

1. Considered Time 28, 1952
2. Name of Applicant City of Mitchell
3. Post Office Address Mitchell, S.D.
4. Amount of water claimed 60 cfs
5. Source of water supply Firestone Canal
6. Water to be used for Municipal use
Acres to be irrigated _____
7. Water to be diverted and used in DeWison County about
_____ miles near of Mitchell.
8. Proof of Publication Received _____
Not Received ✓
9. Application Approved _____
Subject to _____
Not approved _____
Action deferred _____

10. Remarks:

Withdrawal for future use

No. 427-3Water Division No. 3 James River District
(Blanks to be filled by the Engineer for the W. H. C.)

VESTED RIGHT

APPLICATION FOR PERMIT

To appropriate Water within the State of South Dakota

(NOTE—Draw a line through item as not applicable.)

1. Name of applicant City of MitchellPostoffice address Mitchell County Davison State South DakotaI. If a corporation — Municipal corporation

(a) Name of same

(b) Date and place of incorporation

(c) Amount of capital stock

(d) Amount paid in

(e) Names and addresses of directors Robert Graham, Mayor, Earl Mayhew,Leon Porter, Elmer Soxe, James Lalley, Sidney Thune, Tom Wells,Dr. William Fritz and Clair Larson, Councilmen

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

(a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Contract

(b) Cash on hand, \$

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$

2. Name of diversion work Mitchell Water Works3. Amount of water claimed 23.2 (see letter dated 12-17-60) cubic feet per second4. Source of water supply Firesteel Creek5. Location of point of diversion see exhibit A and Bon south bank Davison County.6. Annual period or periods during which water is to be used continuous

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system?

(a) Number of acres to be irrigated _____ acres.

(b) Legal subdivisions to be irrigated

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

(c) Statement as to domestic use (giving location, etc.) by city residents and withincity service area see exhibit C

(d) for municipal purposes

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

(a) Nature of use fire protection, public recreation

Name any of the above uses claimed

(b) Amount of power to be generated _____ horse power.

Amount claimed for engine cooling

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream

8. Estimated cost of work: see exhibit D
to be estimated at time of development
- (a) Head Gates, \$ on all items (b) Pumping plant, \$ -----
(c) Fluming, \$ ----- (d) Canal-earth, \$ ----- Rock, \$ -----
(e) Other structures ----- \$ ----- Total, \$ -----

9. Description of diversion works: See exhibit A

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

to be supplied at the time water is developed

II. Dimensions of works:

- (a) Dam: Height 36 feet; length at bottom 850 feet; length at top 1120 feet; thickness at bottom 192 feet; thickness at top 30 feet; slope at front water face 1 3/4:1 & 3:1; slope at back face 1 1/2:1 material used in construction rolled asphalt sheet piling, wood piling
- (b) Reservoir: Capacity when filled 10,560 acre feet. Surface area at highwater mark 790 acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET—ACRES	ACRE-Feet CAPACITY
	<u>See exhibit E</u>	

- (c) Head gate: Width Capacity 10 MGD feet; height ----- feet;
Material 16 inch cast iron
- (d) Canal: Total length ----- miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At <u>-----</u> Mile	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet
At <u>-----</u> Mile	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet
At <u>-----</u> Mile	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet
At <u>-----</u> Mile	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet
At <u>-----</u> Mile	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet
At <u>-----</u> Mile	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet	<u>-----</u> feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 1927 - 29 years, as required
11. Time required for complete application of water to the proposed beneficial use 1929 years, as required
12. Choice of newspaper for publication of notice of intention to appropriate -----
The Daily Republic

STATE OF SOUTH DAKOTA

County of Davison ss.

I, Robert M. Graham, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Robert M. Graham

Subscribed and sworn to before me this 28th day of February 1929

Margaret Gales
Notary Public (or other qualified officer.)

Remarks by State Water Resources Commission:

WITHDRAWAL,

THIS PERMIT IS FOR FUTURE USE DEVELOPMENT BY
THE CITY OF MITCHELL
DEVELOPMENT OF A PORTION OR ALL OF THE
AMOUNT GRANTED MUST BE MADE ON SEPARATE
APPLICATION

STATE OF SOUTH DAKOTA

County of

HUGHES

SS.

Pierre, South Dakota,

JANUARY 19, 1961

This is to certify that the foregoing application was received by the Commission at 9:30 o'clock
a.m. upon the 6TH day of MARCH, 1957.

State Water Resources Commission

By:

for Chief Engineer, Executive Officer

Number of permit

427-3

Date of first receipt of application

MARCH 6, 1957

Date of return to applicant for correction, amendments or changes required as follows:

19

Date of receipt of corrected application

19

Date from which applicant may claim right

MARCH 6

19

Approved

DECEMBER 22, 1960

Recorded in Book

6

Page

178

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before

DOES NOT APPLY, 19

2nd. The whole of said work is to be completed on or before

DOES NOT APPLY, 19

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

DOES NOT APPLY, 19

4th. The water appropriated shall be used for the purpose of

MUNICIPAL USE

5th. 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.

6th. The amount of the appropriation herein granted shall not exceed 23.2 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops by the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before future use by the City of Mitchell, 19; said water to be used during the following described annual period:

CONTINUOUSLY

Witness my hand this

19TH

day of

JANUARY

19

61

State Water Resources Commission

By:

CCO Baines

Chief Engineer, Executive Officer

Certificate of Construction Issued

19

Water License Issued

19

(First Publication before May 31 _____, 1957

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., May 20 _____, 1957

Notice is hereby given that the City of Mitchell _____ whose postoffice address is Mitchell _____ S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to withdraw for future use 60.00 cubic feet of water per second of time from the Firesteel Creek _____ through the Mitchell Water Works _____, the point of diversion or which is to be located on the said stream in the N 1/4 _____ 1/4 of the SE _____ 1/4 of Section 9 _____ Twp. 103 N _____ Range 60 W _____ Said water to be used for the purpose of providing water for municipal use by the City of Mitchell.

and/or _____ water

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 20th day of June _____, 1957 at 2:00 p.m. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Lee Wyborny, Water Right Engineer

cc Mr. E. M. Brady, Manager
The Mitchell Daily Republic
Mitchell, South Dakota

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County Davison } ss.

E. M. Brady being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the The Daily Republic 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 of Mitchell County of Davison and State of South Dakota; that the said notice was published in said newspaper on the following dates:

May 27, 1957
June 3, 1957
June 10, 1957
June 17, 1957
in each and every issue of the full number thereof, the first publication being made on the 27 day of May 1957 and the last publication on the 17 day of June 1957, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was General Manager the printer and publisher of the said newspaper.

E. M. Brady

Subscribed and sworn to before me this 18 day of June A. D. 1957

Leon Hillerstein

Notary Public Davison County, S. D.

APPROPRIATION OF WATER

No. 427-3

Office of State Water Resources Commission,

Pierre, S. Dak., May 20, 1957.

Notice is hereby given that the City of Mitchell whose postoffice address is Mitchell, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to withdraw for future use 60.00 cubic feet of water per second of time from Firesteel Creek through the Mitchell Water Works, the point of diversion of which is to be located on said stream in the NE 1-4 of the SE 1-4 of Section 9 Twp. 103 N Range 60 W. Said water to be used for municipal purposes by the City of Mitchell.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 28th day of June, 1957, at 2:00 p. m. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources

Commission

By: LES WYBORN

Water Right Engineer

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

December 13, 1938

U. S. Engineer Office
819 City National Bank Building
Omaha, Nebraska

Gentlemen:

Re: Missouri River Diversion

On October 27th, 1936, this office submitted a brief outlining our stand regarding the "Missouri River Diversion Project", at a meeting in Devils Lake, North Dakota. Conditions have not materially changed our views on the matter and this brief must necessarily be somewhat of a repetition of what previously submitted.

THE CITY OF MITCHELL, SOUTH DAKOTA

The City of Mitchell with a population of 12,834 is the third largest city in the state and is the trading center of a population of 114,713. The 1933 U. S. Census gave Mitchell's annual wholesale trade volume as \$3,858,000.00, the largest in the state in any city of comparative size. Mitchell is ambitious to obtain industries such as packing plants, canneries, etc., and is well located to obtain such industries when conditions again warrant construction in the vicinity. Such industries will require a large volume of water.

MITCHELL'S WATER SUPPLY

Prior to August, 1930, the City of Mitchell obtained its water supply from deep wells. These wells were drilled into two different strata locally called the upper and lower sandstones. Prior to 1919 all of the city's water was pumped from the lower sandstone and after wells into the upper sandstone were put into service in 1919 about one half of the supply was pumped from the new wells. The well supply was, and still is, extremely hard and

By 1917 had become inadequate as to quantity as well as quality. During 1928 an impounding reservoir, later known as Lake Mitchell, was created by damming the Firesteel Creek immediately north from the City, which filled by the runoff in the spring of 1929. During 1929 and 1930 a water treatment plant was constructed and put into operation August 11th, 1930. From this date until August 26th, 1935, all of the water supply for the city was obtained from Lake Mitchell. At this time it became necessary, due to the low level of Lake Mitchell, to obtain one-third of the water supply from the old wells. On December 20th, 1935, the treatment plant was taken out of operation and the old well water was used entirely until February 9th, 1936. At this time it appeared we would obtain a material runoff into the lake from snow then on the ground and the wells were abandoned and the Lake supply again utilized. The expected run-off failed to materialize and the lake level was raised only twenty-six inches, and it again became necessary to use the wells. During the year 1936, thirty-one and four-tenths per cent of the total pumpage was obtained from the old wells. During the year 1937, fourteen and four-tenths per cent of the total pumpage was obtained from the wells. During the spring of this year lake Mitchell was again filled and the present level is only three feet below the spillway.

Observation and experience has shown that the Firesteel Creek with a drainage shed off 584 square miles and Lake Mitchell, an impounding reservoir of 3,000,000 gallons capacity will supply the city at the average rate of 1,000,000 gallons per day for a period of three years with no inflow into the lake. Observations would indicate that during years of normal run-off this source

of supply could be depended upon for a supply at an average rate of two million gallons per day. At the average rate of increase indicated by figures in the following tabulation, Mitchell should reach the rate of two million gallons per day in 1953.

Water Consumption

<u>Year</u>	<u>Average Daily Water Consumption</u>
1924	511,370 Gallons
1925	580,100 Gallons
1926	639,270 Gallons
1927	684,620 Gallons
1928	709,370 Gallons
1929	686,310 Gallons
1930	729,350 Gallons
1931	918,000 Gallons
1932	886,100 Gallons
1933	920,350 Gallons
1934	988,620 Gallons
1935	983,360 Gallons
1936	1,183,690 Gallons
1937	1,106,850 Gallons

Lake Mitchell is used for sporting and recreational purposes as well as for water supply and the low lake levels we have experienced are extremely undesirable for those purposes. The following tabulation shows the lowest and highest levels reached by the Lake water in reference to the spillway during each year since the Lake was used for water supply:

Lake Level--Feet Below Spillway

<u>Year</u>	<u>Low Level</u>	<u>High Level</u>
1931	6.1	2.2
1932	6.3	0.0
1933	5.0	3.2
1934	11.1	5.0
1935	12.2	9.2
1936	15.2	10.1
1937	12.2	7.3
1938	12.2	0.0

At the time the Lake water supply was conceived the City had excellent opportunity for obtaining a packing plant. Such a plant might easily use as much water as the entire city now does and whenever such a plant is obtained for this city, a more adequate water supply must be found immediately.

There are two logical sources for additional water supply. One source would be the creation of another impounding reservoir in the Firesteel Creek valley upstream from our present reservoir and of at least equal storage capacity. Such a project would cost approximately \$350,000.00 and there is some doubt as to the ability of the drainage area to maintain two such reservoirs as Lake Mitchell.

The other source of increased supply would be the James River. It would be possible to use the flood water of the James River to maintain the level of Lake Mitchell by the construction of a small dam and a pumping station on the James River, directly East along the section line immediately north of the Lake Mitchell Dam, and the construction of a pipe line discharging into the Lake. The James River flood stages usually extend over a thirty day

period during the months of April, March, May and June, there being a few years when extensive flow does not occur. The minimum pumping plant and pipe line would have to be designed to deliver 33,000,000 gallons per day for a thirty day period to fill the Lake Mitchell Reservoir one-third full (1,000,000,000 gallons). The further construction of a pipe line from the Lake line to Filtration Plant would allow the use of James River water either to supplement the Lake Water or as a complete supply. During recent years the low water flow of the James River has been no more reliable than the Firesteel Creek (at the present time both streams are dry) and so can not be depended upon.

