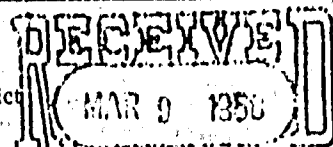


No. 5243Water Division No. 3 James River District
(Blanks to be filled by the Engineer for the W. H. C.)

APPLICATION FOR PERMIT

STATE WATER RESOURCES COM.
SOUTH DAKOTA

To appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant City of De Smet
Postoffice address De Smet, County Kingsbury, State South Dakota

If a corporation

(a) Name of same

(b) Date and place of incorporation

(c) Amount of capital stock

(d) Amount paid in

(e) Names and addresses of directors

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

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

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

Combination of Contract and City Employees(b) Cash on hand, \$ 30,000.00

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$

2. Name of diversion work De Smet City Well No. 1

3. Amount of water claimed 2 1/2 cubic feet per second

4. Source of water supply Aquifer

5. Location of point of diversion Well - lots 1, 2, 7 and 8, Block E, Drake's Addition to City of De Smet, South Dakota
on bank County.

6. Annual period or periods during which water is to be used Continuously

7. To be used for: Domestic, City
I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? water distribution system.

(a) Number of acres to be irrigated None acres.(b) Legal subdivisions to be irrigated None

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

(c) Statement as to domestic use (giving location, etc.) For domestic and commercial use by City of De Smet to serve all residents and their needs.

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

(a) Nature of use Fire protection - public recreation
Name any of the above uses claimed(b) Amount of power to be generated None horse power.Amount claimed for engine cooling None

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream Sewer Outfall line at Silver Lake

Map No. 401-3

8. Estimated cost of work:

(a) Head-Gates, \$.....

(b) Pumping plant, \$5,500.00

(c) Fluming, \$.....

(d) Canalearth, \$.....

Rock, \$.....

(e) Other structures \$.....

Total, \$5,500.00

9. Description of diversion works:

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

Pumping Plant No.

II. Dimensions of works:

(a) Dam: Height feet; length at bottom feet; length at top feet; thickness at bottom feet; thickness at top feet; slope at front water face; slope at back face material used in construction

(b) Reservoir: Capacity when filled acre feet. Surface area at highwater mark acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET-ACRES	FEET	ACRE-Feet CAPACITY

(c)* Head gate: Width feet; height feet;

Material

(d) Canal: Total length miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 10-20 years.

11. Time required for complete application of water to the proposed beneficial use 1,000 years.

12. Choice of newspaper for publication of notice of intention to appropriate

De Smet News, De Smet, South Dakota

STATE OF SOUTH DAKOTA

County of Kingsbury

ss.

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

Signed

By: G. S. Barnes, Mayor.

Subscribed and sworn to before me this 24th day of March 1950

Notary Public (or other qualified officer.)

My commission expires: 9/10/52.

*Each diversion must have a headgate or measuring device.

Remarks by State Water Resources Commission:

STATE OF SOUTH DAKOTA

County of

Hughes

ss.

Pierre, South Dakota,

March 14 1958

This is to certify that the foregoing application was received by the Commission at 1:00 o'clock

p.m. upon the 9 day of March, 1958

State Water Resources Commission

By:

J. C. Brines

Chief Engineer, Executive Officer

withdrawal for future use

Number of permit 524-3

Date of first receipt of application

March 9 1958

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

19

Date of receipt of corrected application

19

Date from which applicant may claim right

March 9 1958

Approved

April 23 1958

Recorded in Book

4 Page 227

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

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

Dates for completion of work and application of water do not apply in this case.

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

19

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

Specific applications will have to be submitted when definite plans have been made to construct production wells.

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

municipal use

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed

21.5

cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually

municipal use, used

and beneficially applied for irrigation on or before

see not apply, 19

during the following described annual period:

Continuously

Witness my hand this

2

day of

May

1958

State Water Resources Commission

By:

J. C. Brines

Chief Engineer, Executive Officer

Certificate of Construction Issued

19

Water License Issued

19

(First Publication ~~before March 28~~, 1950)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., ~~March 14~~, 1950

Notice is hereby given that the City of De Smet whose postoffice address is De Smet S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to ~~withdraw for future use 2.50~~
 cubic feet of water per second of time from the ~~xx~~ ground water through the ~~City Well #4~~, the point of diversion of which is to be located ~~on the~~
 bank of said stream in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 28
 Twp. 11N Range 56W Said water to be used for the purpose of providing irrigation on the fol-
 lowing described land:
~~a future municipal water supply for the City of De Smet~~

~~xxxxx~~ ~~xxxxxx~~
 This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 23rd day of April, 1950, at 2:00 P.M. All interested persons may appear and be heard.

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

State Water Resources Commission

By:

~~Chief Engineer, Executive Officer~~
~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~
 Les Wyborny
 Water Rights Engineer

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }

County Kingsbury } ss.

Subrey H. Sherwood being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the -----

The D. Smet News a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the City of De Smet County of Kingsbury and State of South Dakota; that the said notice was published in said newspaper on the following dates:

March 20, 1958March 27, 1958April 3, 1958April 10, 1958

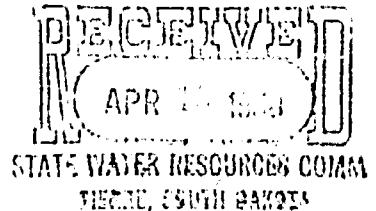
in each and every issue of the full number thereof, the first publication being made on the 20 day of March 1958 and the last publication on the 10th day of April 1958, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was publisher the printer and publisher of the said newspaper.

Subrey H. Sherwood

Subscribed and sworn to before me this 16th day of April A. D. 1958

Laura E. Sherwood

Notary Public Kingsbury County, S. D.



APPROPRIATION OF WATER
Office of State Water Resources
Commission
Pierre, S. Dak., March 14, 1958
Notice is hereby given that the City of De Smet whose postoffice address is De Smet, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to withdraw for future use 250 cubic feet of water per second of time from ground water through the City Well No. 4, the point of diversion of which is to be located in the SE1/4 of the NE1/4 of Section 28, Twp. 11N, Range 56W. Said water to be used for the purpose of providing a future municipal water supply for the City of De Smet.
This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 22nd day of April, 1958, at 2:00 P. M. All interested persons may appear and be heard.
Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.
State Water Resources Commission
By Les Wyborny,
Water Rights Engineer
3-20-4w-4-10



Department of Water & Natural Resources

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

November 13, 1984

NOTICE

To : Glenn Iverson, Mayor, City of DeSmet
From : John Hatch, Chief Engineer, Water Rights Division *John Hatch*
Subject : Review of Future Use Water Permit No. 524-3

The Water Management Board has directed that all future use water permits without a qualification requiring the permit to be reviewed every seven years to be noticed for hearing before the Board. The hearing to review Future Use Permit No. 524-3, City of DeSmet will be conducted pursuant to SDCL 46-1-14, 46-5-38.1, ARSD 74:02:01:27 and contested case procedures contained in SDCL 1-26, December 5, 1984 at 2:30 pm in the Conference Room 216, Joe Foss Building, Pierre, South Dakota.

The hearing will be to review: 1) progress made in development of water reserved by Permit No. 524-3, 2) future plans for development of the reserved water, and 3) if the permit is not cancelled, to amend Permit No. 524-3 to add the seven year review qualification and to add or clarify other qualifications.

Future Use Permit No. 524-3 was approved April 23, 1958 with a priority date of March 9, 1958, for 2.5 cubic feet per second (cfs) from the following area:
Block 5-Draker Addition with the following qualifications:

1. At such time as definite plans are made, specific applications for all or part of the water granted under this withdrawal must be submitted prior to construction of facilities.

Following the hearing, the Board can:

- 1) Take no action,
- 2) Cancel Permit No. 524-3 for no development and/or no planned future development,
- 3) Continue and amend Permit No. 524-3 with the following qualifications:
 - a) Permit No. 524-3 to appropriate water for future use is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.

b) This permit is approved for groundwater from the Vermillion East Fork aquifer.

If continued, at the end of seven years, the permit will again be reviewed and if it is continued, you will be required to pay 10% of the usual fee for an application to use water to keep Permit No. 524-3 in effect. The projected 10% fee in seven years based upon the existing permit CFS will be \$57.50.

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

cc: Hazelle Sckerl, Finance Officer:

S515.wr

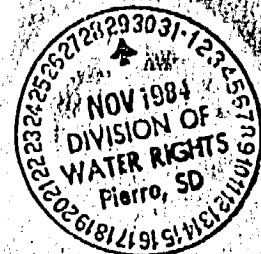
City of De Smet, South Dakota

"THE LITTLE TOWN ON THE PRAIRIE"

De Smet, S. Dak. 57231

November 27, 1984

Mr. Kevin Larson
S.D. Department of Water and Natural Resources
Division of Water Rights
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181



Re: Review of Future Use Water Permit No 524-3
Application for Future Use of Water Permit No. 4795-3.

Dear Keven:

This letter is in conformance with our telephone conversation with you, Randy Asleson and myself this morning, November 27, 1984, regarding the above two water permits held by the City of De Smet.

The De Smet Common Council has today at a special meeting passed a motion to renew the Future Use Permit No. 524-3 on Well No. 7 located in Drake's Addition which is to come for hearing on December 5, 1984 at 2:30 p.m., at the office of the Dept. of Water and Natural Resources at Pierre. Please consider this letter a formal request from the council to continue this permit for another seven years at the conclusion of which the same will again be on the agenda for review. If anyone appears in opposition to request on the day of the hearing we request a continuance until such time as the department sets and schedules a re-hearing on our request.

The De Smet Common Council also today passed a motion to commence the process to make application for a Future Use Water Permit on No. 4795-3 on Well No. 8, comprised of approximately 10 acres located in the NW 1/4 NE 1/4 of Sec. 28, Twp. 111, R 56, De Smet Twp. Kingsbury County, S. D. Please send us the necessary application papers to complete this application.

Thank you for your cooperation in this matter and if there are any questions please contact Randy Asleson or myself at 854-3731 at De Smet.

Yours truly,

Hazelle M. Sckerl

Hazelle H. Sckerl
Finance Officer
Box 454

Glenn E. Iverson

Glenn E. Iverson
Mayor



Department of Water & Natural Resources

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

Water Rights Division
605 773-3352

December 7, 1984

RE: Future Use Permit
No. 524-3

Glenn Iverson, Mayor
PO Box 454
DeSmet SD 57231

Dear Mayor Iverson:

This letter is in regard to the motion passed by the Water Management Board December 5, 1984 after review of DeSmet's Future Use Permit No. 524-3. The Board continued Permit No. 524-3 and amended the Permit to add the qualifications on the enclosed Attachment which should be placed with your Permits. Future Use Permit No. 524-3 will be subject to review after seven years.

If you have any questions, please feel free to contact us.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

enclosure

cc: Hazelle Sckerl, Finance Officer

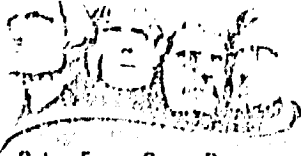
ATTACHMENT "A" FOR FUTURE USE PERMIT NO. 524-3

FOR CITY OF DESMET

Future Use Permit No. 524-3 was continued by action of the Water Management Board December 5, 1984 and amended to add the following qualifications:

- a) Permit No. 524-3 to appropriate water for future use is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.
- b) This permit is approved for groundwater from the Vermillion East Fork aquifer.

South Dakota



GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3101

September 23, 1991

524-3

City of DeSmet
Roger Knock, Mayor
PO Drawer 70
DeSmet SD 57231-0070

Dear Mayor Knock:

I am writing in regard to the seven year review of Future Use Water Permit No. 524-3 from groundwater which is held by City of DeSmet. Currently, our records show that 2.5 cubic feet of water per second remain in reserve under this future use permit which was issued in 1958.

Permit No. 524-3 will be scheduled for review by the Water Management Board on December 4, 1991 pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve on Permit No. 524-3.

Please respond in writing by October 15, 1991, regarding the City's intention for the future use permit. If the City of DeSmet does plan to retain the permit, then your response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

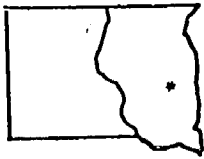
Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Natural Resources Analyst
605 773-3352

cc: Randell Asleson, Water Superintendent



524-3
De Smet Development Corporation

DE SMET, SOUTH DAKOTA 57231

October 11, 1991



To: John Hatch, Chief Engineer
Department of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501

From: DeSmet Development Corporation
P.O. Box 150
DeSmet, SD 57231

Subject: December, 1991 Review of DeSmet's Future Water Use Permit

Our community feels very strongly that we have excellent industrial development potential to substantiate the retention of DeSmet's future use permit.

The following prospects requiring substantial water usage have recently indicated an interest in locating in our community.

- 1) Laying hen facility needing approximately 110,000 gallons of water per day.
- 2) Corn wet milling plant needing 300 million gallons of water per year.
- 3) Soybean processing plant - water usage data unavailable.

There is great potential for the processing of various other value added farm products in our area. We feel the availability of water will be a large factor in determining the location of such processing facilities.

We request that DeSmet's future use permit be renewed at the existing level so as not to hamper our future development potential.

Sincerely,

DESMET DEVELOPMENT CORPORATION

Ken Roeder

Ken Roeder
President

KDR:rp

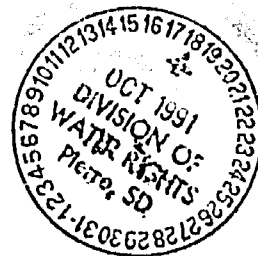
524-3

City of De Smet, South Dakota

"The Little Town on The Prairie"

P.O. Box 70
De Smet, South Dakota 57231

October 16, 1991



Karen Schlaak
Natural Resources Analyst
Department of Environment & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Dear Ms. Schlaak:

I am writing in regard to the seven year review of our Future Use Water Permit No. 524-3 scheduled for December 4, 1991. The De Smet Common Council passed a resolution at their regular meeting on October 15, 1991, to renew Future Use Permit No. 524-3 on Well No. 7 located in Drake's Addition, City of De Smet. The Council's decision to retain the 2.5 cubic feet of water per second which remains in reserve under this permit, is based upon anticipated expansion of water lines to undeveloped areas with the potential for new home construction, and on the potential for large consumption of water by industries choosing to locate in De Smet.

Pumping records for the City of De Smet, show the following useage for the past four years:

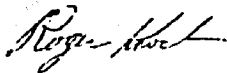
1988	94,000,000 gallons
1989	58,500,000 gallons
1990	61,000,000 gallons
1991 (to date)	52,000,000 gallons

Our five year plan for waterline expansion, calls for the installation of 800 to 1000 feet of new main per year into undeveloped areas of the city where the potential for new home construction exists. This waterline expansion project would provide water service to lots in both the northwest and southeast areas of the city, providing a total of over 40 lots with the potential for new home construction. A water customer on one of these lots would use as much as 300,000 gallons of water per year for a total consumption potential of 12,000,000 gallons per year.

Our five year waterline expansion plan also includes the installation of up to 18 new fire hydrants, as well as waterline expansion in our industrial park area. The De Smet Development Corporation is constantly working to attract new industry to De Smet and the availability of large quantities of water is often a strong selling point. Several of the industries which have shown an interest in locating in De Smet would be large water consumers, and their decision would be contingent upon the availability of large amounts of good water.

The City of De Smet has a lot of potential in the areas of industrial development and new home construction, and it can only be realized if the water needed to service these areas is available. It is for this reason that we request that the Future Use Water Permit No. 524-3 be renewed at the existing level.

Sincerely,

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

Roger Knock
Mayor

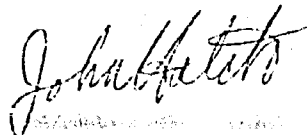
RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 524-3, CITY OF DESMET

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Future Use Water Permit No. 524-3, City of DeSmet.

The Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the City of DeSmet has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 3) the proposed use will be a beneficial use and 4) it is in the public interest with the following qualification:

That Permit No. 524-3 reserves for future use 1,086 acre-feet annually. The diversion rate of 2.5 cfs is deleted from Permit No. 524-3.

And that maintaining the effectiveness of Future Use Permit No. 524-3 is subject to payment of the \$42.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of DeSmet.



JOHN HATCH, Chief Engineer
October 25, 1991

NOTE:

The maximum annual acre-feet of full-time pumping represented by 2.5 cubic feet of water per second (cfs) reserved by No. 524-3 is 1,810 acre-feet. Assuming that the total amount pumped annually would equal 60% of 1,810 acre-feet, then expected developed pumping of water reserved under Permit No. 524-3 would be about 1,086 acre-feet per year.

The maximum annual water usage in 1990 by the City of DeSmet was 187 acre-feet. Doubling this annual use (374 acre-feet) to estimate the volume that may be reserved is less than that expected to be developed by pumping 60% of 2.5 cfs (1,086 acre-feet) under Permit No. 524-3. Board General Rules 74:02:01:24.01 states that future use permits may be limited to two times the amount actually put to beneficial use. However, Permit No. 524-3 should be allowed to remain in effect for 1,086 acre-feet since the City has demonstrated a reasonable need may exist for this water in the future. The city has plans to expand the service area and has several prospective industries that are water use intensive.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 1, 1991

DeSmet News
Box 69
DeSmet SD 57231

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 524-3 to be published twice. Please publish the first notice on November 6, 1991 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is City of DeSmet, Box 69, DeSmet SD 57231.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

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

Sincerely,

for Karen Schlaak

Eric Grönlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE
No. _____

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

Date _____

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

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 1, 1991

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

City of DeSmet
Roger Knock, Mayor
PO Drawer 70
DeSmet SD 57231

Dear Mayor Knock:

Future Use Permit No. 524-3 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 DeSmet News printed at DeSmet SD. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

for Karen Schlaack

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

cc: Ken Roeder, President
DeSmet Development Corporation

Instruction to Newspaper-Publish first publication of the following Notice on or before November 6, 1991 with 2nd publication 1 week later. The permit owner is responsible payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by City of DeSmet, Drawer 70, DeSmet SD 57231 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. 524-3. This permit was approved April 23, 1958 to reserve 2.5 cfs from groundwater (Vermillion East Fork Aquifer) located in the SE 1/4 NE 1/4 of Section 28-T11N-R56W to be used for municipal purposes.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends that Permit No. 524-3 REMAIN in EFFECT for 1,086 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. 524-3 at the Governor's Inn, Knep Room, 700 W Sioux Ave, Pierre SD on December 4, 1991 at 10:15 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 25, 1991. 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. 524-3 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. Those and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit or to assure access to the hearing by the handicapped can contact the Water Rights Division, DENR, Joe Foss Building, Pierre SD 605 773-3352 for assistance prior to the hearing date. The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose or support continuance of the Future Use Permit. The request for a delay must be filed with the Chief Engineer by November 25, 1991.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County _____) ss.

