

WATER PERMIT NO. 2895-2

Name of Applicant: Steve Simunek
Address: 27535 So Buffalo Gap Road, Oral SD 57766 Phone: 605-890-4162
Amount of Water Claimed: 28 AF Total Acres: N/A
Source of Water Supply: Groundwater
Water to be used for: RWS County: Custer
Type of Waste Disposal System:
Location: Approx. 10 miles southwest of Hermosa

PRIORITY Date Received: 05-01-25 Application/License Fee: \$700.00
Corrected Application Received: 06-10-25 Period of Annual Use: January 1 – December 31

Remarks: Water supply for approximately 46 lot residential development

Diversion Point: NE 1/4 NE 1/4 Sec 23-T4S-R7E

Land to be Irrigated: N/A

Depth of Well: 3220

Well Driller:

Remarks:

Type of Map: aerial

				✕	
			23		

Reviewed and the Number Assigned on: 06-11-25 By: Rachel Rodriguez

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 2895-2

Date of first receipt of application May 1, 2025.

Date of return to applicant for corrections, amendments or changes May 2, 2025.

Date of receipt of corrected application June 11, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2895-2 to Steve Simunek, 27535 South Buffalo Gap Road, Oral SD 57766, 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. 2895-2 appropriates up to 28 acre-feet of water annually at a maximum pump rate of 0.11 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximately 3,220 feet deep) located in the NE 1/4 NE 1/4 Section 23-T4S-R7E. The water is for rural water system use, providing water to a residential development to be located in the S 1/2 SW 1/4 Section 13; S 1/2 SE 1/4, NW 1/4 SE 1/4, NE 1/4 SW 1/4, S 1/2 SW 1/4 Section 14; N 1/2 Section 23; N 1/2 Section 24, including Tracts E, F, and G of Downen Ranch Subdivision in the S 1/2 Section 14 and N 1/2 NW 1/4 Section 23; all in T4S-R7E. This site is located approximately ten miles south of Hermosa SD.
2. The water appropriated shall be used for the purpose of rural water system 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. 2895-2 is September 2, 2025.
5. The date from which applicant may claim right is May 1, 2025.
6. One-fifth of the construction is to be completed on or before March 2, 2028.
7. All construction is to be completed on or before September 2, 2030.
8. Water is to be put to beneficial use on or before September 2, 2034.
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. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2895-2 is issued for a twenty-year term. Pursuant to SDCL 46-2A-21, the twenty-year term may be deleted at any time during the twenty-year period or following its expiration. If the twenty-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2895-2 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37.1 and ARSD 74:02:01:37.
2. The well will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

(continued)

3. The well authorized by Permit No. 2895-2 must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Madison Aquifer.
5. Water Permit No. 2895-2 appropriates up to 28 acre-feet of water annually.

WATER MANAGEMENT BOARD

By: Mark Mayer
Mark Mayer, PE
Director of Office of Water
Department of Agriculture and Natural Resources

10/27/25
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>2895-2</u> Hydrologic Unit <u>10120111</u>
	Basin <u>Cheyenne</u>
	Newspaper <u>Custer County Chronicle</u> <u>Rapid City Journal</u> (office use only)

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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.)

- Name to Appear on Water Permit Steve Simonek
Mailing Address 27535 So Buffalo Gap Rd Oral SD 57766
(Address) (City) (State) (Zip Code)
Phone 605-890-4162 Mobile _____ Email C.Simonek@hotmail.com
- Amount of water claimed 0.111 *CFS or 50 **GPM and 28 ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use)
- Source of water supply Well, Madison Aquifer
- Location of point of diversion Single Well in NE 1/4 NE 1/4 Section 23, T4N, R7E County Custer
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☒ Yes ☐ No
If "Yes," where will water be used? See attached legal description of applicants property
(example - NW 1/4 section 12-T104N-R53W)
- County or counties where water will be used Custer
- Annual period during which water is to be used 12 Months Jan 1 - Dec 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Water supply source for an approximately 46 lot residential development

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I, [Signature] Owner, the applicant, certify under
Name of Person Title (if applicable)

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

Supplemental Information
(type or print)

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1. Well Information (check one or both as applicable)

☒ Drilling new well(s)

☐ Using existing well(s)

- a) If new wells, how many 1 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) 3220' Depth to Top of Water Bearing Material 2880' Depth to Water from Surface +170'
- d) Distance to nearest domestic well on applicant's property 3,490 feet Property owned by others 2,725'

2. Wastewater Disposal System Information

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

3. Dugout Information

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

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

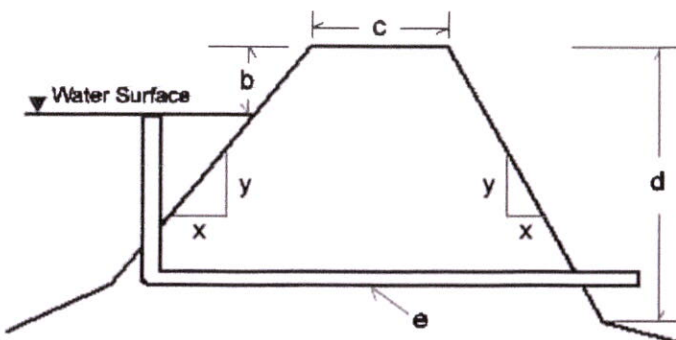
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



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Legal Description

Township 4 South, Range 7 East of the Black Hills Meridian, Custer County, South Dakota

Section 13: S1/2SW1/4

Section 14: SE1/4SE1/4, NE1/4SW1/4, S1/2SW1/4

Section 23: NE1/4; S1/2NW1/4 Less Lot H1 as shown on Plat filed in Plat Book 3, Page 41

Section 24: N1/2

and

Tracts E, F and G of Downen Ranch Subdivision, located in the S1/2 of Section 14 and the N1/2NW1/4 of Section 23, Township 4 South, Range 7 East of the Black Hills Meridian, Custer County, South Dakota, as shown on the Plat filed in Book 12 of Plats, Page 218.

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00000318
Depth - 715'

00062319
Depth - 55'

T004S R007E S14

T004S R007E S13

00077840
Depth - 440'

00062320
Depth - 60'

Proposed Quality
Real Estate, Inc.
Well Site

NW¼ Section 24
T 4 N, R 7 E

00046569
Depth - 20'

Quality Real Estate Property Boundary

T004S R007E S23

T004S R007E S24

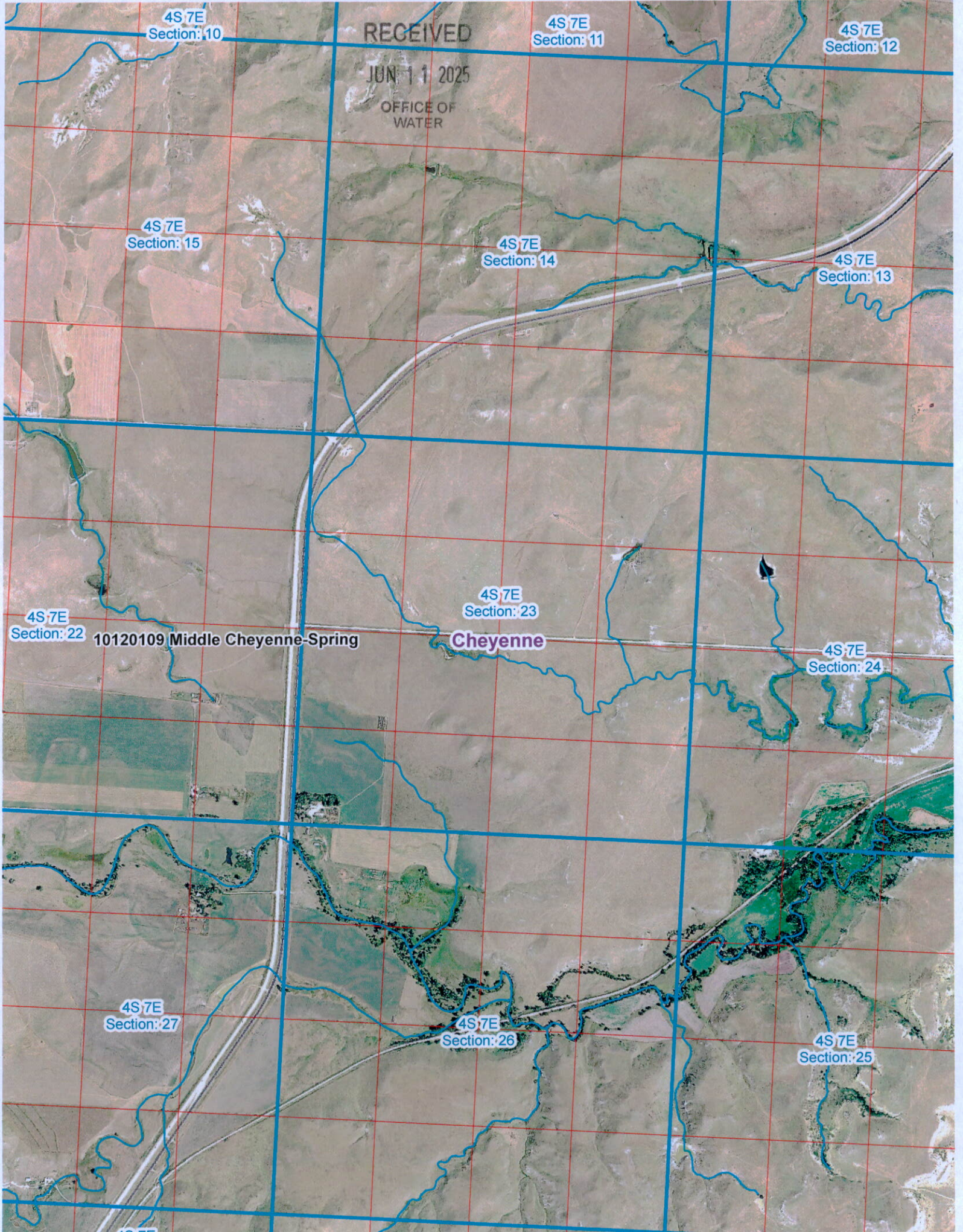
00077840
Depth - 740'

