

4322-3

1. Considered SEPTEMBER 13, 1978
2. Name of Applicant TOWN OF FORESTBURG
3. Post Office Address _____
4. Amount of Water claimed .26
5. Source of Water supply TWO - 700' DEEP WELLS
6. Water to be used for MUNICIPAL USE
Acres to be irrigated _____
7. Water to be diverted and used in SANBORN County
about IN CITY LIMITS miles of _____
8. Proof of Publication
Received _____
Not Received _____
9. Application
Approved _____
Subject to _____
Not Approved _____
Action Deferred _____

10. Remarks:

VESTED RIGHT
1913 - 1915

No. 4322-3Map No. VIK Water Division No. 3 JAMES RIVER District _____
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR ☒ PERMIT VESTED RIGHT

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant TOWN OF FORESTBURG
Postoffice address _____, State S.D.
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) _____
3. Name of diversion work CITY WELLS
4. Amount of water claimed (cubic feet per second) .26
5. Source of water supply ARTESIAN GROUND WATER (2-700' DEEP WELLS)
6. Location of point of diversion BOTH WELLS LOCATED WITHIN THE CITY
LIMITS OF FORESTBURG, BOTH IN NE⁴ SECTION 1, T16N, R61W
County SANBORN
7. Annual period or periods during which water is to be used CONTINUOUSLY
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) MUNICIPAL
9. For irrigation use, _____ Total number of acres to be irrigated _____

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

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

Attach sheet if more space is needed

10. Time required to complete construction of water supply system COMPLETED years. Additional time required to complete application of water to the proposed beneficial use COMPLETED years.
11. Choice of newspaper for Notice of Intent to Appropriately Water; publication NOT APPLICABLE
12. Principal Features of the Proposed Water Supply System.

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

2 FLOWING WELLS DIRECTLY TO MAINS

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

CITY MAINS

C. Works proposed to apply water to beneficial use.

APPROX 60 HOOKUPS

Estimated Total Cost \$ _____

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

STATE OF SOUTH DAKOTA)

County of Hughes) ss.I, John Ferguson the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSigned John FergusonSubscribed and sworn to before me this 4th day of August 1978Dotty Westlund
Notary Public (or other qualified officer)Water Rights Specialist I

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 4322-3

TOWN OF FORESTBURG
(Applicant)

(Post Office Address)

SOUTH DAKOTA With the following modifications:
(State) 57338

"VESTED RIGHT" CLAIMED

Date of first receipt of application AUGUST 4, 1978

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

Date of receipt of corrected application _____, 19____

Approved SEPTEMBER 13, 1978, Recorded in Book 20 Page 87

WATER RIGHT PERMIT NO. 4322-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 4322-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is .13 FROM 1913 & .13 FROM 1945
2. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed on or before _____, ~~19~~____
3. The whole of said work is ~~to be~~ completed on or before _____, ~~19~~____
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED ~~19~~____
5. The water appropriated shall be used for the purpose of MUNICIPAL USE
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed .26 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~irrigation~~ USE FOR MUNICIPAL PURPOSES ~~and if for the irrigation purpose said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventh (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~~ THIS DATE ~~19~~____; said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 20th day of SEPTEMBER, 1978

WATER RIGHTS COMMISSION

By:

John H. H. H.
Chief Engineer, Executive Officer

Certificate of Construction Issued SEPTEMBER 20, 1978

Water License Issued SEPTEMBER 20, 1978

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) TOWN OF FORESTBURG,
Post Office Address _____, State S.D.
If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting NO PRIOR POSTING Date of Recording _____
Recording Date _____

14. Date of start of construction of water supply system 191315. Date that water was first applied to beneficial use 191316. Name of owner of original water supply system TOWN OF FORESTBURG17. Amount of water originally applied to beneficial use .13 c. f. s.

18. Present Use of Water

Amount of water now being used .26 c. f. s.Date that this amount of water was first used 1969

19. Chronological History of Water Use

ORIGINAL WELL DRILLED IN 1913 SECOND WELL
DRILLED IN 1945. WELLS HAVE BOTH BEEN REPLACED
AND ARE USED FOR MUNICIPAL PURPOSES

Attach to this Form 2B, any copies of notices, postings, filings, publications, affidavits, or other records that apply.
You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA

County of Hardey) ss.

