

WATER PERMIT NO. 2865-2

Name of Applicant: **Black Hills Tiny Resort**

Address: **8668 S Hwy 16, Rapid City SD 57702**

Phone: **605 391-0889**

Amount of Water Claimed: **0.022 cfs**

Total Acres: **NA**

Source of Water Supply: **groundwater (1 well)**

Water to be used for: **commercial**

County: **Pennington**

Type of Waste Disposal System:

Location: **3 miles south of Rapid City**

PRIORITY

Date Received: **11-15-22**

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

Corrected Application Received: **2-27-23**

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

Remarks:

Diversion Point: **NW 1/4 NE 1/4 Sec 3-T1S-R7E**

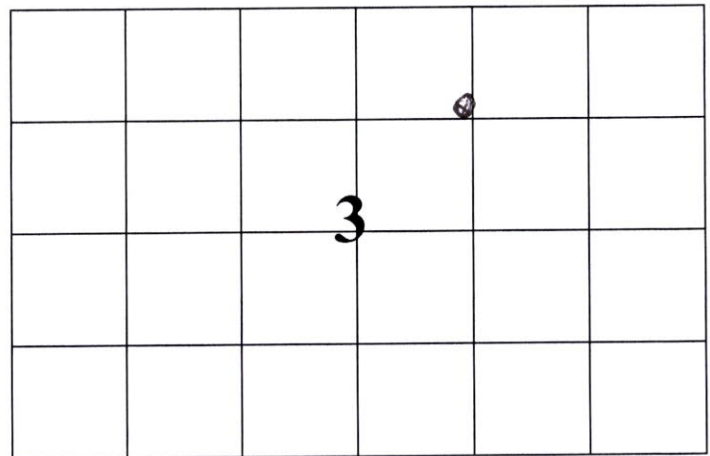
Land to be Irrigated: **NA**

Depth of Well: **300 feet**

Well Driller:

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **3-2-23**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 2865-2

Date of first receipt of application November 15, 2022.

Date of return to applicant for corrections, amendments, or changes November 15, 2022.

Date of receipt of corrected application February 27, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2865-2 to Black Hills Tiny Resort, c/o Joleen Zoller, 8668 S Highway 16, Rapid City SD 57702 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. 2865-2 appropriates 5.2 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one existing well completed into the Minnekahta Aquifer (300 feet deep) located in the SW 1/4 NE 1/4 (BHTR Subdivision, Lot 1) Section 3 for commercial use at a resort area located in BHTR Subdivision, Lot 1 Section 3; all in T1S-R7E. This site is located approximately 3 miles south of Rapid City SD.
2. The water appropriated shall be used for the purpose of 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: January 1 – December 31.
4. The date of approval of Permit No. 2865-2 is May 1, 2023.
5. The date from which applicant may claim right is February 27, 2023.
6. One-fifth of the construction is to be completed on or before November 1, 2025.
7. All construction is to be completed on or before May 1, 2028.
8. Water is to be put to beneficial use on or before May 1, 2032.
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 well approved under Water Permit No. 2865-2 is 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 Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Minnekahta aquifer.
3. Water Permit No. 2865-2 authorizes a total annual diversion of up to 5.2 acre-feet of water from the Minnekahta aquifer.

WATER MANAGEMENT BOARD

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

MAY 15 2023
date



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2865-2</u> Hydrologic Unit <u>10120109</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Rapid City Journal</u>
	(office use only)

RECEIVED
NOV 15 2022
**OFFICE OF
WATER**

Application for Permit to Appropriate Water in 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 Black Hills Tiny Resort

Mailing Address 8668 S. Highway 16 Rapid City SD 57702
(Address) (City) (State) (Zip Code)

Phone 605-391-0889 Mobile 605-391-0889 Email joleen@vanwaytrophys.com

2. Amount of water claimed 0.022 *CFS or _____ **GPM and 5.2 ***AF or 10 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 well and now a cistern (SW 1/4 NE 1/4 BHTR Subdivision, Lot 1) Sec 3 T15S-R7E

4. Location of point of diversion 1 well NE 1/4 NE 1/4 Section 3 T15R7E ?? County Pennington
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

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

If "Yes," where will water be used? _____
(example - NW 1/4 section 12-T104N-R53W)

5. County or counties where water will be used Pennington

6. Annual period during which water is to be used all year long Jan 1 - Dec 31

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)

Building the land to suit 12 tiny homes and 12 RV sites. Dirt work has been completed and we are ready to put in sewer, electrical and water. We installed a 5000 gallon cistern to help everyone get adequate water.

I, Joleen Zoller 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.

2021-08

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

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 0 Have test holes been drilled? ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)
- b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by BH Septic

For either existing or proposed wells:

- c) Well Depth (required) 300 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) septic tanks and drain fields
- b) System Capacity (gallons) 5000 Year Constructed 2022
- c) Connected to the City of Rapid City Sanitary System

3. Dugout Information

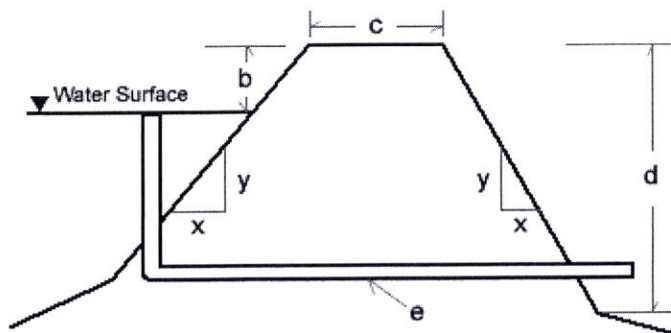
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