SW¼ Section 23
T 4 N, R 7 E

00024506
Depth - 580'

00077048
Depth - 240'

Modified from: DANR
Well Completion Report
Web Site



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4S 7E
Section: 10

4S 7E
Section: 11

4S 7E
Section: 12

4S 7E
Section: 15

4S 7E
Section: 14

4S 7E
Section: 13

4S 7E
Section: 22

10120109 Middle Cheyenne-Spring

4S 7E
Section: 23

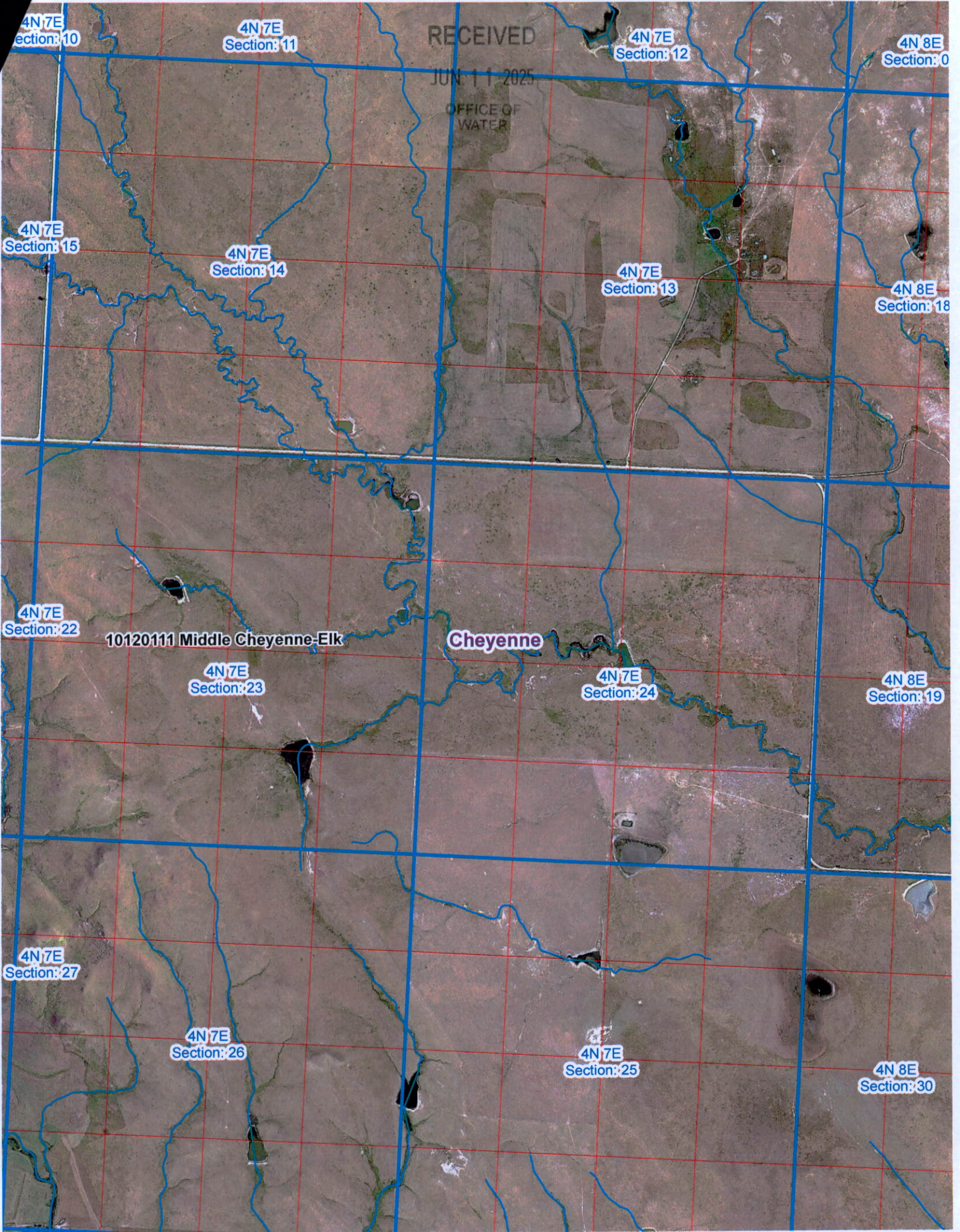
Cheyenne

4S 7E
Section: 24

4S 7E
Section: 27

4S 7E
Section: 26

4S 7E
Section: 25



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 11th, 2025

RECEIVED OF Steve Simunek 27535 So. Buffalo Gap Road Oral SD 57766

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

Fee for Application for Permit No. _____ 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>\$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>

SK

By Mark Mayek
Chief Engineer



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2895-2, Steve Simunek**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 2895-2, Steve Simunek, 27535 South Buffalo Gap Road, Oral SD 57766.

The Acting Chief Engineer is recommending APPROVAL of Application No. 2895-2 with a twenty-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, 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. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2895-2 is issued for a twenty-year term. Pursuant to SDCL 46-2A-21, the twenty-year term may be deleted at any time during the twenty-year period or following its expiration. If the twenty-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2895-2 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37.1 and ARSD 74:02:01:37.
2. The well will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
3. The well authorized by Permit No. 2895-2 must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Madison Aquifer.
5. Water Permit No. 2895-2 appropriates up to 28 acre-feet of water annually.

See report on application for additional information.

Mark Mayer, PE
Director of Office of Water
August 04, 2025

Report to the Chief Engineer
On Water Permit Application No. 2895-2

Steve Simunek

08/08/2025

Water Permit Application No. 2895-2 proposes to appropriate up to 28 acre-feet of water annually at a maximum pump rate of 0.11 cubic feet of water per second (cfs) from one well to be completed into the Madison aquifer (approximately 3,220 feet deep) located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23-T4S-R7E. The water is for rural water system use, providing water to a residential development to be located in S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 13; S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 14; N $\frac{1}{2}$ Section 23; N $\frac{1}{2}$ Section 24, including Tracts E, F, and G of Downen Ranch Subdivision in the S $\frac{1}{2}$ Section 14 and N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23; all in T4S-R7E. This site is located in Custer County approximately ten miles south of Hermosa SD.

