

Water Right Number 34.28-3

1. Considered 1-26, 19 77
2. Name of Applicant CITY OF ABERDEEN
3. Post Office Address _____
4. Amount of Water claimed 25.0
5. Source of Water supply ELM RIVER
6. Water to be used for FUTURE MUNICIPAL USE

Acres to be irrigated _____

7. Water to be diverted and used in BROWN County
about 18N, 6W miles _____ of ABERDEEN

8. Proof of Publication Received 1-20-77

Not Received _____

9. Application Approved 1-29-77

Subject to _____

Not Approved _____

Action Deferred _____

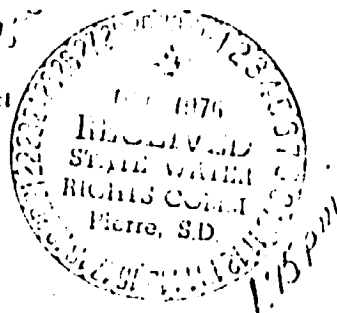
10. Remarks:

No. 54-173-23

Map No. 2709-3

Water Division No. 3 JAMES RIVER
(Blank to be filled by the Engineer for the W. R. C.)

Discric



APPLICATION FOR PERMIT

FUTURE USE -- ELM RIVER

To Appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable)

1. Name of Applicant City of Aberdeen
Postoffice address P. O. 1299 Aberdeen, State South Dakota
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract
3. Name of diversion work Dam No. 5 Aberdeen Water Supply
4. Amount of water claimed (cubic feet per second) 24
5. Source of water supply Elm & Maple Rivers
6. Location of point of diversion On Elm River in SE 1/4 Sec 29, Township 126N, Range 64W
- _____ County Brown
7. Annual period or periods during which water is to be used Continuous
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Municipal - Domestic
9. For irrigation use, _____ Total number of acres to be irrigated ---

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 10 years. Additional time required to complete application of water to the proposed beneficial use 5 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Aberdeen American News
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

Dam

B. Works proposed to transport water to place of use.

Elm River

(2) Works proposed to apply water to beneficial use.

City Water Purification Plant and Intake Structure and
City Distribution System

Estimated Total Cost \$ 5.2 million

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of Brown

I, Jeff Solem, Mayor the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed W. J. D. Line
Mayor, City of Aberdeen

Subscribed and sworn to before me this 29th day of June, 1920

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 3428-3

CITY OF ABERDEEN
(Applicant)

P.O. Box 1299
(Post Office Address)

SOUTH DAKOTA 57401
(State)

With the following modifications:

THIS FUTURE USE PERMIT N^o 3428-3 IS APPROVED WITH THE STIPULATION THAT THE PERMIT TO APPROPRIATE WATER IS SUBJECT TO REVIEW BY THE WATER RIGHTS COMMISSION 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 ~~PERMIT~~ WITHDRAWAL, MUST BE SUBMITTED PRIOR TO CONSTRUCTION OF FACILITIES.

Date of first receipt of application DECEMBER 30, 1976

Date of return to applicant for correction, amendments or changes required _____, 19____

Date of receipt of corrected application _____, 19____

Approved JULY 28, 19 77, Recorded in Book 19 Page 72

WATER RIGHT PERMIT NO. 3428-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 3428-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is DECEMBER 30, 1976
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before NOT APPLICABLE, 19____
3. The whole of said work is to be completed on or before NOT APPLICABLE, 19____
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is NOT APPLICABLE, 19____
5. The water appropriated shall be used for the purpose of FUTURE MUNICIPAL USE

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 24.0 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~beneficial use~~ DEVELOPED FOR FUTURE MUNICIPAL USE

~~will be~~ actually and beneficially ~~applied~~ used ~~for the purpose of~~ DEVELOPED FOR FUTURE MUNICIPAL USE said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 19TH day of AUGUST, 1977

WATER RIGHTS COMMISSION

By:

John Hatch
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates N.A.

(1) Drill Hole, Diameter _____, Depth _____

(2) Casing, Type _____ Diameter _____ Thickness _____
(wood, concrete, steel, etc.)

(3) Perforated Screen.

Type _____, Diameter _____, Length _____

(4) Gravel Pack: Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates. N.A.

(1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout. N.A.

(1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

(2) Distance to nearest existing household or livestock watering wells.

On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Proposed Dam No. 5

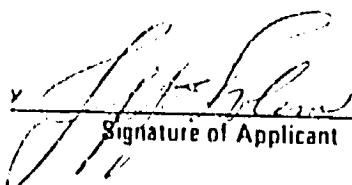
& Height - 25'

Maximum Water Depth - 20'

Surface Area 1700 Acres

Storage Capacity 20,000 A.F.

Water Surface Elevation 1360


Signature of Applicant

10. 3428-3

Published first publication on or before January 13, 1977.

**NOTICE
INTENT TO APPROPRIATE WATER**

Pierre, South Dakota 57501

January 3, 1977

Notice is hereby given that the City of Aberdeen

whose office address is _____, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for ~~present~~ **future** use

_____ cubic feet of water per second of time from the Elm & Maple Rivers through the Atchafalaya Dam # 5, the point of diversion of which is to be located in the _____

of Section 29, Twp. 126N, Range 64W, Said water to be used for domestic purposes.

provisions of
also providing irrigation on the following described land:

developed for future municipal use by the City of Aberdeen

This application No. 3428-3 will be considered by the Water Rights Commission at their office at Pierre upon the 26th day of January, 1977, at 10:00 A.M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ / bw

cc:

city of Aberdeen, P. O. Box 1299, Aberdeen, SD 57401

No. 3428-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Brown) ss.

I, Dianne Brenden hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Aberdeen American News

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

City Aberdeen of Aberdeen

County of Brown and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

January 11, 1977

January 18, 1977

Dianne Brenden
(Signature)

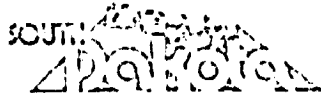
Principal Clerk
(Title)

January 18, 1977
(Date Signed)

No. 34 — Jan. 11 1977 — (27)
NOTICE
INTENT TO APPROPRIATE WATER
January 3, 1977
Notice is hereby given that the City of
Aberdeen, South Dakota, has made an
application in accordance with the
provisions of the water laws of South
Dakota for a permit to appropriate for
future use 24.0 cubic feet of water per
second of time from the Elm & Maple
Rivers through the Aberdeen Dam No. 5,
the point of diversion of which is to be
located in the SE1/4 of Section 29, Twp.
126N, Range 34W. Said water to be
developed for future municipal use by
the City of Aberdeen.
This application No. 3428-3 will be
considered by the Water Rights Com-
mission at their office at Pierre upon the
26th day of January, 1977, at 10:00 A.M.
All interested persons may appear and
be heard.
Water Rights Commission
By: Burton F. Jones, Water Rights
Specialist



3428-3



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

July 11, 1977

TO: Persons Concerned With Water Right Application No.
3428-3, City of Aberdeen, Aberdeen, South Dakota

FROM: John Hatch, Chief Engineer, Water Rights Commission

SUBJECT: Notice of Reconsideration Hearing on Application No.
3428-3

The Water Rights Commission will reconsider Future Use Water Right Application No. 3428-3 at 10:00 a.m., July 28, 1977 at the Stauro-lite Inn, Brookings, SD.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-5-38; and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, 52:01:01:21.

Application No. 3428-3 was considered by the Water Rights Commission January 25, 1977 and sent to the Legislature in accordance with 46-5-20.1 with no recommendation. The 1977 Legislature approved Application No. 3428-3 without change, Chapter 360, 1977 Session Laws.

After reconsideration of Future Use Application No. 3428-3 the Commission can approve, defer, or deny all or part of the Application.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/gy

cc: Ann Kunze, Alpena, SD 57312



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/224-3151

January 31, 1977

Lowell Hansen
Speaker of the House
State Capitol Building
Pierre, South Dakota 57501

Dear Sir:

In accordance with SDCL 46-5-20.1, I am submitting herewith copies of the following water right applications with proposed resolution drafts, and the recommendations of the Water Rights Commission.

Number	Name	Priority Date	Hearing Date	Recommendations Water Rights Commission
1442-2	Energy Transportation System, Inc.	9/ 3/76	9/30/76 & 11/18/76	Deny
1492-2	City of Rapid City (Future Use)	12/ 3/76	1/26/77	Approve
1507-2	West River Conservancy Sub- District (Future Use)	1/ 5/77	1/26/77	Approve
1508-2	West River Conservancy Sub- District (Future Use)	1/ 5/77	1/26/77	Approve
3370-3	Lewis & Clark Irrigation District	12/22/76	1/26/77	Approve
3371-3	City of Yankton (Future Use)	12/21/76	1/26/77	Approve
3428-3	City of Aberdeen (Future Use)	12/30/76	1/26/77	No Recommendation
3429-3	Osage Conservancy Sub- District (Future Use)	12/30/76	1/26/77	Approve
3434-3	Harvey Sheehan	12/30/76	1/26/77	Approve

Mr. Lowell Hansen
Speaker of the House

Page 2.

The applications have been filed with the Water Rights Commission, advertised and public hearing held, and are in proper form.

Very truly yours,

JOHN HATCH, Chief Engineer
Division of Water Rights
Department of Natural Resource
Development

Jh/bw

Encl: As stated

cc: Governor Kneip

Lt. Governor Harvey Wollman

Don Wagner, Chairman, Water Rights Commission

Proposed Resolution - Approval of a Water Right Application
Submitted by WATER RIGHTS COMMISSION, DEPARTMENT OF NATURAL
RESOURCE DEVELOPMENT

A JOINT RESOLUTION, approving an application for a water right pursuant to SDCL § 46-5-20.1.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH DAKOTA THE SENATE CONCURRING THEREIN:

WHEREAS, pursuant to S.D.C.L. § 46-5-20.1 the Legislature of the State of South Dakota has required that any application for appropriation of water in excess of ten thousand acre feet annually shall be presented by the Water Rights Commission to the Legislature for approval prior to acting on the application, and

WHEREAS, Future Use Water Right Application No. 3428-3 (City of Aberdeen) has been received by the Water Rights Commission, and

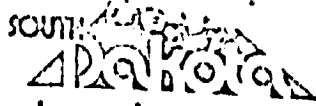
WHEREAS, said application is for an amount in excess of ten thousand acre feet annually, and

WHEREAS, the Water Rights Commission by motion on January 26, 1977 at its regular meeting in Pierre submitted said application without recommendation to the Legislature,

NOW BE IT HEREBY RESOLVED that Future Use Application No. 3428-3 be and it hereby is APPROVED,

AND FURTHER BE IT RESOLVED that the Water Rights Commission may issue permits covering all or any part of the water granted by this future use water right permit upon proper application and hearing, without further consideration by the Legislature.

3428-3



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/224-3151

August 22, 1977

City of Aberdeen
Box 1299
Aberdeen, South Dakota 57401

Gentlemen:

Enclosed herewith is your Water Right Permit No. 3428-3 as approved by the Water Rights Commission, to withdraw 24.0 cubic feet per second of time for future use.

Approval of this Permit does not in any way grant property rights to the land involved.

Respectfully,
WATER RIGHTS COMMISSION

JOHN HATCH
Chief Engineer

JH/gy

Enclosure

SOUTH DAKOTA
Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

August 28, 1984

NOTICE

To : Delphine Janusz, Mayor, City of Aberdeen
From : *John Hatch*
John Hatch, Chief Engineer, Water Rights Division
Subject : Review of Future Use Water Permit No. 3428-3

The Water Management Board will review Future Use Permit No. 3428-3 pursuant to the permit qualification requiring the permit to be reviewed every seven years. The hearing to review Future Use Permit No. 3428-3, City of Aberdeen will be conducted pursuant to SDCL 46-1-14, 46-5-38.1, ARSD 74:02:01:27 and contested case procedures contained in SDCL 1-26, September 26, 1984 at 2:30 pm in the Civil Defense Room, Capitol Building, Pierre, South Dakota.

The hearing will be to review 1) progress made in development of water reserved by Permit No. 3428-3, 2) future plans for development of the reserved water.

Future Use Permit No. 3428-3 was approved July 28, 1977 with a priority date of December 30, 1976, for 24.0 cubic feet per second (cfs) from the following area: SE⁴ Section 29, T126N. R64W with the following qualifications:

1. Under these conditions, this Future Use Permit No. 3428-3 is approved with the stipulation that the permit to appropriate water is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven years.
2. At such time as definite plans are made, specific applications for all or part of the water granted under this withdrawal must be submitted prior to construction of facilities.

Following the hearing, the Board can:

- 1) Cancel Permit No. 3428-3 for no development and/or no planned future development,
- 2) Extend Future Use Permit No. 3428-3 for the following seven years.