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 _____

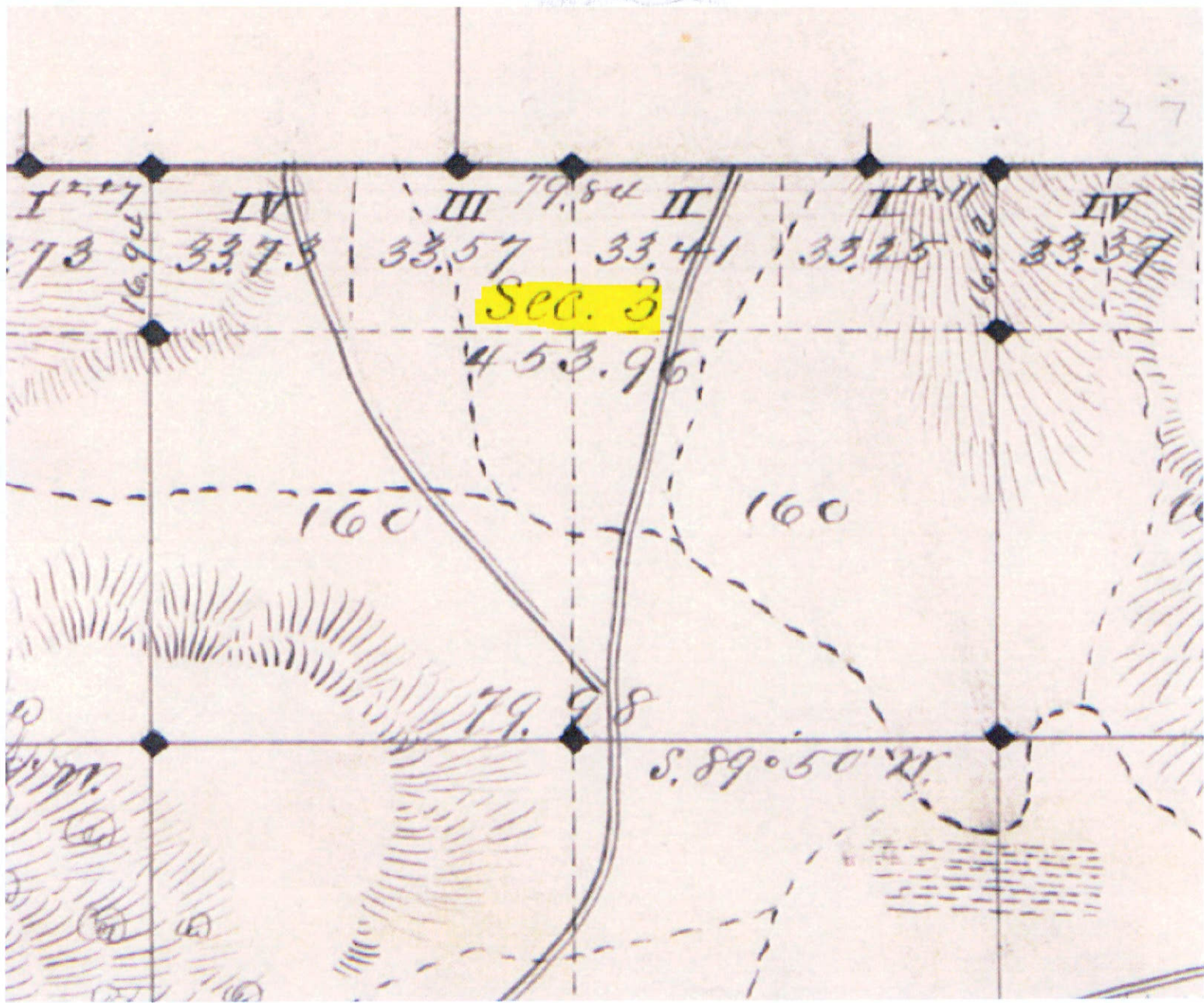


- If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____
- h) Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