I, Dale Blegen

certify that the attached printed Notice was taken
from the De Smet News

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

_____ of De Smet

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

November 6, 1991

November 13, 1991

[Signature]
(Signature)

[Signature]
(Title)

Nov. 17, 1991
(D)

son, 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, fur-
ther information on this permit or to as-
sure access to the hearing by the handi-
capped can contact the Water Rights
Division, DENR, Joe Foss Building,
Pierre SD 605 773-3352 for assistance
prior to the hearing date. The time of
the hearing will be automatically de-
layed for at least 20 days upon written
request of the permit owner or any per-
son who has filed a petition to oppose or
support continuance of the Future Use
Permit. The request for a delay must be
filed with the Chief Engineer by
November 25, 1991.

11-6-2wc-11-13

Cost of Printing: _____

NOTICE OF HEARING --
TO REVIEW FUTURE USE
WATER PERMIT NO. 524-3

Notice is given that the Water Man-
agement Board will review Future Use
Permit No. 524-3 held by City of De
Smet, Drawer 70, De Smet SD 57231
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. 524-3.
This permit was approved April 23,
1958 to reserve 2.5 cfs from groundwa-
ter (Vermillion East Fork Aquifer) lo-
cated in the SE 1/4 NE 1/4 of Section 28-
T111N-R56W to be used for municipal
purposes.

Pursuant to SDCL 46-2A-2 the Chief
Engineer of the Water Rights Division
recommends that Permit No. 524-3
REMAIN in EFFECT for 1,086 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. 524-3 at the Governor's
Inn, Kneip Room, 700 W. Sioux Ave.,
Pierre SD on December 4, 1991 at 10:15
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 qualifica-
tions, 3) cancel the permit for no devel-
opment or no planned future develop-
ment, or 4) take no action after it
reaches a conclusion based upon facts
presented at the public hearing. Any in-
terested person who may be affected by
a Board decision and who intends to
participate in the hearing before the
Board and present evidence or cross-
examine witnesses according to SDCL
1-26, must file a written petition with
BOTH the permit owner and the Chief
Engineer by November 25, 1991. The
petition may be informal, but it must in-
clude a statement describing the peti-
tioners 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. 524-3 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 pro-
cedures contained in SDCL 1-26.

This hearing is an adversary pro-
ceeding. The permit owner or any per-

South Dakota

GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 6, 1991

NOTICE

Roger Knock, Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231

Dear Mayor Knock:

I am writing in response to action taken by the Water Management Board at the hearing on December 4, 1991 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect and amended Permit No. 524-3 by adding the qualification on the enclosed "Amendment". The "Amendment" should be placed with the permit. Future Use Permit No. 524-3 is again subject to review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$42.50 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

Please contact Eric Gronlund, Water Rights Staff Engineer, if you have any questions.

Very truly yours,

John Hatch

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

enclosures

AMENDMENT TO FUTURE USE PERMIT NO. 524-3

CITY OF DESMET

Pursuant to the December 4, 1991 Water Management Board hearing, Future Use Permit No. 524-3 was allowed to remain in effect and amended by adding the following qualification:

That Permit No. 524-3 reserves for future use 1,086 acre-feet annually. The diversion rate of 2.5 cfs is deleted from Permit No. 524-3.

CERTIFICATION

I hereby certify that on December 6, 1991, I have personally deposited with the U.S. Mail, postage prepaid envelopes containing a Notice dated December 6, 1991, regarding future use permits amended by action taken by the Water Management Board at the December 4, 1991, meeting and addressed to:

FUP 1262-3 - John Anderson, Mayor, City of Canton, 123 S Main, Canton,
SD 57013

FUP (524-3) - Roger Knock, Mayor, City of DeSmet, PO Drawer 70, DeSmet,
SD 57231

FUP 4039-3 - Sylvia Thompson, Finance Officer, PO Box 97, Montrose, SD 57048

FUP 4051-3 - Pat Grygiel, Finance Officer, Town of Florence, PO Box
137, Florence, SD 57235-0137

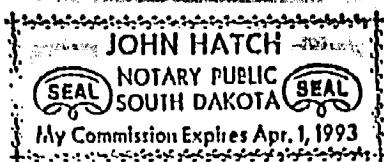
FUP 4052-3 - Judy Kos, Finance Officer, Town of Henry, PO Box 27,
Henry, SD 57243-0027

Jaci R Konop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of December, 1991.



John H. H. H.
Notary Public

CITY OF DE SMET

P.O. Drawer 70
De Smet, South Dakota 57231

Office of
Finance Officer



Enclosed please find our fee for maintaining
the effectiveness of Future Use Permit No. 524-3,
in the amount of \$42.50.

Eileen Wolkow
Eileen Wolkow
Finance Officer

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412964

Pierre, December 16, 19 91

RECEIVED OF City of DeSmet, P.O. Drawer 70, DeSmet, SD 57231

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____

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

Fee to repair Future Use Permit No. 524-3 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 Certified Copy of _____

Fee for Print Copy of Map _____

Fee for Certifying _____

Fee for _____

(Any Other Work Provided by Law)

Total

42 50

42 50

By *J. H. Hotal*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

www.state.sd.us/denr

September 25, 1998

City of DeSmet
Eileen Wolkow, Finance Officer
PO Drawer 10
DeSmet SD 57231-0070

Dear Ms. Wolkow:

I am writing in regard to the seven year review of Future Use Water Permit No. 524-3 from groundwater (Vermillion East Fork Aquifer) which is held by the City of DeSmet. By law, all future use permits are to be reviewed by the Water Management Board every seven years. The permit reserves water for future water supply needs for the city. Currently, our records show that 1,086 acre-feet remain in reserve under this future use permit that was issued in 1958 and last reviewed in 1991.

Please respond in writing by November 1, 1998, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 524-3 will then be scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352

City of De Smet

218 Calumet Ave. - P.O. Drawer 70

De Smet, South Dakota 57231

(605) 854-3731

October 26, 1998



Karen Schlaak
Environmental Scientist
SD DENR Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501



Dear Ms. Schlaak:

I am writing in regard to our Future Use Water Permit No. 524-3 scheduled for review before the Water Management Board. The DeSmet Common Council at their regular meeting held on October 14, 1998, voted to request renewal of the permit at the current levels. The Council's decision to retain the current reserve of 1,086 acre feet of water was based upon the continued expansion of water services in our residential areas and the potential for high volume users in our industrial park.

Pumping records for the City of De Smet show the following useage during the past three years:

1995	55,000,000	gallons
1996	55,000,000	gallons
1997	52,500,000	gallons
1998 (to date)	43,000,000	gallons

During the past five years, 24 homes, 3 private commercial buildings, a medical clinic, and a school building and armory have been constructed in the City of De Smet. Our pumping records, however, do not reflect an increase in useage because of the following factors; an increase in rainfall during the past few years reduced the amount of water used for watering lawns and gardens; an EPA mandated modification in certain production processes at our local sign company reduced the amount of water utilized by that industry; and a system upgrade in the treatment of our water has significantly reduced the amount of water needed to flush hydrants in the spring and fall of the year.

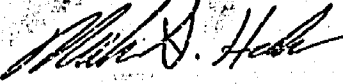
Industrial development and new home construction in the City of De Smet continue to show potential for the future. A manufacturing company located in our industrial park is planning a large expansion project in the near future. In the past several years and recently we have had inquiries from potential businesses interested in locating in this vicinity and a primary concern

of several businesses was the availability of sufficient quantities of water. For example one of these businesses need approximately 110,000 gallons of water per day while another needed 300 million gallons of water per year.

Each year the city budgets not less than \$25,000 of upgrades to its water system with a portion of that money spent to provide water service to undeveloped areas of the city where new home construction is occurring. A water customer in one new home is estimated to use 300,000 gallons of water per year, which does not include water consumption for lawn irrigation systems that are frequently installed with the new home. The City of De Smet is also looking into the possibility of annexing additional property which would increase our customer base significantly.

The City of De Smet continues to need adequate water to provide service to the growing number of residential and business customers. Should an industry requiring access to large quantities of water want to locate in De Smet we want to know that sufficient water will be available without jeopardizing service to our existing customers. For these reasons we request that the Futures Use Water Permit No. 524-3 be renewed at the current level of 1,086 acre feet.

Sincerely,



Mark Hoek
Mayor

CMI Architectural

CMI Architectural Products, Inc.
608 Fourth Street SE
De Smet, South Dakota 57231-0475

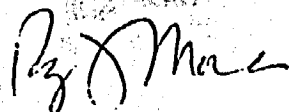
Telephone: 605-854-3326
Fax: 605-854-3620

October 28th, 1998

To Whom It May Concern,

This letter is written with regards to water use permits and how they pertain to the city of DeSmet. As a manufacturing company located in Desmet, I cannot stress the importance of controlling factors that have the ability to impact you. Desmet wants and needs a continued water use permit for this very reason. Our water needs are not vast, but with our growth in sales and personnel, we project our future usage to increase. To date, the city of Desmet has met our needs satisfactorily and we expect they will do the same in the future.

Respectfully,



Roger J. Monson
President



De Smet Development Corporation

DE SMET, SOUTH DAKOTA 57231

October 28, 1998

To: John Hatch, Chief Engineer
Department of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501

From: De Smet Development Corporation
P.O. Box 150
De Smet, SD 57231

Subject: 1998 Review of the City of De Smet's Future Water Use Permit

Dear Sirs:

The De Smet Development Corporation has periodically been contacted by individuals and company's interested in locating in our community.

Several of these prospects have required substantial water availability including usage up to 300 million gallons of water per year. The availability of water to the City of De Smet is vitally important to the economic viability and development of this area. The City of De Smet is ideally suited for the development of value added farm products and industry of this type requires substantial water supplies. The City of De Smet is located on the DM&E Railroad line, U.S. Highway 14 and is located over an aquifer with substantial capacity.

To insure the City of De Smet's future water availability is essential. Substantial expansion of the community has occurred since the last review by the Water Management Board both in terms of commercial and



residential construction. Currently one of the City's largest employers is developing plans for a substantial plant expansion in our industrial park.

On behalf of the citizens of De Smet and the De Smet Development Corporation we respectfully request that the City of De Smet Future Use Water Permit No. 524-3 be renewed at the current level.

Sincerely,



De Smet Development Corporation
Todd D. Wilkinson
President

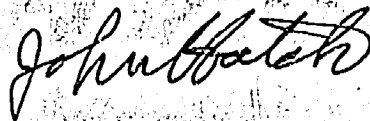
TDW/jw

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 524-3, City of DeSmet SD**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 524-3, City of DeSmet, PO Drawer 70, DeSmet SD 57231-0070.

The Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT for 1,086 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the City has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 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. 524-3 is subject to payment of the \$42.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the City of DeSmet.



JOHN HATCH, Chief Engineer
October 29, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 29, 1998

DeSmet News
Box 69
DeSmet SD 57231-0069

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 524-3 to be published twice. Please publish the first notice on November 4, 1998 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. Please **BILL** the **APPLICANT** for the cost of publication. The **APPLICANT** is the City of DeSmet, PO Drawer 70, DeSmet SD 57231.

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
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Date _____

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

We are in receipt of your letter of October 29, 1998 enclosing Notice of Hearing to Review Future Use Water Permit No. 524-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 29, 1998

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

Mark Hoek, Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231

Dear Mayor Hoek:

Future Use Permit No. 524-3 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 DeSmet News (Phone #854-3331). For your information, a copy of the recommendation of the Chief Engineer is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

c: Eileen Wolkow, Finance Officer

Instruction to Newspaper-Publish first publication of the following Notice on November 4, 1998 with 2nd publication 7 days later. The City of DeSmet is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of DeSmet, PO Drawer 70, DeSmet SD 57231-0070 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. 524-3. This permit was approved April 23, 1958 and reserves 1,086 acre feet of water (Vermillion East Fork Aquifer) located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 1,086 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. 524-3 at the Floyd Mathew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD at 10:00 am on December 2, 1998.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by November 23, 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. 524-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this permit, to assure access to the hearing by the handicapped or obtain an interpreter for the hearing impaired may contact Eric Gronlund, Water Rights Program, (605 773-3352) by November 23, 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 November 23, 1998. Nettie H Myers, Secretary, Department of Environment and Natural Resources.

Form 8



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Kingsbury)

I, Dale Bløgen

certify that the attached printed Notice was taken

from the De Smet News

printed and published in De Smet

County of Kingsbury and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

November 4, 1998

November 11, 1998

Cost of Printing 57.13

Dale Bløgen
(Signature)

Publiker
(Title)

11-11-98
(Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of De Smet, PO Drawer 70, De Smet, SD 57231-0070, 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. 524-3. This permit was approved April 23, 1958, and reserves 1,086 acre feet of water (Vermillion East Fork Aquifer) located in the SE1/4 NE1/4 Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2, the chief engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 1,086 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. 524-3 at the Floyd Mathew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD, at 10 a.m. on Dec. 2, 1998.

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 Nov. 23, 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 petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

99432.07 + 31.74
X 2076
206206.25.30
24.1

The hearing to review Future Use Permit No. 524-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 through 74:02:01:25.03 and contested case procedures contained in SDCL 1-26.

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

Any person wishing a copy of the Chief Engineer's 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 Nov. 23, 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 Nov. 23, 1998.

Nettie H. Myers, Secretary
Department of Environment &
Natural Resources.

11-4-2wc-11-11



**DEPARTMENT of ENVIRONMENT-
and NATURAL RESOURCES**

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

December 4, 1998

NOTICE

City of DeSmet
Mark Hoek, Mayor
PO Drawer 70
DeSmet SD 57231-0070

Dear Mayor Hoek:

I am writing in response to action taken by the Water Management Board at the hearing on December 2, 1998 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect for 1,086 acre-feet of water annually. Future Use Permit No. 524-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$42.50 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Very truly yours,

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

c: Eileen Wolkow, Finance Officer

CERTIFICATION

I hereby certify that on December 4, 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 4, 1998, regarding Action taken by the Water Management Board on December 2, 1998, on the following Future Use Permits, addressed as stated below:

512-2: John P. Scheltens, City Engineer, City of Hot Springs, 303 N. River St., Hot Springs, SD 57747-1698.

524-3: City of DeSmet, Mark Hoek, Mayor, P.O. Drawer 70, DeSmet, SD 57231-0070.
City of DeSmet, Eileen Wolkow, Finance Officer, P.O. Drawer 70, DeSmet, SD 5723-0070.

1262-3: Jeff Fossum, Water Superintendent, City of Canton, 210 N. Dakota, Canton, SD 57013-1834.

Dan Amert, Finance Officer, City of Canton, 210 N. Dakota, Canton, SD 57013-1834.

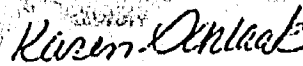
A Notice "and" an Amendment were sent to the following:

1148-3: Bill Lewellen, Utilities Director, City of Miller, 120 W. 2nd St., Miller, SD 57362.
Sharon Mins, Finance Officer, City of Miller, 120 W. 2nd St., Miller, SD 57362.

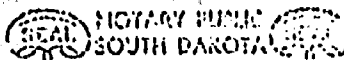

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of December, 1998


Notary Public

KAREN SCHLAACK



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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 415872

Pierre,

December 14 19 98

RECEIVED OF City of DeSmet, P.O. Drawer 70, DeSmet, SD 57230
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. 524-3 to Appropriate Water, for Future
Use _____

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 _____

(Any Other Work Provided by Law)

Total

42 50

By

Chief Engineer

John H. Hatcher



524-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 8, 2004

Gary Wolkow, Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231-0070

Dear Mayor Wolkow:

I am writing in regard to the seven year review of Future Use Water Permit No. 524-3 from groundwater (Vermillion East Fork Aquifer) which is held by City of DeSmet. 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 1,086 acre-feet remain in reserve under this future use permit that was issued in 1958 and last reviewed in 1998.

Please respond in writing by January 15, 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 and any annual pumping records for the past three years.

Permit No. 524-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

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

City of De Smet

218 Calumet Ave. — P.O. Drawer 70

De Smet, South Dakota 57231

(605) 854-3731



January 12, 2005

RECEIVED

JAN 13 2005

WATER RIGHTS
PROGRAM

Karen Schlaak
Environmental Scientist
SD DENR Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Dear Ms. Schlaak:

I am writing in regard to Future Use Water Permit No. 524-3 for the City of De Smet that is scheduled for a seven-year review before the Water Management Board. The De Smet Common Council has voted to request renewal of this permit at the current levels. The Council's decision to retain the current reserve of 1,086 acre feet of water is based upon the ongoing expansion of water services in our business, residential and industrial areas, and the potential for high volume users in our industrial park.

Business and industrial expansions as well as new home construction in the City of De Smet have continued to grow during the past five years and show great potential for the future. Twelve new homes and three town houses with a total of twelve living units were constructed from 2000-2004. During that period nine new businesses and several business additions were also constructed, that included a Dairy Queen & Subway business and a Super 8 Motel with a swimming pool. Two manufacturing companies located in our industrial park completed large expansion projects in 2001 & 2002 and we are anticipating two more large expansions in the industrial park during 2005. The city's Development Corporation has also had discussions with a confidential ethanol developer regarding a possible site, and they could use as much as 300 million gallons of water annually.

