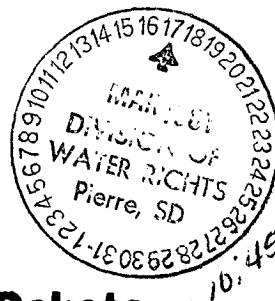


No. 4673-3Map No. 3886-3 Water Division No. 3 MISSOURI RIVER DistrictAbove for Office Use 10170101

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

Check one of the following:

New ☐ Vested Right ☐ Future Use ☒Change in Diversion ☐ Additional Diversion ☐Change in Acreage ☐ Additional Acreage ☐

1. Name of Applicant City of Elk Point Phone No. 605-356-2141
 Post Office Address City Hall Box 280 Elk Point State South Dakota 57025
(Street, RR, or Box) (Town) (Zip Code)

If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) contract3. Name of diversion work Elk Point Water Supply Improvements4. Amount of water claimed (cubic feet per second) 1.4 cubic feet per second5. Source of water supply Missouri River

6. Location of point of diversion Southwest corner of Section 30, R49W, T91N; Missouri River; pipeline along west line of Section 30.

County Union7. Annual period or periods during which water is to be used continual8. 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 unknown years. Additional time required to complete application of water to the proposed beneficial use unknown years.

11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water Leader-Courier, Elk Point, SD

12. Principal Features of the Proposed Water Supply System.

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

Intake structure, raw water pumps.

Since this is a future use application, exact parameters of project are not known. Detailed plans and specifications will be submitted when water is to be withdrawn.

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

Pipeline from river to treatment plant.

C. Works proposed to apply water to beneficial use.

Sedimentation ponds, surface water treatment plant.

Estimated Total Cost \$ unknown

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)
) ss.
 County of Union)

I, June Ryan, Elk Point City Auditor the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed June Ryan, AuditorSubscribed and sworn to before me this 13th day of March, 19 81

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 4673-3

CITY OF ELK POINT

(Applicant)

(Post Office Address)

SOUTH DAKOTA 57025

(State)

With the following qualifications.

THIS PERMIT IS APPROVED TO RESERVE WATER FOR FUTURE USE, AND SPECIFIC APPLICATIONS FOR ALL OR ANY PART OF THIS APPROPRIATION MUST BE SUBMITTED AT SUCH TIME AS THE WORKS ARE TO BE CONSTRUCTED.

This future use Permit No. 4673-3 is approved with the stipulation that the permit to appropriate water is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.

Date of first receipt of application MARCH 17, 1981

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

Date of receipt of corrected application _____, 19____

Approved MAY 1, 1981, Recorded in Book 22 Page 120

WATER RIGHT PERMIT NO. 4673-3

The Water Management Board hereby grants and issues this Water Right Permit No. 4673-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is MARCH 17, 1981
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before _____, 19____ WITHDRAWAL FOR FUTURE USE - ITEMS 2, 3, 4 & 7 NOT APPLICABLE
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 _____, 19____
5. The water appropriated shall be used for the purpose of MUNICIPAL - FUTURE 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 1.4 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 _____, 19____; said water to be used during the following described annual period: CONTINUOUS

Witness my hand this 18TH day of MAY, 1981

THE WATER MANAGEMENT BOARD

By:

John H. H. H.
Chief Engineer, Water Rights

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

1. Considered MAY 1 1981
2. Name of Applicant CITY OF ELK POINT
3. Post Office Address BOX 280, CITY HALL
4. Amount of Water Claimed 1.4
5. Source of Water Supply MISSOURI RIVER
6. Water to be used for MUN - F.U.
7. Acres to be irrigated — maximum — acre feet
8. Water to be diverted and used in UNION County
about — 1 miles SOUTH of ELK POINT
9. PROOF OF PUBLICATION Received 4-16-81
Not Received —
- APPLICATION Approved —
Subject to —
Not Approved —
Action deferred —

Priority 3/17/81 Date Received 3-17-81 Application Complete yes ☒ no — FEE N/A
Remarks —

Date information and/or fee or corrected Application received —
Period of Annual use CONTINUOUSLY
Received yes — no — APPROVED/CONDITIONAL (Circle one)
WI-1 Description same as application yes — no — Remarks —

Disapproved — Returned —

Diversion Point —

From the SW CORNER,
SEC. 30-T9N-R49W

Lands to be irrigated —

WELL
LOG

Remarks —

Driller — Licensed yes — no —

Depth —

MAP Map No. 3886-3 Map located in Water Right X Map file _____
Type of Map DRAWN Prepared by PE

+++++

REVIEWED This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on 5-1-81.

Betty W. Schubert
(Signed)

+++++

PROTESTS Letters/Petitions in File - yes _____ no _____ Remarks _____

REMARKS Date _____
F.F. & C Final Decision, including F.F. & C of Law were adopted _____
OF LAW, Date _____
FINAL Final Decision mailed to parties and/or parties notified that Final Decision
DECISIONS was adopted _____
ETC. Remarks _____

April 16, 1981

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

March 30, 1981

Notice is hereby given that the City of Elk Point ~~whose principal office~~

~~XXXXXX~~ _____, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-5-38, and Board Rules ARSD 52:01:01:01 thru 52:01:01:13, 52:01:01:21 thru 52:01:01:24, for a permit to appropriate /future use

for beneficial use 1.4 cubic feet of water per second of time from the _____
Missouri River through the Elk Point Water Supply/Improvements, the point ~~(s)~~ of diversion
of which is ~~to be~~ located in the ~~from the SW corner of Section 30~~

~~OF SECTION~~ _____, Twp. 91N, Range. 49W. Said water to be used for the purpose of providing irrigation on portions of ~~the following described land~~
water supplies for future municipal use.

This Application No. 4673-3 will be considered by the Water Management Board at
the Civil Defense Room
State Capitol Building, Pierre, South Dakota upon 1st day of May, 1981

at 10 A.M. The Board is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Board decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Board in writing prior to the hearing or orally at the hearing.

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 Courts as provided by law.

WATER MANAGEMENT BOARD

BETTY WESTUUND

Water Rights Specialist

cc: City of Elk Point
City Hall, Box 280, Elk Point, SD 57025

No. 4673-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Union) ss.

I, Lester E. Emerson hereby

certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Leader - Courier

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 Elk Point

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

Thursday, Apr. 2 - 1981

Thursday, Apr 9 - 1981

Lester E. Emerson
(Signature)

Editor/Publisher
(Title)

April 15, 1981
(Date Signed)



NOTICE OF HEARING
ON APPLICATION TO
APPROPRIATE WATER

Pierre, South Dakota 57501
March 30, 1981

Notice is hereby given that the City of Elk Point, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-5-38, and Board Rules ARSD 52:01-01:01 thru 52:01:01:13, 52:1:01-21 thru 52:01:01:24, for a future use permit to appropriate for beneficial use 1.4 cubic feet of water per second of time from the Missouri River through the Elk Point Water Supply Improvements, the point of diversion of which is to be located from the SW corner of Section 30, Twp. 91N, Range 49W. Said water to be used for the purpose of providing water supplies for future municipal use.