If the Water Management Board extends Permit No. 3428-3 for another seven (7) years, you will be required to pay 10% of the usual fee for an application to

use water to keep Permit No. 342C-3 in effect. The 10% fee based upon the remaining permit CFS will be \$380.00.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

cc: Bruce Nelson, Finance Officer

S515.wr

OFFICE OF CITY ENGINEER

ABERDEEN, SOUTH DAKOTA 57401

PHONE 605/225-4800

September 27, 1984

Francis E. Brink
City Engineer

Mr. John Hatch, Chief Engineer
Water Rights Division
South Dakota Department of Water and Natural Resources
Joe Foss Building
Pierre, SD 57501



RE: Future Use Permit 3428-3

Dear Mr. Hatch:

Attached is a copy of correspondence I intended to leave with the Water Management Board on the review of Future Use Permit 3428-3 but failed to do so. My comments at the review were a summary of the contents of the letter but I wish you would see that it becomes a part of the permanent record.

Thank you. Nice to see you again, John.

Very truly yours,

A handwritten signature in cursive script that reads "Francis E. Brink".

Francis E. Brink, P.E.
City Engineer

FB/ra

W/attachment

OFFICE OF CITY ENGINEER

ABERDEEN, SOUTH DAKOTA 57401

PHONE 605/225-4800

September 26, 1984

Francis E. Brink
City Engineer

Water Management Board
Water Rights Division
S.D. Department of Water and Natural Resources
Joe Foss Building
Pierre, SD 57501

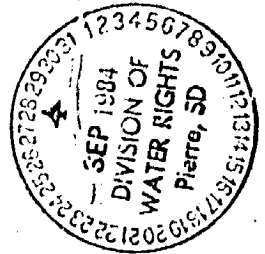
RE: Future Use Permit 3428-3
Aberdeen, South Dakota

Dear Board Members:

The City Commission has received notice that the Board intends to review Future Use Permit No. 3428-3 in Pierre on September 26, 1984. This correspondence is intended as testimony in support of extending that permit and to submit evidence that the project is not lying dormant. The permit is for additional appropriations from the Elm and Maple Rivers.

Future Use Permit 3428-3 contains two parts: (1) Provides for an additional impoundment of 20,000 acre feet on the Elm River and (2) Diversion of 24 cfs from the Elm River. Creation of any additional impoundments anywhere at the present time is a sensitive issue and the one proposed in 3428-3 is no exception. Public hearings dealing with flooding on the James River have contained proposals to construct this impoundment to reduce flooding but no definite plans have materialized. The Elm is a major contributor to flooding on the James River in the spring and this flooding could conceivably be reduced by construction of the 20,000 acre ft. impoundment. Over the 30 years of record, the Elm River has averaged 48.6 cfs (35,000 acre-ft) annual flows as reported in Bulletin 25 - Geology and Water Resources of Brown County - prepared by the U.S. Department of Interior and the S.D. Geological Survey, 1976. These surplus flows are presently unappropriated and available, and are what Aberdeen was considering in their 1976 application for future use on Elm River flows. The City is still interested in providing that storage but is also now considering several smaller in-channel dams as opposed to a single facility.

The second part of the future use permits deals with the instantaneous diversion rate from the river. With the exception of small amounts of ground water development, the City of Aberdeen has been operating under the original 1933 water permit for 12 cfs (7.8 MGD.) from the Elm River at the water treatment plant. In 1983 the nominal capacity of the water treatment plant was increased from 8 MGD to 12 MGD with a peak capacity of 16 MGD. It is now the City's intention to make application for an additional 12 cfs to allow the plant to pump



water from the river at its peak capacity if needed. Until that additional appropriation is obtained, we feel that the City would be in violation to divert more than 12 cfs from the river at any time. This expansion at the plant was accomplished at a cost of nearly six million dollars and should serve to indicate that the City is moving forward to utilize its future use permits.

While the City has not been able to achieve all of the goals contained in Future Use Permit 3428-3, it has been moving forward toward them. The application in 1976 estimated 10 years to complete construction of the system and an additional 5 years to complete application of water to beneficial use. We may not make even that time table, but the Board can rest assured that the City will be continuing to move ahead and would ask your favorable consideration to extend Future Use Permit No. 3428-3 for another seven years.

Respectfully submitted,

Francis E. Brink

Francis E. Brink, P.E.
City Engineer

FB/ra

cc: Mayor Janusz
City Commission
City Attorney



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501 3131

Water Rights Division
605 773-3352

October 11, 1984

3428-3

Delphine Janusz, Mayor
PO Box 1299
Aberdeen SD 57401

Dear Mayor Janusz:

This letter is in regard to the motion passed by the Water Management Board September 26, 1984 after review of the City of Aberdeen's Future Use Permit No. 3428-3. The Board continued Permit No. 3428-3 and amended the Permit to add the qualifications on the enclosed Attachment which should be placed with your permit. Future Use Permit No. 3428-2 will be subject to review after seven years.

Continuance of Permit No. 3428-3 is subject to payment of the required \$380.00 fee. Please remit within 30 days.

If you have any questions, please feel free to contact us.

Very truly yours,

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

enclosure

cc: Bruce Nelson, Finance Officer
Francis Brink, City Engineer

ATTACHEMENT "A" TO FUTURE USE PERMIT NO. 3428-3

CITY OF ABERDEEN

Future Use Permit No. 3428-3 was continued by action of the Water Management Board September 26, 1984 and amended to add the following qualifications:

- a) Extend Future Use Permit No. 3428-3 for another seven years.
- b) Continuance of this Permit is subject to payment of the \$380.00 fee required by SDCL 46-2-13(2) and 46-5-38.1.

RECEIPT

Division of Water Rights

No 4 9808-

South Dakota Department of Water and Natural Resources

Pierre, October 29, 1984

RECEIVED OF City of Aberdeen, PO Box 1299, Aberdeen, SD 57401

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____	380	00
Fee for Application for Permit No. 3428-3 _____ to Appropriate Water for Future Use (City of Aberdeen check #67637)		
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 _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____	380	00
Fee for _____ (Any Other Work Provided by Law)		
Total	380	00

By John Hatch
Chief Engineer JOHN HATCH MS

OFFICE OF CITY ENGINEER

ABERDEEN, SOUTH DAKOTA 57401

605/E22-7017

Francis E. Brink, P.E.
City Engineer

October 24, 1984

Mr. John Hatch, P.E.
Chief Engineer
Water Rights Division
S.D. Department of Water & Natural Resources
Joe Foss Building, 523 East Capitol
Pierre, SD 57501

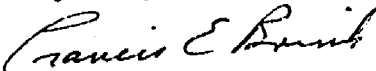
RE: Future Use Permit 3428-2-Aberdeen
Continuation Fee - \$380.00

Dear Mr. Hatch:

Transmitted with this correspondence is a check to SDDWNR in the amount of \$387.00 of which \$380.00 is for continuation of Future Use Permit 3428-2. The check has been combined with other payments due to SDDWNR and I wanted to be sure that there was no confusion on the payment for the extension on the Future Use Permit.

Please see that the check gets to the proper office. Thanks John.

Very truly yours,

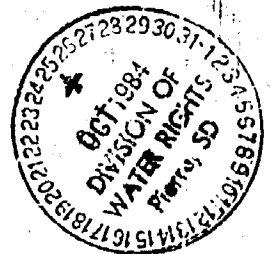


Francis E. Brink, P.E.
City Engineer

W/attachments

cc: Commissioner Driscoll
Keith
Lindskov

by F.O.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Water Rights Division
605 773-3352

October 11, 1984

3428-3

Delphine Janusz, Mayor
PO Box 1299
Aberdeen SD 57401

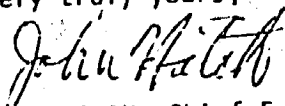
Dear Mayor Janusz:

This letter is in regard to the motion passed by the Water Management Board September 26, 1984 after review of the City of Aberdeen's Future Use Permit No. 3428-3. The Board continued Permit No. 3428-3 and amended the Permit to add the qualifications on the enclosed Attachment which should be placed with your permit. Future Use Permit No. 3428-3 will be subject to review after seven years.

Continuance of Permit No. 3428-3 is subject to payment of the required \$380.00 fee. Please remit within 30 days.

If you have any questions, please feel free to contact us.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

enclosure

cc: Bruce Nelson, Finance Officer
Francis Brink, City Engineer ✓

ATTACHEMENT "A" TO FUTURE USE PERMIT NO. 3428-3

CITY OF ABERDEEN

Future Use Permit No. 3428-3 was continued by action of the Water Management Board September 26, 1984 and amended to add the following qualifications:

- a) Extend Future Use Permit No. 3428-3 for another seven years.
- b) Continuance of this Permit is subject to payment of the \$380.00 fee required by SDCL 46-2-13(2) and 46-5-38.1.

3428-3



CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420 • Aberdeen, SD 57402-1420 • (605) 622-7017

ENGINEERING DEPARTMENT

September 15, 1990

Mr. John Hatch, P.E.
Chief Engineer
Water Rights Division
SDDWNR
Joe Foss Building
Pierre, SD 57501



RE: Water License 3009-3
City of Aberdeen

Dear John:

As you may recall, the City consolidated all of its prior water licenses into Water License 3009-3 in 1979. You assisted and guided us through this cumbersome process if my memory serves me correctly. One of the old permits was WP 14-3 and WL 15-3 that provided for a diversion rate of 12 cfs from the river into the Water Treatment Plant. This amount to my knowledge has never been increased and represents only 50 percent of the current plant capacity of 16 MGD.

The City was issued Future Use Permit 3428-3 in 1976 that reserved 24 cfs from Elm River Flows in addition to 20,000 Acre Feet in a dam proposed in Section 29 below Willow Dam. I believe we should make an application from 3428-3 for an additional 12 cfs to allow the plant to divert at its rated capacity should demands require it. I would appreciate hearing from the Department if you agree with the assumptions I have presented here and the need to have the diversion rate at a higher permitted level. Thank you for your help. See you in October.

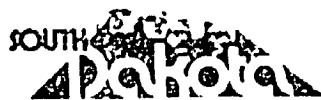
Very truly yours,

Francis E. Brink, P.E.
City Engineer

FB/raw

cc: Klabo
Werre

3428-3



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 26, 1990

Francis E Brink, City Engineer
City of Aberdeen
PO Box 1420
Aberdeen SD 57402-1420

Dear Francis:

This letter is in response to your letter received on September 18, 1990, and our phone conversation on September 25, 1990, regarding water rights for the City of Aberdeen.

Enclosed is a copy of Water License No. 3009-3 and the permit containing the qualifications. The water right authorizes, in part, diversion of 17 cfs (12 cfs from the Elm River and 5 cfs from the Eyestone gravel pit). You indicated via phone that the city would like to increase the diversion rate only from the Elm River. The diversion rate for the ground water source is to remain unchanged.

The city may apply for an additional 12 cfs from Future Use Permit No. 3428-3 to increase the maximum allowable diversion rate to 24 cfs from the Elm River. You may also want to consider specifying a volume of water on the application in addition to the 12 cfs diversion rate. The fee structure is based on the volume of water to be appropriated.

Enclosed are application forms and an instruction sheet. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Duvall". The signature is fluid and cursive, with a large initial "R" and "D".

Ron Duvall
Natural Resources Engineer
605 773-3352

enc.

South Dakota

2001

GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

July 11, 1991

Francis Brink, City Engineer
City of Aberdeen
PO Box 1420
Aberdeen SD 57402-1420

Dear Mr. Brink:

I am writing in regard to the seven year review of Future Use Water Permit No. 3428-3 from the Elm River which is held by the City of Aberdeen. Currently, our records show that 24 cubic feet of water per second remain in reserve under this future use permit which was issued in 1977.

Permit No. 3428-3 will be scheduled for review by the Water Management Board on October 2, 1991 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 on Permit No. 3428-3.

Please respond in writing by August 15, 1991, regarding the City's intention for the future use permit. If the City of Aberdeen does plan to retain the permit, then your response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Natural Resources Analyst
605 773-3352



CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420 • Aberdeen, SD 57402-1420 • (605) 622-7017

ENGINEERING DEPARTMENT

July 29, 1991

Karen Schlaak
Natural Resource Analyst
SDDENR
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

RE: Future Use Permit 3428-3
City of Aberdeen

Dear Karen:

Thank you for the notice of the scheduled review of the City's Future Use Permit No. 3428-3 at the October 2, 1991, Water Management Board meeting. The City of Aberdeen desires that the permit be maintained and extended, and has applied for 12.7 cfs from the permit to allow diversion rates from the Elm River that are consistent with in-plant pumping capacities. This correspondence is intended to serve as written testimony on behalf of the City of Aberdeen in support of extending the permit.