Well House

8668 S. Hwy 16 Rapid City, SD

Cistern



1N7E
Section: 33

1N7E
Section: 34

1S7E
Section: 04

1S7E
Section: 03

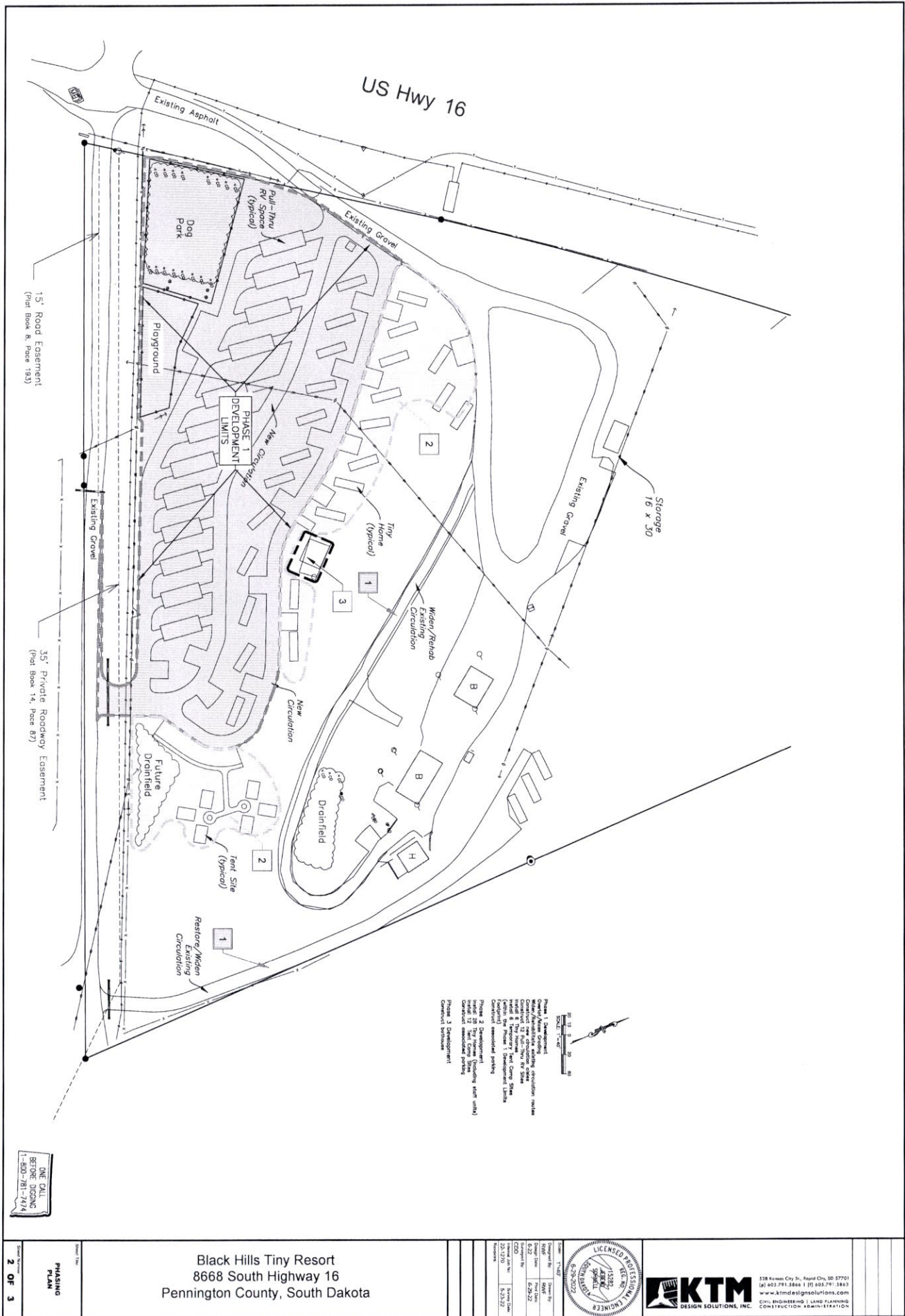
1S7E
Section: 02

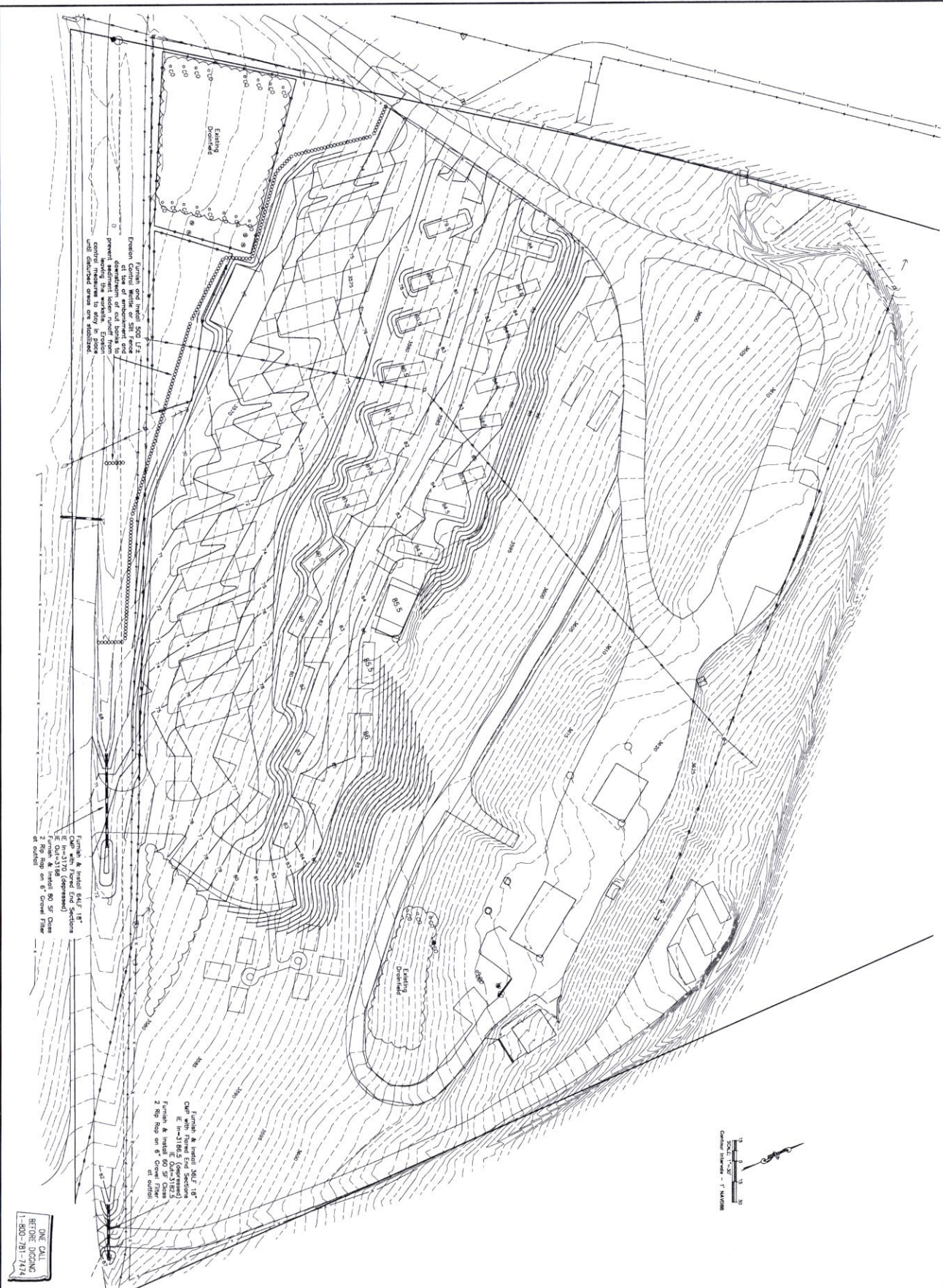
1S7E
Section: 09

1S7E
Section: 10

1S7E
Section: 11







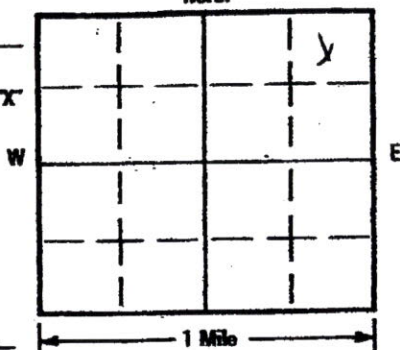
SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NE 1/4 NE 1/4 Sec 3 Twp 15 Rg 7E

County Pennington

Please mark well location with an "X"



Well-Completion Date

3/8/16

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 500 ft. from Septic (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary Downhole Hammer

CASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe 260' of 5" Certilock

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	0 FT	300 FT	6 3/4 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA

Grout Type Portland II No. of Sacks 20 Grout Weight lb./gal From 260 ft. To 0 ft.
10/20 bentonite lb./gal ft. ft.

Describe grouting procedure thru casing

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter IN Length FEET

Material

Slot Size Set From Feet to Feet

Other information

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material?

Describe packer(s) and location?

DISINFECTION: Was well disinfected upon completion? with chlorine
YES How: 50l.

Laboratory sent to for water quality analysis NO, Why Not?

Well Owner: Kalen Dringman

Business Name:

Address: 13713 Borglum Rd
Key Stone, SD 57151

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Sprangish</u>	<u>0</u>	<u>258</u>
<u>Minnekahta</u>	<u>258</u>	<u>280</u>
<u>Fract. 100 gpm</u>	<u>280</u>	<u>282</u>
<u>Minnekahta</u>	<u>282</u>	<u>300</u>

STATIC WATER LEVEL 21 Feet

If flowing: closed in pressure PSI

GPM flow 100+ through inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced Flow rate GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: Wair
☐ Bailed
☐ Other

Pumping Level Below Land Surface

ft. After Hrs. pumped GPM

ft. After Hrs. pumped GPM

If pump installed, pump rate GPM

REMARKS

RECEIVED

MAR 25 2016

WATER RIGHTS PROGRAM

MINNEKANTHA 103 324

This well was drilled under license # 324

And this report is true and accurate.

Drilling firm Alexander Drilling Inc.

Signature of License Representative

Kalen Dringman

Signature of Well Owner or Equitable Property Holder:

Kalen Dringman

Date: 3/18/16

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date February 27, 2023

RECEIVED OF Black Hills Tiny Resort LLC 8668 S Highway 16 Rapid City SD 57702

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

Fee for Application for Permit No. <u>2865-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>100.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2865-2</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	TOTAL
	\$ <u>300.00</u>

By *Eric Gronlund*
Chief Engineer
me

**Water Rights Program
File Documentation**

NAME OF PERSON OR FILE: Water Permit Application No. 2865-2, Black Hills Tiny
Resort c/o Joleen Zoller

DATE: 03/14/2023 TELEPHONE: 605-391-0889

RE: Well construction information/Well completion report

COMMENTS:

Called Joleen Zoller to discuss the provided well information on Form 2A of the application and if a well constructed for Kalen Dringman on 03/08/2016, on file with the Water Rights Program, is the well to be used for this application. The Dringman well completion report was on file with the Water Rights Program but not provided with the water permit application from Ms. Zoller. Based on records obtained by Ms. Zoller during purchase of the property, the Dringman well is the well on her property and the well completion report on file with the Water Rights Program is the proper well completion report and should be used for determination of water source for this application. I added the well completion report to the file.



Adam Mathiowetz
Natural Resources Engineer
DANR-Water Rights Program



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES

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

RECEIVED

FEB 27 2023

OFFICE OF
WATER

PAID

FEB 27 2023

Ck# 1084

Rec't#

February 10, 2023

Black Hills Tiny Resort
Joleen Zoller
8668 S Highway 16
Rapid City SD 57702

Dear Ms. Zoller:

On November 15, 2022, you submitted an *Application for Permit to Appropriate Water Within the State of South Dakota* for commercial use. You were notified what additional information was required to complete the application. A copy of that letter is enclosed. To date, we have not received the required information.

I have included another map. Please mark the proposed well location with an "X" and outline the area where the water will be used.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
Phone: (605) 773-3352
karen.schlaak@state.sd.us

enclosures

Karen,
I'm not sure how to do this math correctly.
We will have 6 tiny homes the 1st season but
eventually we will have 12-RV slips + 25 tiny homes.
We also have a cabin that sleeps six but rarely has
more than 4 people. Also we are building the horse barn
into 2 separate apartments that will sleep 6 each.
Each RV + tiny home is estimated at 100 gallons per day
per site. The cabin + barn is based on 120 gpd
per bedroom. Does this make sense to you? Let me
know if we need to chat more. Joleen Zoller
605-391-0889

12 RV
 25 homes
37 total

} 100 gal/day per site

3700 gal/day

1 Cabin - 6 people - 3 bedrooms
 1 Barn -
 2 apts - 3 bedrooms each
 6 bedrooms

} 120 gpd/day
per bedroom

1080 gal/day

total 4780 gal/day
 x 30 day
 143,400 / mo
 x 12 mo
 1,720,800 gal
 per
 yr.

5.2 AF



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 10, 2023

Black Hills Tiny Resort
Joleen Zoller
8668 S Highway 16
Rapid City SD 57702

Dear Ms. Zoller:

On November 15, 2022, you submitted an *Application for Permit to Appropriate Water Within the State of South Dakota* for commercial use. You were notified what additional information was required to complete the application. A copy of that letter is enclosed. To date, we have not received the required information.

I have included another map. Please mark the proposed well location with an "X" and outline the area where the water will be used.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
Phone: (605) 773-3352
karen.schlaak@state.sd.us

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 6, 2022

Black Hills Tiny Resort
Joleen Zoller
8668 S Highway 16
Rapid City SD 57702

Dear Ms. Zoller:

On November 15, 2022, we received your emailed *Application for a Permit to Appropriate Water* for commercial use in Pennington County. To complete the application, the following is required.

- A map needs to be submitted that references a government section corner or quarter corner including section, township and range. For your use, I have enclosed a map with those designations. Please mark the well location with an "X".
- The application requests an appropriation of 10 gallons per minute (gpm). In addition to the pump rate, the application needs to include the annual volume in either gallons/year or acre feet/year. In calculating the annual volume, be reasonable but also plan for the maximum annual volume of use from the well at full development. It is unlikely that 10 gpm will be pumped continuously during an entire year. Therefore, DANR requests identification of an annual volume to be used at the resort. Your engineer will be able to help you determine this amount.
- The application/license fee will be \$300.00 made payable to: Water Rights Program, 523 E Capitol, Pierre SD 57501.