This Application No. 4673-3 will be considered by the Water Management Board at the Civil Defense Room, State Capitol Building, Pierre, South Dakota upon 1st day of May, 1981 at 10 A.M. The Board is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Board decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Board in writing prior to the hearing or orally at the hearing.

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 Courts as provided by law.

Water Management Board
Betty Westlund
Water Rights Specialist
Pub. April 2, 9.

Water Rights Division
605 773-3352

May 19, 1981

City of Elk Point
Box 280, City Hall
Elk Point SD 57025

Dear Sir:

Enclosed is your Future Use Withdrawal Permit No. 4673-3, as approved by the Water Management Board.

When plans for facilities are prepared to put any portion of water granted in this future use permit to beneficial use, an application covering such facilities and water use should be submitted to this office before construction is initiated.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:kw

enclosure

4673-3

 **Department of
Water & Natural Resources**

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

June 8, 1988

Jim Minick, Mayor
City of Elk Point
PO Box 280
Elk Point SD 57025

Dear Mayor Minick:

I am writing in regard to Future Use Permit No. 4673-3 held by the City of Elk Point. A copy of Permit No. 4673-3 is enclosed for your review.

Future use permits are subject to review by the Water Management Board once every seven years pursuant to SDCL 46-5-38.1. The purpose of this review is to determine if a reasonable need exists for allowing the permit to remain in effect. Permit No. 4673-3 will be scheduled for review on July 27, 1988. Notice will be given of the time and place for the public hearing. The fee to be assessed if Permit No. 4673-3 is allowed to remain in effect will be \$40.00 pursuant to SDCL 46-2-13.2.

Please advise in writing by June 20, 1988 regarding the City's intentions for Future Use Permit No. 4673-3. The letter should include a description outlining the City's need for the future use permit, and if the City still wants to keep the permit in effect. Let us know if you have any questions.

Very truly yours,



John Hatch, Chief Engineer
Water Rights Division
605 773-3352

enc.



4673-3

 **Department of
Water & Natural Resources**

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

June 9, 1988

Jim Minick, Mayor
City of Elk Point
PO Box 280
Elk Point SD 57025

Dear Mayor Minick:

This letter is to follow-up the letter dated June 8, 1988 regarding Future Use Permit No. 4673-3. The letter did not include a copy of the Future Use Permit. Enclosed is a copy of the permit with a copy of the map submitted with the original permit application.

Please contact me if you have any questions.

Sincerely,



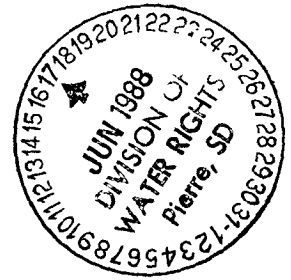
Ron Duvall
Natural Resources Engineer
605 773-3352

enc.



City of Elk Point

P. O. Box 280
Elk Point, South Dakota 57025



June 16, 1988

John Hatch, Chief Engineer
Water Rights Division
SD Dept. of Water & Natural Resources
523 East Capitol
Pierre, SD 57501

RE: City of Elk Point
Future Use Permit No. 4673-3

Dear Mr. Hatch:

This is to advise that the City of Elk Point intends to keep the above use permit if allowed to remain in effect after reviewed on July 27, 1988.

The City considers Missouri River water as a viable option which would be available to it should there be a failure, or such deterioration of the present ground water source, that continued use thereof would be deemed not feasible. Therefore, the City would appreciate favorable consideration of this request to keep the permit in effect.

If anything further is needed in support of this request, please advise accordingly.

Sincerely,

Robert Eslick
Utility Superintendant



Department of Water & Natural Resources

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

June 23, 1988

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

Jim Minick, Mayor
City of Elk Point
Box 280
Elk Point SD 57025

Dear Mayor Minick:

Future Use Permit No. 4673-3 will be reviewed for progress in the development and future plans for use of the water reserved. The notice of this review has been sent to the Publisher of the Leader-Courier printed at Elk Point SD. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notice once each week for two consecutive weeks with the last publication to occur at least twenty days before the board meeting. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

RON DUVAL
Natural Resources Engineer
605 773-3352

enclosures





Department of Water & Natural Resources

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

June 23, 1988

Leader-Courier
Box 310
Elk Point SD 57025

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4673-3 to be published twice. Please publish the first notice on or before June 30, 1988 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 Elk Point, PO Box 280, Elk Point SD 57025.

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,

Ron Duvall
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 Review Future Use Water Permit No. _____ which was first
published in our issue of _____. ENCLOSED IS A COPY OF
THIS FIRST PUBLICATION.

Name

Newspaper

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Union) ss.

I, Lester E. Emerson

certify that the attached printed Notice was taken
from the The Leader-Courier

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

Elk Point of South Dakota

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

June 30, 1988

July 7, 1988

Lester E. Emerson
(Signature)

Editor/Publisher
(Title)

July 7, 1988
(Date Signed)

Cost of Printing: 43.01

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 District Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Building, Pierre, S. D. 605-773-3352 for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for extension must be filed with the Chief Engineer by July 15, 1988.

For the Water Management Board
Ron Duvall
Natural Resources Engineer
Pub. June 30, July 7.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, P. O. Box 280, Elk Point, S. D. 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved May 1, 1981 to reserve 1.40 cfs (1,013 acre feet annually) from the Missouri River. Future diversions are to be made from the SW corner Section 30, T91N, R49W to provide future municipal water supplies to the City of Elk Point.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 4673-3 remain in effect because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at 1:15 a.m., July 27, 1988, Room 116, Joe Foss Building, 523 E. Capitol, Pierre, S. D.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by July 15, 1988. The Petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-5-38.1, Board Rules ARSD 74:02:01:27 and contested case procedures contained by SDCL 1-26.



Instruction to Newspaper-Publish first publication of the following Notice on or before June 30, 1988 with 2nd publication 1 week later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved May 1, 1981 to reserve 1.40 cfs (1,013 acre feet annually) from the Missouri River. Future diversions are to be made from the SW corner Section 30, T91N, R49W to provide future municipal water supplies to the City of Elk Point.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 4673-3 remain in effect because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at 11:15 am, July 27, 1988, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by July 15, 1988. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-5-38.1, Board Rules ARSD 74:02:01:27 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWRN, Joe Foss Building, Pierre SD 605 773-3352 for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for extension must be filed with the Chief Engineer by July 15, 1988.

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT NO. 4673-3

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Future Use Water Permit No. 4673-3, City of Elk Point, PO Box 280, Elk Point SD 57025.

The Chief Engineer is recommending that Future Use Permit No. 4673-3 REMAIN in EFFECT because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4673-3, 2) the City of Elk Point has demonstrated a reasonable need for the water reserved by Permit No. 4673-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest with the following qualification:

1. That the fee of \$40.00 for maintaining the effectiveness of Future Use Permit No. 4673-3 is paid within 60 days of notice to the City of Elk Point.



JOHN HATCH, Chief Engineer
June 22, 1988

4673-3

 **Department of
Water & Natural Resources**

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

July 29, 1988

NOTICE

Jim Minick, Mayor
City of Elk Point
Box 280
Elk Point SD 57025

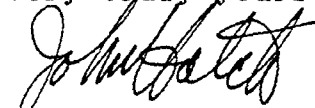
Dear Mayor Minick:

I am writing in response to action taken by the Water Management Board at the hearing on July 27, 1988 to review Future Use Permit No. 4673-3. The Board allowed the permit to remain in effect and amended Permit No. 4673-3 by adding the qualification on the enclosed "Attachment". The "Attachment" should be placed with the permit. Future Use Permit No. 4673-3 is again subject to review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4673-3 is \$40.00. Please remit the fee within 60 days.

