

Future Use
WATER PERMIT NO. 5101-3

MAP No. Same

Name of Applicant City of Lennox

Post Office Address P.O. Box 228, Lennox SD 57039

Amount of Water Claimed 285 ac-ft / year Total Acres NA

Source of Water Supply groundwater - Dakota Sandstone

Water to be used for municipal & domestic uses County Lincoln

About 4 miles SE of Lennox.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F.& C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY Date Received August 27, 1986 Fee \$25.00 Remarks this

application proposes to appropriate water for future use

Corrected Application Received _____ Period of Annual Use _____

WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point Portions of T98N-R48, 49, 50, 51W;

T97N-R48, 49, 50, 51W; and T96N-R48, 49, 50, 51W

Land to be Irrigated NA

Well Log: Driller NA Licensed YES NO

Depth of Well	REMARKS
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Type of Map Flat PREPARED BY Stockwell Engineers Reviewed and the Number 22

assigned on September 22, 1982 By Ron Duvall

No. 5101-3 Hydrologic Unit 10170203
 Map No. same Basin Vermillion & Big Sioux
 Newspaper Lennox Independent Box 76 (Thurs)
Vermillion Plain Talk Box 256 (Wed)
Beresford Republic, Box 111 (Thurs)

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use of water: Industrial ☐ Commercial ☐ Municipal ☒ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐
 Domestic ☒ (above 18gpm) Other ☐

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☒ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant City of Lennox Phone No. 605-647-2286Post Office Address P.O. Box 228, Lennox, South Dakota State SD Zip Code 57039
(Street, RR or Box)2. Amount of water claimed (c.f.s.) 285 acre-ft./yr.3. Source of water supply Dakota Sandstone4. Location of point of diversion See attachedCounty Lincoln5. Counties where water will be used City of Lennox, Lincoln County, South Dakota6. Annual period during which water is to be used Twelve (12) months/year

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The proposed project involves providing a new source of water supply for the City of Lennox with a significant improved water quality. The project will involve either new well(s) or purchase of water from South Lincoln Rural Water, both requiring a water permit in the Dakota Sandstone.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA
 County of Lincoln)^{ss}

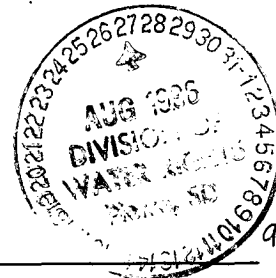
I, Floyd Beach on behalf of the City of Lennox the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed

Floyd BeachSubscribed and sworn to before me this 25th day of August 1986Sharon Allen

My Commission Expires Oct. 1, 1989

Notary Public (or other qualified officer)



S. 1/2 Section 13 & 14, SE 1/4 Section 15, E. 1/2 Section 22, Sections 23 and 24, T98N, R51W,

or

Sections 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, T98N, R51W; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, T97N, R51W; Sections 1 thru 4; 9 thru 11; 12 thru 16; 21 thru 28; 33 thru 36, T96N, R51W; Sections 13 thru 36, T98N, R50W; Sections 1 thru 36, T97N, R50W; Sections 1 thru 27; W. 1/2, Section 30 & 31; 34 thru 36, T96N, R50W; Sections 16 thru 21; 28 thru 36; S. 1/2, Sections 26 & 27, T98N, R49W; Sections 1 thru 36, T97N, R49W; Sections 1 thru 36, T96N, R49W; S. 1/2 Section 31, T98N, R48W; Sections 6, 14 thru 23; 26 thru 35, T97N, R48W; and Sections 2 thru 11; Sections 14 thru 36, T96N, R48W. The above description deletes areas in an adjacent to the Cities of Canton and Beresford.

**SOUTH DAKOTA
FUTURE USE WATER PERMIT No. 5101-3**

Date of first receipt of application August 27, 1986.

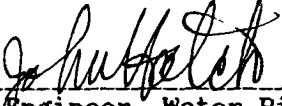
The Water Management Board approved Future Use Water Permit Application No. 5101-3 on December 7, 1989 for the City of Lennox, PO Box 228, Lennox SD 57039 to the following limitations, conditions and qualifications:

1. Future Use Water Permit No. 5101-3 reserves 285 acre-feet of water annually from the Dakota Sandstone Formation. The area reserved for future use is located in the S1/2 sections 13 and 14; SE1/4 section 15; E1/2 section 22; sections 23 and 24; all in T98N-R51W.
2. The water reserved for future use is for municipal use by the City of Lennox.
3. The date from which applicant may claim right is August 27, 1986.

QUALIFICATIONS

1. That Future Use Permit No. 5101-3 is approved with the stipulation that the Permit to appropriate water is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.
2. At such time as definite plans are made to construct works and put the water reserved by permit to beneficial use, specific application for all or any part of the reserved water must be submitted prior to construction of facilities pursuant to SDCL 46-5-38.1.
3. This permit is approved for groundwater from the Dakota Formation.

WATER MANAGEMENT BOARD

By: 
Chief Engineer, Water Rights Division
Department of Water and Natural Resources

MAR 21 1990

(date)

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter 10-18 inches Depth 620 feet
- b) Casing Type Steel Diameter 10-12 inches Thickness 0.25 inch
- c) Screen Type Stainless Steel Diameter 4-6 inches Thickness 7 gauge (3/16 inch)
- d) Gravel Pack Thickness approx. 3 inches Length of Gravel Pack 260 feet
- e) Depth to Top of Water Bearing Material 360 feet
- f) Depth of Water (ground surface to water level) 80 feet
- g) Distance to nearest existing domestic well:
- On applicants property None On property owned by others Unknown

2. Dugout Information Estimates Not applicable (N/A)

- a) Surface Dimensions N/A Depth N/A
- b) Depth to water (ground surface to water level) N/A

3. Water Storage Dams Not applicable (N/A)

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

N/A

N/A

b) Freeboard N/A

c) Crest Width N/A

Crest Length N/A

d) Height N/A

e) Outlet Dimensions:
Pipe diameter N/A

Spillway width N/A

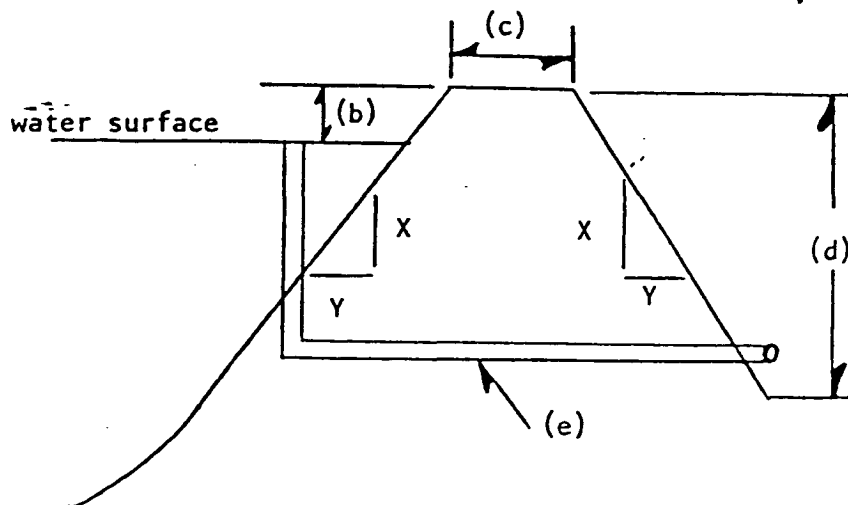
f) X & Y Slope
Upstream N/A

Downstream N/A

Surface Area of Impoundment N/A

Storage N/A acre feet

Drainage area above dam N/A

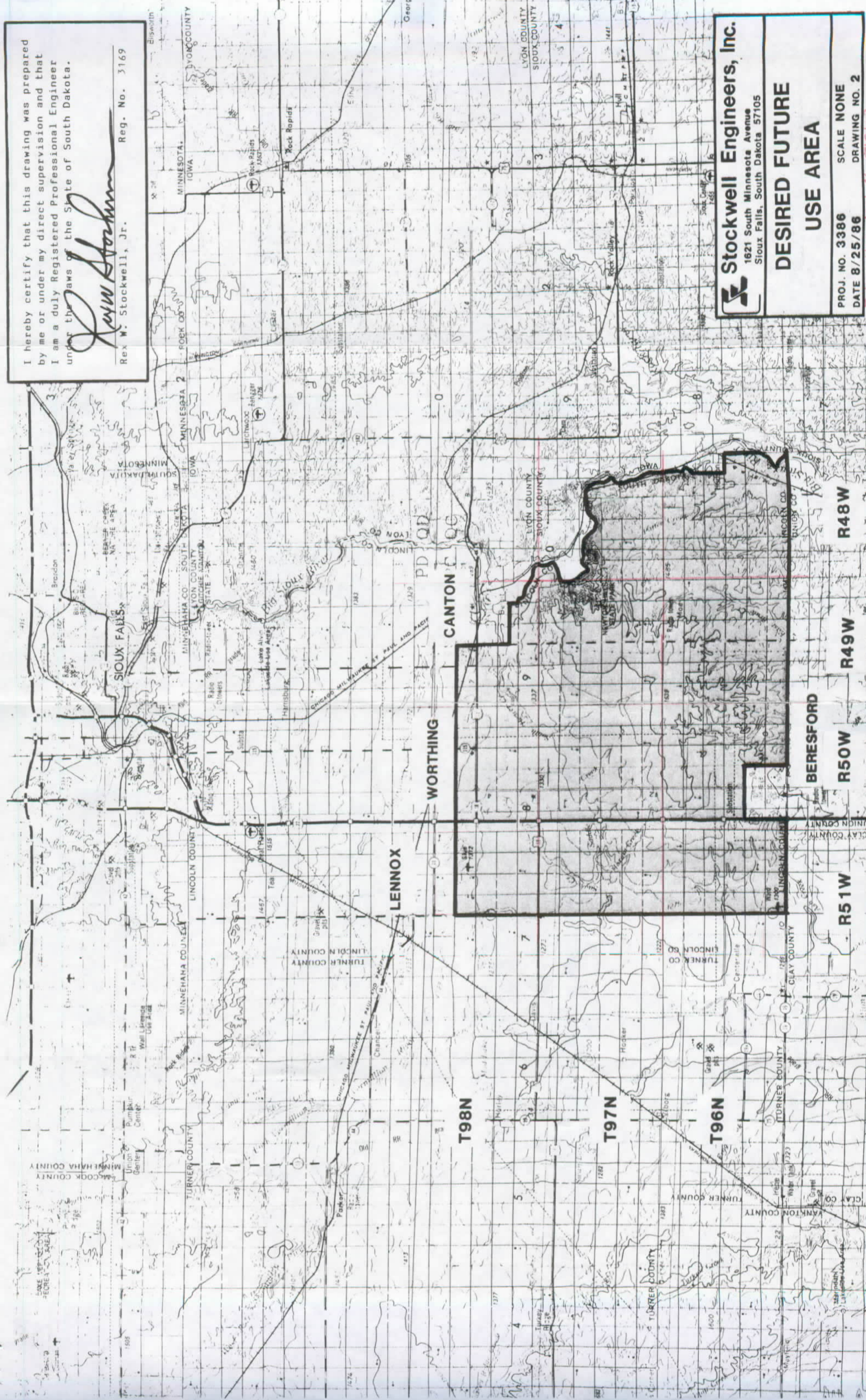


Floyd Beach
Floyd Beach, City of Lennox

I hereby certify that this drawing was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of South Dakota.