If you want more information regarding the permitting process, please go to our web site at <https://danr.sd.gov/OfficeOfWater/default.aspx>

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, November 15, 2022 10:53 AM
To: Joleen@vanwaytrophy.com
Subject: Water Permit Application

We received your water permit application. Please submit the required map and application/license fee.

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, November 15, 2022 2:30 PM
To: joleen@vanwaytrophy.com
Subject: RE: [EXT] Water Permit Application

Joleen,

The map submitted with the application needs to reference a section corner or quarter corner. The location of the well needs to be marked with an "X". The maps you sent do not have this information. Your engineer will be able to help you with the map. Please send to: Water Rights Program, 523 E Capitol, Pierre SD 57501.

Once we have all the above information, we will let you know if anything additional is required.

Karen

From: Joleen Zoller <joleen@vanwaytrophy.com>
Sent: Tuesday, November 15, 2022 11:23 AM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] Water Permit Application

Hi Karen,

Can you tell me where to send the check? Also, are you talking about the engineering map? Did you already receive the application?

Thank you,
Joleen Zoller
605-391-0889

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Tuesday, November 15, 2022 9:53 AM
To: [Joleen@vanwaytrophy.com](mailto:joleen@vanwaytrophy.com)
Subject: Water Permit Application

We received your water permit application. Please submit the required map and application/license fee.

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
danr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2865-2, Black Hills Tiny Resort**

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. 2865-2, Black Hills Tiny Resort, 8668 South Highway 16, Rapid City SD 57702.

The Chief Engineer is recommending APPROVAL of Application No. 2865-2 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 well approved under Water Permit No. 2865-2 is 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 Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Minnekahta aquifer.
3. Water Permit No. 2865-2 authorizes a total annual diversion of up to 5.2 acre-feet of water from the Minnekahta aquifer.

See report on application for additional information.

Eric Gronlund, Chief Engineer
April 7, 2023

Report to the Chief Engineer
On Water Permit Application No. 2865-2

Black Hills Tiny Resort

c/o Joleen Zoller

April 6, 2023

Water Permit Application No. 2865-2 proposes to appropriate an amount of water not to exceed 5.2 acre-feet annually at a maximum instantaneous diversion rate of 0.022 cubic feet per second (cfs) from one well completed into the Minnekahta aquifer (300 feet deep) located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ (BHTR Subdivision, Lot 1) of Section 3 for commercial use at a resort area located in the BHTR Subdivision, Lot 1 of Section 3; all in T1S-R7E. The site of interest is located in Pennington County approximately three miles south of Rapid City, SD.

AQUIFER: Minnekahta (MNKT)

HYDROGEOLOGY:

In the Black Hills of South Dakota, major aquifers that are extensively used exist within the Minnekahta Limestone, Minnelusa Formation, Madison Limestone, and Deadwood Formation (youngest to oldest) (Driscoll and Carter, 2001; Fahrenbach et al., 2010; Water Rights, 2023b, 2023c, and 2023d). Individually, these aquifers are separated by relatively impermeable layers within the formations or by confining layers between the formations (Driscoll and Carter, 2001; Fahrenbach et al., 2010). The direction of groundwater movement in these aquifers is generally radially outward from the outcrop in the Black Hills in South Dakota (Driscoll and Carter, 2001). While the lateral component of groundwater flow dominates the movement of water in these aquifers, extremely variable leakage can also occur (Driscoll and Carter, 2001).

The Permian aged, Minnekahta Limestone consists mainly of purple to gray, fine-grained, thin to medium bedded limestone with varying amounts of red shale (Martin et al., 2004). The Minnekahta Limestone ranges from approximately 30 to 50 feet thick (Martin et al., 2004). The Minnekahta Limestone is primarily overlain by the Spearfish Formation (primarily shale, siltstone, and fine-grained sandstone) and underlain by the Opeche Shale (Epstein and Doctor, 2013; Fahrenbach et al., 2010; Martin et al., 2004). The Minnekahta Limestone outcrops in the Black Hills (shown in Figure 1) but is otherwise buried in South Dakota (Strobel et al., 1999).

In western South Dakota, Allen and others (1985) estimated the Minnekahta Limestone to underlie approximately 15,960,320 acres, and the Minnekahta aquifer is estimated to contain approximately 39,900,800 acre-feet of recoverable water in storage. In Pennington County, the Minnekahta Limestone is estimated to underlie approximately 1,283,200 acres, and the Minnekahta aquifer is estimated to contain approximately 3,208,000 acre-feet of recoverable water in storage (Allen et al., 1985). Carter and others (2003) estimated the Minnekahta Limestone to underlie approximately 1,972,480 acres and the aquifer contains approximately 4.9 million acre-feet of recoverable water in storage. It should be noted that the amount of recoverable water within the Minnekahta aquifer may vary from one location to another as a

result of the specific aquifer characteristics and overall areal extent of the aquifer. The Minnekahta aquifer can exist under both confined and unconfined aquifer conditions (Water Rights, 2023d). The Minnekahta aquifer is generally unconfined where the formation outcrops in the Black Hills in South Dakota, and generally confined where the formation dips to the east causing the hydraulic head to be above the top of the formation (Water Rights, 2023d).

A water well completion report is on file for the existing well proposed to be used by Water Permit Application No. 2865-2 (Water Rights, 2023d). The report lists “Spearfish” from 0 to 258 feet below the ground surface, “Minnekahta” from 258 to 280 feet, “Fracture, 100 gpm” from 280 to 282, and “Minnekahta” from 282 to 300 feet (Water Rights, 2023d). The well had a static water level of approximately 21 feet below the ground surface at the time of well completion (March 8, 2016) (Water Rights, 2023d). Based on the well completion report on file, the Minnekahta aquifer is confined at the existing well site (Water Rights, 2023d).

