

WATER PERMIT NO. 2843-2

Name of Applicant: Simon Contractors of South Dakota Inc

Address: PO Box 2720, Rapid City SD 57709

Phone: 605 394-3300

Amount of Water Claimed: 7.11 cfs (4.2 AF)

Total Acres: NA

Source of Water Supply: surface water – mine pit

Water to be used for: industrial and commercial

County: Pennington

Type of Waste Disposal System:

Location: northwest of Rapid City

PRIORITY

Date Received: 3-9-22

Application/License Fee: \$ 700

Corrected Application Received:

Period of Annual Use: Mar 1 – Oct 31

Remarks:

Diversion Point: N 1/2 NW 1/4 Sec 33 and S 1/2

SW 1/4 Sec 28; all in T2N-R7E

Land to be Irrigated: NA

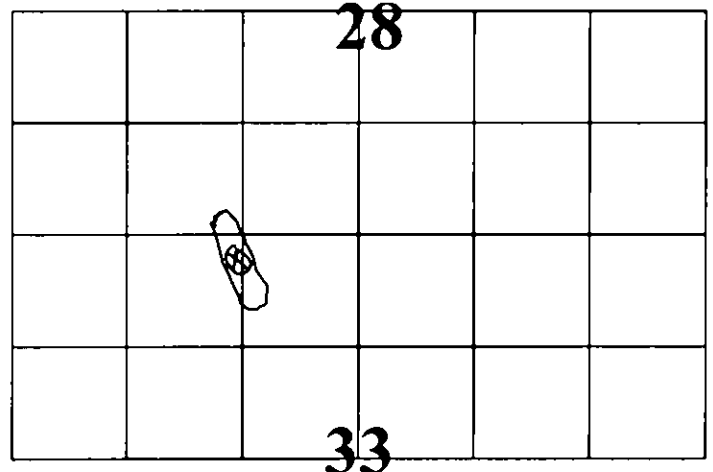
Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:



Reviewed and the Number Assigned on: 3-10-22

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2843-2**

Date of first receipt of application March 9, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2843-2 to Simon Contractors of South Dakota Inc, PO Box 2720, Rapid City SD 57709 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. 2843-2 appropriates 4.4 acre-feet of water annually at a maximum pump rate of 7.13 cubic feet of water per second from an aggregate pit located in the N 1/2 NW 1/4 Section 33 and the S 1/2 SW 1/4 Section 28; all in T2N-R7E for industrial and commercial use. The water will be pumped from the pit to supply a portable aggregate wash plant. Excess water from the washing operation will be returned to the pit and reused throughout the process. This site is located on the north side of Rapid City along Sturgis Road.
2. The water appropriated shall be used for the purpose of industrial and commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: March 1 – October 31.
4. The date from which applicant may claim right is March 9, 2022.
5. The date of approval of Permit No. 2843-2 is May 2, 2022.
6. One-fifth of the construction is to be completed on or before November 2, 2024.
7. All construction is to be completed on or before May 2, 2027.
8. Water is to be put to beneficial use on or before May 2 2031.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

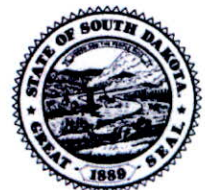
QUALIFICATIONS

1. The permit holder shall report to the Chief Engineer annually the estimated consumptive use of water from the aggregate pit.
2. Water Permit No. 2843-2 authorizes a total annual diversion not exceeding 4.4 acre-feet of water annually from the aggregate pit.

WATER MANAGEMENT BOARD

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

JUN 01 2022
date



RECEIVED
MAR 09 2022
PAID
WATER RIGHTS PROGRAM
MAR 9 2022
Ck# 00915598
Rec't#

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only) No. <u>2843-2</u> Hydrologic Unit <u>10120110</u> Basin <u>Upper Cheyenne</u> Newspaper <u>Rapid City Journal</u>
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Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

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

Type of Application: (check one)

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

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

1. Name to Appear on Water Permit Simon Contractors of South Dakota, Inc.

Mailing Address PO Box 2720 (Address) Rapid City (City) SD (State) 57709 (Zip Code)

Phone 605-394-3300 Mobile _____ Email _____

2. Amount of water claimed 7.13 *CFS or 3200 **GPM and 4.4 ***AF or 1440000 Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply Mined out pit at Simon Contractors Rapid City Quarry (runoff)

4. Location of point of diversion N1/2NW1/4 Section 33 - T2N - R7E County Pennington
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No

If "Yes," where will water be used? and S1/2SW1/4 Sec 28 - T2N - R7E
(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Pennington

6. Annual period during which water is to be used Mid March Through October

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Water will be pumped from the pit to supply a portable wash plant to wash various aggregates for concrete, asphalt, and construction projects. Excess water from the washing operation will be returned or drain back to the pit and will be reused throughout the process. There will be no dewatering at the operation.