The contemplated pumping plant would be equipped with two 10,000 RPM, one 5,000 GPM and two 2,500 GPM motor driven pumps. The three larger pumps would be used in pumping into the lake during periods of heavy flow in the river and the two smaller pumps used at such time as River water was pumped directly to the treatment plant. This plant should be equipped with automatic controls for the two smaller pumps, which could be operated from the Filtration Plant. The pipe line from the pump station at the River to the Lake would be 42" in diameter and the line to the Filter Plant would be 20" in diameter. An estimate of the cost of this project follows:

Dam on James River	\$ 12,000.00
Pump Station	8,000.00
Pumps & Equipment	38,000.00
42" Pipe Line	113,000.00
20" Pipe Line	20,000.00
Engineering & Legal	7,000.00
Miscellaneous Costs	2,000.00
Total Estimated Costs	<u>200,000.00</u>

The foregoing estimate of cost (as well as following estimates of operating costs) is based on power being purchased.

It is quite possible that further study of the river would indicate the feasibility of the pumps being driven by water turbines during flood stages and power being purchased only during the operation of the two smaller pumps.

My estimate of operating costs per days operation while pumping into Lake Mitchell at the maximum rate (25,000 G.P.M or 36,000,000 G.P.D.) would be as follows:

Labor	\$ 15.00
Supplies & Repairs	5.00
Power	36.00
Heat	2.00
Depreciation	27.00
Operating costs per day	<u>\$ 85.00</u>

The costs per thirty day pumping period would estimate at \$2,550.00 and the annual cost would be \$12,200.00 of which amount \$10,000.00 is allowed as depreciation.

SEWAGE DISPOSAL

Mitchell has an activated sludge type of sewage disposal plant built at an original cost of \$128,000.00 plus an additional cost of \$2,500.00 invested in diffused air equipment during the past year. This plant operates to remove ninety per cent of the biochemical oxygen demand of the sewage treated. There has been in the past considerable opportunity for complaints along the James River, which receives the effluent of the plant, for the reason that the sewage constitutes the only flow in the river, several months during the year. The sewage moves very slowly upon reaching the river and deposits any sludge which may carry past the plant in ponds along the river. The following paragraphs are copies from a report under date of October 1, 1937, compiled by John C. Willey, Assistant State Sanitary Engineer:

"The State Board of Health is attempting to survey the streams in South Dakota in an effort to clean up the stream pollution. A fairly thorough survey is being completed on the Big Sioux River as the first major step toward this end. Recently some members of this Department passed through Mitchell and noticed a considerable odor upon crossing the James River over the bridge on U. S. Highway 16. It was thought desirable to make a small sanitary survey of the James River from this point down in order to get some indication of the condition of the river, and if necessary, to warn the City of Mitchell in case conditions were bad, in order that they might be corrected before any nuisance complaints or law suits are filed. This is a report of the survey which was conducted September 22nd and 23rd, 1937.

The following table gives the values of dissolved oxygen obtained during the survey together with the temperature of the water and the per cent saturation with dissolved oxygen:

Station	Dissolved Oxygen PPM	Temp. OC	%Saturation DOo	with
Creek Receiving plant effluent:-				
Treatment Plant Outlet	0.1	22	1.1	
Immediately below outlet	2.1	22	23.3	
0.5 mile below outlet	0	26	0	
1.0 mile below outlet	0	25.5	0	
1.3 miles below outlet	0	25	0	
(At confluence of River)				
James River:-				
At Highway #16 (pond)	12.0	27	11.9	
Ditch fed by springs just below Highway #16	6.3	19	67.4	
0.5 mile below Highway #16 (Water ponded)	17.3	26	211	
300 yards below last station (Immediately above creek confluence)	15.3	30	200	
Immediately below confluence of creek from Sewage Plant	0.6	26	7.3	

0.3 mile below confluence (at R.R. bridge; water ponded)	0	26	0
0.5 mile below confluence	0	20.5	0
0.8 mile below confluence	1.1	24	12.9
1.3 mile below confluence	1.7	23.5	89.5
2.8 mile below confluence	1.9	21	87.8
4.0 mile below confluence	21.4	23	246
5.5 mile below confluence (at Glenwood Park)	32.0	30	418
8.0 mile below confluence	4.1	21	45.7
12.0 miles below confluence	4.4	21	48.9
18.0 miles below confluence (at Rockport)	6.7	21	74.5

There was no flow in the James River above the Highway #16 bridge. Water was ponded in a number of pits and in the old river channel which was changed when the highway fill was placed. Water in the old channel is stagnant, but, due to the growth of green algae, contained well over 100 per cent saturation with dissolved oxygen. Immediately below Highway #16 a ditch fed by springs enters the river and provides the only flow down to the point where the creek from the sewage plant enters. This water was clear and cool and appeared to be in good condition. It contained about 67 per cent saturation with dissolved oxygen.

Below the above point the river is ponded and algae predominates. One sample taken from this pond, which is above the confluence of the creek, showed 211 per cent saturation with dissolved oxygen. In the river immediately above the creek confluence, 15.3 parts per million (ppm) of oxygen was present indicating a saturation of 200 per cent. Immediately below the creek confluence the oxygen content dropped to 0.6 ppm or 7.3 per cent saturation.

Below the creek confluence the river flows fairly rapidly for about 0.3 mile where it becomes ponded again (at the Railroad bridge.) Here the worst condition of all was found. Sludge banks and scum were present and septic action with the accompanying gas

formation and stench prevailed. This condition gradually improved, as the water was stagnant permitting the settling of organic solids, to a point about 1.3 miles below the confluence of the creek. This was the first point below the confluence where an appreciable amount of dissolved oxygen was found, although there were still banks of partially digested sludge down to a point about 2.5 miles below the creek and river confluence.

The river consist of a series of ponds with a very small flow in between for about 5-7 miles below the Railroad bridge. The water was milky in appearance down to the point where dissolved oxygen again returned. Below this point and down to Glenwood Park the water was green with algae giving a great amount of dissolved oxygen (at one point over 400 per cent saturation was noted - due to algae).

The dam at Rockport backs water up at least 10 miles and additional diluting water from creeks and springs materially builds up the river flow. The river appeared to be in very good condition from a point 8 miles below the creek confluence down to the Rockport dam which was the last station visited.

The following conclusions may be drawn based on the hurried survey herein reported:

1. The river was dry above Highway #16 and at the confluence of the creek had a flow equal to about one-tenth the creek flow (from sewage plant).
2. The creek into which the sewage treatment plant effluent is discharged was septic or nearly septic for its entire length and only the fact that it is fast moving prevents the production of a serious nuisance.

3. The river was grossly polluted from the confluence of the creek down a distance of about 1.3 miles. Sludge banks were present from a point of about 100 yards above the creek confluence down to a point of about 2.5 miles below the creek confluence.

4. From a point 2.5 miles below the creek confluence to about 6.0 miles below the creek confluence the water is literally green with algae which may, in part, be due to proper food provided by the plant effluent. This algae brings the dissolved oxygen content up tremendously although when these algae die, the decomposition of the same may deplete the oxygen present.

5. Below the above point the River appears to be in very good condition, down to Rockport."

The treatment of sewage in our plant in excess of ninety per cent of removal of B.O.D. would be very costly and would certainly be unnecessary if there were a sufficient flow in the James River to properly dilute and carry off our plant effluent. At the time of the submission of Mr. Wiley's report our plant was functioning at about eighty per cent removal of B. O. D. and while the river conditions are much better now, there is still considerable nuisance.

VALUE OF JAMES RIVER

The value in "dollars and cents" to the city of Mitchell of a year around flow in the James River is quite difficult to compute, and may only be approximated on the basis of water supply and sewage dilution. The failure of our water supply would result in an increase in insurance rates and the possibility of refusal to insure properties. Such a condition would affect properties to an approximate value of

\$18,000,000.00. A sufficient flow in the James River to insure an adequate water supply would save the City from \$150,000.00 to \$200,000.00 in construction cost upon addition to our water works. An adequate flow in the James River would, if the City were required to increase its sewage treatment, save the City approximately \$3,500.00 per year in Sewage Plant operating costs. Over a period of twenty years the benefits derived as water supply and sewage disposal would approximate \$350,000.00. This figure does not of course include the financial benefits accruing to a city from the obtaining of industries or the greater population incidental thereto.

GENERAL

The benefits of the proposed diversion as a recreational or game conservation measure would affect approximately sixteen Thousand square miles of South Dakota with an approximate population of one hundred thousand persons. The James River was an excellent stream for fishing and boating years ago, and through this diversion project and proper control could be restored as such.

Respectfully submitted,

City Engineer

December 19, 1958

Mr. Stanley Bales
City Engineer
City Hall
Mitchell, South Dakota

Dear Mr. Bales:

This will confirm our recent discussions concerning water rights for municipal water use by the City of Mitchell.

When checking the beneficial use of water by the City under "vested right" Permit and Water License (426-3), it was found that the diversion of 19.5 cubic feet per second of water is much in excess of the capacity of the City's water works which I understand is 3200 gallons per minute. For municipal water rights the maximum capacity of the water works is considered to be the amount of water beneficially developed, exclusive of "future use" withdrawals of water Permits which a city may have acquired. Apparently, the 19.5 cubic feet per second specified in Permit and Water License (426-3) was an error. In order to correct the record, I suggest that the 19.5 c.f.s. be changed to 7.20 c.f.s. in the Permit and Water License. The 7.20 c.f.s. provides full capacity for the present 2-1600 g.p.m. pumps plus evaporation losses in the reservoir. If this is satisfactory please change your copies of the Permit and Water License (426-3) and advise me.

A similar condition to that cited above is associated with the City's application (427-3) for a future use withdrawal Permit. In this application the City requests 60 c.f.s. additional water for future use. The water laws provide that future use withdrawals for municipalities be limited to their "reasonable" needs. The Water Resources Commission is administering the word "reasonable" to be about twice the City's present ability to divert water. Considering the present ability to divert, as proposed for correction under Permit and Water License (426-3), the future use withdrawal Permit should specify 15 c.f.s. instead of the 60 c.f.s. requested. Please advise if the City officials object to this reduction.

426-3, 427-3

2.

Mr. Stanley Bales

December 19, 1958

I believe that the amounts of water requested in both applications were the results of arithmetical errors. They seem obviously out-of-line with requirements. However, if I have overlooked significant factors, the Commission and I will be pleased to consider them.

Sincerely,

J. W. GRIMES
Chief Engineer

JWG:lt

- 1- Cancel 26-3 (12C13-1941 Permit
Duplication of
426-3)
- 2- Issue new water licence
for 426-3 in the amount
of 15 cfs
- 3- Issue "Future Use" Permit 4273
in the amount of 23.2 cfs.

427-3

(30)
Approved
[Signature]

September 17, 1971

Mr. Olaf Jacobson, Manager
Lower James Conservancy Sub-District
Box 344
Mitchell, South Dakota 57301

Dear Olaf:

In checking here in the office on that water right question on Firesteel Creek we discussed over the telephone Tuesday, it appears a definite yes or no answer cannot be given.

At the present time the City of Mitchell has a vested water right, priority date 1927, to divert 15.0 cfs from Lake Mitchell for municipal use. The City also has a future use right for 23.2 cfs with a priority date of December 1960. The City also has a vested right claim for 10,500 acre feet of storage in Lake Mitchell. This generally leaves only the flows spilling over the spillway or those that would spill over the spillway as unappropriated water available for use. In some years, such flows would be significant while in other years no flow would spill over the spillway.

It would appear that if the flood water trapped in the slough or old channel is indeed trapped storage that never reaches Firesteel Creek, it could not be considered as part of the flow of the Creek. On the other hand, any modification made to increase the storage and retain more water would be a diversion and would be subject to downstream prior water rights.

It is suggested that if the landowner wishes to pursue the matter further, he visit with City of Mitchell officials to determine their attitude toward the proposal and see if some type of operational accommodations could be worked out.