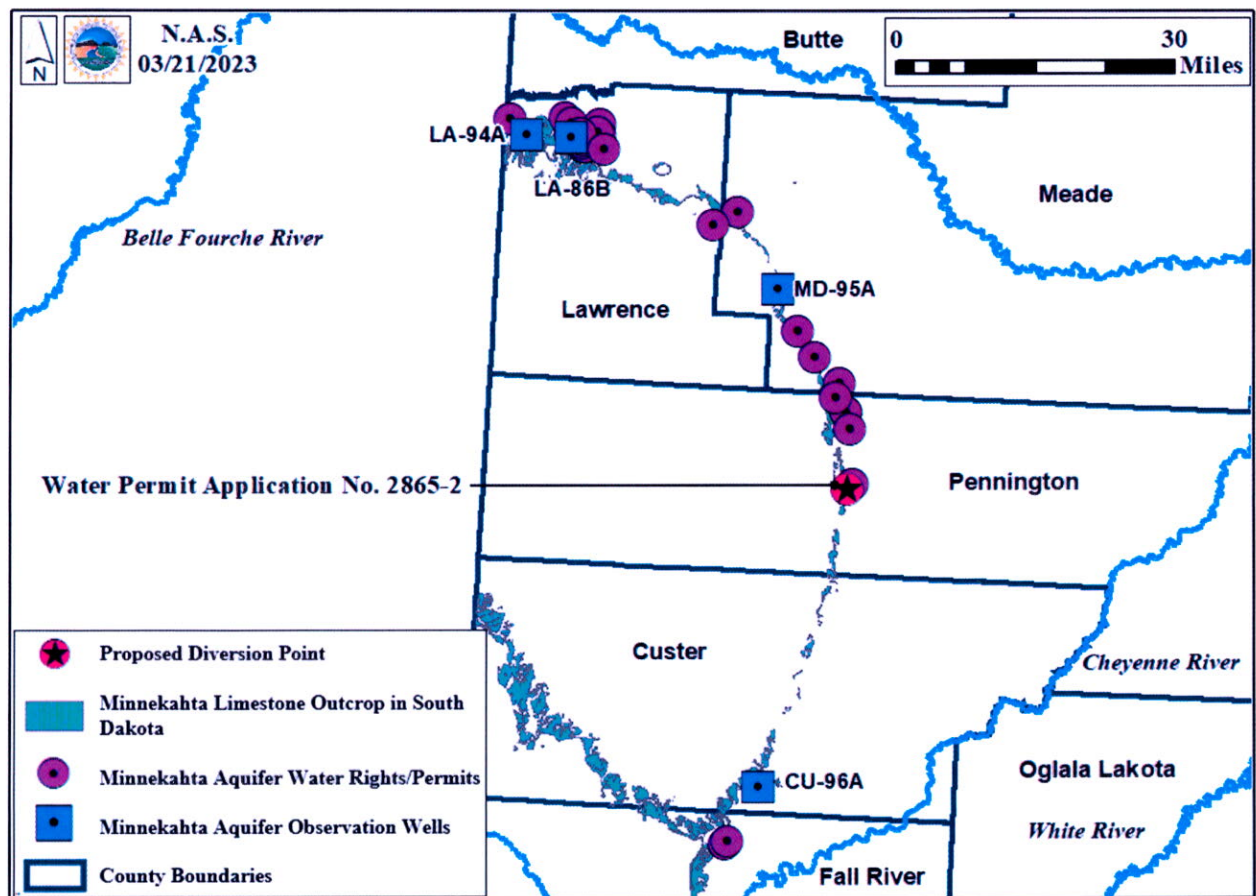


Figure 1. Minnekahta Limestone outcrop in the Black Hills in South Dakota (Strobel et al., 1999), the Minnekahta aquifer observation wells and water rights/permits in the Black Hills in South Dakota (Water Rights, 2023b and 2023c), and location of the existing well proposed to be used by Water Permit Application No. 2865-2 (Water Rights, 2023d)

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 Minnekahta aquifer.

WATER AVAILABILITY:

Water Permit Application No. 2865-2 proposes to appropriate water from the Minnekahta aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Minnekahta aquifer is older than and stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010); however, the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Minnekahta aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Minnekahta aquifer is primarily through the infiltration of precipitation where the formation outcrops (Carter et al., 2003). Some additional recharge may occur from streamflow losses within the outcrop of the Minnekahta Limestone (Carter et al., 2003; Driscoll and Carter, 2001). It is also likely the Minnekahta aquifer receives some recharge from upward leakage from the Madison and Minnelusa aquifers.

The estimated average annual recharge rate has not been quantified completely for the Minnekahta aquifer at this time; however, the precipitation component of the recharge from the Black Hills outcrop area in South Dakota was estimated to be approximately 6,500 acre-feet per year by Driscoll and Carter (2001) using data from 1950 to 1998. This estimate was only for the Minnekahta aquifer that outcrops in South Dakota, so there may be additional recharge to other parts of the aquifer from precipitation that occurs on outcrops in other states.

Discharge

Discharge from the Minnekahta aquifer is primarily through well withdrawals (Water Rights, 2023d). Currently, there are 31 water rights/permits authorized to withdraw water from the entirety of the Minnekahta aquifer in South Dakota (Water Rights, 2023c).

Table 1 summarizes the 31 Minnekahta aquifer water rights/permits, with the estimated annual use for each non-irrigation water right/permit as determined by their permitted maximum diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Non-irrigation water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2023c). Overall, the estimated average annual withdrawal rate from the Minnekahta aquifer by the non-irrigation water rights/permits is approximately 1,289 acre-feet per year (Table 1) (Water Rights, 2023c).

Table 1. Minnekahta aquifer water rights/permits with estimated annual use for the non-irrigation water rights/permits (Water Rights, 2023c)

Permit No.	Name	County	Status	Use Type(s)	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimated Withdrawal Rate (acre-feet/year)
439-1	Billy J Evans	LA	LC	IRR	2.22		**
515-2	Black Hills Corporation	PE	LC	IND	0.39		169.4
647-1	McGuigan Dairy Inc	LA	LC	IRR	0.4		**
673-1	Denny Brengle	LA	LC	IRR	0.16		**
1118-1	JH & P Investments LLC	LA	LC	COM	0.49		212.9
1129-1	Rand & Gayla Williams	LA	LC	COM	0.1		43.4
1147-2	TNS Holdings II LLC	PE	LC	SHD, COM	0.08		34.8
1164-1	Westview Subdivision	LA	LC	SHD	0.06		26.1
1184-1	Don L Smith	LA	LC	COM	0.1		43.4
1194-1	Spearfish Fairground	LA	LC	IND, COM	0.2		86.9
1265-1	Harold R & Tammie C Karlson	LA	LC	COM	0.45		195.5
1336-1	Piedmont Senior Citizens Center	MD	LC	INS	0.1		43.4
1489-1	Leonard Wales	LA	LC	SHD	0.05		21.7
1541-1	Automatic Vendors Inc	MD	LC	COM	0.04		17.4
1620-1	Beth Mathis	LA	LC	SHD	0.036		15.6
1636-1	Wayne Lindstad	LA	LC	COM, DOM	0.39		169.4
1651-1	Stagebarn Housing Center	MD	LC	COM	0.022		9.6
1681-1	John & Connie Niehaus	LA	LC	COM, DOM	0.036		15.6
1704-1	Mike & Debbie Palmer	MD	LC	IRR	0.44		**
1739-1	Spearfish Meadows Homeowners	LA	LC	SHD	0.111		48.2
1811-1	Butte Electric Cooperative Inc	LA	LC	COM	0.011		4.8
1833-1	Haier Enterprise Inc	LA	LC	IRR	1.56		**
1893-2	Windmill Truck Stop	PE	LC	COM	0.1		43.4
1902-1	Spring Creek Homeowners Association Inc.	LA	LC	SHD	0.089		38.7
1925-1	Boulder Canyon Country Club	LA	LC	COM	0.03		13
1976-1	Premier Surfaces LLC	LA	LC	COM	0.044	1	1*
2007-1	Ridge on Lookout Mt. Homeowners Assoc.	LA	PE	WDS	0.078	12.3	12.3*
2177-2	Superior Truck Wash Inc	PE	LC	COM	0.047		20.4
2190-2	Church of Jesus Crist of LDS	FR	LC	IRR	0.088		**
2422-2	Hot Springs School District	FR	LC	IRR	0.088		**
2756-2	Chad Gollnick	PE	LC	COM, DOM	0.027	1.5	1.5*
LC: Licensed Water Right; PE: Water Permit; FR: Fall River; LA: Lawrence;						TOTAL:	1,289
MD: Meade; PE: Pennington; COM: Commercial; DOM: Domestic; IND: Industrial; INS: Institutional; IRR: Irrigation;							
SHD: Suburban Housing Development; WDS: Water Distribution System							
*Limited to authorized annual volume **Irrigation questionnaires (Water Rights, 2023a)							

Currently, there are seven irrigation water rights/permits authorized to appropriate water from the Minnekahta aquifer (Water Rights, 2023c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Minnekahta aquifer irrigation water rights/permits that have reported over the period of record (1982 to 2021) is approximately 281.5 acre-feet per year (Table 2) (Water Rights, 2023a). Table 2 only lists six irrigation water rights/permits as reporting in 2021 (Water Rights, 2023a and 2023c). Water Right No. 2190-2 (priority date: 07/24/1991, authorized to irrigate 1.5 acres) did not submit an irrigation questionnaire form in 2020 or 2021 for an unknown reason (Water Rights, 2023a and 2023c). Generally, irrigators in South Dakota apply less than one foot of water per acre per year (Water Rights, 2023a). However, to account for the fluctuation in wet and dry cycles from year to year, the one foot of water per acre per year application rate will be used to somewhat overestimate the

annual withdrawal rate for Water Right No. 2190-2. Therefore, the average annual withdrawal rate for Water Right No. 2190-2 is approximately 1.5 acre-feet per year (Water Rights, 2023c). Collectively, the estimated annual withdrawal rate from the Minnekahta aquifer for irrigation use is approximately 283 acre-feet per year.