Each year the city budgets not less than \$25,000 for upgrades to its water system with a portion of that money spent to provide water service to undeveloped areas of the city where new home construction is occurring. In 2003 the city annexed fifteen homes and one business into the city limits and that area is scheduled for a major project in 2005 that includes installation of sanitary sewer service and water system upgrades. And the city's industrial park is quickly running out of developed property, so the development of additional property with water and wastewater infrastructure will be a project in the near future.

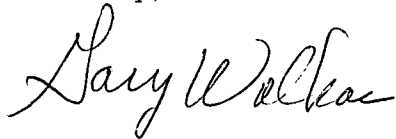
Pumping records for the City of De Smet during the past three years show the following usage:

2002	56,908,700 gallons	175 AF
2003	59,402,600 gallons	183 AF
2004	50,100,000 gallons	154 AF

Over the past few years, the volume of water pumped has slowly been decreasing even though the number of users has increased, and this is the result of the city's efforts to better control water usage. In 1998 the city implemented a water treatment program that has significantly reduced the amount of water needed to flush the city's water system each year. Three years ago the city implemented a program to professionally clean ten to fifteen blocks of sewer main each year and that has also had an impact on the amount of water used for flushing. We have also implemented an aggressive metering program so that nearly all water usage is now accurately measured. When users such as churches and mobile homes were metered instead of paying a flat rate, we identified several locations where leaks existed and also customers that left water running all winter long so their lines wouldn't freeze. Once they had to pay for the actual amount of water used, leaks were fixed and habits changed. The other factor that affects water usage is the weather. Fortunately De Smet had timely rains and moderate temperatures in 2004, so the volume of water used for irrigation and watering purposes was significantly less than the previous year.

As the City of De Smet continues to experience growth and development, an adequate supply of water must be maintained in order to provide service to the growing number of residential and business customers. Should an industry requiring access to large quantities of water want to locate in De Smet, we want to know that sufficient water will be available without jeopardizing service to our growing list of existing customers. For these reasons we request that the Futures Use Water Permit No. 524-3 be renewed at the current level of 1,086 acre feet.

Sincerely,



Gary Wolkow
Mayor

De Smet Development Corporation

January 7, 2005

To: Karen Schlaak, Environmental Scientist
SD DENR Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501

From: De Smet Development Corporation
P.O. Box 150
De Smet, SD 57231

Subject: 2005 Review of City of De Smet's Future Water Use Permit

Dear Sirs:

The availability of water to the City of De Smet is vitally important to the economic viability and development of Kingsbury County. Much development has occurred since DENR's last review of De Smet's Water Use Permit in 1998, and much more is anticipated in the coming years.

Centrally located between the larger cities of Watertown, Brookings, Madison, Mitchell, and Huron, De Smet continues to develop a strong manufacturing base and has seen substantial investment in its tourism industry with new hotels, restaurants, and convenience centers being built in the last few years. These expansions played a strong role in De Smet earning SD Community of the Year honors in 2002.

The Development Corporation continues to foresee and to seek future development in the city. Two manufacturing businesses in our industrial park are finalizing plans for expansion in 2005. And our location at the intersection of US Highway 14 and State Highway 25 along the DM&E Railroad line continues to spark the interest of varied value-added agricultural processing facilities.

Ensuring future water availability for De Smet is essential to serving the expansion needs of our existing industrial base, as well as to attracting investment in highly desirable processing facilities, many of which can require millions of gallons of water per year.

On behalf of the citizens of De Smet and the De Smet Development Corporation we respectfully request that the City of De Smet Future Use Water Permit No. 524-3 be renewed at the current level.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Aughenbaugh". The signature is fluid and cursive, with the first name "Tim" and last name "Aughenbaugh" clearly distinguishable.

De Smet Development Corporation
Tim Aughenbaugh
President

CMI Architectural Products, Inc.
608 Fourth Street SE
De Smet, South Dakota 57231-0475

Telephone: 605-854-3326
Fax: 605-854-3620

January 10, 2005

To Whom It May Concern:

This letter is written with regards to water use permits and the importance of their continuation for the city of DeSmet. As a manufacturer located in DeSmet, we have experienced growth in our employment numbers and that equates to additional water usage. Although our demand for water is not huge, it is important that it is controlled at the local level.

CMI is currently planning a new facility within the industrial park and trust that we can count on the water use permits continuing to be made available to the city of DeSmet.

Respectfully,



Roger J. Monson
President

Lyle Signs Inc.

P.O. Box 90, De Smet, South Dakota 57231
Telephone (605)854-9191 • Fax (605)854-3873



January 6, 2005

To Whom It May Concern:

SUBJECT: WATER USER PERMIT FOR THE CITY OF DE SMET

This letter is in regards to water user permits and the impact towards growth and development to the city of De Smet. As a manufacturing company located in De Smet with nearly 100 fulltime jobs, I cannot stress the importance of retaining a water use permit for this city.

Lyle Signs, Inc. uses thousands of gallons water daily with our 2 shift manufacturing facility with plans to expand and grow our requirements for water will increase. We are monitored on State and Federal discharge levels and comply to those standards in cooperation with the city.

We have had an excellent relationship with the city in regards to water needs and compliance issues. The city of De Smet wants/needs a continued water permit to allow Lyle Signs, Inc. and other manufacturers in the city to continue to build and grow for the future.

Yours truly, —

Laird Beck

VP – Plant Mg.

Lyle Signs, Inc.



ULTIMED/SHINAMERICA, INC.

Factory

710 4th St., P.O. Box U
DeSmet, SD 57231
Phone: 605-854-3434
Fax: 605-854-9234

Office

287 E. 6th St.
St. Paul, MN 55101
Phone: 651-291-7909
Fax: 651-291-7074

January 10, 2005

To Whom It May Concern,

This letter is in regards to the water use permits and how they pertain to the city of DeSmet, SD. Ulti-Med/Shinamerica, Inc. is a manufacturing facility located in DeSmet. Our water needs are not vast, but with the increasing sales, we can only project our future usage needs to increase. Ulti-Med/Shinamerica, Inc. can not stress enough the importance of controlling factors that have the ability to impact us as a company. DeSmet needs and wants a continued water use permit. As of today, the city of DeSmet has met our needs and we expect they will continue do the same in the future.

Sincerely,

Kirby Page
Maintenance Coordinator



ISO 13488:1996
FM 90050



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 524-3, City of DeSmet SD**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 524-3, City of DeSmet, PO Drawer 70, DeSmet SD 57231.

The Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT for 1,086 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 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. 524-3 is subject to payment of the \$42.50 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Garland Erbele, Chief Engineer
January 18, 2005



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 18, 2005

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

Gary Wolkow, Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231-0070

Dear Mayor Wolkow:

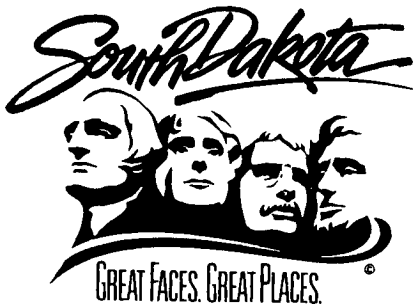
Future Use Permit No. 524-3 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used. The notice of this review has been sent to the Publisher of the DeSmet News (Phone #605 854-3331). For your information, a copy of the recommendation of the Chief Engineer is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2005

DeSmet News
PO Box 69
DeSmet SD 57231-0069

Dear Sir:

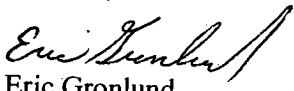
Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 524-3 to be published twice. Please publish the first notice on January 26, 2005 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352.

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 DeSmet, Gary Wolkow, Mayor, PO Drawer 70, DeSmet SD 57231-0070.

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at 605 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Date _____

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

We are in receipt of your letter of January 18, 2005 enclosing Notice of Hearing to Review Future Use Water Permit No. 524-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Kingsbury) SS

I, Dale Blegen

certify that the attached printed Notice was
taken

from the De Smet News

printed and published in De Smet

County of Kingsbury and

state of South Dakota. The notice was
published

in the newspaper on the following two dates:

January 26, 2005

February 2, 2005

Cost of Printing 63.81

Dale Blegen
(Signature)

Refisher
(Title)

Feb. 8, 2005
(Date Signed)

FEB - 9 2005

**WATER RIGHTS
PROGRAM**

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of De Smet, Gary Wolkow, Mayor, P.O. Drawer 70, De Smet, SD 57231, for progress made in the development of the water reserved by the permit and future plans for development of the water reserved by the permit. This permit was approved 1958 and currently reserves 1,086 acre feet from groundwater (Vermillion East Fork Aquifer) located in the SE1/4NE1/4 Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 1,086 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. 524-3 at 10 a.m., March 2, 2005, at Floyd Mathew Training Center, Joe Foss Bldg., 523 E. Capitol, Pierre, S.D.

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

BOTH the permit owner and the Chief Engineer by Feb. 18, 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.

101X 35.1 = 35.45

X 80% 35.45 = 28.36
28.36
63.81

The hearing to review Future Use Permit No. 524-3 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 Feb. 18, 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 Feb. 18, 2005. Steven M. [redacted] Secretary, Department of Environment and Natural Resources.

1-26-2wc-2-2

Instruction to Newspaper-Publish first publication of the following Notice on January 26, 2005 with 2nd publication 7 days later. The permit owner is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of DeSmet, Gary Wolkow, Mayor, PO Drawer 70, DeSmet SD 57231 for progress made in the development of the water reserved by the permit and future plans for development of the water reserved by the permit. This permit was approved 1958 and currently reserves 1,086 acre feet from groundwater (Vermillion East Fork Aquifer) located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 1,086 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. 524-3 at 10:00 am, March 2, 2005 at Floyd Mathew Training Center, Joe Foss Bldg, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the 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 February 18, 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. 524-3 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 February 18, 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 February 18, 2005. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 3, 2005

NOTICE

Gary Wolkow, Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231-0070

Dear Mayor Wolkow:

I am writing in response to action taken by the Water Management Board at the hearing on March 2, 2005 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect for 1,086 acre-feet of water annually. Future Use Permit No. 524-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$42.50 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 March 3, 2005, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 3, 2005 regarding Notice of Review Future Use Permit Nos. 4927-3, 1780-2, 192-3 & 3427A-3, 135-3 & 5003-3, 217-3 & 1598-3, 448-3 & 2042-3, 524-3, 549-3, 1218-3 & 2107-3 addressed as stated below:

1218-3 & 2107-3
Jeff DeVille Water Superintendent
Watertown Municipal Utilities Dept
901 4th Ave SW
Watertown SD 57201

549-3
Denise Peschong Finance Officer
City of Milbank
401 S Main St
Milbank SD 57252

524-3
Gary Wolkow Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231-0070

448-3 & 2042-3
Randy Janssen Water Superintendent
City of Sioux Falls
224 W 9th St
Sioux Falls SD 57104-6407

217-3 & 1598-3
Craig Osvog
Brookings Municipal Utilites
PO Box 588
Brookings SD 57006

135-3 & 5003-3
Bradley E Palmer
City of Pierre
PO Box 1253
Pierre SD 57501

192-3 & 3427A-3
Robin Bobzien City Engineer
City of Aberdeen
123 S Lincoln
Aberdeen SD 57401

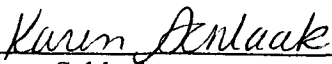
1780-2
Greg A Hall, Public Works Director
City of New Underwood
PO Box 278
New Underwood SD 57761-0278

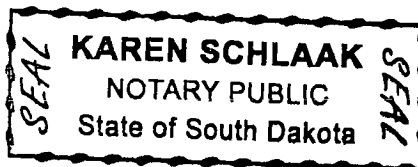
4927-3
Duane C Stokes Mgr
Clark Rural Water System
PO Box 162
Clark SD 57225


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of March, 2004.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 18⁴, 20 05

RECEIVED OF The City of DeSmet, PO Drawer 7C, DeSmet SD 57231

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use		
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>524-3</u> after period of seven years.	42	50
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	42.50

No.

001 225

By

Darland Eide

Chief Engineer

gm



524-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 8, 2011

City of DeSmet
Gary Wolkow, Mayor
PO Box 70
DeSmet SD 57231

Dear Mayor Wolkow:

I am writing in regard to the seven year review of Future Use Water Permit No. 524-3 from groundwater (Vermillion East Fork Aquifer) which is held by the City of DeSmet. 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 1,086 acre-feet remain in reserve under this future use permit that was issued in 1958 and last reviewed in 2005.

Please respond in writing by January 1, 2012, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 524-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 1,086 acre-feet remain in reserve, the fee will be \$155.00.

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 De Smet

218 Calumet Ave. — P.O. Drawer 70

De Smet, South Dakota 57231

(605) 854-3731

RECEIVED

DEC 29 2011

WATER RIGHTS
PROGRAM



December 27, 2011

Karen Schlaak
Environmental Scientist
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

Dear Ms. Schlaak:

I am writing in regard to Future Use Water Permit No. 524-3 for the City of De Smet that is scheduled for a seven-year review before the Water Management Board. The De Smet Common Council has voted to request renewal of this permit at the current levels. The Council's decision to retain the current reserve of 1,086 acre feet of water is based upon the ongoing expansion of water services in our business, residential and industrial areas, and the potential for high volume users in our industrial park.

Business and industrial expansions as well as new home construction in the City of De Smet have continued to grow during the past five years and show great potential for the future. During the past five years the city annexed a new housing development with 24 platted lots, and a tract of commercial property into the city limits, and issued building permits for nine (9) new homes, five (5) new commercial buildings, six (6) commercial business expansions, and a new fire hall.

Three (3) new homes and a large commercial building have already been constructed on the property that was annexed and developed in 2008. Plans are to construct a dental clinic and at least 1 new home there in 2012. Two major commercial business expansions in the past 5 years were a 10,750 sq. ft. addition to the De Smet Farm Mutual Insurance Company home office, and a 11,625 sq. ft. building addition that houses a new seed lab and all new office space for Legend Seeds, the largest Independent Regional Seed Company in the midwest. A manufacturing business located in our industrial park completed two building expansion projects in 2007-08 and another manufacturing business is looking at a major expansion in 2012-13. In 2010 the city built a 6,944 sq. ft. fire hall and the De Smet Development Corporation constructed a new 10,000 sq. ft. building in the Industrial Park - they are currently working with a potential manufacturing business that is looking to expand their present operations and uses water in their manufacturing process.

Each year the city budgets not less than \$50,000 for upgrades to its water system with a portion of that money spent to provide water service to undeveloped areas of the city where new home construction is occurring. In 2006 the city installed sanitary sewer service and water system upgrades in an area that had been annexed into the city limits three years earlier. In 2008 the city installed over 2,100 feet of water main and 2,000 feet of sanitary sewer up to the newly annexed housing development and commercial property. And in 2010 a major project that rehabilitated 7 blocks of city streets, also included the replacement of seven blocks of cast iron water main that was installed in 1922. That project also included some improvements to the water main connection at the water tower, and addressed water quality issues (rusty water) in that area of town. Those improvements have helped cut back in the amount of water that is needed to flush the system and the frequency of the flushing.

Pumping records for the past four years show the following usage:

2008	46,693,600 gallons
2009	43,861,000 gallons
2010	45,517,000 gallons
2011	47,756,000 gallons

The city continues to focus on better control of water usage and to identify locations where system leaks exist. Our water management efforts include metering city-owned buildings and facilities and continued water main upgrades. A program to install radio read meters along with the reading and billing software was started in the spring of 2011 and is schedule to continue over the next three years. The new metering system will provide more accurate readings and more timely monitoring of systems where leaks occur. To date about 25% of the water customers have radio read meters.

Weather is another factor that has impacted our water usage. The wet conditions in 2009 and 2010 decreased the volume of water used especially for lawn irrigation systems. When things started to dry out this summer our water consumption increased significantly because people were watering their flowers, shrubs, trees and lawns.

As the City of De Smet continues to experience growth and development, an adequate supply of water must be maintained in order to provide service to the growing number of residential and business customers. Should an industry requiring access to large quantities of water want to locate in De Smet, we want to know that sufficient water will be available without jeopardizing service to our growing list of existing customers. For these reasons we request that the Futures Use Water Permit No. 524-3 be renewed at the current level of 1,086 acre feet.

Sincerely,



Gary Wolkow
Mayor



Date: December 16, 2011

RECEIVED
DEC 29 2011
WATER RIGHTS
PROGRAM

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

From: De Smet Development Corporation
P O Box 42
De Smet SD 57231

Re: 2012 Review of City of De Smet's Future Water Use Permit

Dear SD DENR Personnel:

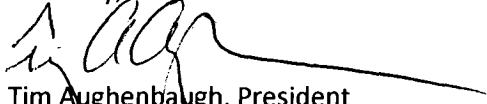
The availability of water to the City of De Smet is vitally important to the economic viability and development of Kingsbury County. De Smet is well known as a very progressive community in central eastern South Dakota. The residents' forward thinking attitudes continues to bring companies to invest in business opportunities in De Smet. A great deal of development has taken place since DENR's last review of De Smet's Water Use Permit in 2005 and we anticipate many more exciting opportunities in the coming years.

Centrally located between the larger cities of Watertown, Brookings, Mitchell, Madison and Huron, De Smet has developed a large industrial park with a strong manufacturing base. De Smet is fortunate to have the internationally renowned legacy of Laura Ingalls Wilder and Harvey Dunn that has provided strong tourism opportunities which continue to grow tremendously each year. The recognition of our nation's heritage and desire to experience the life of our forefathers has been a growing trend that has benefitted our tourism industry in De Smet. The development of the area surrounding Lake Thompson, the largest natural lake in South Dakota, located near De Smet has brought sports enthusiasts from across the nation to our hotels and restaurants.