AQUIFER: Madison (MDSN)

HYDROGEOLOGY:

The Madison Group in South Dakota is a Lower Mississippian and Upper Devonian aged group of formations that in the Black Hills consists of the Englewood and Pahasapa Limestone formations (Fahrenbach et al., 2010). The Pahasapa Limestone is a “white, light-gray to tan, fine- to medium-grained limestone and dolomite containing brown to gray chert” (Martin et al., 2004). The Englewood Limestone is a “pink to lavender to light-gray, thin- to medium-bedded, fine- to medium-grained, argillaceous, dolomitic limestone” (Martin et al., 2004). The Madison aquifer consists of the permeable and porous portions of the Madison Group that are sufficiently saturated to deliver useful quantities of water. The Madison aquifer extends over more than 210,000 square miles in Montana, Wyoming, North Dakota, South Dakota, and Nebraska (Downey, 1984) although, it may not be suitable as a source of water in all those areas due to extreme depth to the aquifer and poor water quality far from the outcrops (Driscoll, 2002). It crops out in the Black Hills and is buried elsewhere in South Dakota (Downey, 1984). The Madison aquifer may be hydrologically connected to the underlying Deadwood aquifer (Carter et al, 2003; SDGS, 2025; Water Rights, 2025b). It is also hydrologically connected to the overlying Minnelusa aquifer (Long, 2002). Putnam and Long (2007) postulate that “the hydraulic connection between the Madison Limestone and the Minnelusa Formation is spatially variable and probably results from faults, fractures, and breccia pipes.” The Minnelusa aquifer overlies the Madison unconformably (Fahrenbach et al., 2010), which means there was a period of erosion or weathering between when the Madison Group and the Minnelusa Formation were deposited. Transmissivity in the Madison aquifer mainly comes from secondary porosity features such as solution cavities, faults, and fractures (Long, 2002). Because most of the transmissivity in the Madison aquifer comes from secondary porosity features, aquifer characteristics in the Madison aquifer vary greatly from location to location (Long, 2002).

No well completion report was filed for this application, but the proposed well depth at the proposed location corresponds to the Madison aquifer. At the location of this application, land

surface elevation is approximately 3,480 feet (NGVD29). Carter and Redden (1999) estimated the top of the Madison Limestone at approximately 650 feet mean sea level (ft msl) (NGVD29) and the estimated water level of the Madison aquifer likely ranges from approximately 3,400 ft msl (NAVD 88) (McKaskey, 2013) to 3,300 ft msl based on information on Form 2A of the permit application. The top of the Deadwood Formation underlying the Madison aquifer is approximately 350 ft msl (NGVD29) (Carter and Redden, 1999). Therefore, the Madison aquifer is estimated to have a saturated formation thickness of 300 feet at this location. Because the Madison aquifer relies on secondary porosity, not all of this thickness may be transmissive enough to act as functional aquifer to provide water to a well. Additionally, the Madison Aquifer is estimated to have an artesian head pressure of at least 2,600 ft at this location. Since these sources, McKaskey (2013) and Carter and Redden (1999), are for use on a regional scale, and no additional references were included with the applicant's estimated potentiometric surface, the exact top of the Madison Limestone and water levels may vary from what is identified on the application. Based on the estimated elevations, the Madison aquifer is expected to be under confined conditions at the proposed well site.

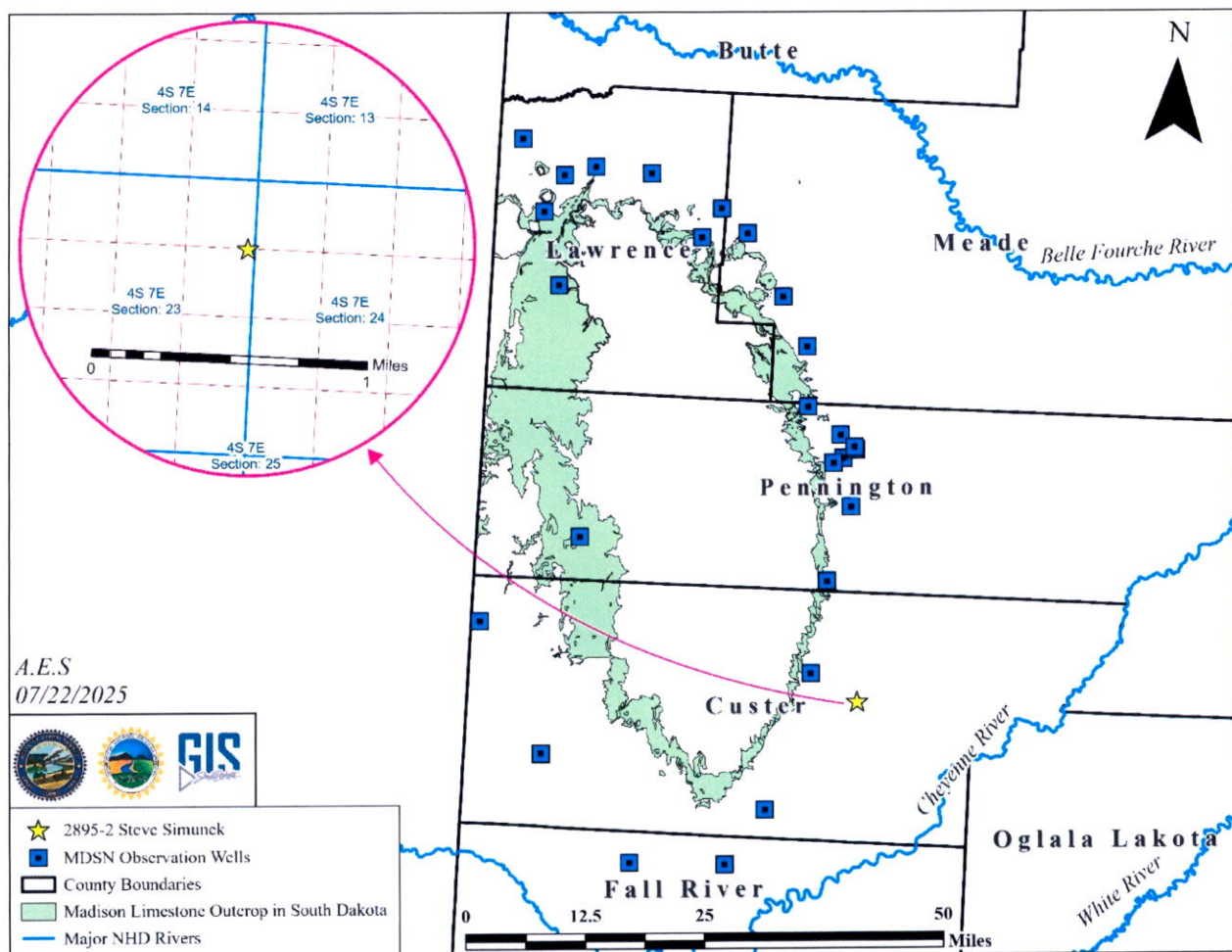


Figure 1. Madison Limestone outcrop in South Dakota (Strobel et al., 1999), the Madison aquifer observation wells in the Black Hills (Water Rights, 2025b), and the proposed diversion point for Water Permit Application No. 2895-2 (Water Rights, 2025d)

SOUTH DAKOTA CODIFIED LAW (SDCL)

Water Permit Application No. 2895-2 proposes to appropriate water from the Madison aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering *SDCL 46-6-3.1*, *SDCL 46-2A-9* & *SDCL 46-2A-20*.

Pursuant to SDCL 46-6-3.1,

“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 Madison Group is stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010) and the water for this application, if approved, will be used for a water distribution system as defined in *SDCL 46-1-6(17)*. Therefore, the Water Management Board’s authority to approve this application is not restricted by whether recharge exceeds withdrawals. However, a statewide and local hydrologic budget is included in this report for the information of the Chief Engineer and the Water Management Board

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 Madison aquifer.

Pursuant to SDCL 46-2A-20,

“Notwithstanding §§ 46-1-14 and 46-2A-7, no water permit for construction of works to withdraw water from the Madison formation in Butte, Fall River, Custer, Lawrence, Meade and Pennington counties may be issued for a term of more than twenty years, unless the Water Management Board determines, based upon the evidence presented at a hearing that:

(1) Sufficient information is available to determine whether any significant adverse hydrologic effects on the supply of water in the Madison formation would result if the proposed withdrawal were approved; and

(2) The information, whether provided by the applicant or by other means, shows that there is a reasonable probability that issuance of the proposed permit would not have a significant adverse effect on nearby Madison formation wells and springs."

Water Permit Application No. 2895-2 proposes to withdraw water from the Madison aquifer in one of the counties listed above. Therefore, in addition to the requirements set forth by SDCL 46-2A-9, the Water Management Board must consider the effect this application may have on nearby Madison aquifer wells and springs. This application is subject to a 20-year term limit.

HYDROLOGIC BUDGET:

Recharge

The Madison aquifer receives recharge from the infiltration of precipitation and streamflow on the outcrop area and may also receive inflow from the underlying Deadwood aquifer (Carter, et al., 2001a; Driscoll et al., 2002). There are several reports available that have estimated recharge to the Madison aquifer.