Table 2. Reported historic irrigation use from Minnekahta aquifer (Water Rights, 2022a)

Year	No. of Water Rights/Permits Reporting	Reported Pumpage (acre-feet)
1982	4	42.54
1983	6	445.39
1984	6	55.1
1985	6	337.7
1986	6	254.2
1987	6	300.36
1988	6	451.77
1989	6	351.85
1990	6	427.37
1991	5	338
1992	6	343.9
1993	6	239.3
1994	6	404.64
1995	7	144.58
1996	7	214.21
1997	7	196
1998	7	342.55
1999	8	261.99
2000	9	187.39
2001	9	338.69
2002	8	449.33
2003	9	409.04
2004	9	316.65
2005	10	241.29
2006	9	342.01
2007	8	312.61
2008	8	187.72
2009	8	201.73
2010	7	242.65
2011	7	229.16
2012	7	312.05
2013	7	251.37
2014	7	273.08
2015	7	133.35
2016	7	282.51
2017	7	354.68
2018	7	232.31
2019	7	225.78
2020	6	295.4
2021	6	290.2
Min	4	42.54
Max	10	451.77
Avg	7	281.5

There are domestic wells completed into the Minnekahta aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2023d). Due to their relatively low diversion rates, withdrawals from domestic wells are generally not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in some areas where the Minnekahta aquifer is a viable 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 Minnekahta aquifer.

Hydrologic Budget Summary

The estimated average annual recharge rate to the Minnekahta aquifer from precipitation on the outcrop in South Dakota is approximately 6,500 acre-feet per year.

The estimated average annual withdrawal rate from the Minnekahta aquifer is approximately 1,573 acre-feet per year (non-irrigation: 1,289 acre-feet/year; irrigation: 283 acre-feet/year; Water Permit Application No. 2865-2 (if approved, assuming full volume appropriation): 5.2 acre-feet/year). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Minnekahta aquifer for the proposed appropriation.

OBSERVATION WELL DATA:

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

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors four observation wells completed into the Minnekahta aquifer (Water Rights, 2023b). The two closest observation wells to the existing well are MD-95A (approximately 23 miles northwest) and CU-96A (approximately 33.5 miles southwest) (as shown in Figure 1) (Water Rights, 2023b). The hydrographs for these observation wells are displayed in Figures 2 and 3 (Water Rights, 2023b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. It is worth noting the hydrograph titles display DENR Water Rights Observation Well on the hydrographs when the titles should display DANR Water Rights Observation Well on the hydrographs.

The hydrographs for the observation wells display generally stable water levels over their respective periods of record. The hydrographs for these two observation wells were compared to the hydrographs for the other observations wells completed into the Minnekahta aquifer and each displayed a generally similar trend as shown on the hydrographs displayed in Figures 2 and 3 (Water Rights, 2023b). The hydrographs for the Minnekahta aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods 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. Aquifer recovery 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 Minnekahta 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.

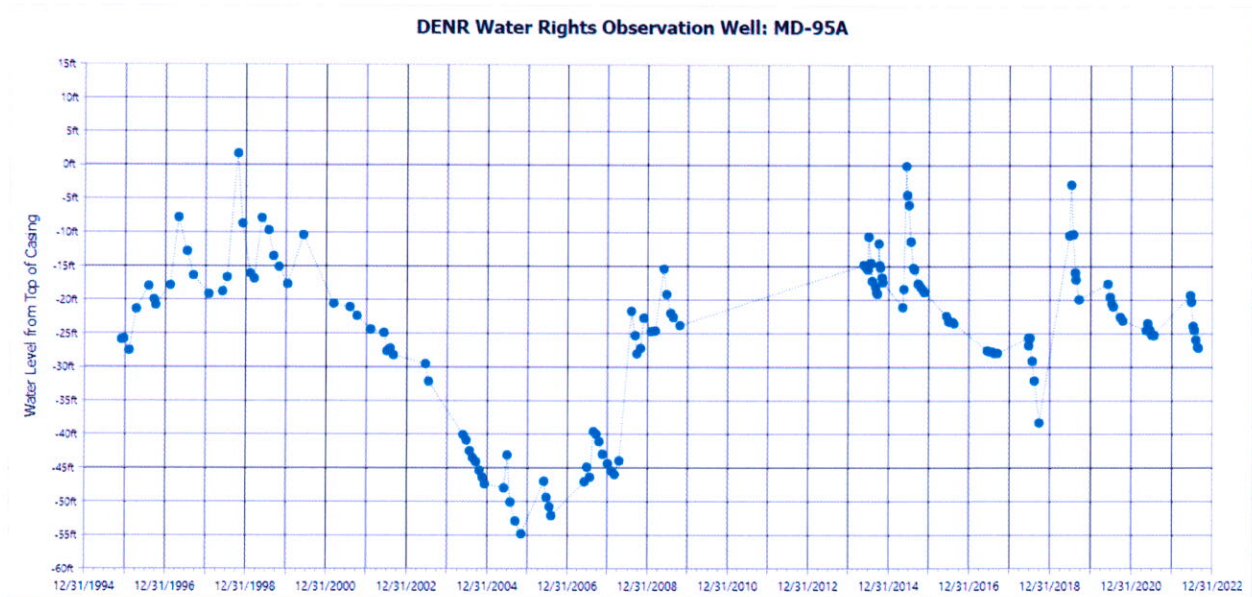


Figure 2. Hydrograph for observation well MD-95A (Water Rights, 2023b)

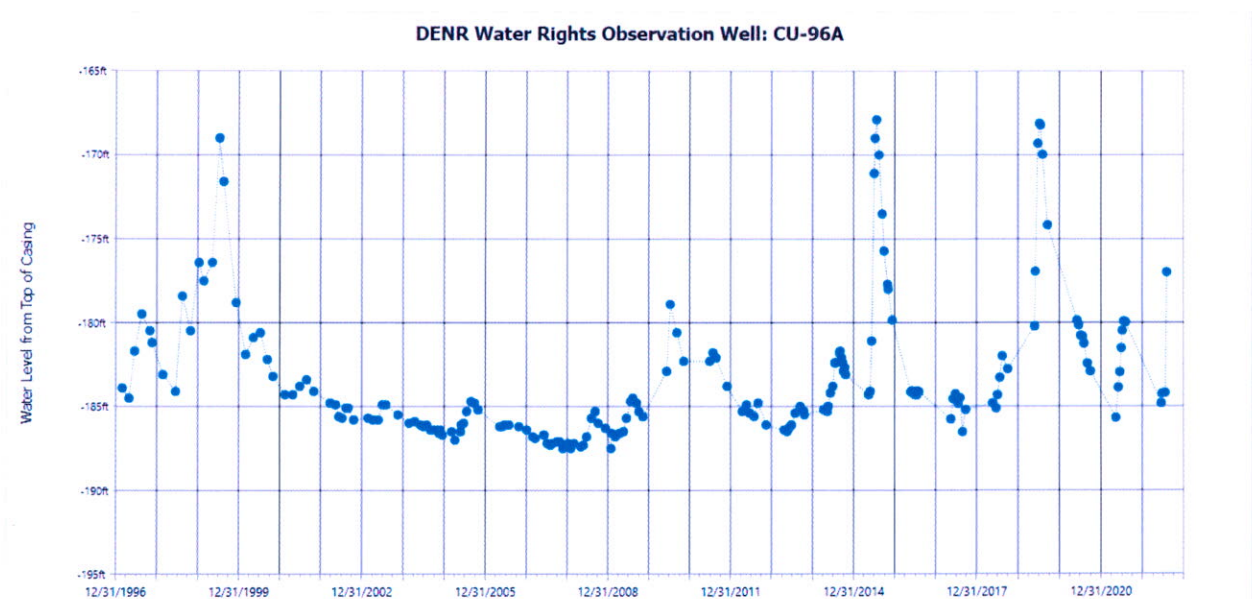


Figure 3. Hydrograph for observation well CU-96A (Water Rights, 2023b)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 31 water rights/permits authorized to appropriate water from the Minnekahta aquifer (Water Rights, 2023c). The closest water right/permit to the existing well site is Water Right No. 1147-2 which is held by TNS Holdings II LLC. The diversion point for Water Right No. 1147-2 is located approximately 0.7 miles northeast of the existing well proposed to be used for this application (Figure 4) (Table 3) (Water Rights, 2023c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Minnekahta aquifer, with the closest domestic well on file (not held by the applicant) approximately 1.3 miles southwest of the existing well site (Water Rights, 2023d). There could potentially be other domestic wells completed into the Minnekahta aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program.