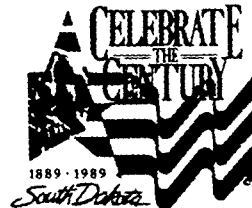
Please contact us if you have any questions.

Very truly yours,



John Hatch, Chief Engineer
Water Rights Division
605 773-3352

enc.



AMENDMENT TO FUTURE USE PERMIT NO. 4673-3

CITY OF ELK POINT

Pursuant to the July 27, 1988 Water Management Board hearing, Future Use Permit No. 4673-3 was allowed to remain in effect and amended by adding the following qualification:

1. That the fee of \$40.00 for maintaining the effectiveness of Future Use Permit No. 4673-3 is paid within 60 days of notice to the City of Elk Point.

CERTIFICATION

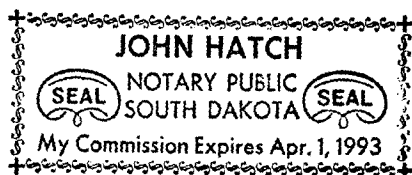
I hereby certify that on July 29, 1988 I have personally deposited with the U.S. Mail, a postage prepaid envelope containing Notice on Amendment of Future Use Permit No. 4673-3 addressed as stated on the notice.

Karen Schlaak

KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 1st day of August, 1988.



John H. H. H.
Notary Public

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, August 3, 1988

RECEIVED OF City of Elk Point, Box 280, Elk Point, SD 57025-0280

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. <u>4673-3</u> after period of seven years.	40	00
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	40 00

By _____

Chief Engineer

COLLE HATCH (MS)



April 11, 1995

4673-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Dawn Glover, Finance Officer
City of Elk Point
PO Box 280
Elk Point SD 57025-0280

Dear Ms. Glover:

I am writing in regard to the seven year review of Future Use Water Permit No. 4673-3 from the Missouri River which is held by the City of Elk Point. Currently, our records show that 1.40 cubic feet of water per second (1,013 acre-feet annually) remain in reserve under this future use permit which was issued in 1981.

Permit No. 4673-3 will be scheduled for review by the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve.

Please respond in writing by May 12, 1995, regarding the City of Elk Point's intention for the future use permit. If the City of Elk Point does plan to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Environmental Scientist
Water Rights Division
605 773-3352

City of Elk Point

P.O. Box 280
Elk Point, South Dakota 57025

Founded in 1859
Celebrated Quasiquicentennial
in 1984



May 10, 1995

SD DENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181
Attn: Karen Schlaak

Dear Ms. Schlaak;

The City of Elk Point would like to retain the Future Use Water Permit No. 4673-3 from the Missouri River. The City of Elk Point is seeing significant growth and we are making plans to accomodate this growth.

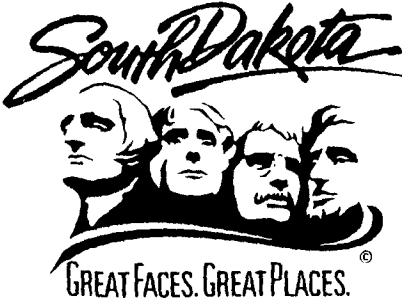
Presently, the city is seeking funding to construct a 300,000 gallon water tower and to upgrade a portion of the distribution system with new 8 inch and 10 inch lines to provide water to an area of town which is seeing significant and growth and where we expect any commercial growth to take place.

The City of Elk Point has seen a dramatic increase in water useage (52,494,207 gallons in 1992 to 61,722,608 gallons in 1994). Therefore the City of Elk Point would like to retain this permit for possible future use.

If you have any questions, please contact Water Superintendent, Virgil Barrett, or myself, Dawn Glover. Thank you.

Sincerely,

Dawn Glover
Finance Officer
605-356-2141



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 31, 1995

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

Dawn Glover, Finance Officer
City of Elk Point
PO Box 280
Elk Point SD 57025-0280

Dear Ms. Glover:

Future Use Permit No. 4673-3 will be reviewed for progress in the development and future plans for use of the water reserved. The notice of this review has been sent to the Publisher of the Elk Point Leader-Courier printed at Elk Point SD (Phone #605 356-2632). For your information, a copy of the recommendation of the Chief Engineer is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notice once each week for two consecutive weeks with the last publication to occur at least twenty days before the board meeting. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 31, 1995

Elk Point Leader-Courier
Box 310
Elk Point SD 57025-0310

Dear Sir:

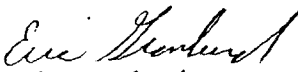
Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4673-3 to be published twice. Please publish the first notice on June 8, 1995 with the second publication 7 days later.

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 Elk Point, PO Box 280, Elk Point SD 57025-0280.

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
523 E Capitol
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 June 8, 1995 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, PO Box 280, Elk Point SD 57025-0280 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved May 1, 1981 to reserve 1.40 cubic feet of water per second from the Missouri River located in the SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the City of Elk Point.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at the Ramkota Inn, Tanglewood Room, 1901 9th Ave SW, Hwy 212, Watertown SD on July 6, 1995 at 9:30 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 26, 1995. The Chief Engineer's address is Water Rights Division", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Division, (605 773-3352) by June 26, 1995. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 26, 1995. Nettie H Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Union) ss



I, Lester E. Emerson

certify that the attached printed Notice was

taken from the _____

The Leader-Courier

printed and published in Elk Point

County of Union and State of

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

June 8, 1995

June 15, 1995

Cost of Printing: _____

57.50

Lester E. Emerson
 (Signature)

Publisher-Editor
 (Title)

June 15, 1995
 (Date Signed)

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Cleveland, Water Rights Division, (605-773-3352) by June 26, 1995.

The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a de-

lay must be filed with the Chief Engineer by June 26, 1995.

NETTIE H. MYERS
 Secretary, Department of
 Environment and Natural
 Resources
 Pub. June 8 and 15, 1995

THE LEADER-COURIER, ELK POINT
 Thursday, June 8, 1995

**NOTICE OF HEARING TO
 REVIEW FUTURE USE
 WATER PERMIT NO. 4673-3**

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, PO Box 280, Elk Point, SD 57025-0280 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved May 1, 1981 to reserve 1.40 cubic feet of water per second from the Missouri River located in the SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the City of Elk Point.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at the Ramkota Inn, Tanglewood Room, 1901 9th Ave. SW, Hwy 212, Watertown, SD on July 6, 1995, at 9:30 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 26, 1995. The Chief Engineer's address is Water Rights Division, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 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.

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 4673-3, City of Elk Point

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. 4673-3, City of Elk Point, PO Box 280, Elk Point SD 57025-0280.

The Chief Engineer is recommending that Future Use Permit No. 4673-3 REMAIN in EFFECT because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4673-3, 2) the City of Elk Point has demonstrated a reasonable need for the water reserved by Permit No. 4673-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest with the following qualification:

That Permit No. 4673-3 reserve for future use a total of 378 acre-feet annually. The diversion rate of 1.40 cubic feet of water per second be deleted from Permit No. 4673-3.

