

**SOUTH DAKOTA
FUTURE USE PERMIT NO. 4839A-3**

Date of first receipt of application: November 16, 1981

Water Permit No. 4839-3, for the City of Tyndall, PO Box 29, Tyndall, SD 57066-0029, was approved by the Water Management Board on February 4, 1982 authorizing reservation of water and construction of a water use system and the placement of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 4839-3 appropriated 1.33 cubic feet of water per second (cfs) from one well (160 feet deep) located in Section 21, T94N, R60W. No. 4839-3 also reserved 4.31 cfs for Future Use purposes from the location described above.

WATER PERMIT NO. 4839-3 IS BEING DIVIDED AND REISSUED AS FOLLOWS:

Future Use Permit No. 4839A-3 reserving 410 acre feet of water annually (On December 7, 1989, the Water Management Board amended No. 4839-3 to delete the diversion rate of 4.31 cfs and authorize an acre foot limitation) from groundwater located in Section 21, T94N, R60W; and

Water Permit No. 4839B-3 authorizing diversion of 1.33 cfs from groundwater (one 160' deep well) located in Section 21, T94N, R60W.

2. The reserved water shall be used for the purpose of municipal use for the City of Tyndall.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date from which applicant may claim right is: November 16, 1981.

QUALIFICATIONS

1. At such time as definite plans are made, specific applications for all or any part of the water granted under this permit must be submitted prior to construction of facilities.
2. Permit No. 4839A-3 is subject to review by the Water Management Board as to accomplishments thereunder upon expiration of seven (7) years.
3. Permit No. 4839A-3 is approved for groundwater less than 160 feet deep.
4. Permit No. 4839A-3 reserves, for future use, 410 acre feet of water annually.

WATER MANAGEMENT BOARD

By: _____


JOHN HATCH, Chief Engineer
Water Rights Division
Dept of Environment & Natural Resources

NOV 14 1994

4839A-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 14 1994

4839A-3
4839B-3

Peg Patterson, Auditor
City of Tyndall
PO Box 29
Tyndall, SD 57066-0029

Dear Ms. Patterson:

Enclosed is Future Use Permit No. 4839A-3, Water Permit No. 4839B-3 and Water License No. 4839B-3.

Water Permit No. 4839-3 was divided and reissued as follows:

Future Use Permit No. 4839A-3 reserving 410 acre feet of water annually from groundwater located in Section 21, T94N, R60W; and

Water Permit No. 4839B-3 authorizing diversion of 1.33 cfs from groundwater (one 160' deep well) located in Section 21, T94N, R60W

Further documents or correspondence relevant to the city's future use permit will be referred to, or filed under, Future Use Permit No. 4839A-3.

As long as you beneficially use the water as stated in Water License No. 4839B-3, SD Water Laws provide that you have a continuing right to the use of the water.

If you have any questions concerning the enclosed water permits and water license, please contact us.

Very truly yours,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 16, 1996

Peg Patterson, Auditor
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

I am writing in regard to the seven year review of Future Use Water Permit No. 4839A-3 from groundwater (wells less than 160 feet deep) which is held by the City of Tyndall. Currently, our records show that 410 acre-feet remain in reserve under this future use permit which was issued in 1981.

Please respond in writing by October 15, 1996 regarding the city's intention for the future use permit. If the city does plan to retain the permit, then the response should outline a reasonable need for retaining the future use permit.

Permit No. 4839A-3 will then be scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352



October 4, 1996

Karen Schlaak
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



Dear Ms. Schlaak:

The City does need to retain the Future Use Water Permit No. 4839A-3. In the event a development would occur in the City additional water may be required. The City would need the right at this time.

Sincerely,

Peg Patterson
City Auditor



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 28, 1996

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

Peg Patterson, City Auditor
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Mr. Patterson:

Future Use Permit No. 4839A-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 Tyndall Tribune & Register printed at Tyndall SD (Phone #589-3242). 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 /KS

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

October 28, 1996

Tyndall Tribune & Register
Box 520
Tyndall SD 57066-0520

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4839A-3 to be published twice. Please publish the first notice on November 6, 1996 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 Tyndall, PO Box 29, Tyndall SD 57066.

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 / ks
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE
No. 4839A-3

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

Date _____

We are in receipt of your letter of October 28, 1996 enclosing Notice of Hearing to to Review Future Use Water Permit No. 4839A-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 November 6, 1996 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, PO Box 29, Tyndall SD 57066-0029 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. 4839A-3. This permit was approved February 4, 1982, and reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at the Floyd Matthew Training Center, 523 E Capitol, Pierre SD on December 4, 1996 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 November 25, 1996. 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. 4839A-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 November 25, 1996. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 25, 1996. Nettie H Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Bon Homme) SS

1. Patty Mogek

certify that the attached printed Notice was

taken from the Tyndall
Tribune & Register

printed and published in Tyndall

County of Bon Homme and State of

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

Nov. 6, 1996

Nov. 13, 1996

Cost of Printing: 107 @ 30.7 + 80% X 1
\$ 59.13

Patty Mogek
(Signature)
Managing Editor
(Title)

Nov. 13, 1996
(Date Signed)

**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO. 4839A-3**

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, PO Box 29, Tyndall SD 57066-0029 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. 4839A-3. This permit was approved February 4, 1982, and reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at the Floyd Matthew Training Center, 523 E. Capitol, Pierre SD on December 4, 1996 at 10:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 25, 1996. 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. 4839A-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 November 25, 1996. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 25, 1996.

Nettie H Myers, Secretary,
Department of Environment
and Natural Resources.
(Nov. 6, 1996)



**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 4839A-3, City of Tyndall**

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. 4839A-3, City of Tyndall, PO Box 29, Tyndall SD.

The Chief Engineer is recommending that Future Use Permit No. 4839A-3 REMAIN in EFFECT for 410 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4839A-3 , 2) the City of Tyndall has demonstrated a reasonable need for the water reserved by Permit No. 4839A-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest.

And that maintaining the effectiveness of Future Use Permit No. 4839A-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 Tyndall.

A handwritten signature in black ink, appearing to read "John Hatch", written in a cursive style.