The Development Corporation recently built a 10,000 square foot building in the Industrial Park. We are actively seeking new businesses for this facility. The availability of adequate water amounts is crucial to these efforts. A potential manufacturing company has visited De Smet looking to expand their present operations. This company uses water in their manufacturing process. They would require a significant increase of water usage for De Smet. In 2011, De Smet had five new businesses begin operations and three existing companies made large building expansions and hired additional employees. There have been five new homes built that shows tremendous progress and support for the community.

On behalf of the citizens of De Smet and the De Smet Development Corporation we respectfully request that the City of De Smet Future Use Water Permit No. 524-3 be renewed at the current level.

Sincerely,


Tim Aughenbaugh, President
De Smet Development Corporation

DE SMET DEVELOPMENT CORPORATION

Gronlund, Eric

From: desmetcity <desmetcity@mchsi.com>
Sent: Friday, January 20, 2012 11:33 AM
To: Gronlund, Eric
Subject: RE: City of DeSmet future use permit

Eric – As per your request I am sending you our water usage for the years of 2005, 2006 and 2007 which were drier than 2008-2011. The usage was as follows:

2005	52,656,000 gallons
2006	54,543,000 gallons
2007	52,105,000 gallons

These are the years since our future use water permit was renewed. If you need usage numbers from the years prior to 2005 or any other information related to our water usage, please let me know and I will get it to you as soon as possible. Thank you.

Eileen Wolkow
Finance Officer
City of De Smet

From: Eric.Gronlund@state.sd.us [mailto:Eric.Gronlund@state.sd.us]
Sent: Thursday, January 19, 2012 11:46 AM
To: desmetcity@mchsi.com
Cc: Karen.Schlaak@state.sd.us
Subject: City of DeSmet future use permit

Finance Officer Eileen Wolkow:

Mayor Gary Wolkow responded on December 27th to DENR's request regarding the seven year review of the city's Future Use Water Permit No. 524-3 (copy attached). This permit currently reserves water 1,086 acre feet of water annually from groundwater for future growth and development. The mayor's response set forth the city's desire to retain the permit. The letter included the past four years water usage. It included that weather in 2009 and 2010 impacted water usage. DENR recognizes that wetter years result in a decrease of water. Please provide water use records the city may have for a dry year when the city's annual water usage was greatest.

Thank you,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 524-3, City of DeSmet SD**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 524-3, City of DeSmet, PO Box 70, DeSmet SD 57231.

The Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT for 335 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 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. 524-3 is subject to payment of the \$85.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Garland Erbele, Chief Engineer
January 23, 2012

NOTE: The highest annual water usage of record by the City of DeSmet was 167 acre-feet in 2006. Board General Rules 74:02:01:24.01 states that future use permits may be limited to two times the amount actually put to beneficial use. Therefore, this recommendation is that Permit No. 524-3 be allowed to remain in effect for 335 acre-feet as outlined in the above.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 23, 2012

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

City of DeSmet
c/o Gary Wolkow, Mayor
PO Box 70
DeSmet SD 57231

Dear Mayor Wolkow:

Future Use Permit No. 524-3 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 DeSmet News (Phone #605 854-3331). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2012

DeSmet News
PO Box 69
DeSmet SD 57231

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 524-3 to be published twice. Please publish the first notice on February 1, 2012 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 or email karen.schlaak@state.sd.us

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 DeSmet, c/o Gary Wolkow, Mayor, PO Box 70, DeSmet SD 57231.

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at 605 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Date _____

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

We are in receipt of your letter of January 23, 2012 enclosing Notice of Hearing to Review Future Use Water Permit No. 524-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper-Publish first publication of the following Notice on February 1, 2012 with 2nd publication 7 days later. The permit owner is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of DeSmet, c/o Gary Wolkow, Mayor, PO Box 70, DeSmet SD 57231 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. 524-3. This permit was approved 1958 and currently reserves 1,086 acre-feet of water annually from groundwater (Vermillion East Fork Aquifer) located in the SE ¼ NE ¼ Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 335 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. 524-3 at 10:00 am on March 7, 2012, Floyd Mathew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by February 27, 2012. 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. 524-3 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 February 27, 2012. 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 February 27, 2012. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published twice at the total approximate cost of_____.

RECEIVED

FEB 13 2012

Form 8 WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Kingdome) SS

I, Kay Humphrey

certify that the attached printed Notice was
taken

from the De Smet News

printed and published in De Smet

County of Kingdome and

state of South Dakota. The notice was
published

in the newspaper on the following two dates:

February 1, 2012

February 8, 2012

Cost of Printing 72.33

Kay Humphrey
(Signature)

Editor

(Title)

2-9-12

(Date Signed)

$$\begin{aligned} 108 \text{ li} \times 37.2 &= 40.18 \\ \text{WK} 2 - 80\% &= 32.15 \\ &72.33 \end{aligned}$$

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of De Smet, c/o Gary Wolkow, Mayor, P.O. Box 70, De Smet, SD 57231, 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. 524-3. This permit was approved 1958 and currently reserves 1,086 acre-feet of water annually from groundwater (Vermillion East Fork Aquifer) located in the SE ¼ NE ¼ Section 28-T11N-R56W for municipal use.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 335 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. 524-3 at 10 a.m. on March 7, 2012, Floyd Mathew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) allow the permit to remain in effect, 2) amend the permit by adding qualifications, 3) cancel the permit for no development or no planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by Feb. 27, 2012. 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. 524-3 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 Feb. 27, 2012. 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 Feb. 27, 2012. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published twice at the total approximate cost of \$72.33.

2-1-2wc-2-8

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FEB 22 2012

WATER RIGHTS
PROGRAM

WILKINSON & WILKINSON

ATTORNEYS AT LAW
103 JOLIET AVE., S.E. P.O. BOX 29
DE SMET, SOUTH DAKOTA 57231

TELEPHONE: 605 / 854-3378

TELEFAX: 605 / 854-9006

HARRY J. EGGEN (1922-1969)
ELLSWORTH F. WILKINSON (1955-2005)

TODD D. WILKINSON
MARCENE J. SMITH
GARY W. SCHUMACHER*

February 21, 2012

* ALSO LICENSED IN MINNESOTA

Karen Schlaak
Environmental Scientist
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

City of De Smet
c/o Gary Wolkow, Mayor
PO Box 70
De Smet, South Dakota 57231

Garland Erbele
Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol Ave.
Pierre, South Dakota 57501-31825

Eric Gronlund
Natural Resources Engineer
DENR
PMB 2020
Joe Foss Building
23 East Capitol
Pierre, South Dakota 57501-3182

Dear Sirs/Madam,

This is to advise that I, Todd D. Wilkinson, of the Wilkinson Law Firm, De Smet, SD, shall be appearing on behalf of the City of De Smet, South Dakota, in connection with the Future Water Use Permit NO. 524-3.

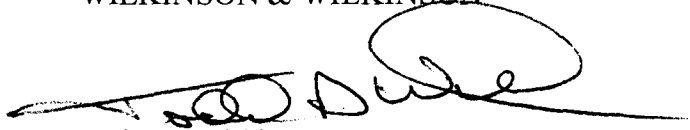
Please find enclosed the original **Petition To Oppose Recommendation And Request Delay Of Hearing** to Mr. Garland Erbele with a copy of the same to the other addressees.

We are respectfully requesting on behalf of the City of De Smet that the time of hearing be delayed beyond March 7, 2012, for the purpose of allowing the Petitioner adequate time in which to prepare to participate in the hearing before the board.

Thank you.

Sincerely yours,

WILKINSON & WILKINSON



Todd D. Wilkinson

encls.

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FEB 22 2012

WATER RIGHTS
PROGRAM

BEFORE THE
SOUTH DAKOTA WATER MANAGEMENT BOARD
DEPARTMENT OF WATER AND NATURAL RESOURCES

IN THE MATTER OF RECOMMENDATION FOR) PETITION TO OPPOSE
FUTURE USE WATER PERMIT NO. 524-3,) RECOMMENDATION
CITY OF De SMET, SOUTH DAKOTA) AND REQUEST DELAY
) OF HEARING

The City of De Smet, South Dakota, a municipal corporation (hereinafter the "Petitioner"), through its attorney, Todd D. Wilkinson, Wilkinson & Wilkinson, De Smet, South Dakota, presents this Petition to Oppose the Recommendation of Chief Engineer for Future Use Water Permit No. 524-3 for 335 acre-feet annually, and in furtherance thereof, hereby states and alleges:

1. The Petitioner's interest in the Petition relates to the affects of the granting of the Future Use Permit upon its use of water reserved under the said Future Use Permit; and, the Petitioner further asserts the public interest in preventing the Petitioner's use of future water.

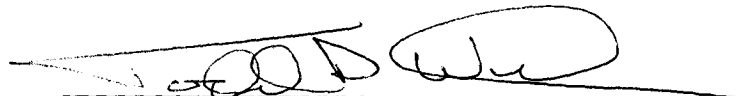
2. The Petitioner opposes the limitation set out in the said Future Use Permit for the reason that currently the Petitioner's Permit reserves water of 1,086 feet of water annually from groundwater for future growth and development; and for the further reason that the granting of such Future Use Permit places in jeopardy the ability of the Petitioner to have available for future use sufficient quantities of water as shall enable it to continue to attract new business and industry and to provide for its development and growth.

That the Petitioner requests a delay of the hearing presently set for March 7, 2012.

WHEREFORE, Petitioner hereby requests that it be heard on its Opposition and requests that the Board set a time and place for the hearing on the Opposition to the Recommendation for Future Use Water Permit No. 524-3 with further information and evidence given thereon at said hearing.

Dated this 16 day of February, 2012.

WILKINSON & WILKINSON



Todd D. Wilkinson
Attorneys for Petitioner
PO Box 29
De Smet, South Dakota 57231
(605) 854-3378

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of February, 2012, I sent to:

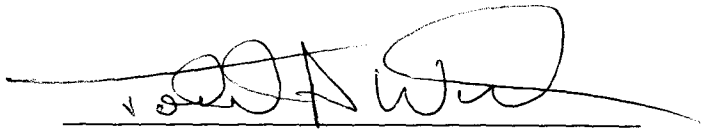
Karen Schlaak
Environmental Scientist
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

Eric Gonlund
Natural Resources Engineer
DENR
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

Garland Erbele
Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol Ave.
Pierre, South Dakota 57501-3182

City of De Smet
c/o Gary Wolkow, Mayor
PO Box 70
De Smet, South Dakota 57231

by first class mail, postage prepaid, a true and correct copy of the **Petition to Oppose Recommendation** relative to the above-entitled matter.

A handwritten signature in black ink, appearing to read 'Todd D. Wilkinson', is written over a horizontal line.

Todd D. Wilkinson



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 28, 2012

NOTICE

TO: Todd D. Wilkinson
Wilkinson & Wilkinson
PO Box 29
DeSmet SD 57231

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Automatic Delay of Hearing for Seven Year Review of Future Use Permit No. 524-3

The Water Rights Program received the petition you filed opposing the Chief Engineer's recommendation in the matter of the seven year review of Future Use Permit No. 524-3 held by the city of DeSmet. The petitions also requests delay of the scheduled March 7, 2012 hearing on this matter. Therefore, the hearing on Future Use Permit No. 524-3 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on March 7, 2012.

The Water Management Board will consider the seven year review of Future Use Permit No. 524-3 at their May 2 - 3, 2012 meeting. This meeting is tentative to be held in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice of the time and place of the hearing will be provided.

The Water Rights Program is represented by Diane Best, Assistant Attorney General, 317 N Main, Sioux Falls SD 57104-6004 (ph 605 367-5880 ext. 105).

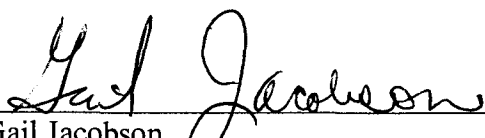
c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 28, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 28, 2012, regarding the seven year review of Future Use Permit No. 524-3 as addressed below:

Todd D. Wilkinson
Wilkinson & Wilkinson
PO Box 29
DeSmet SD 57231

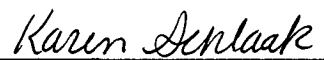
Diane Best, Assistant Attorney General
317 N. Main
Sioux Falls SD 57104



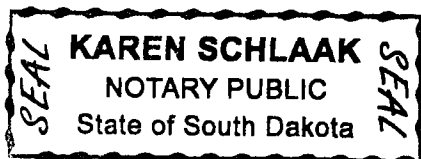
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 28th day of February, 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

317 N. Main Avenue
Sioux Falls, South Dakota 57104
Phone (605) 367-5880
FAX (605) 367-5886
www.state.sd.us/atg

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY

March 7, 2012

Todd D. Wilkinson
Wilkinson & Wilkinson
P.O. Box 29
DeSmet SD 57231

Re: In the Matter of Future User Permit No. 524-3, City of DeSmet

Dear Todd:

I am Counsel for the Chief Engineer in the Water Rights Program, Department of Environment and Natural Resources. The Chief Engineer sent a notice to the City of DeSmet regarding future use review of Permit No. 524-3. You filed a petition opposing the Chief Engineer's recommendation of 335 ac ft. annually and you asked that the number remain at the current 1086 ac ft. The DENR sent you a letter advising that the due process hearing will be held on May 2.

Before proceeding to hearing, I wanted to write to you to see if we can reach agreement.

Board rule ARSD 74:02:01:24:01 (attached) gives the board discretion to restrict future use permits to two times the annual amount actually put to beneficial use. During 2005-2007 the water use figures were 2005- 161.6 acre feet, 2006- 167.3 acre feet, 2007- 159.9 acre feet. Later dates used less water. So the highest water use in recent times was 167.3 acre feet in 2006. The Chief Engineer has recommended the FU permit No. 524-3 be limited to 335 acre feet which is twice the amount of their highest use to date. SDCL 46-5-38 provides that permits (or portions of them) shall be subject to cancellation if the board determines that the permit holder cannot demonstrate a reasonable need for a future use of the water.

The Chief Engineer would be willing to reconsider his recommendation to the Board if the City can demonstrate a reasonable need for the water. Based on the December 27, 2011 letter from the City (attached), the City

has documented growth over the last five years, but I assume that would already be factored into the annual water use numbers provided. And I understand that the recent upgrades were comprehensive and resulted in conservation of water. But what is the growth that the City expects that would help justify a future use at six or seven times its current use? The City's letter refers to ongoing expansion including a dental clinic and one new home and possible growth in manufacturing. Can you give some projections on the possible water needs for the manufacturing projects or can you identify any other new uses that would support the future use application at this level?

Sincerely,


Diane Best

Future Use Review Rules

74:02:01:24.01. Future use applications and future use permits for entities without permits to use water shall be limited to the amount of water actually needed to cover the uses specified in the future use application or future use permit. The board may, at its discretion, limit future use applications and future use permits for entities with permits to use water to two times the annual amount actually put to beneficial use. Water reserved for irrigation use shall be the amount allowed by SDCL 46-5-6 and 46-5-6.1 and by §§ 74:02:01:05 and 74:02:01:05.01 unless a lesser amount is requested by the applicant or permit holder.

Source: 9 SDR 96, effective January 30, 1983; 10 SDR 27, effective September 26, 1983; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 15 SDR 158, effective April 23, 1989; 17 SDR 51, effective October 11, 1990; **General Authority:** SDCL 46-2-5; **Law Implemented:** SDCL 46-1-14, 46-2-9, 46-2-11, 46-5-38.

74:02:01:24.02. The chief engineer may require that annual water use records be submitted by the applicant as part of a future use application or by the permit holder as part of the review of a future use permit.

Source: 17 SDR 40, effective September 19, 1990; **General Authority:** SDCL 46-2-5; **Law Implemented:** SDCL 46-2-9, 46-2-11, 46-2-17, 46-5-11.

74:02:01:25. The board, by majority vote, shall decide whether the future use application of an entity is approved, approved with qualifications, or rejected. In addition to other qualifications, the board may, at its discretion, place a time limit of less than seven years on a future use permit. After the time limit expires, the board shall decide whether to allow the permit to remain in effect or to cancel the permit.

Source: SL 1975, ch 16, § 1; transferred from § 52:01:01:23, effective July 1, 1979; 9 SDR 96, effective January 30, 1983; 10 SDR 27, effective September 26, 1983; 13 SDR 49, effective October 27, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987. **General Authority:** SDCL 46-2-5; **Law Implemented:** SDCL 46-1-14, 46-5-38, 46-5-38.1.

74:02:01:25.01. Future use permit review -- Recommendation and scheduling for review. The chief engineer shall prepare a recommendation for a future use permit that conforms, as far as practical, to the requirements of SDCL 46-2A-2 and shall schedule the future use permit for review by the board.

Source: 13 SDR 49, effective October 27, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; **General Authority:** SDCL 46-2-5; **Law Implemented:** SDCL 46-2A-2, 46-5-38, 46-5-38.1.

74:02:01:25.02. When a future use permit is scheduled for review, the chief engineer shall notify the permit holder of the date, time, and place of the review hearing and of the

chief engineer's recommendation. The chief engineer shall send the notice by first class mail to the last known address of the permit holder at least 27 days before the hearing.

Source: 13 SDR 49, effective October 27, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 20 SDR 53, effective October 20, 1993; **General**

Authority: SDCL 46-2-5; **Law Implemented:** SDCL 46-5-38, 46-5-38.1.

74:02:01:25.03. The publication of the notice for review of a future use permit shall conform as far as practical to the requirements of SDCL 46-2A-3 and 46-2A-4.