For your information it might be noted that the flows of Firesteel Creek at the gaging station 4.5 miles north of Mount Vernon has averaged 26.8 cfs for the past 15 years. During June, July and August it of course quite often goes dry. Also, it might be noted temporary water rights can be issued where a municipal future right lays claim to the same water but a temporary right is then cancelled

Mr. Olaf Jacobson

-2-

September 17, 1971

when the future right is exercised.

I hope this may be of some help to you, but again we can't give a definite yes or no answer. If the landowner would like to contact the staff here in Pierre, we would be happy to discuss the matter further.

Very truly yours,

Vern W. Butler
Planning Engineer

VWB/db

P. S. Enclosed are two copies of the water right forms you requested.

427-3

April 24, 1970

Mr. Olaf Jacobson, Manager
Lower James Conservancy Sub-District
P.O. Box 344
Mitchell, South Dakota 57301

Dear Olaf:

For convenience of classifying information, I am addressing two if not three letters to you at this time, each on a different subject as you will note.

You asked the question, who has the water rights to Firesteel Creek. The answer, according to information at hand, is the City of Mitchell has the right to the water that it takes to fill the Mitchell Reservoir, out of which they obtain their municipal water supply.

Stating it in another way, the water in Lake Mitchell belongs to the City of Mitchell. They are entitled to that additional water out of Firesteel which may be required to fill the lake. You will note from this, that the city then does not have exclusive water rights on Firesteel Creek.

Sincerely,

RAYMOND F. LUND
District Specialist

RFL:lr

**South Dakota Department of
Water & Natural Resources**

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

November 13, 1984

NOTICE

To : Paul Tobin, Mayor, City of Mitchell
From : John Hatch, Chief Engineer, Water Rights Division *John Hatch*
Subject : Review of Future Use Water Permit No. 427-3

The Water Management Board has directed that all future use water permits without a qualification requiring the permit to be reviewed every seven years to be noticed for hearing before the Board. The hearing to review Future Use Permit No. 427-3, City of Mitchell 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, December 5, 1984 at 2:30 pm in the Conference Room 216, Joe Foss Building, Pierre, South Dakota.

The hearing will be to review 1) progress made in development of water reserved by Permit No. 427-3, 2) future plans for development of the reserved water, and 3) if the permit is not cancelled, to amend Permit No. 427-3 to add the seven year review qualification and to add or clarify other qualifications.

Future Use Permit No. 427-3 was approved December 22, 1960 with a priority date of March 6, 1957, for 23.4 cubic feet per second (cfs) from the following area: Firesteel Creek with the following qualifications:

1. 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) Take no action,
- 2) Cancel Permit No. 427-3 for no development and/or no planned future development,
- 3) Continue and amend Permit No. 427-3 with the following qualifications:
 - a) Permit No. 427-3 to appropriate water for future use is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.

b) This permit is approved for surface water from Firesteel Creek.

If continued, at the end of seven years, the permit will again be reviewed and if it is continued, you will be required to pay 10% of the usual fee for an application to use water to keep Permit No. 427-3 in effect. The projected 10% fee in seven years based upon the existing permit CFS will be \$367.50.

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: Kathleen Rudloff, Auditor

S515.wr

December 4, 1984

Water Management Board
South Dakota Dept. of Water
& Natural Resources
523 East Capitol
Pierre, SD 57501-3181

Re: Mitchell Future Rights Permit #427-3

Gentlemen:

The City of Mitchell requests that the Future Water Rights Permit #427-3 be extended.

The City of Mitchell uses Firesteel Creek as its primary water source at the present time. The amount of water from the Firesteel Creek is inadequate to meet our needs now and must be supplemented with water pumped from the James River.

We feel that it is important to continue reserving any possible future water rights on the Firesteel for the City of Mitchell for the following reasons:

1. The City of Mitchell now holds the primary water rights on Firesteel Creek.
2. The City of Mitchell needs to supplement the water received under existing permits to meet our existing needs.
3. The City Council of the City of Mitchell has passed an ordinance authorizing the contract for the furnishing of water to the Davison County Rural Water System, which if built will substantially increase the draw demand from Lake Mitchell.
4. There has been under discussion and study for many years, the building of a siltation dam above Lake Mitchell for the purpose of storing additional water, as well as preserving the existing capacity of Lake Mitchell. Under the city's current water permit on Lake Mitchell, the city is allowed essentially one fill of Lake Mitchell per year from available run-off in the Firesteel Creek. Either the successful accomplishment of the foregoing, or a dredging project to increase the capacity of Lake Mitchell as it exists will require the future permit to store and direct additional quantities of water in Lake Mitchell.

Page -2-

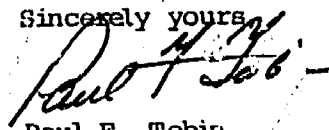
Water Management Board

SD Dept. of Water & Natural Resources
December 4, 1984

5. The City of Mitchell is aggressively seeking industries to supplement our farm economy and if successful, expect additional water usage.

For all of the foregoing reasons, the City of Mitchell is most interested in preserving its Permit #427-3 for future use of water from the Firesteel Creek.

Sincerely yours

A handwritten signature in dark ink, appearing to read "Paul F. Tobin", with a stylized flourish at the end.

Paul F. Tobin
Mayor

PFT:dlk

L

**South Dakota Department of
Water & Natural Resources**

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

Water Rights Division
605 773-3352

December 7, 1984

RE: Future Use Permits
No. 427-3 & 3142-3

Paul Tobin, Mayor
PO Box 278
Mitchell SD 57301

Dear Mayor Tobin:

This letter is in regard to the motion passed by the Water Management Board December 5, 1984 after review of the City of Mitchell's Future Use Permits No. 427-3 and 3142-3. The Board continued Permits No. 427-3 and 3142-3 and amended the permits to add the qualifications on the enclosed Attachments which should be placed with your Permits. Future Use Permits No. 427-3 and 3142-3 will be subject to review after seven years.

Continuance of Permit No. 3142-3 is subject to payment of the required \$227.50 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

ks

enclosures

cc: Kathleen Rudloff, Auditor

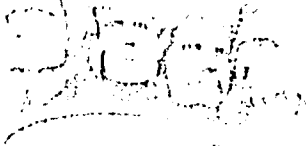
ATTACHMENT "A" TO FUTURE USE PERMIT NO. 427-3

FOR CITY OF MITCHELL

Future Use Permit No. 427-3 was continued by action of the Water Management Board December 5, 1984 and amended to add the following qualifications:

- a) Permit No. 427-3 to appropriate water for future use is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.
- b) This permit is approved for surface water from Firesteel Creek.

South Dakota



GREAT FACES. GREAT PLACES.

427-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 23, 1991

City of Mitchell
Leonard Williams, Mayor
PO Box 278
Mitchell SD 57301-0278

Dear Mr. Williams:

I am writing in regard to the seven year review of Future Use Water Permit No. 427-3 from Firesteel Creek and No. 3142-3 from the Missouri River held by City of Mitchell. Currently, our records show that 23.2 cubic feet of water per second and 10,000 acre-feet remain in reserve under Future Use Permit Nos. 427-3 and 3142-3, respectively.

The permits will be scheduled for review by the Water Management Board on December 4, 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 Nos. 427-3 and 3142-3.

Please respond in writing by October 15, 1991, regarding the City's intention for the future use permits. If the City of Mitchell does plan to retain the permits, then your response should outline a reasonable need for retaining the future use permits, 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

cc: Alan Sherman, Water Superintendent

City of Mitchell

612 NORTH MAIN STREET • P.O. BOX 278 • MITCHELL, SOUTH DAKOTA 57301
(605) 936-6152 • FAX (605) 996 0605

October 8, 1991



427-3

Karen Schlaak, Water Rights Division
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

RE: Mitchell Water Rights
Permits #427-3 and #3142-3

Dear Ms. Schlaak:

This letter serves as the City of Mitchell's intention to protect its Water Permits #427-3 and #3142-3.

Water Permit No. 427-3 from Firesteel Creek:

This permit is on Firesteel Creek which has served as Mitchell's primary water source since 1927. As the uses on the permit state the purposes of Municipal Uses, Fire Protection, and Recreation, the City uses all water on the creek.

Water Permit No. 3142-3:

This future use permit is on the Missouri River near Chamberlain. The City of Mitchell is currently studying all water options for the future including the Missouri River. We are a member of the Lewis and Clark Rural Water System which is studying the Missouri River as a water source.

If you have any questions, please call.

Sincerely,

Tim McGannon, P.E.
Public Works Director

TH/deh-s

South Dakota

GREAT FACES. GREAT PLACES.

October 10, 1991

Tim McGannon, Public Works Director
City of Mitchell
PO Box 278
Mitchell SD 57301

Dear Mr. McGannon:

We have received your letter dated October 8, 1991 requesting that the City of Mitchell's future Use Permit Nos. 427-3 and 3142-3 be retained. As part of our review process, we are requesting that the City provide annual pumping records for the past three years. The pumping information is used to show need and to determine the recommended amount of water to be retained by the future use permits.

If you have any questions regarding the review process, please contact Eric Gronlund of this office. Thank you for your cooperation.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

427-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

427-3

City of Mitchell

612 NORTH MAIN STREET • P.O. BOX 278 • MITCHELL, SOUTH DAKOTA 57301
(605) 996-6152 • FAX (605) 995-0605

October 16, 1991

Karen Schlaak
SD-DENR
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501



RE: Mitchell's Future Use Permits #427-3 & 3142-3

Dear Karen:

As requested, enclosed are the following pumping records for the past 3 years:

1. Monthly documentation of total water use from Lake Mitchell which is a manmade impoundment of Firesteel Creek.
2. Yearly pumping from the James River to Lake Mitchell.

This documentation represents all water pumped, from all sources, for municipal use.

If you have any questions, please call.

Sincerely,

Tim McGannon, P.E.
Public Works Director

TM/deh-s

Enclosures

MONTHLY WATER CONSUMPTION and YEARLY TOTALS

MONTH	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
January	71.828 MG	39.485 MG	38.199 MG	48.296 MG	49.140 MG	50.398 MG	55.866 MG	50.500 MG	50.050 MG	51.070 MG
February	41.850 MG	36.927 MG	43.329 MG	42.072 MG	45.273 MG	45.344 MG	51.892 MG	45.650 MG	44.040 MG	46.660 MG
March	47.180 MG	39.024 MG	43.340 MG	46.999 MG	49.559 MG	49.669 MG	58.665 MG	54.134 MG	50.380 MG	56.030 MG
April	44.893 MG	45.152 MG	43.141 MG	50.542 MG	52.092 MG	48.891 MG	56.926 MG	53.440 MG	52.160 MG	53.100 MG
May	51.774 MG	42.241 MG	63.143 MG	49.372 MG	58.076 MG	58.433 MG	63.555 MG	66.940 MG	79.640 MG	65.236 MG
June	51.801 MG	51.810 MG	79.030 MG	51.570 MG	72.881 MG	79.797 MG	62.980 MG	84.050 MG	55.610 MG	75.250 MG
July	91.941 MG	79.640 MG	78.743 MG	61.235 MG	86.868 MG	105.445 MG	80.280 MG	113.240 MG	96.200 MG	93.460 MG
August	79.302 MG	77.220 MG	59.076 MG	63.716 MG	80.063 MG	87.765 MG	80.230 MG	82.212 MG	99.401 MG	96.070 MG
September	58.004 MG	58.530 MG	52.302 MG	52.360 MG	58.120 MG	65.909 MG	53.890 MG	58.807 MG	66.510 MG	66.700 MG
October	43.256 MG	51.030 MG	46.070 MG	49.774 MG	56.428 MG	65.972 MG	52.209 MG	56.560 MG	56.600 MG	56.606 MG
November	45.464 MG	40.860 MG	46.978 MG	48.991 MG	49.179 MG	76.438 MG	49.160 MG	55.450 MG	48.870 MG	48.450 MG
December	40.748 MG	38.870 MG	48.225 MG	48.536 MG	52.777 MG	57.713 MG	48.980 MG	52.800 MG	48.608 MG	48.260 MG
YEARLY TOTAL	658.140 MG	601.339 MG	606.613 MG	614.063 MG	710.456 MG	791.774 MG	714.633 MG	773.750 MG	748.669 MG	757.592 MG
MONTH	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
January	48.430 MG	51.711 MG	49.280 MG	52.358 MG	49.255 MG	52.542 MG	52.070 MG	52.610 MG	46.560 MG	51.590 MG
February	45.380 MG	46.300 MG	51.980 MG	51.900 MG	44.720 MG	46.200 MG	48.330 MG	45.820 MG	40.975 MG	51.620 MG
March	49.570 MG	51.480 MG	51.760 MG	54.020 MG	51.980 MG	52.300 MG	50.310 MG	50.210 MG	49.890 MG	63.110 MG
April	53.140 MG	53.670 MG	50.820 MG	53.390 MG	51.700 MG	54.835 MG	50.650 MG	44.940 MG	49.609 MG	58.170 MG
May	55.630 MG	72.070 MG	57.350 MG	59.060 MG	67.400 MG	60.330 MG	73.050 MG	51.710 MG	66.210 MG	69.430 MG
June	61.110 MG	80.740 MG	74.430 MG	63.360 MG	97.520 MG	74.300 MG	69.680 MG	70.050 MG	71.977 MG	86.050 MG
July	73.910 MG	112.510 MG	76.160 MG	84.451 MG	105.080 MG	131.920 MG	115.670 MG	68.460 MG	102.040 MG	89.350 MG
August	92.380 MG	103.850 MG	99.760 MG	100.500 MG	117.575 MG	102.400 MG	75.476 MG	66.330 MG	70.410 MG	86.210 MG
September	60.440 MG	76.870 MG	72.330 MG	72.369 MG	60.190 MG	79.940 MG	62.640 MG	57.780 MG	55.600 MG	68.610 MG
October	50.010 MG	60.900 MG	64.735 MG	56.870 MG	54.340 MG	64.210 MG	58.830 MG	52.765 MG	54.630 MG	59.240 MG
November	44.840 MG	46.230 MG	49.416 MG	50.220 MG	49.220 MG	51.390 MG	49.670 MG	44.860 MG	50.010 MG	50.162 MG
December	47.910 MG	48.440 MG	51.730 MG	50.910 MG	48.070 MG	52.790 MG	52.080 MG	43.240 MG	52.030 MG	55.834 MG
	685.259 MG	809.741 MG	749.201 MG	750.008 MG	797.050 MG	823.757 MG	758.456 MG	653.805 MG	710.839 MG	787.436 MG

