIBE WATER CODE ARE ALSO AVAILABLE FOR SALE AT THE ABOVE ADDRESS.

- (2) In addition to the above-quoted statement, such public notice shall also contain, prominently displayed, the Section of this Code declaring the prior and supreme rights of the Rosebud Sioux Tribe, defining the Waters of the Rosebud Sioux Indian Reservation, describing the procedures to be followed in obtaining a permit, and setting forth penalties for use of water without authorization under this Code.
- (3) In addition, the Director of the Office of Water Resources may include in such public notice additional information deemed necessary in order to assure adequate notice of the enactment and legal effect of this Code.

(C) Notice - How Given

The Director of the Office of Water Resources shall give notice of the provisions of this Code as follows:

- (1) The notice provided above shall be placed in at least one regularly published newspaper in Todd, Tripp, Gregory, and Mellette Counties, at least once every other week over a four week period.
- (2) The notice provided above shall be placed in a prominent and conspicuous location in the County Courthouse of Todd, Tripp, Gregory, and Mellette Counties, and at the Tribal Office. The Director of the Office of Water Resources may post notices in other locations as it deems necessary.
- (3) The Director of the Office of Water Resources may take any other steps and post any other notices it deems necessary to provide notice of the provisions of this Code.
- (4) Whenever possible, forms for "Application for Water Use Permit", as provided in Section 400 of this Code, shall be included with notices in order to facilitate compliance with this Code.

105 Definitions

(A) "Aquifer" means a water-bearing bed or stratum of permeable rock, sand, or gravel capable of

storing, transmitting or yielding water.

(B) "**Boundaries of the Rosebud Sioux Indian Reservation**" means all lands located in Todd County and all Trust Lands located in Tripp County, Gregory County, and Mellette County.

(C) "**Community or Municipal Uses**" means all reasonable water uses necessary in carrying out the functions of municipal government.

(D) "**Domestic Use**" means any use of water for individual personal needs or for household purposes such as drinking, bathing, heating, cooking, or sanitation.

(E) "**Effective Date**" referred to herein shall be a date set by resolution of the Rosebud Sioux Tribal Council after which the water code is effective.

(F) "**Fee Lands**" means a land ownership status in which the owner holds title to and control of the property. Fee lands are not held in trust for a tribal member by the United States government.

(G) "**Hazardous**" means any radioactive, toxic, or other hazardous material, whether in liquid, solid, gaseous, or explosive form which may be discharged, deposited, generated, spilled, or disposed of and that will or may pose adverse effects to the surface or subsurface land, including existing rivers, streams, lakes, reservoirs, groundwater or aquifers, water recharge areas, as well as to the human environment.

(H) "**Irrigation Uses**" means any use of water for the purpose of facilitating the growth of agricultural crops.

(I) "**Pollution**" means such artificial or induced natural contamination, or other alteration of the physical, chemical, biological, radiological, or thermal properties of any Water of the Rosebud Sioux Indian Reservation, or such discharge of any liquid, gaseous, or solid substance into any Water of the Rosebud Sioux Indian Reservation that will create a nuisance or render such waters harmful or detrimental or injurious to public health; safety; welfare; domestic, commercial, industrial, agriculture, traditional, cultural, recreational, or other beneficial uses; or to livestock, wild animals, birds, fish, or other aquatic life and organisms.

(J) "**Trust Lands**" means all lands held in trust for the Rosebud Sioux Tribe by the United States government.

106 Severability

If any provision of this Code or the application thereof to any person or circumstance is held invalid, the Code can be given effect without the provision or application; and to this end, the provisions of this Code are declared to be severable.

107 Construction

This Code shall be liberally construed to effectuate its purposes.

108 Extension of Time Limits

The time limits provided in various places of this Code may be extended, for good cause shown, by the agency or committee before whom the proceeding is pending when the ends of justice so require.

109 Representation

Parties appearing at hearings and other proceedings provided for in this Code may be represented by attorneys if they desire.

200 Water Administration

201 Land and Natural Resources Committee

(A) Powers and Duties

The Land and Natural Resources Committee is responsible for providing oversight and direction for the Office of Water Resources. All powers of the Office of Water Resources shall only be exercised with the approval of the Land and Natural Resources Committee. The Office of Water Resources is the administrative arm of the Land and Natural Resources Committee.

202 Office of Water Resources

(A) General Powers

In administering this Code, the Office of Water Resources may, in concurrence with the Land and Natural Resources Committee, in addition to other actions:

- (1) Enter appropriate orders
- (2) Grant, deny, modify, and revoke water use permits
- (3) Make determinations of water rights
- (4) Make determinations of water availability
- (5) Start proceedings involving penalties
- (6) With the permission of the Rosebud Sioux Tribal Council
- (7)
 - (a) Enter into administrative agreements, exchange information, and otherwise cooperate with governmental agencies both on and off the Reservation;
 - (b) File or intervene in any lawsuit;

- (8) Ensure adequate water levels in groundwater wells;
- (9) Ensure adequate levels in streams and lakes for wildlife conservation and other values;
- (10) In cooperation with the other departments, offices, and agencies of the Rosebud Sioux Tribe, determine existing and foreseeable uses of and needs for water and other related resources
- (11) With the approval of the Rosebud Sioux Tribal Council, reserve and set aside water for future use
- (12) Take other actions provided for under this Code.

(B) Power to Establish Water Reserves

The Office of Water Resources, with the approval of the Rosebud Sioux Tribal Council, may establish reserve supplies within particular areas, watersheds, or aquifers that are dependent upon common supplies. However, the reserve supplies may be subject to existing use on an interim basis or set aside for future Tribal use and other needs.

(C) Power to Make Water Assessments

Whenever the Office of Water Resources determines that water not presently available is necessary for purposes and projects that benefit all or a portion of the Reservation and the inhabitants thereof, the Office of Water Resources may, upon approval of the Rosebud Sioux Tribal Council, reduce and assess individual water users a fair share of water, in predetermined units for such purposes.

(D) Power to Designate Local Water Management Areas and Subareas

In areas where the surface and ground water systems are used by individual water uses but are to some degree related by reason of common supply, the Office of Water Resources may isolate and define "local management areas and subareas," for specialized administration and regulation under this Code.

202 Director of Water Resources

(A) Designation.

The Director of Water Resources shall, with concurrence of the Land and Natural Resources Committee, shall be responsible for administration of this Code.

(B) Information Function.

It shall be the duty of the Director of Water Resources and his/her staff to gather for their own use and for submission to the Land and Natural Resources Committee information related to the waters administered under this Code. To this end, the Director of Water Resources shall:

- (1) Collect, organize and catalog existing information and studies available from all resources, both public and private, pertaining to the Waters of the Rosebud Sioux Tribe.

- (2) Develop such additional data and studies pertaining to water and water resources as are necessary to accomplish the objectives of this Code.
- (3) Solicit public comment and obtain expert advice when appropriate.
- (4) Investigate water uses and other activities affecting the Waters of the Rosebud Sioux Tribe to determine whether they are in compliance with this Code and with applicable regulations, orders, determinations, permits, water quality standards, etc. issued under this Code.
- (5) Investigate water quality whenever appropriate.

(C) Enforcement Function

It shall be the duty of the Director of Water Resources and his staff to insure compliance with this Code, and with the conditions of all permits, determinations, orders, regulations, plans and other actions taken under this Code, as well as the policies and guidelines expressed throughout the Code. To this end the Director of Water Resources and his staff may with concurrence of the Land and Natural Resources Committee:

- (1) Remove, render inoperative, shut down, close, seal, cap, modify, or otherwise control methods of diversion and withdrawal, obstructions to the flow of water, and activities that adversely affect water quality.
- (2) Initiate by citation and other means, as provided herein, proceedings involving penalties for violations of this Code and the actions taken under this Code.
- (3) Enter upon land, inspect methods of diversion and withdrawal, inspect other activities that affect water quality and quantity, install and monitor measuring and recording devices when necessary, and elicit testimony and data concerning actions that affect the quality or quantity of the Waters administered under this Code.

(D) Advisory Function.

In addition to the duties of the Director of Water Resources and his staff with respect to information and enforcement, the Director of Water Resources and his staff may, from time to time make proposals to the Land and Natural Resources Committee concerning the following:

- (1) The advisability of establishing local management areas and subareas as provided elsewhere in this Code
- (2) The advisability of making determinations of water availability for specific watersheds or aquifers
- (3) The advisability of taking other actions and adopting other plans and methods to optimize available water supplies and minimize pollution and thermal degradation

- (4) The advisability of purchasing or selling any interest including interests in real or personal property
- (5) The advisability of participating in lawsuits and other actions
- (6) The advisability of entering into administrative agreements and other cooperative ventures with various agencies outside of the Rosebud Sioux Tribal Council and the Office of Water Resources
- (7) The advisability of amending or otherwise changing various sections of this Water Code or adding new sections
- (8) The advisability of taking any other action which will further the purposes and increase the effectiveness of this Code.