And that maintaining the effectiveness of Future Use Permit No. 4673-3 is subject to payment of the \$27.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of Elk Point.



JOHN HATCH, Chief Engineer
May 30, 1995

NOTE: The maximum annual acre-feet of full-time pumping represented by 1.40 cubic feet of water per second (cfs) reserved by No. 4673-3 is 1,013 acre-feet. Assuming that the total amount pumped annually would equal 60% of 1,013 acre-feet, then expected developed pumping of water reserved under Permit No. 4673-3 would be about 607 acre-feet per year.

The maximum annual water usage of record by the City of Elk Point was 189 acre-feet in 1994. Doubling this annual use (378 acre-feet) to estimate the volume that may be reserved is less than that expected to be developed by pumping 60% of 1.40 cfs (1,013 acre-feet under Permit No. 4673-3). 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. 4673-3 should be allowed to remain in effect for 378 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

July 11, 1995

NOTICE

Dawn Glover, Finance Officer
City of Elk Point
PO Box 280
Elk Point SD 57025-0280

Dear Ms. Glover:

I am writing in response to action taken by the Water Management Board at the hearing on July 6, 1995 to review Future Use Permit No. 4673-3. The Board allowed the permit to remain in effect and amended Permit No. 4673-3 adding the qualification on the enclosed "Amendment". The "Amendment" should be placed with the permit. Future Use Permit No. 4673-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4673-3 is \$27.50 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 Program
605 773-3352

enclosure

**AMENDMENT TO FUTURE USE PERMIT NO. 4673-3
CITY OF ELK POINT**

Pursuant to the July 6, 1995 Water Management Board hearing, Future Use Permit No. 4673-3 was allowed to remain in effect and amended by adding the following qualification:

That Permit No. 4673-3 reserve for future use a total of 378 acre-feet annually.

CERTIFICATION

I hereby certify that on July 12, 1995, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 11, 1995, along with the "Amendment" for Future Use Permits, regarding action taken by the Water Management Board at the hearing on July 6, 1995, to review Future Use Permit Nos. 1443-2, 449-3, 3981-3, 3981A-3, 4673-3, 4771-3 and 5155-3, addressed as stated below:

F.U. Permit #1443-2

Van A. Lindquist
West Dakota Water Dev. Dist.
P.O. Box 9633
Rapid City, SD 57709-9633

F.U. Permit #'s 449-3, 3981-3 & 3981A-3

Lyle D. Johnson, Water/Wastewater Mgr.
Utilities Department
224 West 9th St.
Sioux Falls, SD 57102

F.U. Permit #4673-3

Dawn Glover, Finance Officer
City of Elk Point
P.O. Box 280
Elk Point, SD 57025-0280

F.U. Permit #4771-3

Katheryn Tieszen, Finance Officer
City of Marion
P.O. Box 94
Marion, SD 57043

F.U. Permit #5155-3

Dennis Larson
Lincoln County Rural Water System
P.O. Box 36
Harrisburg, SD 57032

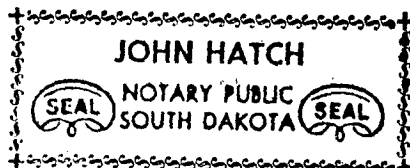


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
)
COUNTY OF HUGHES)

SS

Sworn to, before me, this 17th day of July, 1995




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

4673-3
414584

Pierre, _____ August 11, 19 95

RECEIVED OF City of Elk Point, Box 180, Elk Point, SD 57025

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>4673-3</u> after period of seven years.	27	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 _____		

(Any Other Work Provided by Law)	Total	27 50

By John Hatch
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 27, 2002

Dawn Glover, Finance Officer
City of Elk Point
PO Box 280
Elk Point SD 57025-0280

Dear Ms. Glover:

I am writing in regard to the seven year review of Future Use Water Permit No. 4673-3 from the Missouri River which is held by the City of Elk Point. By law, all future use permits are to be reviewed by the Water Management Board every seven years. The permit reserves water for future water supply needs for the city. Currently, our records show that 378 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in 1995.

Please respond in writing by May 1, 2002, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 4673-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352

City of Elk Point

P.O. Box 280
Elk Point, South Dakota 57025

Founded in 1859
Celebrated Quasquicentennial
in 1984

April 11, 2002

RECEIVED

APR 15 2002

WATER RIGHTS
PROGRAM

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

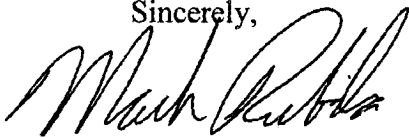
Dear Karen Schlaak:

I am writing in regards to the seven year review of Future Use Water Permit No. 4673-3 from the Missouri River. The City of Elk Point wishes to retain this permit because 1) there is reasonable probability that there may be development of the water reserved under this permit, 2) we have a reasonable need for this water, 3) the proposed use will be a beneficial use and 4) it is in the best interest of the public and the citizens of Elk Point.

Our annual pumping for the past three calendar years is as follows: 1999 gallons pumped -- 101,783,1000; 2000 gallons pumped - 85,596,830 and 2001 gallons pumped -- 86,818,100.

If you have any questions, please contact me. Thank you.

Sincerely,



Mark Rubida
Utility Superintendent
(605) 356-2631



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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. 4673-3, City of Elk Point**

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. 4673-3, City of Elk Point, PO Box 280, Elk Point SD 57025.

The Chief Engineer is recommending that Future Use Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4673-3, 2) the City of Elk Point has demonstrated a reasonable need for the water reserved by Permit No. 4673-3, 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. 4673-3 is subject to payment of the \$27.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Garland Erbele, Chief Engineer
May 29, 2002



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 29, 2002

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

City of Elk Point
Mark Rubida, Utility Superintendent
PO Box 280
Elk Point SD 57025

Dear Mr. Rubida:

Future Use Permit No. 4673-3 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used. The notice of this review has been sent to the Publisher of the Elk Point Leader-Courier (Phone #605 356-2632). For your information, a copy of the recommendation of the Chief Engineer is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notice once each week for two consecutive weeks with the last publication to occur at least twenty days before the board meeting. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

c: Dawn Glover, Finance Officer

Instruction to Newspaper-Publish first publication of the following Notice on June 6, 2002 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 currently reserves 378 acre feet from the Missouri River located in the SW ¼ Section 30-T91N-R49W to provide future municipal supplies for the City.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD on July 10, 2002 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 28, 2002. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 28, 2002. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 28, 2002. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 29, 2002

Elk Point Leader-Courier
PO Box 310
Elk Point SD 57025-0310

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4673-3 to be published twice. Please publish the first notice on June 6, 2002 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 Elk Point, PO Box 280, Elk Point SD 57025 (605 356-2631).

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 May 29, 2002 enclosing Notice of Hearing to Review Future Use Water Permit No. 4673-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Union) SS

I, Susan Odson

certify that the attached printed Notice was taken

from the Leader-Courier

printed and published in Elk Point

County of Union and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

June 6, 2002

June 13, 2002

Cost of Printing \$ 60.86

Susan Odson
(Signature)

Affidavits Coordinator
(Title)

6-13-02
(Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE OF WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 currently reserves 378 acre-feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the City.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 RAMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD on July 10, 2002 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file written petition with BOTH the permit owner and the Chief Engineer by June 28, 2002. 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.