SERVICE & PARTS

SEWER WATER JETS
RODDER MACHINES
CABLE MACHINES
HIGH PRESSURE
CLEANERS



CHLORINATORS
METERING PUMP
PRESSURE REDUCING
VALVES
ALTITUDE VALVES

P. O. Box M

917 Fourth St.
Garretson, SD 57030

(605) 594-6175

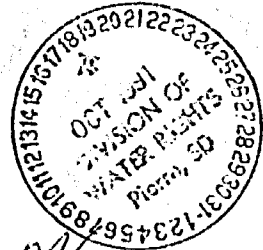
DICK'S REPAIR SERVICE
DICK BARKER

James River Pumping

1988- None

1989- None

1990- 746.1 MG



"I AM HERE TO HELP YOU - 24 HOURS A DAY - 7 DAYS A WEEK"

MONTHLY WATER CONSUMPTION and YEARLY TOTALS

MONTH	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
January	53.486 MG	43.070 MG	42.429 MG	48.576 MG	51.463 MG	57.442 MG	45.657 MG	45.183 MG	50.426 MG	50.100 MG
February	50.180 MG	41.070 MG	39.254 MG	45.115 MG	45.454 MG	52.029 MG	39.816 MG	52.261 MG	52.110 MG	54.202 MG
March	54.081 MG	45.445 MG	46.269 MG	50.227 MG	48.710 MG	54.510 MG	48.644 MG	45.014 MG	55.233 MG	57.103 MG
April	47.310 MG	57.077 MG	48.865 MG	52.127 MG	49.274 MG	56.019 MG	46.932 MG	44.610 MG	62.948 MG	60.354 MG
May	58.510 MG	76.931 MG	67.931 MG	58.622 MG	60.453 MG	65.025 MG	56.703 MG	49.720 MG	20.448 MG	72.117 MG
June	66.080 MG	77.666 MG	79.249 MG	65.164 MG	76.087 MG	60.702 MG	66.420 MG	54.255 MG	118.028 MG	120.156 MG
July	83.780 MG	113.226 MG	91.673 MG	85.817 MG	80.258 MG	103.724 MG	93.999 MG	94.329 MG	103.020 MG	134.675 MG
August	68.660 MG	71.258 MG	69.256 MG	101.513 MG	107.578 MG	93.974 MG	65.404 MG	73.170 MG	93.337 MG	114.437 MG
September	68.934 MG	66.493 MG	62.248 MG	72.727 MG	79.481 MG	75.522 MG	49.222 MG	54.763 MG	73.619 MG	70.693 MG
October	59.208 MG	55.841 MG	53.081 MG	61.508 MG	61.611 MG	60.527 MG	49.056 MG	51.596 MG	63.537 MG	63.127 MG
November	44.260 MG	39.649 MG	50.224 MG	60.644 MG	51.724 MG	52.297 MG	43.516 MG	46.573 MG	51.516 MG	53.224 MG
December	43.941 MG	38.732 MG	47.604 MG	48.553 MG	47.695 MG	52.979 MG	44.352 MG	46.129 MG	56.244 MG	57.943 MG
YEARLY TOTAL	698.430 MG	726.458 MG	698.033 MG	750.593 MG	759.788 MG	784.901 MG	643.721 MG	645.131 MG	870.238 MG	937.576 MG
MONTH	1989	1990	1991	1992	1993	1994	1995	1996	1998	1999
January	56.216 MG	54.660 MG								
February	50.715 MG	49.979 MG								
March	57.664 MG	54.731 MG								
April	67.080 MG	65.960 MG								
May	89.215 MG	65.993 MG								
June	121.043 MG	77.407 MG								
July	122.508 MG	99.368 MG								
August	110.381 MG	104.845 MG								
September	74.663 MG	93.805 MG								
October	68.256 MG	64.053 MG								
November	52.998 MG	54.620 MG								
December	55.778 MG	53.852 MG								
	926.517 MG	839.273 MG								



427-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 23, 1991

Tim McGannon, Public Works Director
City of Mitchell
612 North Main Street
PO Box 278
Mitchell, SD 57301

Dear Mr. McGannon:

I am writing in regard to the seven year review of Future Use Water Permit Nos. 427-3 and 3142-3 from Firesteel Creek and the Missouri River which are held by the City of Mitchell. We have received your October 9, 1991 letter requesting the retention of these permits. A copy of the draft recommendations are enclosed for your review.

As a part of reviewing future use permits, we have converted existing future use permits from cubic feet of water per second (diversion rate) to acre-feet annually (volume). This policy is to increase the city's flexibility when placing reserved water to beneficial use. We have estimated pumping 60% of the time on an annual basis to convert from a diversion rate to annual acre-feet. In addition, in cases where the 60% converted figure is greater than double the maximum annual water usage submitted by the city, our recommendation reflects Administrative Rule of South Dakota 74:02:01:24.01. This rule states that future use permits may be limited to two times the amount actually put to beneficial use.

If you feel the recommended amount to remain in reserve does not adequately meet your communities future development needs, please provide this office with additional justification for a greater amount. These draft recommendations are being sent to provide you an opportunity to comment on the review of the city's future use permit prior to publishing the notice of hearing.

I would appreciate hearing your comments regarding the draft recommendations at your earliest convenience. If I do not receive your comments by January 15, 1992, I will schedule the publication of the notice of hearing with the recommendations as enclosed so that the review of these permits can take place at the March 4 & 5, 1992 Water Management Board meeting.

Please feel free to contact me if you have any questions.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Division
605 775-3352

enclosure

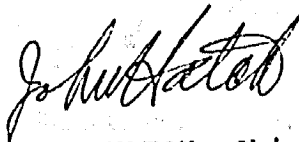
RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 427-3, CITY OF MITCHELL

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Future Use Water Permit No. 427-3, City of Mitchell.

The Chief Engineer is recommending that Future Use Permit No. 427-3 REMAIN in EFFECT because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 427-3, 2) the City of Mitchell has demonstrated a reasonable need for the water reserved by Permit No. 427-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest with the following qualification:

That Permit No. 427-3 reserves for future use 5,756 acre-feet annually. The diversion rate of 25 cfs and the withdrawal limitation of 23.2 cfs are deleted from Permit No. 427-3.

And that maintaining the effectiveness of Future Use Permit No. 427-3 is subject to payment of the \$137.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of Mitchell.



JOHN HATCH, Chief Engineer
January 23, 1992

NOTE:

The maximum annual acre-feet of full-time pumping represented by 23.2 cubic feet of water per second (cfs) reserved by No. 427-3 is 16,797 acre-feet. Assuming that the total amount pumped annually would equal 60% of 16,797 acre-feet, then expected developed pumping of water reserved under Permit No. 427-3 would be about 10,079 acre-feet per year.

The maximum annual water usage in 1988 by the City of Mitchell was 2,878 acre-feet. Doubling this annual use (5,756 acre-feet) to estimate the volume that may be reserved is less than that expected to be developed by pumping 60% of 23.2 cfs (10,079 acre-feet) under Permit No. 427-3. Board General Rules 74:02:01:24.01 states that future use permits may be limited to two times the amount actually put to beneficial use. Therefore, Permit No. 427-3 should be allowed to remain in effect for 5,756 acre-feet as outlined in the above qualifications.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 1992

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

Tim McGannon, Public Works Director
City of Mitchell
PO Box 278
Mitchell SD 57301

Dear Mr. McGannon:

Future Use Permit Nos. 427-3 and 3142-3 will be reviewed for progress in the development and future plans for use of the water reserved. Notice has been sent to the following papers: The Daily Republic-Mitchell, Chamberlain Register-Chamberlain, South Dakota Mail-Plankinton and the True Dakotan-Wessington Springs. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPERS 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 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
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 1992

Chamberlain Register
Box 28
Chamberlain SD 57325

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 to be published twice. Please publish the first notice on February 5, 1992 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 Mitchell, PO Box 278, Mitchell SD 57301.

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 publication 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 publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

No. _____

TO: Water Rights Division
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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 1992

The Daily Republic
PO Box 1288
Mitchell SD 57301

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 to be published twice. Please publish the first notice on February 5, 1992 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 Mitchell, PO Box 278, Mitchell SD 57301.

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 publication 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 publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application 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
No. _____

TO: Water Rights Division
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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 1992

South Dakota Mail
Box 367
Plankinton SD 57368

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 to be published twice. Please publish the first notice on February 6 1992 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 Mitchell, PO Box 278, Mitchell SD 57301.

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 publication 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.

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

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 _____



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 1992

True Dakotan
Box T
Wessington Springs SD 57382

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 to be published twice. Please publish the first notice on February 4, 1992 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 Mitchell, PO Box 278, Mitchell SD 57301.

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 publication 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 publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE
No. _____

TO: Water Rights Division
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 February 4, 1992 with 2nd publication 1 week later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 427-3 and 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by City of Mitchell, PO Box 278, Mitchell SD 57301 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by the Permits.

Permit No. 427-3 was approved December 22, 1960 to reserve 23.2 cfs from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal purposes.

Permit No. 3142-3 was approved November 17, 1976 to reserve 10,000 acre feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W and in the NE 1/4 Section 16-T106N-R71W to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 427-3 REMAIN in EFFECT for 5,756 acre-feet annually and Permit No. 3142-3 REMAIN in EFFECT for 5,756 acre feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD on March 4, 1992 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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 Nos. 427-3 and 3142-3 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 recommendations, further information on the permits 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 Permits. The request for a delay must be filed with the Chief Engineer by February 21, 1992



February 19, 1992

The Daily Republic
PO Box 1288
Mitchell SD 57301

Dear Sir:

Enclosed is the bill and an extra copy of the Notice of Hearing which ran in your paper on February 5 & 12. As stated in our January 27, 1992 letter to you, the cost of the publication is to be paid by the City of Mitchell, PO Box 278, Mitchell SD.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

427-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3101

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County Bureau) ss.

Edward Van Landuyt, Bookkeeper

certify that the attached printed Notice
 from the South Dakota Mail

A newspaper which during the whole time
 said notice herein after stated, has been as
 published in the South Dakota Mail

of Blanchette
 County of Bureau and State of
 that the said notice was published in said newspaper
 following two dates:

February 6, 1992
February 13, 1992

Edward Van Landuyt
 (Signature)

Bookkeeper
 (Title)

February 13, 1992
 (Date Signed)

Cost of Printing: 56.54

**NOTICE OF HEARING
 TO REVIEW FUTURE USE
 WATER PERMIT NOS. 427-3
 and 3142-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by City of Mitchell, PO Box 278, Mitchell, SD 57301 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by the Permits.