I, John Torgerson, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed John TorgersonSubscribed and sworn to before me this 7th day of August, 1978

Betty Westlund
(Notary Public or other qualified Officer)
Water Rights Specialist

I, the undersigned, do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.

WATER LICENSE NO. 4322-3

(1) WHEREAS, On the 4th day of August, A. D. 19 78
Town of Forestburg

vested right
 made/Water Right Application No. 4322-3 = for a permit to use .26 cubic feet per second of the waters
 of ground water

County of Sanborn, State of South Dakota, for municipal
purposes; and

(2) WHEREAS, On the 13th day of September, A. D. 19 78

Permit No. 4322-3 with a date of priority of 1913 and 1945
 was issued to said applicant recognizing for the diversion of said water, and ~~xxxxxxx~~ the completion of construction of the water
 supply system therein described ~~xxxxxxxxxxxx~~ ~~xxxxx~~ ~~xxxxxx~~ and for the
 application to beneficial use of said water ~~xxxxxxxxxxxx~~ ~~xxxxx~~ ~~xxxxxxx~~

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
 relating to completion of the construction of the water supply system and is entitled to divert .26 cubic feet
 per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
 relating to the application of water to beneficial use of the following extent,

water to be used for municipal purposes for the Town of Forestburg

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to the Town of Forestburg

the holder _____ and owner _____ of said ^{xxx} ~~vested right~~ permit No. 4322-3 a water right, dating from 1913 and 1945 to use of .26 cubic feet per second of the waters of ground water

in the County of Sanborn and State of South Dakota, or so much thereof as may be necessary for the purposes hereinafter mentioned, to be diverted ~~xxx~~ both wells in NE 1/4, Section 1-T106N, R61W

and ~~xxxxxxxxxxxxxx~~ conducted through the Town's distribution system

for the purpose of municipal use

This Water License No. 4322-3 is based on a Vested Right Claim recorded and filed by the Water Rights Commission.

Subject to any limitations listed in Water Right Permit No. 4322-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 20th day of September A. D.
Nineteen Hundred and seventy-eight

WATER RIGHTS COMMISSION

By:

John Hatch
Chief Engineer, Executive Officer JOHN HATCH

Form 15.

Permit No. 4322-3

Water Diversion No. 3 James River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the Town of Forestburg

vested
right

_____ the holder _____ of
Permit No. 4322-3, issued upon Application No. 4322-3, bearing date of priority of 1913 and
1945 authorizing the diversion of .26 cu. ft. per second of the waters of _____
groundwater County of Sanborn, State of South Dakota ~~xxx~~
both wells in NE 1/4, Section 1, T106N, R61W

_____, for municipal

purposes, has s complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are **recognized as** ~~xxxxxx~~ satisfactory
~~xxxxxx~~ for diverting and conveying to the place of intended use .26 cu. ft. per second of water.

Date September 20, 1978

By:

WATER RIGHTS COMMISSION

John Hatch
JOHN HATCH, Chief Engineer

The legal location should
read NW 1/4, Section 1, T26N,
R41W.

This was found when
doing inventory for ESDWP

Jane Goodman

Water Rights Division -- File Documentation

NAME: Rolland Petesch, Town of Forestburg

ADDRESS: HC 74, Box 102, Forestburg SD 57314

DATE: June 30, 1995

COUNTY: Sanborn

TELEPHONE: 495-4235

RE: Validation of Vested Water Right No. 4322-3

COMMENTS:

On May 8, 1995, an inspection was completed of Vested Water Right No. 4322-3 to assess the present status of water use authorized by the vested water right. Validation of the vested water right, in accordance with SDCL 46-2A-16, was delayed pending completion of an inspection.

Since the vested water right was not contested by the chief engineer or any other interested party, the Water Management Board must validate the vested right as published pursuant to SDCL 46-2A-16, provided the first publication was accurate. Any changes that are needed based on the inspection can be addressed by reissuing the water license or by readvertising the validation if the first published notice contained errors.

INSPECTION RESULTS:

1. The inspection found that one of the two wells specified on the vested right is used for standby purposes. Well No. 2 has been abandoned and could not be located.
2. According to Mr. Petesch, Forestburg now uses a well constructed in 1989 by Pullman drilling and the school is supplied by the "school" well which was completed in about 1964 or 1965. The well constructed in 1989 (well completion report on file) is 160 feet deep into the chalk and supplies 28 gpm @ 30 psi according to Jack Pullman.