JOHN HATCH, Chief Engineer
October 28, 1996



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 5, 1996

Peg Patterson, Auditor
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

I am writing in response to action taken by the Water Management Board at the hearing on to review Future Use Permit No. 4839A-3. The Board allowed the permit to remain in effect. Future Use Permit No. 4839A-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4839A-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.

Very truly yours,

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

RECEIPT

415226

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ January 21, 19 97

RECEIVED OF City of Tyndall, P.O.Box 29, Tyndall, SD 57066

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>4839A-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**

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

September 4, 2003

Peg Patterson, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

I am writing in regard to the seven year review of Future Use Water Permit No. 4839A-3 from groundwater (wells less than 160 feet deep) which is held by City of Tyndall. 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 410 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in 1996.

Please respond in writing by October 15, 2003, 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. 4839A-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 Tyndall

RECEIVED
OCT - 1 2003
WATER RIGHTS
PROGRAM

September 29, 2003

Karen Schlaak
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Ms. Schlaak:

The city would like to keep the rights to the Future Use Water Permit No. 4839A-3. Although the city is in the process of getting rural water from B-Y Water District, ~~there has been no scheduled contract date set.~~ Therefore, the city needs to maintain the Future Use Water Permit for the next seven years until B-Y Water operations are running smoothly.

Sincerely,

Larry Chester
Utility Manager

**PO Box 29
Tyndall, SD 57066
(605) 589-3481**



**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. 4839A-3, City of Tyndall**

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. 4839A-3, City of Tyndall, PO Box 29, Tyndall SD 57066.

The Chief Engineer is recommending that Future Use Permit No. 4839A-3 REMAIN in EFFECT for 410 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4839A-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4839A-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. 4839A-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
October 27, 2003



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 27, 2003

Tyndall Tribune & Register
PO Box 520
Tyndall SD 57066-0520

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4839A-3 to be published twice. Please publish the first notice on November 5, 2003 with the second publication 7 days later.

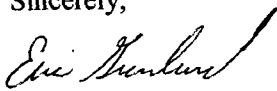
The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is the City of Tyndall, PO Box 29, Tyndall SD 57066.

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-----

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

Date _____

We are in receipt of your letter of October 27, 2003 enclosing Notice of Hearing to Review Future Use Water Permit No. 4839A-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 27, 2003

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

Peg Patterson, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

Future Use Permit No. 4839A-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 Tyndall Register (Phone #605 589-3242). 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

Instruction to Newspaper-Publish first publication of the following Notice on November 5, 2003 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved 1982 and currently reserves 410 acre feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 10:00 am, December 3, 2003 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 November 21, 2003. 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. 4839A-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 November 21, 2003. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 21, 2003. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

State of South Dakota }
County of Bon Homme } SS

Rebecca Tydz.....Being first duly sworn says that the **Tyndall Tribune & Register** is a legal weekly newspaper for publication of legal and other official notices as required by Chapter 298 of the Session Laws of South Dakota, 1939; that it has bona fide paid circulation of more than two hundred copies weekly; that it is published in English language in the City of Tyndall, Bon Homme County, South Dakota, and has been admitted to the United States mail under second class mailing privilege for more than one year prior to the first publication of the notice herein mentioned, and that it is printed in an office maintained at the place of publication at Tyndall, South Dakota, and that deponent is the publisher in charge of the advertising department of said newspaper; that the advertisement headed

Noticing Hearing - City of Tyndall
49 @ 34.5 + 80% X 1

a printed copy of which is hereto attached, was printed and published in said newspaper for two successive weeks, upon the following dates:

<u>Nov. 5</u> 20 <u>03</u>	20.....
<u>Nov. 12</u> 20 <u>03</u>	20.....
.....20.....	20.....
.....20.....	20.....

That the full amount of the fee charged for the publication of said notice, \$61.49, inures to the benefit of the publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any other person, and that no part has been agreed to be paid to any person whomsoever.

Rebecca Tydz, publisher

Subscribed and sworn to before me this

12th day of Nov. 2003.

Peggy Schelske
NOTARY PUBLIC
SOUTH DAKOTA

My commission expires Oct. 24, 2009

NOTICE OF HEARING TO REVIEW FUTURE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved 1982 and currently reserves 410 acres feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 10:00 a.m., December 3, 2003 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-

RECEIVED

NOV 24 2003

WATER RIGHTS
PROGRAM

examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 21, 2003. 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. 4839A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 through 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

The 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 November 21, 2003. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 21, 2003. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

(Nov. 5 & 12)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 5, 2003

NOTICE

Peg Patterson, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

I am writing in response to action taken by the Water Management Board at the hearing on December 3, 2003 to review Future Use Permit No. 4839A-3. The Board allowed the permit to remain in effect for 410 acre-feet of water annually. Future Use Permit No. 4839A-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4839A-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 December 5, 2003, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 5, 2003 regarding Water Right No. 549-1, 1159-2, 386B-3, 429-3, 809-3, 1141-3, 2388-3, 4545-3, 1045-3, 1962-3, 1105-3A, 1143-3A, 1146-3, 1154-3, 1170-3, 4146-3, 4147-3, 4546-3, 1225-3, Water Permit No. 1714-1, 914-2 & 1006-2, 1271-2, Future Use Permit No. 4860-3, 4798-3, 4839A-3, 2086-2, 4817-3, 3574-3. addressed as stated below:

549-1
Douglas & Martina Ham
905 2nd Ave W
Lemmon SD 57638

809-3, 1141-3, 2388-3, 4545-3
Victor & Peggy Kleinsasser
40008 198th St
Huron SD 57350

1225-3
James Esser
39063 170th St
Redfield SD 57469

1714-1
Larry Burditt
1409 Junction Ave
Sturgis SD 57785

1045-3, 1962-3
Mrs. Alvin Gutormson
2187 21st Street SE
Huron SD 57350

4860-3
Patti Arbach Finance Officer
City of Hoven
PO Box 157
Hoven SD 57450-0157

914-2, 1006-2
Charles & Janet Vander May
HC 66 Box 81
Kadoka SD 57543

1105-3A
James Osborn
720 E 2nd St
Huron SD 57350

4798-3
Jeanne Duchscher Finance Officer
City of Parker
PO Box 265
Parker SD 57053-0265