Permit No. 427-3 was approved December 22, 1960 to reserve 23.2 cfs from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal purposes.

Permit No. 3142-3 was approved November 17, 1976 to reserve 10,000 acre feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W and in the NE 1/4 Section 16-T106N-R71W to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No 427-3 REMAIN in EFFECT for 5,756 acre-feet annually and Permit No. 3142-3 REMAIN in EFFECT for 5,756 acre feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use, and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD on March 4, 1992 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 permits, the reasons for the petitioner's opposition to or support of continuing the future use permits,

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Brule) ss.

I, Rod Hays
certify that the attached printed Notice was taken
from the Chamberlain Register

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

Town of Chamberlain
County of Brule and St
that the said notice was published in s:
following two dates:

Feb. 6, 1992

Feb. 13, 1992

Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits 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 permits. The request for a delay must be filed with the Chief Engineer by February 21, 1992.

(Fco. 6-Feb. 13)

Patricia L. Hays
(Signature)

(Title)



(Date Signed)
Notary Public
My Commission
expires Oct. 1, 1999

Cost of Printing: 49.37

NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT
NOS. 427-3 and 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by City of Mitchell, P.O. Box 278, Mitchell SD 57301 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by the Permits.

Permit No. 427-3 was approved December 22, 1960 to reserve 23.2 cfs from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal purposes.

Permit No. 3142-3 was approved November 17, 1976, to reserve 10,000 acre feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W and in the NE 1/4 Section 16-T106N-R71W to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 427-3 REMAIN in EFFECT for 5,756 acre-feet annually and Permit No. 3142-3 REMAIN in EFFECT for 5,756 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future use Permit Nos. 427-3 and 3142-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD on March 4, 1992 at 10:00 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 permits to remain in effect, 2) amend the permits by adding qualification, 3) cancel the permits 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 petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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 Nos. 427-3 and 3142-3 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.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Jerome) ss.



I, Karen Wenzel
certify that the attached printed Notice was taken
from the True Dakotan

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

113 E. Main of Wessington Springs

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

February 4, 1992

February 11, 1992

Karen Wenzel
(Signature)

Bus. Mgr.
(Title)

2/13/92
(Date Signed)

Cost of Printing: \$70.18

NOTICE OF HEARING

TO REVIEW FUTURE USE WATER PERMIT NOS. 427-3 AND 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by City of Mitchell, PO Box 278, Mitchell SD 57301 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by the Permits.

Permit No. 427-3 was approved December 22, 1960 to reserve 23.2 cfs from Fisset Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal purposes.

Permit No. 3142-3 was approved November 17, 1976 to reserve 10,000 acre feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W and in the NE 1/4 Section 16-T106N-R71W to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 427-3 REMAIN in EFFECT for 5,756 acre-feet annually and Permit No. 3142-3 REMAIN in EFFECT for 5,756 acre feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre SD on March 4, 1992 at 10:00 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 persons 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 petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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 Nos. 427-3 and 3142-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03; and contested case procedures contained in SDCL 1-26.

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Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits 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 Permits. The request for a delay must be filed with the Chief Engineer by February 21, 1992.

2-15-15

Affidavit of Publication

NOTICE OF HEARING
TO REVIEW FUTURE
USE WATER PERMIT
NOS. 427-3 and 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by City of Mitchell, PO Box 278, Mitchell SD 57301 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by the Permits.

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Permit No. 3142 was approved November 17, 1976 to reserve 10,000 acre feet of water from the Missouri River between points 1) the SW 1/4 Section 30-T10N-R71W and in the NE 1/4 Section 16-T10N-R71W to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 427-3 REMAIN IN EFFECT for 5,756 acre-feet annually and Permit No. 3142-3 REMAIN IN EFFECT for 5,756 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at the Floyd Mathew Training Center, Joe Foss Building, 523 E. Capitol, Pierre SD on March 4, 1992 at 10:00 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 petitioner's interest in the future use permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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 Nos. 427-3 and 3142-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-5-38, 1) Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03, and contested case procedures contained in SDCL 1-26.

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Any person wishing a copy of the Chief Engineer's recommendations, further information on the permits or to assure access to the hearing by the hand-scapped 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 Permits. The request for a delay must be filed with the Chief Engineer by February 21, 1992.

AFFIDAVIT OF PUBLICATION



AKOTA)
OF DAVISON)

I, D Shields of said county being first duly sworn, says that he is the publisher of The Daily Republic and that The Daily Republic is, and during all times hereinafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2, as amended, published at Mitchell, Davison County, South Dakota; that affiant during all of said times was, an employee of such newspaper and has personal knowledge of the facts stated in said affidavit; that the notice, order or advertisement, a copy of which is attached, was published in said newspaper for 2 successive issues, bearing the following dates:

February 5	, 19 92 ;		, 19
February 12	, 19 92 ;		, 19
	, 19		, 19
	, 19		, 19

that the full amount of the fee charged for publishing the same, to-wit, the sum of \$ 126.82, insures solely to the benefit of the publisher of said newspaper; that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Subscribed and sworn to before me this 18 day of February A.B., 19 92

[Signature]
Notary Public

County of Davison, S.D.

AMENDMENT TO FUTURE USE PERMIT NO. 427-3

CITY OF MITCHELL

Pursuant to the March 4, 1992 Water Management Board hearing, Future Use Permit No. 427-3 was allowed to remain in effect and amended by adding the following qualification:

That Permit No. 427-3 reserves for future use 5,756 acre-feet annually. The diversion rate of 25 cfs and the withdrawal limitation of 23.2 cfs are deleted from Permit No. 427-3.



March 9, 1992

NOTICE

Tim McGannon, Public Works Director
City of Mitchell
PO Box 278
Mitchell SD 57301

Dear Mr. McGannon:

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 Nos. 427-3 and 3142-3. The Board allowed the permits to remain in effect and amended the Permits by adding the qualification on the enclosed "Amendment". The "Amendment" should be placed with each permit. Future Use Permit Nos. 427-3 and 3142-3 are again subject to review in seven years.

The fee for maintaining the effectiveness of Future Use Permit Nos. 427-3 and 3142-3 is \$137.50 for each permit (\$275.00 total) 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,

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

enclosures

427-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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 Nos. 427-3 and 3142-3 addressed to:

Tim McGannon, Public Works Director, City of Mitchell, PO Box 278,
Mitchell, SD 57301

Jaci R Komop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

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

John Hatch
Notary Public



RECEIPT

Division of Water Rights
South Dakota Department of Water and Natural Resources

413168

Pierre, April 8, 19 92

RECEIVED OF City of Mitchell, Mitchell, SD 57301

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 _____

Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____

Fee to retain Future Use Permit No. 427-3 after period of seven years.

137 50

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

137 50

By

Chief Engineer

John H. L. [Signature]



427-3
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

Tim McCannon, Public Works Director
City of Mitchell
PO Box 278
Mitchell SD 57301-0278

Dear Mr. Wallace:

I am writing in regard to the seven year review of Future Use Water Permit Nos. 427-3 and 3142-3 held by the City of Mitchell. By law, all future use permits are to be reviewed by the Water Management Board every seven years. These permits reserve water for future water supply needs for the city. Currently, our records show that 5,756 acre-feet of water from Firesteel Creek remain in reserve under Permit No. 427-3 and 5,756 acre-feet of water from the Missouri River remain in reserve under Permit No. 3142-3. Both permits were last reviewed in 1992.

Please respond in writing by January 15, 1999, regarding the city's intention for the future use permits. If the city plans to retain the permits, then the response should outline a reasonable need for retaining the future use permits, including an estimate of future needs and any annual pumping records for the past three years.

Permit Nos. 427-3 and 3142-3 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 permits. A fee will be charged if the Board allows the permits 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 Mitchell

612 NORTH MAIN STREET • P.O. BOX 278 • MITCHELL, SOUTH DAKOTA 57301 • (605) 995-8420 • FAX (605) 995-8410
ENGINEER (605) 995-8435 • WATER (605) 995-8449 • STREET (605) 995-8465 • WASTE WATER (605) 995-8446
PUBLIC WORKS/PLANNING/ZONING/INSPECTOR (605) 995-8433

November 25, 1998

Karen Schlaak
Water Rights Program
SD Dept. Of Environment & Natural Resources
Joe Foss Bld
523 E. Capitol
Pierre, SD 57501-3181



RE: Permit Nos. 427-3 and 3142-3

Dear Karen:

With regards to permit #427-3 showing 5756 acre-feet of water for Firesteel Creek: The City of Mitchell currently uses Firesteel Creek through an impoundment called Lake Mitchell for its water supply. The waters of Lake Mitchell are and have been since 1928 used for drinking water purposes for the City of Mitchell.

With regards to permit #3142-3: The City of Mitchell is continuing exploring options to bring Missouri Water to Mitchell. Currently we are working B-Y Rural Water System to bring an estimated 3 million gallons per day to Mitchell.

Please maintain both permits for the City of Mitchell.

If you have any questions, please call.

Very Truly Yours,

Tim McGannon, P.E.
Public Works Director

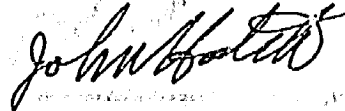
scl

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 427-3, City of Mitchell 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. 427-3, City of Mitchell, PO Box 278, Mitchell SD 57301-0278.

The Chief Engineer is recommending that Future Use Permit No. 427-3 REMAIN in EFFECT for 5,756 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 427-3, 2) the City has demonstrated a reasonable need for the water reserved by Permit No. 427-3, 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. 427-3 is subject to payment of the \$137.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of Mitchell after the Board hearing.



JOHN HATCH, Chief Engineer
January 21, 1999

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Brule) SS

I, Mark Nesladek

certify that the attached printed Notice was taken

from the Chamberlain Occurra

Register

printed and published in Chamberlain

County of Brule and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

January 28, 1999

February 4, 1999

Cost of Printing 61.42

Maria Grube
(Signature)

Publisher
(Title)

February 4, 1999
(Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE OF WATER PERMIT

NOS 427-3 and 3142-3

NOTICE IS GIVEN that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by the City of Mitchell, PO Box 278, Mitchell, South Dakota 57301 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by the permits.

Permit No. 427-3 was approved December 22, 1960, and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal purposes.

Permit No. 3142-3 was approved November 17, 1976, and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 10-30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Buffalo County) to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3142-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota on March 3, 1999 at 10 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon fact 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 to 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, South Dakota 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 reason 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.

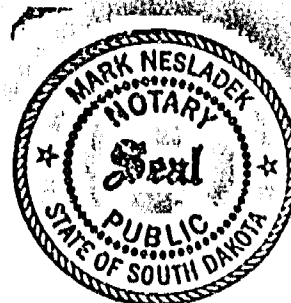


The hearing to review Future Use Permit Nos. 427-3 and 3142-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-14, 46-5-38.1; Board Rules 1 ARS 74:02:01:25.01 thru 74:02:01:25.03 a contested case procedures contained SDCL 1-26.

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 recommendations, further information on these permits, to a sure access to the hearing by the hand capped or obtain an interpreter for the hearing, impaired, may contact Er. Groslund, 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 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 (Jan. 28, Feb. 4, 1999)

Notary Public
My Commission Expires
June 2, 2005



STATE OF)
SOUTH DAKOTA)
COUNTY OF DAVISON)

January 28, 1979

February 4, 1999

19

_____ 19

_____, 19

. 19

Walter A. R. Smith

Subscribed and sworn to before me this
4 day of February A.B., 1999.

Kathy Hazima.

Notary Public

County of Hanson, S.D.

My Commission Expires: 10.8.2003



Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by the City of Mitchell, PO Box 278, Mitchell SD 57301 for progress made in the development of the water reserved by the Permits and future plans for development of the water from these Permits.

Permit No. 11242-3 was approved November 17, 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Brule County) for municipal purposes.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Flr 5D on March 3, 1999 at 10:00 am.