Source: 13 SDR 49, effective October 27, 1986; 13 SDR 129, 13 SDR 141, effective July 1, 1987; **General Authority:** SDCL 46-2-5; **Law Implemented:** SDCL 46-2-9, 46-2-11, 46-2-17, 46-2A-2, 46-2A-4, 46-5-38, 46-5-38.1.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 3, 2012

NOTICE

TO: Todd D. Wilkinson
Wilkinson & Wilkinson
PO Box 29
DeSmet SD 57231

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing for Seven Year Review of Future Use Permit No. 524-3, City of DeSmet

The Water Rights Program received the petition you filed opposing the Chief Engineer's recommendation and requesting an automatic delay in the matter of the seven year review of Future Use Permit No. 524-3 held by the city of DeSmet. The hearing scheduled for March 7, 2012 was postponed and is now to be scheduled for the Water Management Board's May 2 – 3, 2012 meeting.

The Water Management Board will consider the seven year review of Future Use Permit No. 524-3 at 10:00 AM, May 2, 2012 meeting in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed as a result of prior agenda items.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 335 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 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 for a specified acre feet annually, 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.

This hearing may be an adversarial proceeding. The city has the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of DENR's December 8, 2011, the city's December 27, 2011 letter request to retain the future use permit, a December 16, 2011 letter from the DeSmet Development Corporation, a January 20, 2012 from the city Finance Officer, the Chief Engineer's recommendations, affidavit of publication, the city's petition in opposition to the Chief Engineer's recommendation and the February 28, 2012 notice of autodelay. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules". You are encouraged to review these documents prior to the hearing.

This matter is brought for hearing pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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, 46-2A-23; 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, 46-5-38, 46-5-38.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and ARSD 74:02:01:24 thru 74:02:01:25.03.

Questions regarding the hearing process may be directed to Diane Best, Assistant Attorney General at (605) 367-5880 ext 105. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on April 3, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 3, 2012, regarding the seven year review of Future Use Permit No. 524-3 as addressed below:

Todd D. Wilkinson
Wilkinson & Wilkinson
PO Box 29
DeSmet SD 57231

Diane Best, Assistant Attorney General
317 N. Main
Sioux Falls SD 57104



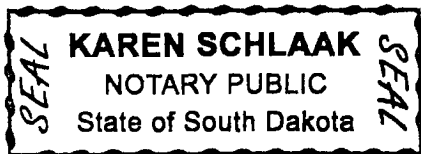
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of April, 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

317 N. Main Avenue
Sioux Falls, South Dakota 57104
Phone (605) 367-5880
FAX (605) 367-5886
www.state.sd.us/atg

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY

April 16, 2012

Todd D. Wilkinson
Wilkinson & Wilkinson
P.O. Box 29
DeSmet SD 57231

Re: In the Matter of Future User Permit No. 524-3, City of DeSmet

Dear Todd:

I got your letter. It sounds like your client is looking for a lot of water to remain in future use status and it exceeds what the DENR has recommended in the past. The DENR is looking at your proposal.

In the meantime, the hearing is still scheduled for May 2 at 10:00 am in Pierre at the Mathews Training Center.

Sincerely,

Diane Best
Diane Best

WILKINSON & WILKINSON
ATTORNEYS AT LAW
103 JOLIET AVE., S.E. P.O. BOX 29
DE SMET, SOUTH DAKOTA 57231

RECEIVED
APR 13 2012

HARRY J. EGGEN (1922-1969)
ELLSWORTH F. WILKINSON (1955-2005)

TELEPHONE: 605 / 854-3378

TELEFAX: 605 / 854-9006

TODD D. WILKINSON
MARCENE J. SMITH
GARY W. SCHUMACHER*

* ALSO LICENSED IN MINNESOTA

April 12, 2012

Diane Best
Office of Attorney General
317 N. Main Avenue
Sioux Falls, South Dakota 57104

RE: In the Matter of Future User Permit NO. 524-3, City of De Smet

Dear Diane:

Pursuant to your request the City of De Smet water personnel, Development Corporation, and several businesses have provided additional detail for purposes of calculating anticipated water usage.

Current projects include the following projects with the corresponding projected increase in water usage.

Medical Facilities

1. De Smet Memorial Hospital Addition - 200,000 gallons per year based on existing hospital yearly usage;
2. New Horizon Dental Clinic - 120,000 gallons per year based upon business usage estimate;
3. New Medical Clinic - Avera - 100,000 gallons based upon business usage estimate;

Industrial Projects

4. Ultimed expansion of existing plant - 100,000 gallon per year based upon existing usage and expansion square footage;
5. Included business currently proposing to locate in De Smet - 200,000 gallons per year based upon business usage estimate;
6. Increased residential usage based upon current building projects and new lot development availability projected over the next seven years - 56,000,000 gallons per year for new household and irrigation use;
7. Rental Housing expansion based on 12 units of housing. Usage based on existing usage of similar housing - 600,000 gallons per year;

April 12, 2012
Diane Best
Office of Attorney General
Page two.

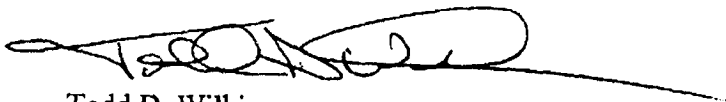
8. Athletic complex upgrade with irrigation of 3 fields plus restrooms –
1,304,160 gallons per year.

This annual usage projection of 58,524,000 gallons is for pending or planned projects with anticipated residential expansion on platted and infrastructure improved lots. This does not reflect increased usage based upon existing residential, business, or municipal use. A case could certainly be made for increased usage by existing entities but those calculations have not been included in these estimates. The past several years this area has experienced above average rainfall that significantly reduced the need for irrigation and related uses. Utilizing rainfall data from 2003, a year when the rainfall was closer to average rather than the more recent years when rainfall has been significantly above average reflects the usage for the City of De Smet would be more accurately based on 59,403,000 gallons. Using that year as a base line and adding in the additional use anticipated for the projects outlined above would put the City's projected usage at 117,927,000 gallons thus clearly evidencing a need for reservation of future use at least 724 acre feet which is two times the amount that will actually be put to beneficial use in accordance with rule ARSD 74:02:01:24:01.

I am authorized to state that the City of De Smet would accept a future use reservation of 724 acre feet, thus a reduction from the existing 1,086 acre feet. If this is acceptable please advise.

Sincerely yours,

WILKINSON & WILKINSON



Todd D. Wilkinson

TDW:cl
CC: City of De Smet

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

317 N. Main Avenue
Sioux Falls, South Dakota 57104
Phone (605) 367-5880
FAX (605) 367-5888
www.state.sd.us/atg

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY

May 9, 2012

Todd D. Wilkinson
Wilkinson & Wilkinson
P.O. Box 29
DeSmet SD 57231

Re: *In the Matter of Future User Permit No. 524-3, City of DeSmet*

Dear Todd:

I talked to Gary a few weeks ago about the future use permit issue and hearing was rescheduled to July 11.

Based on my conversation with Gary I gathered that the city has new economic development projects in the works and/or wishes to use its' potential water supply as an economic development advantage in attracting new enterprises. While there may be some specifics, DeSmet is not able to make a public disclosure at this time.

Perhaps we can resolve this issue informally. This letter is to suggest that we compromise with a 500 AF future use permit. The Chief Engineer has previously recommended 335 AF which is twice the annual use. The 500 AF would put the future use permit at approximately three times the annual use. This is a substantial amount of water. If the city can agree to that we would not need to go to hearing.

If this number is not satisfactory to the City, please provide the data supporting the larger numbers. If there is data that was filed with the city under SDCL 9-34-19 it is not a public record and we could arrange to maintain confidentiality if necessary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane", written over a horizontal line.

Diane Best



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 14, 2012

NOTICE

TO: Todd D. Wilkinson
Wilkinson & Wilkinson
PO Box 29
DeSmet SD 57231

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Scheduling of Hearing for Seven Year Review of Future Use Permit No. 524-3, City of DeSmet

The Water Management Board will consider the seven year review of Future Use Permit No. 524-3 for the City of DeSmet at 10:00 AM, July 11, 2012 meeting in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed as a result of prior agenda items.

Applicable provisions of the notice of hearing published February 1 and 8, 2012 in the DeSmet News will still apply at this hearing. The hearing on this application was originally scheduled for March 7, 2012. The petition filed opposing the limitation set forth in the Chief Engineer's recommendation requested an automatic delay pursuant to SDCL 46-2A-4 and 46-2A-5. Therefore, the March 7th hearing was cancelled and rescheduled for the May 2, 2012 Board meeting. The intended May 2nd hearing was continued by stipulation between DENR and the city.

This hearing is an adversarial proceeding. The city has the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Previously sent to you were a copy of DENR's letter dated December 8, 2011, the city's December 27, 2011 letter request to retain the future use permit, a December 16, 2011 letter from the DeSmet Development Corporation, a January 20, 2012 email from the city Finance Officer, the Chief Engineer's recommendations, affidavit of publication, the city's petition in opposition to the Chief Engineer's recommendation and the February 28, 2012 notice of autodelay. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This information will be sent to the Board members in advance of the hearing. If you need a copies of this material resent to you, please contact Eric Gronlund at (605) 773-3352 or eric.gronlund@state.sd.us.

Under SDCL 1-26-17(6) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." If the city chooses to use the Office of Hearing Examiners rather than the hearing procedure described above before the Water Management Board, then you need to notify the Chief Engineer through legal counsel Diane Best, 317 North Main, Sioux Falls SD 57104 by June 22, 2012.

Questions regarding the hearing process may be directed to Diane Best, Assistant Attorney General at (605) 367-5880 ext 105. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

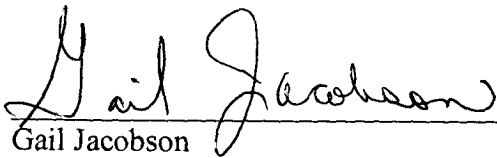
c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on June 14, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 14, 2012, regarding the seven year review of Future Use Permit No. 524-3 as addressed below:

Todd D. Wilkinson
Wilkinson & Wilkinson
PO Box 29
DeSmet SD 57231

Diane Best, Assistant Attorney General
317 N. Main
Sioux Falls SD 57104

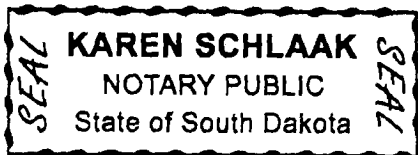

Gail Jacobson

Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of June, 2012.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013



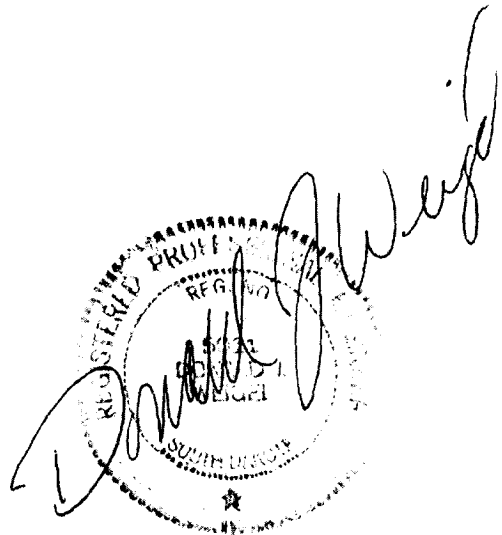
WATER USAGE PERMIT

DeSMET, SD

PREPARED BY:

**CLARK ENGINEERING CORPORATION
2301 8TH AVE. N.E., SUITE 125
ABERDEEN, SD 57401**

JULY 2012



WATER USAGE PERMIT

DeSMET, SD

INTRODUCTION

The City of DeSmet has held a Future Use Water Permit #524-3 issued by the S.D. Dept. of Environment & Natural Resources – Water Management Board since 1958. The permit allows the City to appropriate water for its use from the Vermillion East Fork Aquifer. The permit has granted the City use of 1,086 Ac. Ft. on an annual basis and has been renewed every seven years since initial issuance.

In December 2011, the City of DeSmet was notified by the Dept. of Environment & Natural Resources that the Future Use Water Permit #524-3 would be subject to a seven year review. The City was asked to provide a written response regarding the City's intention to retain the Future Use Water Permit #524-3. The response was to outline the need for retaining the use permit including an estimate of future needs and annual pumping records for the past three years.

In January 2012, the City received a copy of the *Recommendation of Chief Engineer for Future Use Water Permit* indicating that the City's permit would be recommended for 335 Ac. Ft. annually. The reduction from the original 1,086 Ac. Ft. to the 335 Ac. Ft. was based on a highest annual water usage record by DeSmet of 167 Ac. Ft. in 2006. The Board of Environment & Natural Resources' general rule states that Future Use Permits may be limited to two times the amount actually put to beneficial use and therefore the recommended 335 Ac. Ft.

Appendix A of this report is the *Recommendation of Chief Engineer for Future Use Water Permit* #524-3, City of DeSmet, SD as well as copies of letters advising the City of renewal of their Future Use Water Permit from 1984 through 2005 and the 2011 letter advising the City that Future Use Water Permit #524-3 would be subject to a seven year review.

The City of DeSmet is concerned about the reduction in permitted water use according to the Chief Engineer's recommendation and has been engaged in discussions with the Dept. of Environment & Natural Resources regarding the reduction in permitted annual usage. The City of DeSmet asked Clark Engineering Corporation to review information available in regard to past usage and projected future usage in response to the recommended change to the Future Use Water Permit.

EXISTING AND PROJECTED CITY OF DESMET WATER USAGE

The City of DeSmet provided Clark Engineering Corporation the information on the following page regarding existing and projected water use in the City of DeSmet. Clark Engineering reviewed the provided information and developed the table presented in Figure 1 outlining past and projected future water usage. As shown at the bottom of the table in Figure 1, based on the information provided by the City of DeSmet, Clark Engineering determined that an appropriate amount to be included in the City of DeSmet's Future Use Water Permit currently under review by the Dept. of Environment & Natural Resources would be 456 Ac. Ft.

Following Clark Engineering's review and evaluation of data provided by the City of DeSmet, the City received a letter from CMI Architectural, a manufacturing company with an office and manufacturing operation in DeSmet, SD. The letter outlines possible growth and expansion of the CMI Architectural operation in DeSmet and indicates that CMI would require available water supply in the range of 3 to 3½ million gallons per month. Three and one-half million gallons per month translates to 42,000,000 gallons per year or 129 Ac. Ft. on an annual basis.

Using the allowed doubling of such an amount would add 258 Ac. Ft. to the 456 Ac. Ft. calculated by Clark Engineering or bringing the new annual amount to 714 Ac. Ft.

Proposed Hospital Addition: approximate usage 100,000 gallons
(Calculated from hospital yearly usage)

2 New Industries:

Based on usage at Ulti-med ~ 100,000 gallons x 2 industries = 200,000/year

Proposed New Dental Clinic: Based on Horizon Health usage
60,000 gallons per year x 2 dentists = 120,000 gallons per year

New Home Irrigation usage: Based on Laurie Carmon's irrigation usage ~ 250,000 gallons/yr.

Average of new homes built per year:

4 new homes per year, each using approximately 250,000 gallons for irrigation

$250,000 \times 4 = 1,000,000$ gallons/ yr. (irrigation)

Future Irrigation usage possible ~

23 lots in Wilder Pass available

250,000 irrigation usage/yr. x 23 lots = 5,750,000 gallons per year for irrigation

9 lots in Silver Lake available

250,000 irrigation usage/yr. x 9 lots = 2,250,000

Usage for domestic: was based on Tim Aughenbaugh's home usage per year

Usage: 130,000 gallons /yr. x 23homes = 2,990,000 gallons/yr.

Usage: 130,000 gallons /yr. x 9 homes = 1,170,000 gallons

Proposed 12 Units Housing (as per Rita):

Based on irrigation and domestic use at the Calumet Townhomes

Domestic: 5,000 per unit per bill cycle x 12 units = 60,000 gallons per bill cycle

60,000gallons x 6 bill cycles = 360,000 gallons used per year

Irrigation: 600,000 gallons per year used over last 3 to 5 years

Proposed Athletic Complex with irrigation, 3 fields and restrooms:

Approx. usage of 18 gallons per min per sprinkler = Running them for a period of 2 hours = 25,920 gallons used.

$25,920 \text{ gal} \times 3 \text{ fields} = 77,760 \text{ gallons}$

If used for 16 weeks per year they would use 1,244,160 gallons if irrigated once a week

Restrooms: Based on Washington Park restrooms usage of last 2 years averaged out to be 60,000 gallons per year.

Kim and I came up with this using our water usage from meter books at City Hall. Irrigation could be different if newer systems used less. Also we did usage as system ran only once weekly.

Randy Asleson

CITY OF DESMET, SD PAST & PROJECTED WATER USAGE

- 2003 Water Usage 59,403,000 gals
(2003 Usage Selected as a typical drier summer use period – more typical irrigation usage)

Projected Water Usage

• Proposed Hospital Add'n	100,000 gals
• 2 New Industries	200,000 gals
• New Dental Clinic	120,000 gals
• Wilder Pass Irrigation (23 residences)	5,750,000 gals
• Silver Lake Irrigation (9 residences)	2,250,000 gals
• Wilder Pass Domestic	2,990,000 gals
• Silver Lake Domestic	1,170,000 gals
• 12 Units Housing	
○ Domestic	360,000 gals
○ Irrigation	600,000 gals
• Athletic Complex	
○ Irrigation	1,244,160 gals
○ Restrooms	60,000 gals

Total = 74,247,160 gals
or 227.8 ac-ft

As per DENR Administrative rule 74:02:01:24:01, the annual usage of 227.8 ac-ft may be doubled to **456 ac-ft**

FIGURE 1

CONCLUSIONS & RECOMMENDATIONS

As outlined in the previous section, the water use data provided by the City of DeSmet indicates an appropriate amount for the Future Use Permit at 456 Ac. Ft. annually. The City has received a letter from a local business/manufacturing operation which would require significant additional water use to allow for an expansion of their current facility and business practices. Adding that projected water use amount to the 456 Ac. Ft. would indicate a water use permit providing 714 Ac. Ft. annually.