Carter, et al. (2001a) analyzed streamflow and precipitation data from water years 1931 to 1998 in the Black Hills area in South Dakota and Wyoming to determine the average annual recharge to the Madison and Minnelusa aquifers. The average annual recharge rate to the Madison and Minnelusa aquifers from streamflow contributions was estimated to be approximately 93 cfs, or 67,500 acre-feet per year; plus 251 cfs, or 181,760 acre-feet per year from precipitation falling on the outcrop in the Black Hills, for a combined estimated average annual recharge rate of 344 cfs, or 249,260 acre-feet per year. (Carter, et al., 2001a). Carter, et al., (2001a) estimated that approximately 55% of the recharge goes to the Madison aquifer, resulting in the total estimated average recharge from streamflow and precipitation to the Madison aquifer from the outcrop in the Black Hills to be approximately 137,000 ac-ft/yr. The Carter, et al., (2001) report uses more years of data, more recent data, and better assumptions than the Woodward-Clyde Consultants (1981) and Rahn and Gries (1973) reports.

There have been other estimates of recharge rate to the Madison aquifer and other aquifers in the Black Hills (Rahn and Gries, 1973; Woodward-Clyde Consultants, 1981). However, these other recharge rate estimates used assumptions that were incorrect (all precipitation falling on the outcrop infiltrates into the aquifer), combined multiple aquifers (Madison, Minnelusa, and Minnekahta aquifers), and had less and much older data to work with. Therefore, the Carter and others (2001a) recharge rate is the best recharge rate estimate available.

Discharge

Discharge from the Madison aquifer in South Dakota is mainly by outflow to other aquifers when the hydraulic head in the Madison aquifer is higher than other aquifers, outflow to springs and seeps, and withdrawals by domestic and appropriative wells (Carter, et al., (2001b); Water Rights, 2025d). There are 180 water rights/permits currently authorized to withdraw from the Madison aquifer and two other pending applications – Water Permit Application No. 2893-2 requesting up to 463 ac-ft/yr and Water Permit Application No. 2894-2 requesting up to an

additional 197 ac-ft/yr. Both Water Permit Applications are for use in a water distribution system. The estimated use for the pending applications will be included in this report.

Water Permit No. 2773-2 is authorized for use from either the Minnelusa or Madison aquifers; however, the construction period has passed for this permit and the annual irrigation questionnaire indicates the well has not been constructed (Water Rights, 2025c). Therefore, the estimated use for Water Permit No. 2773-2 will not be included in this analysis, resulting in a total of 179 water rights/permits; two pending applications and this application.

Additionally, there are 12 future use water rights/permits reserving water from the Madison aquifer (Water Rights, 2025c). Table 1 lists the future use permits.

Future Use Permit Nos. 369-1 and 439-2 are assigned to multiple aquifers, but Table 1 will only list the reserved water from the Madison aquifer. Future Use Permit No. 369-1 reserves 1,238 acre-feet annually from the Spearfish Creek alluvium, 620 acre-feet annually from the Minnelusa aquifer, and 620 acre-feet from the Madison aquifer. Future Use Permit No. 439-2 reserves 3,367 acre-feet annually from the Madison aquifer for the Meadowbrook Gallery. The remaining 2,172 acre-feet reserves water from the Minnelusa aquifer for Jackson Springs and Sioux Park Gallery.

Table 1. Future Use Permits from the Madison aquifer (Water Rights, 2025c)

Permit No.	Name	County	Use	Priority Date	Amount Reserved (ac-ft/yr)
369-1	City Of Belle Fourche	LA	MUN	12/10/1958	620
*439-2	City Of Rapid City	PE	MUN	09/22/1956	3,367
1833-2	Weston Heights Home Owners	MD	RWS	02/18/1983	211
1872-1	City Of Spearfish	LA	MUN	11/13/2006	2,704
1995-1	Black Hawk Water User District	MD	RWS	04/15/2020	1,300
2028-1	Bear Butte Valley Water, Inc	MD	RWS, WDS	03/23/2023	440
2086-2	City Of Rapid City	PE	MUN	05/18/1989	4,075
2086A-2		PE	MUN	10/26/2023	**
2560-2	Fall River Water Users District	FR	RWS	05/16/2005	358
2560A-2		FR	RWS	05/16/2005	**
2560B-2		FR	RWS	05/16/2005	**
2580-2	Southern Black Hills Water System	FR	RWS	03/02/2006	1,474
FR: Fall River; LA: Lawrence; MD: Meade; PE: Pennington				TOTAL	14,549
MUN: Municipal; RWS: Rural Water System; WDS: Water Distribution System					
* This permit reserves water from multiple aquifers but is assumed to reserve solely from the Madison aquifer for estimation of the hydrologic budget; ** Expands the future use area for an existing future use permit.					

Of the 179 active water rights/permits, 109 are primarily for water distribution systems (rural water system, municipal, suburban housing development, etc.), 33 primarily for irrigation, 17 for commercial use, 11 for industrial use, 4 for domestic use, 2 for geothermal use, 2 for institutional use, and 1 for recreation (Water Rights, 2025c). The use type determined for each water right/permit was based on the primary use categorized for each water right/permit as some permits have multiple uses (Water Rights, 2025c). Historically, average water use by non-irrigation appropriations limited only by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited

by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2025c).

There are seven water rights/permits authorized to appropriate water from the Madison aquifer that are identified as being connected to a rural water system (RWS) and likely maintain their wells for standby purposes (Drinking Water Program, 2025; Water Rights, 2025c). These include Water Right/Permit Nos. 1628-2, 1709-1, 1858-2, 272-1, 568-2, 574-2, and 743-1. As a result, the average annual water use for these water rights has been estimated to be zero acre-feet per year.

Table 2. The non-irrigation water rights/permits authorized to appropriate from the Madison aquifer with estimated annual use determined by their respective diversion rate or annual volume (Drinking Water Program, 2025; Water Rights, 2025c)

Use Type	Count	Diversion Rate (cfs)	Estimated Diversion Rate Total (ac-ft/yr)	Limited by Volume (ac-ft/yr)	Total Estimated Use (ac-ft/yr)
Commercial	17	1.041	452.2	1,495	1,947
Domestic	4	0.22	95.6	71	167
Geothermal	2	1.43	621.2	N/A	621
Industrial	11	4.88	2,119.9	301.3	2,421
Institutional	2	0.2	86.9	N/A	87
Municipal	36	16.82	7,306.6	18,156	25,463
Recreational	1	1	434.4	N/A	434
Rural Water System	21	3.853	1,672.4	5,154	6,826
Suburban Housing Development	40	6.856	2,978.2	339	3,317
Water Distribution System	12			3,330	3,330
Total:	146	36.3	15,767	28,847	44,614
COM: Commercial; DOM: Domestic; GEO: Geothermal; IND: Industrial; INS: Institutional; MUN: Municipal; REC: Recreation; RWS: Rural Water System; SHD: Suburban Housing Development; WDS: Water Distribution System					

Overall, the estimated average annual withdrawal rate from the Madison aquifer by the non-irrigation water rights/permits is approximately 44,614 acre-feet per year (Table 2) (Water Rights, 2025c).

Currently, there are 33 irrigation water rights/permits authorized to appropriate water from the Madison aquifer (Water Rights, 2025c). 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 Madison aquifer irrigation water rights/permits that have reported over the period of record (1982 to 2023) is approximately 841 acre-feet per year (Water Rights, 2025a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2014 to 2023 is approximately 828 acre-feet per year (Water Rights, 2025a).

For comparison purposes, the average annual withdrawal rate for the 33 water rights/permits authorized for irrigation use from the Madison aquifer was estimated utilizing the following method: When there are more than 10 years of data available, the average reported irrigation was used to estimate irrigation withdrawals. When there were fewer than 10 years of irrigation reports available, withdrawals are assumed to equal two acre-feet per acre, although actual usage

is likely less for non-turf irrigation. In addition to the two acre-feet per acre annual estimation, permit holders with non-irrigation as a secondary use are also assumed to withdraw at their maximum instantaneous diversion rate 60% of the time. Estimated withdrawals for irrigation use calculated using this method are shown in Table 3. In the case of Water Right No. 1885-1, with irrigation also as a permitted use, if assumed to withdraw at their maximum instantaneous diversion rate 60% of the time plus applying 2 feet of water to each authorized acre, that sum (approximately 91 acre-feet/year) would cause the total estimated withdrawal to exceed the rate they are physically capable of withdrawing, so instead their total estimated withdrawal is 100% of their maximum instantaneous diversion rate (approximately 80 acre-feet/year).

