

SOUTH DAKOTA
REISSUED FUTURE USE PERMIT NO. 1688A-3
DIVISION OF NO. 1688-3 INTO 1688A-3 & 1688B-3

Future Use Permit No. 1688-3, was approved by the former Water Resources Commission on September 3, 1969. The permit currently reserves 393,400 acre feet of water annually from the Missouri River to be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation uses. The future use area includes land located in Brule, Buffalo, Charles Mix, Douglas and Bon Homme Counties with diversion point locations along the east bank in each of those counties.

Future Use Permit No. 1688-3 was originally issued to Ft Randall & Lower James Conservancy Sub-Districts and was transferred in June, 1999 to South Central Water Development District. On June 28, 2012 an ownership change was filed to transfer a portion of the water reserved to the Lake Andes-Wagner Irrigation District. Future Use Permit No. 1688-3 is being divided and reissued as follows:

Future Use Permit No. 1688A-3 - Lake Andes-Wagner Irrigation District, 210 S Main Ave., PO Box 818, Wagner SD 57380 – reserving 96,000 acre feet of water annually from the Missouri River to be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation uses. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county.

Future Use Permit No. 1688B-3 – South Central Water Development District, PO Box 43, Armour SD 57313 - reserving 297,400 acre feet of water annually from the Missouri River to be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation uses. The future use area includes land located in Brule, Buffalo, Charles Mix, Douglas and Bon Homme Counties with diversion point locations along the east bank in each of those counties.

The future use permit has a priority date of July 1, 1969.

QUALIFICATIONS

(The qualifications below were placed on the originating permit at the time of approval)

- The intent of this Permit anticipates investigation and construction of water use works by the Federal Government.
- Federal surveys for this proposed project have not been authorized by Congress.
- As a Federal project, the water supply is expected to be supplied from stored water in Missouri River Reservoirs, as differentiated from Missouri River flows.
- Future Use Permit No. 1688-3 is approved with the stipulation that the Permit to Appropriate Water is subject to review by the Water Resources Commission (*now Water Management Board*), as to accomplishment thereunder, upon expiration of seven (7) years.
- At such time as definite plans are made, specific applications for all or any part of the water granted under this withdrawal must be submitted prior to construction of facilities.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 09 2012
date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/28, 20 12

RECEIVED OF Lake Andes-Wagner Irrigation Dist PO Box 818 Wagner SD 57380

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	50	00
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. _____		
Fee for Filing Transfer Form <u>1688-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No. **05474**

By Harold Erdels
Chief Engineer

JUN 28 2012

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

Water Right/Permit No. 1688-3Date: 6-25-12

I/We request that Water Right/Permit No. 1688-3 formerly owned by:
South Central Water Development District be transferred to:

New Owner Name: Lake Andes-Wagner Irrigation District
Address: 210 S. Main Av. Box 818
City, State, Zip: Wagner SD 57380 Telephone No. 605-384-3389

Title to the following described land(s)/property has been transferred as described above:

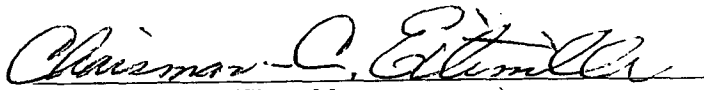
Lake Andes-Wagner Irrigation District:
LAWID is requesting a Transfer of 96,000 AF of water from
Future Use Permit No. 1688-3, to be used when the irrigation
project is constructed.

☒ I understand that the validity of Water Right/Permit No. 1688-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Lake Andes-Wagner Irrigation District the new owner, certify that the above information is true and correct.


(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

JUL 09 2012

1688A-3

Chuck Eitemiller, Chairman
Lake Andes – Wagner Irrigation District
PO Box 818
Wagner SD 57380 0818

Dear Mr. Eitemiller:

Enclosed is Future Use Permit No. 1688A-3. The permit was issued based on a transfer of ownership form filed June 28, 2012 for a portion of Future Use Permit No. 1688-3. Future Use Permit No. 1688-3 has been divided and reissued as follows:

- **Future Use Permit No. 1688A-3 - Lake Andes-Wagner Irrigation District** – reserving 96,000 acre feet of water annually from the Missouri River; and
- **Future Use Permit No. 1688B-3 – South Central Water Development District** - reserving 297,400 acre feet of water annually from the Missouri River.