Future Use Permit 3428-3 contains two parts:

- 1) Reserves 24.0 cfs from the Elm River at the Water Treatment Plant Intakes, and,
- 2) Provides for additional storage of 20,000 acre feet on the Elm River.

1) Water License No. 3009-3 issued to the City of Aberdeen in 1979, consolidated several old permits including 15-3 with a priority date of December 23, 1933, that allowed a diversion rate of 12 cfs, or approximately 7.8 MGD, from the Elm River into the Water Treatment Plant. This was the nominal treatment plant capacity until 1989, at which time plant expansion and transmission line replacement allowed a treatment rate of 16 MGD (24.7 cfs). The City would need 12.7 cfs from Future Use Permit



Karen Schlaak
July 29, 1991
Page

3428-3 just to legally operate the plant at its present maximum capacity. An application for this additional diversion rate has been forwarded to DENR for consideration. The remaining 11.3 cfs is requested to remain in Future Use Permit 3428-3 as reserve for future growth of the community and a possible joint venture project with WEB Water Development District.

2) The second part of 3428-3 provides for an additional impoundment on the Elm River capable of storing 20,000 acre feet of water. When the City of Aberdeen originally applied for this additional storage in 1977, it was with the intent of constructing a single impoundment on the Elm River near the U.S. 281 crossing. Since that time, other agencies have held public hearings dealing with flooding but no definite plans materialized. Currently, the James River Environmental Studies are considering impoundments on the Elm River to help stabilize flows in the James River. The City of Aberdeen desires that this portion of the Future Use Permit be retained and extended until studies are concluded or construction is initiated.

In our opinion, there is available water in the Elm River to satisfy the quantities reserved by 3428-3. The U.S. Department of Interior and S.D. Geological Survey Bulletin 25, entitled "Geology and Water Resources of Brown County," reported average annual flows in the Elm River of 48.6 cfs (35,000 acre feet) over the thirty year period preceding 1976. We do not have a more current report, but would not expect the last fifteen years to change those averages very much. These surplus flows are assumed to be still unappropriated and available, and are what Aberdeen was considering in its 1976 application for future use of Elm River flows.

The recent years of below normal snowfalls in the Elm River and Maple River watershed basins resulted in Aberdeen's water storage systems becoming alarmingly low. The City constructed an additional well and a five mile long transmission line between the wells and the Water Treatment Plant to supplement the dwindling impoundments. Over a period of three (3) years, the City and Brown County removed channel obstructions, trees and log jams in a seven mile stretch of the Elm River to reduce in-channel losses of water released from the Elm Dam near Frederick. The abnormal spring rains in 1991 averted a crisis situation for the City of Aberdeen and for the present time, the City water

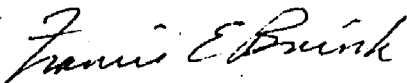
Karen Schlaak
July 29, 1991
Page

supply looks favorable again. An additional impoundment on the Elm River would go a long way to making these shortages a thing of the past for Aberdeen, but projects of this type are becoming increasingly difficult to bring to reality and additional time is requested.

A final concern the City would like to express is addressed toward the DENR policy of deleting diversion rates from Future Use Permits and replacing them with an acre-foot equivalent based on sixty percent (60%) of the diversion rate on an annual basis. The City fully realizes that it would have little justification in claiming the volume of water represented by 36 cfs (12 existing and 24 future use) on a continual basis which would be something in excess of 26,000 acre feet annually, as it now only treats some 4,000 acre feet annually. Protection of the diversion rates provided for in 3428-3 is important to the City however, in that it will allow pumpage from the river in sufficient rates to satisfy the demands of the community. Those high pumping periods will always be in summer months and would normally be taken from flows released from Elm Dam, Willow Dam or other to be constructed impoundments on the river. The City should not be restricted on diversion rates when it is releasing its own stored water to satisfy those rates. We would agree that at some point in the future, there may be other considerations to deal with that will effect this, such as those currently under study by the USCEC and the James River Water Development District to provide storage on the Elm River to stabilize flows in the James River. Modifications to the Aberdeen permits could be considered at such time as those plans become reality, if ever, and should not be a consideration at this time.

The City of Aberdeen, therefore, respectfully requests that a favorable decision will be tendered on its behalf by the Water Management Board to extend Future Use Permit 3428-3 in its present form, unaltered except as reduced by permits applied for and received by the City of Aberdeen prior to the scheduled hearing date.

Very truly yours,



Francis Brink, P.E.
City Engineer/PWA

FB:wd

pc: Mayor Rich
City Commission
City Attorney
Werre

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CITY OF ABERDEEN
REVIEW OF FUTURE USE PERMIT NO. 3428-3 AND
WATER PERMIT APPLICATION NO. 5571-3

September 3, 1991

BACKGROUND

Water Right No. 3009-3 held by the City of Aberdeen authorizes the following:

- 1) Direct diversion of 12.0 cfs from the Elm River and attendant storage of 936 acre-feet by three in-channel storage dams on the Elm River.
- 2) Storage of 15,200 acre-feet in Elm Lake dam. The city may use the top 12 feet below the spillway crest (9,500 acre-feet).
- 3) Storage of 4,100 acre-feet in Willow Creek dam and diversion of 18.56 cfs of flood flows from the Maple River into Willow Creek dam.
- 4) Diversion of 5.0 cfs of ground water from the Eyestone gravel pit.

Water Permit Application No. 5571-3 is to increase the diversion rate from 12.0 cfs to 24.7 cfs from the Elm River. According to the permit application, the additional 12.7 cfs is to be taken out of Future Use Permit No. 3428-3 which reserves 24.0 cfs for future use from the Elm River and Maple River. In addition to the 24.0 cfs, the future use permit also provides for storage of an additional 20,000 acre-feet on the Elm River.

Francis Brink, city engineer, indicated via telephone on August 28, 1991, that no increase is needed in the annual volume of water used by the city. According to Mr. Brink, the city currently uses 4,000 to 5,000 acre-feet of water annually. Permit No. 3009-3 authorizes a diversion rate of 12.0 cfs from the Elm River which totals 8,688 acre-feet annually, if diverted on a continuous basis.

DISCUSSION

Permit No. 3009-3 and Future Use Permit No. 3428-3 do not specify whether the authorized diversion rates are for stored water or natural flows. I don't believe the diversion rate specified on the future use permit is for water released from storage since the priority date assigned to Permit No. 3009-3 predates the priority date assigned to the future use permit. Therefore, the intent of Future Use Permit No. 3428-3 must have been to reserve only natural flows for future use, plus water for the 20,000 acre-feet storage reservoir. I believe the 12.0 cfs diversion rate authorized by Permit No. 3009-3 allows diversion of either natural flows or flows released from storage.

Future Use Permit No. 3428-3
Water Permit Application No. 5571-3
September 3, 1991

RECOMMENDATION

- 1) If Application No. 5571-3 is approved, the approval should allow diversion of an additional 12.7 cfs from either natural flows or water released from storage. The following priority dates should be assigned:
 - December 30, 1976, for natural flows (reserved by Future Use Permit No. 3428-3.)
 - December 23, 1933, for storage released from Dam Nos. 1, 2, and 4 on the Elm River.
 - January 1, 1937, for storage released from Elm Lake dam.
 - October 7, 1957, for storage released from Willow Creek dam and September 11, 1974, for water diverted into Willow Creek dam from the Maple River and then released for use by the city.

The vested right portion of Water Right No. 3009-3 has been contested and has not been validated by the Water Management Board. The claim should be considered by the Board prior to or at the same time as Application No. 5571-3, if the January 1, 1937, priority date associated with the claim is included on Application No. 5571-3.

- 2) According to Francis Brink, city engineer, no increase is needed in the annual volume of water used by the city. Therefore, if Future Use Permit No. 3428-3 is allowed to remain in effect, then the amount of water reserved should be 10,426 acre-feet (60% of total pumping expected to be developed.)
- 3) The application fee for No. 5571-3 should be \$150.00 to place 12.7 cfs to beneficial use with no increase in the annual volume authorized by Water Right No. 3009-3. Therefore, \$1,175.00 needs to be refunded to the city.
- 4) The review of Future Use Permit No. 3428-3 needs to include the proposed 20,000 acre-feet storage structure.



Ron Duvall
Natural Resources Engineer

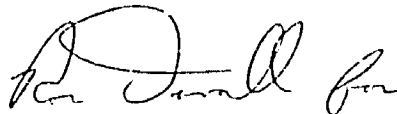
RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 3428-3, CITY OF ABERDEEN

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Future Use Water Permit No. 3428-3, City of Aberdeen, PO Box 1420, Aberdeen SD.

The Chief Engineer is recommending that Future Use Permit No. 3428-3 REMAIN in EFFECT because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3428-3, 2) the City of Aberdeen has demonstrated a reasonable need for the water reserved by Permit No. 3428-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest with the following qualification:

1. That Permit No. 3428-3 reserves for future use 10,426 acre-feet annually. The diversion rate of 24 cfs is deleted from Permit No. 3428-3.
2. The 10,426 acre feet may be used by direct diversion or stored in up to 20,000 acre feet of storage reservoirs.

And that maintaining the effectiveness of Future Use Permit No. 3428-3 is subject to payment of the \$435.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of Aberdeen.



JOHN HATCH, Chief Engineer
January 3, 1992

NOTE: The maximum annual acre-feet of full-time pumping represented by 24 cubic feet of water per second (cfs) reserved by No. 3428-3 is 17,376 acre-feet. Assuming that the total amount pumped annually would equal 60% of 17,376 acre-feet, then expected developed pumping of water reserved under Permit No. 3428-3 would be about 10,426 acre-feet per year.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

January 7, 1992

Francis Brink, City Engineer
City of Aberdeen
PO Box 1420
Aberdeen SD 57402-1420

Dear Mr. Brink:

I am writing in response to your letter dated July 29, 1991. You were questioning deleting the diversion rate from future permits and assigning an acre-feet volume based upon 60% annual usage of the diversion rate.

The intent of changing cfs to acre-feet is not to limit the city's flexibility concerning diversion rates. In fact, this policy is intended to increase the city's flexibility when placing reserved water to beneficial use. For example, a city may want to increase annual use by 100 acre-feet per year and increase the diversion rate by 5.0 cfs to the treatment plant facility to meet peak demands. In this case, the city could apply for a permit to use 100 acre-feet annually reserved by a future use permit and also specify an increased diversion rate of 5.0 cfs. The future use permit would be reduced by 100 acre-feet and the 5.0 cfs diversion rate would have no impact on the future use permit. This is intended to prevent a short term high peak demand from reducing the amount of water in held in reserve by an exaggerated amount. Reduction is based on annual volume, not on a high peak demand.

Please review the report and recommendation for Application No. 5571-3 and also the recommendation for Future Use Permit No. 3428-3. If you have any questions, please contact me. The publication can be delayed to make revisions to the notice of hearing if you have some concerns.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enc.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

January 7, 1992

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

Francis Brink, City Engineer
City of Aberdeen
PO Box 1420
Aberdeen SD 57402-1420

Dear Mr. Brink:

The Notice of Hearing for Water Permit Application No. 5571-3 and review of Future Use Permit No. 3428-3 have been sent to the Publisher of the American News printed at Aberdeen SD. For your information, copies of the notices, the recommendations of the Chief Engineer, a report on Application No. 5571-3 and a Notice of Hearing of Validation of Water Right No. 3009-3 are enclosed. Please review the notices prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of the Notice of Hearings and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notices once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proofs of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, you must file a petition pursuant to the procedures outlined in the attached notice of hearings. The Water Management Board will then consider your concerns during the hearings on the applications.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

January 7, 1992

American News
PO Box 4430
Aberdeen SD 57402-4430

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 3428-3 and Notice of Hearing on Application No. 5571-3 to Appropriate Water each to be published twice. Please publish the first notice on or before January 14, 1992 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICES ARE TO BE PUBLISHED, before you make the first publications. Please BILL the APPLICANT for the cost of the publications. The APPLICANT is the City of Aberdeen, PO Box 1420, Aberdeen SD 57402-1420.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publications for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publications are returned IMMEDIATELY with the enclosed Proof of Publication forms. DO NOT WAIT until the end of the month or the billing cycle. The permits cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE TO: Water Rights Division
No. _____ Joe Foss Building
Pierre SD 57501-3181
Date _____
We are in receipt of your letter of _____ enclosing Notice of Hearing to
to Review Future Use Water Permit No. _____ which was first published in
our issue of _____. ENCLOSED IS A COPY OF THIS FIRST
PUBLICATION.