Table 3. Permits with irrigation listed as one beneficial use, or are connected to an irrigation permit (Water Rights, 2025c)

Permit No.	Name/Business	Status	Authorized Diversion Rate (cfs)	Acres Licensed/ Permitted	Average Report (ac-ft/yr)	Years of Irrigation Reports	Est. Average Irrigation (ac-ft/yr)	Est. Non-Irr. Use (ac-ft/yr)	Total Est. Withdrawal (ac-ft/yr)
2773-2	Arrowhead Country Club	PE	1.11	100	0	6	200	0	*
1635-1	Black Hills National Cemetery	LC	0.82	54.5	94.1	28	94.1	356.4	450.5
1452-1	Black Hills State College	LC	3.33	25.4	24.2	35	24.2	1,447.4	1,471.6
1670-1	Buddy L, Peggy A, Kami S Ireland	LC	3.61	253	45.6	26	*	*	*
1096A-1	Butte Meade Sanitary Dist	PE	1.33	0	N/A	0	*	*	963.5
2458-2	City Of Rapid City	LC	0.80	107	109.4	23	109.4	0	109.4
2002-1	City Of Spearfish	PE	1.33	40	0	3	80	0	80
2313-2	Coca-Cola Bottling	LC	0.33	3	7.96	29	7.96	143.4	151.4
1899-1	Davis Ranches Inc	LC	1.43	100	0	15	0	0	0
1650-1	Dennis L Miller	LC	0.89	0	85.4	1	*	*	55.9
2673-2	Diocese Of Rapid City	LC	0.12	7	8.5	11	8.5	0	8.5
1009-1	Donald F/Ann J Brady	LC	0.78	53.7	29	42	29		29
1185-1		LC	0.38	22.5	109.9	42	109.9	***	109.9
2286-2	Donald Konechne	LC	0.10	38.5	10.2	30	10.2	0	10.2
1931-1		LC	0.17	3.3	3	11	3	73.9	76.9
1707A-1	Elkhorn Ridge @ Frawley Ranches Llc	PE	3.705	100	0	4	0	1,610.3	1,610.3
1707E-1**		PE	0	0	48.2	17	48.2	0	48.2
1945-1	Frawley Ranches Llc	PE	1.11	265	59.2	10	59.2	0	59.2
1858-1	Glencoe Camp Resort Ii Llc	LC	0.86	34	0	18	0	373.8	373.8
2593-2	Hart Ranch Development	LC	0.49	72.5	31.72	17	31.72	213	244.7
1911-2		LC	0.88	124	116.7	30	116.7	382.5	499.2
1725-2	Janice R Crowser	LC	1.07	75.1	2.02	26	2.02	0	2.02
2037-1	Jared And Anna Lukens-Black	PE	0.055	0.6	0	0	1.2	23.9	25.1
2012-1	Jesse Horstmann	PE	0.5	43.5	0	2	87	0	87
858-2	John & Heidi McBride	LC	9.36	655.8	6.4	40	6.4	0	6.4
1885-1	John T & Veronica Widdoss	LC	0.11	22	18.4	7	44	47.8	79.6
1960-1	One Diamond Inc	LC	1.28	150	130.1	8	300	29****	329
1223-1	P & L Water And Hay Llp	LC	0.67	263	186.1	42	186.1	0	186.1
1923-1	Roger & Jean Ranschau	LC	0.11	3	0.87	13	0.87	47.8	48.7
2013-1	Santa Maria Land & Cattle Corp	PE	2.22	460	0	1	920	0	920
1363-1	Spearfish Canyon Country Club	LC	0.9	80.1	66.3	37	66.3	0	66.3
2106-2	Stuart Rice	LC	0.08	2.8	0.74	32	0.74	34.8	35.5
1842-1	Tom C Davis	LC	0.44	330	0	19	0	0	0
2741-2	Tubbs Land & Cattle Llc	PE	3.34	567	194.6	5	1,134	0	1,134
2879-2	Weinreis Brothers	PE	0.5	75	0	0	150	0	150
419-2	Wind Cave National Park	LC	0.15	6	N/A	0	12	65.2	77.2
2880-2	Jeremiah & Wendy Walla	PE	0.39	23.5	0	0	47		47
PE: Water Permit, LC: Licensed Water Right								TOTAL:	9,546
*Discussed in text. ** gives additional time to develop 1707A-1. *** Reports all use types in irrigation report ****Non-irrigation use(s) limited by annual volume									

Water Right/Permit Nos. 1096A-1, 1496-1, and 1670-1 are all authorized to withdraw from the same well and one dam. Water Right Nos. 1096A-1 and 1670-1 authorize diversion of water for irrigation use and Water Right No. 1096A-1 and Water Permit No. 1496-1 authorize diversion of water for rural water system use. Documentation in the administrative file for Water Right No.

1670-1 indicates that the well is not valved such that it can be shut off when not in use for the beneficial uses listed on the permits. A letter dated September 9, 1988, indicates that when the water for that well is not being used for the beneficial uses described in the permits, it is used for fish and wildlife propagation. The person writing the letter indicated they would prefer the Water Management Board not order the well to be shut off when not used for irrigation or rural water listed in Water Right No. 1096A-1 of 1.33 cfs, that well withdraws approximately 963 ac-ft/yr from the Madison aquifer.

Water Right No. 1650-1 does not require the water right holder to report annual withdrawals and allocates no acreage. It provides supplemental water supply from a flowing well for Water Right No. 1231-1. Water Right No. 1231-1 permits a 110 acre-ft dam to provide water for a commercial livestock operation and irrigation of 134 acres. Water Right No. 1650-1 allows for direct irrigation from a Madison aquifer well of up to 2 acre-ft per acre for the land permitted by Water Right No. 1231-1. Kilts estimated that Water Right No. 1650-1 withdraws 55.9 ac-ft/yr (Kilts, 2019). This water right was transferred to a new owner in 2021. For the 2023 irrigation season, the owner reported using 85.36 ac-ft of water for irrigation. As this is the only year this owner has reported, the value of 55.9 ac-ft/yr will be used as their average until more years of reporting can establish an average.

Using the methods described above, the estimated average annual withdrawal rate for the Madison aquifer water rights/permits used for irrigation, as well as other uses, is approximately 9,546 acre-feet per year (Table 3) (Water Rights, 2025a and 2025c). This value will be used in this analysis to estimate the average annual withdrawal rate for the water rights/permits authorized for irrigation primarily and other uses from the Madison aquifer.

Water Permit Application No. 2585-2 for Southern Black Hills Water System proposes to appropriate 1,600 ac-ft/yr but is deferred for further study. Water Permit Application No. 2685-2 for Powertech, Inc is held in abeyance pending federal permitting and proposes to appropriate 889 ac-ft/yr.

There are two pending applications for the Madison aquifer. Water Permit Application No. 2893-2 for the Town of Hermosa, if approved, plans to appropriate up to 463 ac-ft/yr at a maximum pump rate of 0.96 cfs from one well for municipal use in a water distribution system. Additionally, Water Permit Application No. 2894-2 is requesting an additional 197 acre-feet annually to what is already authorized by Water Permit No. 2848-2. Water Permit Application No. 2894-2 for Rapid Valley Sanitary District if approved, plans to appropriate an additional 197 ac-ft/yr at a maximum pump rate of 0.67 cfs from one existing well for a rural water system east of Rapid City in Pennington County. Therefore, the estimated total for pending applications for the Madison aquifer is 660 ac-ft/yr.

Some domestic wells completed in the Madison aquifer do not require a water right/permit, which means the exact volume of water being withdrawn from these wells is unknown (Water Rights, 2025d). However, Carter and others (2001b) estimated that the average annual withdrawal from the Madison aquifer for domestic and livestock use between 1987 and 1996 was approximately 247 acre-feet. While it's likely that usage has increased since then, the

development of rural water systems in some areas where the Madison is a viable aquifer may have led some domestic users to switch from private wells to those systems. Additionally, because domestic wells typically have low diversion rates, their contribution to the overall hydrologic budget is generally considered minimal. Therefore, the 247 acre-feet per year estimated by Carter and others (2001b) will be used as a likely minimum value for average annual domestic and livestock withdrawals from the Madison aquifer.