(E) Other Functions

(1) Rules and Regulations.

The Director of Water Resources is authorized and directed to adopt such rules and regulations as it deems necessary to implement the objectives and purpose of this Code. Such rules and regulations shall not be valid until they have been submitted to and approved by the Rosebud Sioux Tribal Council through the Land and Natural Resources Committee.

(2) Review of Authority.

The Director of Water Resources shall, from time to time, review the authority granted under this Code and propose amendments and additions thereto to the Land and Natural Resources Committee to improve administration under this Code.

(3) Establish Water Charges.

A reasonable charge may be imposed at the option of the Tribal Council for the use of the Water administered under this Code.

203 Administration Policies and Guidelines

In taking any action under this Code, the Director of Water Resources shall be guided by the following policies and guidelines:

(A) Policies

- (1) Whenever practicable, actions taken shall benefit the Rosebud Sioux Tribe and their members and further the objective for which the Rosebud Sioux Indian Reservation was created, namely, to provide a permanent home and abiding place for the Rosebud Sioux Tribe and their members, both now and in the future. Alternatives to existing and proposed uses are to be considered whenever practicable to achieve this goal. Included in those

alternatives shall be the option to restrict or prohibit entirely any further use of water for any reason. If a conflict between the Rosebud Sioux Tribe and any of the members with non-Tribal projects or uses is presented to the Director of Water Resources, the Director of Water Resources will grant appropriate preference to the Tribe or its members over non-Tribal projects or uses.

- (2) In taking any action under this Code that may impose substantial economic hardship on persons or entities presently using water, or that threatens degradation of other economic, cultural, historic, aesthetic, natural, or environmental values, the Director of Water Resources shall, in reaching decisions, carefully consider and give weight to:
 - (a) The economic dislocation and hardship that will be imposed by its actions
 - (b) The investment in time, money and other resources that is made by the parties affected in relying upon the existing system of distribution and use of water
 - (c) Other burdens that may be imposed by the action.

(B) Guidelines

- (1) In promoting the most effective use of Tribal water resources, the Director of Water Resources shall take appropriate action to:
 - (a) Ensure adequate water supplies
 - (b) Maintain water levels for diversion and withdrawal systems
 - (c) Maintain head and pressure in groundwater
 - (d) Prevent or reduce obstruction of surface water flows
 - (e) Increase efficiency of conveyance systems, increase efficiency in water application, increase return flow, prevent waste, and maximize use of the available water supply
 - (f) Increase and enhance the efficiency of natural and artificial surface and underground storage
 - (g) Define and control interbasin transfers of both surface and groundwater
 - (h) Provide for some degree of overdraft from aquifers when short-term recharge is not possible
 - (i) Minimize interference between competing users of water sources, whether surface or groundwater
 - (j) Minimize water quality degradation and the adverse effects of water pollution, whether

from point or nonpoint sources

(k) Minimize thermal degradation or the adverse effects of thermal degradation

(l) Minimize interaquifer communication

(m) Shape how available water supplies are used to promote economic, scenic, aesthetic, historical, cultural, natural, or domestic values

(n) Provide for long-term development and prevent untimely quantification

(o) Penalize misuse

(p) Prevent interference with Tribal administration of water

(q) Otherwise ensure conformity with the provision of this Code.

(2) Additional Guidelines

(a) Rivers and streams of the Rosebud Sioux Indian Reservation should be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental and navigational values. Lakes and ponds should be retained substantially in their natural condition. Withdrawals of water that would conflict therewith should be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(b) Multiple-purpose impoundment structures are to be preferred over single-purpose structures. Due regard shall be given to means and methods for protection of wildlife and fishery resources in the planning for the construction of water impoundment structures and other artificial obstructions.

(c) Individuals, corporations, groups, associations, and other entities shall be encouraged to carry out practices of conservation and environmental protection as they relate to the use of the Waters of the Rosebud Sioux Indian Tribe.

300 Water Rights

301 Ownership

The Rosebud Sioux Tribe is the owner of the full equitable title to the rights to the use of all waters originating and flowing into the Exterior boundary of the Rosebud Sioux Indian Reservation as defined herein and all other waters, including implied and granted to the tribe, and that title resides undiminished in the Rosebud Sioux Tribe. The United States hold only the legal title to those waters solely as trustee for the Rosebud Sioux Tribe pursuant to the rights and responsibilities included in the

following treaties and acts: The Portage des Sioux Treaty (July 1815); the Treaty of Ft. Laramie, 11 Stat. 749 (September 17, 1851); the Treaty with the Omaha, 10 Stat. 1043 (March 16, 1854); the Treaty of Ft. Laramie, 15 Stat. 635 (April 29, 1868); Title VI-Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Restoration Act of the Omnibus Consolidated and Emergency Appropriations Act of 1999, PL 105-277, 112 Stat. 2681, 2861-660-670 (October 21, 1988), as amended by Title IV of the Water Resources Development Act of 1999, PL 106-53, 113 Stat 269, 385-397 (August 17, 1999), and as otherwise amended; and any other treaty or right. These water rights include tribal reserved water rights, treaty rights, and water rights administered by the Rosebud Sioux Tribe, including the "Winters' Doctrine", *Winters v United States*, 207 U.S. 564 (1908).

302 Water Right Required

The right to the use of Waters of the Rosebud Sioux Indian Reservation as defined in Section 101(c) is recognized through obtaining a water right pursuant to the provisions of this Code. A water right is needed for all uses of water except certain exempt uses (see Section 402) and is administered through a water use permitting system.

303 Tribal Waters

All Waters of the Rosebud Sioux Indian Reservation are the property of the Rosebud Sioux Tribe, and the right of the use of that water may only be acquired as provided for in this Code.

304 Right to Use Tribal Waters

A Water Use Permit is an authorization granted by the Rosebud Sioux Tribe to make a beneficial use of Waters of the Rosebud Sioux Indian Reservation. An approved Water Use Permit authorizes use of either ground or surface water upon compliance with the conditions provided for in the Water Use Permit. The Rosebud Sioux Tribe recognizes the need to allow the use of Waters of the Rosebud Sioux Indian Reservation for basic domestic and sanitary needs of tribal members, as well as for other minor and temporary uses that promote the health, education, safety, and welfare of the Rosebud Sioux Tribe. Therefore, water diverted or pumped for certain basic domestic and other minor and temporary purposes defined in Section 300 are exempt from obtaining a Water Use Permit; however, a well construction permit is still required for those exempt purposes whose water source is from groundwater. The Office of Water Resources may issue temporary Water Use Permits for those activities that are temporary in nature and will not place a long term draw on the Tribal water resources.

305 Beneficial Uses

Beneficial Use refers to a reasonable quantity of water applied to a non-wasteful use. Beneficial Uses for water of the Rosebud Sioux Tribe are as follows:

- Domestic (including drinking, sanitary, and limited irrigation)
- Livestock watering

- Industrial
- Commercial
- Agriculture irrigation
- Mining
- Fishery
- Wildlife maintenance and enhancement
- Recreational
- Fire protection
- Dust suppression.

Beneficial Uses reserved for use by the Rosebud Sioux Tribe are as follows:

- Preservation of environmental and aesthetic values
- Cultural
- All other uses compatible with the goals and priorities of the Rosebud Sioux Tribal Council

Water shall be appropriated for, and the use of such water shall be permitted for, only these beneficial uses.

306 Water Conservation

Water resources for the Rosebud Sioux Tribe are provided by the Earth, are needed to meet the needs of the natural communities and ecosystems as well as the needs of the Rosebud Sioux Tribe, and are of limited supplies. Recognition of this requires all water users who use water from the Rosebud Indian Reservation to conserve water to the maximum extent practicable. All water users and uses shall include water conserving fixtures and facilities to reduce the water demand on the Rosebud Sioux Tribe's water resources.

400 Water Use Permits

401 General

Ninety days after the effective date of this Code no use of water within the jurisdiction of this Code shall occur without first being approved through a Water Use Permit except as provided for in Sections 402 and 403.

402 Exempt Water Uses

The following water uses are exempt from the requirement to obtain a Water Use Permit:

- (1) Domestic Uses that do not exceed 20 gpm and 0.5 acre-feet per year.

403 Existing Water Uses

All uses of water existing on the effective date of this Code are exempt from the requirement of obtaining a Water Use Permit for a period of one year after the effective date as long as the following conditions are met:

- (1) The existing water use continues at the same or less rates and volumes and for the same uses as existed before the effective date of this Code
- (2) The existing water use is for an allowed beneficial use as defined in this Code
- (3) The Director of Water Resources is provided substantiating evidence upon application for a Water Use Permit that the water use existed before the effective date of this Code.

Before one year after the effective date of this code, all existing water uses not exempt as provided for in Section 402 shall apply for a Water Use Permit using an administrative registration and permitting process upon forms provided by the Office of Water Resources. This process allows existing water users to obtain a Water Use Permit for the same rate, volume, and use that was occurring before the effective date of this Code. Any increases in rate, volume, or changes in use of water shall require the user to file for and obtain a new Water Use Permit before increasing the rate, volume, or changing the use for which the water is being used.