Name _____

Newspaper _____

Instruction to Newspaper-Publish first publication of the following Notice on or before January 14, 1992 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3423-3 held by the City of Aberdeen, PO Box 1420, Aberdeen SD 57402-1420 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. 3428-3. This permit was approved July 28, 1977 to reserve 24 cubic feet of water per second from Elm and Maple Rivers and for a 20,000 acre feet storage reservoir to be located in the SE 1/4 Section 29-T126N-R64W. Water is reserved for municipal use by the City of Aberdeen.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually with storage in up to 20,000 acre-feet of storage reservoirs 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. 3428-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD on March 4, 1992 at 10:30 am.

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 February 21, 1992. 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. 3428-3 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 or to assure access to the hearing by the handicapped can contact the Water Rights Division, DENR, Joe Foss Building, Pierre SD 605 773-3352 for assistance prior to the hearing date. 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 February 21, 1992.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF BROWN

Karie Pauley BEING DULY SWORN, ON HIS OATH

That the ABERDEEN AMERICAN NEWS is a DAILY newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation. I, the affiant, am an employee and principal clerk of said publisher and have personal knowledge of all the facts stated in this affidavit of advertisement headed

Notice of Hearing to Review Future Use
Water Permit #3428-3

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and no supplement thereof, once each week for 2 successive publications. The first publication being made on the 14th day of January. The second publication being made on the 21st day of January. The third publication being made on the 28th day of January. The fourth publication being made on the 4th day of February. The fifth publication being made on the 11th day of February. The sixth publication being made on the 18th day of February. The seventh publication being made on the 25th day of February. The eighth publication being made on the 4th day of March. The ninth publication being made on the 11th day of March.

That said newspaper is a legal newspaper, being published five days or more each week, having a bona fide circulation of more than two hundred copies daily, having been published in the English language within the said County of Brown for more than one year next prior to the first publication of said notice, and is printed in whole in an office maintained at the place of publication of said newspaper. That the whole amount of the fee paid for the publication of the annexed notice is \$ 68.98, which inures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Karie Pauley

Subscribed and sworn to before me this 21st day of

January 1992

Ellen Quade

Notary Public, Brown County, S. D.

My commission expires 7-17-95
Daily circulation of 19,930.

(No. 574 - Jan. 14, 21 - 23)
NOTICE OF HEARING
TO REVIEW FUTURE USE
WATER PERMIT NO. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3428-3 held by the City of Aberdeen, P.O. Box 1420, Aberdeen, SD 57422, 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. 3428-3. This permit was approved July 18, 1977 to reserve 24 cubic feet of water per second from Elm and Maple Rivers and for a 20,000 acre foot storage reservoir to be located in the SE 1/4 Section 29 T12N R44W. Water is reserved for municipal use by the City of Aberdeen.

Pursuant to SDCL 46-12-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 3428-3 REMAIN IN EFFECT for 10,426 acre feet annually with storage in up to 20,000 acre feet of storage reservoirs 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. 3428-3 at the Floyd Matthew Training Center, Joe Foss Building, 533 E. Capitol, Pierre, SD, on March 4, 1992 at 10:30 a.m.

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 1-25, must file a written petition with BOTH the permit owner and the Chief Engineer by February 21, 1992. 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. 3428-3 will be conducted pursuant to the provisions of SDCL 46-13-4, 46-13-42, 46-13-43, 46-13-44, 46-13-45, 46-13-46, 46-13-47, 46-13-48, 46-13-49, 46-13-50, 46-13-51, 46-13-52, 46-13-53, 46-13-54, 46-13-55, 46-13-56, 46-13-57, 46-13-58, 46-13-59, 46-13-60, 46-13-61, 46-13-62, 46-13-63, 46-13-64, 46-13-65, 46-13-66, 46-13-67, 46-13-68, 46-13-69, 46-13-70, 46-13-71, 46-13-72, 46-13-73, 46-13-74, 46-13-75, 46-13-76, 46-13-77, 46-13-78, 46-13-79, 46-13-80, 46-13-81, 46-13-82, 46-13-83, 46-13-84, 46-13-85, 46-13-86, 46-13-87, 46-13-88, 46-13-89, 46-13-90, 46-13-91, 46-13-92, 46-13-93, 46-13-94, 46-13-95, 46-13-96, 46-13-97, 46-13-98, 46-13-99, 46-13-100.

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.

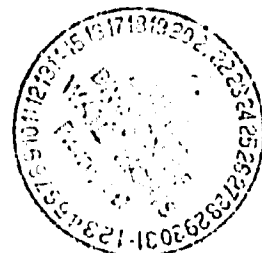
Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit or to assure access to the hearing by the handicapped can contact the Water Rights Division, DENR, Joe Foss Building, Pierre, SD 57501-3252 for assistance prior to the hearing date. The time of the hearing 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 February 21, 1992.

Publication Fees \$ _____

Received Payment, _____

Aberdeen News Co.

By _____



AMENDMENT TO FUTURE USE PERMIT NO. 3428-3

CITY OF ABERDEEN

Pursuant to the March 4, 1992, Water Management Board hearing, Future Use Permit No. 3428-3 was allowed to remain in effect and amended by adding the following qualifications:

1. That Permit No. 3428-3 reserves for future use 10,426 acre-feet annually. The diversion rate of 24 cfs is deleted from Permit No. 3428-3.
2. The 10,426 acre-feet may be used by direct diversion or stored in up to 20,000 acre feet of storage reservoirs.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

March 9, 1992

NOTICE

Francis Brink, City Engineer
City of Aberdeen
PO Box 1420
Aberdeen SD 57402-1420

Dear Mr. Brink:

I am writing in response to action taken by the Water Management Board at the hearing on March 4, 1992 to review Future Use Permit No. 3428-3. The Board allowed the permit to remain in effect and amended Permit No. 3428-3 by adding the qualification on the enclosed "Amendment". The "Amendment" should be placed with the permit. Future Use Permit No. 3428-3 is again subject to review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 3428-3 is \$435.00 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

Please contact Eric Gronlund, Water Rights Staff Engineer, if you have any questions.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch", is written over the typed name.

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

enclosures

CERTIFICATION

I hereby certify that on March 9, 1992, I have personally deposited with the U.S. Mail, a postage prepaid envelope containing a Notice dated March 9, 1992, regarding the WMB hearing on March 4, 1992, to review Future Use Permit No. 3428-3 addressed to:

Francis Brink, City Engineer, City of Aberdeen, PO Box 1420, Aberdeen,
SD 57402-1420

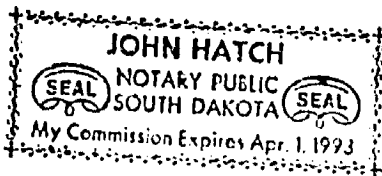
Gaci R Konop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of March, 1992.

John H. H. H.
Notary Public



RECEIPT

Division of Water Rights

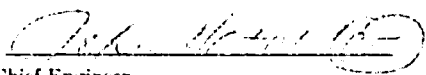
South Dakota Department of Water and Natural Resources

Pierre, _____ March 25, 19 07

RECEIVED OF City of Aberdeen, Box 4120, Aberdeen, SD 57402-1420

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

Fee for Application for Permit No. <u>3428-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____	435	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 _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	435 00

By 
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

November 20, 1998

Robin Bobzien, City Engineer
City of Aberdeen
123 S Lincoln St
Aberdeen SD 57401-4215

Dear Mr. Bobzien:

I am writing in regard to the seven year review of Future Use Water Permit No. 3428-3 from the Elm River which is held by the City of Aberdeen. By law, all future use permits are to be reviewed by the Water Management Board every seven years. The permit reserves water for future water supply needs for the city. Currently, our records show that 10,426 acre-feet remain in reserve under this future use permit. The 10,426 acre-feet may be used by direct diversion or stored in up to 20,000 acre-feet of storage reservoirs. This permit was issued in 1977 and last reviewed in 1992.

Please respond in writing by January 15, 1999, regarding the city's intention for the future use permit. If the city 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 and any annual pumping records for the past three years.

Permit No. 3428-3 will then be 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.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352



CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420
Aberdeen, SD 57402-1420

WATER TREATMENT

(605) 626-7010

January 11, 1999



Karen Schlaak
Water Rights Program
SDDENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

RE: Future Use Permit 3428-3

Dear Ms. Schlaak:

Thank you for the reminder of the upcoming seven year review of our city's surface water future use permit. It is very important to the citizens of the City of Aberdeen that appropriate surface water supply resources continue to be available for public use. With that goal in mind, the City of Aberdeen requests the extension of the permit, reserving 10,426 acre-feet for direct diversion or stored in up to 20,000 acre-feet of storage reservoirs.

Future Use Permit 3428-3 incorporates Water Permit No. 5571-3 which increased the city's authorized diversion rate from 12.0 cfs to 24.7 cfs in February, 1992. Justification for continuation of this diversion rate continues to be the maximum water treatment plant production and expected future growth of the community.

I would like to call attention to the intake requirements of our water treatment plant with a redesigned maximum capacity of 16 MGD. Francis Brink very capably described the maximum water diversion requirements of 12.7 cfs in the city's 1991 request for extension of the permit, a copy of which I am enclosing as an attachment. The water treatment plant is designed to operate at 12.7 cfs, and one might therefore contend that it should be permitted to withdraw 12.7 cfs from the Elm River at any time. The water pumping records for the past three years do not demonstrate a present need for 12.7 cfs, but our population remains at ½ the expected number for which the plant was designed. Considering that we have had 6 exceedingly wet years, and our periods of high usage during the summer months still require a production of 8 MGD to meet the demand, it is not unrealistic to expect even more consumption during dry years.

The diversion rate to meet the designed maximum production of the water treatment

facility appears to meet the requirements of 50,000 residents during a wet year without the addition of any major industry. Despite the past trend of population stability, we cannot expect Aberdeen to become dormant and must plan to meet the future water consumption requirements of a growing community. Future Use Permit 3428-3 includes enough surface water reserves to meet the city's growth potential for the next 7 years. The additional diversion presently authorized above the plant's maximum production was requested for future growth of the community in the 1991 request for extension. With the coming four-lane Highway 12 construction and the city's energetic recruiting efforts through the Aberdeen Development Corporation to bring new business to the community, Aberdeen's business and industrial growth has much greater potential than it did in 1991. It is only prudent to preserve the reserves as authorized by Permit 3428-3 for population and industrial growth.

The City of Aberdeen has taken steps to increase the in-stream water storage capacity at the water treatment plant by dredging the Elm River. Project WTP-1998-1 continues next spring and will ultimately double the depth of nearly a mile of river behind Dam #1 at overflow stage. Measurements taken at the time of the original Permit 15-3 in 1933 compared with soundings taken last winter demonstrate that this project will restore the river bottom profile behind the first low-head dam to its original depth. The impoundment behind two of the three existing low-head dams is afforded primarily by the flash boards installed above the concrete spillways. The original concrete structures are completely silted in. On the third low-head dam, only a minimal portion of the upstream face remains exposed to the water. Silt accumulation has greatly reduced the effectiveness of the in-stream low head dams. Continued dredging and dam improvements are required just to maintain a portion of the water storage authorized under Permit 3428-3. Based on these observations, it is entirely probable that the actual storage capacity of the city's Elm River reservoir system has become much less than the designed reservoir volumes.

Enhancement of the smaller reservoirs could best be accomplished by the construction of an impoundment such as described in Mr. Brink's request in 1991. As the years go by, and the low-head dams continue to trap stream sediment, the more stable storage capacity afforded by a larger reservoir becomes more and more practical to the community. In 1999, such an undertaking may be out of the question, but in the interest of preserving water for the expanded community of the future, we must retain the flexibility afforded by the 20,000 acre-feet of storage authorized by the permit.

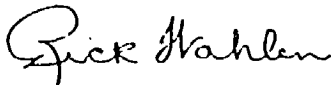
Permit 3428-3 allows the City of Aberdeen to pump sufficient water to meet future consumption demands of both industry and private use. The original impoundments were constructed to provide water for the City of Aberdeen when stream flow could not reliably produce sufficient amounts. Aberdeen's peak demand periods normally occur

when the Elm River is flowing at its lowest rate. The water contained within the reservoirs behind Elm Dam, Willow Creek Dam, and the three low-head dams is vital to the community, but would only be released during those periods when normal stream flow fails to meet the demands of the city. In effect, water impounded for municipal use would only be released for diversion into the community water treatment and supply system in sufficient quantities to meet the city's peak summer-time demand. If the existing population puts sufficient demand on the watershed to warrant further ground water development, does it make sense to further restrict the diversion of water from an already challenged surface water system developed for this very purpose?