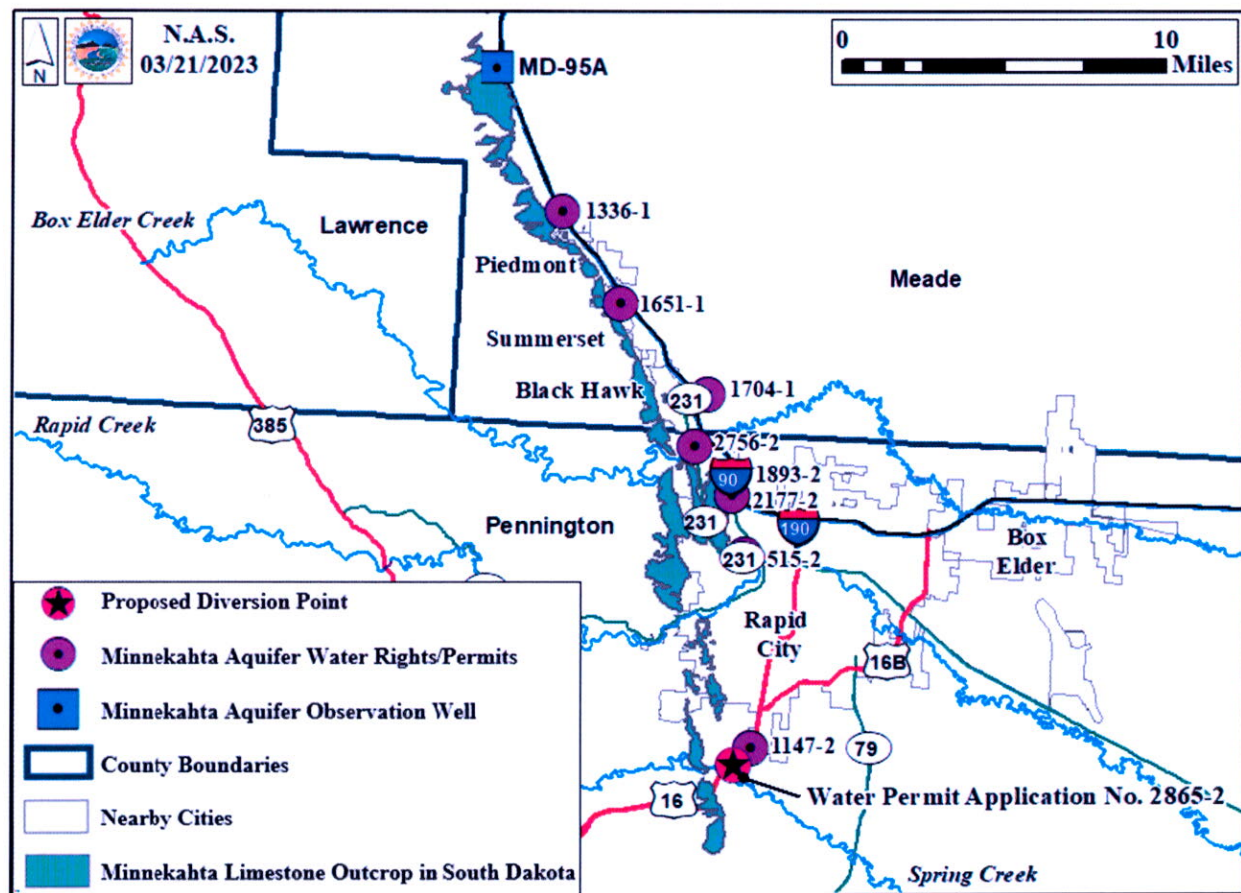


Figure 4. Location of the existing well proposed to be used by Water Permit Application No. 2865-2 (Water Rights, 2023d) with the Minnekahta aquifer water rights/permits and observation well within approximately 25 miles (Water Rights, 2023b and 2023c)

Table 3. Water rights/permits authorized to withdraw water from the Minnekahta aquifer within approximately 25 miles of the existing well site, as shown in Figure 4 (Water Rights, 2023c)

Permit No.	Name	Status	Use	Authorized Acres if IRR	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)
515-2	Black Hills Corporation	LC	IND		0.39	
1147-2	TNS Holdings II LLC	LC	SHD, COM		0.08	
1336-1	Piedmont Senior Citizens Center	LC	INS		0.1	
1651-1	Stagebarn Housing Center	LC	COM		0.022	
1704-1	Mike & Debie Palmer	LC	IRR	11	0.44	
1893-2	Windmill Truck Stop	LC	COM		0.1	
2177-2	Superior Truck Wash Inc	LC	COM		0.047	
2756-2	Chad Gollnick	LC	COM, DOM		0.027	1.5
LC: Licensed Water Right; COM: Commercial; DOM: Domestic; IND: Industrial; INS: Institutional; IRR: Irrigation;						
SHD: Suburban Housing Development						

The Minnekahta aquifer can exist under both confined and unconfined aquifer conditions (2023d). Based on the water well completion reports on file for the existing well proposed to be used, and lithologic logs on file for nearby observation wells, the Minnekahta aquifer is confined at the existing well site (SDGS, 2023; Water Rights, 2023b and 2023d). Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer; however, in a confined aquifer, drawdown from pumping could extend a distance from the diversion point. The exact drawdown behavior of a well cannot be known without an aquifer performance test. However, observation wells completed into the Minnekahta aquifer near permitted/licensed diversion points can provide some insight on how the aquifer responds to pumping.

Observation well LA-86A (approximately 48 miles northwest of the existing well) has 18 high-yield (assumed to be a well with an authorized diversion rate greater than 0.2 cfs) wells within approximately four miles of it (Water Rights, 2023b and 2023c). Some drawdown resulting from pumping can be seen on the hydrograph for LA-86A, along with the aquifer water level recovering in response to recharge during the spring season (Figure 5) (Water Rights, 2023b). The lithologic log on file for LA-86A noted the well was drilled approximately 430 feet below the ground surface, had a casing stick up height of approximately 1.06 feet, and the top of aquifer materials approximately 396 feet below the ground surface (SDGS, 2023). The lowest recorded static water level on the hydrograph is approximately 141 feet below the top of the well casing (shown on Figure 5), which indicates there was still approximately 105 feet of artesian head pressure in LA-86A even during a drier period when wells are expected to be pumping more water and when water levels are generally naturally lower in response to drier conditions (SDGS, 2023; Water Rights, 2023b).