Additional business or industrial growth or residential expansion in the City of DeSmet will require additional water usage. It seems appropriate that the City of DeSmet's water use permit be renewed at its 1,086 Ac. Ft. as it has existed for the past 54 years.

APPENDIX A

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 524-3, City of DeSmet SD**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 524-3, City of DeSmet, PO Box 70, DeSmet SD 57231.

The Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT for 335 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 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. 524-3 is subject to payment of the \$85.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Garland Erbelc, Chief Engineer
January 23, 2012

NOTE: The highest annual water usage of record by the City of DeSmet was 167 acre-feet in 2006. Board General Rules 74:02:01:24.01 states that future use permits may be limited to two times the amount actually put to beneficial use. Therefore, this recommendation is that Permit No. 524-3 be allowed to remain in effect for 335 acre-feet as outlined in the above.

City of De Smet

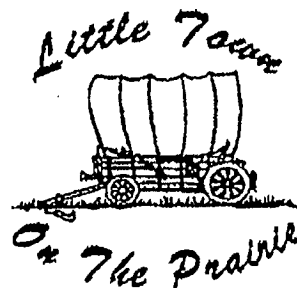
218 Calumet Ave. - P.O. Drawer 70

De Smet, South Dakota 57231

(605) 854-3731

RECEIVED

DEC 29 2011

WATER RIGHTS
PROGRAM

December 27, 2011

Karen Schlaak
Environmental Scientist
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

Dear Ms. Schlaak:

I am writing in regard to Future Use Water Permit No. 524-3 for the City of De Smet that is scheduled for a seven-year review before the Water Management Board. The De Smet Common Council has voted to request renewal of this permit at the current levels. The Council's decision to retain the current reserve of 1,086 acre feet of water is based upon the ongoing expansion of water services in our business, residential and industrial areas, and the potential for high volume users in our industrial park.

Business and industrial expansions as well as new home construction in the City of De Smet have continued to grow during the past five years and show great potential for the future. During the past five years the city annexed a new housing development with 24 platted lots, and a tract of commercial property into the city limits, and issued building permits for nine (9) new homes, five (5) new commercial buildings, six (6) commercial business expansions, and a new fire hall.

Three (3) new homes and a large commercial building have already been constructed on the property that was annexed and developed in 2008. Plans are to construct a dental clinic and at least 1 new home there in 2012. Two major commercial business expansions in the past 5 years were a 10,750 sq. ft. addition to the De Smet Farm Mutual Insurance Company home office, and a 11,625 sq. ft. building addition that houses a new seed lab and all new office space for Legend Seeds, the largest Independent Regional Seed Company in the midwest. A manufacturing business located in our industrial park completed two building expansion projects in 2007-08 and another manufacturing business is looking at a major expansion in 2012-13. In 2010 the city built a 6,944 sq. ft. fire hall and the De Smet Development Corporation constructed a new 10,000 sq. ft. building in the Industrial Park - they are currently working with a potential manufacturing business that is looking to expand their present operations and uses water in their manufacturing process.

Each year the city budgets not less than \$50,000 for upgrades to its water system with a portion of that money spent to provide water service to undeveloped areas of the city where new home construction is occurring. In 2008 the city installed sanitary sewer service and water system upgrades in an area that had been annexed into the city limits three years earlier. In 2008 the city installed over 2,100 feet of water main and 2,000 feet of sanitary sewer up to the newly annexed housing development and commercial property. And in 2010 a major project that rehabilitated 7 blocks of city streets, also included the replacement of seven blocks of cast iron water main that was installed in 1922. That project also included some improvements to the water main connection at the water tower, and addressed water quality issues (rusty water) in that area of town. Those improvements have helped cut back in the amount of water that is needed to flush the system and the frequency of the flushing.

Pumping records for the past four years show the following usage:

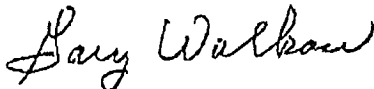
2008	46,693,600 gallons
2009	43,861,000 gallons
2010	45,517,000 gallons
2011	47,756,000 gallons

The city continues to focus on better control of water usage and to identify locations where system leaks exist. Our water management efforts include metering city-owned buildings and facilities and continued water main upgrades. A program to install radio read meters along with the reading and billing software was started in the spring of 2011 and is schedule to continue over the next three years. The new metering system will provide more accurate readings and more timely monitoring of systems where leaks occur. To date about 25% of the water customers have radio read meters.

Weather is another factor that has impacted our water usage. The wet conditions in 2009 and 2010 decreased the volume of water used especially for lawn irrigation systems. When things started to dry out this summer our water consumption increased significantly because people were watering their flowers, shrubs, trees and lawns.

As the City of De Smet continues to experience growth and development, an adequate supply of water must be maintained in order to provide service to the growing number of residential and business customers. Should an industry requiring access to large quantities of water want to locate in De Smet, we want to know that sufficient water will be available without jeopardizing service to our growing list of existing customers. For these reasons we request that the Futures Use Water Permit No. 524-3 be renewed at the current level of 1,086 acre feet.

Sincerely,



Gary Walkow
Mayor

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 8, 2011

City of DeSmet
Gary Wolkow, Mayor
PO Box 70
DeSmet SD 57231

Dear Mayor Wolkow:

I am writing in regard to the seven year review of Future Use Water Permit No. 524-3 from groundwater (Vermillion East Fork Aquifer) which is held by the City of DeSmet. 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 1,086 acre-feet remain in reserve under this future use permit that was issued in 1958 and last reviewed in 2005.

Please respond in writing by January 1, 2012, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 524-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 1,086 acre-feet remain in reserve, the fee will be \$155.00.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 3, 2005

NOTICE

Gary Wolkow, Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231-0070

Dear Mayor Wolkow:

I am writing in response to action taken by the Water Management Board at the hearing on March 2, 2005 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect for 1,086 acre-feet of water annually. Future Use Permit No. 524-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$42.50 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,

A handwritten signature in cursive script, appearing to read 'Garland Erbele'.

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

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 4, 1998

NOTICE

City of DeSmet
Mark Hoek, Mayor
PO Drawer 70
DeSmet SD 57231-0070

Dear Mayor Hoek:

I am writing in response to action taken by the Water Management Board at the hearing on December 2, 1998 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect for 1,086 acre-feet of water annually. Future Use Permit No. 524-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$42.50 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Very truly yours,

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

c: Bileen Wolkow, Finance Officer

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 6, 1991

NOTICE

Roger Knock, Mayor
City of DeSmet
PO Drawer 70
DeSmet SD 57231

Dear Mayor Knock:

I am writing in response to action taken by the Water Management Board at the hearing on December 4, 1991 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect and amended Permit No. 524-3 by adding the qualification on the enclosed "Amendment". The "Amendment" should be placed with the permit. Future Use Permit No. 524-3 is again subject to review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$42.50 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

Please contact Eric Gronlund, Water Rights Staff Engineer, if you have any questions.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch", is written over a horizontal line.

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

enclosures

AMENDMENT TO FUTURE USE PERMIT NO. 524-3**CITY OF DESMET**

Pursuant to the December 4, 1991 Water Management Board hearing, Future Use Permit No. 524-3 was allowed to remain in effect and amended by adding the following qualification:

That Permit No. 524-3 reserves for future use 1,086 acre-feet annually. The diversion rate of 2.5 cfs is deleted from Permit No. 524-3.



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

Water Rights Division
605 773-3352

December 7, 1984

RE: Future Use Permit
No. 524-3

Glenn Iverson, Mayor
PO Box 454
DeSmet SD 57231

Dear Mayor Iverson:

This letter is in regard to the motion passed by the Water Management Board December 5, 1984 after review of DeSmet's Future Use Permit No. 524-3. The Board continued Permit No. 524-3 and amended the Permit to add the qualifications on the enclosed Attachment which should be placed with your Permits. Future Use Permit No. 524-3 will be subject to review after seven years.

If you have any questions, please feel free to contact us.

Very truly yours,

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

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

enclosure

cc: Hazelle Sckerl, Finance Officer

ATTACHMENT "A" FOR FUTURE USE PERMIT NO. 524-3
FOR CITY OF DESMET

Future Use Permit No. 524-3 was continued by action of the Water Management Board December 5, 1984 and amended to add the following qualifications:

- a) Permit No. 524-3 to appropriate water for future use is subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.
- b) This permit is approved for groundwater from the Vermillion East Fork aquifer.

APPENDIX B

CMI Architectural

OFFICE & MANUFACTURING:

CMI Architectural Products, Inc.
20621 SD Highway 25
De Smet, South Dakota 57231

Telephone: 605-854-3326
Fax: 605-854-3620

SALES:

CMI Architectural Products, Inc.
2800 Freeway Blvd., Suite 205
Minneapolis, MN 55430

Telephone: 763-560-5567
Fax: 763-560-6399

MANUFACTURING:

CMI Architectural Products, Inc.
57135 Woodhouse Drive
Dowagiac, MI 49047

Telephone: 269-782-0299
Fax: 269-782-5968

May 8, 2012

DeSmet City Council
218 Calumet Avenue
DeSmet, SD 57231

Dear Council:

CMI's management meets regularly to develop plans for future growth and expansion. While many of our plans simply require an investment in additional equipment and/or facilities, some of these plans are not feasible unless there is also an adequate supply of outside resources (i.e. water, electric, etc.).

One such long-term plan is the investment in an anodizing facility to reduce lead times for finished material and our dependence on outside suppliers. The benefit of this investment would significant however, in order to be feasible; CMI would require an available water supply in the range of 3 to 3.5 million gallons per month.

As you develop your long-term plans, please include our potential water requirements. Please feel free to contact me should you have any questions.

Sincerely



Rick T. Chapin
President



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 13, 2012

NOTICE

City of DeSmet
Gary Wolkow, Mayor
PO Box 70
DeSmet SD 57231

Dear Mayor Wolkow:

I am writing in response to action taken by the Water Management Board at the hearing on July 11, 2012 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect for 625 acre-feet of water annually. Future Use Permit No. 524-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$115.00 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Sincerely,

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

c: Todd D Wilkinson

CERTIFICATION

I hereby certify that on July 13, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated July 13, 2012 regarding Future use permits addressed as stated below:

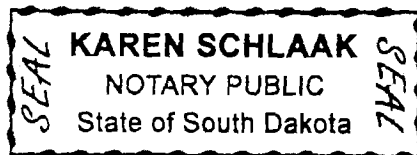
City of Castlewood, PO Box 17, Castlewood SD 57223	# 558A-3
City of Custer, 622 Crook St., Custer SD 57730	# 1407-2
TM Rural Water, PO Box 445, Parker SD 57053	# 5358-3
City of DeSmet, PO Box 70, DeSmet SD 57231	# 524-3

Gail Jacobsen
Gail Jacobsen
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of July, 20 12.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2013



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/13, 20 12

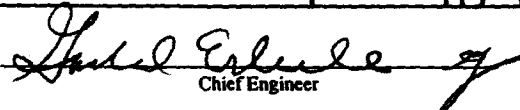
RECEIVED OF City of DeSmet PO Drawer 70 DeSmet SD 57231

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	115	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>524-3</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	115 00

No. **05531**

By


Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 8, 2019

City of DeSmet
Gary Wolkow, Mayor
PO Box 70
DeSmet SD 57231

Dear Mayor Wolkow:

I am writing in regard to the seven year review of Future Use Water Permit No. 524-3 from groundwater (Vermillion East Fork Aquifer) held by the City of DeSmet. 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 625 acre-feet remain in reserve under this future use permit that was issued in 1958 and last reviewed in 2012.

Please respond in writing by June 8, 2019 regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 524-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 625 acre-feet remain in reserve, the fee will be \$115.00.

Please contact Eric Gronlund, if you have any questions.

Sincerely,

Karen Schlaak

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

City of De Smet

106 Calumet Ave. – PO Drawer 70
De Smet, South Dakota 57231
(605) 854-3731

June 4, 2019



RECEIVED

JUN 07 2019

WATER RIGHTS
PROGRAM

Karen Schlaak
Environmental Scientist
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

Dear Ms. Schlaak:

I am writing in regard to Future Use Water Permit No. 524-3 for the City of De Smet that is scheduled for a seven-year review before the Water Management Board. The De Smet Common Council has voted to request renewal of this permit at the current levels. The Council's decision to retain the current reserve of 625 acre-feet of water is based upon the ongoing expansion of water services in our business, residential and industrial areas, and the potential for high volume users in our industrial park.

Business and industrial expansions as well as new home construction in the City of De Smet have continued to grow during the past seven years and show great potential for the future. During the past seven years, the city has issued building permits for twelve (12) new homes, one (1) multi-family dwelling with four townhome units, five (5) commercial buildings, construction of an Event & Wellness Center, a large hospital expansion project, and a new assisted living facility that will be opening in the Fall of 2019.

Twelve new homes have been constructed in various areas within the De Smet city limits. A new 9,500 sq. ft. health and dental clinic was constructed in 2012 and provides the region with high quality medical and dental health care. We have seen an upsurge in our retail market with the addition of Dollar General, Lewis Drug, and recent expansion of the Maynard's Food Center. One of the manufacturing businesses has recently expanded and another manufacturing business is in the process of finalizing floor plans for a new expansion. A large commercial and industrial spec building was completed and is available for a new manufacturing business, with large quantities of water available being a strong marketing point. The construction of the De Smet Event & Wellness Center with theater, baseball complex, and the De Smet School District football/track complex has been a focal point to younger families interested in moving to De Smet. Currently being constructed is a 10,400 sq. ft. two story private fitness center that includes an indoor pool. With the addition of the indoor pool and irrigation of the outdoor sport complexes, we are anticipating the water consumption to continue to increase. Both residential and commercial growth within the City of De Smet continue to increase year over year. We have a new business that will be starting construction for a new commercial building later this summer and have two developers that are completing their plans for a multifamily housing project and a new twelve (12) unit family apartment complex resulting in a water usage increase.

Each year the city budgets significant resources for upgrades to its water system with a portion of that money spent to provide water service to undeveloped areas of the city where new home construction is occurring. The city has installed sanitary sewer service and water system upgrades in an area that had been annexed into the city limits. The city installed over 2,100 feet of water main and 2,000 feet of sanitary sewer up to the annexed housing development and commercial property with the condition of annexation being the delivery of water and sanitary sewer. In 2020, the City is planning a water project to install over 2,200 feet of water main that will connect two existing water mains and close a loop in the industrial park area. This future water project will eliminate four water main dead ends and will enable us to supply water to the parts of the city limits

that currently experience water delivery issues. This project would also be the first stage of providing water to a future housing development.

Pumping records for the past four years show the following usage:

2015	53,337,000 gallons
2016	52,193,000 gallons
2017	52,375,000 gallons
2018	45,328,000 gallons

Weather has impacted our water usage. The wet conditions in 2018 initially decreased the volume of water used when things started to dry out last summer our water consumption increased significantly because people were again able to utilize the water.

With the expansion of major water uses such as the fitness center with indoor pool, large multiple family housing projects the construction of new commercial industry as well as a major expansion of new sports' complex what usage will be projected to increase substantially. As a community located over an aquifer the City of De Smet is uniquely positioned to host large industrial and commercial water usages. Our current maintenance plan by the Development Corporation took water available as a strong catalyst for economic expansion.

As potential businesses evaluate our community the abundance of an adequate supply of water is frequently a key factor in business location and development. We have had discussions with businesses who have required as much as 300 million gallons of water per year and others at 60,000 gallons per day. Our future water use permit is the only source that allows us to meet that critical element.

The City is currently in discussion with a company that requires 250,000 gallons per day which would require 91,250,000 gallons a year. It is just that type of water requirement that necessitates the City of De Smet retaining all of the existing Future Water Permit No. 524-3.

If any of the facilities considering locating in the City of De Smet elect to proceed, the City will need to have available for their usages of between 40,150,000 gallons per year and 91,250,000 gallons per year. This usage does not even take into consideration the numerous other development projects already occurring which are projected to utilize up to 15 million gallons per year on top of the city's current usage.

The City of De Smet respectfully objects to and will dispute any attempt to reduce our current acre-foot reserves.

As the City of De Smet continues to experience growth and development, an adequate supply of water must be maintained in order to provide service to the growing number of residential and business customers. Should an industry requiring access to large quantities of water elect to locate in De Smet, we want to know that sufficient water will be available without jeopardizing service to our growing list of existing customers. For these reasons we request that the Futures Use Water Permit No. 524-3 be renewed at the current level.

Sincerely,



Gary Volkow
Mayor



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 524-3, City of DeSmet SD

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Future Use Water Permit No. 524-3, City of DeSmet, PO Box 70, DeSmet SD 57231

The Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT for 625 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 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. 524-3 is subject to payment of the \$115.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

A handwritten signature in black ink that reads "Jeanne Goodman". The signature is fluid and cursive, with the first name "Jeanne" and last name "Goodman" clearly distinguishable.

Jeanne Goodman, Chief Engineer
June 13, 2019

RECEIVED

Form 8

JUL 02 2019

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Kingsbury) SS

I, David Tittle

certify that the attached printed Notice was taken
from the De Smet News

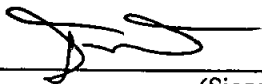
printed and published in De Smet SD

County of Kingsbury and

state of South Dakota. The notice was published
in the newspaper on the following date:

6-19-2019

Cost of Printing \$50.40



(Signature)

Editor

(Title)

6/20/19

(Date Signed)

NOTICE OF HEARING TO REVIEW FUTURE

USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of De Smet, Gary Wolkow, Mayor, PO Box 70, De Smet SD 57231 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. 524-3. This permit was approved 1958 and currently reserves 625 acre-feet of water annually from the Vermillion: East Fork Aquifer located in the SE 1/4 NE 1/4 Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 625 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. 524-3 at 11:00 a.m., Wednesday, July 17, 2019, Legislature Research Council Conference Room 414, State Capitol Building, 500 E Capitol Avenue, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by July 5, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the

reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 524-3 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 July 5, 2019. 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 July 5, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by July 1, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of \$46.62.