1159-2
Judy Knecht
HC 77 Box 22
Tuthill SD 57574

1143-3A
George & Virginia Cluts
39397 US Hwy 212
Frankfort SD 57440

4839A-3
Peg Patterson Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

1271-2
Vergil Kjerstad
12780 Black Forest Road
Rapid City SD 57702

1146-3
George or Marjorie Wiese
23233 420th Ave
Fedora SD 57337-6824

2086-2
Ted Vore Acting Public Works Director
City of Rapid City
300 6th St
Rapid City SD 57701

386B-3
Harold Booze
18004 373rd Ave
Redfield SD 57469

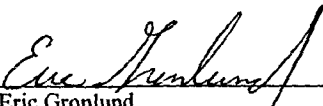
1154-3
Jesse Barton
1452 Utah Ave
Huron SD 57350

4817-3
John Sievers Manager
South Lincoln Rural Water System
PO Box 155
Canton SD 57013

429-3
Rowan Doorn
46471 279th St
Lennox SD 57039

1170-3, 4146-3, 4147-3, 4546-3
Reed Hutchinson Attorney
Fosheim Haberstick & Hutchinson
Centre Plaza
Huron SD 57350

3574-3
Jay P Gilbertson Manager/Treasurer
East Dakota Water Development Dist
132B Airport Drive
Brookings SD 57006

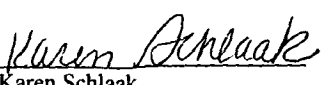

Eric Gronlund
Natural Resource Engineer
Water Rights

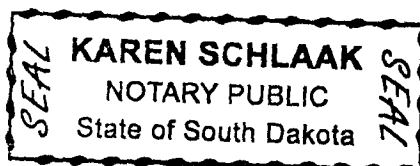
STATE OF SOUTH DAKOTA)

COUNTY OF HUGHES)

) SS

Sworn to, before me, this 8th day of December, 2003.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 11, 2003

RECEIVED OF City of Tyndall, PO Box 29, Tyndall SD 57066

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>4839A-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 _____		
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	27.50

No.

000966

By

Darland Echele

Chief Engineer

gm

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 4, 2003

Peg Patterson, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

I am writing in regard to the seven year review of Future Use Water Permit No. 4839A-3 from groundwater (wells less than 160 feet deep) which is held by City of Tyndall. 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 410 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in 1996.

Please respond in writing by October 15, 2003, 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. 4839A-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 Tyndall

RECEIVED
OCT - 1 2003
WATER RIGHTS
PROGRAM

September 29, 2003

Karen Schlaak
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Ms. Schlaak:

The city would like to keep the rights to the Future Use Water Permit No. 4839A-3. Although the city is in the process of getting rural water from B-Y Water District, ~~there has been no scheduled contract date set.~~ Therefore, the city needs to maintain the Future Use Water Permit for the next seven years until B-Y Water operations are running smoothly.

Sincerely,

Larry Chester
Utility Manager

**PO Box 29
Tyndall, SD 57066
(605) 589-3481**



**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. 4839A-3, City of Tyndall**

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. 4839A-3, City of Tyndall, PO Box 29, Tyndall SD 57066.

The Chief Engineer is recommending that Future Use Permit No. 4839A-3 REMAIN in EFFECT for 410 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4839A-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4839A-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. 4839A-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
October 27, 2003



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 27, 2003

Tyndall Tribune & Register
PO Box 520
Tyndall SD 57066-0520

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4839A-3 to be published twice. Please publish the first notice on November 5, 2003 with the second publication 7 days later.

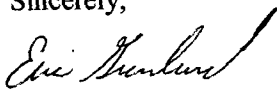
The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is the City of Tyndall, PO Box 29, Tyndall SD 57066.

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-----

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

Date _____

We are in receipt of your letter of October 27, 2003 enclosing Notice of Hearing to Review Future Use Water Permit No. 4839A-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 27, 2003

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

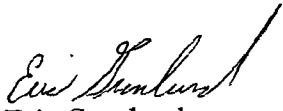
Peg Patterson, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

Future Use Permit No. 4839A-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 Tyndall Register (Phone #605 589-3242). 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

Instruction to Newspaper-Publish first publication of the following Notice on November 5, 2003 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved 1982 and currently reserves 410 acre feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 10:00 am, December 3, 2003 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 November 21, 2003. 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. 4839A-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 November 21, 2003. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 21, 2003. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

State of South Dakota }
County of Bon Homme } SS

Rebecca Tydz.....Being first duly sworn
says that the **Tyndall Tribune & Register** is a legal
weekly newspaper for publication of legal and other offi-
cial notices as required by Chapter 298 of the Session
Laws of South Dakota, 1939; that it has bona fide paid
circulation of more than two hundred copies weekly;
that it is published in English language in the City of
Tyndall, Bon Homme County, South Dakota, and has
been admitted to the United States mail under second
class mailing privilege for more than one year prior to
the first publication of the notice herein mentioned, and
that it is printed in an office maintained at the place of
publication at Tyndall, South Dakota, and that depo-
nent is the publisher in charge of the advertising depart-
ment of said newspaper; that the advertisement headed

Noticing Hearing - City of Tyndall
99 @ 34.5 + 80% X 1

a printed copy of which is hereto attached, was printed
and published in said newspaper for two successive
weeks, upon the following dates:

<u>Nov. 5</u> 20 <u>03</u>		20	
<u>Nov. 12</u> 20 <u>03</u>		20	
.....20.....		20	
.....20.....		20	

That the full amount of the fee charged for the publica-
tion of said notice, \$61.49, inures to the benefit
of the publisher of said newspaper, that no agreement or
understanding for the division thereof has been made
with any other person, and that no part has been agreed
to be paid to any person whomsoever.

Rebecca Tydz, publisher

Subscribed and sworn to before me this

12th day of Nov. 2003.

Peggy Schaefer
NOTARY PUBLIC
SOUTH DAKOTA

My commission expires Oct. 24, 2009

NOTICE OF HEARING TO REVIEW FUTURE WATER PERMIT NO. 4839A-3

Notice is given that the Water Man-
agement Board will review Future Use
Permit No. 4839A-3 held by the City of
Tyndall, PO Box 29, Tyndall SD 57066
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. 4839A-3.
This permit was approved 1982 and cur-
rently reserves 410 acres feet from
groundwater (less than 160 feet deep)
located in Section 21-T94N-R60W for
municipal use.