Rex W. Stockwell, Jr.

Rex W. Stockwell, Jr. Reg. No. 3169



Stockwell Engineers, Inc.
1621 South Minnesota Avenue
Sioux Falls, South Dakota 57105

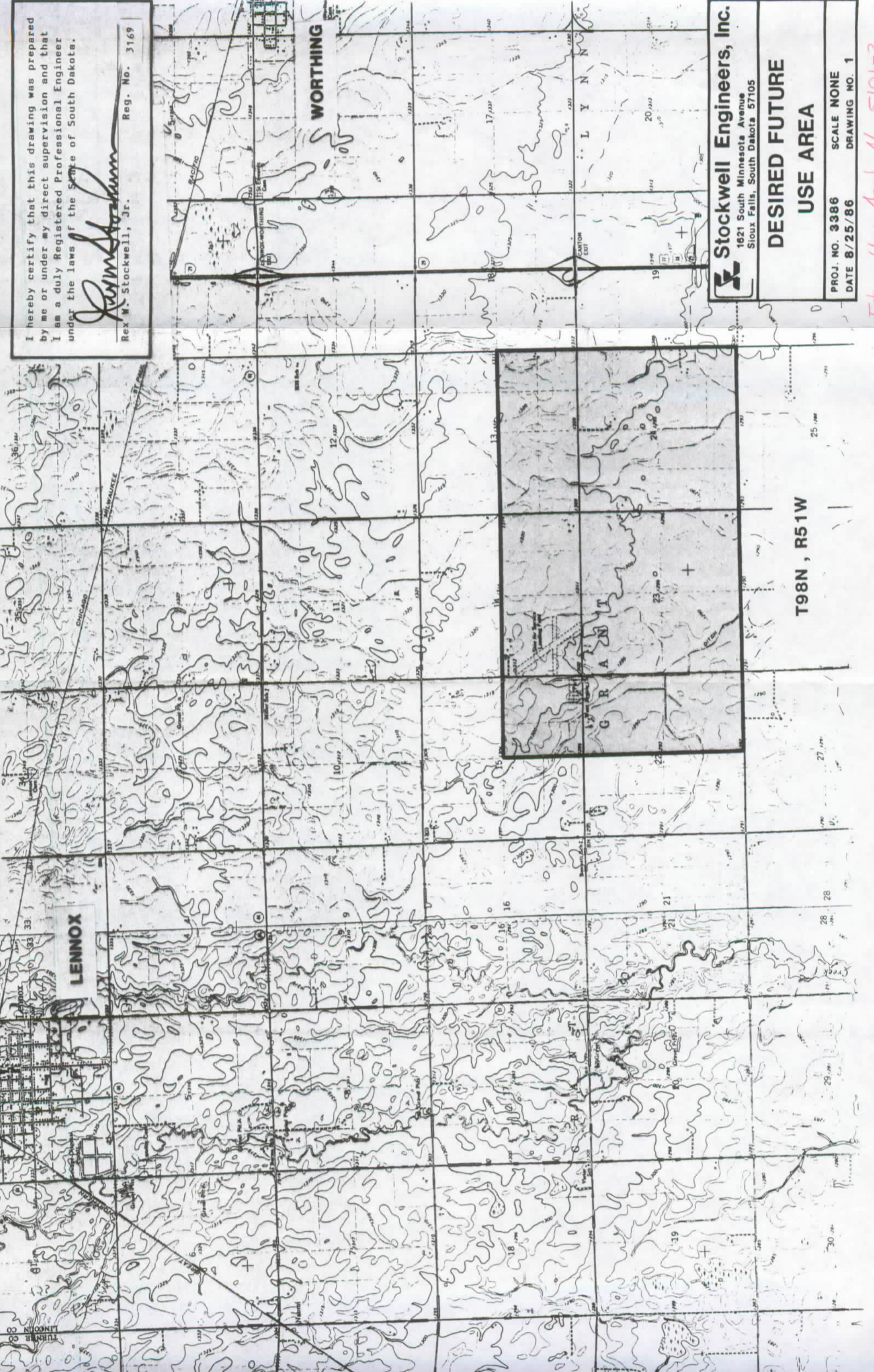
**DESIRED FUTURE
USE AREA**

PROJ. NO. 3386
DATE 8/25/86

SCALE NONE
DRAWING NO. 2

I hereby certify that this drawing was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of South Dakota.

Rex W. Stockwell, Jr.
Rex W. Stockwell, Jr.
Reg. No. 3169



Stockwell Engineers, Inc.
1621 South Minnesota Avenue
Sioux Falls, South Dakota 57105

**DESIRED FUTURE
USE AREA**

PROJ. NO. 3386
DATE 8/25/86
SCALE NONE
DRAWING NO. 1

Future Use Appl. No 5101-3

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410538

Pierre, August 28, 1986

RECEIVED OF City of Lennox, PO Box 228, Lennox SD 57039

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

Fee for Application for Permit No. <u>5101-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____	25	00
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	25 00

By John Hatch
Chief Engineer JOHN HATCH

gm

REPORT ON APPLICATION NO. 5101-3
CITY OF LENNOX
October 10, 1986

This application proposes to appropriate for future use 285 acre feet of groundwater annually from the Dakota Formation. The water will be reserved for the purpose of providing future water supplies for municipal purposes in the City of Lennox. This application does not authorize construction of works or allow water to be put to beneficial use.

Aquifer - Dakota Formation

Geology and Aquifer Characteristics

The Dakota Formation consists of interbedded sand, sandstone, clay and sandy clay. A more uniform layer of sand, as much as 100 feet thick, is sometimes found at the base of the formation (Illes, 1984). The Dakota Formation has been described as deposited in a fluvial environment which would account for the horizontal and vertical lithologic variabilities that are typical in this area. The SDGS has estimated there is 4.3 million acre-feet of recoverable water in storage in Lincoln County (Hedges, 1982) and the Dakota attains a maximum thickness of over 300 feet (Illes, 1984). The Dakota Formation is under artesian conditions and the Division of Water Rights monitors 37 Dakota Formation wells in Lincoln County. Water levels in the Dakota Formation do fluctuate due to withdrawals by South Lincoln Rural Water System (SLRWS). A summary of this data was presented to the Water Management Board at the February 6, 1986 hearing (Goodman, 1985).

Recharge to the Dakota has not been quantified, and may never be quantified, however, potential recharge areas can be inferred from the Illes report and from a comparison of water level data and cross section data which was included with the Goodman report. This data all indicates a hydraulic connection with a buried glacial outwash to the west and north and with the Sioux Quartzite which directly underlies the Dakota Formation.

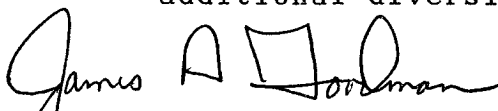
Water Quality from the Dakota is relatively good. The Illes report includes a map showing the distribution of total dissolved solids (TDS) for wells in the Dakota Formation. Recharge water, at least as far as is able to be determined now, is inferior in quality to what is presently in the aquifer. Apparently, recharge water is mingling with Dakota water (and this is shown by the Illes map) and degrading the water quality. The process has been going on naturally for a long time and what the effects of additional withdrawals from the Dakota Formation are unknown. In theory at least, withdrawals from the Dakota Formation should cause an increase in the rate of deterioration. Present thinking would indicate this increase in the rate of water movement due to withdrawals is quite small. No attempt has been made to quantify this, however.

Review of Existing Water Rights

The future use area requested by this application coincides with Permit No. 4817-3 for SLRWS, which is also a future use Permit. Because of other users in the aquifer, a detailed look at the location chosen for a diversion point will be provided when an application to put water to use is made.

Conclusions

1. Water is available from the Dakota Formation.
2. The application implies that water may be developed in conjunction with SLRWS or by the City of Lennox independently. A water permit is required in either instance. SLRWS already has water reserved which will supply the amount of water requested. Since the City of Lennox is making this request, this permit will be considered new water in addition to what is reserved by SLRWS.
3. Drawdowns will occur as a result of this development, Presently, drawdowns monitored by the Division of Water Rights due to SLRWS withdrawals have not seriously impacted domestic users or the availability of water from the aquifer. Proper well spacing will reduce the impacts of withdrawals under this application.
4. Water quality is an issue. The City of Lennox can obtain better water from the Dakota Formation than their present source. Impacts of this withdrawal on the water quality in the Dakota Formation can not be assessed at this time. Any changes would certainly be gradual over time.
5. SDCL 46-6-3.1 exempts water distribution systems from the criteria of average annual recharge. Permits can be granted in excess of the estimated average annual recharge to water distribution systems. The evidence collected thus far does not indicate recharge is being exceeded by withdrawals, but the statute does allow for that to happen. Certainly, proper management would be considered prior to authorizing additional diversions, if this situation occurs.


JAMES A GOODMAN
Hydrologist

Bibliography

Goodman, J.A., 1985, Report on Application No. 4300-3B South Lincoln Rural Water System (SLRWS), presented to Water Management Board February 6, 1986, DWNR, Division of Water Rights, Joe Foss Bldg, Pierre SD 57501

Hedges, L. S., 1982, Evaluation of Ground Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, for U. S. Army Corps of Engineers, SDGS, Vermillion SD 57069.

Illes, D. L., 1982, Pleistocene Recharge to Dakota Formation in Lincoln County, South Dakota, in Geohydrology of the Dakota Aquifer, Proceedings of the First C. V. Thesis Conference on Geohydrology, NWWA, 500 W Wilson Bridge Road, Worthington, Ohio, 43085.