Statewide Hydrologic Budget Summary

The estimated average annual recharge rate to the Madison aquifer is approximately 137,000 acre-feet per year. The estimated average annual withdrawal rate from the Madison aquifer is approximately 72,133 acre-feet per year (listed on Table 4). This application proposes to withdraw up to 28 ac-ft/yr, if approved, assuming the applicant withdraws their full volume appropriation. Therefore, based on the statewide hydrologic budget, there is reasonable probability unappropriated water is available for this application.

Table 4. Estimated statewide use from the Madison aquifer (Water Rights, 2025a and 2025c)

Use Type	Estimated Use (acre-feet/year)
Future Use Reservations	14,549
Non-Irrigation	44,614
Irrigation	9,546
Deferred and pending applications	3,149
Livestock and Domestic	247
Water Permit App. No. 2895-2, <i>if approved</i> , assuming full volume	28
TOTAL:	72,133

Local Hydrologic Budget

While the statewide hydrologic budget is used as the basis for determination of availability of water, other studies exist which have focused on smaller areas of the Black Hills. This section will address estimated withdrawals within those areas for the information of the Chief Engineer and the Water Management Board.

Carter, et al. (2001b)

Carter and others (2001b) calculated hydrologic budgets for subareas of the Madison and Minnelusa aquifers for the Black Hills (in SD and WY) during the water years of 1987 to 1996. The budgets were calculated by dividing the Black Hills into nine subareas with the intent of minimizing groundwater flow to and from adjacent subareas. These subareas were determined based on several factors, including locations of major artesian springs, streamflow loss zones, and areas dominated by precipitation recharge. The proposed diversion point for Water Permit Application No. 2895-2 is located in Subarea 6 (Figure 2). The hydrologic budget for Subarea 6 is displayed in Table 4 (Carter et al., 2001b)

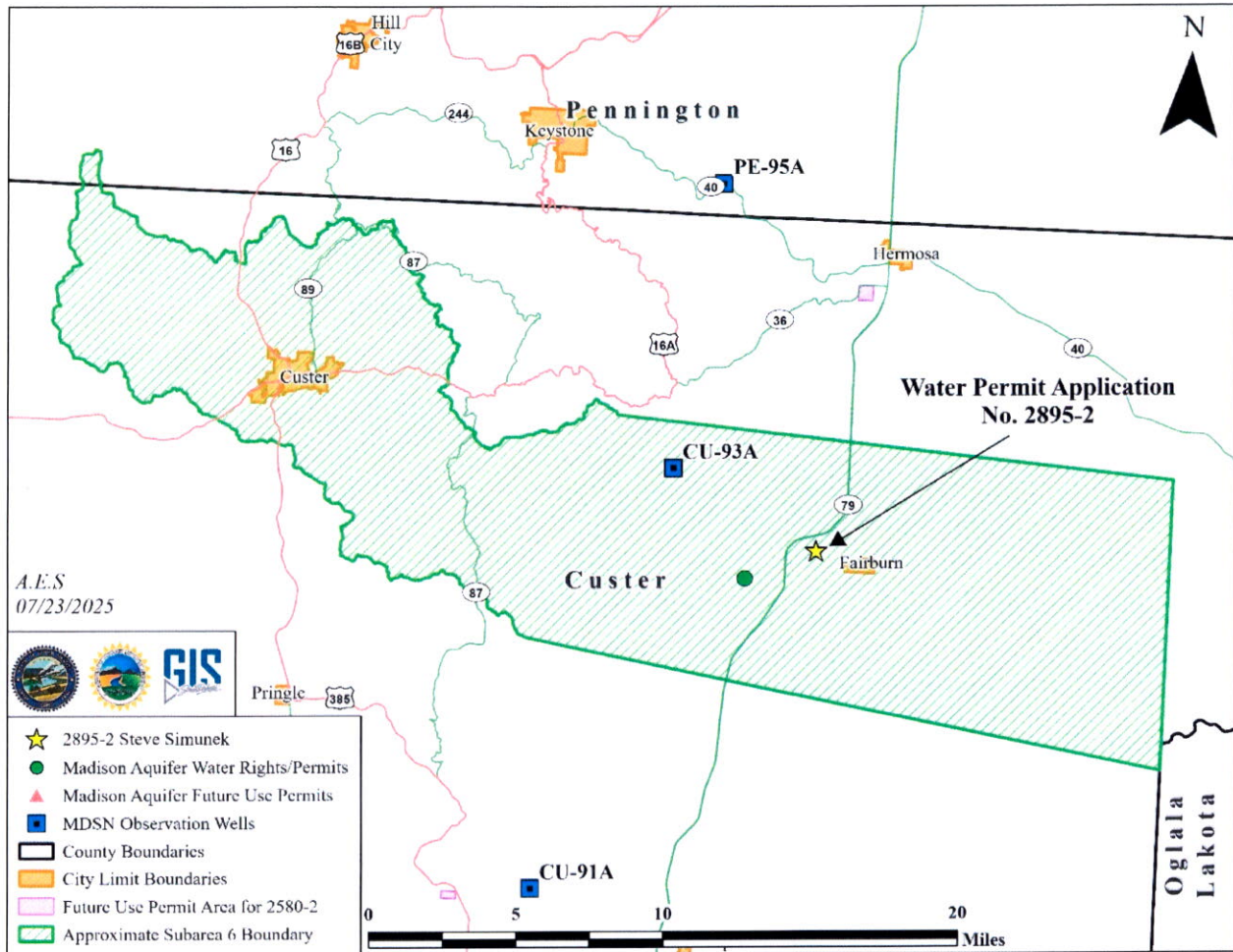


Figure 2. Subarea 6 used for the Madison and Minnelusa aquifers localized hydrologic budgets (modified from Carter et al., 2001b), the location of the proposed diversion point for Water Permit Application No. 2895-2, the Madison aquifer water rights/permits within Subarea 6, and nearby observation wells (Water Rights, 2025b and 2025c)

Table 4. Estimated average annual hydrologic budget for Subarea 6 for the Madison and Minnelusa aquifers in the Black Hills for the water years 1987 to 1996 (modified from Carter, et al. 2001b)

Subarea 6	Inflow			Outflow		
	Streamflow Recharge	Precipitation Recharge	Net Groundwater Inflow	Artesian Springflow	Wells	Net Groundwater Outflow
cfs	7.4	0.9	0	0	0	8.3
acre-feet/year	5,358.0	652.0	0	0	0	6,009.2

As shown in Table 4, Carter and others (2001b) estimated the average annual recharge rate to Subarea 6 for the Madison and Minnelusa aquifers due to streamflow, precipitation, and groundwater inflow recharge to be approximately 6,000 acre-feet per year. Carter and others (2001a) determined that of the combined average annual recharge rate, approximately 55% of the total recharge goes to the entire Madison aquifer. Although 55% of the total recharge going to the Madison aquifer is for the entirety of the Madison Group outcrop area in the Black Hills, this percentage can still be used to roughly approximate the average annual recharge rate to the

Madison aquifer in Subarea 6, which equates to approximately 3,300 acre-feet per year. Groundwater models rely on several assumptions and the hydrologic budget for the subarea determined by Carter and others (2001b) does not account for other factors contributing to recharge.

Currently in Subarea 6, there is one water permit for use in a rural water system authorized to withdraw from the Madison aquifer (Water Rights, 2025c). The average annual withdrawal rate from the Madison aquifer for the non-irrigation water permit was estimated utilizing the same methods used for the non-irrigation water rights/permits in Table 2. Therefore, the estimated average annual withdrawal rate from the Madison aquifer for Water Permit No. 2784-2 and this application (if approved, assuming full volume) is approximately 628 ac-ft/yr from Subarea 6.

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to 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 25 observation wells completed into the Madison aquifer (Water Rights, 2025b). The three closest observation wells in order of proximity to the proposed diversion point are CU-93A (approximately 5.7 miles northwest), PE-95A (approximately 13 miles north), and CU-91A (approximately 14.9 miles southwest) (Water Rights, 2025b). The hydrographs for these observation wells are displayed in Figure 3 (Water Rights, 2025b). 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 which were then converted to elevation in feet from the NGVD29 datum.

The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Madison aquifer and all displayed a generally similar trend as shown on the hydrographs displayed in Figure 3 (Water Rights, 2025b). The hydrographs for the observation wells display stable to increasing water levels over their respective periods of record. The hydrographs for the Madison 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 exceeds pumping from the aquifer since there is recovery during the wetter seasons (late winter through early summer) and decline in water levels during the drier parts of the year (late summer through winter). 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 Madison 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.