The hearing to review Future Use Permit Nos. 427-3 and 3142-3 will be conducted pursuant to the provisions of SDCI 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 SDCI 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 recommendations, further information on these permits, 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 Permits. 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.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)

COUNTY OF AURORA)

J.P. Studeny, Jr.

of said County and State, being first duly sworn, on his/her oath says:

THE SOUTH DAKOTA MAIL is a weekly newspaper of general circulation, printed and published in Plankinton, in Aurora County and State of South Dakota by John Paul Studeny, Jr. and Gayle A. Van Genderen and has been such newspaper during the times hereinafter mentioned; that the said newspaper is a legal newspaper, that it has a bonafide circulation of more than 200 copies weekly, that it has been published within said county of Aurora in the English language for more than fifty-two successive weeks next prior to the publication of the notice hereinafter mentioned, and has been printed during said period and at the present time, in whole or in part in an office maintained at the said place of publication; and that I, the undersigned, am

Publisher

of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts in this affidavit; that the advertisement headed

Notice of Hearing to Review the Future Use
of Water Permit Nos. 427-3 and 3142-3

a printed copy of which is hereto attached, was printed and published in the said newspaper for two weeks; that said notice was published in the issues of said newspaper on the dates as follows, to-wit:

The first publication being made on Jan. 23, 19 91;

the second publication on Feb 4, 19 99;

the third publication on _____, 19 _____;

the fourth publication on _____, 19 _____;

and subsequent publications on _____, 19 _____;

that \$ 72.35 the full amount of the fee charged for publication of the annexed notice, insures solely to the benefit of the publishers of the said newspaper; that no arrangement or understanding for a division thereof has been made with any person, and that no part thereof has been agreed to be paid to be any person whomsoever.

subscribed and sworn to before me this 17th

day of February, 19 99

Notary Public, Flora County

My Commission Expires 10.22.99

Notice of Hearing to Review the Future Use of Water Permit Nos. 427-3 and 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by the City of Mitchell, PO Box 278, Mitchell, SD 57301 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permits.

Permit No. 427-3 was approved December 23, 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9 T103N R60W to be used for municipal purposes.

Permit No. 3142-3 was approved November 17, 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 30 T104N R71W (Brule County) and in the NE 1/4 Section 16 T106N R71W (Buffalo County) to be used for municipal purposes.

Pursuant to SDCL 42A-3 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3142-3 each REMAIN in EFFECT FOR 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD on March 3, 1999 at 10:00 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 (605-773-3353) 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 signatures 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 Nos. 427-3 and 3142-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-9, 46-2-9, 46-2-11, 46-2-38.1; Board Rules, ARSD 74:02:01:25.01 thru 74:02:01:25.05 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 recommendations, further information on these permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3353) 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 Permits. 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.

21c. F-4



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

Chamberlain Register
Box 550
Chamberlain SD 57325-0550

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 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 Mitchell, PO Box 278, Mitchell SD 57301.

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 January 21, 1999 enclosing Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 which was first published in our issue of _____.
ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



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

South Dakota Mail
Box 367
Plankinton SD 57368-0367

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 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 Mitchell, PO Box 278, Mitchell SD 57301.

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 January 21, 1999 enclosing Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 which was first published in our issue of _____.
ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



January 21, 1999

The Daily Republic
PO Box 1288
Mitchell SD 57301-1288

Dear Sir:

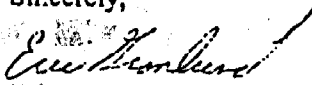
Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 to be published twice. Please publish the first notice on January 28, 1999 with the second publication 7 days later.

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 Mitchell, PO Box 278, Mitchell SD 57301.

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 January 21, 1999 enclosing Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 which was first published in our issue of _____
ENCLOSED IS A COPY OF THIS FIRST PUB

Name _____

Newspaper _____



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS, DIRECTOR
623 EAST
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us

January 21, 1999

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

Tim McGannon, Public Works Director
City of Mitchell
PO Box 278
Mitchell SD 57301

Dear Mr. McGannon:

Future Use Permit Nos. 427-3 and 3142-3 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 following papers:

The Daily Republic, Mitchell SD 605 969-5514 ✓ ✓

Chamberlain Register, Chamberlain SD 605 734-6360 ✓ ✓

South Dakota Mail, Plankinton SD 605 942-7770 ✓ ✓

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 NEWSPAPERS IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish 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

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 recommendations, further information on these permits, 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 Permits. 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.

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

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 427-3 and 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by the City of Mitchell, PO Box 278, Mitchell, SD 57301 for progress made in the development of the water reserved by the Permits and future plans for development of the water reserved by Permits.

Permit No. 427-3 was approved December 22, 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9-T103N-R60W to be used for municipal purposes.

Permit No. 3142-3 was approved November 17, 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW $\frac{1}{4}$ Section 30-T104N-R71W (Brule County) and in the NE $\frac{1}{4}$ Section 16-T106N-R71W (Buffalo County) to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3142-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 Nos. 427-3 and 3142-3 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.

(continued)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 5, 1999

NOTICE

Tim McGannon, Public Works Director
City of Mitchell
PO Box 278
Mitchell SD 57301

Dear Mr. McGannon:

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 Nos. 427-3 and 3142-3. The Board allowed each permit to remain in effect for 5,756 acre-feet of water annually. Future Use Permit Nos. 427-3 and 3142-3 are subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit Nos. 427-3 and 3142-3 is \$137.50 each (\$275.00 total) 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, Director 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.

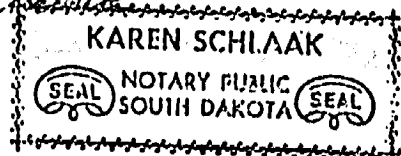

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

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


Notary Public

KAREN SCHLAACK, Notary Public
My Commission Expires
April 2000





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 13, 1999

Tim McCannon, Public Works Director
City of Mitchell
PO Box 278
Mitchell SD 57301-0278

Dear Mr. McCannon:

On March 5, 1999 we requested the fee for maintaining the effectiveness of Future Use Permit Nos. 427-3 and 3142-3. To date, we have not received this payment.

Please submit the \$275.00 fee (\$137.50 for each permit) as soon as possible to avoid jeopardizing the City's future use permits. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352

Frost, Cheryl

F.U. 427-3

From: Verhelst, Sandy
Sent: Tuesday, June 08, 1999 11:51 AM
To: Frost, Cheryl
Subject: RE:

I deposited \$275.00 from the City of Mitchell 6/7/1999 C2099156 in Water Rights Fee Funds.

\$ 137.50 for F.U. 427-3 and
\$ 137.50 for F.U. 3142-3



427-3

**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

Tim McGannon, Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. McGannon:

I am writing in regard to the seven year review of Future Use Water Permit No. 427-3 (from Firesteel Creek) and No. 3142-3 (from Missouri River) which are held by the City of Mitchell. 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 permits reserve water for future water supply needs for the city. Currently, our records show that 5,765 acre-feet remain in reserve under each of these future use permits which were last reviewed in 1999.

Please respond in writing by January 31, 2006, regarding the city's intention for the future use permits. If the city plans to retain the permits, then the response should outline a reasonable need for retaining the future use permits, including an estimate of future needs.

Permit Nos. 427-3 and 3142-3 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 the review is to determine if a reasonable need exists for retaining the permits. A fee will be charged if the Board allows the permits 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

Schlaak, Karen

From: Tim McGannon [tmcgannon.cityofmitchell@midconetwork.com]
Sent: Thursday, February 02, 2006 10:54 AM
To: Schlaak, Karen
Subject: Future Use Water Permit No. 427-3

Dear Karen:

I just noticed that I missed your deadline for written response to the seven year review of Future Use Water Permits nos. 427-3 (Firesteel Creek) and 3142-3 (Missouri River).

By the DENR's grace, I hope my comments will be taken into consideration even though I am a couple days late.

The City of Mitchell wishes to retain Future Use Water Permit No. 427-3 (Firesteel Creek). As the Department is aware, the City of Mitchell constructed Lake Mitchell Dam and Spillway in 1928 to hold water for Domestic Use. Since that time, Lake Mitchell has become a well used recreation water. Activities include fishing, full contact recreation as well as Domestic Water Supply.

While the City of Mitchell has invested millions of dollars to obtain Missoure River Water from Lewis and Clark Lake, we are all aware of the looming problem of sedimentation in the Main Stem Dams of the Missouri River. Without Millions of dollars of work (some say Billions), Lewis and Clark Lake appears to be doomed by siltation over the next 50-75 years.

Therefore, Mitchell's future water right to Firesteel Creek is important to our region.

Thank you for your consideration.

Tim McGannon, P.E.
Director of Public Works
City of Mitchell
612 N. Main
Mitchell, SD 57301
(605) 995-8433

2/2/2006



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 427-3, City of Mitchell 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. 427-3, City of Mitchell, 612 N Main St, Mitchell SD 57301.

The Chief Engineer is recommending that Future Use Permit No. 427-3 REMAIN in EFFECT for 5,765 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 427-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 427-3, 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. 427-3 is subject to payment of the \$137.50 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

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

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 427-3 and 3124-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3124-3 held by the City of Mitchell, 612 N Main St, Mitchell SD 57301 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits.

Permit No. 427-3 was approved 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE ¼ SE ¼ Section 9-T103N-R60W to be used for municipal use.

Permit No. 3124-3 was approved 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW ¼ Section 30-T104N-R71 W (Brule County) and in the NE ¼ Section 16-T106N-R71 W (Buffalo County) to be used for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3124-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3124-3 at 10:00 am, May 3, 2006 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendations of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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. 427-3 and 3124-3 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.

These hearings 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.

(continued)

Any person wishing a copy of the Chief Engineer's recommendations, 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 Permits. 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.

**NOTICE OF HEARING
TO REVIEW FUTURE
USE WATER PERMIT
NOS. 427-3 and 3124-3**

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3124-3 held by the City of Mitchell, 612 N Main St, Mitchell SD 57301 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved by the permits.

Permit No. 427-3 was approved 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal use.

Permit No. 3124-3 was approved 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between point in the SW 1/4 Section 30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Buffalo County) to be used for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3124-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3124-3 at 10:00 am, May 3, 2006 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendations of the Chief Engineer are not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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. 427-3 and 3124-3 will be conducted pursuant to the provisions of SDCL 46-1-4, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules WRS 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

These 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 recommendations, 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 Permits. 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.

AFFIDAVIT OF PUBLICATION

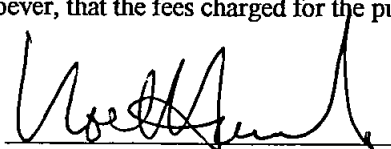
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

Noel Hamiel of said county, being, first duly sworn, on oath, says; that he is the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 2 issues(s), to wit:

March 29, 2006

April 5, 2006

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the fees charged for the publication thereof are: \$180.48

Signed: 

Subscribed and sworn to before me this 10 day of April, 2006

Notary Public

County of Nelson

My Commission Expires: 10.8.2009

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515

RECEIVED
APR 12 2006
WATER RIGHTS
PROGRAM



March 20, 2006

The Daily Republic
PO Box 1288
Mitchell SD 57301-1288

Dear Sir:

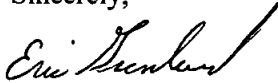
Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 to be published twice. Please publish the first notice on March 29, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352.

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 Mitchell, 612 N Main St, Mitchell SD 57301.

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 Nos. 427-3 and 3142-3 which was first published in our issue of _____.
ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 20, 2006

Central Dakota Times
PO Box 125
Chamberlain SD 57325-0125

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3142-3 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 Mitchell, 612 N Main St, Mitchell SD 57301.

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 Nos. 427-3 and 3142-3 which was first published in our issue of _____.
ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



March 20, 2006

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

Tim McGannon, Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. McGannon:

Future Use Permit Nos. 427-3 and 3142-3 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 these reviews has been sent to the following papers:

Central Dakota Times, Chamberlain SD 605-234-0266 (Brule and Buffalo Counties)
The Daily Republic, Mitchell SD 605-996-5514 (Davison County)

For your information, a copy of the Chief Engineer's recommendations are enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPERS IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish 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



**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

Tim McGannon, Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. McGannon:

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 Nos. 427-3 and 3124-3. The Board allowed each permit to remain in effect for 5,765 acre-feet of water annually. Future Use Permit Nos. 427-3 and 3124-3 are subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit Nos. 427-3 and 3124-3 is \$137.50 each (\$275.00 total) 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

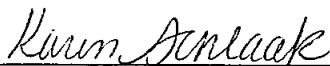
Water Rights

STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

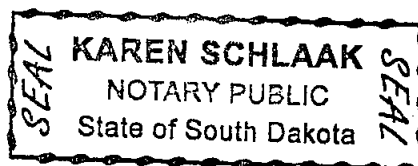
Sworn to, before me, this 5th day of May, 2006.