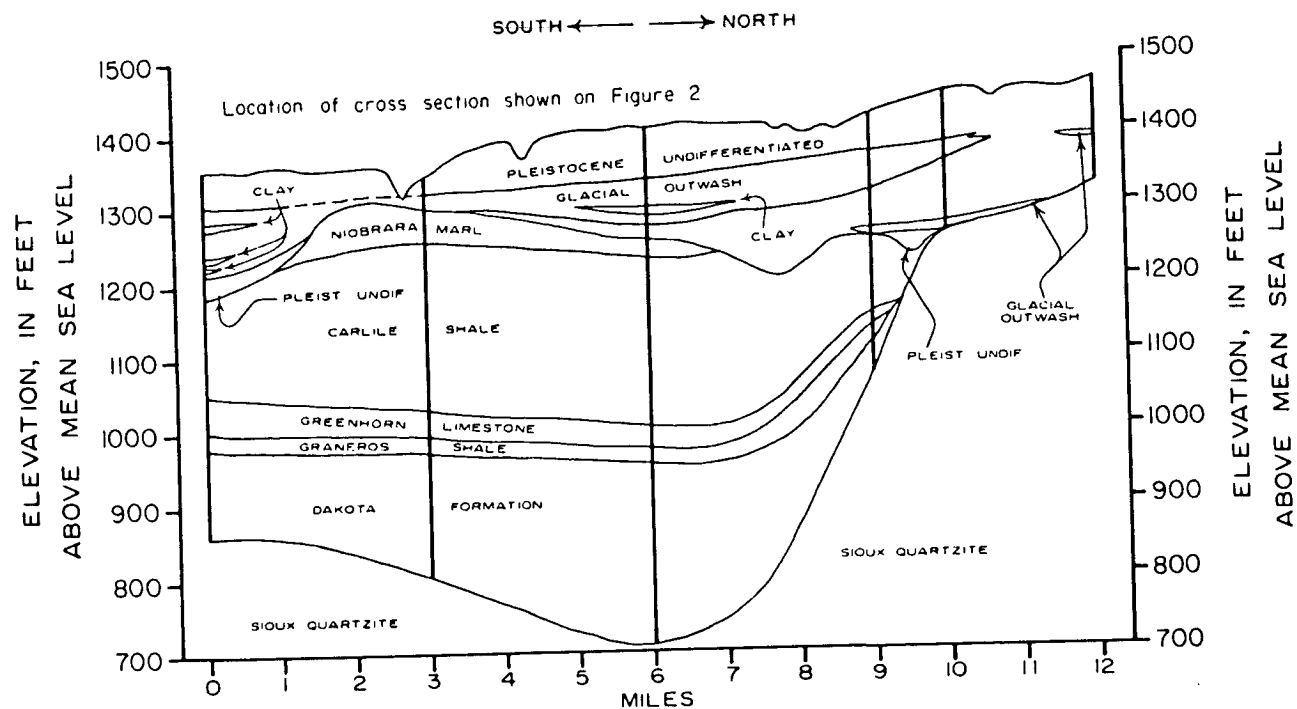


Figure 4. North-south cross section through the study area

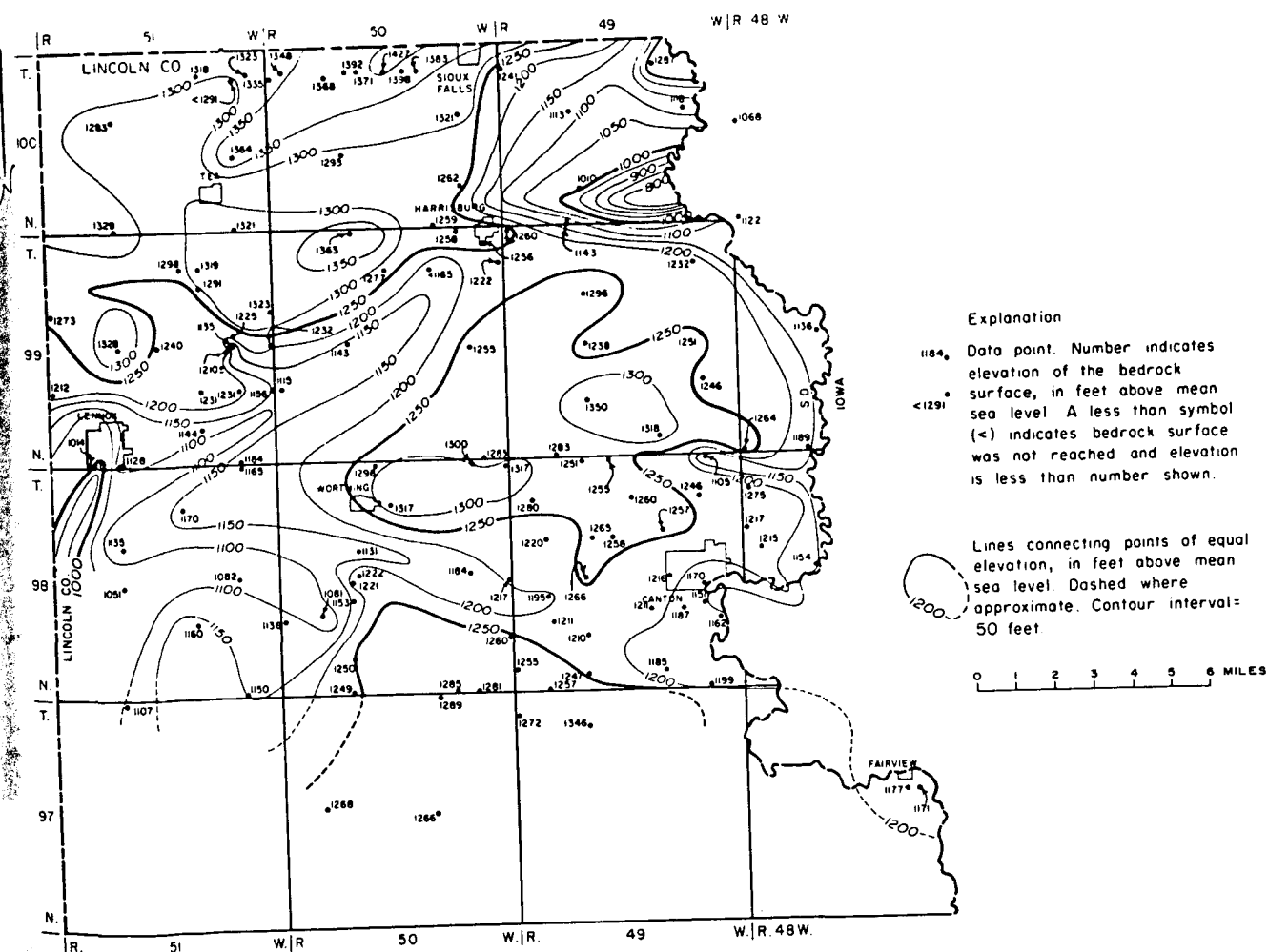


Figure 5. Contour map of the bedrock surface

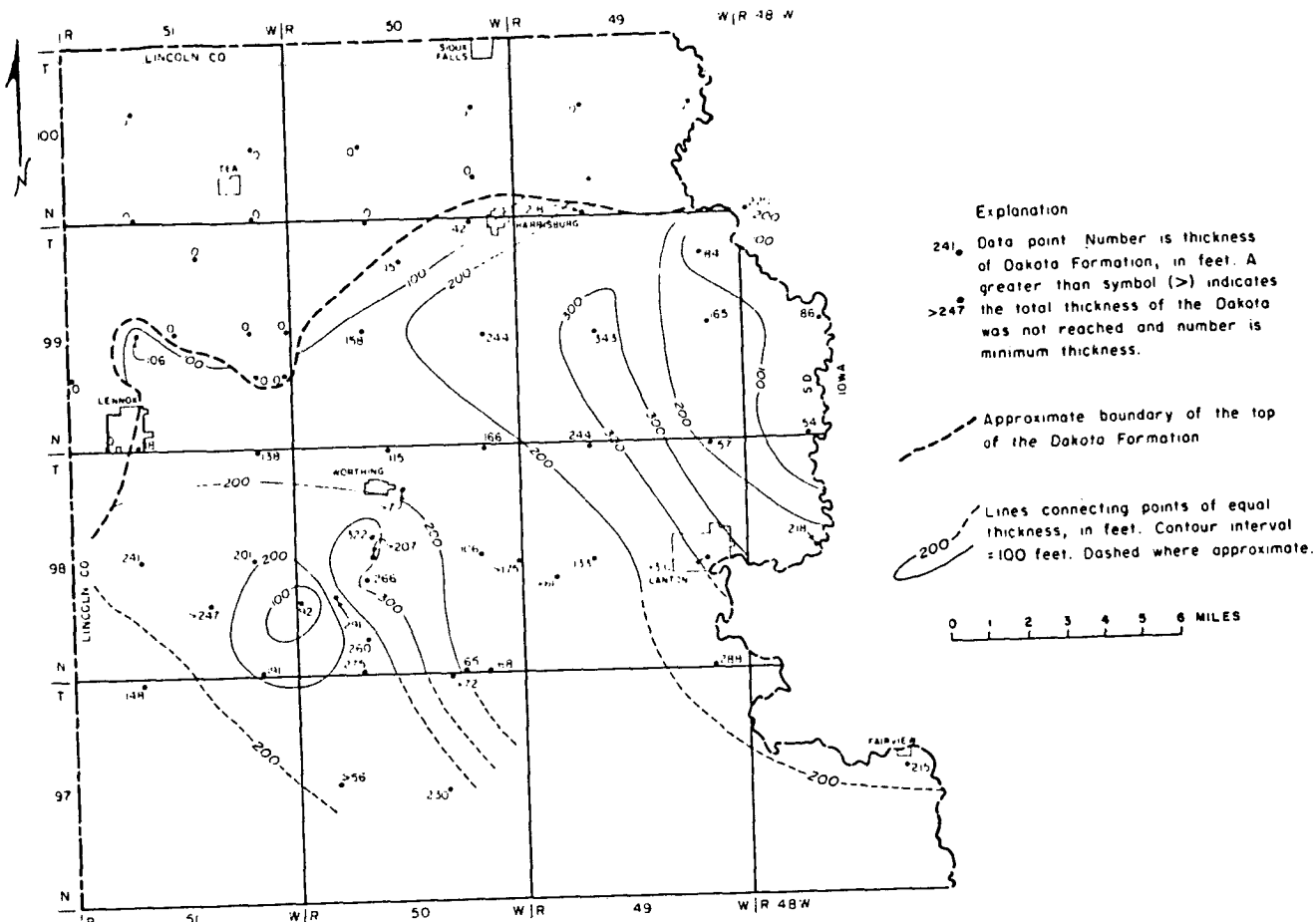


Figure 8. Thickness of the Dakota formation

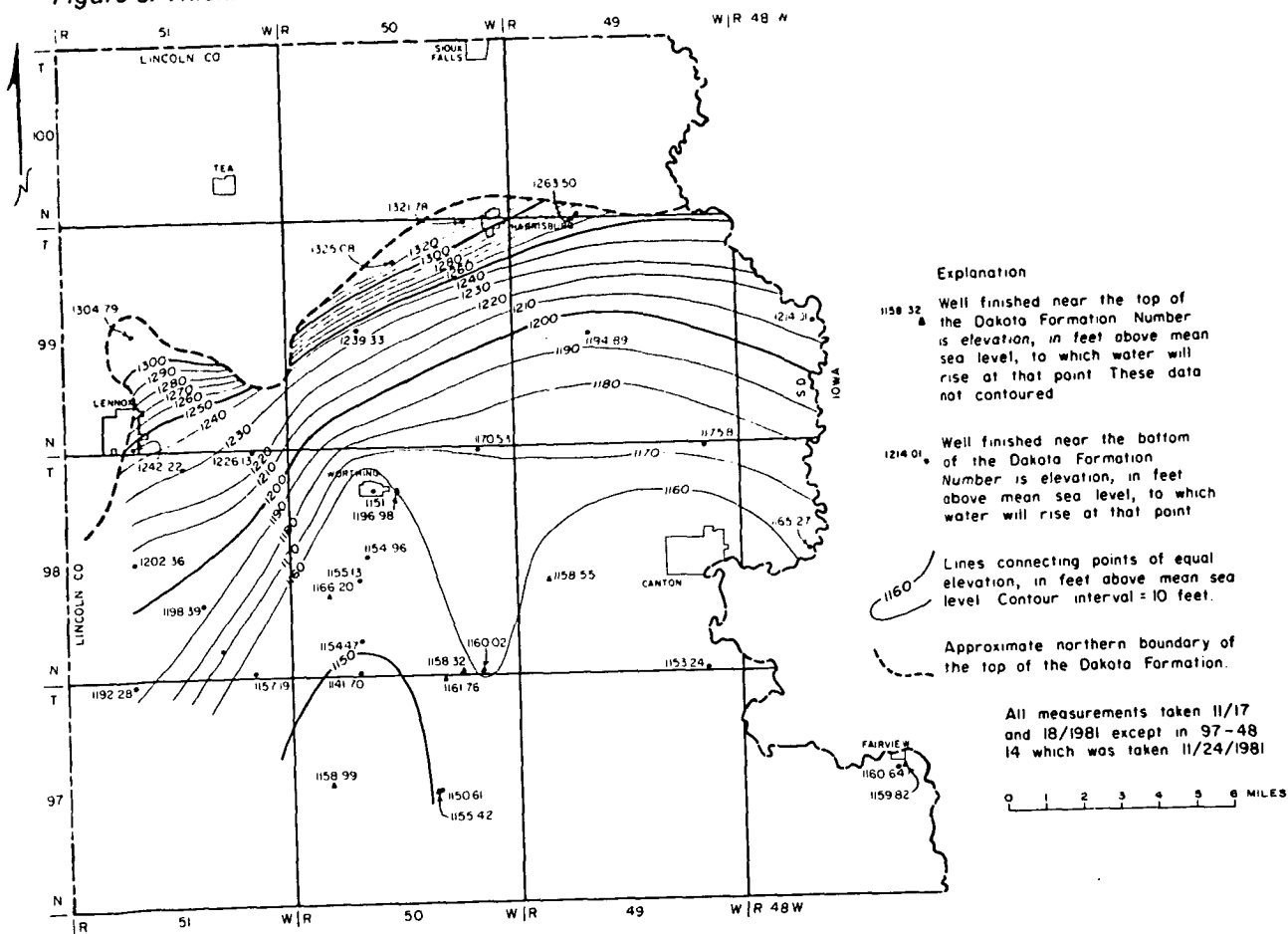


Figure 9. Potentiometric surface of the Dakota formation

Table 1. Also, it is uncertain how the water from these four wells may have been affected by the presence of the aforementioned pre-Pleistocene and early Pleistocene drainage present along the western edge of the study area from Lennox to the south-southwest. This drainage may serve as a western boundary of the type of water found in the main body of the Dakota formation in Lincoln County.

The wide disparity in water chemistry between present sources of recharge and the main body of Dakota formation water is obvious. Because the Dakota formation is presently receiving recharge water along its northern edge that is inferior in quality to the present formation water, it must be concluded that the good water in the formation entered it under hydrologic conditions that are unlike those that prevail today. Any model explaining the present good quality water in the Dakota formation must account for a source as well as a mechanism of emplacement.

Geologic Parameters

Map of Lincoln County, Nebraska, showing sample locations for the Dakota Formation. The map includes a grid with Township (T) and Range (R) coordinates. Sample locations are marked with dots and numbers, some with asterisks indicating they are from the upper part of the formation. A dashed line represents the approximate northern boundary of the Dakota Formation. A scale bar at the bottom indicates distances from 0 to 6 miles. A legend explains the symbols used.

Legend:

- 972* Location of water sample. Number is total dissolved solids in parts per million. Sample is from lower part of Dakota Formation.
- 578* An asterisk indicates sample is from upper part of Dakota Formation.
- (504) Parentheses indicates value not used in Table 1. See text for explanation.

Map Labels:

- Lincoln Co.
- Lincoln
- Waverly
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Department of Water & Natural Resources

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

Water Rights Division
605 773-3352

October 31, 1986

NOTE:

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

City of Lennox
PO Box 228
Lennox, South Dakota 57039

Dear Sir:

Your Application No. 5101-3 for a permit to appropriate water for
municipal & domestic use, has been examined and found to
comply with the South Dakota Water Laws and applicable rules. A notice of
your intent to appropriate water has been sent to the Publisher of the

Lennox Independent printed at Lennox

South Dakota. For your information, a copy of this notice, the recommendation
of the Chief Engineer and a report on the application are enclosed. Please
review this notice prior to publication and notify this office, if you have
any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice
of intent to appropriate water and to arrange for payment. Early contact with
the paper can eliminate delays. The publisher has been instructed to publish
your notice once each week for two consecutive weeks with the last publication
to occur at least thirty days before the board meeting. We must receive
Proof of Publication before the application can be considered by the Water
Management Board.

Sincerely,

RON DUVALL
Natural Resources Engineer

enclosures

No. 5101-3

Instruction to Newspaper - Publish first publication of the following Notice on or before _____ with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5101-3 to Appropriate Water

Notice is hereby given that the City of Lennox whose mailing address is P.O. Box 228, Lennox, South Dakota has made an application for a permit to appropriate for future use 285 acre-feet of groundwater annually from the Dakota Sandstone Formation. The area where the water will be reserved for future use is located in either the S $\frac{1}{2}$ Section 13 & 14, SE $\frac{1}{4}$ Section 15, E $\frac{1}{2}$ Section 22, Sections 23 and 24, T98N, R51W, or in Sections 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, T98N, R51W; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, T97N, R51W; Sections 1 thru 4; 9 thru 11; 12 thru 16; 21 thru 28; 33 thru 36, T96N, R51W; Sections 13 thru 36, T98N, R50W; Sections 1 thru 36, T97N, R50W; Section 1 thru 27; W $\frac{1}{2}$, Section 30 & 31; 34 thru 36, T96N, R50W; Section 16 thru 21; 28 thru 36; S $\frac{1}{2}$ Sections 26 & 27, T98N, R49W; Sections 1 thru 36, T97N R49W; Sections 1 thru 36, T96N, R49W; S $\frac{1}{2}$ Section 31, T98N, R48W; Sections 6, 14 thru 23; 26 thru 35, T97N, R48W; and Sections 2 thru 11; Sections 14 thru 36, T96N, R48W. The water will be reserved for the purpose of providing future water supplies for municipal purposes in the City of Lennox. This application is not for construction of works or to put water to beneficial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5101-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the quantity of water reserved will be needed by the City of Lennox, 3) the proposed use will be a beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, December 10, 1986 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) approve, 2) approve with qualifications, 3) defer, or 4) deny this application 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 applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2 46-5-30.4, 46-5-31; ~~(ground)~~ 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; ~~(future use)~~ 46-5-38 thru 46-5-40; ~~(transfer lands)~~ 46-5-30.4, 46-5-33 thru 46-5-35; ~~(10,000 AFA)~~ 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; ~~(future use)~~ 74:02:01:24 thru 74:02:01:25; ~~(10,000 AFA)~~ 74:02:01:15:02 thru 74:02:01:15:05.

This hearing is an adversary proceeding. The applicant 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Union) ss.

I, Rondi Hustrulid hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Beresford Republic

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

City Beresford of _____

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

November 6, 1986

November 13, 1986

Rondi Hustrulid
(Signature)

Vice President
(Title)

November 13, 1986
(Date Signed)

Cost of Printing: \$54.68

NOTICE OF HEARING on
Application No. 5101-3 to
Appropriate Water

Notice is hereby given that the
City of Lennox, whose mailing
address is P.O. Box 228, Lennox,
South Dakota has made an
application for a permit to
appropriate for future use 285
acre-feet of groundwater
annually from the Dakota
Sandstone Formation. The area
where the water will be reserved
for future use is located in either
the S $\frac{1}{2}$ Section 13 & 14, SE $\frac{1}{4}$
Section 15, E $\frac{1}{2}$ Section 22, Sections
23 and 24, T98N, R51W, or in
Sections 13, 14, 15, 16, 21, 22, 23,
24, 25, 26, 27, 28, 33, 34, 35, 36,
T98N, R51W; Sections 1, 2, 3, 4, 9,
10, 11, 12, 13, 14, 15, 16, 21, 22, 23,
24, 25, 26, 27, 28, 33, 34, 35, 36,
T97N, R51W; Sections 1 thru 4; 9
thru 11; 12 thru 16; 21 thru 28; 33
thru 36, T96N, R51W; Sections 13
thru 36, T98N, R50W; Sections 1
thru 36, T97N, R50W; Section 1
thru 27; W $\frac{1}{2}$, Section 30 & 31; 34
thru 36, T96N, R50W; Section 16
thru 21; 28 thru 36; S $\frac{1}{2}$ Sections 26
& 27, T98N, R49W; Sections 1 thru
36, T97N, R49W; Sections 1 thru
36, T96N, R49W; S $\frac{1}{2}$ Section 31,
T98N, R48W; Sections 6, 14 thru
23; 26 thru 35, T97N, R48W; and
Sections 2 thru 11; Sections 14
thru 36, T96N, R48W. The water
will be reserved for the purpose
of providing future water
supplies for municipal purposes
in the City of Lennox. This
application is not for construction
of works or to put water to
beneficial use.

Pursuant to SDCL 46-2A-2 the
Chief Engineer of the Water
Rights Division recommends
APPROVAL of Application No.
5101-3 because 1) there is
reasonable probability that there
is unappropriated water
available for the applicant's
proposed use, 2) the quantity of
water reserved will be needed by
the City of Lennox, 3) the
proposed use will be a beneficial
use of water and 4) is in the public
interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 505 E. Capitol, Pierre, South Dakota, December 10, 1986 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) approve, 2) approve with qualifications, 3) defer, or 4) deny this application 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 applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the

application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; 46-5-38 thru 46-5-40; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:24 thru 74:02:01:25.

This hearing is an adversary proceeding. The applicant 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre, SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended at least twenty days upon written request of the applicant or any person who has

filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.

Publish: November 6 and 13, 1986.

AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Clay, ss.