404 Permit Applications

Applications for Water Use Permits shall be on forms provided by the Director of Water Resources and shall as a minimum include the following information in addition to any other information deemed necessary by the Director of Water Resources:

- (A) The name and mailing address of the applicant
- (B) The name of, if available, or a description of, the source or sources from which water is or will be diverted or withdrawn
- (C) The rate and quantity of water that is or will be diverted or withdrawn and used during each month of the year
- (D) A map and legal description, if such is readily available, or other description that reasonably describing, the point or points of diversion, withdrawal, or impoundment
- (E) A description of the method or methods of diversion, withdrawal, or impoundment
- (F) The purpose or purposes for which water is or will be used
- (G) A description of how water will be applied or consumed, including acreage and crop if the

water is for irrigation, the kind and number of stock if water is for stock watering, or other measure of water application and consumption for other water uses

(H) The best estimate reasonably possible of how much water will be returned to the source or sources, and how, when, at what point or points, and with what changes in quality and temperatures

(I) The estimated date on which the use or uses were commenced or will be commenced

(J) If a use is an existing use, the history of the use, including the names of any predecessors in title and the dates of their ownership, if known and including a description of their water uses

(K) If any pre-existing right is claimed, a description of any documents or programs upon which it is based, any statute or statutes or legal doctrine upon which the claim is based, and any pertinent litigation creating or affecting the claim

(L) If a pre-existing use or uses are described, an indication whether problems of declining water levels and supply or problems of declining quality have been encountered in the past

(M) The water user's plan for future development of the water use or uses and related activities.

405 Application Fee

An application for a Water Use Permit shall be accompanied by a \$25.00 filing fee except for registration of an existing use pursuant to Section 403, which shall require no filing fee. The Director of Water Resources may waive payment of an application fee in cases of demonstrated financial hardship.

406 Public Notice of Water Use Permit Application

(A) As soon as possible and no more than 30 days after the Director of Water Resources receives an application for a Water Use Permit the Director of Water Resources shall provide public notice that the applicants described in the application have applied for a Water Use Permit under the Rosebud Sioux Tribe Water Code and that any persons claiming that their rights may be adversely affected by the issuance of such permit may object to their issuance in accordance with the provisions for objection, notice and hearing provided elsewhere in this Code.

(B) The notice shall include the following information:

- (1) The information as provided in the Application;
- (2) A brief description of the objection, notice and hearing provisions of this Code;

(C) This notice shall forthwith be published, posted, and mailed at the locations as provided in Section 104(C) herein, except the newspaper publication may be limited to local papers, and except that the notice need be published and distributed only in the hydrologic basins or areas affected by the applied for uses.

407 Objection Procedure

(A) Any person or entity whose interests are or may be affected by a water use described and applied for may, within 30 days from the publishing, posting, and mailing of notice that such use has been applied for, file a formal objection to the issuance of the permit applied for as follows:

- (1) Objections may be on forms prepared and made available by the Director of Water Resources and shall include the name and mailing address of the party objecting, the name of the applicant whose application is objected to, a description of the water use objected to, a short and plain statement of reasons why a permit should not be issued or should be issued in a form different from that applied for, and any suggested conditions or other provisions that should be included in any permit granted.
- (2) Oral objections may be made to the Director of Water Resources or his designee when either determines, in his discretion, that the circumstances permit an oral objection. Such oral objections shall be reduced to writing on the proper forms by the Director of Water Resources or his designee.

(B) Any applicant for a Water Use Permit whose use is objected to may reply in writing or orally in the same manner as provided herein for objections.

408 Application Hearing

Any applicant directly affected or any party objecting in accordance with this Code may request and obtain, as a matter of right, a hearing concerning such objection. In addition, the Director of Water Resources may recommend to the Land Committee that a hearing be scheduled concerning the issuance of a permit or permits on their own motion whenever they determine that such hearings are needed or advisable. Unless otherwise provided in this Code, notice of such hearings shall be in the form as provided for in Section 500, and shall be given to the applicants whose uses are objected to, the objecting parties, other persons designated by the objecting parties and applicants, and all other persons requesting notice. Unless otherwise provided in this Code, hearings shall be conducted as provided in Section 500.

409 Public Comments

In addition to objections, any person or entity may comment orally or in writing upon the proposed issuance of any permit under this Code within 30 days from the publishing, posting, and mailing of notice that such use has been applied for or, if a hearing is scheduled, at the public hearing.

410 Investigations and Review of Application

In addition to gathering information from the objections, comments, and hearings provided above, the Director of Water Resources may make any reasonable investigation of the facts and circumstances that surround the permit application, may solicit comments and information from the public and from appropriate governmental agencies, and may otherwise gather information which will assist in issuing or

denying a permit in accordance with the provisions of this Code. Pertinent to this investigation is a determination by the Director of Water Resources that water is or is not available in the quantities, rates, or quality needed to satisfy the proposed uses and needs presented in the Water Use Permit application. If the Director of Water Resources does not have sufficient evidence that water is available for the proposed application, the Director of Water Resources may require the applicant to provide or fund a study to confirm water availability for the proposed application.

411 Issuance or Denial of Permits

As soon as possible after objections and hearings and after a reasonable period for public comment shall have passed, as provided above, and no more than 90 days after the filing of an Application for a Water Use Permit, the Director of Water Resources shall review the comments and information gathered with respect to a specific application and then recommend to the Land Committee who may then deny a permit or issue a permit in the form provided for Section 413.

412 Appeal Process

Appeals to the decision of the Director of Water Resources shall be as provided for in Section 600.

413 Final Water Use Permit

Water permits issued in accordance with this Code shall be on a form standardized by the Director of Water Resources and his staff and shall contain the following information:

- (1) The name and mailing address of the applicant;
- (2) The name of, if available, or a description of the source or sources from which water is or will be diverted or withdrawn
- (3) The quantity of water which may be diverted or withdrawn and used during each month of the year
- (4) A map and legal description, if such is readily available or other description that reasonably describes the point or points of diversion or withdrawal
- (5) A description of the method or methods of diversion or withdrawal
- (6) The purpose or purposes for which water is or will be used
- (7) A description of how water may be applied or consumed, including acreage and crop if the water is for irrigation, and the kind and number of stock if water is for stock watering.

In addition, the Water Use Permit shall also contain conditions under which the permit may be operated. These conditions will address, as applicable, the following:

- (1) Provisions for surface or ground water storage of surplus flows
- (2) Provisions for increasing the efficiency of diversion or withdrawal and application
- (3) Provisions for maintaining minimal levels for fish, wildlife, recreational and aesthetic values
- (4) Provisions for insuring minimum pumping and diversion levels with respect to both surface and underground water
- (5) Provisions designed to maintain head and pressure in surface and underground water
- (6) Provisions designed to prevent or reduce obstruction of surface and underground flows
- (7) Provisions designed to minimize pollution and thermal degradation
- (8) Provisions designed to ensure minimum recharge of aquifers
- (9) Provisions designed to prevent or reduce loss from losing streams and aquifers
- (10) Provisions designed to define and limit interbasin transfers from shifting aquifer boundaries
- (11) Provisions for some degree of overdraft from aquifers when short-term recharge is not available or appropriate
- (12) Provisions designed to prevent or reduce interference between competing users or water sources whether above or below ground
- (13) Provisions to insure long term development and prevent untimely quantification
- (14) Penalties for misuse
- (15) Provisions to prevent interference with Tribal administration of water
- (16) Other provisions necessary to insure conformity with this Code and actions taken hereunder.

414 Standard Permit Conditions

All Water Use Permits shall contain the following conditions:

(1) Entry on Land

No person shall be authorized to use or otherwise take any action affecting the waters administered under this Code unless he shall consent to reasonable entry upon his land by Tribal officers engaged in the administration of this Code. No use or other action affecting the waters in question may be made unless the applicant consents to such reasonable entry upon his land.

Acceptance of the Water Use Permit shall be irrefutable evidence of this consent.

(2) Effect

A Water Use Permit issued under this Code constitutes nothing more than Tribal permission to use the Waters of the Rosebud Sioux Tribe, subject to the terms and conditions of the permit, to this Code and to actions taken pursuant to this Code. No Water Use Permit used hereunder shall be construed as creating or recognizing any right other than Tribal permission to use water. Nor shall any permit ripen into any interest other than such limited permission.

(3) Revocability and Termination

Unless otherwise indicated, water permits issued under this Code are revocable and may be terminated in accordance with the policies, purposes, guidelines, and procedures established in this Code. However, the Director of Water Resources may, at the Director's option or upon application, propose for consideration by the full Rosebud Sioux Tribal Council the granting of permits for specific periods of time, permits revocable or terminable only upon stated conditions, and other forms of permits providing varying degrees of permanence and contractual terms.