Karen Schlaak

Notary Public

My Commission expires April 1, 2007



NOTES

RECEIPT

DATE 5/18/06 NO. 4028

RECEIVED FROM

City of Mitchell

ADDRESS

Future Use # 427-3-137.50 + \$13,896.85

FOR # 3142-3-137.50 + loan payment

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH		
AMT. PAID			CHECK		✓
BALANCE DUE			MONEY ORDER		

#109318

BY

R. M. Ch

©2001 REDIFORM® 8L806



427-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

March 4, 2013

Tim McGannon, Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. McGannon:

I am writing in regard to the seven year review of Future Use Water Permit No. 427-3 (from Firesteel Creek) and Future Use Permit No. 3142-3 (from the Missouri River) 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 permits reserve water for future water supply needs for the city. Currently, our records show that 5765 acre-feet remain in reserve under each of these future use permit that were last reviewed in 2006.

Please respond in writing by April 1, 2013 regarding the city's intention for the future use permits. If the city plans to retain the permits, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs.

Permit Nos. 427-3 and 3142-3 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 permits. A fee will be charged if the Board allows the permits 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 5765 acre-feet remains in reserve for each permit, the fee for each permit will be \$545.00.

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 Mitchell

612 NORTH MAIN STREET • MITCHELL, SOUTH DAKOTA 57301 • (605) 995-8420 • FAX (605) 995-8410
ENGINEER (605) 995-8435 • WATER PLANT (605) 995-8449 • STREET (605) 995-8465 • WASTE WATER (605) 995-8446
WATER/UTILITIES (605) 995-8498 • PUBLIC WORKS/PLANNING/ZONING/INSPECTOR (605) 995-8433
www.cityofmitchell.org

March 7, 2013

Karen Schlaak
SD-DENR PMB 2020
Joe Foss Building
523 E. Capital
Pierre, SD 57501-3182

RECEIVED

MAR 11 2013

WATER RIGHTS
PROGRAM

Re: Water Rights 427-3 and 3142-3

Dear Ms. Schlaak:

Re: 427-3: The City of Mitchell wishes to retain Future Use Water Permit No. 427-3 (Firesteel Creek). As the Department is aware, the City of Mitchell constructed Lake Mitchell Dam and Spillway in 1928 to hold water for Domestic Use. The City of Mitchell has also taken extreme measures in the past TWO (2) decades including: moving animal feeding operations from the creek bed; moving grazing operations; installing buffer strips to act as filters for the water; Alum treatment of Lake Mitchell and other measures in an effort to keep Lake Mitchell as clean and useable as possible.

For the past Decade, the City has been taking most of its treated drinking water from the B-Y water system, but has maintained Lake Mitchell and its Water Treatment facilities as a backup to the B-Y system. We have heard reports of the siltation of the Lewis and Clark impoundment, and this progression seems to keep progressing. Therefore, keeping a backup plan seems very important to the Citizens of Mitchell.

In addition, Lake Mitchell is an important impoundment for recreational uses, including boating, fishing, habitat, etc.

For these reasons, and others, Water Permit 427-3 should be extended.

Re: 3142-3: This reservation of 5765 acre-feet of water from the Missouri River above Chamberlain is approximately 2/3 of a Lake Mitchell. While I can personally not predict the need for this water in the near future, the need may arise as it appeared to do in the mid 1970's when Mitchell was nearly out of water, Lake Mitchell was nearly dry, and emergency planning was taking place to try to get water to the City of Mitchell. The retention of Water Right 3142-3 does not appear to be causing a hardship for any other party, and the City of Mitchell would like to retain this Water Right.

The prudent course of action, we in Mitchell believe, is to preserve both water rights at their current level. We understand the Department will bill the City approximately \$545.00 for each reserved water right.

Thank you for your consideration.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'T. McGannon', with a long horizontal flourish extending to the right.

Tim McGannon, P.E.
Director of Public Works

Cc: Mayor Tracy and City Council



**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. 427-3, City of Mitchell 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. 427-3, City of Mitchell, 612 N Main St, Mitchell SD 57301.

The Chief Engineer is recommending that Future Use Permit No. 427-3 REMAIN in EFFECT for 5,765 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 427-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 427-3, 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. 427-3 is subject to payment of the \$545.00 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 12 2013

WATER RIGHTS
PROGRAM

**NOTICE OF HEARING
TO REVIEW FUTURE
USE WATER PERMITS**

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3124-3 held by the City of Mitchell, 612 N Main St, Mitchell SD 57301 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved.

Permit No. 427-3 was approved in 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal use.

Permit No. 3124-3 was approved in 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Buffalo County) to be used for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3124-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3124-3 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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 Nos. 427-3 and 3124-3 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 recommendations, further information on the permits, 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 Permits. 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 \$97.32.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF DAVISON)

Annette Kroger of said county, being, first duly sworn, on oath, says; that he/she is the publisher or an employee of the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 2 issues(s), to wit:

Wednesday April 10, 2013

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the fees charged for the publication thereof are: \$ 97.32

Signed: Annette Kroger

Subscribed and sworn to before me this 10 day of April

Kathy Nozeman

Notary Public
County of Hanson

My Commission Expires: 10.8.2013

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515

AFFIDAVIT OF PUBLICATION

State of South Dakota

ss

County of Brule

Debi Ruiz of said county, being, first duly sworn, on oath, says: That she is the publisher of *Central Dakota Times*, a weekly newspaper, published in the City of Chamberlain, in said County of Brule, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Brule and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the Notice of Hearing To

Review Future Use Water
Permits

a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for

One successive week(s) to wit:

April 10, 2013; _____, 20____;
_____, 20____; _____, 20____;
_____, 20____; _____, 20____;

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

\$ 36.08

Signed: Des. Reer

Subscribed and sworn to before me this 12th day of April, 2013.

James H. Petrak
Notary Public in and for the County of Brule,
South Dakota

JANET L. PETRAK
Notary Public
SEAL
South Dakota

My commission expires June 5, 2014.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMITS

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3124-3 held by the City of Mitchell, 612 North Main Street, Mitchell, SD 57301 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved.

Permit No. 427-3 was approved in 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal use.

Permit No. 3124-3 was approved in 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Buffalo County) to be used for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends

that Permit Nos. 427-3 and 3124-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3124-3 at 9 a.m., May 2, 2013, at Floyd Mathew Training Center, Joe Foss Building, 523 East 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 East Capitol Avenue, 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 permits, the reasons for petitioner's opposition to or support of continuing the future use permits 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 Nos. 427-3 and 3124-3 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 through 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 recommendations, further information on the permits, 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 Permits. The request for a delay must be filed with the Chief Engineer by April 22, 2013.

Steven M. Pimer, Secretary
Department of Environment and Natural Resources

(Published one week, April 10, 2013, at a total approximate cost of \$36.08.)

(April 10)

RECEIVED

APR 15 2013

WATER RIGHTS
PROGRAM



**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 NEWSPAPERS RIGHT AWAY.

Tim McGannon, Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. McGannon:

Future Use Permit Nos. 427-3 and 3124-3 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. Notice of the reviews have been sent to the following papers:

The Daily Republic, Mitchell SD 605 996-5514 (Davison County)
Central Dakota Times, Chamberlain SD 605 234-0266 (Brule and Buffalo Counties)

For your information, a copy of the Chief Engineer's recommendations are enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPERS IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish this notice on April 10, 2013. We must receive Proof of Publication before the future use reviews 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

April 1, 2013

The Daily Republic
PO Box 1288
Mitchell SD 57301

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3124-3 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 Mitchell, c/o Tim McGannon, Public Works Director, 612 N Main St, Mitchell SD 57301.

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

Central Dakota Times
PO Box 125
Chamberlain SD 57325

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit Nos. 427-3 and 3124-3 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 Mitchell, c/o Tim McGannon, Public Works Director, 612 N Main St, Mitchell SD 57301.

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

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Instruction to Newspaper-Publish 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 PERMITS

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3124-3 held by the City of Mitchell, 612 N Main St, Mitchell SD 57301 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved.

Permit No. 427-3 was approved in 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal use.

Permit No. 3124-3 was approved in 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Buffalo County) to be used for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3124-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3124-3 at 9:00 am, May 2, 2013, at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

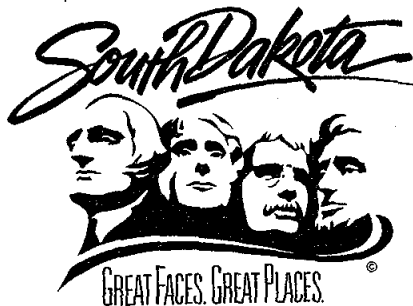
The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after 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 permits, the reasons for petitioner's opposition to or support of continuing the future use permits, 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 Nos. 427-3 and 3124-3 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 recommendations, further information on the permits, 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 Permits. 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

May 6, 2013

NOTICE

Tim McGannon, Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. McGannon:

I am writing in response to action taken by the Water Management Board at the hearing on May 2, 2013 to review Future Use Permit Nos. 427-3 and 3142-3. The Board allowed each permit to remain in effect for 5,765 acre-feet of water annually. The permits are subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit Nos. 427-3 and 3142-3 is \$545.00 for each permit pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days (total \$1,090.00).

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



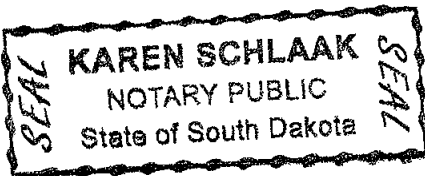
Gail Jacobson
Secretary/Water Rights

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 5/23, 20 13

RECEIVED OF City of Mitchell PO Box 987 Mitchell SD 57301

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	545	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>427-3</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	545 00

No. 06345

By Jeanne Goodman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 31, 2020

Kyle Croce, Public Works Director
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. Croce:

I am writing in regard to the seven year review of Future Use Water Permit No. 427-3 (from Firesteel Creek) and Future Use Permit No. 3142-3 (from the Missouri River) held by 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 permits reserve water for future water supply needs for the city. Currently, our records show that 5,765 acre-feet of water remains in reserve under each of these future use permits that were last reviewed in 2013.

Please respond in writing by March 1, 2020 regarding the city's intention for the future use permits. If the city plans to retain the permits, then the response should outline a reasonable need for retaining the future use permits, including an estimate of future needs and any annual pumping records for the past three years.

Permit Nos. 427-3 and 3142-3 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 the review is to determine if a reasonable need exists for retaining the permits. A fee will be charged if the Board allows the permits 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 5,765 acre-feet remains in reserve for each permit, the fee for each permit will be \$545.00.

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 Mitchell | Public Works
612 North Main Street | Mitchell, SD 57301
Phone: 605-995-8433 | Fax: 605-995-8410
CityOfMitchell.org

RECEIVED

FEB 10 2020

WATER RIGHTS
PROGRAM



February 7, 2020

Karen Schlaak
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre SD 57501

RE: Future Use Water Permits No. 427-3 and No. 3142-3

Dear Mrs. Schlaak:

The City of Mitchell would like to retain Future Use Water Permit No. 427-3 (from Firesteel Creek) and Future Use Water Permit No. 3142-3 (from the Missouri River).

Future Use Water Permit No. 427-3 (from Firesteel Creek) is the City of Mitchell backup water source that is used for Emergency use if B-Y Rural Water cannot meet the City of Mitchell water needs. No water has been used from Permit No. 427-3 in the past three years.

Future Use Water Permit No. 3142-3 (from the Missouri River) is currently being looked at as one of several options in a second source study for water to the City of Mitchell. Future source study shows that the City of Mitchell will need 5.4 MGD/Day. No water has been used from Permit No. 3142-3.

Again, the City of Mitchell would like to retain Future Use Water Permit No. 427-3 (from Firesteel Creek) and Future Use Permit No. 3142-3 (from the Missouri River). Please let me know if there are any questions or concerns.