RECEIVED

JUN 17 2002

WATER RIGHTS
PROGRAM

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 28, 2002. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 28, 2002.

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

Publish June 6 and 13, 2002
23-6-98



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 12, 2002

NOTICE

Dawn Glover, Finance Officer
City of Elk Point
PO Box 280
Elk Point SD 57025-0280

Dear Ms. Glover:

I am writing in response to action taken by the Water Management Board at the hearing on July 10, 2002 to review Future Use Permit No. 4673-3. The Board allowed the permit to remain in effect for 378 acre-feet of water annually. Future Use Permit No. 4673-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4673-3 is \$27.50 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Sincerely,

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

CERTIFICATION

I hereby certify that on July 12, 2002, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 12, 2002 regarding Notice Future User Permit No 449-3 & 3981-3, Future Use Permit No. 1442-2, Future Use Permit No. 4673-3, Future Use Permit No. 5155-3, Future Use Permit No. 5832-3 addressed as stated below:

449-3 & 3981-3

Lyle D Johnson, Public Works Director
City of Sioux Falls
224 W 9th St
Sioux Falls SD 57102

1442-2

West River Water Development District
Mike Kurle, Manager
PO Box 523
Murdo SD 57559

4673-3

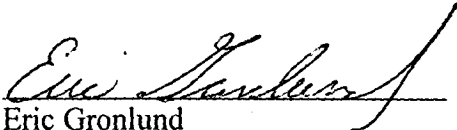
Dawn Glover, Finance Officer
City of Elk Point
PO Box 280
Elk Point, SD 57025-0280

5155-3

Dennis Larson, Manager
Lincoln County Rural Water System
PO Box 36
Harrisburg SD 57032

5832-3

Pamela Bonrud, Executive Director
Lewis & Clark Rural Water System
300 N Dakota Ave
Suite 206
Sioux Falls, SD 57102



Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)

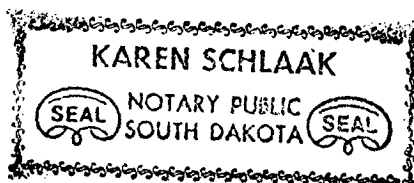
) SS

COUNTY OF HUGHES)

Sworn to, before me, this 15th day of July, 2002.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

417275

Pierre, August 8, 20 02

RECEIVED OF City of Elk Point, 106 W Pleasant St, Box 280, Elk Point SD 57025
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. 467303 after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water
License No. _____

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

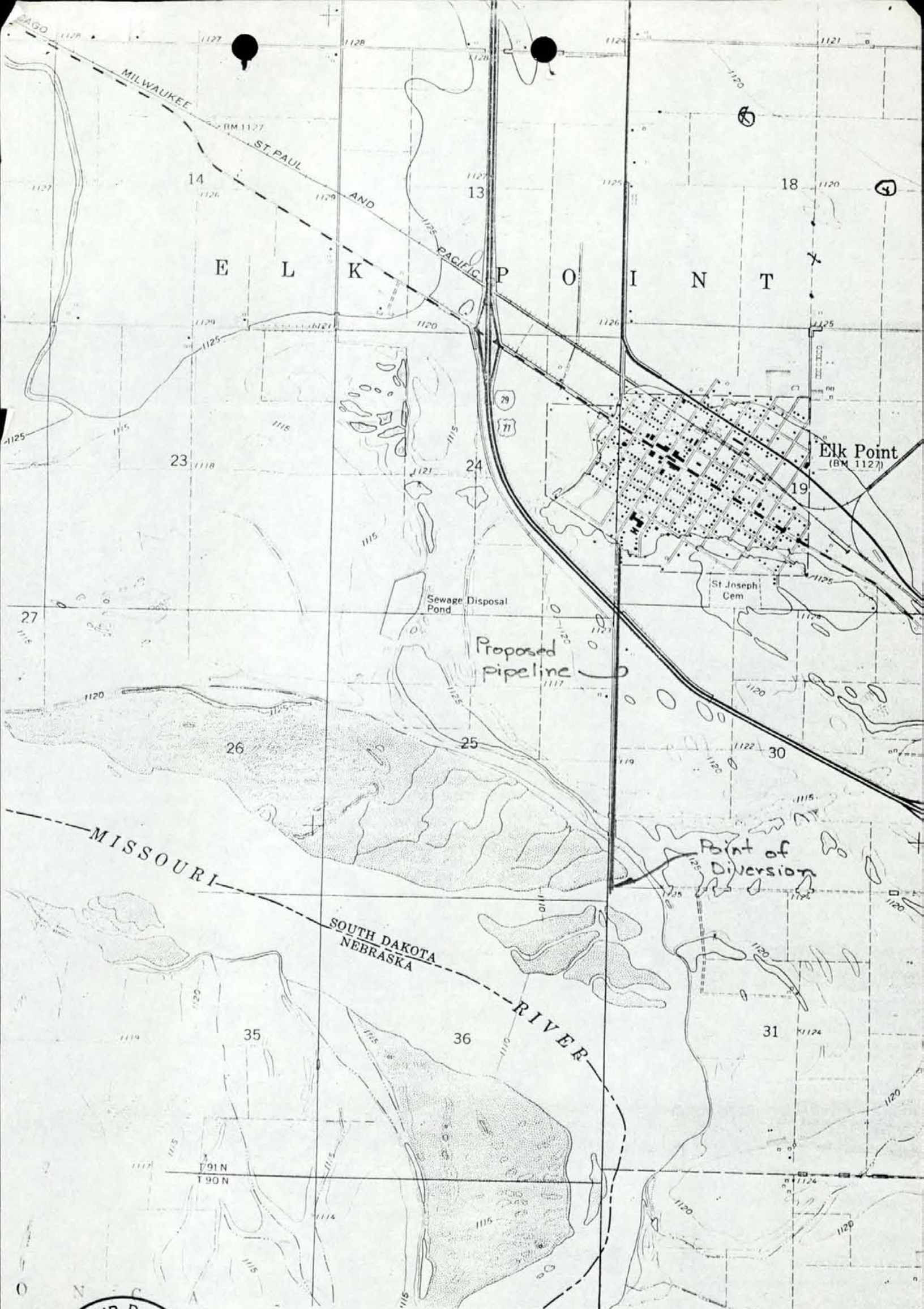
27 50

By

Darland Ebele

Chief Engineer

gm



I hereby state that this map was made by me or under my direct personal supervision and that I am a duly Registered Professional Engineer under the laws of the State of South Dakota.

Arthur D. Burr, P.E. & L.S.
Registration No. 2476

3/12/81
Date

~~Map No. 1127-3~~ ~~3586-3~~ Appl. 4673-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 8, 2009

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

I am writing in regard to the seven year review of Future Use Water Permit No. 4673-3 from the Missouri River which is held by the city of Elk Point. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 378 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in July, 2002.