Enclosed is Receipt No. 05474 in the amount of \$50.00 which the District paid for filing the ownership change.

Sincerely,

A handwritten signature in black ink, appearing to read 'Garland Erbele'. The signature is fluid and cursive, written over a light background.

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

October 14, 2011

South Central Water Development District
Cheryl VanZee, Manager
PO Box 43
Armour SD 57313

Dear Ms. VanZee:

I am writing in regard to the seven year review of Future Use Water Permit No. 1688-3 from the Missouri River held by South Central Water Development District. Future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the District. Currently, our records show that 393,400 acre-feet remain in reserve under this future use permit that was issued in 1969 and last reviewed in 2004.

Please respond in writing by November 15, 2011, regarding the District's intention for the future use permit. If the district plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs.

Permit No. 1688-3 will then be public noticed at the district's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit.

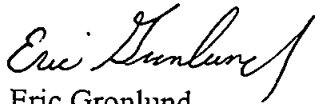
If the District does not intend to retain the future use permit, it may be transferred to another entity if that entity is entitled to hold a future use reservation as set forth in SDCL 46-5-38. A notice of transfer of ownership will need to be filed. The entity taking possession will then be responsible to demonstrate a reasonable need for the reserved water as well as the public notice and fees associated with the seven year review.

If the Board allows the permit to remain in effect, the fee charged is dependent on the amount of water remaining in reserve. If the entire 393,400 acre-feet remain in reserve, the fee will be \$32,845.00.

If the District decides not to retain the future use permit and a successor is not found, the future use permit will be subject to cancellation. Notice of hearing on any cancellation proceeding will be provided to the District.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Gronlund". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us

c: Leo Holzbauer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 1688A-3, Lake Andes-Wagner Irrigation District**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 1688A-3, Lake Andes-Wagner Irrigation District, Chuck Eitemiller, Chairman, PO Box 818, Wagner SD 57380.

The Chief Engineer is recommending that Future Use Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1688A-3, 2) the district has demonstrated a reasonable need for the water reserved by Permit No. 1688A-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 1688A-3 is subject to payment of the \$8,055.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the district after the Board hearing.

Garland Erbele, Chief Engineer
August 29, 2012



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 29, 2012

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

Chuck Eitemiller, Chairman
Lake Andes – Wagner Irrigation District
PO Box 818
Wagner SD 57380-0818

Dear Mr. Eitemiller:

Future Use Permit No. 1688A-3 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used as well as the nearest daily newspaper. The notice of this review has been sent to the Publisher of the Wagner Post printed at Wagner (Phone #605 384-5616) and the Daily Press & Dakotan printed at Yankton (Phone #605 665-7811). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPERS IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publishers have been instructed to publish this notice on September 5, 2012. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 29, 2012

Wagner Post
PO Box 187
Wagner SD 57380-0187

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 1688A-3 to be published on September 5, 2012. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352 or email karen.schlaak@state.sd.us

The applicant must verify to you that the notice is to be published. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Lake Andes – Wagner Irrigation District, c/o Chuck Eitemiller, Chairman, PO Box 818, Wagner SD 57380.

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 29, 2012

Daily Press & Dakotan
319 Walnut
Yankton SD 57078

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 1688A-3 to be published on September 5, 2012. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352 or email karen.schlaak@state.sd.us

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Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Instruction to Newspaper-Publish this notice on September 5, 2012. The permit owner is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1688A-3

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by Lake Andes-Wagner Irrigation District, Chuck Eitemiller, Chairman, PO Box 818, Wagner SD 57380 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, October 3, 2012 in the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by September 21, 2012. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1688A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by September 21, 2012. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 21, 2012. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at approximate cost of _____.