(4) Waste of Water Prohibited

No waters that have been withdrawn, diverted or otherwise taken pursuant to a valid permit or otherwise shall be wasted. The withdrawal of reasonable quantities of water in connection with construction, development, testing or repair of diversion and withdrawal works shall not be construed as waste. In the event of inadvertent loss of water owing to defects in equipment for diversions and withdrawals, such shall not be construed a waste if reasonable diligence is shown by the permittee in completing the necessary repairs.

(5) Water Conservation Measures

The use of water allowed by this permit is conditioned upon the installation and use of water conserving fixtures to reduce water demands. Tampering with or removal of these fixtures is grounds for revocation of the Water Use Permit.

(6) Penalties

Any and all misuse of water and other acts in violation of this Code are subject to penalties as provided for in this Code.

415 Transfer of Water Use Permit

Permits issued under this Code shall not be subject to transfer, assignment, or creation of any security interest without the express written permission of the Director of Water Resources with the concurrence of the Tribal Council. Applications for transfer, assignment, or creation of security interest shall be made on forms prepared and made available by the Director of Water Resources. Such forms shall be designed to solicit information concerning any substantial changes which will or may occur as a

result of the transfer, assignment, or creation of a security interest.

416 Modification of Water Use Permit

All Water Use Permits are modifiable upon filing of an application to modify the Water Use Permit using and following the same process for the initial Water Use Application.

417 Termination of Water Use Permit

(A) Nonuse.

Any Water Use Permit shall become void and revert, to the extent of the abandonment or nonuse, to the Rosebud Sioux Tribe when the holder of such Water Use Permit wholly or partially abandons the same, or voluntarily fails without sufficient cause, to use all or a portion of the water available under such Water Use Permit for a period of five consecutive years. This section shall be retroactive to the effective date of the Code.

"Sufficient cause" shall include:

- (a) Drought or other unavailability of water
- (b) Active service in the armed forces of the United States during military crisis
- (c) Non-voluntary service in the armed forces of the United States
- (d) The operation of legal proceedings
- (e) The application of any laws restricting water use
- (f) Incarceration in a penal institution
- (g) Confinement in a mental institution, whether voluntary or not
- (h) Incompetence by reason of age or mental incapacity
- (i) Provision for future use as provided in this Code
- (j) Other substantiated causes of nonuse beyond the control of the holder or holders of the right claimed.

Before such water rights may be deemed lost by nonuse or abandonment, the Director of Water Resources or his designee shall serve notice on the holders of such rights to appear at a hearing to be held before the Land and Natural Resources Committee not less than 30 days after the mailing or personal service of such notice and show cause why their rights should not be deemed void. Such notice and hearing shall be in the manner provided for in Section 500.

(B) Loss by Adverse Possession, Prescription, Estoppel, or Acquiescence.

No right to use or otherwise affect the quantity, level, flow, pressure, quality, or temperature of water may be acquired by adverse possession, prescription, estoppel, or acquiescence.

(C) Outside Proceedings.

No right granted under this Code may be reduced or taken or otherwise affected in any procedure or determination or adjudication except as provided in this Code.

500 General Hearing Provisions

501 Hearing Procedures

Whenever not otherwise provided for in this Code, hearings shall be held in accordance with the provisions of this Chapter.

502 Notices

All parties who will be directly affected by a proposed action shall be given notice by registered mail, return receipt requested, of any hearings held under this Code. In addition, notice of hearings shall be published in one paper that has general circulation in the affected area, and notice of hearing shall be posted in prominent places in the affected area.

503 Time and Place of Hearing

Whenever possible hearings shall be held in the affected area a time and place that is convenient for a major portion of the parties affected in the Tribal Council Chambers or as determined by the Director of Water Resources.

504 Continuances

Continuances shall be freely granted when the ends of justice so require and to ensure adequate notice and opportunity to be heard.

505 Presiding Officer

The Chairman of the Land and Natural Resources Committee or his designee shall preside as the hearing officer over hearings provided in this chapter.

506 Forms of Evidence

Evidence may be submitted in any practical form, including oral testimony, written evidence, and descriptive evidence. The ordinary rules of evidence shall not apply but evidence which is irrelevant, cumulative, or unduly prejudicial, may be excluded or admitted only under special conditions or stipulations.

507 Consolidation of Hearings

Whenever possible hearings concerning proposed or existing actions, in a particular basin or area shall be consolidated to promote efficiency, minimize expense or hardship, and present duplication.

508 Recording

Whenever possible, hearings shall be recorded by mechanical means. However, any person may provide and pay for a stenographic record at their expense.

509 Decisions

Whenever a decision is required in accordance with the provisions of this Code following a public hearing, the hearing officer shall cause such decision to be published and served upon the parties in the same manner as provided in 502 covering notice of hearings.

600 General Appeal Provisions

601 Appeals Provided For

There shall be no appeal from actions taken under this Code except as provided herein. Appeals shall be made to the Rosebud Sioux Tribal Council.

602 Rosebud Sioux Tribal Council - Appeal Board Constituted

(A) Members of the Office of Water Resource and the Land and Natural Resources Committee shall be excluded from hearing and considering an appeal under this Code.

(B) Members of the Rosebud Sioux Tribal Council who have a direct interest in or bias with respect to the outcome of any appeal shall be disqualified from hearing and considering such appeal. Once raised, the matter of direct interest or bias shall be decided by a majority vote of the Rosebud Sioux Tribal Council, excluding the Councilman alleged to be interested or biased.

(C) The remainder of the Rosebud Sioux Tribal Council, after such exclusions and disqualifications, shall constitute an Appeal Board for purposes of this Chapter.

603 Notice of Appeal - Jurisdiction

Except as may be otherwise provided elsewhere in this Code, any party aggrieved by any final action taken under this Code, obtain review of such final action by an Appeal Board may by filing a Notice of Appeal with the Director of Water Resources. The Rosebud Sioux Tribal Council, and the Appeal Board constituted therein, shall have jurisdiction over any appeal brought under this chapter. The Notice of Appeal must be filed with the Rosebud Sioux Tribal Council no more than 30 days after the date when the party appealing knew or should have known that the action appealed from had been taken. By "final action" is meant any action taken under this Code for which no further consideration by the Director of Water Resources is required.

604 Notice

Upon receipt of the Notice of Appeal the Director of Water Resources shall forthwith, and no more than 5 days after receipt of the Notice of Appeal, cause the Notice of Appeal to be published in the same manner as notice was provided in the proceeding leading to the final action appealed from, with notice served to all parties to the proceeding being appealed from.

605 Transmittal of Record

(A) Upon receipt of the Notice of Appeal, the Director of Water Resources shall cause the Notice of Appeal, any pertinent documents in its possession, and any other articles of evidence in its possession, be transmitted to the Rosebud Sioux Tribal Council.

(B) Any party to an appeal, including the Director of Water Resources, may, in addition, cause a transcript of any hearings or other proceedings below to be prepared and transmitted to the Rosebud Sioux Tribal Council provided that the Director of Water Resources, in the Director's discretion, shall bear the financial burden of preparing such transcript when it appears, after good cause shown, that a party is financially unable to do so.

606 Oral Argument

Upon receipt of the Notice of Appeal from the Director of Water Resources, the Rosebud Sioux Tribal Council shall, as soon as possible and no more than 15 days after receipt thereof, notify the Director of Water Resources, the appealing party, and the other parties to the proceeding, of a date certain for full hearing before the Rosebud Sioux Tribal Council. The date for hearing shall be not less than 30, nor more than 90, days after the date notice provided in this section is transmitted.

607 Briefs

Parties may at their own option, or must when requested to do so by the Rosebud Sioux Tribal Council, file briefs in support of their appeal. Briefs shall be due on dates set by the Rosebud Sioux Tribal Council

and no less than 30 days after receipt of the notice provided for in the proceeding section.

608 Scope of Review

The Appeal Board, in reviewing the final action appealed from, shall limit its review to those matters that were before the Director of Water Resources at the time of the action appealed from. The Appeal Board may affirm, reverse, modify in whole or in part, or remand for further consideration, any final action appealed provided the actions appealed may only be reversed when it appears that they are arbitrary and capricious or otherwise not in substantial conformity with this Code.

609 Appeal Board - Additional Powers

(A) An Appeal Board may, on its own motion or upon motion of any party, dismiss an appeal for want of prosecution, gross procedural irregularity, or mootness when the ends of justice so require.

(B) In addition, an Appeal Board may stay the operation of actions appealed from, in whole or in part, and may, when the ends of justice require, provide for a supersedes bond or other security from the parties to the appeal.

700 Enforcement and Penalties

701 Unauthorized Actions Affecting Tribal Waters Prohibited

Whenever any use or other action affecting the Waters of the Rosebud Indian Reservation is required by this Code to be authorized under the provisions of this Code, it shall be an offense punishable by a fine of not more than \$500.00 and/or a sentence of not more than six months in jail, to knowingly make such use or take such other action without the authorization required.