Please respond in writing by May 15, 2009, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 4673-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

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

City of Elk Point

P.O. Box 280
Elk Point, South Dakota 57025

RECEIVED

MAY 11 2009

WATER RIGHTS
PROGRAM

Founded in 1859
Celebrated Quasiquicentennial
in 1984

May 7, 2009

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

Dear Karen Schlaak:

I am writing in regards to the seven year review of Future Use Water Permit No. 4673-3 from the Missouri River. The City of Elk Point wishes to retain this permit because (1) there is reasonable probability that there may be development of the water reserved under this permit, (2) we have a reasonable need for this water, (3) the proposed use will be a beneficial use and (4) it is in the best interest of the public and the citizens of Elk Point.

Or annual pumping for the past three calendar years as follows: 2006 gallons pumped - 64,380,000; 2007 gallons pumped - 74,785,681 and 2008 gallons pumped - 95,328,200

If you have any question, please contact me. Thank you.

Sincerely,



Erika Hammitt
Finance Officer
(605) 356-2141



**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. 4673-3, City of Elk Point 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. 4673-3, City of Elk Point, PO Box 280, Elk Point SD 57025.

The Chief Engineer is recommending that Future Use Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4673-3, 2) the City has demonstrated a reasonable need for the water reserved by Permit No. 4673-3, 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. 4673-3 is subject to payment of the \$95.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City after the Board hearing.

Garland Erbele, Chief Engineer
June 2, 2009

NOTE: Please be advised that the Legislature passed a bill this year raising all Water Rights Program filing fees. The fee increases become effective July 1, 2009.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 2, 2009

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

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

Future Use Permit No. 4673-3 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used. The notice of this review has been sent to the Publisher of the Southern Union County Leader-Courier printed at Elk Point (Phone #605 356-2632). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notice once each week for two consecutive weeks with the last publication to occur at least twenty days before the board meeting. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

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

June 2, 2009

Southern Union County Leader-Courier
PO Box 310
Elk Point SD 57025-0310

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4673-3 to be published twice. Please publish the first notice on June 11, 2009 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 Elk Point, PO Box 280, Elk Point SD 57025.

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 June 2, 2009 enclosing Notice of Hearing to Review Future Use Water Permit No. 4673-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper-Publish first publication of the following Notice on June 11, 2009 with 2nd publication 7 days later. The permit owner is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved in 1981 currently reserves 378 acre feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at 10:30 am, July 8, 2009 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 29, 2009. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 29, 2009. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 29, 2009. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

RECEIVED

Form 8

JUN 22 2009

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Union) SS

I, Susan Odson

certify that the attached printed Notice was taken

from the Southern Union County
Leader-Courier

printed and published in Elk Point
County of Union and

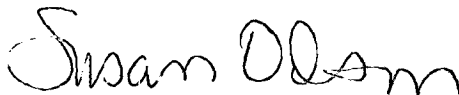
state of South Dakota. The notice was published

in the newspaper on the following two dates:

June 11, 2009

June 18, 2009

Cost of Printing \$72.32



(Signature)

Affidavits Coordinator

(Title)

June 18, 2009

(Date Signed)

**NOTICE OF HEARING
TO REVIEW FUTURE USE
WATER PERMIT NO. 4673-3**

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved in 1981 currently reserves 378 acre feet from the Missouri River located in th SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at 10:30am, July 8, 2009 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 29, 2009. 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 petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 29, 2009. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use permit. The request for a delay must be filed with the Chief Engineer by June 29, 2009.

Steven M. Pirner, Secretary,
Department of Environment and
Natural Resources.
Publish June 11 and 18, 2009
24-9-108



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 26, 2009

NOTICE

TO: Erika Hammitt, Finance Officer
City of Elk Point
PO Box 280
Elk Point SD 57025

FROM: Garland Erbele, Chief Engineer
Water Rights Program

A handwritten signature in black ink, appearing to read "Garland Erbele", written over the printed name in the "FROM:" line.

SUBJECT: Scheduled Time for Review of Future Use Permit No. 4673-3

The hearing time before the Water Management Board to consider the review of Future Use Water Permit No. 4673-3 has changed from 10:30 AM to 1:30 PM on Wednesday, July 8, 2009. This matter was recently public noticed. The change in the hearing time is necessary due to adjustments in the Board's agenda.

The Water Management Board will now consider review of Future Use Water Permit No. 4673-3 at **1:30 PM**, on July 8, 2009, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD.

Applicable provisions of the Notice published June 11 and 18, 2009 in the Leader-Courier still apply.

If you have any questions, please contact Eric Gronlund at 605 773-3352.

CERTIFICATION

I hereby certify that on June 26, 2009, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 26, 2009 regarding scheduled time change for Future Use # 4673-3 at the WMB Mtg. addressed as stated below:

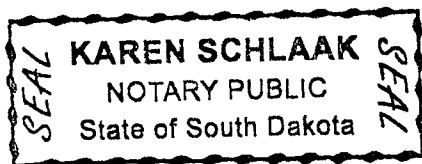
Erika Hammitt, Finance Officer, City of Elk Point, PO Box 280, Elk Point SD 57025


Gail Jacobson
Secretary
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of June, 2009.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 9, 2009

NOTICE

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

I am writing in response to action taken by the Water Management Board at the hearing on July 8, 2009 to review Future Use Permit No. 4673-3. The Board allowed the permit to remain in effect for 378 acre-feet of water annually. Future Use Permit No. 4673-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4673-3 is \$95.00 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Sincerely,

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

CERTIFICATION

I hereby certify that on July 9, 2009 I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 9, 2009 regarding future use permits addressed as stated below:

City of Elk Point, Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 **4673-3**

West River Water Dev Dist., Jake Fitzgerald, Mngr., PO Box 407, Murdo SD 57559 **1442-2**

Lincoln County Rural Water System, Robin Dykstra, Mngr., PO Box 36, Harrisburg SD ~~5155-3~~
57032 **5515-3**



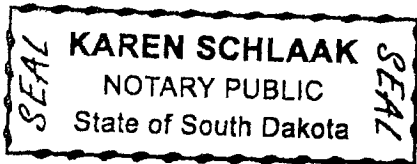
Gail Jacobsen
Secretary
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of July, 2009.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

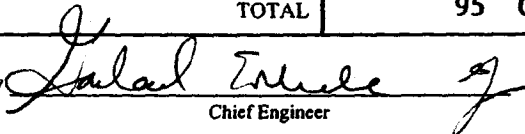
Date 8/7, 2009

RECEIVED OF City of Elk Point PO Box 280 Elk Point SD 57025

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	95	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>4673-3</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	95 00

No. 04193

By 
Chief Engineer



4673-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

April 28, 2016

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

I am writing in regard to the seven year review of Future Use Water Permit No. 4673-3 from the Missouri River held by the City of Elk Point. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 378 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in 2009.

Please respond in writing by May 31, 2016 regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 4673-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 378 acre-feet remain in reserve, the fee will be \$95.00.

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 ELK POINT
P.O. BOX 280
ELK POINT, SOUTH DAKOTA
57025

RECEIVED

MAY 25 2016

WATER RIGHTS
PROGRAM

May 23, 2016

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

Dear Karen Schlaak:

I am writing in regards to the seven year review of Future Use Water Permit No. 4673-3; from the Missouri River. The City of Elk Point wishes to retain this permit because (1) there is reasonable probability that there may be development of the water reserved under this permit, (2) we have a reasonable need for this water, (3) the proposed use will be a beneficial use and (4) it is in the best interest of the public and the citizens of Elk Point.