Crystal J. Willerth

Being first duly sworn, deposes and says: That he/she is a resident of the County of Clay and State of South Dakota; that

THE PLAIN TALK

is a legal newspaper of general circulation, printed and published in Vermillion, in said County and State, by Broadcaster Press, Inc., and is now and has been such newspaper continuously during all the times hereinafter mentioned; that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit; and that the notice and advertisement headed:

NOTICE OF HEARING - WATER
to City of Lennox

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

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

aforsaid was on Wednesday, the 5 day of NOVEMBER, 1986
and that the succeeding publications were severally

on Wednesday, the 12 day of NOVEMBER, 1986

on Wednesday, the _____ day of _____, 19____

on Wednesday, the _____ day of _____, 19____

on Wednesday, the _____ day of _____, 19____

that the fees charged for the printing and publication of the said notice and advertisement in said newspaper as aforsaid were

fifty - three dollars and 91 cents

and that said fees for the printing and publishing of said notice and advertisement have been fully paid; that the full amount of the fee charged for the publishing of the said attached annexed notice and advertisement inures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Crystal J. Willerth

Subscribed and sworn to before me this 17th

day of November, 1986

Joan E. Willerth

Notary Public

NOTICE OF HEARING

NOTICE OF HEARING on Application No. 5101-3 to Appropriate Water Notice is hereby given that the City of Lennox whose mailing address is P.O. Box 228, Lennox, South Dakota has made an application for a permit to appropriate for future use 285 acre-feet of groundwater annually from the Dakota Sandstone Formation. The area where the water will be reserved for future use is located in either the S $\frac{1}{2}$ Section 13 & 14, SE $\frac{1}{4}$ Section 15, E $\frac{1}{2}$ Section 22, Sections 23 and 24, T98N, R51W, or in Sections 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 34, 35, 36, T98N, R51W; Sections 1, 2, 3, 4, 9, 10, 11,

12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, T97N, R51W; Sections 1 thru 4; 9 thru 11; 12 thru 14; 21 thru 28; 33 thru 36, T96N, R51W; Sections 13 thru 36, T98N, R50W; Sections 1 thru 36, T97N, R50W; Section 1 thru 27; W $\frac{1}{2}$, Section 30 & 31; 34 thru 36, T96N, R50W; Section 16 thru 21; 28 thru 36; S $\frac{1}{2}$ Sections 26 & 27, T98N, R49W; Section 1 thru 36, T97N R49 W; Sections 1 thru 36, T96N, R49W; S $\frac{1}{2}$ Section 31, T98N, R48W; Sections 6, 14 thru 23; 26 thru 36; T97N, R48W; and Sections 2 thru 11; Sections 14 thru 36, T96N, R48W. The water will be reserved for the purpose of providing future water supplies for municipal purposes in the City of Lennox. This application is not for construction of works or to put water to beneficial use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5101-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the quantity of water reserved will be needed by the City of Lennox, 3) the proposed use will be a beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, December 10, 1986 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) approve, 2) approve with qualifications, 3) defer, or 4) deny this application 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 applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provision of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; 46-5-38 thru 46-5-40; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:24 thru 74:02:01:25.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWR, Joe Foss Bldg., Pierre SD (605-773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.

Sharon Albers
Finance Officer
City of Lennox
220 S. Main
Lennox, SD 57049
Publish: November 5, 12, 1986

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Lincoln) ss.

I, Verlyn Hofer hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Lennox Independent

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

City Lennox of Lincoln

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

November 13, 1986

November 20, 1986

Verlyn Hofer
(Signature)

owner
(Title)

11-20-86
(Date Signed)

Cost of Printing: 46.87



NOTICE OF HEARING

Notice of Hearing on Application
No. 5101-3 to Appropriate Water.

Notice is hereby given that the City of Lennox, whose mailing address is P.O. Box 228, Lennox, South Dakota, has made an application for a permit to appropriate for future use 285 acre-feet of groundwater annually from the Dakota Sandstone Formation. The area where the water will be reserved for future use is located in either the S $\frac{1}{2}$ Section 13 & 14, SE $\frac{1}{4}$ Section 15, E $\frac{1}{2}$ Section 22, Sections 23 and 24, T98N, R51W, or in Sections 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 36, T98N, R51W; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 35, 36, T97N, R51W; Sections 1 thru 4; 9 thru 11; 12 thru 16; 21 thru 28, 33, 34, 35, 36, T97N, R51W; Sections 1 thru 4; 9 thru 11; 12 thru 16; 21 thru 28; 33 thru 36, T96N, R51W; Sections 13 thru 36, T98N, R50W; Sections 1 thru 36, T97N, R50W; Section 1 thru 27; W $\frac{1}{2}$ Section 30 & 31; 34 thru 36, T96N, R50W; Section 16 thru 21; 28 thru 36; S $\frac{1}{2}$ Sections 26 & 27, T98N, R49W; Sections 1 thru 36, T97N, R49W; Sections 1 thru 36, T96N, R49W; S $\frac{1}{2}$ Section 31, T96N, R48W; Sections 6, 14 thru 23; 26 thru 35, T97N, R48W; and Sections 1 thru 11; Sections 14 thru 36, T96N, R48W. The water will be reserved for the purpose of providing future water supplies for municipal use of the City of Lennox. This application is for construction of a water main for water to beneficial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5101-3 because: 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use; 2) the quantity of water reserved will be needed by the City of Lennox; 3) the proposed use will be a beneficial use of water, and 4) is in the public interest.

This application will be considered by the Water Management Board at Room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, December 10, 1986, 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) approve; 2) approve with qualifications; 3) defer, or 4) deny this application 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 applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel, if legal counsel is obtained. The applicant need not file a petition.

his application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-21, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; 46-5-38 thru 46-5-40; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:24 thru 74:02:01:25.

This hearing is an adversary proceeding. The applicant 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application, or to assure access to the hearing by the handicapped, can contact the Water Rights Division, DWRN, Joe Foss Bldg., Pierre, SD (605/773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.

FRIENDS OF DAKOTA SANDSTONE AQUIFER
Rt. 2 Box 82
Beresford, South Dakota 57004

November 25, 1986



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

Dear Mr. Hatch:

Re: Application 5101-3
City of Lennox

This will serve as a Petition to oppose the above application on behalf of Friends of Dakota Sandstone Aquifer.

Friends of Dakota Sandstone Aquifer has been organized since November, 1977 in an effort to protect domestic wells which rely on the Dakota Sandstone for their source of water.

FODSA is opposed to the application due to the areas given for both the primary and secondary locations.

FODSA is requesting an extension of the hearing scheduled for December 10, 1986. We hope to work with the City of Lennox and the South Dakota Geological Survey in finding a location which will serve the needs of the City of Lennox and the concerns of FODSA and thereby prevent a long and expensive controversy which would benefit neither party.

Sincerely,

Wanda J. Sletten
Secretary

cc: City of Lennox

South Lincoln Rural Water System, Inc.
PO Box 155 Phone (605)372-4211
Canton, SD 57013



November 26, 1986

City of Lennox
220 South Main Street
Lennox, SD 57039

Re: water service from South Lincoln Rural Water System

Dear Sirs:

Since our last contact in April 1986 several items have developed which bears noting regarding the status of water service from South Lincoln to Lennox. The following background is generally noted:

- 1) A Feasibility Study for water service to City of Lennox from South Lincoln Rural Water was completed in August 1985.
- 2) The City applied to and was placed on the State Water Facilities Plan in the fall of 1985.
- 3) In the fall of 1986 the City applied for a future use withdrawal permit in the Dakota Sandstone Aquifer as well as to remain on the Water Facilities Plan.
- 4) The City met with Friends of Dakota Sandstone regarding the future use application.

With reference to the noted background and current status, the following is noted:

- 1) The future use application is to allow either the development of City wells or purchase of water from South Lincoln. Regardless of the alternative selected, if any, the City's water right will be junior to South Lincoln's current and/or future use permits. With such in mind, South Lincoln does not oppose the City's efforts to gain a source of water yielding an improved water quality.

Be advised that it is generally accepted that the source of recharge to the Dakota is of poorer quality than that currently available. In time, the water quality of the Dakota may decline especially along the edge.

- 2) The Feasibility Study and associated costs were furnished over a year ago. Considering the elapsed time, South Lincoln's efforts to expand service to rural users and contract negotiations with the City of Alcester, the basis of the estimates and the estimates themselves may not be

valid at this time.

- 3) With reference to your meeting with the Friends of the Dakota Sandstone and the suggestion that you move further west to avoid opposition, please note Item 1 above regarding recharge and associated water quality.

In summary, it is South Lincoln's understanding that Lennox is evaluating their own deep well or service from South Lincoln as an alternative to your existing water supply. The Feasibility Study will need to be reevaluated prior to any further consideration of South Lincoln as a water supply alternative considering the time frame and recent developments. Although South Lincoln supports the City's desire and efforts to improve the water quality and efforts to improve the water quality available to its residents, the system is interested and concerned in any developments which may effect the Dakota formation and the operation of South Lincoln.

Should you have questions or desire additional information, please advise.

Sincerely,



Charles Kuehl, Chairman
South Lincoln Rural Water System, Inc.

CK:jls

cc: John Hatch
Department of Water & Natural Resources



Department of Water & Natural Resources

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

December 2, 1986

NOTICE

TO: City of Lennox
PO Box 228
Lennox SD 57039

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

A handwritten signature in cursive script, reading "John Hatch".

SUBJECT: Automatic Continuance of Hearing on Future Use
Application No. 5101-3 to Appropriate Water for Future
Use

A petition opposing Future Use Application No. 5101-3 and requesting an automatic continuance of the hearing has been received from Wanda J. Sletten on behalf of the Friends of Dakota Sandstone Aquifer. Pursuant to SDCL 46-2A-4 and 46-2A-5, the hearing for Future Use Application No. 5101-3 is automatically continued until the March 4 & 5, 1987 Water Management Board meeting. The hearing on Future Use Application No. 5084-3 will now be held in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD, March 4, 1987, at 1:00 pm.

cc: Wanda Sletten
South Lincoln Rural Water
Water Management Board
Dan Doyle, Assistant Attorney General

Equal Opportunity Employer

City of
LENNOX, SOUTH DAKOTA

PROUD OF WHAT IT OFFERS YOU AND YOURS

From the Office of the
Finance Officer

Phone (605) 647-2286

February 11, 1987

Department of Water & Natural Resources
Water Rights Division
Joe Foss Building
Pierre, South Dakota 57501

Attn: John Hatch, Chief Engineer

Re: Future Use Application No 5101-3

Dear Mr. Hatch,

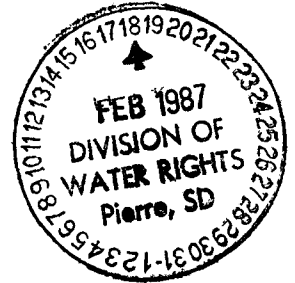
With reference to the above referenced Future Use Application for the City of Lennox, it is respectfully requested that further action including the proposed March hearing be delayed until further notice. It is the City's intention to study and to evaluate alternatives, have public hearing to identify the public support, and evaluate financing prior to proceeding.

The City Council this winter has been involved in several Street and Waste water projects and therefore, will have more time to prepare for a hearing at a later date.

Sincerely,

Floyd Beach

Floyd Beach, Mayor
City of Lennox





Department of Water & Natural Resources

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

February 12, 1987

Floyd Beach, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Dear Mayor Beach:

I am writing in response to your telephone conversation with Ron Duvall, Division Engineer, February 11, 1987 regarding Future Use Permit Application No. 5101-3.