702 Obstruction of Tribal Officers

The willful obstruction of or interference with Tribal officers performing their lawful duties under this Code shall be an offense punishable by a fine of not more than \$500.00 and/or a sentence of not more than six months in jail.

703 Additional Penalties

In addition to the penalties imposed under Section 701 and 702 herein, violations of this Section shall subject the person(s) or entity (ies) responsible to forfeiture of all rights and permits to water administered under this Code.

704 Overstatement of Use

Any person or entity who shall knowingly, when providing information required by this Code, with respect to Descriptions of Use and Applications for Permits or otherwise, misstate material facts shall be guilty of an offense punishable by forfeiture of all right here under and/or by fine of not more than \$500.00.

**WATER USE PERMIT
PERMIT APPLICATION**

DATE: _____

SECTION 1 – GENERAL INFORMATION
(TO BE COMPLETED BY THE APPLICANT)

A) NAME OF APPLICANT: _____

B) MAILING ADDRESS: _____

C) PHONE: _____ D) FAX: _____ E) EMAIL: _____

F) PROJECT CONTACT: _____

G) PHONE: _____ H) FAX: _____ I) EMAIL: _____

SECTION 2 – PROJECT DESCRIPTION
(TO BE COMPLETED BY THE APPLICANT)

A) THE NAME, IF AVAILABLE OR A DESCRIPTION OF THE SOURCE(S), FROM WHICH WATER WILL BE
DIVERTED OR WITHDRAWN: _____

B) PROVIDE THE RATE AND QUANTITY OF WATER WHICH WILL BE DIVERTED, WITHDRAWN, AND
USED DURING EACH MONTH OF THE YEAR: _____

C) PROVIDE THE LEGAL DESCRIPTION, OR OTHER DESCRIPTIONS REASONABLY DESCRIBING THE POINT(S) OF DIVERSION, WITHDRAWAL, OR IMPOUNDMENT (ATTACH MAP): _____

D) PROVIDE A DESCRIPTION OF THE METHOD(S) OF DIVERSION, WITHDRAWAL, OR IMPOUNDMENT:

E) THE PURPOSE FOR WHICH WATER WILL BE USED FOR: (CHOOSE ALL THAT APPLY)

☐ 1. DOMESTIC (INCLUDING DRINKING, SANITARY, AND LIMITED IRRIGATION)

☐ 2. LIVESTOCK WATERING

☐ 3. INDUSTRIAL

☐ 4. COMMERCIAL

☐ 5. AGRICULTURE IRRIGATION

☐ 6. MINING

☐ 7. FISHERY

☐ 8. WILDLIFE MAINTENANCE AND ENHANCEMENT

☐ 9 RECREATIONAL

☐ 10. FIRE PROTECTION

☐ 11. DUST SUPPRESSION

F) PROVIDE A DESCRIPTION OF HOW WATER WILL BE APPLIED OR CONSUMED, INCLUDING ACREAGE AND CROP IF THE WATER IS FOR IRRIGATION; THE KIND AND NUMBER OF STOCK IF THE WATER IS FOR STOCK WATERING; OR OTHER MEASURE OF WATER APPLICATION AND COMSUMPTION FOR OTHER WATER USES: _____

SECTION 3 – ADDITIONAL INFORMATION

(TO BE COMPLETED BY THE APPLICANT)

- G) PROVIDE THE BEST ESTIMATE REASONABLY POSSIBLE OF HOW MUCH WATER WILL BE RETURNED TO THE SOURCE(S), INCLUDING HOW, WHEN, AT WHAT POINT(S) AND CHANGES IN QUALITY AND TEMPERATURES:** _____

- H) PROVIDE THE ESTIMATED DATE ON WHICH THE USE(S) WILL BE COMMENCED:** _____

- I) IF A USE IS AN EXISTING USE, THE HISTORY OF THE USE, INCLUDING THE NAMES OF ANY PREDECESSORS IN TITLE AND THE DATES OF THEIR OWNERSHIP, IF KNOWN AND INCLUDING A DESCRIPTION OF THEIR USES OF WATER:** _____

- J) IF A PRE-EXISTING USE OR USES ARE DESCRIBED, AN INDICATION WHETHER PROBLEMS OF DECLINING WATER LEVELS AND SUPPLY OR PROBLEMS OF DECLINING QUALITY HAVE BEEN ENCOUNTERED IN THE PAST:** _____

- K) PROVIDE THE WATER USERS PLAN FOR FUTURE DEVELOPMENT OF THE WATER USE(S) AND RELATED ACTIVITIES:** _____

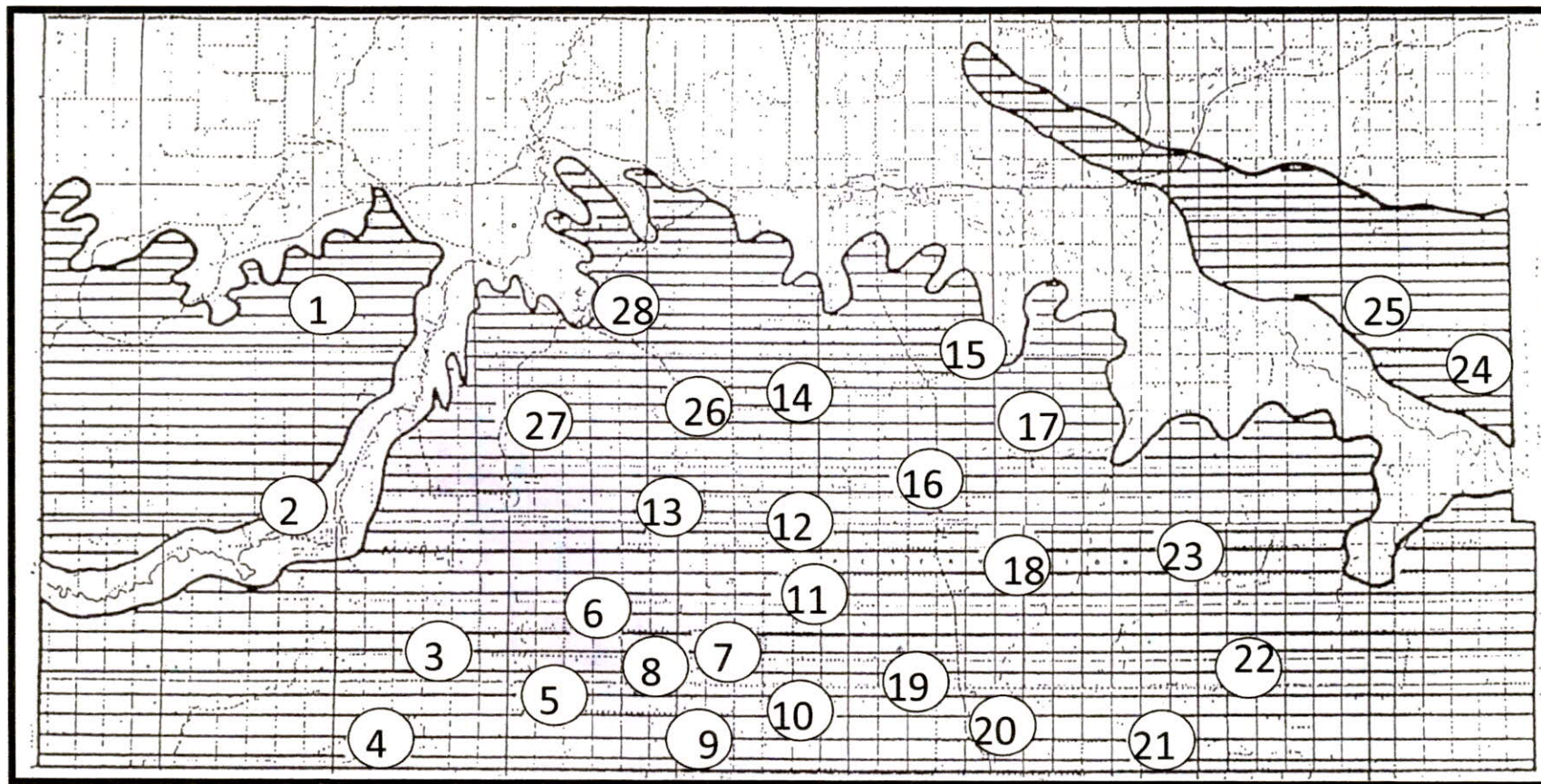
ACKNOWLEDGEMENT:

BY SIGNING THIS WATER USE PERMIT APPLICATION I HEREBY CERTIFY THAT I HAVE READ THIS APPLICATION, THAT THE MATTERS STATED ARE TRUE, AND THAT I WILL COMPLY WITH ALL REQUIREMENTS OF THE ROSEBUD SIOUX TRIBE WATER CODE INCLUDING ALL PROVISIONS FOR ENFORCEMENT AND PENALTIES.