6-19-lwc

PRINTER'S AFFIDAVIT

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss

I, KIM DAVIS, being duly sworn on oath say that the PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

DESMET, CITY HALL- #4335 WATER RIGHTS-

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 19TH Day JUNE 2019. That the full amount of the fee charged for publishing **FORTY-FIVE & 47/100** dollars insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.

Subscribed and sworn to me before this 10TH Day
of JULY 2019.

Notary Public, South Dakota

My term expires 03/11/2022
Legal #4335

RECEIVED

JUL 11 2019

WATER RIGHTS
PROGRAM

F. P. 06-06-19
NOTICE OF HEARING
TO REVIEW FUTURE
USE WATER PERMIT
NO. 624-3

Holice is given that the Water Management Board will review Future Use Permit No. 624-3 held by the City of Desmet, Gary Wolke, Mayor, PO Box 70, Desmet, SD 57231 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. 624-3. This permit was approved 1958 and currently reserves 825 acre-feet of water annually from the Vermillion East Fort Aquifer located in the SE 1/4 NE 1/4 Section 23-T14N-45EW for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 624-3 REMAIN IN EFFECT for 825 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. 624-3 at 11:00 AM, Wednesday, July 17, 2019, Legislative Research Council Conference Room 414, State Capitol Building, 500 E Capitol Avenue, 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 planned future development, or 4) take no action after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by July 5, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 623 E Capitol Ave., Pierre, SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained, the permit owner need not file a petition.

The hearing to review Future Use Permit No. 624-3 will be conducted pursuant to the provisions of SDCL 46-14, 46-15, 46-16, 46-17, 46-18, 46-19, 46-20, 46-21, 46-22, 46-23, 46-24, 46-25, 46-26, 46-27, 46-28, 46-29, 46-30, 46-31, 46-32, 46-33, 46-34, 46-35, 46-36, 46-37, 46-38, 46-39, 46-40, 46-41, 46-42, 46-43, 46-44, 46-45, 46-46, 46-47, 46-48, 46-49, 46-50, 46-51, 46-52, 46-53, 46-54, 46-55, 46-56, 46-57, 46-58, 46-59, 46-60, 46-61, 46-62, 46-63, 46-64, 46-65, 46-66, 46-67, 46-68, 46-69, 46-70, 46-71, 46-72, 46-73, 46-74, 46-75, 46-76, 46-77, 46-78, 46-79, 46-80, 46-81, 46-82, 46-83, 46-84, 46-85, 46-86, 46-87, 46-88, 46-89, 46-90, 46-91, 46-92, 46-93, 46-94, 46-95, 46-96, 46-97, 46-98, 46-99, 46-100.

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, must contact Eric Overlund, Research Council Conference Room 414, State Capitol Building, 500 E Capitol Avenue, Pierre, SD, by July 5, 2019. The time of the hearing will be automatically delayed for at least 30 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 July 5, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,000.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 623 E Capitol Ave., Pierre, SD) by July 1, 2019. Steven M. Pinner, Secretary, Department of Enforcement and Natural Resources.

No. 4335 (adv.)
Published once at the
total approximate cost of
\$45.47.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 13, 2019

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

City of DeSmet
Gary Wolkow, Mayor
PO Box 70
DeSmet SD 57231

Dear Mayor Wolkow:

Future Use Permit No. 524-3 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 and the nearest daily paper. Notice of this review has been sent to the DeSmet News (605 854-3331) and the Plainsman (605 353-7414). For your information, a copy of the Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office, if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER(S) IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish this notice on June 19, 2019. 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

c: Todd Wilkinson, Attorney, PO Box 29, DeSmet SD 57231

enclosures

Instruction to Newspaper - Publish the following Notice on June 19, 2019. The City of DeSmet is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of DeSmet, Gary Wolkow, Mayor, PO Box 70, DeSmet SD 57231 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. 524-3. This permit was approved 1958 and currently reserves 625 acre-feet of water annually from the Vermillion:East Fork Aquifer located in the SE 1/4 NE 1/4 Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 625 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. 524-3 at 11:00 AM, Wednesday, July 17, 2019, Legislature Research Council Conference Room 414, State Capitol Building, 500 E Capitol Avenue, Pierre SD.

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

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the permit owner and the Chief Engineer by July 5, 2019. The Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (605 773-3352) and the permit holder's mailing address is given above. The petition may be informal, but it must include a statement describing the petitioner's interest in the future use permit, the reasons for petitioner's opposition to or support of continuing the future use permit, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The permit owner need not file a petition.

The hearing to review Future Use Permit No. 524-3 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 July 5, 2019. 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 July 5, 2019.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If any party chooses to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program 523 E Capitol Ave, Pierre SD) by July 1, 2019. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the approximate cost of _____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, June 13, 2019 10:04 AM
To: 'desmetcity@mchsi.com'
Subject: Future Use Permit No. 524-3
Attachments: 524-3.pdf

Attached is the recommendation and information regarding the public notice for Future Use Review of Permit No. 524-3, City of DeSmet. The notice has been emailed to the papers with instructions to publish on June 19th. As stated in the letter it is important to contact the papers ASAP to authorize publication and arrange for payment. Paper copies are being mailed today.

Karen Schlaak

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, June 13, 2019 8:37 AM
To: mail@desmetnews.com
Subject: 524-3, City of DeSmet
Attachments: 524-3NOTICE.doc; FORM8.FRM.doc

Attached is a notice to be published on June 19, 2019.

City of DeSmet, Gary Wolkow, Mayor, PO Box 70, DeSmet SD 57231 (605 854-3731) has been notified to contact you to authorize publication and arrange for payment.

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

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

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, June 13, 2019 8:39 AM
To: rcrandall@plainsman.com
Subject: 524-3, City of DeSmet
Attachments: 524-3NOTICE.doc; FORM8.FRM.doc

Attached is a notice to be published on June 19, 2019.

City of DeSmet, Gary Wolkow, Mayor, PO Box 70, DeSmet SD 57231 (605 854-3731) has been notified to contact you to authorize publication and arrange for payment.

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

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

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



Schlaak, Karen

From: DeSmet City Finance Office <desmetcity@mchsi.com>
Sent: Tuesday, July 16, 2019 1:28 PM
To: Schlaak, Karen
Subject: [EXT] De Smet information
Attachments: Send data from MFP-06953190 07/16/2019 12:04

Good afternoon Karen,

I have attached letters of support for the De Smet Future Water Permit No. 524-3 along with copies of the two newspaper proof of publishing for the Water Management Board meeting tomorrow. Please let me know that you have received this.

Thank you!

Tracey Larson
Finance Officer
City of De Smet
(605) 854-3731



Date: June 10, 2019

To: Karen Schlaak
Environmental Scientist
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre SD 57501-3182
From: De Smet Development Corporation
P O Box 42
De Smet SD 57231

Re: Review of City of De Smet's Future Water Use Permit No 524-3

Dear Ms Schlaak:

The availability of water to the City of De Smet is vitally important to the economic viability and development of Kingsbury County. De Smet is well known as a very progressive community in central eastern South Dakota and the obtainability of excellent water capacity is critical to our future growth. The residents' forward thinking attitudes continue to bring companies to invest in business opportunities in De Smet. A great deal of development has taken place since DENR's last review of De Smet's Water Use Permit in 2011 and we anticipate many more exciting opportunities in the coming years.

With the advantage of being centrally located between the larger cities of Watertown, Brookings, Mitchell, Madison and Huron, De Smet has developed a large industrial park with a strong manufacturing base. De Smet is fortunate to have the internationally renowned legacy of Laura Ingalls Wilder and Harvey Dunn that has provided strong tourism opportunities which continue to grow tremendously each year. The recognition of our nation's heritage and desire to experience the life of our forefathers has been a growing trend that has benefitted our tourism industry in De Smet. The development of the area surrounding Lake Thompson, the second largest natural lake in South Dakota, located near De Smet has brought sports enthusiasts from across the nation to our hotels and restaurants. We are fortunate to have many young families moving back to De Smet to raise their families in a smaller community with fewer security issues and the hometown rural atmosphere where everyone supports one another and watches out for each other.

The Development Corporation recently built their second 10,000 square foot building in the Industrial Park. We are actively seeking new businesses for this facility. The availability of large quantities of water is crucial to these efforts. A potential processing company has visited De Smet needing 250,000 gallons of water per day. This is an example of the interest we have of companies looking to locate in a smaller rural communities where there is more affordable building prices, lower utility costs, welcoming business climate and the ability to 'fast-track' any business start-up or building project. In the past two years, De Smet has had six businesses make large building expansions, two new businesses open and one expanding their operations to De Smet with a new office building on Main Street. There are two manufacturing companies and one commercial business presently expanding their present facilities and operations. We have built twelve new homes and four town-homes and are presently in negotiations with two developers to build twelve-unit and nine-unit housing developments and two spec homes. This shows tremendous progress and support for the community.

DE SMET DEVELOPMENT CORPORATION



A 15 member De Smet Design Task Force is presently contracting with the ISG Consulting Group to make a Master Plan for De Smet. This will include a Main Street (Calumet Avenue) revitalization program for new sewer and water infrastructure and a Streetscape to improve the downtown corridor. This will be planned in phases to be started in 2020. It will also provide a complete Parks and Recreation Master Plan with trails to be developed for the city and surrounding area and improvements for the tourism industry.

The number and size of De Smet's large modern medical complex facilities are almost unheard of in a rural community and envied by many. We have a \$5.4 million newly renovated and expanded hospital that includes a new Emergency Care Department that has all the capabilities to treat serious conditions 24/7 plus access to Avera eCARE Emergency services at the core of the community's health care needs. Other facilities include a new 9,500 square foot Horizon Health and Dental clinic, the Avera Medical Clinic and the Dobson Chiropractic Clinic. A new 14 room Assisted Living facility will be opening its doors in September and our large Good Samaritan Society home provides high quality care to their many residents. The De Smet Event and Wellness Center along with a new two story private fitness center including an indoor swimming pool that is in the final stages of construction complete the complex bringing opportunities for wellness in the community that is a major factor in attracting new families to De Smet.

The De Smet Development Corporation is very aggressive with business development, retention and expansion. The abundance of an adequate supply of water is a key factor when we are recruiting potential businesses to De Smet. We use water availability as one of our main 'selling points' for bringing a business to the area. Being a smaller rural community does not mean that we do not have the need and potential for business operations with large water requirements. We have had discussions with businesses requiring 300 million gallons of water per year. Our present water use permit level is critical for future development as well as maintaining an adequate amount of water for our present commercial and residential needs.

On behalf of the citizens of De Smet and the De Smet Development Corporation we respectfully request that the City of De Smet Future Use Water Permit No. 524-3 be renewed at the current level. Thank you for your time and considerations in this matter to keep De Smet progressive and providing the needs of the community in the future.

Sincerely,

Rita Anderson, Director
De Smet Development Corporation

DE SMET DEVELOPMENT CORPORATION



CMI Architectural Products, Inc.
20621 SD Hwy 25 N
DeSmet, SD 57231

Telephone: 605-854-3326
Fax: 605-854-3620

July 12, 2019

To whom it may Concern,

This letter is in regards to the water use permit and the importance of their continuation for the city of DeSmet. As a manufacture located in DeSmet that run 2 shifts, we are always looking towards growth of the company. We built a new facility in 2006 to improve our facility and be able to accommodate company growth. Although our demand for water is not huge for our company, it is important for our community that our water rights are controlled and maintained at the local level. We continue to trust that we can count on the water use permits continuing to be made available to the city of Desmet for the growth of the current companies that are based here and the community growth itself.

Respectfully,

A handwritten signature in black ink that reads 'Rex A. Geyer'.

Rex A. Geyer
President



411 Calumet Ave NW
De Smet SD 57231

Phone: 605-854-3327
Fax: 605-854-3438
www.good-sam.com

7/10/19

To whom it may concern: Water Use Permit for the City of DeSmet

This letter is to show my support for renewal of our current water use permit for the city of DeSmet. As a 45 bed nursing home, it is vital that we have an appropriate amount of water in order to care for our residents. We give on average 46 showers and 4 whirlpool baths a week. We serve 3 meals a day and do many loads of dishes. We wash many loads of laundry each day, including the laundry we do for the hospital. We also have housekeeping services. There are 59 toilets, 76 sinks, 1 hopper, 1 beauty salon, and 2 ice machines. Year-to-date, we have used 540,000 gallons of water. It is imperative that we have enough water to care for those that we serve, which is why I am in full support of our current water permit and ask for you to consider renewing this permit as is.

Thank you for your time,

Katlin Johnson
Administrator
Good Samaritan Society- DeSmet
411 Calumet Ave NW
DeSmet, SD 57231
(605) 854-3327

In Christ's Love, Everyone Is Someone.



ULTIMED
INCORPORATED

July 11, 2019

To Whom It May Concern

Subject: Water user permit for the City of De Smet

As a growing manufacturer in the Industrial park in De Smet, I highly encourage and recommend you continue the water permits for the City of De Smet. Without them we would be unable to support our customers and continue to hire our team members from De Smet and the surrounding area.

Ultimed is a two shift operation that has experienced high growth in the last several years. We are continuing that grow and require thousands of gallons of water daily to support our needs. Our water discharged is monitored and we work closely with the City to comply with all required standards.

We absolutely need De Smet to continue to have the required water permits for us to stay in business in De Smet. We look forward to the approval of the permits and continuing our positive relationship with the City of De Smet.

Sincerely,

Chris Buklet

Ultimed Incorporated
710 Fourth Street
PO Box 476
De Smet, SD 57231
877-854-3434 DIAL
605-854-9234 FAX
www.ulticare.com

Lyle Signs, Inc.
P.O. Box 90, De Smet, South Dakota 57231
Telephone (605) 854-9191 • Fax (605) 854-3873



July 11, 2019

To Whom It may Concern:

Water Permit

Our city needs to retain our water permit to allow our manufacturing to continue to thrive. We employ 80 fulltime people here and water is vital to our operation. We use thousands of gallons of water and our water needs will continue to grow.

Sincerely,

Tad Flood

VP- Plant Manager

Lyle Signs, Inc.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 18, 2019

NOTICE OF ENTRY OF ORDER

City of DeSmet
Gary Wolkow, Mayor
PO Box 70
DeSmet SD 57231

Dear Mayor Wolkow:

I am writing in response to action taken by the Water Management Board at the hearing on July 17, 2019 to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect for 625 acre-feet of water annually. Future Use Permit No. 524-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$115.00 pursuant to SDCL 46-2-13(2). Please remit the fee within 60 days.

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

Sincerely,

A handwritten signature in black ink that reads "Jeanne Goodman". The signature is fluid and cursive, with the first name "Jeanne" being more prominent than the last name "Goodman".

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

CERTIFICATION

I hereby certify that on July 18, 2019, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated July 18, 2019, regarding Notice of 1407-2, 135-3, 5003-3, 524-3, 558A-3 and 5358-3 addressed as stated below:

City of Custer, Corbin Herman, Mayor, 622 Crook St., Custer, SD 57730

City of Pierre, Brad Palmer, Utilities Manager, PO Box 1253, Pierre, SD 57501

City of DeSmet, Gary Wolkow, Mayor, PO Box 70, DeSmet, SD 57231

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

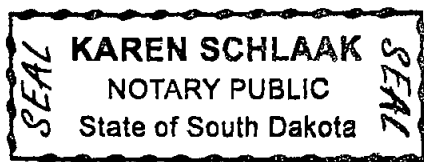
TM Rural Water District, Jay Jorgensen, Manager, PO Box 445, Parker, SD 57053

Vickie Maberry
Vickie Maberry
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of July, 2019.

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



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date Aug 19, 20 19

City of DeSmet, PO Box 70, DeSmet SD

RECEIVED OF _____

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	115 00	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. <u>524-3</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	115.00

No. **09181**

By

Jeanne K. Goodman
Chief Engineer

1KS



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 5, 2026

City of De Smet
c/o Tracey Larson
106 Calumet Avenue SE
De Smet SD 57231

Dear Mr. Larson,

I am writing in regard to the seven-year review of Future Use Water Permit No. 524-3 from groundwater (Vermillion East Fork Aquifer) held by the City of De Smet. 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 625 acre-feet remain in reserve under this future use permit that was issued in 1958 and last reviewed in 2019.

Please respond in writing by April 10, 2026, regarding the city's intention for the future use permit. If the city plans to retain the permit, then the response should outline a reasonable need for retaining the future use permit, including an estimate of future needs and any annual pumping records for the past three years.

Permit No. 524-3 will then be public noticed at the city's expense and scheduled for review before the Water Management Board pursuant to SDCL 46-5-38.1. Notice will be given of the hearing time and place at a future date. The purpose of this review is to determine if a reasonable need exists for retaining the permit. A fee will be charged if the Board allows the permit to remain in effect after the hearing. The fee to be assessed will be dependent upon the amount of water allowed to remain in reserve. If the entire 625 acre-feet remains in reserve, the fee will be \$115.00.

Please contact Amanda Dewell or me, if you have any questions.

Sincerely,

Rachel Rodriguez

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

City of De Smet

106 Calumet Ave. – PO Drawer 70
De Smet, South Dakota 57231
(605) 854-3731



April 9, 2026

Rachel Rodriguez
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

RECEIVED

APR 13 2026

OFFICE OF
WATER

Dear Ms. Rodriguez:

I am writing in regard to Future Use Water Permit No. 524-3 for the City of De Smet that is scheduled for a seven-year review before the Water Management Board. The De Smet Common Council is requesting renewal of this permit at the current levels. The Council's decision to retain the current reserve of 625 acre-feet of water is based upon the ongoing expansion of water services in our business, residential and industrial areas, and the potential for high volume users in our industrial park.

Business and industrial expansions as well as new home construction in the City of De Smet have continued to grow during the past seven years and show great potential for the future. During the past seven years, the city has issued building permits for fourteen (14) new homes, one (1) multi-family dwelling apartment complex with eight (8) apartment units, three (3) family dwelling duplexes, five (5) commercial buildings, construction of a new elementary school, and a new meat locker that will be opening in 2026.