Our annual pumping for the past three calendar years is as follows: 2013 gallons pumped – 91,735,919; 2014 gallons pumped – 72,635,082; 2015 gallons pumped – 72,490,003

If you have any questions, please contact me. Thank you.

Sincerely,

Erika Hammitt
Finance Officer
City of Elk Point



**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. 4673-3, City of Elk Point**

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. 4673-3, City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025.

The Chief Engineer is recommending that Future Use Permit No. 4763-3 REMAIN in EFFECT for 378 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4673-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4673-3, 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. 4673-3 is subject to payment of the \$95.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Jeanne Goodman, Chief Engineer
May 31, 2016



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

May 31, 2016

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

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

Future Use Permit No. 4673-3 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 as well as one daily paper. The notice of this review has been sent to the Leader-Courier, Elk Point (605 356-2632) and the Press and Dakota, Yankton (605 665-7811). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPERS IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish this notice on June 9, 2016. 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

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, June 01, 2016 8:41 AM
To: G5 (leader1@iw.net)
Subject: 4673-3, City of Elk Point
Attachments: 4673-3.fu.doc; FORM8.FRM.doc

Attached is a notice to be published on June 9, 2016.

City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 (605 356-2141) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP.

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

Karen Schlaak
Water Rights Program
523 E Capitol Ave
Pierre SD 57501
Phone: 605 773-3352

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, June 01, 2016 8:44 AM
To: 'Tera Schmidt'
Subject: 4673-3, City of Elk Point
Attachments: 4673-3.fu.doc; FORM8.FRM.doc

Attached is a notice to be published on June 9, 2016.

City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 (605 356-2141) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP.

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

Karen Schlaak
Water Rights Program
523 E Capitol Ave
Pierre SD 57501
Phone: 605 773-3352

Instruction to Newspaper-Publish the following Notice on June 9, 2016. The City of Elk Point is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 and currently reserves 378 acre feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at 2:00 pm, July 6, 2016 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 27, 2016. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 27, 2016. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 27, 2016.

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 June 20, 2016. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of_____.

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

JUN 15 2016

WATER RIGHTS
PROGRAM

CITY OF ELK POINT
PO BOX 280
ELK POINT SD 57025

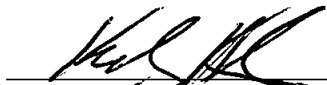
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
6+9 NOTICE OF HEARING TO

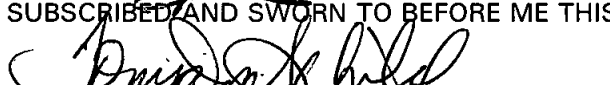
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 9th DAY OF June, 2016
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$41.90 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 06/09/2016

FILED ON: 06/09/2016



SUBSCRIBED AND SWORN TO BEFORE ME THIS 9th DAY OF June, 2016



NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 08/19/2021

NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 and currently reserves 378 acre feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at 2:00 pm, July 6, 2016 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 27, 2016. The Chief Engineer's address is Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holders mailing address is given above. The petition may be informal, but it must include a statement describing the petitioners interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 27, 2016. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 27, 2016.

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 June 20, 2016. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$41.90.

AFFIDAVIT OF PUBLICATION

State of South Dakota)

:ss

County of Union)

Bruce L. Odson,

the publisher of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Notice of Hearing to Review

Future Use Water Permit No. 4673-3

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 9 day of June, 2016

and that the succeeding publications were

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 41.79, that the full amount of the fee charged insures to the benefit of the publisher of the 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 other person whomsoever.



Subscribed and sworn to before me

this 9 day of June, 2016

My commission expires 6-21-17

SUSAN ODSON
NOTARY PUBLIC
SOUTH DAKOTA



Notary Public

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 and currently reserves 378 acre feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W to provide future municipal supplies for the city.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water 3) the proposed use will be a beneficial use and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 at 2:00 pm, July 6, 2016 at the Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

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

RECEIVED

JUN 13 2016

WATER RIGHTS
PROGRAM

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 June 27, 2016. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 4673-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or

obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 27, 2016. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 27, 2016.

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 June 20, 2016. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Publish June 9, 2016
Published once at the approximate cost of \$41.79
23-4-136

RECEIVED

JUN 14 2016

WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

July 12, 2016

NOTICE OF ENTRY OF ORDER

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

I am writing in response to action taken by the Water Management Board at the hearing on July 6, 2016 to review Future Use Permit No. 4673-3. The Board allowed the permit to remain in effect for 378 acre-feet of water annually. Future Use Permit No. 4673-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4673-3 is \$95.00 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Sincerely,

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

CERTIFICATION

I hereby certify that on July 12, 2016, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated July 12, 2016 regarding future use permits addressed as stated below:

Permit No. 5155-3 Lincoln County RWS, Robin Dykstra, PO Box 36, Harrisburg SD 57032

Permit No. 4673-3 City of Elk Point, Erika Hammitt, FO, PO Box 280, Elk Point SD 57025

Permit Nos. 449-3, 3981-3, 3981A-3 Greg Anderson, Water Purification Plant, 2100 N Minnesota Ave, Sioux Falls SD 57104

Permit No. 2560-2 Fall River Water Users Dist, Keith Neugebauer, PO Box 321, Oral SD 57766

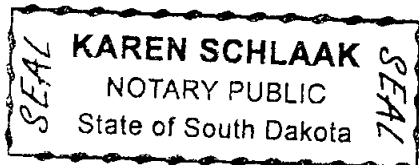
Permit No. 1442-2 West River Water Dev Dist, Jake Fitzgerald, PO Box 407, Murdo SD 57559


Gail Jacobson
Secretary/ Water Rights

[illegible]

Sworn to, before me, this 12th day of July, 2016.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2019



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/4, 20 16

RECEIVED OF City of Elk Point PO Box 280 Elk Point SD 57025

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	95	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>4673-3</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	95 00

No. **07887**

By Jeanne Headman
Chief Engineer



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 29, 2023

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

I am writing in regard to the seven-year review of Future Use Water Permit No. 4673-3 from the Missouri River held by the City of Elk Point. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 378 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in 2016.

Please respond in writing by May 1, 2023, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 4673-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 378 acre-feet remain in reserve, the fee will be \$95.00.

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

Sincerely,

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 7, 2023

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt,

On March 29, 2023, we notified you that Future Use Water Permit No. 4673-3 held by City of Elk Point was to be scheduled for review by the Water Management Board. To date, we have not received a response from you.

The future use permit was obtained by the city in 1981 to reserve water for future development. By state law, these permits are subject to review every seven years. Enclosed is a copy of the March 29th letter. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past 3 years.

The Water Management Board will not schedule Permit No. 4673-3 for review until the above information has been submitted.