APPLICANT'S SIGNATURE

DATE:

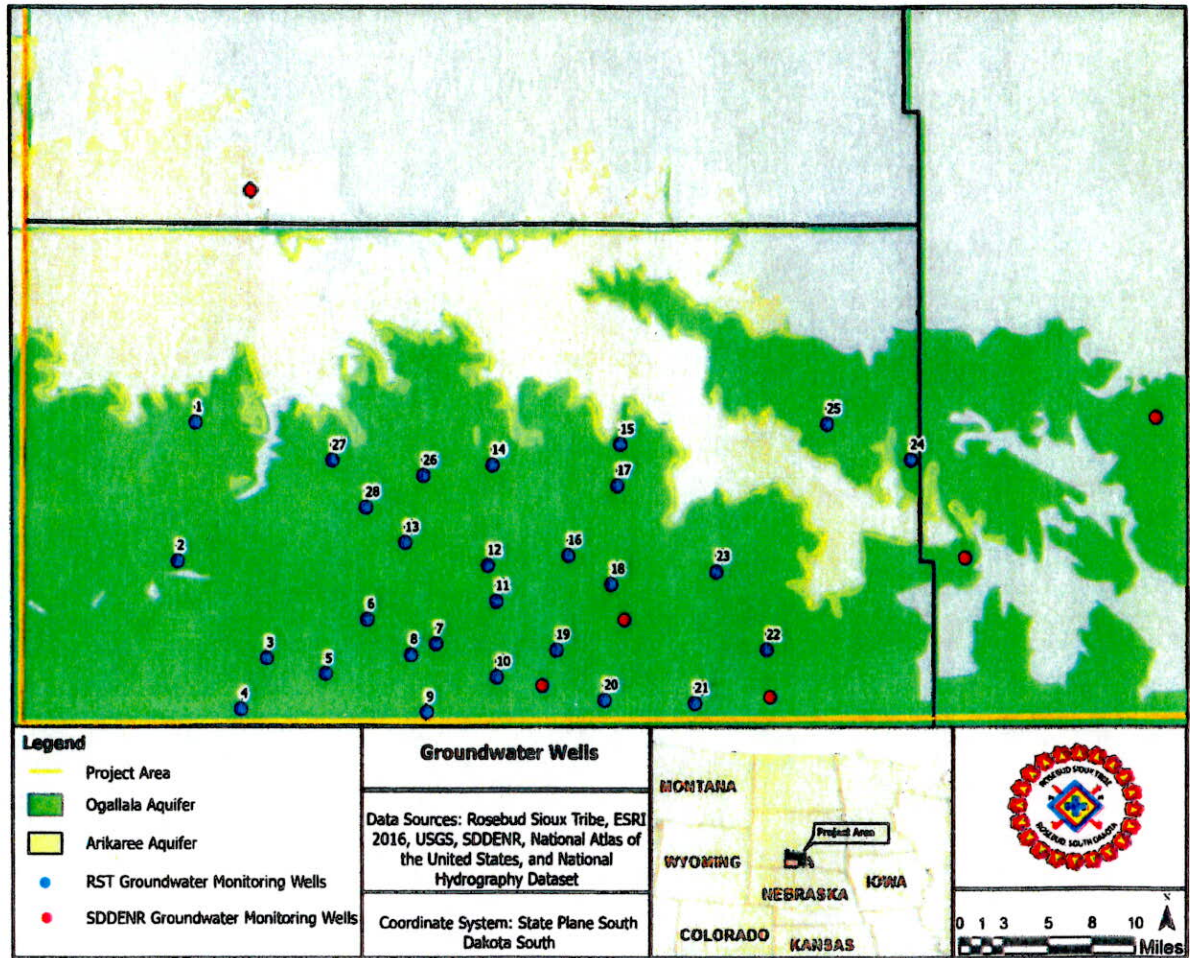
Rosebud Reservation, TODD COUNTY



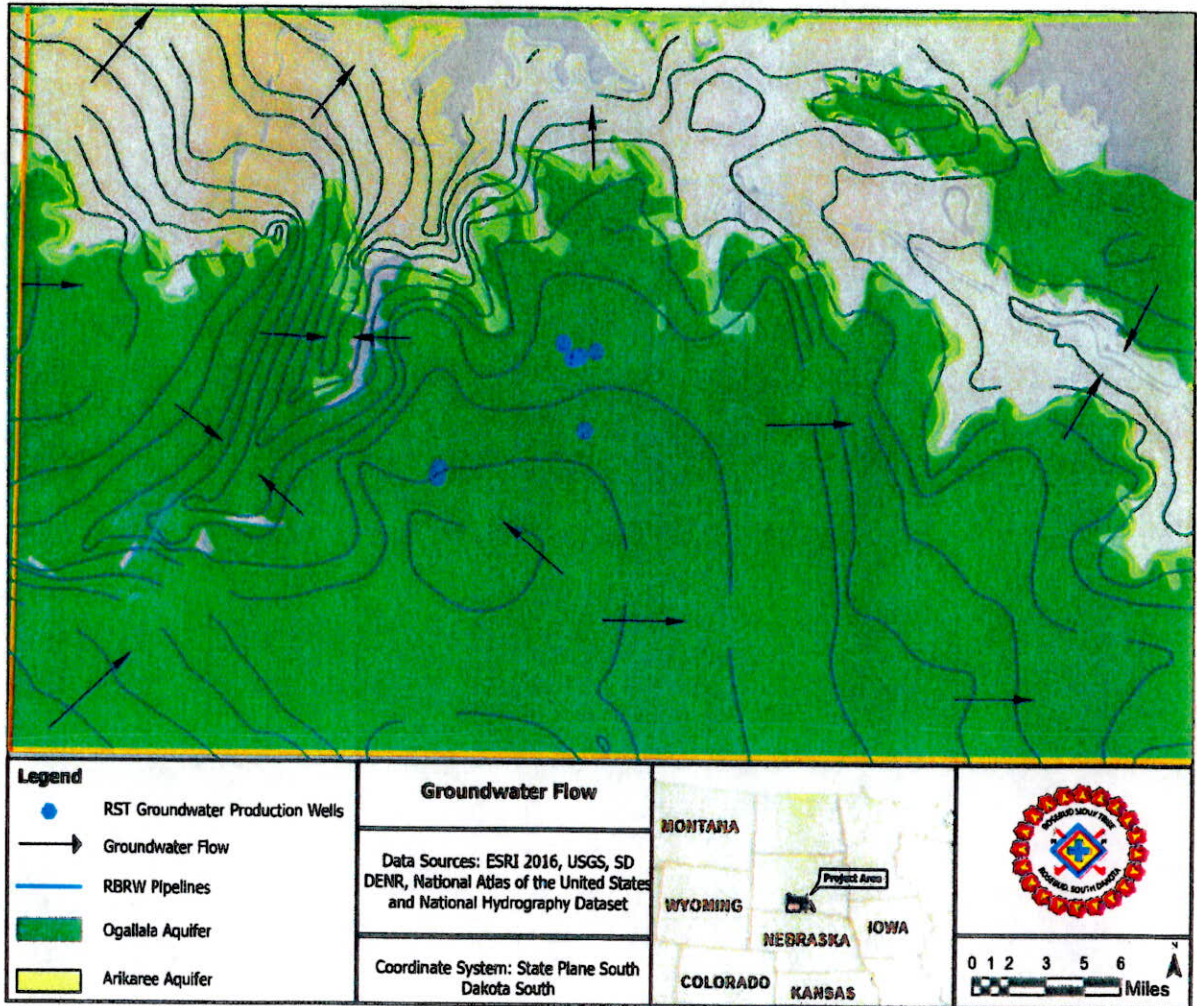
Location of Monitoring Wells On
The Ogallala Aquifer Rosebud Reservation



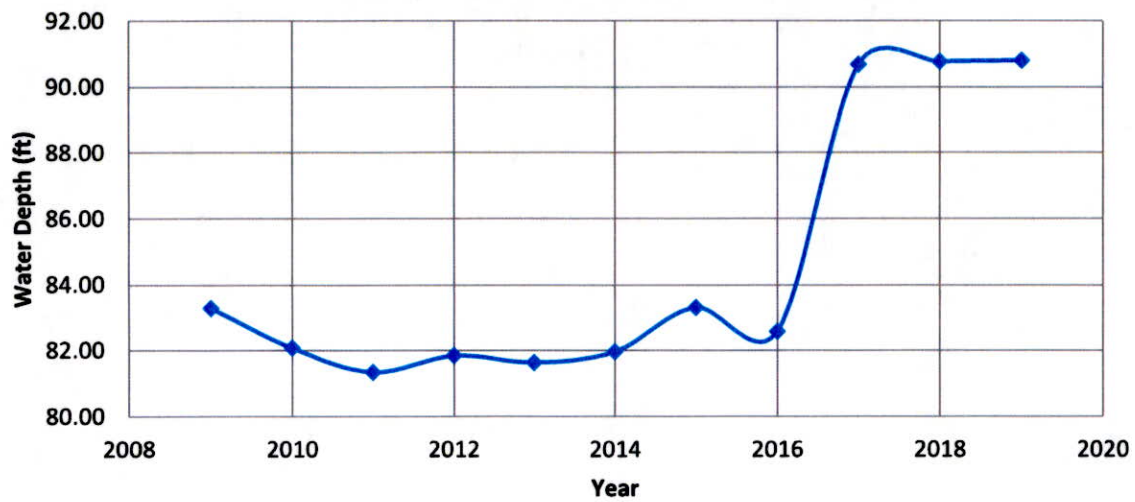
Aquifers and Groundwater Wells of the Rosebud Reservation