Fourteen new homes have been constructed in various areas within the De Smet city limits. A new 9,500 sq. ft. health and dental clinic was constructed in 2012 and provides the region with high quality medical and dental health care. A hospital renovation project was completed in 2016. The hospital provides emergency care, recently added wound care, physical therapy, and general hospital admissions. We have seen steady growth in our retail market. In 2016, a 10,000 sq. ft. spec building was completed and is leased by a company that manufactures specialized parts. The construction of the De Smet Event & Wellness Center with theater, baseball complex, and the De Smet School District football/track complex has been a focal point to younger families interested in moving to De Smet. Also constructed was a 10,400 sq. ft. two story private fitness center that encompasses an indoor lap pool. With the addition of the indoor lap pool and irrigation of the outdoor sport complexes, we are anticipating the water consumption to remain consistent with current usage. Both residential and commercial growth within the City of Smet continues to increase over the current year and following. We have a new residential housing addition that is in the beginning stages of design to be annexed to the city limits and includes plans for townhomes, and new residential homes. This new housing development would involve additional water and wastewater mains to be installed on the existing water and wastewater systems.

Each year the city budgets not less than \$50,000 for upgrades to its water system with a portion of that money spent to provide water service to undeveloped areas of the city where new home construction is occurring.

In 2006 the city installed sanitary sewer service and water system upgrades in an area that had been annexed to the city limits three years earlier. In 2008 the city installed over 2,100 feet of water main and 2,000 feet of sanitary sewer up to the newly annexed housing development and commercial property. And in 2010 a major project that rehabilitated seven blocks of city streets, also included the replacement of

seven blocks of cast iron water main that was installed in 1922. That project also included improvements to the water main connection at the water tower, and addressed water quality issues (rusty water) in that area of town. These improvements have helped cut back on the amount of water that is needed to flush the system and the frequency of the flushing. In 2017, the standpipe of the water tower was replaced due to a leak that formed and caused saturation of the standpipe insulation. During that standpipe replacement the baverick valve was also replaced. In 2021, the City completed a water project to install over 2,200 feet of water main that will connect two existing water mains and close a loop in the industrial park area. This water project eliminated four water main dead ends and will enable us to continue supplying water to the east side of town when working on water mains in other areas of town. We will also have better circulation of fresh water for our residents and industrial park. This project would also be the first stage of a future housing development. In 2024 and 2025, the City of De Smet underwent a large water main replacement, water tower renovation, wastewater main replacement and relining, and Main Street project. During this project, 26 blocks of water main were replaced, the water tower was sandblasted on both the inside and outside and repainted. Other minor repairs to the water tower were completed at this time. In this large project, ten (10) blocks of wastewater main and sixteen (16) manholes were replaced. In the spring of 2026, ten (10) blocks of wastewater main will be relined to prolong the usage of the existing infrastructure. Relining the wastewater mains will protect against ground and storm water infiltration into the wastewater system that would fill the system lagoons unnecessarily. The City of De Smet has found it useful and necessary to work with an engineering firm to compile a water study. The goal of this water study is to provide better quality water and services to our growing community and plan for future infrastructure improvements.

Pumping records for the past three years show the following usage:

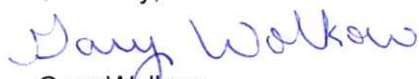
2023	52,395,600 gallons
2024	54,951,900 gallons
2025	48,759,400 gallons

The city continues to focus on better control of water usage and to identify locations where system leaks exist. Our water management efforts include metering city-owned buildings and facilities and continued water main upgrades. A program to install radio read meters along with the reading and billing software was started in the spring of 2011 and has continued to this date. The new metering system will provide more accurate readings and more timely monitoring of systems where leaks occur. To date about 99% of the water customers have radio read meters. We have also amended our billing procedures from bi-monthly billing to monthly billing with the goal of identifying water leaks quicker and to have more consistent revenue.

Weather is another factor that has impacted our water usage. The dryer conditions in the years 2023 and 2024 have increased the volume of water used for lawn irrigation systems, gardens, shrubs, and flowers. In 2024, there was a state highway project north of De Smet that purchased a large amount of bulk water for the project. We saw a decrease in water pumped in 2025 during the water tower renovations. A portable pressure tank was utilized for this portion of the project and water conservation was encouraged to the consumers. Stored water availability was reduced from approximately 100,000 gallons down to approximately 5,000 gallons during this stage of the project.

As the City of De Smet continues to experience growth and development, an adequate supply of water must be maintained to provide service to the growing number of residential and business customers. Should an industry requiring access to large quantities of water want to locate in De Smet, we want to know that sufficient water will be available without jeopardizing service to our growing list of existing customers. For these reasons we request that the Futures Use Water Permit No. 524-3 be renewed at the current level of 625 acre-feet.

Sincerely,


Gary Wolkow
Mayor

RECEIVED

APR 13 2026

OFFICE OF
WATER



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
NO. 524-3, City of De Smet**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Future Use Water Permit No. 524-3, City of De Smet, 106 Calumet Avenue SE, De Smet SD 57231.

The Acting Chief Engineer is recommending that Future Use Permit No. 524-3 REMAIN in EFFECT for 625 acre-feet annually because 1) there is reasonable probability that there may be development of the water reserved under Permit No. 524-3, 2) the city has demonstrated a reasonable need for the water reserved by Permit No. 524-3, 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. 524-3 is subject to payment of the \$ 115.00 fee pursuant to SDCL 46-2-13(2) within 60 days of notice to the city after the Board hearing.

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program
May 1, 2026



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 20, 2026

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

City of De Smet
c/o Gary Wolkow
106 Calumet Avenue SE
De Smet SD 57231

Dear Mr. Wolkow:

Future Use Permit No. 524-3 will be reviewed for progress in the development and future plans for use of the water reserved. Water rights law requires publication of a notice in the county where water will be diverted or used. Notice of this review has been sent to the Kingsbury Journal (605-854-3331) and the Public Opinion in Watertown (see contact information). For your information, a copy of the Acting Chief Engineer's recommendation is enclosed. Please review this notice prior to publication and notify this office if you have any corrections or questions.

BE SURE TO CONTACT THE ABOVE NEWSPAPER(S) IMMEDIATELY TO AUTHORIZE PUBLICATION OF THE NOTICE OF HEARING AND TO ARRANGE FOR PAYMENT. Early contact with the papers can eliminate delays. The publishers have been instructed to publish this notice on May 27, 2026. We must receive Proof of Publication before the future use review can be considered by the Water Management Board.

Sincerely,

Rachel Rodriguez

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

enclosures

Instructions to Newspaper - Publish the following Notice on May 27, 2026. The City of De Smet is responsible for payment.

NOTICE OF HEARING TO REVIEW FUTURE USE WATER PERMIT NO. 524-3

Notice is given that the Water Management Board will review Future Use Permit No. 524-3 held by the City of De Smet, 106 Calumet Avenue SE, De Smet SD 57231 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. 524-3. This permit was approved in 1958 and currently reserves 625 acre-feet from the Vermillion East Fork Aquifer located in the SE 1/4 NE 1/4 Section 28-T111N-R56W for municipal use.

Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 625 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 Acting Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will conduct the hearing to review Future Use Permit No. 524-3 on July 8, 2026, at 9:35 AM (Central Time), Floyd Matthew Training Center, Joe Foss Bldg, 523 E Capitol Ave., Pierre SD.

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

Any person who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, shall allege that the renewal of the future use permit, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501" or call (605) 773-3352. The permit holder's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by June 8, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit No. 524-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03; and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose renewal of the Future Use Permit. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permit renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 2026.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Acting Chief Engineer is June 8, 2026. However, since this particular matter is a future use permit renewal and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Acting Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published once at the approximate cost of _____.

Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Wednesday, May 20, 2026 1:31 PM
To: Rodriguez, Rachel
Subject: RE: [EXT] 12350666 524-3 City of De Smet - Public Notice
Attachments: 12350666.pdf

AD ORDER #12350666

Attached is a proof of your notice scheduled to publish once in the **Watertown Public Opinion on May 27, 2026** at the total cost of \$84.80 to be **invoiced to City of De Smet account #1601510**.

Due to Memorial Day holiday, deadline to make any changes is BEFORE 9am Friday, 5-22-26, otherwise your notice WILL PUBLISH as stated above.

An affidavit will be prepared and mailed to you within 7 to 10 days after publishing.

All orders are subject to a non-refundable 3.99% service fee. As an incentive for customers, we provide a discount off the order cost equal to the 3.99% service fee if you pay by ACH. Pay by ACH and Save! Final order cost provided at time of payment and via a receipt.

Liz Arceneaux
 Public Notice Representative

USA TODAY CO.

844-254-5287

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From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Wednesday, May 20, 2026 10:10 AM
To: SD-Watertown Legals <legals@thepublicopinion.com>
Subject: 12350666 524-3 City of De Smet - Public Notice

Attached is a notice to be published on May 27, 2026.

City of De Smet, c/o Gary Wolkow, 106 Calumet Avenue SE, De Smet SD 57231, 605-854-3731, has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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



USA TODAY CO.



Order Confirmation

Not an Invoice

Account Number:	1601510
Customer Name:	City Of De Smet
Customer Address:	City Of De Smet 106 Calumet AVE SE De Smet SD 57231-0000
Contact Name:	Gary Wolkow
Contact Phone:	
Contact Email:	desmetcity@mchsi.com
PO Number:	WATER PERMIT #524-3

Date:	05/20/2026
Order Number:	12350666
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	266.0000
Height in Inches:	29.2500

Print

Product	#Insertions	Start - End	Category
WAT The Public Opinion	1	05/27/2026 - 05/27/2026	Govt Public Notices
WAT thepublicopinion.com	1	05/27/2026 - 05/27/2026	Govt Public Notices

As an incentive for customers, we provide a discount off the total order cost equal to the 3.99% service fee if you pay with Cash/Check/ACH. Pay by Cash/Check/ACH and save!

Total Cash Order Confirmation Amount Due	\$84.80
Tax Amount	\$0.00
Service Fee 3.99%	\$3.38
Cash/Check/ACH Discount	-\$3.38
Payment Amount by Cash/Check/ACH	\$84.80
Payment Amount by Credit Card	\$88.18

Order Confirmation Amount

\$84.80

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, May 20, 2026 10:09 AM
To: legals@kingsburyjournal.com
Subject: 524-3 City of De Smet - Public Notice
Attachments: 524-3 FU REVIEWpubnotice_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 27, 2026.

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

Thank you,

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



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JUN 08 2026

OFFICE OF
WATER

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Kingsbury.

SS.

Bill Hughesbaugh of said county being first duly sworn on oath, says that he is the publisher of the KINGSBURY JOURNAL, a weekly newspaper printed and published in De Smet in said County of Kingsbury and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

City of DeSmet - Notice of Hearing to Review Future use Water Permit #524-3 a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in

each week for one successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

May 27 2026 _____ 20____
 _____ 20____; _____ 20____
 _____ 20____; _____ 20____
 _____ 20____; _____ 20____

that the full amount of the fee charged for the publication of said notice accrues to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person; and that no part thereof has been agreed to be paid to any person whomsoever, and that the fees charged for the publication thereof are

\$ 78.04

Bill Hughesbaugh

Subscribed and sworn to before me this 3rd

day of June

A.D. 2026

Corne Walter

Notary Public

Kingsbury County, South Dakota

My commission expires July 8, 2031

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Pursuant to SDCL 46-2A-2 the Acting Chief Engineer of the Water Rights Program recommends that Permit No. 524-3 REMAIN in EFFECT for 625 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 Acting Chief Engineer's recommendation with qualifications is available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

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will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the renewal, or other matter concerning the renewal within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 or call (605) 773-3352. The permit holder's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by June 8, 2026.

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Published once at an approximate cost of \$78.04 and can be viewed free of charge at www.sdpublicnotices.com

USA TODAY CO.



PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Rachel Rodriguez
Water Rights Program
523 E. Capitol Ave.
Pierre SD 57501

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JUN 02 2026

**OFFICE OF
WATER**

STATE OF SOUTH DAKOTA, COUNTY OF CODINGTON

The Watertown Public Opinion is, and during all the times hereafter mentioned was, a daily legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4, as amended, published at Watertown, Codington County, South Dakota, by Watertown Public Opinion; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper in the issue dated:

05/27/2026

and that the fees charged are legal.
Sworn to and subscribed before on 05/27/2026

A handwritten signature in cursive script, appearing to read "Linda Lutt".

Legal Clerk

A handwritten signature in cursive script, appearing to read "Kongmeng Yang".

Notary, State of WI, County of Brown

A handwritten signature in cursive script, appearing to read "Kongmeng Yang".

My commission expires

Publication Cost: \$84.80

Tax Amount: \$0.00

Payment Cost: \$84.80

Order No: 12350666

of Copies:

Customer No: 1601510

1

PO #: WATER PERMIT #524-3

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KONGMENG YANG
Notary Public
State of Wisconsin

**NOTICE OF HEARING TO
REVIEW FUTURE USE
WATER PERMIT NO. 524-3**

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RECEIVED

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OFFICE OF
WATER

ing the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition with BOTH the permit owner and the Acting Chief Engineer. A petition opposing the renewal shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program", Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501" or call (605) 773-3352. The permit holder's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the permit owner shall also file a petition. A petition filed by either an interested person or the permit owner must be filed by June 8, 2026.

The petition shall be in writing and shall include a statement describing the unique injury upon renewal of the future use permit on the petitioner, the reasons for petitioner's opposition to renewal of the future use permit, and the name and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The hearing to review Future Use Permit No. 524-3 will be conducted pursuant to the provisions of SDCL 46-1-14, 46-2-5, 46-2-9, 46-2-11, 46-5-38.1; Board Rules ARSD 74:02:01:25.01 thru 74:02:01:25.03; and contested case procedures contained in SDCL 1-26. This hearing is an adversary proceeding. The permit owner or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically delayed for at least 20 days upon written request of the permit owner or any person who has filed a petition to oppose renewal of the Future Use Permit. The request for a delay must be filed with the Acting Chief Engineer by June 8, 2026.

Any interested person may file a comment on the future use permit renewal with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above.

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Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 8, 2026.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Acting Chief Engineer is June 8, 2026. However, since this particular matter is a future use permit renewal and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Acting Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

Published 5/27/26 at total cost of \$84.80 and may be viewed free of charge at www.sdpublicnotices.com.
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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 14, 2026

NOTICE OF ENTRY OF ORDER

City of De Smet
c/o Gary Wolkow
106 Calumet Avenue SE
De Smet SD 57231

Dear Mr. Wolkow,

I am writing in response to action taken by the Water Management Board at the hearing on July 8, 2026, to review Future Use Permit No. 524-3. The Board allowed the permit to remain in effect for 625 acre-feet of water annually. Future Use Permit No. 524-3 is subject to another review in seven years.

The fee for maintaining the effectiveness of Future Use Permit No. 524-3 is \$115.00 pursuant to SDCL 46-2-13(2). Please make the check payable to the Water Rights Program and remit the fee within 60 days.

Please contact Rachel Rodriguez if you have any questions.

Sincerely,

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program

CERTIFICATION

I hereby certify that on July 14, 2026, I have personally deposited with the United States mail at Pierre, South Dakota, a first-class envelope containing a "NOTICE OF ENTRY OF ORDER" dated July 14, 2026, involving action taken by the Water Management Board hearing on July 08, 2026:

Future Use Permit No. 524-3

City of De Smet
c/o Gary Wolkow
106 Calumet Avenue SE
De Smet SD 57231

Future Use Permit No. 8400-3

City of Harrisburg
c/o Heath VonEye
301 E Willow Street
Harrisburg SD 57032

Future use Permit No. 558A-3

City of Castlewood
c/o Logan Ruesink
PO Box 17
Castlewood SD 57223

Future Use Permit No. 1407-2

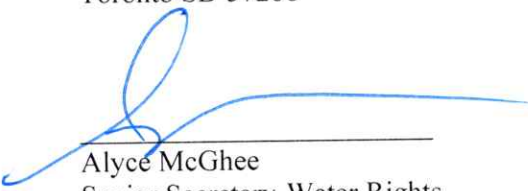
City of Custer
c/o Robert Brown
622 Crook Street
Custer SD 57730

Future Use Permit No. 5358-3

TM Rural Water District
c/o Jay Jorgensen
PO Box 445
Parker SD 57053

Future Use Permit No. 6988-3, 6988A-3, and 6988B-3

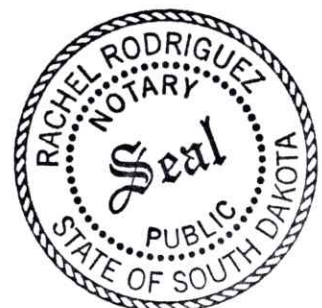
Joint Well Fields Inc.
c/o Reed Andries
PO Box 340
Toronto SD 57268


Alyce McGhee
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of July, 2026.


Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

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

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

Application No.: 524-3

Name of Applicant: City of De Smet, Gary Wolkow

Date of Posting: 5/28/2026

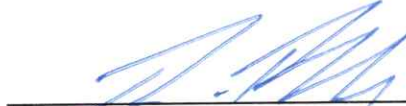
Date of Removal: 7/14/2026


Amanda Dewell, Permitting Administrator

7/14/2026

Date

Subscribed and sworn to before me, a notary public, this 14th day of July, 2026.


Notary Public - South Dakota

My commission expires **Rachel Rodriguez**
My Commission Expires
May 16, 2029

(SEAL)



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date August 20, 2026

RECEIVED OF City of De Smet 106 Calumet Avenue SE De Smet, SD 57231

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. <u>524-3</u> after period of seven years.	<u>\$115.00</u>
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	<u>\$115.00</u>

By Adrian Mathiowetz
Chief Engineer
Se