Pursuant to SDCL 46-2A-2 the Chief
Engineer of the Water Rights Program
recommends that Permit No. 4839A-3
REMAIN in EFFECT for 410 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. 4839A-3 at 10:00 a.m.,
December 3, 2003 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 quali-
fications, 3) cancel the permit for no de-
velopment or no planned future devel-
opment, 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-

RECEIVED

NOV 24 2003

WATER RIGHTS
PROGRAM

examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 21, 2003. 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. 4839A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 through 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

The 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 November 21, 2003. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 21, 2003. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

(Nov. 5 & 12)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 5, 2003

NOTICE

Peg Patterson, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

Dear Ms. Patterson:

I am writing in response to action taken by the Water Management Board at the hearing on December 3, 2003 to review Future Use Permit No. 4839A-3. The Board allowed the permit to remain in effect for 410 acre-feet of water annually. Future Use Permit No. 4839A-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4839A-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 December 5, 2003, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 5, 2003 regarding Water Right No. 549-1, 1159-2, 386B-3, 429-3, 809-3, 1141-3, 2388-3, 4545-3, 1045-3, 1962-3, 1105-3A, 1143-3A, 1146-3, 1154-3, 1170-3, 4146-3, 4147-3, 4546-3, 1225-3, Water Permit No. 1714-1, 914-2 & 1006-2, 1271-2, Future Use Permit No. 4860-3, 4798-3, 4839A-3, 2086-2, 4817-3, 3574-3. addressed as stated below:

549-1
Douglas & Martina Ham
905 2nd Ave W
Lemmon SD 57638

809-3, 1141-3, 2388-3, 4545-3
Victor & Peggy Kleinsasser
40008 198th St
Huron SD 57350

1225-3
James Esser
39063 170th St
Redfield SD 57469

1714-1
Larry Burditt
1409 Junction Ave
Sturgis SD 57785

1045-3, 1962-3
Mrs. Alvin Gutormson
2187 21st Street SE
Huron SD 57350

4860-3
Patti Arbach Finance Officer
City of Hoven
PO Box 157
Hoven SD 57450-0157

914-2, 1006-2
Charles & Janet Vander May
HC 66 Box 81
Kadoka SD 57543

1105-3A
James Osborn
720 E 2nd St
Huron SD 57350

4798-3
Jeanne Duchscher Finance Officer
City of Parker
PO Box 265
Parker SD 57053-0265

1159-2
Judy Knecht
HC 77 Box 22
Tuthill SD 57574

1143-3A
George & Virginia Cluts
39397 US Hwy 212
Frankfort SD 57440

4839A-3
Peg Patterson Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066-0029

1271-2
Vergil Kjerstad
12780 Black Forest Road
Rapid City SD 57702

1146-3
George or Marjorie Wiese
23233 420th Ave
Fedora SD 57337-6824

2086-2
Ted Vore Acting Public Works Director
City of Rapid City
300 6th St
Rapid City SD 57701

386B-3
Harold Booze
18004 373rd Ave
Redfield SD 57469

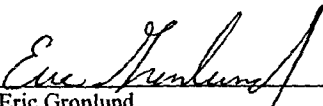
1154-3
Jesse Barton
1452 Utah Ave
Huron SD 57350

4817-3
John Sievers Manager
South Lincoln Rural Water System
PO Box 155
Canton SD 57013

429-3
Rowan Doorn
46471 279th St
Lennox SD 57039

1170-3, 4146-3, 4147-3, 4546-3
Reed Hutchinson Attorney
Fosheim Haberstick & Hutchinson
Centre Plaza
Huron SD 57350

3574-3
Jay P Gilbertson Manager/Treasurer
East Dakota Water Development Dist
132B Airport Drive
Brookings SD 57006

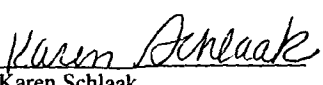

Eric Gronlund
Natural Resource Engineer
Water Rights

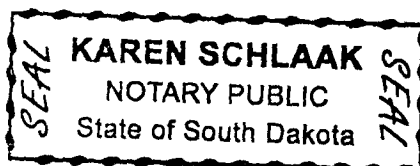
STATE OF SOUTH DAKOTA)

COUNTY OF HUGHES)

) SS

Sworn to, before me, this 8th day of December, 2003.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 11, 2003

RECEIVED OF City of Tyndall, PO Box 29, Tyndall SD 57066

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>4839A-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 _____		
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	27.50

No.

000966

By

Darland Echele

Chief Engineer

gm



4839A-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 21, 2010

Larry Chester, Utilities Manager
City of Tyndall
PO Box 29
Tyndall SD 57066

Dear Mr. Chester:

I am writing in regard to the seven year review of Future Use Water Permit No. 4839A-3 from groundwater which is held by the city. By law, all future use permits are to be reviewed by the Water Management Board every seven years to determine whether a reasonable need exists for the reserved water. The permit reserves water for future water supply needs for the city. Currently, our records show that 410 acre-feet remain in reserve under this future use permit that was issued in 1982 and last reviewed in 2003.

Please respond in writing by November 1, 2010, 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. 4839A-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 Tyndall

RECEIVED

OCT - 7 2010

**WATER RIGHTS
PROGRAM**

October 4, 2010

Karen Schlaak
Dept. of Environment and Natural Resources
PMB 2020 Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Ms. Schlaak,

I am responding to your September 21 letter regarding the Future Use Water Permit No. 4839A-3 held by the City of Tyndall.

The city would like to retain the water permit as it still owns the two wells. Also, in the event that B-Y Water District is unable to supply the city for a period of time, the city would use these wells to supply its residents and businesses and for emergency fire protection.

It is difficult to estimate the city's future need as it is determinate on several factors.

Concerning the annual pumping records for the past three years, the wells are exercised by city personnel once a year.

The City of Tyndall feels that a reasonable need exists for the reserved water and therefore requests that it be allowed to keep the Future Use Water Permit No. 4839A-3.