Since the City of Lennox wants to delay consideration of the permit application by the Water Management Board, we need a letter from you requesting the March 4, 1987 hearing be continued. The request for a continuance does not change the current recommendation to approve the application. However, the recommendation could be changed if we receive new information regarding water availability or public interest issues.

Please notify us if any changes are to be made to the application and contact us if you have any questions.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

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

JH:RD:ks



Department of Water & Natural Resources

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

February 19, 1987

NOTICE

TO: Floyd Beach, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

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

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

SUBJECT: ~~Continuance~~ of Hearing on Water Permit Application No.
5101-3, City of Lennox

Pursuant to the February 18, 1987 written request for a continuance from the City of Lennox, the Water Management Board will not consider Application No. 5101-3 at the March 4, 1987 Board meeting. Notice will be given when Application No. 5101-3 is rescheduled for consideration by the Water Management Board.

cc: Wanda Sletten, Secretary, Friends of Dakota Sandstone
Aquifer
South Lincoln Rural Water System
Dan Doyle, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 19, 1987 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice pertaining to continuance of Hearing on Water Permit Application No. 5101-3 addressed as stated below:

Floyd Beach, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

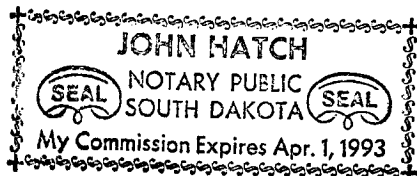
Wanda Sletten
Friends of Dakota Sandstone Aquifer
Rt 2, Box 82
Beresford SD 57004

South Lincoln Rural Water System
John Sievers
PO Box 155
Canton SD 57013

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of February, 1987.



John Hatch
Notary Public

DAVID M. BUECHLER
ATTORNEY-AT-LAW
193 W. First Avenue
P.O. Box 308
Parker, South Dakota 57053

ph. (605) 297-4809

September 12, 1989

John Hatch, Chief Engineer
Water Rights Division
Department of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



RE: Reactivation of Permit #5101-3
Original date November 6, 1986

Dear Mr. Hatch:

This letter is a request to reactivate Permit No. 5101-3 for future use water rights. This was an original permit applied for by the City of Lennox on November 6, 1986. The permit was already published, I believe, in the Sioux Falls, Argus Leader.

As you know, the City of Lennox has pending before you Application No. 5326-3 regarding future water rights slated for Hearing on September 27, 1989 at 10:30 a.m. Perhaps, the Reactivation Permit Hearing can be heard at the same time. Please advise.

Sincerely,

David Buechler
Attorney for the City of Lennox

DB/jc



Department of Water & Natural Resources

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

September 13, 1989

NOTICE

TO: Floyd Beach, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

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

SUBJECT: Consideration of Future Use Water Permit Application
No. 5101-3, City of Lennox

Future Use Application No. 5101-3 was not considered at the March 1987 Water Management Board meeting due to a request for a delay by the City of Lennox. David Buechler, Attorney for City of Lennox, has now requested that Application No. 5101-3 be scheduled for a hearing before the Water Management Board. The hearing is scheduled for 10:30 am on September 27, 1989, in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of hearing may be later than 10:30 am due to prior agenda items.

Applicable provisions of the Notice of Hearing published on November 5 & 12, 1986 (Vermillion Plain Talk), November 6 & 13, 1986 (Beresford Republic) and November 13 & 20, 1986 (Lennox Independent) will still apply at this hearing. A copy of the report and Chief Engineer's recommendation for Application No. 5101-3 available upon request.

cc: Wanda J Sletten, Secretary, Friends of the Dakota Sandstone
Aquifer
Charles Kuehl, Chairman, South Lincoln Rural Water System
Howard Paul
John Haak, Assistant Attorney General



CERTIFICATION

I hereby certify that on September 13, 1989 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Consideration of Future Use Water Permit Application No. 5101-3, City of Lennox addressed as follows:

Floyd Beach, Mayor, City of Lennox, PO Box 228, Lennox SD 57039
Wanda J Sletten, Secretary, Friends of Dakota Sandstone Aquifer,
Rt 2, Box 82, Beresford SD 57004
Charles Kuehl, Chairman, South Lincoln Rural Water System,
PO Box 155, Canton SD 57013
Howard Paul, PO Box 398, Mitchell SD 57301
David M. Buechler, Attorney, PO Box 308, Parker SD 57053

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

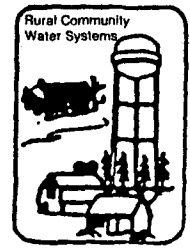
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of September, 1989.



John H. H. H.
Notary Public

South Lincoln Rural Water



Box 155

Canton, South Dakota

Ph. 372-4211



September 19, 1989

SD Dept. of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501

Attn: John Hatch, Chief Engineer
Water Rights Division

Dear Mr. Hatch:

Please present the enclosed letter to the members of the Board of Water Management prior to the meeting of September 27, 1989. We feel concerns on the application were not fairly advertised and therefore concerns are present now that didn't exist before.

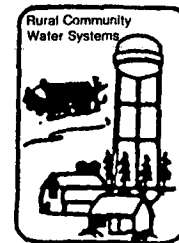
Sincerely,

A handwritten signature in cursive script that reads "Charles Kuehl".

Charles Kuehl
Chairman
South Lincoln Rural Water System, Inc.

CK:jls

South Lincoln Rural Water



Box 155

Canton, South Dakota

Ph. 372-4211



September 19, 1989

Board of Water Management
SD Dept. of Water & Natural Resources
Joe Foss Building
523 Capitol
Pierre, SD 57501

Dear Board Members:

South Lincoln Rural Water System on behalf of our 1200 consumers feel that permit no. 5101-3 Lennox Future Use application should be re-advertised to give all interested parties a chance to express their concern's of this application.

From 1986 to 1989 there have been many changes in the area in question and objections listed in 1986 may not be the same or in 1986 there may not have been objections but because of the time lapse objections now could be raised.

We at South Lincoln feel it be only fair that we be heard at this hearing although no objection was made year's ago. South Lincoln also feels that because of existing rights in which this new permit would overlap it would only be fitting to let us show not only need but plans and specs for a facility now on the drawing board for this area.

If this permit is not re-advertised the board should permit South Lincoln to present its concerns at the September 27th hearing in Pierre.

Sincerely,

Charles Kuehl
Chairman
South Lincoln Rural Water System, Inc.

CK:jls

SOUTH Dakota Department of
Water & Natural Resources

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

October 4, 1989

NOTICE

TO: City of Lennox
Floyd Beach, Mayor
PO Box 228
Lennox SD 57039
and Parties of Record

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

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and
Final Decision

The Water Management Board has directed John Guhin, the Board's attorney to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision on approval of Future Use Application No. 5101-3. The Board will consider the proposed Findings, Conclusions and Final Decision at 1:00 pm, December 6, 1989, Room 216, Joe Foss Building, Pierre SD. The agenda time is an estimate. The actual time of consideration may be delayed due to prior agenda items.

The Board has requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and all Parties of Record and their attorneys (copy enclosed) by November 16, 1989. Any comments pertaining to the proposed Findings, Conclusions and Decision are to be mailed to each Board member, the Board attorney and all Parties of Record and their attorneys by November 24, 1989.

The public hearing on this application was completed September 27, 1989. No additional testimony will be received on December 6, 1989.

CERTIFICATION

I hereby certify that on October 4, 1989 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice to prepare Findings of Fact, Conclusions of Law and Final Decision for Future Use Permit Application No. 5101-3 address as shown on the Parties of Record sheet.

KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

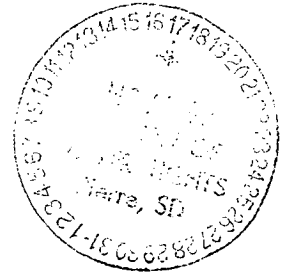
Sworn to, before me, this _____ day of _____, 1989.

Notary Public

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE	)	
APPLICATION OF THE CITY	)	FINDINGS OF FACT,
OF LENNOX FOR FUTURE	)	CONCLUSIONS OF LAW
WATER USE PERMIT NO.	)	AND FINAL DECISION
5101-3	)	



FINDINGS OF FACT

I

This is an application by the City of Lennox for a future use permit for 285 acre feet per year of water to be taken from the Dakota Sandstone Aquifer in Lincoln County.

II

The application is made by a water distribution system as defined by state law.

III

This application was filed and scheduled for hearing in 1986 but hearing was delayed until September of 1989 at the request of the applicant.

IV

There is approximately 4.3 million acre feet of recoverable water in storage in the Dakota Sandstone Aquifer in Lincoln County. The Dakota Sandstone Aquifer is stratigraphically lower than the Green Horn formation.

V

The water presently put to use in Lennox is from the Lennox Aquifer, and aquifer which lies above the Dakota Sandstone. Water in the Lennox Aquifer generally is poor in

quality. In particular, it is high in total dissolved solids, iron, manganese and sulfates.

VI

The high level of these contaminants can cause health and other problems. High level of sulfates can have a laxative effect and high levels of TDS have been associated with kidney problems. The high level of TDS makes it difficult to economically soften the water without causing the level of sodium in the water to be unacceptably high. Moreover, high levels of iron, TDS and manganese contribute to deterioration of the water lines of the city and individual users.

VII

The Lennox Aquifer is in communication with the Dakota Sandstone Aquifer although the rate of interchange appears to be very slow.

VIII

The City of Lennox is facing a period in which it may reasonably expect to need and utilize a better quality and expanded water supply. Users of cisterns within the city have indicated a desire to use city water but declined to do so until the water quality available through the Lennox system is improved. The city, moreover, has approved several new housing permits and a limited housekeeping complex for senior citizens. Three commercial units may soon be added to the city and there is a possibility of a manufacturing firm moving from Sioux Falls to Lennox. Two

developers are currently considering housing developments within the city. Statistics developed by the City of Lennox show increasing water usage from 1982 to the present and a reasonable projection of those statistics demonstrates a probability that the future use requested will be utilized in the foreseeable future.

IX

The water quality of water available from the Dakota Sandstone is substantially better than that available from the Lennox Aquifer, especially with regard to TDS, iron, manganese and sulfates. Evidence indicates, however, that as the Dakota Sandstone is utilized, quality of water withdrawn from the Dakota Sandstone will have a tendency to deteriorate. The Board finds that, while the precise degree and speed of the deterioration is unknown, it is highly probable that the quality of water from the Dakota Sandstone Aquifer will, in the foreseeable future, be significantly better than that of the Lennox Aquifer.

X

The City of Lennox has determined that it would be in its best interest, as a city, to have its own water system in preference to hooking up as a user with South Lincoln rural water system.

XI

The area defined for inclusion in Lennox future use application lies within the area defined for future use

by the South Lincoln rural water system under Permit Number 4817-3.

CONCLUSIONS OF LAW

I

The Board has jurisdiction of this matter.

II

There is a reasonable probability that there unappropriated water available for the applicant's proposed use and that the quantity of water reserved will be needed by the applicant.