Affidavit of Publication

RECEIVED

STATE OF SOUTH DAKOTA)

)SS

SEP 19 2012

COUNTY OF CHARLES MIX)

WATER RIGHTS
PROGRAM

Stacy Irwin, of said County and State being first duly sworn on her oath says: That **The Wagner Post** is a legal newspaper of general circulation, printed and published in Wagner, in said County and State, by Stacy Irwin, and has been such newspaper during the time herein mentioned; and that I, Stacy Irwin, the undersigned, am Assistant Editor of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for One successive weeks.

1st publication made on 5th day of September, 2012
2nd publication made on _____ day of _____, 2012
3rd publication made on _____ day of _____, 2012
4th publication made on _____ day of _____, 2012
5th publication made on _____ day of _____, 2012

That said newspaper is a legal newspaper, and has a bonafide circulation of more than two hundred copies weekly, and has been published within the County of Charles Mix for more than fifty-two successive weeks prior to the first publication of said notice, and is printed in an office maintained in Wagner, South Dakota, the place of publication of said newspaper. That the full amount of the fee for the publication of the annexed notice is

\$ 3764

Stacy Irwin

Subscribed and sworn before me this 11 day of September, 2012.

Debbie Brown

Notary Public

My commission expires 10/22/16

PUBLIC NOTICE

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1688A-3

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by Lake Andes-Wagner Irrigation District, Chuck Eitemiller, Chairman, PO Box 818, Wagner SD 57380 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1688A-3 REMAIN in EFFECT

THE WAGNER POST

for 96,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, October 3, 2012 in the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by September 21, 2012. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1688A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by September 21, 2012. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 21, 2012. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$

Pub: September 5, 2012

RECEIVED

SEP 10 2012

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
PMB 2020 - Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Water Permit No. 1688A-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 6th DAY OF September 2012
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$44.53 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 9/6/2012

FILED ON: 9/6/2012

SUBSCRIBED AND SWORN TO BEFORE ME THIS 6th DAY OF September

2012

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 8/19/2015

9-6
NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO. 1688A-3

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by Lake Andes-Wagner Irrigation District, Chuck Eitemiller, Chairman, PO Box 818, Wagner SD 57380 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

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The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, October 3, 2012 in the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by September 21, 2012. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address.

dress of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

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Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by September 21, 2012. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 21, 2012. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at approximate cost of \$44.02.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 5, 2012

NOTICE

TO: Chuck Eitemiller, Chairman
Lake Andes-Wagner Irrigation District
PO Box 818
Wagner SD 57380

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Deferral of Future Use Permit No. 1688B-3 Seven Year Review

The Water Management Board deferred the seven year review of Future Use Permit No. 1688A-3 at their October 3, 2012 meeting in Pierre. This future use permit reserves 96,000 acre feet of water annually from the Missouri River. The Board deferred this matter until its October 2013 meeting.

At the time of hearing the issue of payment of the fee for allowing the future use permit was discussed. The fee for maintaining the effectiveness of a future use permit after the period of seven years for 96,000 acre feet of water is \$8,055. In addition, South Dakota law states "the department shall charge and receive the following fees, to be collected in advance". Therefore, barring a legal opinion to the contrary, the entire \$8,055 fee to allow the permit to remain in effect will need to be submitted when this matter is brought back before the Board in October 2013.

DENR will contact the District in August of next year in preparation for bringing this matter back before the Board. Future notice will be provided of the date, time and place of the October hearing for the seven year review of Future Use Permit No. 1688A-3.

c: Diane Best, Assistant Attorney General
Leo Holzbauer, PO Box 877, Wagner SD 57380

CERTIFICATION

I hereby certify that on October 5, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 5, 2012, regarding deferral of the seven year review of Future Use Permit No. 1688A-3, as listed and addressed below:

Chuck Eitemiller, Chairman
Lake Andes-Wagner Irrigation District
PO Box 818
Wagner SD 57380