Sincerely,

Larry Chester
Utilities Superintendent
City of Tyndall

**PO Box 29
Tyndall, SD 57066
(605) 589-3481**



**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. 4839A-3, City of Tyndall 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. 4839A-3, City of Tyndall, PO Box 29, Tyndall SD.

The Chief Engineer is recommending that Future Use Permit No. 4839A-3 REMAIN in EFFECT for 410 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4839A-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4839A-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. 4839A-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
October 28, 2010

Affidavit of Publication

RECEIVED

State of South Dakota }
County of Bon Homme } SS

NOV 18 2010

WATER RIGHTS
PROGRAM

Rebecca Tydz
.....Being first duly sworn
says that the **Tyndall Tribune & Register** is a legal
weekly newspaper for publication of legal and other official
notices as required by Chapter 298 of the Session
Laws of South Dakota, 1939; that it has bona fide paid
circulation of more than two hundred copies weekly;
that it is published in English language in the City of
Tyndall, Bon Homme County, South Dakota, and has
been admitted to the United States mail under second
class mailing privilege for more than one year prior to
the first publication of the notice herein mentioned, and
that it is printed in an office maintained at the place of
publication at Tyndall, South Dakota, and that deponent
is the publisher in charge of the advertising department
of said newspaper; that the advertisement headed

Notice of Hearing
100 e 37.2 + 80% x 1

a printed copy of which is hereto attached, was printed
and published in said newspaper for *two* successive
weeks, upon the following dates:

<i>Nov. 3</i>	20 <i>10</i>	20
<i>Nov. 10</i>	20 <i>10</i>	20
.....	20	20
.....	20	20

That the full amount of the fee charged for the publication
of said notice, *\$16.96*, inures to the benefit
of the publisher of said newspaper, that no agreement or
understanding for the division thereof has been made
with any other person, and that no part has been agreed
to be paid to any person whomsoever.

Rebecca Tydz
Subscribed and sworn to before me this
10th day of *Nov* 20 *10*

Peggy Schelske
Notary Public, South Dakota

My commission expires: *Oct 24, 2015*

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, PO Box 29, Tyndall, SD 57066 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. 4839A-3. This permit was approved in 1982 currently reserves 410 acre feet from groundwater (less than 160 feet deep) located in section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 8:30 a.m., December 1, 2010, 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 November 22, 2010. 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. 4839A-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-3-38.1; Board Rules ARSD 74:02:01:25:01 through 74:02:01:25:03 and contested case procedures contained in SDCL 1-26.

This hearing 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

v. 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 November 22, 2010. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 22, 2010.

Steven M. Pirner,
Department of Environment
and Natural Resources

Published twice at an approximate
cost of \$68.98

(Nov. 3 & 10)

Instruction to Newspaper-Publish first publication of the following Notice on November 3, 2010 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. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved in 1982 currently reserves 410 acre feet from groundwater (less than 160 feet deep) located in section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 8:30 am, December 1, 2010, 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 November 22, 2010. 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. 4839A-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 November 22, 2010. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 22, 2010. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published twice at the total approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 28, 2010

Tyndall Tribune & Register
PO Box 520
Tyndall SD 57066

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 4839A-3 to be published twice. Please publish the first notice on Wednesday 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 Tyndall, PO Box 29, Tyndall SD 57066.

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 October 28, 2010 enclosing Notice of Hearing to Review Future Use Water Permit No. 4839A-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 28, 2010

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

City of Tyndall
c/o Larry Chester, Utilities Supt.
PO Box 29
Tyndall SD 57066

Dear Mr. Chester:

Future Use Permit No. 4839A-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 Tyndall Tribune & Register (Phone #605 589-3242). 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

December 2, 2010

NOTICE

City of Tyndall
c/o Larry Chester, Utilities Supt.
PO Box 29
Tyndall SD 57066

Dear Mr. Chester:

I am writing in response to action taken by the Water Management Board at the hearing on December 1, 2010 to review Future Use Permit No. 4839A-3. The Board allowed the permit to remain in effect for 410 acre-feet of water annually. Future Use Permit No. 4839A-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4839A-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 December 2, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated December 2, 2010 regarding Future use permits addressed as stated below:

City of Rapid City, Robert Ellis, PWD, 300 6th St, Rapid City SD 57701 2086-3

City of Tyndall, Larry Chester, Utility Supt., PO Box 29, Tyndall SD 57066 4839A-3

Gail Jacobson

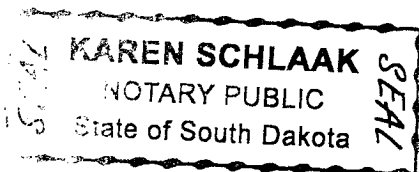
Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 2nd day of December, 2010.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2013



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/13, 20 10

RECEIVED OF City of Tyndall PO Box 29 Tyndall SD 57066

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>4839A-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.

04704

By

Leland Entole
Chief Engineer



4839A-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

October 2, 2017

City of Tyndall
c/o Linda Pesek
PO Box 29
Tyndall SD 57066

Dear Ms. Pesek:

I am writing in regard to the seven year review of Future Use Water Permit No. 4839A-3 from groundwater (less than 160 feet deep) held by the city of Tyndall. 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 410 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in 2010.

Please respond in writing by October 31, 2017 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. 4839A-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 410 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 Tyndall

RECEIVED

OCT 16 2017

WATER RIGHTS
PROGRAM

October 13, 2017

Karen Schlaak
SDDENR
523 East Capitol
Pierre, SD 57501-3182

Dear Ms. Schlaak,

I am responding to your October 2 letter regarding Future Use Water Permit No. 4839A-3 held by the City of Tyndall.

The City would like to retain the water permit as it still owns the two wells. Also, in the event that B-Y Water District is unable to supply the city for a period of time, the city would use these wells to supply its residents and businesses and for emergency fire protection.

It is difficult to estimate the city's future need as it is determinate on several factors.

Concerning the annual pumping records for the past three years, the wells are exercised by city personnel once a year.

The city of Tyndall feels that a reasonable need exists for the reserved water and therefore requests that it be allowed to keep the Future Use Water Permit No. 4839A-3.