III

Because the formation in question has been established to be lower than the Green Horn Formation, and because the applicant is a "water distribution system" as defined by state law, the recharge provisions of SDCL 46-6-3.1 do not apply. In the alternative, it has not been shown that it is probable that this quantity of water withdrawn annually for the groundwater source will exceed the quantity of average estimated annual recharge of water to the formation.

IV

The proposed use for a water distribution system for the City of Lennox is a beneficial use.

V

Despite a probable gradual decline in quality in the water withdrawn from the Dakota Sandstone Formation in the future, the beneficial effects of supplying high quality

of water to the city population at this time supports the finding that the granting of this permit is in the public interest with the qualifications as set forth in the final decision.

VI

It is not inconsistent with the purpose or intent of South Dakota future use statutes to allow a second future use area to be established wholly or in part within an existing future use area of another entity. The purpose of the future use statutes is to establish a priority to the right to use water. The purpose is not to forbid any other user from establishing a right within that area. As long as the right of the prior user, in the case the South Lincoln rural water system, is preserved so that it may reasonably utilize its priority to the use of water within the future use area defined by its permit, it has no right to complain merely because a second applicant, in this case the City of Lennox, also intends to and does utilize water within the same area.

VII

While the Board may have jurisdiction to deny a future use permit to a city or other entity on the grounds that it unreasonably refuses to join with an existing rural water system, the actions of the City of Lennox have not been shown to be unreasonable. The Board specifically reserves ruling on whether any such circumstance may exist under the public interest provisions of South Dakota law.

VIII

While the City of Lennox originally applied for a future use in either the south one-half of Section 13 and 14, southeast one-quarter of Section 15, east one-half of Section 22, Section 23 and 24, Township 98 north, Range 51 west, or a much larger area, Lennox has now confined its request to the smaller area identified immediately above.

FINAL DECISION

The application for future use permit number 5101-3 is approved subject to the following qualifications:

1. That Future Use Permit No. 5101-3 is approved with the stipulation that the Permit to appropriate water is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.

2. At such time as definite plans are made to construct works and put the water reserved by this permit to beneficial use, specific application for all or any part of the reserved water must be submitted prior to construction of facilities pursuant to SDCL 46-5-38.1.

3. This permit is approved for groundwater from the Dakota Formation.

Dated this 4 day of January, ~~1989~~. 1990

BY THE BOARD

Marian B. Lunderson

SOUTH Dakota Department of
Water & Natural Resources

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

January 8, 1990

NOTICE

TO: City of Lennox
Floyd Beach, Mayor
PO Box 228
Lennox SD 57039
and Parties of Record

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



SUBJECT: Adoption of Findings of Fact, Conclusions of Law and
Final Decision

This is to notify you that a Final Decision, including Findings of Fact, Conclusions of Law were adopted by the Water Management Board for approval of Future Use Permit No. 5101-3 which was considered at the December 6-7, 1989 meeting.

A copy of the signed final Decision, Findings and Conclusion is enclosed for the applicant. Copies will be furnished to anyone else upon request. South Dakota Statutes provide that the decision of the Board may be appealed to the Courts.

CERTIFICATION

I hereby certify that on January 8, 1990 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of adoption of Findings of Fact, Conclusions of Law and Final Decision for Future Use Permit Application No. 5101-3 address to those persons listed below:

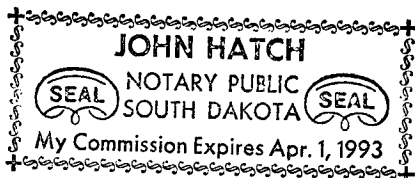
Floyd Beach, Mayor, City of Lennox, PO Box 228, Lennox SD 57039
David M. Buechler, Attorney, PO Box 308, Parkers SD 57053
Wanda J Sletten, Secretary, Friends of the Dakota Sandstone
Aquifer, Rt 2, Box 82, Beresford SD 57004
Charles Kuehl, Chairman, South Lincoln RWS, PO Box 155, Canton SD
57013

Steve J Helmers, Attorney, PO Box 8250, Rapid City SD 57709
(sent a copy of findings also)


KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of January, 1989⁹⁰.



John Bates
Notary Public

SOUTH Dakota Department of
Water & Natural Resources

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

MAR 21 1990

City of Lennox
Floyd Beach, Mayor
PO Box 228
Lennox SD 57039

Dear Mayor Beach:

Enclosed is Future Use Withdrawal Permit No. 5101-3, as approved by the Water Management Board.

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

Very truly yours,



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

enclosures

Water Rights Program - File Documentation

NAME: City of Lennox

ADDRESS: 11-5-1997

RE: Amount of water remaining in future use permit

COMMENTS:

Water Permit No. 5753-3 authorizes	0.70 cfs	285 AF
Licensed for	<u>- 0.36 cfs</u>	<u>156 AF</u>

Reverting back to future use	0.34 cfs	129 AF
-------------------------------------	----------	---------------

Future Use Permit No. **5101-3** should be scheduled for review since water was reverted back to future use

Karen Schlaak

Karen Schlaak
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 24, 1998

Roger Almond, City Utilities Superintendent
City of Lennox
220 S Main St
Lennox SD 57039

Dear Mr. Almond:

You recently received Water License Nos. 5080-3, 5326-3 and 5753-3 for the City of Lennox. Further review of our files indicate that the City of Lennox holds Future Use Water Permit No. 5101-3, with a August 27, 1986 priority date. This permit reserved 285 acre-feet for future water supply needs for the City. Water Permit No. 5753-3, approved September 1, 1993, authorized the withdrawal of 285 acre-feet from the future use area authorized by No. 5101-3, this essentially left the future use permit with no water remaining in reserve.

The investigation found the portion of the City's system authorized by Permit No. 5753-3 (Well A) capable of diverting 156 acre-feet annually, with 129 acre-feet (the unused portion) reverting back to the future use permit. Our question is whether the City wants to retain the 129 acre-feet for appropriation in the future.

If so, the 129 acre-feet remaining in Future Use Permit No. 5101-3 is subject to review by the Water Management Board pursuant to SDCL 46-5-38.1. The purpose of this review is to determine if a reasonable need exists for retaining the permit. If the City does plan to retain the future use 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.

Notice will be given of the hearing time and place at a future date. 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.

Mr. Almond, I realize this may be confusing. If you have any questions, please contact Eric Gronlund.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352

City of



SOUTH DAKOTA

220 SOUTH MAIN
PO BOX 228
LENNOX, SD 57039

Phone (605) 647-2286
FAX (605) 647-2281



May 13, 1998

Department of Environment
and Natural Resources
Eric Gronlund
523 East Capitol
Pierre, SD 57501-3181

Dear Mr. Gronlund:

The City of Lennox would like to retain the 129 acre-feet of water for appropriation in the future from Permit 5101-3.

The annual pumping records for the city follows:

1995: 51,784,600 gallons per year from Permit 5326-3
1996: 39,777,200 from Permit 5326-3 and 19,141,900 from Permit 5753-3
for a total of 58,919,100 for the year
1997: 39,424,900 from Permit 5326-3 and 28,521,500 from Permit 5753-3
for a total of 67,946,400 gallons for the year

The Lennox School Board is planning for a new 800 pupil high school, which will hopefully be built in Lennox where the present 500 pupil school is. The present high school would be turned into a middle school.

The Lennox Development Corp. has twenty acres set for development of factory or industry. In 1997 they built a spec building to attract industry. There are also new homes in the works to be built.

There is a big need for additional water. As you can see, Lennox's water use has continued to increase in the last three years.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roger Almond".

Roger Almond
Water Supt.

A PROUD PAST...

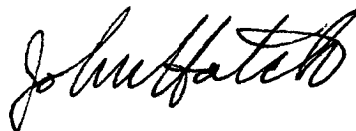
A PROMISING FUTURE

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 5101-3, City of Lennox

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. 5101-3, City of Lennox, PO Box 228, Lennox SD 57039.

The Chief Engineer is recommending that Future Use Permit No. 5101-3 REMAIN in EFFECT for 129 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 5101-3 , 2) the City of Lennox has demonstrated a reasonable need for the water reserved by Permit No. 5101-3, 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. 5101-3 is subject to payment of the \$22.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of Lennox.

A handwritten signature in black ink, appearing to read "John Hatch", is positioned above the printed name.

JOHN HATCH, Chief Engineer
May 29, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 29, 1998

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

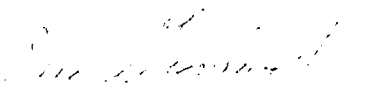
Roger Almond, Water Supt.
City of Lennox
220 S Main
Lennox SD 57039

Dear Mr. Almond:

Future Use Permit No. 5101-3 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 Lennox Independent (Phone #647-2284). 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 June 4, 1998 with 2nd publication 7 days later. The City of Lennox is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 5101-3, City of Lennox

Notice is given that the Water Management Board will review Future Use Permit No. 5101-3 held by the City of Lennox, PO Box 228, Lennox SD 57039 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. 5101-3. This permit was approved August 27, 1986 to reserve 285 acre-feet of water annually from the Dakota Sandstone Aquifer located in the S $\frac{1}{2}$ Sections 13 and 14; SE $\frac{1}{4}$ Section 15; E $\frac{1}{2}$ Section 22; Sections 23 and 24; all in T98N-R51W for municipal use. Water Right No. 5753-3 puts 156 acre-feet to beneficial use with 129 acre-feet remaining in reserve.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 5101-3 REMAIN in EFFECT for 129 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. 5101-3 at the Staurolite Inn, US Hwy 14 and I-29, Brookings SD 57006 on July 8, 1998 at 8:45 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 26, 1998. 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. 5101-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 26, 1998. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 26, 1998. Nettie H Myers, Secretary, Department of Environment and Natural Resources.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }

COUNTY OF LINCOLN }

38.

Debbie Schmidt

being first duly sworn, disposes and says: That (he) (she) is a resident of the County of Lincoln and State of South Dakota; that the LENNOX INDEPENDENT is a weekly legal newspaper of general circulation, printed and published in Lennox, in said County and State, and is now, and has been such newspaper continuously, during all the times hereinafter mentioned; that the affiant is affiliated with said newspaper as employer or employee and has personal knowledge of all the facts stated in this affidavit, and the notice and advertisement headed Notice of Hearing

to review future use water
permit no. 5101-3

a printed copy of which is hereonto attached and made a part hereof, was printed and published in the said newspaper 2 successive issues. That the first publication of said notice in said newspaper aforesaid was on Thursday, the 4 day of June A.D., 1998 and that the succeeding publication was severally on Thursday the 11 day of June A.D., 1998
on Thursday the _____ day of _____ A.D., 19____
on Thursday the _____ day of _____ A.D., 19____
on Thursday the _____ day of _____ A.D., 19____
on Thursday the _____ day of _____ A.D., 19____
on Thursday the _____ day of _____ A.D., 19____

that the fees charged for the printing and publication of said notice and advertisement in said newspaper as aforesaid were 56 Dollars 83 Cents, and that said fees for the printing and publishing of said notice and advertisement, and for the affidavit as aforesaid, have been fully paid; that the full amount of the fee charged for the publishing of the said attached and annexed notice and advertisement inures to the benefit of the publishers of the said Lennox Independent, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person, whomsoever.