The City of Aberdeen continues to develop its ground water resources, most recently in a joint funding agreement with the USGS to evaluate and develop wells to supplement the water demand during dry years. Aberdeen takes its water supply seriously, and intends to expand ground water reserves for dry periods such as were experienced since the construction of the surface water treatment plant.

It is the City of Aberdeen's respectful request that the Water Management Board for the State of South Dakota extend Future Use Permit 3428-3 in its present form. The permit is vital to the growth of the City of Aberdeen. A single new industry could double our existing winter water demand, and more importantly, increase our peak summer water demand by more than 25%. As written, the permit affords the city sufficient surface water resources to effectively supply a growing, thriving community.

Sincerely,



Rick Wahlen
Superintendent
Aberdeen Water Works

attachments (2): Permit Extension Request, 1991
Pumping Records 1996-1998

cc: Mayor Rich
Commission Klabo
Robin Bobzien



CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420 • Aberdeen, SD 57402-1420 • (605) 622-7017

ENGINEERING DEPARTMENT

July 29, 1991

Karen Schlaak
Natural Resource Analyst
SUDENR
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

RE: Future Use Permit 3428-3
City of Aberdeen

Dear Karen:

Thank you for the notice of the scheduled review of the City's Future Use Permit No. 3428-3 at the October 2, 1991, Water Management Board meeting. The City of Aberdeen desires that the permit be maintained and extended, and has applied for 12.7 cfs from the permit to allow diversion rates from the Elm River that are consistent with in-plant pumping capacities. This correspondence is intended to serve as written testimony on behalf of the City of Aberdeen in support of extending the permit.

Future Use Permit 3428-3 contains two parts:

- 1) Reserves 24.0 cfs from the Elm River at the Water Treatment Plant Intakes, and,
 - 2) Provides for additional storage of 20,000 acre feet on the Elm River.
- 1) Water License No. 3009-3 issued to the City of Aberdeen in 1979, consolidated several old permits including 15-3 with a priority date of December 23, 1933, that allowed a diversion rate of 12 cfs, or approximately 7.8 MGD, from the Elm River into the Water Treatment Plant. This was the nominal treatment plant capacity until 1989, at which time plant expansion and transmission line replacement allowed a treatment rate of 16 MGD (24.7 cfs). The City would need 12.7 cfs from Future Use Permit 3528-3 just to legally operate the plant at its present maximum capacity. An application for this additional diversion rate has been forwarded to DENR for consideration. The remaining 11.3 cfs is requested to remain in Future Use Permit 3428-3 as reserve for future growth of the community and a possible joint venture project with WEB Water Development District.
- 2) The second part of 3428-3 provides for an additional impoundment on the Elm River capable of storing 20,000 acre feet

of water. When the City of Aberdeen originally applied for this additional storage in 1977, it was with the intent of constructing a single impoundment on the Elm River near the U.S. 281 crossing. Since that time, other agencies have held public hearings dealing with flooding but no definite plans materialized. Currently, the James River Environmental Studies are considering impoundments on the Elm River to help stabilize flows in the James River. The City of Aberdeen desires that this portion of the Future Use Permit be retained and extended until studies are concluded or construction is initiated.

In our opinion, there is available water in the Elm River to satisfy the quantities reserved by 3528-3. The U.S. Department of Interior and S.D. Geological Survey Bulletin 25, entitled "Geology and Water Resources of Brown County," reported average annual flows in the Elm River of 48.6 cfs (35,000 acre feet) over the thirty year period preceding 1976. We do not have a more current report, but would not expect the last fifteen years to change those averages very much. These surplus flows are assumed to be still unappropriated and available, and are what Aberdeen was considering in its 1976 application for future use of Elm River flows.

The recent years of below normal snowfalls in the Elm River and Maple River watershed basins resulted in Aberdeen's water storage systems becoming alarmingly low. The City constructed an additional well and a five mile long transmission line between the wells and the Water Treatment Plant to supplement the dwindling impoundments. Over a period of three (3) years, the City and Brown County removed channel obstructions, trees and log jams in a seven mile stretch of the Elm River to reduce in-channel losses of water released from the Elm Dam near Frederick. The abnormal spring rains in 1991 averted a crisis situation for the City of Aberdeen and for the present time, the City water supply looks favorable again. An additional impoundment on the Elm River would go a long way to making these shortages a thing of the past for Aberdeen, but projects of this type are becoming increasingly difficult to bring to reality and additional time is requested.

A final concern the City would like to express is addressed toward the DENR policy of deleting diversion rates from Future Use Permits and replacing them with an acre-foot equivalent based on sixty percent (60%) of the diversion rate on an annual basis. The City fully realizes that it would have little justification in claiming the volume of water represented by 36 cfs (12 existing and 24 future use) on a continual basis which would be something in excess of 26,000 acre feet annually, as it now only treats some 4,000 acre feet annually. Protection of the

July 29, 1991
Page 3

diversion rates provided for in 3428-3 is important to the City however, in that it will allow pumpage from the river in sufficient rates to satisfy the demands of the community. Those high pumping periods will always be in summer months and would normally be taken from flows released from Elm Dam, Willow Dam or other to be constructed impoundments on the river. The City should not be restricted on diversion rates when it is releasing its own stored water to satisfy those rates. We would agree that at some point in the future, there may be other considerations to deal with that will effect this, such as those currently under study by the USCEC and the James River Water Development District to provide storage on the Elm River to stabilize flows in the James River. Modifications to the Aberdeen permits could be considered at such time as those plans become reality, if ever, and should not be a consideration at this time.

The City of Aberdeen, therefore, respectfully requests that a favorable decision will be tendered on its behalf by the Water Management Board to extend Future Use Permit 3428-3 in its present form, unaltered except as reduced by permits applied for and received by the City of Aberdeen prior to the scheduled hearing date.

Very truly yours,

Francis Brink, P.E.
City Engineer/PWA

FB:wd

pc: Mayor Rich
City Commission
City Attorney
Al Werre
Keith Nelson

MONTH JANUARY 1997

MONTH JANUARY 1997

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MONTH February 1947

MONTH February 1947

[illegible]

MONTH MARCH 1997

MONTH MARCH 1997

[illegible]

MONTH April 1997

MONTH April 1997

[illegible]

MONTH MAY 1997

MONTH MAY 1997

[illegible]

NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

MONTH June 1997

MONTH June 1997

[illegible]

MONTH July 1997

MONTH July 1997

[illegible]

MONTH AUGUST 1997

MONTH AUGUST 1997

[illegible]

MONTH September 1987

MONTH September 1997

[illegible]

NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

BOOSTER DISCHARGE READINGS

MONTH October 1997

[illegible]

MONTH November 1997

MONTH November 1997

[illegible]

MONTH December 1997

MONTH December 1997

DATE	METER	DIFF	DATE	METER	DIFF
1	18714683	1984	16	18748857	2044
2	18716667	2333	17	18750901	2485
3	18716900	2459	18	18753386	2398
4	18721459	2506	19	18755784	1749
5	18723965	1635	20	18757532	2264
6	18725600	2933	21	18759796	2405
7	18728433	2369	22	18762201	2211
8	18730802	1955	23	18764412	2332
9	18732757	2183	24	18766734	1864
10	18734940	2419	25	18768598	2053
11	18737359	2214	26	18770651	2291
12	18739573	2107	27	18772942	1814
13	18741780	2110	28	18774756	2437
14	18743890	2650	29	18777193	2188
15	18746540	2317	30	18779381	2108
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MONTH JANUARY 1996

MONTH JANUARY 1996

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MONTH FEBRUARY 1996

MONTH FEBRUARY 1996

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MONTH MARCH 1996

MONTH March 1996

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MONTH April 1996

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MONTH OCTOBER 1996

MONTH OCTOBER 1996

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NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

MONTH November 1996

MONTH November 1996

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MONTH DECEMBER 1996

MONTH DECEMBER 1996

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NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

BOOSTER DISCHARGE READING

MONTH JANUARY 1998

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MONTH February 1998

MONTH February 1998

[illegible]

MONTH MARCH 1998

[illegible]

"Fire"

MONTH April 98

MONTH April 98

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MONTH MAY 1985

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MONTH JUNE 1998

MONTH JUNE 1998

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DOCUMENT (S)

DISREGARD

BACKGROUND

MONTH July 1998

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MONTH August 1998

MONTH August 1998

[illegible]

MONTH: September 1998

MONTH: September 1998

[illegible]

MONTH October 1798

MONTH October 1998

[illegible]

NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

BOLSTER DISCHARGE READINGS

MONTHLY NOVEMBER 1990

[illegible]

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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

January 21, 1999

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

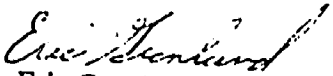
Rick Wahlen, Superintendent
Aberdeen Water Works
City of Aberdeen
PO Box 1420
Aberdeen SD 57201-1420

Dear Mr. Wahlen:

Future Use Permit No. 3428-3 will be reviewed for progress in the development and future plans for use of the water reserved. The notice of this review has been sent to the Publisher of the American News (Phone #225-4100). For your information, a copy of the recommendation of the Chief Engineer 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 NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notice once each week for two consecutive weeks with the last publication to occur at least twenty days before the board meeting. 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

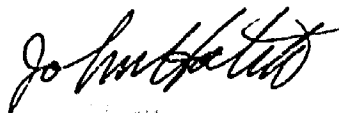
enclosures

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 3428-3, City of Aberdeen SD

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. 3428-3, City of Aberdeen, PO Box 1420, Aberdeen SD 57402-1420.

The Chief Engineer is recommending that Future Use Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually with storage in up to 20,000 acre-feet in storage reservoirs because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3428-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 3428-3, 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. 3428-3 is subject to payment of the \$435.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of Aberdeen after the Board hearing.



JOHN HATCH, Chief Engineer
January 21, 1999



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/danr

January 21, 1999

American News
PO Box 4430
Aberdeen SD 57402-4430

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 3428-3 to be published twice. Please publish the first notice on January 28, 1999 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. Please **BILL** the **APPLICANT** for the cost of publication. The **APPLICANT** is the City of Aberdeen, PO Box 1420, Aberdeen SD 57402-1420.

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at 605 773-4068. Publication errors can invalidate the public notice.

After the second publication, please send us an affidavit or use the enclosed Proof of Publication form. 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
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

Date _____

TO: Water Rights Program
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181

We are in receipt of your letter of January 21, 1999 enclosing Notice of Hearing to Review Future Use Water Permit No. 3428-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper-Publish first publication of the following Notice on January 28, 1999 with 2nd publication 7 days later. The City of Aberdeen is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3428-3 held by the City of Aberdeen, PO Box 1420, Aberdeen SD 57402-1420 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. 3428-3. This permit was approved July 28, 1977 to reserve 10,426 acre-feet annually from the Elm and Maple Rivers and for a 20,000 acre feet storage reservoir located in the SE ¼ Section 29-T126N-R64W. Water is reserved for municipal use by the City of Aberdeen.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually with storage in up to 20,000 acre-feet of storage reservoirs 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. 3428-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD on March 3, 1999 at 10:00 am.

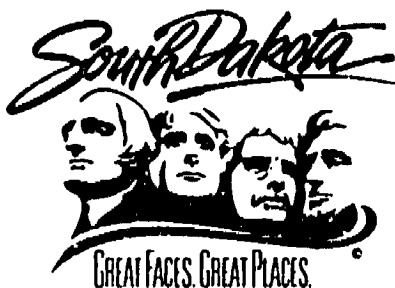
The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it 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 February 19, 1999. 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. 3428-3 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 February 19, 1999. 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 February 19, 1999. Nettie H Myers, Secretary, Department of Environment and Natural Resources.

Nettie H. Myers, Secretary
Department of Environment
and Natural Resources



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 5, 1999

NOTICE

Rick Wahlen, Superintendent
Aberdeen Water Works
City of Aberdeen
123 S Lincoln St
Aberdeen SD 57401

Dear Mr. Wahlen:

I am writing in response to action taken by the Water Management Board at the hearing on March 3, 1999 to review Future Use Permit No. 3428-3. The Board allowed the permit to remain in effect for 10,426 acre-feet of water annually with storage in up to 20,000 acre-feet of storage reservoirs. Future Use Permit No. 3428-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 3428-3 is \$435.00 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.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
605 773-3352

CERTIFICATION

I hereby certify that on March 5, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 5, 1999, regarding action taken by the Water Management Board at the hearing on March 3, 1999, to review the following Future Use Permits, addressed as stated below:

427-3 & 3142-3: Tim McGannon, Public Works Director, City of Mitchell, P.O. Box 278, Mitchell, SD 57301.