I, Brett Baker Brett Baker PRESIDENT, the applicant, certify under
Name of Person Title (if applicable)

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

Supplemental Information

(type or print)

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

- a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)
- b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

- c) Well Depth (**required**) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____
- d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

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

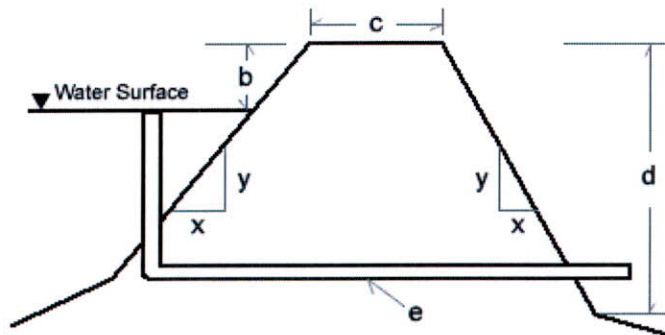
3. Dugout Information

- a) Surface Dimensions Currently 1000' x 250' Depth 60'
- b) Depth to water (ground surface to water level) 15' at highest 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 Feet
- j) Drainage Area Above Dam ____ Acres

Simon Contractors Rapid City, SD Quarry Water Usage

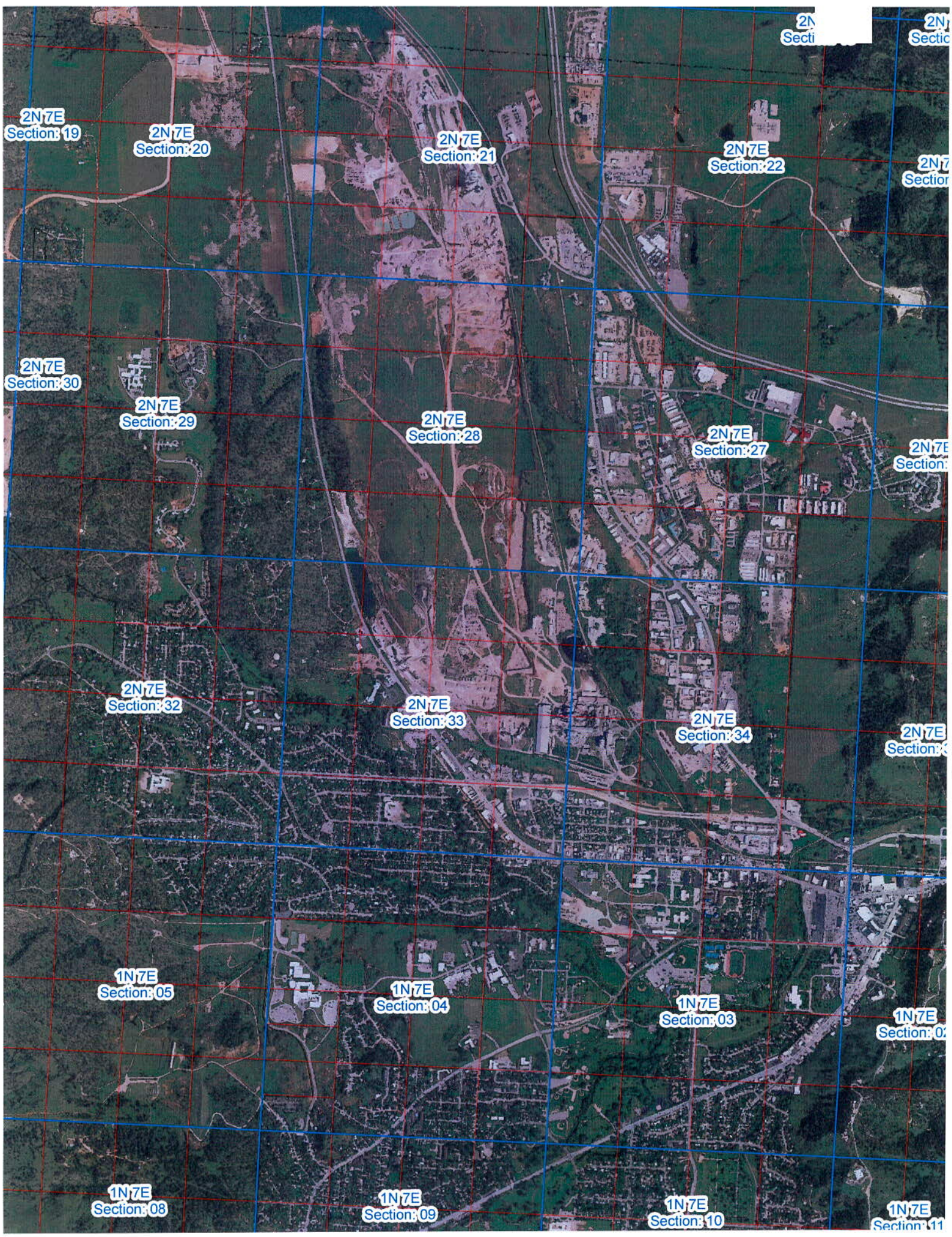
This information is based on washing a maximum of 60,000 tons of aggregate per year:

The maximum output of the pump being used is 3,200 gallons per minute. The capacity of the pump far exceeds the need of the wash plant, but a large pump is required to overcome the dynamic head to elevate the water from the pit to the wash plant. The actual pump rate anticipated to be used is approximately 1,000 gallons per minute at the idle speed of the pump. Of the 1,000 gallons, over half of the water will be diverted directly back into the pit because it exceeds the plant water requirements. Excess water from the washing operation itself will be returned to the pit. Excess water that drains from the washed material stockpile will also drain back to the pit.

Both coarse and fine aggregates might be washed at the operation. Coarse aggregates will retain much less water in a stockpile than fine aggregates, so calculations of water use are based on the assumption that all material being washed is fine aggregate.

The following describes the actual rate of water usage during washing operations. The wash plant will process on average 125 tons of tons of aggregates per hour. The washed material will be at approximately 10% moisture after draining water from the stockpile back into the pit. This means that actual water used for the process is 12.5 tons per hour, or approximately 3,000 gallons per hour which is approximately 50 gallons per minute.

The total yearly usage, assuming 10% water being retained by the material, is 10% of 60,000 tons, or 6,000 tons which is approximately 1,440,000 gallons or 4.2 Acre Feet of water.



2N7E
Section:19

2N7E
Section:20

2N7E
Section:21

2N7E
Section:22

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Section:

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Section:05

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Section:02

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Section:08

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Section:09

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Section:10

1N7E
Section:11

Simon Contractors

Water Diversion Point Map

X Diversion Point
— Section Line

S29 T2N-R7E

S28 T2N-R7E

S32 T2N-R7E

S33 T2N-R7E

Google Earth

N

800 ft



531416458

ANNUAL REPORT

Secretary of State
500 E. Capitol Ave
Pierre, SD 57501-5070
(605) 773-4845

Domestic Business Corporation
SDCL 59-11-24, 24.1

Please Type or Print Clearly in Ink
Please submit one Original
Make payable to the SECRETARY OF STATE

Filing Fee: \$50

Total Fee: \$50

2022
FILING YEAR

1. Business ID and Name:

DB035484
BUSINESS ID

SIMON CONTRACTORS OF SOUTH DAKOTA INC.
BUSINESS NAME

2. The jurisdiction under whose law it is formed SOUTH DAKOTA

3. The address of the principal executive office (business address):

Actual Street Address

**3975 STURGIS ROAD
RAPID CITY, SD 57702**

Mailing Address

**3975 STURGIS ROAD
RAPID CITY, SD 57702**

4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, (b) a commercial registered agent, or (c) an office holder.

(b) The South Dakota Commercial Registered Agent's name & CRA#

CRA: **CORPORATION SERVICE COMPANY (0000003)**

Actual Street Address in this State

**503 S PIERRE ST
PIERRE, SD 57501-4522**

Mailing Address in this State

5. The names and business addresses of its principal officers.

Title	Name	Address
Treasurer	ARNAUD C. CHABENAT (CFO)	6215 CLEAR CREEK PARKWAY, CHEYENNE, WY 82007
President	BRETT BAKER	6215 CLEAR CREEK PARKWAY, CHEYENNE, WY 82007
Secretary	ANTHONY L. MARTINO II	73 Headquarters Plaza, North Tower, Tenth Floor, MORRISTOWN, NJ, 07960
Vice President	ARNAUD CHABENAT	6215 CLEAR CREEK PARKWAY, CHEYENNE, WY, 82007

6. The names and business addresses of its directors (governors).

Name	Address
JOHN HARRINGTON	73 HEADQUARTERS PLAZA, NORTH TOWER, 10TH FL, MORRISTOWN, NJ 07960
BRETT BAKER	6215 CLEAR CREEK PARKWAY, CHEYENNE, WY 82007

7. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.