Sincerely,


Linda F Pesek
Finance Officer

PO Box 29
Tyndall, SD 57066
(605) 589-3481



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

October 24, 2017

Linda F Pesek, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066

Dear Ms. Pesek:

I am writing in follow-up to your response letter regarding the seven year review of Future Use Permit No. 4839A-3. DENR wants to make sure the city fully understands that the future use permit reserves water for future development and is not for the current wells.

Currently the city of Tyndall holds four water rights authorizing the use of the city's existing wells. Your letter states that these wells are maintained in the event B-Y Water District is unable to supply the city. It is perfectly acceptable for the city to maintain these wells for standby purposes as long as they are maintained in working condition for immediate use upon demand. Based on your letter the wells are maintained in working condition.

The future use permit reserves water for future development in the event the city wants to increase their diversion from the water source. An example would be if the city wants to drill an additional well, they would apply to construct and place to use water reserved by the future use permit. This could occur due to an increase in population or to supply a new business or industry that locates to the area.

Future Use Permit No. 4839A-3 reserves 410 acre feet of water annually from groundwater (less than 160 feet deep). Does the city desire to retain the future use permit for future needs?

Please contact Eric Gronlund, if you have further questions.

Sincerely,

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

Schlaak, Karen

From: City of Tyndall <tyndalsd@heartlandpower.org>
Sent: Tuesday, November 07, 2017 9:04 AM
To: Schlaak, Karen
Subject: [EXT] Future Use Permit #4839A-3

Dear Ms. Schlaak,

In am responding to your October 24, 2017 letter regarding Future Use Permit No 4839A-3 reserving 410 acre feet of water annually.

The Tyndall City Council would like to retain the Future Use Water Permit for future industrial and business expansion.

If you should have any questions, please contact me at 589-3481.

Linda F Pesek
Finance Officer
City of Tyndall



City of Tyndall

RECEIVED

NOV 09 2017

WATER RIGHTS
PROGRAM

November 7, 2017

Karen Schlaak
DE DENR
523 East Capitol
Pierre, SD 57501-3182

Dear Ms. Schlaak,

In am responding to your October 24, 2017 letter regarding Future Use Permit No 4839A-3 reserving 410 acre feet of water annually.

The Tyndall City Council would like to retain the Future Use Water Permit for future industrial and business expansion.

If you should have any questions, please contact me at 589-3481.

Sincerely,

Linda F Pesek
Finance Officer
605-589-3481

PO Box 29
Tyndall, SD 57066
(605) 589-3481



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

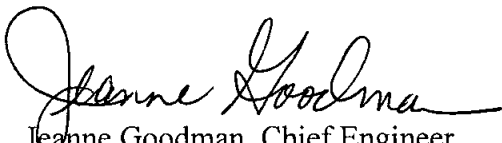
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 4839A-3, City of Tyndall**

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. 4839A-3; City of Tyndall, PO Box 29, Tyndall SD 57066.

The Chief Engineer is recommending that Future Use Permit No. 4839A-3 REMAIN in EFFECT for 410 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4839A-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4839A-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. 4839A-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
November 7, 2017



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

November 7, 2017

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

Linda F Pesek, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066

Dear Ms. Pesek:

Future Use Permit No. 4839A-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 the county where water will be diverted or used. Notice of this review has been sent to the Tyndall Tribune & Register (605 589-3242) and the Yankton Daily Press & Dakotan (605 665-7811). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPERS IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish this notice on November 15, 2017. 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, November 08, 2017 8:13 AM
To: 'tyndalltribune@gmail.com'
Subject: 4339A-3, City of Tyndall
Attachments: 4839A-3notice.doc; FORM8.FRM.doc

Attached is a notice to be published on November 15, 2017.

The City of Tyndall, Linda F Pesek, Finance Officer, PO Box 29, Tyndall SD 57066 (605 589-3481) has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, November 07, 2017 12:52 PM
To: 'Tera Schmidt'
Subject: FW: 4839A-3, City of Tyndall
Attachments: 4839A-3notice.doc; FORM8.FRM.doc

Attached is a notice to be published on November 15, 2017.

The City of Tyndall, Linda F Pesek, Finance Officer, PO Box 29, Tyndall SD 57066 (605 589-3481) has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



Instruction to Newspaper - Publish the following Notice on November 15, 2017. The City of Tyndall is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4939A-3 held by the City of Tyndall, Linda F Pesek, Finance Officer, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved in 1982 and currently reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 8:30 am, December 7, 2017 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 November 27, 2017. 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. 4839A-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 November 27, 2017. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 27, 2017.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by November 27, 2017. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of_____.

Affidavit of Publication

State of South Dakota }
County of Bon Homme } SS

Rebecca Uy.....Being first duly sworn
says that the **Tyndall Tribune & Register** is a legal
weekly newspaper for publication of legal and other official
notices as required by Chapter 298 of the Session
Laws of South Dakota, 1939; that it has bona fide paid
circulation of more than two hundred copies weekly;
that it is published in English language in the City of
Tyndall, Bon Homme County, South Dakota, and has
been admitted to the United States mail under second
class mailing privilege for more than one year prior to
the first publication of the notice herein mentioned, and
that it is printed in an office maintained at the place of
publication at Tyndall, South Dakota, and that deponent
is the publisher in charge of the advertising department
of said newspaper; that the advertisement headed

Tyndall Not. of Hearing-Water

117 @ 38

a printed copy of which is hereto attached, was printed
and published in said newspaper for one successive
weeks, upon the following dates:

Nov. 15	2017	20
20		20
20		20
20		20

That the full amount of the fee charged for the publication
of said notice, \$44.46, inures to the benefit
of the publisher of said newspaper, that no agreement or
understanding for the division thereof has been made
with any other person, and that no part has been agreed
to be paid to any person whomsoever.

Rebecca Uy Publisher
Subscribed and sworn to before me this
15 day of Nov 2017
Peggy Schelske
Notary Public, South Dakota

my Commission expires Oct. 24, 2021

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4939A-3 held by the City of Tyndall, Linda F Pesek, Finance Officer, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved in 1982 and currently reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 8:30 am, December 7, 2017 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 November 27, 2017. 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.

RECEIVED

NOV 27 2017

WATER RIGHTS
PROGRAM

tioner 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. 4839A-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 November 27, 2017. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 27, 2017.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by November 27, 2017.