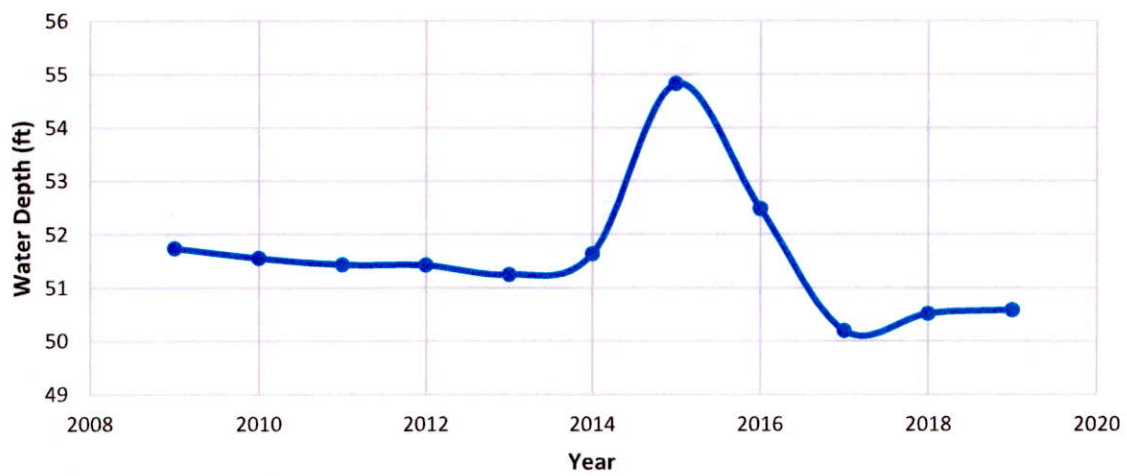
Groundwater Flow on the Rosebud Reservation



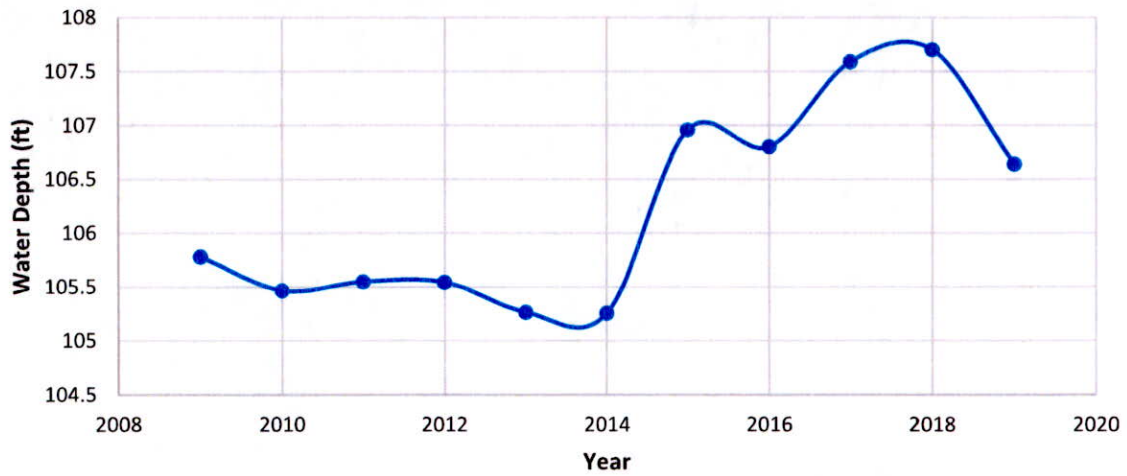
RST Monitor Well No. 11 2009-2019



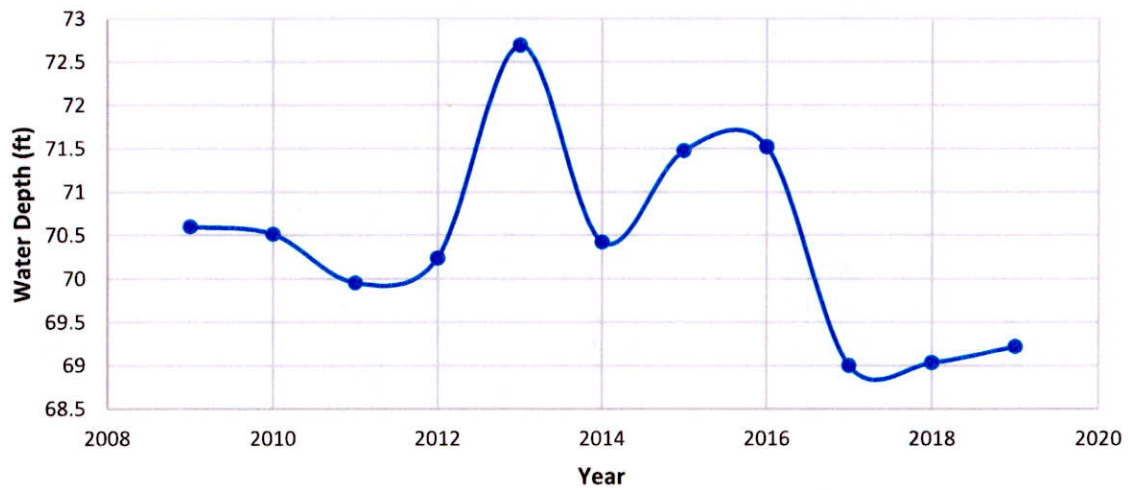
RST Monitor Well No. 12 2009-2019



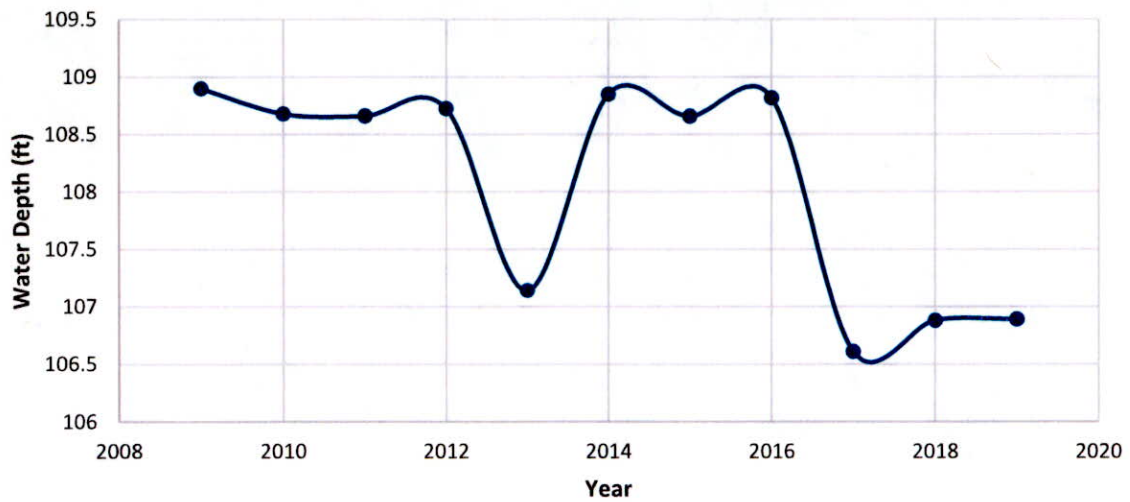
RST Monitor Well No. 13 2009-2019



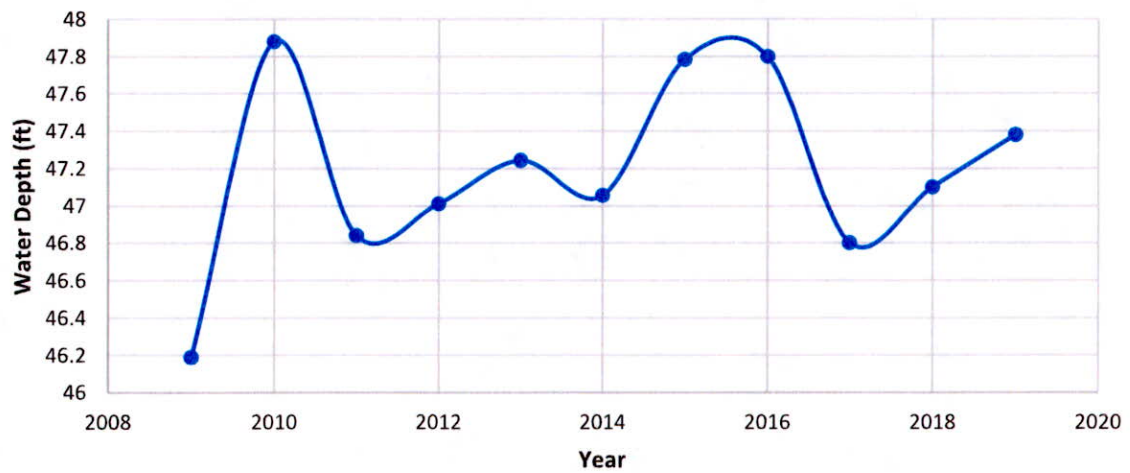
RST Monitor Well No. 14 2009-2019



RST Monitor Well No. 27 2009-2019



RST Monitor Well No. 28 2009-2019

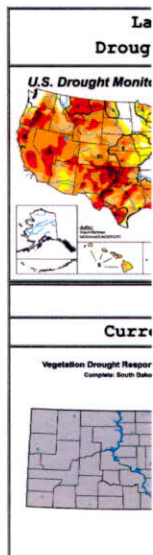


Current

Forecasts/Outlooks

Collapse All

General Drought Information



Links: [The National Drought Mitigation Center](https://droughtmonitor.unl.edu/)