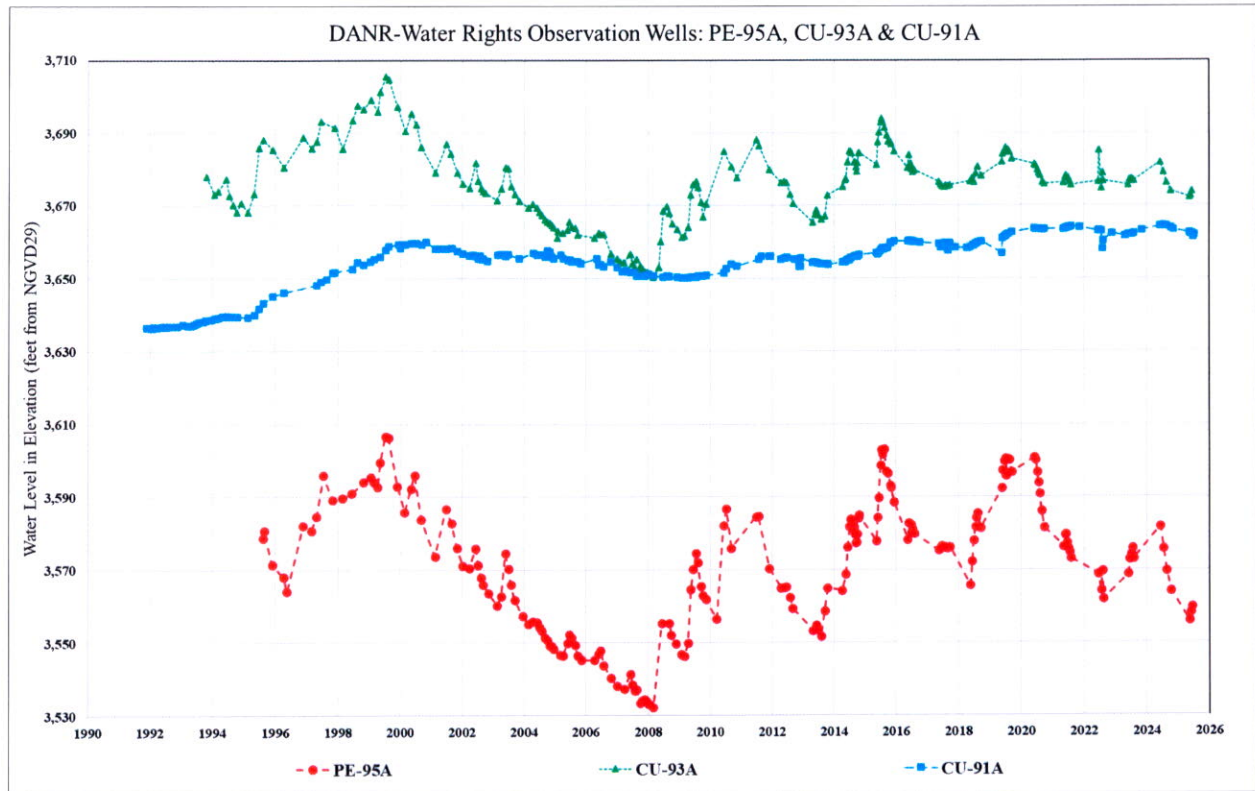


Figure 3. A graph showing the elevation of water levels for observation wells: PE-95A, CU-93A and CU-91A (Water Rights, 2025b)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

The closest water right/permit to the proposed diversion point is Water Right No. 2784-2, which is held by Fall River Water Users District. The diversion point for Water Right No. 2784-2 is located approximately 2.5 miles west of the proposed diversion point for this application (Figure 2) (Water Rights, 2025c).

The nearest domestic well on file with the DANR-Water Rights Program that is completed into the Madison aquifer is approximately 8.5 miles northwest of the proposed diversion point (Water Rights, 2025d). There could potentially be other domestic wells completed into the Madison aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

No well completion report was filed for this application, but the Madison aquifer is expected to be under confined conditions at the proposed well site. Based on information from Carter and Redden (1999) as well as well completion reports in this area (Water Rights, 2025d) there is expected to be at least 300 feet of saturated aquifer thickness and 2,600+ feet of artesian head pressure above the top of the aquifer at the proposed well location. This would 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

diversion for this application is not expected to unlawfully impair nearby adequate wells. In Custer County, there are no substantiated complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Madison aquifer (Water Rights, 2025e).

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 Madison 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 Madison aquifer near the proposed diversion point, the artesian head pressure of the wells near permitted/licensed diversion points, and lack of well interference complaints in the area of this application, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment to 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 to existing users with adequate wells.

Springs

There have been concerns that development of the Madison aquifer will affect spring discharge. The nearest major spring to the proposed well site is Grace Coolidge Creek Spring (approximately 7 miles northwest) (Naus et al., 2001). Recharge to Battle Creek Spring and Grace Coolidge Creek Spring are from the Madison and Minnelusa aquifer system but discharge from these springs is highly variable and is influenced primarily by variability in streamflow recharge, which dominates recharge in this subarea (Driscoll et al., 2002). Buhler (2014) noted a potential relationship between the potentiometric surface of the Madison aquifer as shown in the

hydrograph for CU-91A, and the discharge from Beaver Creek Spring as measured by the National Park Service. The average discharge of Beaver Creek Spring in subarea 7 exceeds estimated recharge for subarea 7 and probably is influenced by outflow from subarea 8 (Driscoll et al., 2002). Buhler (2014) also noted that if there were a cause-and-effect relationship between the spring discharge and potentiometric surface of the Madison aquifer a decline in the potentiometric surface of the aquifer could decrease spring discharge. However, it would likely take a large change of hydraulic gradient, in excess of any changes caused by climatic conditions, in the vicinity of the spring to significantly alter the discharge from the spring. 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 springs and proposed diversion point, and the relatively small diversion rate proposed by this application, there is a reasonable probability Water Permit Application No. 2895-2 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 Minnelusa or Madison aquifers.

CONCLUSIONS:

1. Water Permit Application No. 2895-2 proposes to appropriate up to 28 acre-feet of water annually at a maximum pump rate of 0.11 cfs from one well to be completed into the Madison aquifer (approximately 3,220 feet deep) located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23-T4S-R7E. The water is for rural water system use, providing water to a residential development to be located in S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 13; S $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 14; N $\frac{1}{2}$ Section 23; N $\frac{1}{2}$ Section 24, including Tracts E, F, and G of Downen Ranch Subdivision in the S $\frac{1}{2}$ Section 14 and N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23; all in T4S-R7E. This site is located in Custer County approximately ten miles south of Hermosa SD.
2. Based on the statewide hydrologic budget and observation well data, there is a reasonable probability that unappropriated water is available from the Madison aquifer to supply the proposed appropriation.
3. There is reasonable probability that the proposed diversion by Water Permit Application No. 2895-2 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.
4. Water Permit Application No. 2895-2 is subject to a twenty-year term limitation.



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Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, June 2, 2025 10:32 AM
To: 'Christy Baumiller'
Subject: RE: [EXT] Simunek Water Permit Application

RECEIVED

JUN 11 2025

OFFICE OF
WATER

Good morning,

It's been over 30 days and we are stilling waiting for the fees. Once received, I can begin processing your application.

Thank you,

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



From: Christy Baumiller <cabaumiller@gmail.com>
Sent: Monday, May 5, 2025 7:00 AM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: Re: [EXT] Simunek Water Permit Application

See information below...

Scott/Christy Baumiller
Do More of What You Love!

On Fri, May 2, 2025, 10:13 AM Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good morning,

In looking over the application for Steve Simunek, there are a few issues:

- Based on the map submitted, the location of the diversion point is in the NE 1/4 NE 1/4 Sec 23-T4S-R7E. Do you agree, is so I can correct the application.

RECEIVED

JUN 11 2025

OFFICE OF
WATER

- Yes, you are correct on the location of the diversion point.
- We need a complete mailing address; it's missing the street address.
- The address is: 27535 South Buffalo Gap Rd, Oral South Dakota 57766
- You are correct, the fees are \$700 total, \$500 for the application + \$200 for the inspection fee.

Once, I receive the items above, I can begin processing the application.

Thank you,

Rachel Rodriguez

DANR | Program Assistant

Rachel.Rodriguez@state.sd.us



I think the fee would
be \$500⁰⁰ + \$200⁰⁰ = \$700⁰⁰

If this is correct please
let me know when it is
due.

Scott Baumiller
Lic 849
605-209-2526

E-mail

cbaumiller@gmail.
com.