3371-3: P. Eric Swanson, City Manager, City of Yankton, P.O. Box 176, Yankton, SD 57078-0176.

3428-3: Rick Wahlen, Superintendent, Aberdeen Water Works, City of Aberdeen, 123 S. Lincoln St., Aberdeen, SD 57401.

4051-3: Pat Grygiel, Finance Officer, Town of Florence, P.O. Box 137, Florence, SD 57235-0137.

4052-3: Judy Fos, Finance Officer, Town of Henry, P.O. Box 27, Henry, SD 57243-0027.

5522-3 & 5523-3: Lyle D. Johnson, Directory of Public Works, City of Sioux Falls, 224 W. 9th St., Sioux Falls, SD 57104-6407.

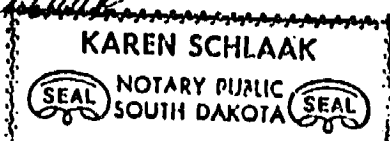
A Notice and a copy of the amendment to Future Use was sent to the following:

4039-3: Connie Zimmer, Finance Officer, City of Montrose, P.O. Box 97, Montrose, SD 57048.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of March, 1999


Notary Public
KAREN SCHLAAK, Notary Public
My Commission Expires


RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 416734

Pierre, April 14, 19 99

RECEIVED OF City of Aberdeen, 123 S. Lincoln St., Aberdeen, SD 57401-4215

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. 3428-3 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 _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

435 00

By _____
Chief Engineer

John Hatch

City of Aberdeen, South Dakota

This is a detailed nautical chart of the Chesapeake Bay and surrounding areas. The chart features a grid with latitude and longitude markings. Key locations labeled include Frederick, Annapolis, and Westport. The chart also shows various soundings (depths) and a red line indicating a specific route or boundary. The chart is titled 'CHESAPEAKE BAY' and 'DELAWARE BAY'.

EXHIBIT "A"

I, Francis E. Brink, Registered Land Surveyor in the State of South Dakota, do certify that I have personally directed the preparation of the above Exhibit "A" for the purposes of showing locations of Future Use Water Right Application being applied for by the City of Aberdeen.

Francis E. Brink, P.E., L.S. 1641

Date _____

MAP NO 2709-3 App No 5428-3



3428-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 29, 2005

Robin Bobzien, Public Works Director
City of Aberdeen
123 S Lincoln St
Aberdeen SD 57401-4215

Dear Mr. Bobzien

I am writing in regard to the seven year review of Future Use Water Permit No. 3428-3 from the Elm and Maple Rivers which is held by the City of Aberdeen. 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 10,426 acre-feet remain in reserve under this future use permit. The permit also includes a 20,000 acre-feet storage reservoir. This permit was issued in 1977 and last reviewed in 1999.

Please respond in writing by January 31, 2006, regarding the city's intention for the future use permit. If the city 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 and any annual pumping records for the past three years.

Permit No. 3428-3 will then be public noticed at the city'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.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

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



CITY OF ABERDEEN

12668 391 Ave.
Aberdeen, SD 57401-4215

WATER TREATMENT

(605) 626-7010

January 25, 2006

Karen Schlaak, Environmental Scientist
Water Rights Program
SDDENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

RE: Future Use Water Permit No. 3428-3

Dear Ms. Schlaak:

You will find attached a record of the water pumped from the Aberdeen Water Works Treatment Plant to Aberdeen for use by its citizens for the past three (3) years.

It is the intention of City of Aberdeen to retain Future Use Water Permit No. 3428-3 for 14,426 acre-feet for direct diversion or stored up to 20,000 acre-feet of stage reservoirs. Therefore we respectfully request that the Water Management Board for the State of South Dakota extend Future Use Permit 3428-3 in its present form for another 7 years.

In reviewing the water use over the last four years several observations can be made. For the last two years (2004 & 2005) we imposed watering restrictions which were made necessary by diminished production capacity due to construction. Even with restrictions in place and enforced the water use in both 2004 and 2005 was higher than 2003. Water use for January – April & October – December for 2005 was higher than the next highest year of water use which was 2002. The total water used in 2005 increased by 5.9% and the maximum daily average increased by 8.9%. In fact water use was higher than any of the 3 previous years in all of those months except for February & April of 2004. This increase in water use could realistically be expected to continue as 2005 was not an exceeding dry year; therefore I feel that the increase was not due to landscaping needs only. The Hwy 12 conversion to a four-lane highway is mostly completed which will continue to contribute to growth of industry in Aberdeen. Retaining the reserves authorized in Permit 3428-3 for continued population & industrial growth would be the most prudent course of action for the City.

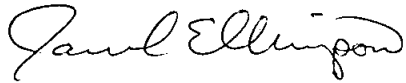
Though the City's population growth is slow it is steady and there continues to be a growth in manufacturing and businesses supplied by municipal water. At this time I do not foresee a reverse in these current trends or a reduced need to secure water for the

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JAN 30 2006
WATER RIGHTS
PROGRAM

future citizen of Aberdeen. Therefore the City of Aberdeen requests to be granted the extensions of Future Use Permit 3428-3 in its present form.

If you need additional information or clarification please contact me at 605-626-7074.

Sincerely,

A handwritten signature in cursive script that reads "Janel Ellingson".

Janel Ellingson
Acting Superintendent
Aberdeen Water Works

attachment (1): Water Works 2003 -2005 Pumping Records

pc: Mayor Levsen
Robin Bobzien

CITY OF ABERDEEN
WATER WORKS
3-YEAR PUMPING RECORDS

TOTAL EFFLUENT

	MG 2005	MG 2004	MG 2003
December	79	74	75
November	78	75	71
October	94	88	80
September	125	110	122
August	153	137	171
July	160	124	144
June	103	99	96
May	102	101	79
April	85	87	61
March	73	72	61
February	67	70	54
January	77	74	60
Year Total	1196	1110	1076
Daily Avg	3.28	3.04	2.95

MAX DIALY TOTAL

	MGD 2005	MGD 2004	MGD 2003
December	3.26	2.67	2.58
November	4.93	3.02	3.06
October	4.29	4.53	4.00
September	5.86	4.96	5.93
August	6.62	5.53	6.42
July	7.23	5.33	5.77
June	5.35	4.63	4.63
May	5.29	5.04	4.01
April	4.71	4.61	2.10
March	2.90	2.60	2.10
February	2.72	3.08	2.06
January	3.29	3.01	2.08
Max Avg	4.70	4.08	3.73

Prepared 2/24/06 by

Janel Ellingson, Acting Superintendent

Schlaak, Karen

From: Janel Ellingson [jellingson@nrctv.com]
Sent: Tuesday, February 21, 2006 4:16 PM
To: Schlaak, Karen
Subject: Future Use Water Permit No 3428-3

Ms. Schlaak;

After reconsidering your request for our pumping records of the last three (3) year I believe that I neglected to consider that you may also want the number of gallons pumped for the Elm River into Willow Creek Lake by way of the Maple Diversion Dam and pumping system. In my original response I included only the records of the water pumped from the treatment plant into the City of Aberdeen but I think that you may have meant me to include these also.

I am sorry for the oversight and hope that this will correct the omission. If not and you need a hard copy of this report as well as an additional letter please let me know and I will respond as requested.

Thank-you for your assistance.

Janel Ellingson
Superintendent
Aberdeen Water Works
City of Aberdeen
605-626-7074

2/21/2006

Maple Diversion pumping log for 2003- 2005
 Water pumped into Willow Creek Lake from Elm River
 after the Maple River joins it.

Maple Diversion – 2003

Started pump May 28, 2003
 Pump was on until June 4, 2003

Started pump June 6, 2003
 Pump was on until July 25, 2003

Maple Diversion – 2004

Started pump April 2, 2004
 1 pump was on until April 7, 2004
 2 pumps were on until April 15, 2004

Started pump June 9, 2004
 Pump was on until July 14, 2004

Maple Diversion – 2005

Started pump March 17, 2005
 Pump was on until April 24, 2005

Started pump May 11, 2005
 Pump was on until May 23, 05

The Maple Diversion pumps pump 4250 gal/min. each

	Days pump	min./year pumped	gal./year pumped
2003			
May	3		
June	28		
July	<u>25</u>		
	56	80640	342,720,000
2004			
April (1 pump)	5		
April (2 pumps)	8 * 2 = 16		
June	21		
July	<u>14</u>		
	56	80640	342,720,000

2005		
March	14	
April	24	
May	<u>12</u>	
	50	72000
306,000,000		

Which translates to: 1052 Ac-Ft/Yr for each of 2003 & 2004
343 MG/yr
6.13 MGD

And 939 Ac-Ft/Yr for 2005
306 MG/yr
6.12 MGD



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 3428-3, City of Aberdeen SD**

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. 3428-3, City of Aberdeen, 123 S Lincoln, Aberdeen SD 57401-4215.

The Chief Engineer is recommending that Future Use Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3428-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 3428-3, 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. 3428-3 is subject to payment of the \$232.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Garland Erbele, Chief Engineer
March 20, 2006



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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www.state.sd.us/denr

March 20, 2006

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

Janel Ellingson, Water Supt.
City of Aberdeen
12668 391 Ave
Aberdeen SD 57401

Dear Ms. Ellingson:

Future Use Permit No. 3428-3 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. The notice of this review has been sent to the Publisher of the Aberdeen American News (Phone #605 225-4100). 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 NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notice once each week for two consecutive weeks with the last publication to occur at least twenty days before the board meeting. 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

c: Robin Bobzien, Public Works Director

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

American News
PO Box 4430
Aberdeen SD 57402-4430

Dear Sir:

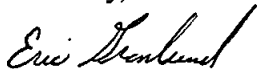
Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 3428-3 to be published twice. Please publish the first notice on March 29, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is the City of Aberdeen, 123 S Lincoln St, Aberdeen SD 57401-4215.

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at 605 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** 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

-----CUT HERE-----

Date _____

TO: Water Rights Program
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181

We are in receipt of your letter of March 20, 2006 enclosing Notice of Hearing to Review Future Use Water Permit No. 3428-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper-Publish first publication of the following Notice on March 29, 2006 with 2nd publication 7 days later. The City of Aberdeen responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3428-3 held by the City of Aberdeen, 123 S Lincoln, Aberdeen SD 57401-4215 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. 3428-3. This permit was approved 1977 and currently reserves 10,426 acre-feet from the Elm and Maple Rivers and for a 20,000 acre-feet storage reservoir located in the SE ¼ Section 29-T126N-R64W. Water is reserved for municipal use by the City of Aberdeen.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually with storage in up to 20,000 acre-feet of storage reservoirs 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. 3428-3 at 10:00 am, May 3, 2006 at 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 April 21, 2006. 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. 3428-3 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 may be an adversarial 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 April 21, 2006. 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 April 21, 2006. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Brown) SS

I, Mary Burt

certify that the attached printed Notice was taken

from the Aberdeen American News

printed and published in Aberdeen

County of Brown and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

3/29/04

4/5/04

Cost of Printing \$ 141.00

Mary Burt
(Signature)

Account Specialist
(Title)

4/10/04
(Date Signed)

Management Board will review Future Use Permit No. 3428-3 held by the City of Aberdeen, 123 S Lincoln, Aberdeen SD 57401-4215 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. 3428-3. This permit was approved 1977 and currently reserves 10,426 acre-feet from the Elm and Maple Rivers and for a 20,000 acre-foot storage reservoir located in the SE 1/4 Section 29-T126N-R64W. Water is reserved for municipal use by the City of Aberdeen.