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

Published once at the approximate cost
of \$44.46

(Nov. 15)

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

CITY OF TYNDALL
P.O. BOX 29
TYNDALL SD 57066

RECEIVED

NOV 27 2017

WATER RIGHTS
PROGRAM

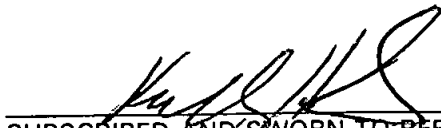
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
11 + 15 NOTICE OF HEARING T

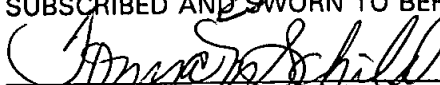
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 15th DAY OF November, 2017
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$42.19 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 11/15/2017

FILED ON: 11/15/2017



SUBSCRIBED AND SWORN TO BEFORE ME THIS 15th DAY OF November, 2017



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

Ad text : 11 + 15

NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4939A-3 held by the City of Tyndall, Linda F Pesek, Finance Officer, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved in 1982 and currently reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 at 8:30 am, December 7, 2017 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 November 27, 2017. 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. 4839A-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 November 27, 2017. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 27, 2017.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by November 27, 2017. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$42.19.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

December 11, 2017

NOTICE OF ENTRY OF ORDER

Linda F Pesek, Finance Officer
City of Tyndall
PO Box 29
Tyndall SD 57066

Dear Ms. Pesek:

I am writing in response to action taken by the Water Management Board at the hearing on December 7, 2017 to review Future Use Permit No. 4839A-3. The Board allowed the permit to remain in effect for 410 acre-feet of water annually. Future Use Permit No. 4839A-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4839A-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 December 11, 2017, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated December 11, 2017 regarding Notice of Order of Entry addressed as stated below:

City of Rapid City
Dale Tech, Public Works Director
300.6th St
Rapid City SD 57701

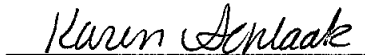
City of Tyndall
c/o Linda Pesek
PO Box 29
Tyndall SD 57066



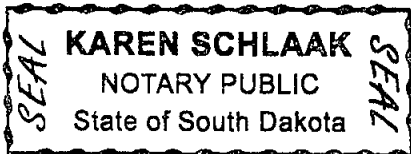
Vickie Maberry
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of December, 2017.



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 8, 20 18

RECEIVED OF City of Tyndall PO Box 29 Tyndall 57066

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>4839-A-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. _____	95	00
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	

No. **08456**

By

Jeannie Goodman
Chief Engineer

bm



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 23, 2024

City of Tyndall
Teresa Holland, Finance Officer
PO Box 29
Tyndall SD 57066

Dear Ms. Holland,

I am writing regarding the seven-year review of Future Use Water Permit No. 4839A-3 from the groundwater (less than 160 feet deep) held by the City of Tyndall. 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 410 acre-feet remain in reserve under this future use permit that was issued in 1981 and last reviewed in 2017.

Please respond in writing by October 31, 2024, 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. 4839A-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 410 acre-feet remain in reserve, the fee will be \$95.00.

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

Sincerely,

Rachel Rodriguez

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 16, 2024

City of Tyndall
Teresa Holland, Finance Officer
PO Box 29
Tyndall SD 57066

Dear Ms. Holland,

On September 23, 2024, we notified you that Future Use Water Permit No. 4839A-3 held by City of Tyndall 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 September 23rd 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 three years.

The Water Management Board will not schedule Permit No. 4839A-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
rachel.rodriquez@state.sd.us

enclosure

City of Tyndall



November 15, 2024

Rachel Rodriguez
DANR
523 East Capitol
Pierre, SD 57501

Dear Ms. Rodriguez,
I am responding to your request regarding the Future Use Permit 4839A-3
reserving 410 acre fee if water annually.

The Tyndall City Council would like to retain the Future Use Water Permit for
future industrial and business expansion.

If you have any questions, please contact me at 605-589-3481.

Sincerely

A handwritten signature in blue ink that appears to read "Tereas H".

Tereas Holland
Finance Officer
City of Tyndall

RECEIVED

NOV 20 2024

OFFICE OF
WATER



**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. 4839A-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. 4839A-3, City of Tyndall, PO Box 29, Tyndall SD 57066.

The Chief Engineer is recommending that Future Use Permit No. 4839A-3 REMAIN in EFFECT for 410 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 4839A-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 4839A-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. 4839A-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
January 22, 2025



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 22, 2025

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

City of Tyndall
c/o Teresa Holland, Finance Officer
PO Box 29
Tyndall SD 57066

Dear Ms. Holland:

Future Use Permit No. 4839A-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 Tyndall Tribune & Register (605 589-3242) and the Yankton Daily Press & Dakotan (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 January 29, 2025. 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 January 29, 2025. The City of Tyndall is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, Teresa Holland, Finance Officer, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved 1982 and currently reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 on March 5, 2025, 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 February 10, 2025.

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. 4839A-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 February 10, 2025.

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 February 10, 2025.

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 February 10, 2025. 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: Wednesday, January 22, 2025 11:12 AM
To: tyndalltribune@gmail.com
Subject: 4839A-3 Future Use Water Permit - Public Notice
Attachments: 4839A-3 FU REVIEWpubnotice_final.doc

Attached is a notice to be published on Wednesday, January 29, 2025, in the Tyndall Tribune & Register.

City of Tyndall, Teresa Holland, Finance Officer, PO Box 29, Tyndall SD 57066, 605-589-3481 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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, January 22, 2025 11:13 AM
To: Kelly Kronaizl
Subject: 4839A-3 Future Use Water Permit - Public Notice
Attachments: 4839A-3 FU REVIEWpubnotice_final.doc

Attached is a notice to be published on Wednesday, January 29, 2025, in the Daily Press & Dakotan.