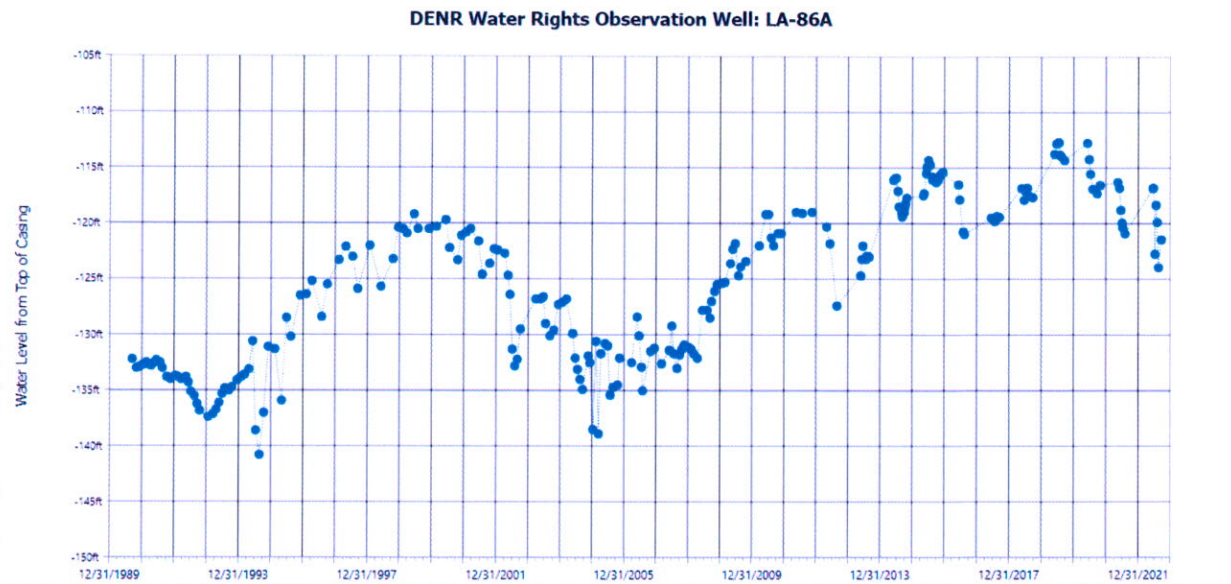


Figure 5. Hydrograph for observation well LA-86A (Water Rights, 2023b)

Near the existing well site, the Minnekahta aquifer has a saturated aquifer thickness of approximately 40 feet (Water Rights, 2023d). This would generally allow for enough 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). Any drawdown as a result of the proposed diversion for this application is not expected to unlawfully impair nearby adequate wells. In Pennington County, there are no substantiated complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Minnekahta aquifer (Water Rights, 2023e).

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.”

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, “general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable...” (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a

result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Minnekahta aquifer at their location. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), the saturated thickness of the Minnekahta aquifer near the existing well site, the artesian head pressure in observation wells near permitted/licensed diversion points and at the existing well site, and the lack of well interference complaints, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

Additional Considerations: Springs

USGS National Water Information System: Mapper identifies many springs within approximately five miles of the existing well site (USGS, 2023). One nearby spring discharges from a “Quaternary Alluvium” local aquifer (approximately four miles from existing well), two springs discharge from the Inyan Kara aquifer (approximately five miles from existing well), five springs discharge from the either the Madison or Minnelusa aquifers (approximately five miles from existing well), and the source aquifer for the nearest spring (approximately two miles from existing well) was not identified.

The Minnelusa Formation and Madison Limestone both generally underly the Minnekahta Limestone in the Black Hills of South Dakota (Fahrenbach et al., 2010). For water from the aquifers contained within the Minnelusa Formation and Madison Limestone to reach the springs discharging from the Inyan Kara aquifer, the water would have to travel through the Minnekahta Limestone. This same process occurs at many of the major springs in the Black Hills. The path that this water travels through the Minnekahta Limestone has not been extensively studied; however, breccia pipes and karst features have been identified in the Minnekahta Limestone throughout the Black Hills.

When considering the deferral of Water Permit Application No. 2585-2 for the Southern Black Hills Water System, the Water Management Board adopted a conclusion of law stating in part “...The only protection South Dakota law provides when considering an application for an underground water permit for flow from an artesian spring is under the public interest criteria” (Water Rights, 1997). Given the distance between the existing well site and the springs mentioned above, while considering the applicant’s proposed maximum diversion rate, there is a reasonable probability Water Permit Application No. 2865-2 can be developed without making an impact that would be measurable above the natural fluctuations in the nearest spring(s) that likely are or could be influenced by water coming from the Minnekahta aquifer.

CONCLUSIONS:

1. Water Permit Application No. 2865-2 proposes to appropriate an amount of water not to exceed 5.2 acre-feet annually at a maximum instantaneous diversion rate of 0.022 cfs from one well completed into the Minnekahta aquifer (300 feet deep) for commercial use at a resort area. The site of interest is located in Pennington County approximately three miles south of Rapid City, SD.
2. Based on the observation well data and hydrologic budget, there is a reasonable probability that unappropriated water is available from the Minnekahta aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 2865-2 will not unlawfully impair adequate wells for existing water right/permit holders and domestic users.

Nakaila Steen

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

Reviewed by:

Adam Mathiowetz

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

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 11, 2023

Black Hills Tiny Resort
c/o Joleen Zoller
8668 S Hwy 16
Rapid City, SD 57702

Dear Ms. Zoller:

Water Permit Application No. 2865-2 for commercial 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 printed at Rapid City SD (see attachment for contact number). 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,

Rachel Rodriguez

Rachel Rodriguez
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. 2865-2 to Appropriate Water

Notice is given that Black Hills Tiny Resort, c/o Joleen Zoller, 8668 S Hwy 16, Rapid City SD 57702 has filed an application for a water permit to appropriate 5.2 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one existing well completed into the Minnekahta Aquifer (300 feet deep) located in the SW 1/4 NE 1/4 (BHTR Subdivision, Lot 1) Section 3 for commercial use at a resort area located in BHTR Subdivision, Lot 1 Section 3; all in T1S-R7E. This site is located approximately 3 miles south of Rapid City SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2865-2 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 1, 2023.

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 1, 2023.

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_

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, April 11, 2023 10:09 AM
To: RCY Legals
Subject: 2865-2 Black Hills Tiny Resort - Public Notice
Attachments: 2865-2 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 20, 2023.

Black Hills Tiny Resort, c/o Joleen Zoller, 8668 S Hwy 16, Rapid City SD 57702, (605-391-0889) 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.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

S.D. DANR - GROUND WATER

523 E CAPITOL AVE
PIERRE SD 57501

ORDER NUMBER 56098

RECEIVED

APR 24 2023

OFFICE OF
WATER

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

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

in said newspaper once each day for 1
successive day, the first publication there of being on the
20 day of April, 2023.

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 04/20/2023

TOTAL AD COST: 90.83

FILED ON: 4/21/2023

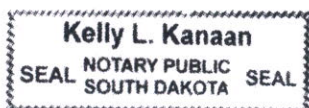
Subscribed and sworn to before me this

21st day of April, 2023.

Kelly L. Kanaan Notary Public

My commission expires

Jan 17, 2025



**NOTICE OF APPLICATION NO.
2865-2 to Appropriate Water**

Notice is given that Black Hills Tiny Resort, c/o Joleen Zoller, 8668 S Hwy 16, Rapid City SD 57702 has filed an application for a water permit to appropriate 5.2 acre-feet of water annually at a maximum pump rate of 0.022 cubic feet of water per second from one existing well completed into the Minnekahta Aquifer (300 feet deep) located in

the SW 1/4 NE 1/4 (BHTR Subdivision, Lot 1) Section 3 for commercial use at a resort area located in BHTR Subdivision, Lot 1 Section 3; all in T1S-R7E. This site is located approximately 3 miles south of Rapid City SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2865-2 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 1, 2023.

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 1, 2023.

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 April 20, 2023 for a total approximate cost of \$90.83 and may be viewed for free at www.sdpublicnotices.com)
Legal No: 56098

RECEIVED
APR 20 2023
DANIEL M. KENNEDY
SOUTH DAKOTA
ATTORNEY GENERAL

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, April 11, 2023 11:37 AM
To: joleen@vanwaytrophy.com
Subject: 2865-2 Black Hills Tiny Resort - Public Notice
Attachments: 2865-2 APPL.docx; 2865-2 public.short_final.docx; 2865-2.rec.doc; 2865-2 Black Hills Tiny Resort MNKT.docx

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.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

MAY 15 2023

Black Hills Tiny Resort
c/o Joleen Zoller
8668 S Highway 16
Rapid City SD 57702

Dear Ms. Zoller:

Enclosed is Water Permit No. 2865-2 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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 2865-2

Name of Applicant: Black Hills Tiny Resort, Joleen Zoller

Date of Posting: 4/17/2023

Date of Removal: 5/15/2023



Ron Duvall, Water Rights Permitting Administrator

5/24/23

Date

Subscribed and sworn to before me, a notary public, this 24 day of May, 20 23.



Notary Public - South Dakota
My commission expires: 4/1/2025