Rights Program recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually with storage in up to 20,000 acre-feet of storage reservoirs 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. 3428-3 at 10:00 am, May 3, 2006 at 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 April 21, 2006. 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. 3428-3 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 may be an adversarial 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 April 21, 2006. 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 April 21, 2006. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

RECEIVED

APR 12 2006

WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 4, 2006

NOTICE

Janel Ellingson, Water Supt.
City of Aberdeen
12668 391 Ave
Aberdeen SD 57401

Dear Ms. Ellingson:

I am writing in response to action taken by the Water Management Board at the hearing on May 3, 2006 to review Future Use Permit No. 3428-3. The Board allowed the permit to remain in effect for 10,426 acre-feet of water annually with storage in up to 20,000 acre-feet of storage reservoirs. Future Use Permit No. 3428-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 3428-3 is \$232.50 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,

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

CERTIFICATION

I hereby certify that on May 4, 2006 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 4, 2006 regarding Notice of Future Use Permit Nos. 5522-3, 5523-3, 4053B-3, 4039-3, 3428-3, 427-3, 3124-3, and 1289-3, addressed as stated below:

5522-3 & 5523-3
City of Sioux Falls
Randy Janssen Water Superintendent
224 W 9th St
Sioux Falls SD 57104-6407

4053B-3
Town of South Shore
Staci Bucholz Finance Officer
PO Box 57
South Shore SD 57263-0057

4039-3
City of Montrose
Carol Flickinger Finance Officer
PO Box 97
Montrose SD 57048

3428-3
Janel Ellingson Water Supt
City of Aberdeen
12668 391 Ave
Aberdeen SD 57401

427-3 & 3124-3
Tim McGannon Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

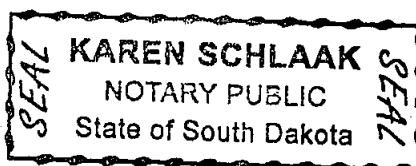
1289-3
Craig Nussbaum Utility Superintendent
City of Garretson
PO Box 370
Garretson SD 57030-0370


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 5th day of May, 2006.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



NOTES

RECEIPTDATE 3/24/06 NO. 4033

RECEIVED FROM

City of Aberdeen

ADDRESS

\$450 - WR Cap fee, \$30 WR permit \$10,732.50
FOR fee, \$232.50 future use renewal

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH		
AMT. PAID			CHECK	<u>003371</u>	☒
BALANCE DUE			MONEY ORDER		

balance is 2007
Drinking Water FeeBY R. Miller

©2001 REDIFORM® 8L806



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

February 26, 2013

Janel Ellingson, Water Supt
City of Aberdeen
12668 391 Ave
Aberdeen SD 57401

Dear Ms. Ellingson:

I am writing in regard to the seven year review of Future Use Water Permit No. 3428-3 from the Elm and Maple Rivers held by the city. 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 10,426 acre-feet remain in reserve under this future use permit. The permit also includes a 20,000 acre-feet storage reservoir. The permit was issued in 1977 and last reviewed in 2006.

Please respond in writing by March 15, 2013 regarding the city's intention for the future use permit. If the city 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 and any annual pumping records for the past three years.

Permit No. 3428-3 will then be public noticed at the city'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 10,426 acre-feet remain in reserve, the fee will be \$925.00.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

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



CITY OF ABERDEEN

12668 391 Ave.
Aberdeen, SD 57401-4215

WATER TREATMENT

(605) 626-7010

March 1, 2013

Karen Schlaak, Environmental Scientist
Water Rights Program
SDDENR
523 East Capitol
Pierre, SD 57501-3182

RECEIVED

MAR - 6 2013

WATER RIGHTS
PROGRAM

RE: Future Use Water Permit No. 3428-3

Dear Ms. Schlaak:

You will find attached a record of the water pumped from the Aberdeen Water Works Treatment Plant to Aberdeen for use by its citizens for the past three (3) years.

It is the intention of City of Aberdeen to retain Future Use Water Permit No. 3428-3 for 10,426 acre-feet for direct diversion or up to 20,000 acre-feet of storage reservoirs. Therefore we respectfully request that the Water Management Board for the State of South Dakota extend Future Use Permit 3428-3 in its present form for another 7 years.

In reviewing the water use over the last three years several observations can be made. In June of 2006 we implemented full time watering restriction which restricts the use of water for irrigation from 11:00 am until 5:00 pm daily. Our intent is to encourage responsible irrigation practices that create healthier more drought resistant grasses, plants and trees due to deeper and more substantially developed root systems. Since the 2000 census Aberdeen's population has increased by over 1,400, and since 2006 several new industries have started, one which uses approximately 1 MGD daily during production. Additionally 2012 was the first year of what may prove to be a continuing dry cycle after a long wet cycle. Even with full time watering exemptions our water consumption was up approximately 3.5% over the highest year total reviewed in the 2006. During the planning stages of our new treatment facility future expansion was incorporated into the design. Currently we are capable of treating 12 MGD but design features would allow for 6 MGD of conventional treatment to be added. It seems that retaining the reserves authorized in Permit 3428-3 for continued population & industrial growth would be the most prudent course of action for the City.

The City of Aberdeen has continued to grow and prosper even through the recent economic down turn. We do not foresee a reversal of that trend nor a reduced need to secure water for the future citizen of Aberdeen. I believe it would be negligent on our part to reduce our future water use reserves, therefore the City of Aberdeen requests the extension of Future Use Permit 3428-3 in its present form.

If you need additional information or clarification please contact me at 605-626-7074.

Sincerely,

Janel Ellingson
Superintendent
Aberdeen Water Works

Attachment (1): Water Works 2010 -2012 Pumping Records

cc: City Manager Lander
Robin Bobzien



CITY OF ABERDEEN

12668 391 Ave
Aberdeen, South Dakota 57401-4215

RECEIVED

MAR - 6 2013

**WATER RIGHTS
PROGRAM**

WATER TREATMENT DEPARTMENT
PHONE: (605) 626-7011
FAX: (605) 626-3507

CITY OF ABERDEEN 2013 3 YEAR ANNUAL PUMPING RECORDS

	2010	2011	2012
Raw	1,198,200,000	1,140,000,000	1,469,880,000
Plant Effluent	1,007,960,000	967,000,000	1,240,140,000
Distribution	945,284,000	920,000,000	1,126,400,000



**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. 3428-3, City of Aberdeen SD**

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. 3428-3, City of Aberdeen, 12668 391st Ave, Aberdeen SD 57401.

The Chief Engineer is recommending that Future Use Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually and for a 20,000 acre-feet storage reservoir because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3428-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 3428-3, 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. 3428-3 is subject to payment of the \$925.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Garland Erbele, Chief Engineer
March 28, 2013

RECEIVED

APR 16 2013

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Brown) SS

I, May Bash

certify that the attached printed Notice was
taken

from the Aberdeen American

printed and published in Aberdeen

County of Brown and

state of South Dakota. The notice was
published

in the newspaper on the following date:

4/10/13

Cost of Printing 66.99

May Bash
(Signature)

Adv. Billing Specialist
(Title)

4/10/13
(Date Signed)

(No. 1553909)
(April 10, 2013 - 1T)

NOTICE OF HEARING TO REVIEW
FUTURE USE WATER PERMIT
NO. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3428-3, held by the City of Aberdeen, 12668 391 Ave, Aberdeen SD 57401 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. 3428-3. This permit was approved 1977 currently reserves 10,426 acre-feet from the Elm and Maple Rivers and for a 20,000 acre-foot storage reservoir located in the SE 1/4 Section 29-T126N-R64W. Water is reserved for municipal use by the City of Aberdeen.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually with storage in up to 20,000 acre-foot storage reservoirs 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. 3428-3 at 9:00 am, May 2, 2013 at 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 April 22, 2013. 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. 3428-3 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 April 22, 2013. 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 April 22, 2013. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of

Instruction to Newspaper-Publish the following Notice on April 10, 2013. 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. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3428-3 held by the City of Aberdeen, 12668 391 Ave, Aberdeen SD 57401 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. 3428-3. This permit was approved 1977 currently reserves 10,426 acre feet from the Elm and Maple Rivers and for a 20,000 acre-feet storage reservoir located in the SE 1/4 Section 29-T126N-R64W. Water is reserved for municipal use by the City of Aberdeen.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually with storage in up to 20,000 acre-feet storage reservoirs 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. 3428-3 at 90:00 am, May 2, 2013 at 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 April 22, 2013. 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. 3428-3 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 April 22, 2013. 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 April 22, 2013. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published once at the approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

April 1, 2013

Aberdeen American News
PO Box 4430
Aberdeen SD 57402

Dear Sir:

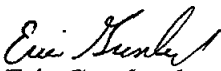
Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 3428-3 to be published on April 10, 2013. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352 or email karen.schlaak@state.sd.us

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 the City of Aberdeen, c/o Janel Ellingson, Water Supt, 12668 391st Ave, Aberdeen SD 57401.

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

April 1, 2013

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

Janel Ellingson, Water Supt
City of Aberdeen
12668 391 Ave
Aberdeen SD 57401

Dear Ms. Ellingson:

Future Use Permit No. 3428-3 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 each county where water will be diverted or used. The notice of this review has been sent to the Publisher of the Aberdeen American News. 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 NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish this notice on April 10, 2013. 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

May 6, 2013

NOTICE

Janel Ellingson, Water Supt
City of Aberdeen
12668 391 Ave
Aberdeen SD 57401

Dear Ms. Ellingson:

I am writing in response to action taken by the Water Management Board at the hearing on May 6, 2013 to review Future Use Permit No. 3428-3. The Board allowed the permit to remain in effect for 10,426 acre-feet of water annually and for a 20,000 acre-feet storage reservoir. Future Use Permit No. 3428-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 3428-3 is \$925.00 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.

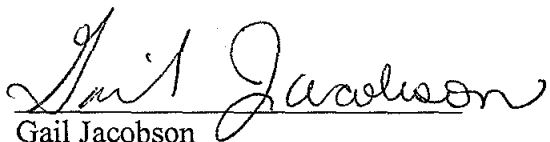
Sincerely,

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

CERTIFICATION

I hereby certify that on May 6, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated May 6, 2013 regarding Future Use Permits addressed as stated below:

Tim McGannon, City of Mitchell, 612 N Main St, Mitchell SD 57301 #'s 427-3 & 3142-3
Craig Nussbaum, City of Garretson, PO Box 370, Garretson SD 57030 # 1289-3
Kyle Goodmanson, City of Yankton, PO Box 176, Yankton SD 57078 # 3371-3
Janel Ellingson, City of Aberdeen, 12668 391st Ave, Aberdeen SD 57401 # 3428-3
Donald Whitman, City of Flandreau, 1005 W Elm Ave, Flandreau SD 57028 # 3977-3
Kathleen Meyer, Town of South Shore, PO Box 57, South Shore SD 57263 # 4053B-3
Greg Anderson, City of Sioux Falls, 2100 N Minnesota Ave, Sioux Falls SD 57104 --
#'s 5522-3 & 5523-3



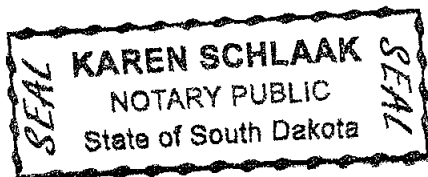
Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of May, 2013.



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/22, 2013

RECEIVED OF City of Aberdeen 123 S Lincoln St Aberdeen SD 57201

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	925	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>3428-3</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	925 00

No. **06342**

By *Jeanne Hoelmer*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

December 4, 2019

City of Aberdeen
Robert Braun, Water Superintendent
123 S Lincoln St
Aberdeen SD 57401

Dear Mr. Braun:

I am writing in regard to the seven year review of Future Use Water Permit No. 3428-3 from the Elm and Maple Rivers which is held by the City of Aberdeen. 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 10,426 acre-feet remain in reserve under this future use permit. The permit also includes a 20,000 acre-feet storage reservoir. The permit was issued in 1977 and last reviewed in 2013.

Please respond in writing by January 6, 2020 regarding the city's intention for the future use permit. If the city 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.

The future use permit will then be public noticed at the city'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 10,426 acre-feet remains in reserve, the total fee will be \$925.00.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

karen.schlaak@state.sd.us



CITY OF ABERDEEN

12668 391 Ave
Aberdeen, South Dakota 57401-4215

Aberdeen Water Works
PHONE: (605) 626-7011
FAX: (605) 626-3507

December 28, 2018

Karen Schlaak
SDDENR Water Rights Program
523 East Capitol
Pierre, SD 57501-3181

RECEIVED

DEC 31 2019

WATER RIGHTS
PROGRAM

RE: Future Use Permit 3428-3

Dear Ms. Schlaak:

The City of Aberdeen attempts to anticipate the needs of the community. Due to the ever-changing weather patterns that affect our surface water supply, changes to EPA regulations and the possibility of contamination, the City of Aberdeen requests retention of permits 192-3 and 3427A-3.

Justification for the continuation of these permits includes maximum water treatment plant production, expected future growth of the community, stringent EPA regulations of surface water, and the risk of contamination.

It is the intention of City of Aberdeen to retain Future Use Water Permit No. 3428-3 for 10,426-acre-feet for direct diversion or up to 20,000 acre-feet of storage reservoirs. Therefore, we respectfully request that the Water Management Board for the State of South Dakota extend Future Use Permit 3428-3 in its present form for another 7 years.

Our treatment facility capability is 12 MGD with room for expansion up to 18 MGD. Our current operation uses groundwater for $\frac{1}{4}$ - $\frac{1}{2}$ of our total daily flow. A flow of 4 - 6 MGD from wells would be required to maintain that blend resulting in an additional 1.75 or 3.75 MGD to be converted to beneficial use. If we make no adjustments to our blend formula, the conversion of 3.75 MGD from future use to beneficial use would be required resulting in a minimum of 1.293 MGD, or 1448 acre-feet, in Future Use in reserve.