Scott A. Baumiller
5595 Meadow Retreat Dr.
Piedmont, SD 57769-5006

RECEIVED

JUN 11 2025

OFFICE OF
WATER

RECEIVED

MAY 01 2025

OFFICE OF
WATER



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

August 11, 2025

Steve Simunek
27535 South Buffalo Gap Road
Oral SD 57766

Dear Mr. Simunek:

Water Permit Application No. 2895-2 for rural water system use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Custer County Chronicle printed at Custer SD (Ph # 605 673-2217) and the Rapid City Journal printed at Rapid City SD (see attachment for contact number). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Acting Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Rachel Rodriguez
Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Acting 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. 2895-2 to Appropriate Water

Notice is given that Steve Simunek, 27535 South Buffalo Gap Road, Oral SD 57766, has filed an application for a water permit to appropriate up to 28 acre-feet of water annually at a maximum pump rate of 0.11 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximately 3,220 feet deep) located in the NE 1/4 NE 1/4 Section 23-T4S-R7E. The water is for rural water system use, providing water to a residential development to be located in the S 1/2 SW 1/4 Section 13; S 1/2 SE 1/4, NW 1/4 SE 1/4, NE 1/4 SW 1/4, S 1/2 SW 1/4 Section 14; N 1/2 Section 23; N 1/2 Section 24, including Tracts E, F, and G of Downen Ranch Subdivision in the S 1/2 Section 14 and N 1/2 NW 1/4 Section 23; all in T4S-R7E. This site is located approximately ten miles south of Hermosa SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 2895-2 with a twenty-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, 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. The Acting 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 Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting 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 Acting 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 September 2, 2025.

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 Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting 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 September 2, 2025.

If the applicant does not contest the recommendation of the Acting Chief Engineer and no petition to oppose the application is received, the Acting 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: Becky Bikul <leelegals@column.us>
Sent: Monday, August 11, 2025 10:21 AM
To: Rodriguez, Rachel
Cc: csimunek@hotmail.com
Subject: Re: [EXT] 2895-2 Steve Simunek - Public Notice
Attachments: 5A5RdxFgaysUcqM6Wgwo_1754925604847.pdf

Hello Steve,

Your notice is scheduled to be published in the The Rapid City Journal on August 21, 2025.

Your payment must be received by August 15, 2025 at 3:00 PM MDT.

For your convenience, you can quickly access your invoice and pay securely online using a credit/debit card or bank transfer (ACH) by clicking this link:

www.column.us/invoices/rNDN7raOwmrkoGzX0DpF/pay.

Your Notice ID is: [5A5RdxFgaysUcqM6Wgwo](#)

You will be receiving a notification from Column Support with your proof. If you don't see it, check your spam folder and any email restrictions you may have.

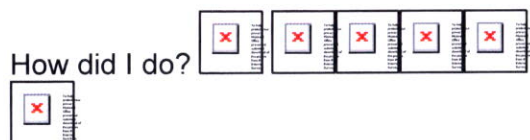
For the fastest and most reliable placement process, use column.us to quickly place notices yourself, get proofs, view pricing, and access your invoices and affidavits. Visit our [help center](#) for tips, or sign up for one of our [training webinars](#).

If you have any questions or concerns, please don't hesitate to let us know so we can look into it!

—
Becky Bikul

Column Pro Representative

[Column.us](http://column.us) is an easy-to-use online platform where you can place public notices, and access your proofs, invoices and affidavits.



On August 11, 2025 at 8:02 AM PDT rachel.rodriquez@state.sd.us wrote:

Attached is a notice to be published on August 21, 2025.

Steve Simunek, 27535 South Buffalo Gap Road, Oral SD 57766, 605 890-4162, csimunek@hotmail.com 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.

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

Thank you,

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, August 11, 2025 10:01 AM
To: Jason Ferguson
Subject: 2895-2 Steve Simunek - Public Notice
Attachments: 2895-2 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 20, 2025.

Steve Simunek, 27535 South Buffalo Gap Road, Oral SD 57766, 605 890-4162, 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.

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, August 11, 2025 10:02 AM
To: RCY Legals
Subject: 2895-2 Steve Simunek - Public Notice
Attachments: 2895-2 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 21, 2025.

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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



AFFIDAVIT OF PUBLICATION

Steve Simunek

State of New Jersey, County of Burlington, ss:

I, Laquansay Nickson Watkins, of lawful age, being duly sworn upon oath depose and say that I am an agent of Column Software, PBC, duly appointed and authorized agent of the Publisher 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 on the following dates.

Publication Dates:

- Aug 21, 2025

NOTICE ID: 5A5RdxFgaysUcqM6Wgwo

NOTICE NAME: NOTICE OF APPLICATION NO. 2895-2 to Appropria

TOTAL AD COST: \$88.54

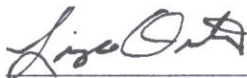
Laquansay Nickson Watkins
Agent

VERIFICATION

State of New Jersey
County of Burlington

LIZA ORTIZ
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires November 27, 2028

Signed or attested before me on this: 08/21/2025



Notary Public

Notarized remotely online using communication technology via Proof.

RECEIVED
AUG 29 2025
OFFICE OF
WATER

**NOTICE OF APPLICATION NO.
2895-2 to Appropriate Water**

Notice is given that Steve Simunek, 27535 South Buffalo Gap Road, Oral SD 57766, has filed an application for a water permit to appropriate up to 28 acre-feet of water annually at a maximum pump rate of 0.11 cubic feet of water per second from one well to be completed into the Madison Aquifer (approximately 3,220 feet deep) located in the NE 1/4 NE 1/4 Section 23-T4S-R7E. The water is for rural water system use, providing water to a residential development to be located in the S 1/2 SW 1/4 Section 13; S 1/2 SE 1/4, NW 1/4 SE 1/4, NE 1/4 SW 1/4, S 1/2 SW 1/4 Section 14; N 1/2 Section 23; N 1/2 Section 24, including Tracts E, F, and G of Downen Ranch Subdivision in the S 1/2 Section 14 and N 1/2 NW 1/4 Section 23; all in T4S-R7E. This site is located approximately ten miles south of Hermosa SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 2895-2 with a twenty-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, 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. The Acting 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 Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call

SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting 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 September 2, 2025.

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.

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(Published August 21, 2025 for a total approximate cost of \$88.54 and may be viewed for free at www.sdpublicnotices.com)
Legal No: COL-SD-3086

RECEIVED

AUG 29 2025

OFFICE OF
WATER



RECEIVED

AUG 26 2025

OFFICE OF
WATER

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer)

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

Water Rights Program
Notice of Application - Steve Simunek
No. 2895-2 Appropriate Water

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

Aug 20, 2025; _____;

_____; _____;

_____; _____;

_____; _____;

_____; _____;

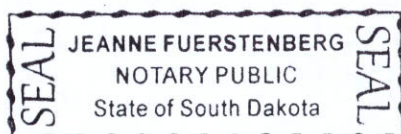
the full amount of the fees for the publication of the annexed notice is \$ 49.07.

Subscribed and sworn to me before this 20th

of August, 20 25;

Jeanne Fuerstenberg
NOTARY PUBLIC

MY COMMISSION EXPIRES: NOV 30 2027



NOTICE OF APPLICATION

NO. 2895-2 TO

APPROPRIATE WATER

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Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 2895-2 with a twenty-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, 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. The Acting 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.

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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.

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Published once at an approximate cost of \$49.07 and may be viewed free of charge at www.sdpublicnotices.com.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, August 11, 2025 11:00 AM
To: carla simunek
Subject: 2895-2 Steve Simunek - Public Notice
Attachments: 2895-2 Rec.pdf; 2895-2 Ltr.pdf; 2895-2 PubNotice.pdf; Rapid City Journal Info.pdf

Good morning,

Attached is a copy of the report, acting chief engineer's 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. Please note that the Rapid City Journal requires prepayment by Friday, August 15th. This information is also being mailed to you today.

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 27, 2025

Steve Simunek
27535 South Buffalo Gap Road
Oral SD 57766

Dear Mr. Simunek:

Enclosed is Water Permit No. 2895-2 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,

Mark Mayer, PE
Director of Office of Water

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
Posting 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.: 2895-2

Name of Applicant: Steve Simunek

Date of Posting: 8/18/2025

Date of Removal: 10/27/2025



Ron Duvall, Engineer III

10/27/2025

Date

Subscribed and sworn to before me, a notary public, this 27th day of OCT, 2025.



Notary Public - South Dakota
My commission expires:

**Rachel Rodriguez
My Commission Expires
May 16, 2029**

(SEAL)