Temperature

Precipitation

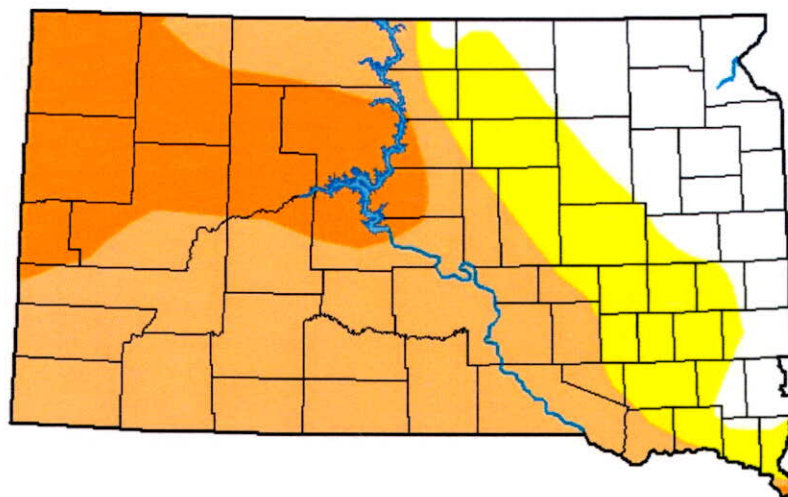
Standardized Precipitation Index (SPI)?

Hydrologic Information

Agricultural Information

Soil Moisture

U.S. Drought Monitor South Dakota



March 15, 2022

(Released Thursday, Mar. 17, 2022)

Valid 8 a.m. EDT

Drought Conditions (Percent Area)

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	18.13	81.87	65.77	22.14	0.00	0.00
Last Week 03-08-2022	18.13	81.87	65.77	22.09	0.00	0.00
3 Months Ago 12-14-2021	21.58	78.42	34.88	6.59	0.00	0.00
Start of Calendar Year 01-04-2022	21.31	78.69	34.91	6.63	0.00	0.00
Start of Water Year 09-28-2021	7.06	92.94	83.37	59.21	10.76	0.00
One Year Ago 03-16-2021	0.00	100.00	78.48	39.29	0.00	0.00

Intensity:

None	D2 Severe Drought
D0 Abnormally Dry	D3 Extreme Drought
D1 Moderate Drought	D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. For more information on the Drought Monitor, go to <https://droughtmonitor.unl.edu/About.aspx>

Author:

Adam Hartman
NOAA/NWS/NCEP/CPC



droughtmonitor.unl.edu





ROSEBUD SIOUX TRIBE

PO Box 430

Rosebud, SD 57570

Phone: 605.747.2381

Fax: 605.747.2243

Website: rosebudsiouxtribe-nsn.gov

Scott O. Herman, President
William Kindle, Vice President
Nicole Marshall, Secretary
Stephan L. DeNoyer, III, Treasurer
Keith Horse Looking, Sergeant-at-Arms

RECEIVED

MAY 03 2022

WATER RIGHTS
PROGRAM

May 3, 2022

Ron Duvall, Water Rights Permitting Administrator
South Dakota Department of Agriculture & Natural Resources
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501

Via E-mail at: Ron.Duvall@state.sd.us

RE: Water Permit Application 2836-2/Lisa O'Rourke-Fulton

Dear Sir:

I am respectfully requesting that the Petition Opposing the Application of Lisa O'Rourke-Fulton (#2836-2) filed by my office on behalf of the Rosebud Sioux Tribe to be withdrawn. In addition, we respectfully waive the findings of fact in the case of this permit application.

Respectfully Submitted,

Scott O. Herman, President
Rosebud Sioux Tribe



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

MAY 11 2022

Lisa O'Rourke-Fulton
29393 272nd Ave
Valentine NE 69201

Dear Ms. O'Rourke-Fulton:

Enclosed is Water Permit No. 2836-2 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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 informational 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

2836-2

New Development June 1, 2022

SD EForm - 1621LD V1

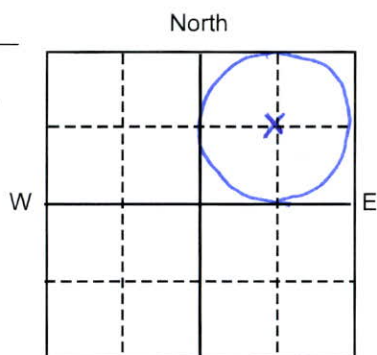
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW 1/4 NE 1/4 Sec 25 Twp 37 Rg 29W

County Tripp

Please mark well location with an "X"



Well Completion Date

5-25-2022

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 3300 ft. from Livestock Pens (identify source)

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Reverse Circulation Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
SDR26 LB/FT	16 IN	0 FT	120 FT	28 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Neat Cement	160	15 Lb/gal	60 Ft	5 Ft
AA Gravel Pack	14 Cubic	60 Lb/gal	60 Ft	200 Ft

Describe grouting procedure

Pressure Grout / Tremie Pipe

SCREEN:

☒ Perforated pipe ☐ Manufactured
 Diameter 16 Inches Length 80' Feet
 Material PVC SDR26 Jetstream
 Slot Size .050" Set From 120 Feet to 200 Feet

Other information

Glued 20' Joints

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Chlorination with
☐ No, Why Not? Test Pumping

Lab to which water quality sample sent for analysis

None

Chlorinated Gravel Pack
Dry Placement

Well Owner: Lisa O'Rourke - Fulton

Business Name:

Address: 29393 272nd Ave

City, State, Zip: Valentine NE 69201

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Top Soil	0	3
Soft Sandstone	3	18
Fine Sand	18	34
Hard White Siltstone	34	65
Fine Sand	65	80
Sandstone	80	90
Fine-mid Sand	90	126
Brown Clay	126	132
Med-Low Sand	132	196

STATIC WATER LEVEL

43 FEET

If flowing: closed in pressure

GPM flow through Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate GPM

Can well be completely shut in?

No Artesian Pressure to Surface

WELL TEST DATA:

☒ Pumped Describe:☐ Bailed☐ Other

Pumping Level Below Land Surface

118 Ft. After 4 Hrs. pumped 1000 GPM

108 Ft. After 4 Hrs. pumped 800 GPM

If pump installed, pump rate: 800 GPM

REMARKS

 5 stage 12 RL Vertiline Bowl
 Pump set 140' on 8x2x1 1/4 x 20 threaded
 Column
 100 HP Hollow shaft motor

This well was drilled under license # 377 and this report is true and accurate.

Drilling firm: Beck's Well & Irrigation Inc

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder: JAN 03 2023

Lisa Fulton

Date: 12-10-2022

RECEIVED

OFFICE OF
WATER



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: LISA O'ROURKE-FULTON, 29393 272ND AVE, VALENTINE, NE 69201

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2836-2. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2836-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2836-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: XUZMFJ**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 28, 2023

2836-2

Lisa O'Rourke-Fulton
29393 272nd Ave
Valentine NE 69201

Dear Ms. Fulton:

I am writing to acknowledge receipt of your 2022 irrigation questionnaire.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit No. 2836-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 19, 2024

NOTICE

TO: LISA O'ROURKE-FULTON, 29393 272ND AVE, VALENTINE, NE 69201

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2836-2. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2836-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2836-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: UYBSIM**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 14, 2025

NOTICE

TO: LISA O'ROURKE-FULTON, 29393 272ND AVE, VALENTINE, NE 69201

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2836-2. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2836-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2836-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: VIFHXY**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 21, 2025

2836-2

Lisa O'Rourke-Fulton
29393 272nd Ave
Valentine NE 69201

Dear Ms. O'Rourke-Fulton:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 2836-2. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us