Debbie Schmidt

Subscribed and sworn to before me this 12 day of

June, 1998

[Signature]

Notary Public.

Lincoln County, South Dakota.

My Commission expires

July 10, 2003

City of Lennox

Notice of Hearing

to review future use water permit no. 5101-3

Notice is given that the Water Management Board will review Future Use Permit No. 5101-3 held by the City of Lennox, PO Box 228, Lennox SD 57039 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. 5101-3. This permit was approved August 27, 1986 to reserve 285 acre-feet of water annually from the Dakota Sandstone Aquifer located in the S 1/2 Sections 13 and 14; SE 1/4 Section 15; E 1/2 Section 22; Sections 23 and 24; all in T98N-R51W for municipal use. Water Right No. 5753-3 puts 156 acre-feet to beneficial use with 129 acre-feet remaining in reserve.

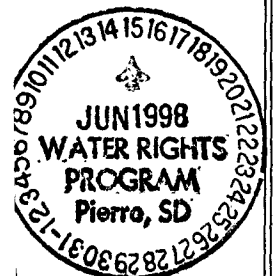
Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 5101-3 REMAIN IN EFFECT for 129 acre-feet annually because 1) the reserved water may be developed, 2) there is need for the reserved water, 3) the proposed use will be a beneficial use, and 4) it is in the public interest.

The Water Management Board will conduct the hearing to review Future Use Permit No. 5101-3 at the Staurolite Inn, US Hwy 14 and I-29, Brookings SD 57006 on July 8, 1998 at 8:45 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 26, 1998. 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. 5101-3 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.



STATE OF SOUTH DAKOTA
County of Lincoln

IN THE CIRCUIT COURT
JUDICIAL CIRCUIT

vs.

Affidavit Of Publication

The within Affidavit of Publication of

was

filed in my office this _____ day of

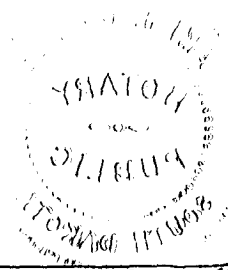
19____

Clerk of Circuit Court of the

Judicial Circuit of the State of South
Dakota within and for Lincoln County.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605-773-3352) by June 26, 1998. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 26, 1998.

Nettie H Myers, Secretary
Department of Environment
and Natural Resources
(99/6-4, 11)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 13, 1998

NOTICE

Roger Almond, City Utilities Superintendent
City of Lennox
220 S Main St
Lennox SD 57039

Dear Mr. Almond:

I am writing in response to action taken by the Water Management Board at the hearing on July 9, 1998 to review Future Use Permit No. 5101-3. The Board allowed the permit to remain in effect for 129 acre-feet of water annually. Future Use Permit No. 5101-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 5101-3 is \$22.50 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,

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

CERTIFICATION

I hereby certify that on July 13, 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 13, 1998, regarding Action taken by the Water Management Board at the hearing on July 9, 1998, to review Future Use Permit No. 5101-3, addressed as stated below:

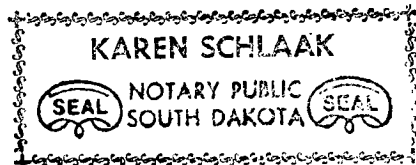
Roger Almond, City Utilities Superintendent
City of Lennox
220 S. Main Street
Lennox, SD 57039


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 15th day of July, 1998


Notary Public



KAREN SCHLAAK, Notary Public
My Commission Expires
April 1, 2001

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 415833

Pierre, July 27, 1998

RECEIVED OF City of Lennox, P.O. Box 228, Lennox, SD 57039-0228
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. 5101-3 after period of seven years.

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

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

22 50

22 50

By _____
Chief Engineer

John Hatch (P)



5101-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 31, 2005

Roger Almond, Water Superintendent
City of Lennox
PO Box 228
Lennox SD 57039-0228

Dear Mr. Almond:

I am writing in regard to the seven year review of Future Use Water Permit No. 5101-3 from groundwater (Dakota Formation) which is held by the City of Lennox. 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 129 acre-feet remain in reserve under this future use permit that was issued in 1986 and last reviewed in 1998.

Please respond in writing by May 1, 2005, 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.

Permit No. 5101-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

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

City of



SOUTH DAKOTA

107 SOUTH MAIN
PO BOX 228
LENNOX, SD 57039

Phone (605) 647-2286
FAX (605) 647-2281

April 18, 2005

Eric Gronlund
Joe Foss Building
523 East Capitol
Pierre, SD 57501

RECEIVED
APR 22 2005
WATER RIGHTS
PROGRAM

Dear Mr. Gronlund:

The City of Lennox would like to retain the 129 acre feet of water for use in the City of Lennox future water use Permit 5101-3.

The City of Lennox has had to restrict water use in the past years of 2002 and 2004, and in 2005 we will probably have to restrict water use because our new wells and water towers will not be completed.

Also, the school district is building a new high school and planning on room to increase the building size. Over twenty new homes have been built in the past two years, and a new housing development for another thirty homes has been built. Over thirty-two new apartment units have been built in the past two years, and another twenty units of apartments are planned. Also, the City of Lennox has two new factories in the Industrial Development Park that have been built and are very busy with manufacturing. One of these new factories has just been sold to a new company that hopes to bring over sixty new jobs to Lennox.

The City of Lennox has a contract to purchase two more well sites in the 5101-3 Future Water Rights permit, and plans on drilling test wells and production wells in 5101-3 Future Water Rights permit area later in 2005 or early 2006 to obtain more water for the City of Lennox. Increasing population and new industrial needs will again cause our planning to add more new jobs soon.

More information can be found in the Facility Plan Improvement done by SPN Engineers and Associates in February, 2003, for the City of Lennox and submitted to the Office of Facility Management Plan to Eric Meintsma. In this plan table 3-2 is a summary of water usage for the City of Lennox, 3-3 is projection of water demand and table 3-3 is estimated future water requirements. Table 3-4 shows water sources for 2004 and table 4-2-3 shows water source alternatives and constructing of additional wells. If you would like any of this information, I would be happy to send this to you, or Eric Meintsma has a copy of this book.

Sincerely Yours,


Roger Almond, Water Superintendent

A PROUD PAST...

A PROMISING FUTURE



**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. 5101-3, City of Lennox**

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. 5101-3, City of Lennox, PO Box 228, Lennox SD 57039.

The Chief Engineer is recommending that Future Use Permit No. 5101-3 REMAIN in EFFECT for 129 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 5101-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 5101-3, 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. 5101-3 is subject to payment of the \$22.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Garland Erbele, Chief Engineer
May 9, 2005

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Lincoln) SSI, Debbie Schmidt

certify that the attached printed Notice was taken

from the The Lennox Independentprinted and published in LennoxCounty of Lincoln and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

May 19, 2005May 26, 2005Cost of Printing 59.91Debbie Schmidt
(Signature)Editor/Publisher
(Title)6-2-05
(Date Signed)RECEIVED
JUN - 8 2005
WATER RIGHTS
PROGRAMNOTICE OF HEARING
TO REVIEW FUTURE USE
WATER PERMIT NO. 5101-3

Notice is given that the Water Management Board will review Future Use Permit No. 5101-3 held by the City of Lennox, PO Box 228, Lennox SD 57039 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. 5101-3. This permit was approved in 1986 and currently reserves 129 acre feet from the Dakota Sandstone Aquifer located in the S 1/2 Sections 13 and 14; SE 1/4 Section 15; E 1/2 Section 22; Sections 23 and 24; all in T98N-R51W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 5101-3 REMAIN in EFFECT for 129 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. 5101-3 at 10:00 am on July 6, 2005, Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 24, 2005. 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. 5101-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

This hearing may be an adversarial proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised.

Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 24, 2005. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 24, 2005. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 10, 2005

Lennox Independent
PO Box 76
Lennox SD 57039-0076

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 5101-3 to be published twice. Please publish the first notice on May 19, 2005 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 Lennox, PO Box 228, Lennox SD 57039.

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 May 10, 2005 enclosing Notice of Hearing to Review Future Use Water Permit No. 5101-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



May 10, 2005

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

Roger Almond, Water Superintendent
City of Lennox
PO Box 228
Lennox SD 57039

Dear Mr. Almond:

Future Use Permit No. 5101-3 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 Lennox Independent (Phone #605 647-2284). 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 May 19, 2005 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 5101-3

Notice is given that the Water Management Board will review Future Use Permit No. 5101-3 held by the City of Lennox, PO Box 228, Lennox SD 57039 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. 5101-3. This permit was approved in 1986 and currently reserves 129 acre feet from the Dakota Sandstone Aquifer located in the S $\frac{1}{2}$ Sections 13 and 14; SE $\frac{1}{4}$ Section 15; E $\frac{1}{2}$ Section 22; Sections 23 and 24; all in T98N-R51W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 5101-3 REMAIN in EFFECT for 129 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. 5101-3 at 10:00 am on July 6, 2005, Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by June 24, 2005. 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. 5101-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by June 24, 2005. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by June 24, 2005. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 7, 2005

NOTICE

Roger Almond, Water Superintendent
City of Lennox
PO Box 228
Lennox SD 57039

Dear Mr. Almond:

I am writing in response to action taken by the Water Management Board at the hearing on July 6, 2005 to review Future Use Permit No. 5101-3. The Board allowed the permit to remain in effect for 129 acre-feet of water annually. Future Use Permit No. 5101-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 5101-3 is \$22.50 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Sincerely,

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

CERTIFICATION

I hereby certify that on July 7, 2005 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 7, 2005 regarding Notice review Future Use Permit # 5358-3, 1407-2, 558A-3, 5101-3 addressed as stated below:

5358-3

TM Rural Water District
Ken Pedersen Manager
Box 445
Parker SD 57053

1407-2

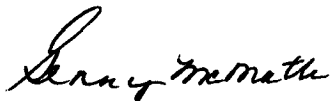
Harold D Stickney Mayor
City of Custer
622 Crook St
Custer SD 57730

558A-3

Sheila Gerhold Finance Officer
City of Castlewood
PO Box 17
Castlewood SD 57223-0017

5101-3

Roger Almond
City of Lennox
PO Box 228
Lennox SD 57039



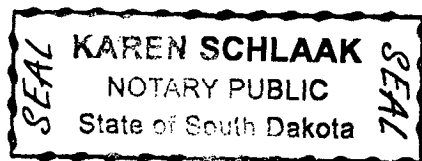
Genny McMath
Environmental Scientist
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of July, 2005.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 18, 2005

RECEIVED OF City of Lennox, 107 S Main, PO Box 228, Lennox SD 57039-0228

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	22	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>5101-3</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	
	22.50	

No.

004000

By

Darlene White
Chief Engineer
gm