Diane Best, Assistant Attorney
General
317 N Main
Sioux Falls SD 57104-6004

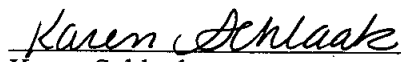
Leo Holzbauer
PO Box 877
Wagner SD 57380



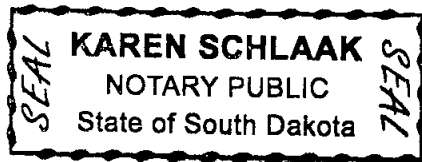
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of October 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

September 3, 2013

NOTICE

TO: Chuck Eitemiller, Chairman
Lake Andes-Wagner Irrigation District
PO Box 818
Wagner SD 57380

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing on the Seven Year Review of Future Use Permit No. 1688A-3

Future Use Permit No. 1688A-3 reserves 96,000 acre-feet of water annually from the Missouri River for the District. The Water Management Board deferred consideration of the seven year review of Future Use Permit No. 1688A-3 at their October 3, 2012 meeting. The deferral was to provide an opportunity for the Lake Andes-Wagner Irrigation District to arrange for payment of the required fee for the future use permit to remain in effect. The fee for maintaining the effectiveness of the permit reserving 96,000 acre-feet of water is \$8,055 for each seven year review period. The October 3, 2012, hearing included discussion regarding making payments for this fee. The Board indicated that barring a legal opinion to the contrary, the entire fee to allow the permit to remain in effect will need to be submitted.

The Water Management Board will conduct a hearing to consider the seven year review of Future Use Permit No. 1688A-3 at 10:00 AM (central time) on Thursday, October 3, 2013, in the Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave, Pierre SD.

Applicable provisions of the published notices dated September 5 & 6, 2012, and notice dated October 5, 2012, will still apply at this hearing.

Please contact Eric Gronlund at 605 773-3352 or eric.gronlund@state.sd.us if you have any questions.

c: Diane Best, Assistant Attorney General
Leo Holzbauer

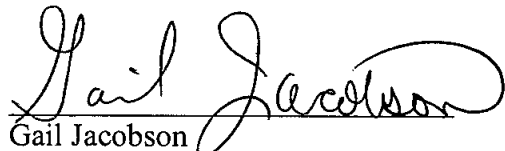
CERTIFICATION

I hereby certify that on September 3, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated September 3, 2013 regarding Future use permit No. 1688A-3 addressed as stated below:

Lake Andes-Wagner Irrigation District, Chuck Eitmiller, PO Box 818, Wagner SD 57380

Leo Holzbauer, PO Box 877, Wagner SD 57380

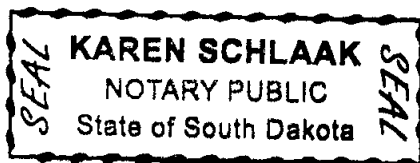
Diane Best, Asst. Attorney General, 317 N Main, Sioux Falls SD 57104


Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of September, 2013.


Karen Schlaak
Notary Public
My Commission expires April 1, 2019





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

October 4, 2013

NOTICE

Chuck Eitemiller, Chairman
Lake Andes-Wagner Irrigation District
PO Box 818
Wagner SD 57380

Dear Mr. Eitemiller:

I am writing in response to action taken by the Water Management Board at the hearing on October 3, 2013 to review Future Use Permit No. 1688A-3. The Board allowed the permit to remain in effect for 96,000 acre-feet of water annually. Future Use Permit No. 1688A-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 1688A-3 is \$8,055.00 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

Please contact Eric Gronlund, staff engineer, if you have any questions.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
605 773-3352

CERTIFICATION

I hereby certify that on October 4, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated October 4, 2013 regarding Future Use Permits addressed as stated below:

Lake Andes-Wagner Irrigation Dist., Chuck Eitmiller, PO Box 818, Wagner SD 57380 **1688A-3**

Town of Florence, Pat Callan, PO Box 137, Florence SD 57235 **4051-3**

City of Canton, Jeff Fossum, 210 N Dakota St, Canton SD 57013 **1262C-3**

City of Madison, Fred Snoderly, PO Box 308, Madison SD 57042 **747-3**

City of Belle Fourche, Ryan C Kavan, 511 6th Ave, Belle Fourche SD 57717 **369-1**



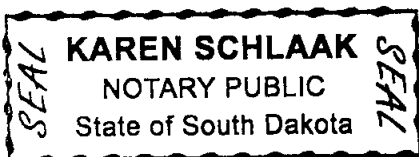
Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of October, 2013.