No person may execute this report knowing it is false in any material respect. Any violation may be subject to a civil and/or criminal penalty (SDCL 47-1A-129; 22-39-36).

02/20/2022

Dated

Email (Optional)

Anthony L. Martino, II

Signature of an Authorized Person

Anthony L. Martino, II

Printed Name

B0210-7969 02/20/2022 11:46PM Rec'd by SD SCS

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 9, 2022

RECEIVED OF Simon Contractors of South Dakota Inc. PO Box 2720 Rapid City SD 57709

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

Fee for Application for Permit No. <u>2843-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</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>2843-2</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>700.00</u>

By Eric Gronlund
Chief Engineer
um

NORTH REGION

3975 Sturgis Road, Rapid City, SD 57702
PO Box 2720, Rapid City, SD 57709
TEL 605 394 3300
FAX 605 341 3446 (*estimating*)
FAX 605 342 4513 (*accounting*)



March 7, 2022

SD Department of Agriculture & Natural Resources
Water Rights Program
523 East Capital Avenue
Pierre, South Dakota 57501-3182

RE: Simon Contractors Application For Permit To Appropriate Water Within The State Of South Dakota

To Whom it May Concern,

Please find enclosed Simon Contractors Application For Permit To Appropriate Water (Form 2) as well as Form 2a, the requested map, and the fee to be submitted with the application.

If you have any questions concerning the applications, please feel free to contact me at 605-390-8439.

Sincerely,

Mike Lee
Simon Contractors of South Dakota, Inc.



**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. 2843-2, Simon Contractors of SD Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 2843-2, Simon Contractors of SD Inc., PO Box 2720, Rapid City SD 57709.

The Chief Engineer is recommending APPROVAL of Application No. 2843-2 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 permit holder shall report to the Chief Engineer annually the estimated consumptive use of water from the aggregate pit.
2. Water Permit No. 2843-2 authorizes a total annual diversion not exceeding 4.4 acre-feet of water annually from the aggregate pit.

See report on application for additional information.

Eric Gronlund

Eric Gronlund, Chief Engineer
April 8, 2022

REPORT ON WATER PERMIT APPLICATION NO. 2843-2

Simon Contracting

April 6, 2022

Application No. 2843-2, proposes to appropriate 4.4 acre-feet of water annually at a maximum pump rate of 7.13 cubic feet of water per second from an aggregate pit located in the N 1/2 NW 1/4 Section 33 and the S 1/2 SW 1/4 Section 28; all in T2N-R7E for industrial and commercial use. The water will be pumped from the pit to supply a portable aggregate wash plant. Excess water from the washing operation will be returned to the pit and reused throughout the process. This site is located approximately north edge of Rapid City along Sturgis Road in Pennington County.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Proposed Water Source

The source of water for the proposed project is from an aggregate pit that is fed by runoff from an unnamed intermittent tributary to Lime Creek that drains a 260 acre watershed with minimal contributions from an alluvial aquifer and the Minnekahta aquifer. The water collected in the aggregate pit will be pumped to supply a portable aggregate wash plant. Return water from the washing operation will run back to the aggregate pit and be reused throughout the process. The total estimated annual consumptive use is 4.4 ac-ft. Water for this project is dependent upon sufficient runoff from the tributary to fill the aggregate pit and sufficient runoff may be problematic during extremely dry climatic conditions.

Review of Existing Water Rights

There are no existing water rights/permits appropriating water from this unnamed tributary. The closest water permit is located approximately a mile downstream on Lime Creek to provide for a bypass channel to split the flow of Lime Creek. Approval of this permit is not expected to adversely affect existing rights (Water Rights. 2022).

Conclusions

1. This application proposes to appropriate 4.4 acre-feet of water annually at a maximum pump rate of 7.13 cubic feet of water per second from an aggregate pit for industrial and commercial use in an aggregate wash plant.
2. The source of water is from an unnamed tributary to Lime Creek with minimal contributions from the alluvial deposit and Minnekahta.
3. The water system implements recycle and reuse of the water. Therefore, use of water is primarily non-consumptive except for losses in wash plant process and evaporation.
4. There is a reasonable probability unappropriated is available for the proposed use to the extent water is present in the pit.
5. Sufficient runoff to fill the aggregate pit may be problematic during extremely dry climatic conditions.
6. Approval of this permit is not expected to adversely affect existing rights.