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

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
605 773-3352

enclosure



CITY OF ELK POINT
P.O. BOX 280
ELK POINT, SOUTH DAKOTA
57025

RECEIVED

JUN 15 2023

OFFICE OF
WATER

June 12, 2023

Department of Agriculture
and Natural Resources
Joe Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

Dear Karen Schlaak,

I am writing regarding the seven-year review of the Future Use Water Permit No. 4673-3, from the Missouri River. The City of Elk Point wishes to retain this permit because (1) there is reasonable probability that there may be development of the water reserved under this permit, (2) we have a reasonable need for this water, (3) the proposed use will be a beneficial use and (4) it is in the best interest of the public and the citizens of Elk Point.

Our annual pumping for the past three calendar years is as follows: 2020 gallons pumped – 87,684,471; 2021 gallons pumped – 84,362,569; 2022 gallons pumped – 89,762,560

If you have any questions, please contact me. Thank you.

Sincerely,

Erika Hammitt
Finance Officer
City of Elk Point



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 4673-3**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Future Use Water Permit No. 4673-3, City of Elk Point, Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025.

The Chief Engineer is recommending that Future Use Permit No. 4673-3 REMAIN in EFFECT for 378 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4673-3, 2) the City of Elk Point has demonstrated a reasonable need for the water reserved by Permit No. 4673-3, 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. 4673-3 is subject to payment of the \$ 95.00 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 14, 2023



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 14, 2023

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

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms.Hammitt:

Future Use Permit No. 4673-3 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used. Notice of this review has been sent to the Southern Union County Leader-Courier in Elk Point (605-356-2632) and the Daily Press & Dakotan in Yankton (605-665-7811). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER(S) IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish this notice on August 24, 2023. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
605 773-3352
rachel.rodriguez@state.sd.us

enclosures

Instruction to Newspaper - Publish the following Notice on August 24, 2023. The City of Elk Point is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 and currently reserves 378 acre-feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W for municipal use by the City of Elk Point SD. The permit was last reviewed in 2016.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 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 Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 on October 4, 2023, at 9:30 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permit, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Chief Engineer. A petition opposing the renewal shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501" or call (605) 773-3352. The permit holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by September 5, 2023.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit No. 4673-3 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.

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 renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 5, 2023.

Any interested person may file a comment on the future use permit renewal with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 5, 2023.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 5, 2023. However, since this particular matter is a future use permit renewal and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published once at the approximate cost of _____.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, August 14, 2023 11:52 AM
To: Michael Pietz
Subject: 4673-3 City of Elk Point - Public Notice
Attachments: 4673-3 FU REVIEWpubnotice_final.doc; FORM8.FRM.doc

Attached is a notice to be published on August 24, 2023.

City of Elk Point, Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025, (605 356-2141) has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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

*called
Erika Hammitt
8-14-23*



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, August 14, 2023 11:51 AM
To: timesleader1@gmail.com
Subject: 4673-3 City of Elk Point - Public Notice
Attachments: 4673-3 FU REVIEWpubnotice_final.doc; FORM8.FRM.doc

Attached is a notice to be published on August 24, 2023, in the Southern Union County Leader-Courier.

City of Elk Point, Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025, (605 356-2141) has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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



AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

CITY OF ELK POINT
PO BOX 280
ELK POINT SD 57025

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

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

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 24th DAY OF August, 2023
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$64.16 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 08/24/2023

FILED ON: 08/31/2023



SUBSCRIBED AND SWORN TO BEFORE ME THIS 31st DAY OF August, 2023

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 07/15/2028



RECEIVED

SEP 05 2023

OFFICE OF
WATER

Ad text : NOTICE OF HEARING TO
REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 and currently reserves 378 acre-feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W for municipal use by the City of Elk Point SD. The permit was last reviewed in 2016.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN in EFFECT for 378 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 Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 on October 4, 2023, at 9:30 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permit, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Chief Engineer. A petition opposing the renewal shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501" or call (605) 773-3352. The permit holder's mailing address is given above. If contesting the Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by September 5, 2023.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit No. 4673-3 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.

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 renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 5, 2023.

Any interested person may file a comment on the future use permit renewal with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in

any hearing that may be held. Any comment must be filed by September 5, 2023.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 5, 2023. However, since this particular matter is a future use permit renewal and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published once at the total approximate cost of \$64.16 and can be viewed free of charge at www.sdpublicnotices.com

Published August 24, 2023.

AFFIDAVIT OF PUBLICATION

State of South Dakota)
:ss
County of Union)

Shannon L. Jost,
the publisher of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Notice of Hearing

Permit NO. 4673-3 - City of Elk Point

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 24 day of August, 2023

and that the succeeding publications were

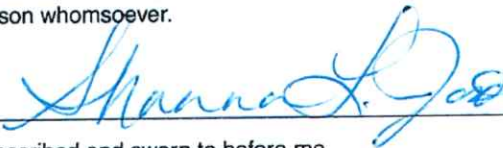
on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 61.56, that the full amount of the fee charged insures to the benefit of the publisher of the 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 other person whomsoever.


Subscribed and sworn to before me

this 24 day of August, 2023



My Commission Expires August 03 - 2028

Notary Public

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4673-3

Notice is given that the Water Management Board will review Future Use Permit No. 4673-3 held by the City of Elk Point, c/o Erika Hammitt, Finance Officer, PO Box 280, Elk Point SD 57025 for progress made in the development of the water reserved by the Permit and future plans for development of the water reserved by Permit No. 4673-3. This permit was approved 1981 and currently reserves 378 acre-feet from the Missouri River located in the SW 1/4 Section 30-T91N-R49W for municipal use by the City of Elk Point SD. The permit was last reviewed in 2016.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4673-3 REMAIN IN EFFECT for 378 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 Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will conduct the hearing to review Future Use Permit No. 4673-3 on October 4, 2023, at 9:30 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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

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The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit No. 4673-3 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.

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 renewal of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by September 5, 2023.

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Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 5, 2023. However, since this particular matter is a future use permit renewal and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Publish August 24, 2023
Published once at the total approximate cost of \$61.56 and may be viewed free of charge at www.sdpublicnotices.com
34-1-212



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 5, 2023

NOTICE OF ENTRY OF ORDER

City of Elk Point
Erika Hammitt, Finance Officer
PO Box 280
Elk Point SD 57025

Dear Ms. Hammitt:

I am writing in response to action taken by the Water Management Board at the hearing on October 4, 2023 to review Future Use Permit No. 4673-3. The Board allowed the permit to remain in effect for 378 acre-feet of water annually. Future Use Permit No. 4673-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4673-3 is \$95.00 pursuant to SDCL 46-2-13(2). Please make the check payable to the Water Rights Program and remit the fee within 60 days.

Please contact Rachel Rodriguez if you have any questions.

Sincerely,

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

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date November 17, 2023

RECEIVED OF City of Elk Point PO Box 280 Elk Point SD 57025

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>4673-3</u> after period of seven years.	<u>\$95.00</u>
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	<u>\$95.00</u>

By Eric Gronlund
Chief Engineer
me



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 4673-3

Name of Applicant: City of Elk Point, c/o Erika Hammitt

Date of Posting: 8/22/2023

Date of Removal: 10/5/2023



Ron Duvall, Engineer III

10/5/2023

Date

Subscribed and sworn to before me, a notary public, this 5 day of October, 2023.



Notary Public - South Dakota
My commission expires: **Rachel Rodriguez**
My Commission Expires
May 16, 2029

(SEAL)