RECOMMENDED ACTION:

1. Due to an error in the legal description of Well No. 1 (standby well), the vested right needs to be readvertised. The readvertisement also needs to reflect that the validation is for one well at a diversion rate of 0.13 cfs with a priority date of January 1, 1913. Following readvertisement the license can be reissued.
2. Water use in the school does not need to be permitted provided the diversion rate does not exceed 18 gallons per minute pursuant to SDCL 46-1-6(7). A new permit is needed for the 1989 well which now serves as the water supply for Forestburg.



Ron Duvall, Natural Resources Engineer
Water Rights Division

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Sauk Rapids) SS

1. L. Gerald W. Kline

certify that the attached printed Notice was
taken from the Wasson Lake News

printed and published in Wasson Lake

County of Sauk Rapids and State of

South Dakota. The notice was published in
the newspaper on the following two dates:

9/7/95

9/14/95

Cost of Printing: \$53.60

L. Gerald W. Kline
(Signature)

P. B. B. B.
(Title)

Sept. 14, 1995
(Date Signed)



NOTICE OF APPLICATION
NO. 5872-3 TO
APPROPRIATE WATER AND
READVERTISEMENT OF
NOTICE OF INTENT TO
VALIDATE VESTED WATER
RIGHT CLAIM NO. 4322-3

Notice is given that Forestburg Well Co., HC 74, Box 102, Forestburg, SD 57314 has filed an application for a water permit to appropriate 25 cfs from one well (Niobrara Formation) 180 feet deep located in the NW 1/4 NW 1/4 Section 1-T106N-R61W. The water is for municipal use for the Forestburg community.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5872-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation.

Notice is given that Vested Water Right Claim No. 4322-3, Forestburg Well Company, is eligible for validation by the Water Management Board pursuant to SDCL 46-2A-17 without a hearing unless a petition to oppose the validation is filed pursuant to SDCL 46-2A-22. Readvertisement of the original notice of intent to validate this claim, as published on June 9 and 16, 1988 in the Wasson Lake News, is necessary to correct errors in the previously published notice.

Vested Water Right Claim No. 4322-3 appropriates 0.13 cfs from one well located in the NW 1/4 NW 1/4 Section 1-T106N-R61W for municipal use. This well is currently used for standby purposes only. The priority date is January 1, 1915.

Any person interested in opposing or supporting this application in any way must file a petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation for Application No. 5872-3. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-8352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 26, 1995. If a petition is filed, then a hearing will be scheduled and the Water Management Board will consider the water permit application and/or validation of the vested water right claim. Notice of the hearing will be given to the applicant and any person filing a petition.

The petition may be informal, but must include a statement describing the petitioner's interest in the application and/or validation, the petitioner's reasons for opposing or supporting the application and/or validation, and the signature and mailing address of the petitioner or the petitioner's legal counsel. If legal counsel is obtained, contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to Application No. 5872-3 and Vested Water Right Claim No. 4322-3 or a vested right claim list. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

} SS

County of South Dakota



I, James A. Kline

certify that the attached printed Notice was

taken from the Woonsocket News

printed and published in Woonsocket News

County of South Dakota and State of

South Dakota. The notice was published in
the newspaper on the following two dates:

7/1/95

7/14/95

Cost of Printing: \$53.60

James A. Kline
(Signature)

Resident
(Title)

Sept. 14, 1995
(Date Signed)

NOTICE OF APPLICATION NO. 5872-3 TO APPROPRIATE WATER AND READVERTISEMENT OF NOTICE OF INTENT TO VALIDATE VESTED WATER RIGHT CLAIM NO. 4322-3

Notice is given that Forestburg Well Co., HC 74, Box 102, Forestburg, SD 57314 has filed an application for a water permit to appropriate 28 gallons per minute (0.06 cubic feet of water per second (cfs)) from one well (Hilohara Formation) 180 feet deep located in the NW 1/4 NW 1/4 Section 1, T106N-R61W. The water is for municipal use for the Forestburg community.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5872-3 because: 1) unappropriated water is available; 2) existing rights will not be unlawfully impaired; 3) it is a beneficial use of water; and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation.