The City of Aberdeen and USGS recently completed a revised groundwater-Flow Model. The City has been working with Wenck Engineering to evaluate the current supplies and identify where we should look to develop future wells. In 2013 and 2017, the City nearly drained the Willow Reservoir to meet demand due to dry conditions and the trend is calling for increased demands for drinking water. With continued population & industrial growth, the City of Aberdeen will continue to need increasing amounts of water that these future use permits will help to satisfy.

The City of Aberdeen has continued to grow and prosper even through the recent economic down turn. We do not foresee a reversal of that trend nor a reduced-need to secure water for the future citizen of Aberdeen. I believe it would be negligent on our part to reduce our future water use reserves, therefore the City of Aberdeen requests the extension of Future Use Permit 3428-3 in its present form.

Sincerely,

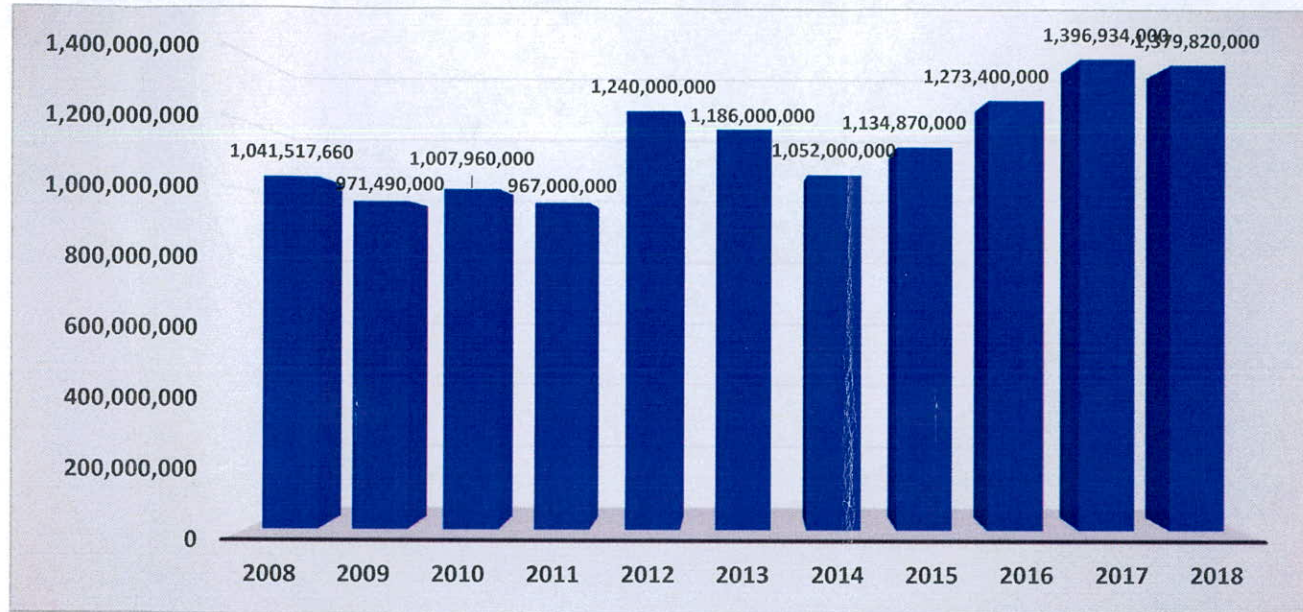


Robert Braun
Superintendent
Aberdeen Water Works

Attachment (1): Pumping Records 2008 -2018

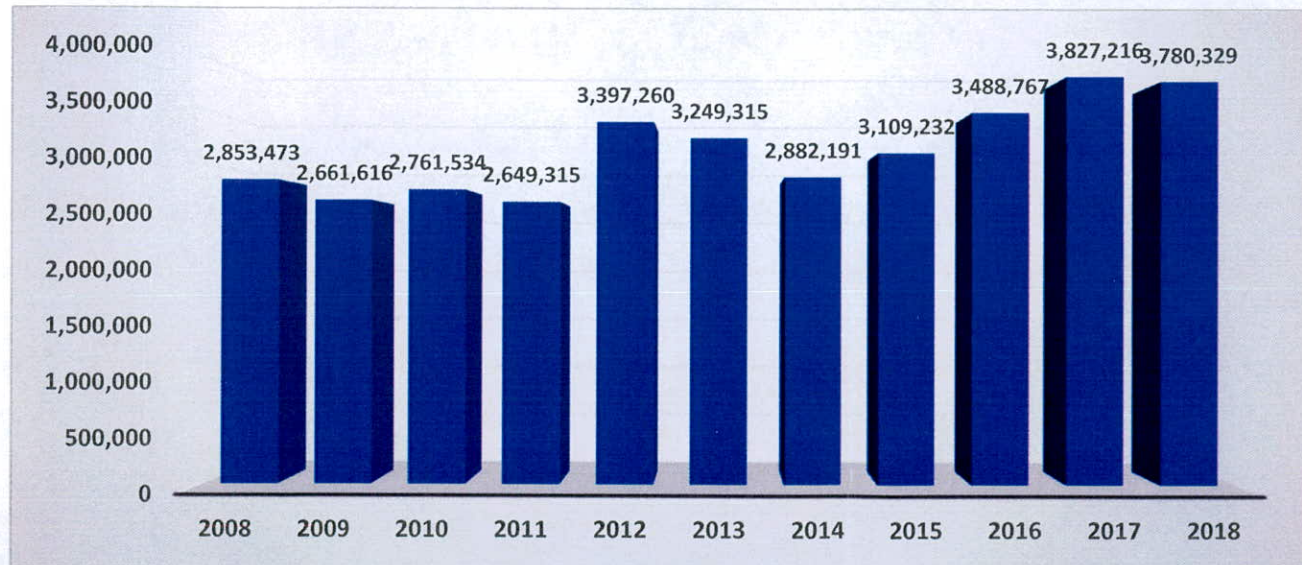
Annual Gallons of Water Pumped from Water Treatment Plant

2008	1,041,517,660
2009	971,490,000
2010	1,007,960,000
2011	967,000,000
2012	1,240,000,000
2013	1,186,000,000
2014	1,052,000,000
2015	1,134,870,000
2016	1,273,400,000
2017	1,396,934,000
2018	1,379,820,000



Average Daily Gallons of Water Pumped From Water Treatment Plant

2008	2,853,473
2009	2,661,616
2010	2,761,534
2011	2,649,315
2012	3,397,260
2013	3,249,315
2014	2,882,191
2015	3,109,232
2016	3,488,767
2017	3,827,216
2018	3,780,329





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

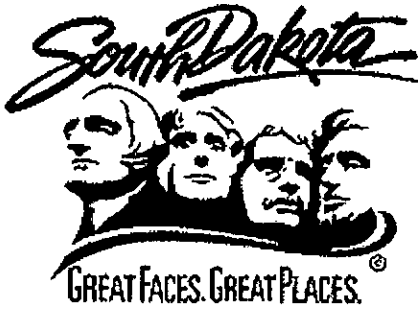
RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 3428-3, City of Aberdeen

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. 3428-3, City of Aberdeen, 123 Lincoln St, Aberdeen SD 57401

The Chief Engineer is recommending that Future Use Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually from the Elm and Maple Rivers including a 20,000 acre-feet storage reservoir because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3428-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 3428-3, 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. 3428-3 is subject to payment of the \$925.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer
January 7, 2020



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

January 7, 2020

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

City of Aberdeen
Robert Braun, Water Superintendent
123 S Lincoln St
Aberdeen SD 57401

Dear Mr. Braun:

Future Use Permit No. 3428-3 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. Notice of this review has been sent to the American News (605 225-4100). 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 NEWSPAPER(S) 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 January 15, 2020. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

A handwritten signature in black ink that reads 'Eric Gronlund'.

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, January 7, 2020 11:22 AM
To: Aberdeen News Legals (aan-legals@aberdeennews.com)
Subject: 3428-3, City of Aberdeen
Attachments: 3428-3.notice.doc; FORM8.FRM.doc

Attached is a notice to be published on January 15, 2020.

The City of Aberdeen, Robert Braun, Water Supt., 123 Lincoln St, Aberdeen SD 57401 (605 626-7011) 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
SD DENR, Water Rights Program
(605) 773-3352



NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3428-3 held by the City of Aberdeen, c/o Robert Braun, Water Supt., 12668 391 Ave, Aberdeen SD 57401 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. 3428-3. This permit was approved 1977 and currently reserves 10,426 acre-feet from the Elm and Maple Rivers and for a 20,000 acre-feet storage reservoir located in the SE 1/4 Section 29-T126N-R64W. Water is reserved for municipal use by the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually including a 20,000 acre-feet storage reservoir 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. 3428-3 at 10:00 am, February 26, 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 February 14, 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. 3428-3 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 February 14, 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 February 14, 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 January 27, 2020. Published once at the approximate cost of _____.

NOTICE OF HEARING TO REVIEW
FUTURE USE WATER PERMIT
NO. 3428-3

Notice is given that the Water Management Board will review Future Use Permit No. 3428-3 held by the City of Aberdeen, c/o Robert Braun, Water Supt., 12668 391 Ave, Aberdeen SD 57401 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. 3428-3. This permit was approved 1977 and currently reserves 10,426 acre-feet from the Elm and Maple Rivers and for a 20,000 acre-foot storage reservoir located in the SE 1/4 Section 29-T126N-R64W. Water is reserved for municipal use by the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 3428-3 REMAIN in EFFECT for 10,426 acre-feet annually including a 20,000 acre-foot storage reservoir 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. 3428-3 at 10:00 am, February 26, 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 February 14, 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. 3428-3 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 February 14, 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 February 14, 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

RECEIVED

JAN 17 2020

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA}

§

COUNTY OF BROWN}

Carla Bonning being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed:

Legal # 790033

Notice of Hearing to Review Future

Use Water Permit No 3428-3

a printed copy of which is hereto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each

day for 1 successive day
The first publication being made on the 15th day of Jan., 2020.
The second publication being made on the day of , 2020.
The third publication being made on the day of , 2020.
The fourth publication being made on the day of , 2020.
The fifth publication being made on the day of , 2020.
The sixth publication being made on the day of , 2020;

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper; That the whole amount of the fee paid for the publication of the annexed notice is \$ 77.05, which insures solely to the benefit of said publisher; That no agreement or understanding for a division thereof had been made with any other person; and That no part thereof has been agreed to be paid to any person whomsoever.

Carla Bonning

Subscribed and sworn to before me this 15th day of Jan., 2020.

Daily Circulation 10,000

Orin Wolf

Notary Public, Brown County, SD.

My commission expires March 20, 2025



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

February 27, 2020

NOTICE OF ENTRY OF ORDER

City of Aberdeen
Robert Braun, Water Superintendent
123 S Lincoln St
Aberdeen SD 57401

Dear Mr. Braun:

I am writing in response to action taken by the Water Management Board at the hearing on February 26, 2020 to review Future Use Permit No. 3428-3. The Board allowed the permit to remain in effect for 10,426 acre-feet annually from the Elm and Maple Rivers including a 20,000 acre-feet storage reservoir. Future Use Permit No. 3428-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 3428-3 is \$925.00 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,

A handwritten signature in black ink that reads "Jeanne Goodman". The signature is fluid and cursive, with a long horizontal line extending from the end.

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

CERTIFICATION

I hereby certify that on February 27, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated February 13, 2020, regarding Notice of Entry of Order of Permit No. 3428-3, 5522-3, 5523-3, 6696-3, and 6697-3 addressed as stated below:

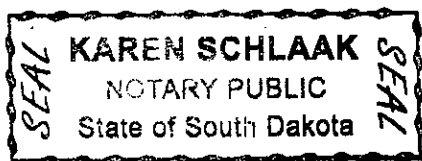
City of Aberdeen, Robert Braun, Water Superintendent, 123 S Lincoln St., Aberdeen SD 57401
City of Sioux Falls, Gavin Graverson, Superintendent, Water Division, 2100 N Minnesota Ave.,
Sioux Falls SD 57104
Bryan Read, City Administrator, City of Brandon, PO Box 95, Brandon SD 57005

Eric Gronlund
Eric Gronlund
Water Rights

[illegible]

Sworn to, before me, this 27th day of February, 2020.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2019²⁵



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Environment and Natural Resources

Date March 12, 2020RECEIVED OF City of Aberdeen Robert Braun, Water Superintendent 123 S Lincoln St Aerdeen SD 57401

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>3428-3</u> after period of seven years.	\$925.00
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	\$925.00

By Eric Gronlund
Chief Engineer

VM