Sincerely,

Jon Vermeulen
Utilities Superintendent
City of Mitchell
612 North Main
Mitchell, SD 57301

Outside expectations



DENR
SOUTH DAKOTA

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 3142-3, City of Mitchell 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. 3142-3, City of Mitchell, 612 N Main, Mitchell SD 57301.

The Chief Engineer is recommending that Future Use Permit No. 3142-3 REMAIN in EFFECT for 5,765 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 3142-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 3142-3, 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. 3142-3 is subject to payment of the \$545.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Eric Gronlund, Chief Engineer
August 4, 2020

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

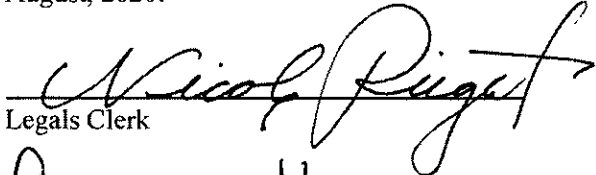
ss.

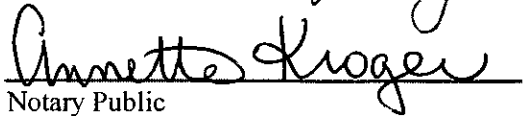
COUNTY OF DAVISON

Nicole Riegert, of said county, being first duly sworn, on oath, states as follows:

1. I am the designated agent of the *Mitchell Republic*, a daily newspaper published in the city of Mitchell, in said County of Davison, and State of South Dakota; I have full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice.
2. The newspaper listed on the exhibit published the advertisement of: **Legal Notice; (1) time: August 12, 2020**, as required by law or ordinance.
3. That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the fees charged for the publication thereof are: \$45.06

Subscribed and sworn to before me this 12th day of August, 2020.


Legals Clerk


Notary Public
My Commission Expires: May 15, 2026

ANNETTE KROGER
Seal
Notary Public
South Dakota

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 427-3 and 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by the City of Mitchell, c/o Jon Vermeulen, Utilities Supt., 612 N Main, Mitchell SD 57301 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved.

Permit No. 427-3 was approved in 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal use.

Permit No. 3142-3 was approved in 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Buffalo County) to be used for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3142-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at 10:00 am, October 7, 2020, 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 permits to remain in effect, 2) amend the

permits by adding qualifications, 3) cancel the permits for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by September 28, 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 permits, 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 Nos. 427-3 and 3142-3 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 pro-

vided by law.

Any person wishing a copy of the Chief Engineer's recommendations, further information on these permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605 773-3352) by September 28, 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 Permits. The request for a delay must be filed with the Chief Engineer by September 28, 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 August 24, 2020. Published one time at the approximate cost of \$45.06. (Aug. 12, 2020)

2852298

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AUG 24 2020

WATER RIGHTS
PROGRAM

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WATER RIGHTS
PROGRAM

Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

Legal Notice Number: 395

I, McKendzie Castillo, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: 0395 WATER RIGHTS-CITY OF MITCHELL, was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 8/12/20. That the full amount of the fee charged for the publishing \$47.41 insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.

Subscribed and sworn to me before this date 8/19/20.



Notary Public, South Dakota

My Term Expires 03/11/2022

F. P. 06-10-20

**NOTICE OF HEARING
TO REVIEW FUTURE
USE WATER PERMIT**

NO. 427-3 and 3142-3
Notice is given that
the Water Management
Board will review Future
Use Permit Nos. 427-
3 and 3142-3 held by
the City of Mitchell, S.D.
Jon Vermeulen, USFWS
Dept. 612 N. Main,
Mitchell, SD 57301 for
progress made in the
development of the water
reserved by the permits
and future plans for
development of the water
reserved.

Permit No. 427-3 was
approved in 1950 and
currently reserves 5,765
acre-feet of water from
Pineau Creek located
in the NE 1/4 SE 1/4
Section 8-T102N-R60W
to be used for municipal
use.

Permit No. 3142-3
was approved in 1976
and currently reserves
5,765 acre-feet of water
from the Missouri River
between points in the SW
1/4 Section 30-T104N-
R70W (Butte County) and
in the NE 1/4 Section
16-T100N-R70W (Butte
County) to be used for
municipal use.

Pursuant to SDCL 46-
2A-2 the Chief Engineer
of the Water Rights
Program recommends
that Permit Nos. 427-
3 and 3142-3 each
REMAIN IN EFFECT for
5,765 acre-feet annually
because 1) the reserved
water may be developed,
2) there is need for the
reserved water, 3) the
proposed use will be a
beneficial use and 4) it is
in the public interest.

The Water Management
Board will conduct the
hearing to review Future
Use Permit Nos. 427-3
and 3142-3 at 10:00 am,
October 7, 2020, Floyd
Matthew Training Center,
Joe Foss Bldg. 623 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 permits
to remain in effect, 2)
amend the permits by
adding qualifications,
3) cancel the permits
for no development
or no planned future
development, or 4) take
no action after it reaches
a conclusion based upon
facts presented at the
public hearing.

Any interested person
who may be affected
by a Board decision
and who intends to
participate in the hearing
before the Board and
present evidence or
cross-examine witnesses
according to SDCL 1-26,
must file a written petition

with BOTH the permit
owner and the Chief
Engineer by September
28, 2020. The Chief
Engineer's address is
"Water Rights Program",
Joe Foss Bldg. 623
E. Capitol Ave., Pierre,
SD 57501 (805 773-
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 permits, 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 Nos.
427-3 and 3142-3 will
be conducted pursuant
to the provisions of
SDCL 46-14, 46-26,
46-28, 46-31, 46-
36, 46-37, 46-38,
46-39, 46-40, 46-41,
46-42, 46-43, 46-44,
46-45, 46-46, 46-47,
46-48, 46-49, 46-50,
46-51, 46-52, 46-53,
46-54, 46-55, 46-56,
46-57, 46-58, 46-59,
46-60, 46-61, 46-62,
46-63, 46-64, 46-65,
46-66, 46-67, 46-68,
46-69, 46-70, 46-71,
46-72, 46-73, 46-74,
46-75, 46-76, 46-77,
46-78, 46-79, 46-80,
46-81, 46-82, 46-83,
46-84, 46-85, 46-86,
46-87, 46-88, 46-89,
46-90, 46-91, 46-92,
46-93, 46-94, 46-95,
46-96, 46-97, 46-98,
46-99, 46-100, 46-101,
46-102, 46-103, 46-104,
46-105, 46-106, 46-107,
46-108, 46-109, 46-110,
46-111, 46-112, 46-113,
46-114, 46-115, 46-116,
46-117, 46-118, 46-119,
46-120, 46-121, 46-122,
46-123, 46-124, 46-125.

This hearing is an
adversary proceeding.
The permit owner or
any person, other than
a petitioner, has the right
to be present or to be
represented by a lawyer.
These and other due
process rights will be
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
recommendations,
further information on
these permits, to assure
access to the hearing
by the handicapped or
obtain an interpreter for
the hearing, impaired
may contact Ron Durrell,
Water Rights Program,
(805 773-3352) by
September 28, 2020.
The date of the hearing
will be automatically
delayed for at least
70 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 Permits. The
request for a delay must
be filed with the Chief
Engineer by September
28, 2020.

According to SDCL
1-26-16.3, parties to a
contested case may use
the Office of Hearing
Examiners to conduct
a hearing if either a
contested right is being
tried 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) 623 E
Capitol Ave., Pierre, SD
57501 by August 24, 2020.
No. 0395 (ack 1)
Published one time at
the total approximate
cost of \$47.41.

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AUG 24 2020

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

State of South Dakota

ss.

County of Brule

Debi Ruiz of said county, being first duly sworn, on oath, says: That she is the publisher of *Central Dakota Times*, a weekly newspaper, published in the City of Chamberlain, in said County of Brule and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Brule and State of South Dakota, for at least one year next prior to the first publication of the attached public notice and that the Notice of Hearing To Review

Future Use Water Permit
Nos. 427-3 and 3142-3

a printed copy of which, taken from the paper in which the same was published and which is hereto attached and made a part of this affidavit, was published in said newspaper for

one successive week(s) to wit:
August 12, 2020; _____, 20____;
_____, 20____; _____, 20____;
_____, 20____; _____, 20____;

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

\$ 40.66

Signed: Debi Ruiz

Subscribed and sworn to before me this 13th day

of August, 2020

Janet L. Petrak
Notary Public In and For The County of Brule,
South Dakota

JANET L. PETRAK
Notary Public
SEAL
South Dakota

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NOS. 427-3 AND 3142-3

Notice is given that the Water Management Board will review Future Use Permit Nos. 427-3 and 3142-3 held by the City of Mitchell, c/o Jon Vermeulen, Utilities Superintendent, 612 North Main, Mitchell, SD 57301 for progress made in the development of the water reserved by the permits and future plans for development of the water reserved.

Permit No. 427-3 was approved in 1960 and currently reserves 5,765 acre-feet of water from Firesteel Creek located in the NE 1/4 SE 1/4 Section 9-T103N-R60W to be used for municipal use.

Permit No. 3142-3 was approved in 1976 and currently reserves 5,765 acre-feet of water from the Missouri River between points in the SW 1/4 Section 30-T104N-R71W (Brule County) and in the NE 1/4 Section 16-T106N-R71W (Buffalo County) to be used for municipal use.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit Nos. 427-3 and 3142-3 each REMAIN in EFFECT for 5,765 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit Nos. 427-3 and 3142-3 at 10 a.m. Oct. 7, 2020, Floyd Matthew Training Center, Joe Foss Building, 523 East 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 permits to remain in effect, 2) amend the permits by adding qualifications, 3) cancel the permits 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 Sept. 28, 2020. The Chief Engineer's address is "Water Rights Program," Joe Foss Building, 523 East Capitol Avenue, 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 permits 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 Nos. 427-3 and 3142-3 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 through 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 recommendations, further information on these permits, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Ron Duvall, Water Rights Program, (605-773-3352) by Sept. 28, 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 permits. The request for a delay must be filed with the Chief Engineer by Sept. 28, 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. 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 East Capitol Avenue, Pierre, SD) by Aug. 24, 2020.

(Published one week, August 12, 2020, at a total approximate cost of \$40.66.)

(August 12)



DENR
SOUTH DAKOTA

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

October 13, 2020

NOTICE OF ENTRY OF ORDER

Jon Vermeulen, Utilities Supt
City of Mitchell
612 N Main St
Mitchell SD 57301

Dear Mr. Vermeulen:

I am writing in response to action taken by the Water Management Board at the hearing on October 7, 2020 to review Future Use Permit Nos. 427-3 and 3142-3. The Board allowed the permits to remain in effect for 5,765 acre-feet of water annually each. The future use permits are subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit Nos. 427-3 and 3142-3 is \$545.00 each (\$1,090.00 total) pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

Please contact Karen Schlaak, if you have any questions.

Sincerely,

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

CERTIFICATION

I hereby certify that on October 13, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated October 13, 2020 addressed as stated below:

Sioux Rural Water System Inc, c/o Heath Thompson, Mgr, 45703 176th St, Watertown SD 57201
TM RWD, c/o Jay Jorgenson, Mgr, PO Box 445, Parker SD 57053
Kingbrook RWS, Erin Hayes, Mgr, PO Box 299, Arlington SD 57212
Charles Werner, Water Supt, Town of South Shore, PO Box 57, South Shore SD 57263
Craig Nussbaum, Utilities Mgr, City of Garretson, PO Box 370, Garretson SD 57030
Patrick Callan, Mayor, City of Florence, PO Box 137, Florence SD 57235
Rick Nighbert, Water Supt, City of Madison, 116 W Center St, Madison SD 57042
Jon Vermeulen, Utilities Mgr, 612 N Main St, Mitchell SD 57301
Steve Nafus, Interim City Eng, City of Belle Fourche, 511 6th Ave, Belle Fourche SD 57717



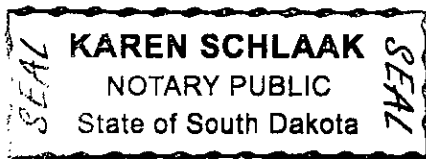
Eric Gronlund, Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of October, 2020



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Environment and Natural Resources

Date November 5, 2020

RECEIVED OF City of Mitchell 100 E Havens Mitchell SD 57301

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>427-3</u> after period of seven years.	\$545.00
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	\$545.00

By Eric Gronlund
Chief Engineer om