Notice is given that Vested Water Right Claim No. 4322-3, Forestburg Well Company, is eligible for validation by the Water Management Board pursuant to SDCL 46-2A-17 without a hearing unless a petition to oppose the validation is filed pursuant to SDCL 46-2A-22. Readvertisement of the original notice of intent to validate this claim, as published on June 9 and 16, 1988 in the Woonsocket News, is necessary to correct errors in the previously published notice.

Vested Water Right Claim No. 4322-3 appropriates 0.13 cfs from one well located in the NW 1/4 NW 1/4 Section 1-T106N-R61W for municipal use. This well is currently used for standby purposes only. The priority date is January 1, 1913.

Any person interested in opposing or supporting this application or validation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation for Application No. 5872-3. The Chief Engineer's address is Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 25, 1995. If a petition is filed, then a hearing will be scheduled and the Water Management Board will consider the water permit application and/or validation of the vested water right claim. Notice of the hearing will be given to the applicant and any person filing a petition.

The petition may be informal, but must include a statement describing the petitioner's interest in the application and/or validation, the petitioner's reasons for opposing or supporting the application and/or validation, and the signature and mailing address of the petitioner or the petitioner's legal counsel. If legal counsel is obtained, Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to Application No. 5872-3 and Vested Water Right Claim No. 4322-3 or a vested right claim list, Nettie H.

SOUTH DAKOTA

VESTED WATER RIGHT NO. 4322-3

Date of Receipt of Claim August 4, 1978.

Date of Validation October 4, 1995.

The Water Management Board validated Vested Water Right Claim No. 4322-3 for Forestburg Well Co., HC 74, Box 102, Forestburg SD 57314 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 4322-3 appropriates 0.13 cubic feet of water per second from one well located in the NW 1/4 NW 1/4 Section 1-T106N-R61W.
2. The appropriated water is used for supplying water for municipal use and may not exceed the amount of water needed for beneficial use for municipal purposes.

The water is to be used during the following annual period: January 1 - December 31

3. The priority date of the Vested Water Right is: January 1, 1913
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

DEC 18 1995

date



DEC 18 1995

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Rolland Petesch
Forestburg Well Co.
HC 74, Box 102
Forestburg SD 57314

Dear Mr. Petesch:

The Water Management Board has validated the enclosed Vested Water Right No. 4322-3. This validation gives legal status to the claim and is the final document for the town's vested right. Enclosed is Reissued Water License No. 4322-3. The license is being reissued to reduce the amount of water claimed to the actual amount applied to beneficial use (for standby purposes) based on a May 8, 1995 inspection of the system.

Also, enclosed is Water Permit No. 5872-3 authorizing the water diversion from the well drilled in 1989. The final inspection for this well was completed on May 8, 1995 and the Water License can now be issued. Statutes require we charge \$50 for the inspection and issuance of the final papers. Upon receipt of this amount, the Water License will be sent to you.

If you have any questions, please contact Ron Duvall with this office.

Very truly yours,

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

enclosures

STATE OF SOUTH DAKOTA

REISSUED VESTED RIGHT WATER LICENSE NO. 4322-3

(1) Town of Forestburg, Forestburg SD 57314, made Application No. 4322-3, for validation of a vested right claim to appropriate 0.26 cubic feet of water per second from groundwater, Sanborn County, South Dakota, for municipal use purposes. Vested Water Right No. 4322-3 was issued with priority dates 1913 and 1945. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

On October 4, 1995 the Water Management Board validated Vested Right Claim No. 4322-3. The well validated is a standby well for the town.

(2) The vested right owner is entitled to divert 0.13 cubic feet of water per second for beneficial use. The location of the diversion point is: NW 1/4 NW 1/4 Section 1-T106N-R61W

(3) Pursuant to Section 46-5-30.1 Forestburg Well Co., (Town of Forestburg) HC 74, Box 102 Forestburg SD 57338 the holder and/or owner of Vested Water Right No. 4322-3 is issued a license to appropriate 0.13 cubic feet of water per second from groundwater (one well) with a priority date of January 1, 1913 from the location specified in (2) of this license. The water is to be used for the purpose of municipal use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 4322-3 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

DEC 18 1995

date