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/2, 20 13

RECEIVED OF Lake Andes- Wagner Irrigation District Wagner SD 57380

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	8055	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>1688A-3</u> after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	8055 00

No. 06497

By Jeanne Goodman
Chief Engineer

RECEIVED

DEC - 2 2013

WATER RIGHTS
PROGRAM

LAKE-ANDES WAGNER IRRIGATION DISTRICT
WAGNER, SD 57380

November 27, 2013

Department of Environment
And Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Attention: Jeanne Goodman, Chief Engineer
Water Rights Program

Re: Future Use Permit No. 1688A-3

Dear Ms. Goodman:

Enclosed please find check #3836 in the amount of \$8,055.00 from the Lake Andes-Wagner Irrigation District, Wagner, South Dakota, in regards to the fee for maintaining the effectiveness of the above Future Use Permit No. 1688A-3.

The above Future User Permit No. 1688A-3 was granted on October 3, 2013, by the Water Management Board pertaining to the 96,000 acre-feet of water annually, which will be subject to another review in seven years.

Thank-you.

Sincerely,



Charles W Eitemiller
Chairman of the Board/Director

Enclosure (1)



1688A-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

October 6, 2017

Leo Holzbauer
PO Box 64
Delmont, SD 57330

Dear Leo:

You asked about the timing for the seven-year review of the Future Use Permit for the Lake Andes-Wagner irrigation project. The last review was done in 2013, so the next review will be required in 2020. According the permit file, the fee associated with the future use permit is \$8,055, which is not due until after the Water Management Board reconsiders the permit and allows it to continue.

I hope this answers your question. Thanks for all you do as a member of the Water Management Board.

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

July 20, 2020

Chuck Eitemiller, Chairman
Lake Andes-Wagner Irrigation District
28774 395th Ave
Armour SD 57313

Dear Mr. Eitemiller:

I am writing regarding the seven-year review of Future Use Water Permit No. 1688A-3 from the Missouri River held by Lake Andes-Wagner Irrigation District. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 96,000 acre-feet remain in reserve under this future use permit that was issued in 1969 and last reviewed in 2013.

Please respond in writing by September 1, 2020 regarding the district's intention for the future use permit. If the district plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs.

Permit No. 1688A-3 will then be public noticed at the district's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 96,000 acre-feet remain in reserve, the fee will be \$8,055.00.

Please contact Ron Duvall or me, if you have any questions.

Sincerely,

Karen Schlaak

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

c: Leo Holzbauer

Future Use Permit No. 1688A-3
Lake Andes-Wagner Irrigation District

Future Use Permit No. 1688A-3 currently reserves 96,000 acre-feet of water annually from the Missouri River with a July 1, 1969 priority date.

The Permit was last reviewed in 2013 and will be scheduled for review in the fall, 2020.

The fee for maintaining the effectiveness of Future Use Permit No. 1688A-3, if the entire 96,000 acre-feet is allowed to remain in effect will be \$8,055.00.

The District will also be responsible for the cost of publication of the Notice of Hearing in two newspapers.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 23, 2020

RECEIVED OF Leo Holzbauer PO Box 64 Delmont SD 57330

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	\$
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. <u>1688A-3</u> after period of seven years.	\$8055.00
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
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	\$8055.00

By Eric Gronlund
Chief Engineer me

LAKE ANDES-WAGNER/MARTY II PROJECT DEVELOPMENT

Lake Andes-Wagner Water Systems has been trying for years to make reality of the promises committed by the Federal Government some seventy-five (75) years ago. We stepped back to allow other SD water projects to move forward to completion. Now, in a time of federal spending our project has been made ever more difficult to move forward.