Mark D. Rath
Natural Resources Engineer III

References

1. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 11, 2022 12:43 PM
To: mlee@simonteam.com
Subject: Water Permit Application No. 2843-2
Attachments: 3268.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 as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

S.D. DANR - Ground Water
GROUND WATER PROGRAM
523 E CAPITOL AVE
PIERRE SD 57501

ORDER NUMBER 45435

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
20 day of April, 2022
Karisele Corniche

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 04/20/2022

TOTAL AD COST: 70.83

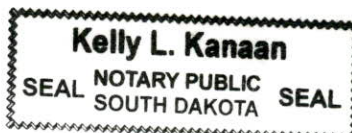
FILED ON: 4/20/2022

Subscribed and sworn to before me this

20th day of April, 2022
Kelly L. Kanaan Notary Public

My commission expires

Jan 17, 2025



Apr. 20 L45435
NOTICE OF APPLICATION NO. 2843-2 to Appropriate Water
Notice is given that Simon Contractors of South Dakota, Inc., c/o Brett Baker, PO Box 2720, Rapid City SD 57709 has filed an application for a water permit to appropriate 4.4 acre-feet of water annually at a maximum pump rate of 7.13 cubic feet of water per second from an aggregate pit located in the N 1/2 NW 1/4 Section 33 and the S 1/2 SW 1/4 Section 28; all in T2N-R7E for industrial and commercial use. The water will be pumped from the pit to supply a portable aggregate wash plant. Excess water from the washing operation will be returned to the pit and reused throughout the process. This site is located on the north side of Rapid City along Sturgis Road.
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2843-2 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 con-

RECEIVED

APR 22 2022

WATER RIGHTS PROGRAM

cerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner 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 May 2, 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 May 2, 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 \$70.83.)

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 11, 2022 12:40 PM
To: RCY Legals (legals@rapidcityjournal.com)
Subject: 2843-2, Simon Contractors of SD Inc
Attachments: 3268.pdf; FORM8.FRM.doc

Attached is a notice to be published on April 20, 2022.

Simon Contractors of SD Inc., c/o Mike Lee, PO Box 2720, Rapid City SD 57709 (605 394-3300) 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>



Duvall, Ron

From: Duvall, Ron
Sent: Wednesday, April 13, 2022 1:10 PM
To: legals@rapidcityjournal.com
Cc: Schlaak, Karen; mlee@simonteam.com
Subject: 2843-2, Simon Contractors of SD Inc -- LEGAL PUBLIC NOTICE
Attachments: FORM8.FRM.doc; 2843-2public.short_final.docx; 2843-2public.short_final.pdf

Attached is a notice to be published on April 20, 2022. THIS IS THE SECOND EMAILING to the Rapid City Journal. The applicant below indicated he contacted the Rapid City Journal and was told the paper did not have the attached public notice (see attached MS Word format and PDF format). Our records show it was sent on Monday, April 11, 2022.

Simon Contractors of SD Inc., c/o Mike Lee, PO Box 2720, Rapid City SD 57709 (605 394-3300 or 605 390-8439) 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 Ave, Pierre SD 57501.

Also, please confirm receipt of this email and let me know if you have any questions.

Thank you,

Ron Duvall
Dept. of Agriculture & Natural
Resources
Office of Water, Water Rights
Program
605.773.3352
danr.sd.gov



DANR
SOUTH DAKOTA

NOTICE OF APPLICATION NO. 2843-2 to Appropriate Water

Notice is given that Simon Contractors of South Dakota, Inc., c/o Brett Baker, PO Box 2720, Rapid City SD 57709 has filed an application for a water permit to appropriate 4.4 acre-feet of water annually at a maximum pump rate of 7.13 cubic feet of water per second from an aggregate pit located in the N 1/2 NW 1/4 Section 33 and the S 1/2 SW 1/4 Section 28; all in T2N-R7E for industrial and commercial use. The water will be pumped from the pit to supply a portable aggregate wash plant. Excess water from the washing operation will be returned to the pit and reused throughout the process. This site is located on the north side of Rapid City along Sturgis Road.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2843-2 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 May 2, 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 May 2, 2022.

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

Published once at the total approximate cost of_



**DEPARTMENT of AGRICULTURE
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523 E CAPITOL AVE
PIERRE SD 57501-3182
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**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

April 11, 2022

Simon Contractors of South Dakota Inc
c/o Mike Lee
PO Box 2720
Rapid City SD 57709

Dear Mr. Lee:

Water Permit Application No. 2843-2 for commercial and industrial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Rapid City Journal (Ph # 605 394-8336). You will need to contact the newspaper 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 newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has 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.



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JUN 01 2022

Simon Contractors of South Dakota Inc
c/o Brett Baker
PO Box 2720
Rapid City SD 57709

Dear Mr. Baker:

Enclosed is Water Permit No. 2843-2 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