City of Tyndall, Teresa Holland, Finance Officer, PO Box 29, Tyndall SD 57066, 605-589-3481 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

State of South Dakota }
County of Bon Homme } SS

Rebecca Ty.....Being first duly sworn says that the **Tyndall Tribune & Register** is a legal weekly newspaper for publication of legal and other official notices as required by Chapter 298 of the Session Laws of South Dakota, 1939; that it has bona fide paid circulation of more than two hundred copies weekly; that it is published in English language in the City of Tyndall, Bon Homme County, South Dakota, and has been admitted to the United States mail under second class mailing privilege for more than one year prior to the first publication of the notice herein mentioned, and that it is printed in an office maintained at the place of publication at Tyndall, South Dakota, and that dependent is the publisher in charge of the advertising department of said newspaper; that the advertisement headed

*Notice of Hearing -
Water Use Permit
164 @ 399 4839A-3*

a printed copy of which is hereto attached, was printed and published in said newspaper for *2* successive weeks, upon the following dates:

<i>Jan 29</i> 20 <i>25</i>	20.....
.....20.....	20.....
.....20.....	20.....
.....20.....	20.....

That the full amount of the fee charged for the publication of said notice, *\$15.44*, inures to the benefit of the publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any other person, and that no part has been agreed to be paid to any person whomsoever.

Rebecca Ty, publisher
Subscribed and sworn to before me this

29 day of *Jan* 20*25*

Legg
Notary Public,
South Dakota
Notary Public, South Dakota

My Commission expires: 10-24-2021

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, Teresa Holland, Finance Officer, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved 1982 and currently reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 on March 5, 2025, 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 February 10, 2025.

RECEIVED

FEB 03 2025

OFFICE OF
WATER

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. 4839A-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 February 10, 2025.

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 February 10, 2025.

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 February 10, 2025. 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 an approximate cost of \$65.44 and can be viewed free of charge at www.sdpublicnotices.com

(Jan. 29)

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

CITY OF TYNDALL
P.O. BOX 29
TYNDALL SD 57066

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

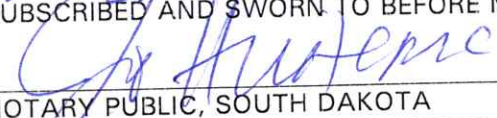
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND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

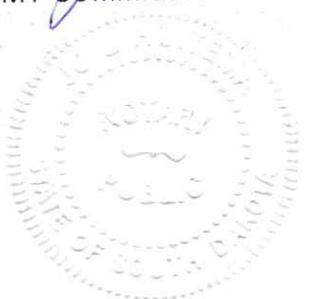
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 29th DAY OF January, 2025
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$61.60 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION 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: 01/29/2025

FILED ON: 01/29/25


SUBSCRIBED AND SWORN TO BEFORE ME THIS 29th DAY OF January, 2025


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



RECEIVED

JAN 31 2025

OFFICE OF
WATER

NOTICE OF HEARING TO
REVIEW FUTURE USE WATER PERMIT NO. 4839A-3

Notice is given that the Water Management Board will review Future Use Permit No. 4839A-3 held by the City of Tyndall, Teresa Holland, Finance Officer, PO Box 29, Tyndall SD 57066 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. 4839A-3. This permit was approved 1982 and currently reserves 410 acre-feet from groundwater (less than 160 feet deep) located in Section 21-T94N-R60W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 4839A-3 REMAIN in EFFECT for 410 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. 4839A-3 on March 5, 2025, 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 February 10, 2025.

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. 4839A-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 February 10, 2025.

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 February 10, 2025.

RECEIVED

JAN 31 2025

OFFICE OF
WATER

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 February 10, 2025. 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 \$61.28 and can be viewed free of charge at www.sdpublicnotices.com

Published January 29, 2025.

RECEIVED

JAN 31 2025

OFFICE OF
WATER

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, January 22, 2025 11:41 AM
To: City of Tyndall
Subject: 4839A-3 Future Use Review Water Permit - Public Notice
Attachments: 2025 PubNotice.pdf

Good morning,

Attached is a copy of the chief engineer's recommendation, and information regarding the public notice for your future use water permit review. As stated in the letter, **please contact the paper(s) as soon as possible to authorize publication and arrange for payment.** This information is also being mailed to you today.

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 6, 2025

NOTICE OF ENTRY OF ORDER

City of Tyndall
c/o Teresa Holland, Finance Officer
PO Box 29
Tyndall SD 57066

Dear Ms. Holland,

I am writing in response to action taken by the Water Management Board at the hearing on March 5, 2025, to review Future Use Permit No. 4839A-3. The Board allowed the permit to remain in effect for 410 acre-feet of water annually. Future Use Permit No. 4839A is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 4839A is \$95.00 pursuant to SDCL 46-2-13(2) which was received November 18, 2024.

Please contact Rachel Rodriguez if you have any questions.

Sincerely,

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

CERTIFICATION

I hereby certify that on March 6th, 2025, I have personally deposited with the United States mail at Pierre, South Dakota, a first-class envelope containing a "NOTICE OF ENTRY OF ORDER" dated March 6th, 2025 involving action taken by the Water Management Board hearing on March 5th, 2025:

East Dakota Water Development District, C/O Jay Gilbertson Manager, 132B Airport Drive, Brookings SD 57007

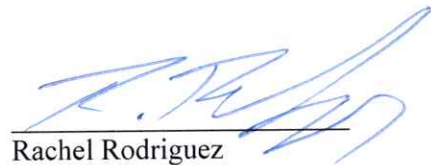
City of Tyndall, C/O Teresa Holland Finance officer, PO Box 29, Tyndall SD 57066



Shannon Konst
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 10TH day of March, 2025.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date November 18TH, 2024

RECEIVED OF City of Tyndall Teresa Holland, Finance Officer PO Box 29 Tyndall SD 57066

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 ^{Future Use} Application for Permit No. <u>4839A-3</u> to Appropriate Water for Future use	<u>\$95.00</u>
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
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 Holland

Chief Engineer

SE



**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**

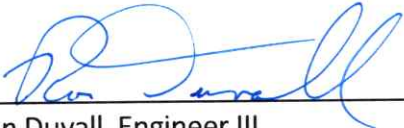
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.: 4839A-3

Name of Applicant: City of Tyndall, Teresa Holland

Date of Posting: 1/27/2025

Date of Removal: 3/6/2025



Ron Duvall, Engineer III

3/6/2025

Date

Subscribed and sworn to before me, a notary public, this 6th day of March, 2025.



Notary Public - South Dakota
My commission expires May 16, 2029



(SEAL)