In the past, we always had the support of the State Government that this spending would be effective economic development. Irrigation development would be a tremendous boost to area farmers and businesses. It would help the Governor's stated desire to bring economic development to the Yankton Sioux Tribe.

In view of this, it is with some surprise, we find SCWDD no longer willing to maintain the 1969 future use permit that Lake Andes-Wagner/Marty II Water System, Inc. would need when built.

With this shift in priorities of SCWDD, we are now faced with another obstacle. With no taxing authority Lake Andes-Wagner/Marty II intends to ask interested people, businesses, developers and landowners, to donate funds needed to pay the future use permit fee. This would be in addition to the taxes that they have already paid SCWDD to ostensible development of our water resource in our area.

Today we are asking the Water Rights Board to allow the future use permit to stay in effect for the next seven (7) years with the proper permit fees being paid.





DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 1688A-3, Lake Andes-Wagner Irrigation District**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 1688A-3, Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, Chairman, 28774 395th Ave, Armour SD 57313.

The Chief Engineer is recommending that Future Use Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 1688A-3, 2) the district has demonstrated a reasonable need for the water reserved by Permit No. 1688A-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

Maintaining the effectiveness of Future Use Permit No. 1688A-3 is subject to payment of the \$8,055.00 fee which was submitted on September 23, 2020 pursuant to SDCL 46-2-13(2).

Eric Gronlund, Chief Engineer
October 27, 2020

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, October 27, 2020 4:15 PM
To: Jackie Lammers (jackie.lammers@yankton.net)
Subject: 1688A-3, Lake Andes-Wagner Irrigation District
Attachments: 1688A-3FU pub notice.doc; FORM8.FRM.doc

Attached is a notice to be published on November 4, 2020.

Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, 28774 395th Ave, Armour SD 57313 has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak
Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, October 27, 2020 4:15 PM
To: Wagner Post (announcer@hcinet.net)
Subject: 1688A-3, Lake Andes-Wagner Irrigation District
Attachments: 1688A-3FU pub notice.doc; FORM8.FRM.doc

Attached is a notice to be published on November 4, 2020.

Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, 28774 395th Ave, Armour SD 57313 has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak
Water Rights Program
(605) 773-3352





DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 28, 2020

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

Lake Andes-Wagner Irrigation District
Charles Eitemiller, Chairman
28774 395th Ave
Armour SD 57313

Dear Mr. Eitemiller:

Future Use Permit No. 1688A-3 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used and the nearest daily newspaper. Notice of this review has been sent to the Wagner Post printed at Wagner (605 384-5616) and the Press & Dakotan printed at Yankton (605 665-7811). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPERS IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish this notice on November 4, 2020. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosures

c: Leo Holzbauer

Instruction to Newspaper - Publish the following Notice on November 4, 2020. The Lake Andes-Wagner Irrigation District is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 1688A-3

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by the Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, Chairman, 28774 395th Ave, Armour SD 57313 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre-feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, December 2, 2020, Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 23, 2020. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1688A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605 773-3352) by November 23, 2020. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 23, 2020.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by November 16, 2020. Published once at the approximate cost of _____.

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

NOV 09 2020

WATER RIGHTS
PROGRAM

LAKE ANDES- WAGNER IRRIGATION DISTRICT
C/O CHARLES EITEMILLER
28774 395TH AVE
ARMOUR SD 57313

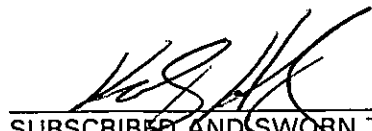
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
11 + 4 NOTICE OF HEARING TO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 4th DAY OF November, 2020
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$40.45 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 11/04/2020

FILED ON: 11/04/2020



SUBSCRIBED AND SWORN TO BEFORE ME THIS 4th DAY OF November, 2020


COSANDA BRULME
NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 07/04/2026

NOTICE OF HEARING TO
REVIEW FUTURE USE WATER PERMIT NO. 1688A-3

RECEIVED

NOV 09 2020

WATER RIGHTS
PROGRAM

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by the Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, Chairman, 28774 395th Ave, Armour SD 57313 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre-feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, December 2, 2020, Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 23, 2020. The Chief Engineer's address is Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1688A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605 773-3352) by November 23, 2020. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 23, 2020.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by November 16, 2020. Published once at the approximate cost of \$40.45

Affidavit of Publication

STATE OF SOUTH DAKOTA)

)SS

COUNTY OF CHARLES MIX)

Barbra Pechous, of said County and State being first duly sworn on her oath says: That The Wagner Post is a legal newspaper of general circulation, printed and published in Wagner, in said County and State, by Barbra Pechous, and has been such newspaper during the time herein mentioned; and that I, Barbra Pechous, the undersigned, of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for 1 successive weeks.

1st publication made on 4 day of Nov, 2020
2nd publication made on _____ day of _____, 2020
3rd publication made on _____ day of _____, 2020
4th publication made on _____ day of _____, 2020
5th publication made on _____ day of _____, 2020

That said newspaper is a legal newspaper, and has a bonafide circulation of more than two hundred copies weekly, and has been published within the County of Charles Mix for more than fifty-two successive weeks prior to the first publication of said notice, and is printed in an office maintained in Wagner, South Dakota, the place of publication of said newspaper. That the full amount of the fee for the publication of the annexed notice is

\$ 45.00
Barbra Pechous

Subscribed and sworn before me this 11 day of Nov, 2020.

Scott Pechous

Notary Public



7/27/2022

RECEIVED

NOV 16 2020

WATER RIGHTS
PROGRAM

**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO. 1688A-3**

Notice is given that the Water Management Board will review Future Use Permit No. 1688A-3 held by the Lake Andes-Wagner Irrigation District, c/o Charles Eitemiller, Chairman, 28774 395th Ave, Armour SD 57313 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 1688A-3. This permit has a priority date of July 1, 1969 and currently reserves 96,000 acre-feet from the Missouri River. The future use area is within Charles Mix County with diversion from the east bank of the Missouri River within that county. The water will be used for irrigation, municipal, stock watering, fish culture, fire protection, industrial and public recreation purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 1688A-3 REMAIN in EFFECT for 96,000 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 1688A-3 at 10:00 am, December 2, 2020, Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 23, 2020. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave,

Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is

obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 1688A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron

Duvall, Water Rights Program, (605-773-3352) by November 23, 2020. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 23, 2020.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by November 16, 2020.

Published once at the total approximate cost of: \$45.62.

Published: November 4, 2020.



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

December 7, 2020

NOTICE OF ENTRY OF ORDER

Chuck Eitemiller, Chairman
Lake Andes-Wagner Irrigation District
28774 395th Ave
Armour SD 57313

Dear Mr. Eitemiller:

I am writing in response to action taken by the Water Management Board at the hearing on December 2, 2020 to review Future Use Permit No. 1688A-3. The Board allowed the permit to remain in effect for 96,000 acre-feet of water annually. Future Use Permit No. 1688A-3 is subject to another review in seven years.

The fee of \$8,055.00 for maintaining the effectiveness of Future Use Permit No. 1688A-3 has been submitted.

Sincerely,

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

c: Leo Holzbauer

CERTIFICATION

I hereby certify that on December 7, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated December 7, 2020, regarding Notice of Entry of Order of Permit No. 1688A-3 and 1262C-3 addressed as stated below:

Chuck Eitemiller, Chairman, Lake Andes-Wagner Irrigation District, 28774 395th Ave., Armour, SD 57313

Steve Erickson, Utilities Supt., City of Canton, 210 N Dakota St., Canton SD 57013

Vickie Maberry
Vickie Maberry
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of December, 2020.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2025

