

Considered: \_\_\_\_\_

WATER PERMIT NO. VR 5509-3

Phone: 605 778-6277

Name of Applicant: City of Kimball

Post Office Address: PO Box 16, Kimball SD 57355

Amount of Water Claimed: 0.45

Total Acres: \_\_\_\_\_

Source of Water Supply: groundwater

Water to be used for: municipal

County: Brule

About \_\_\_\_\_ miles \_\_\_\_\_ of \_\_\_\_\_

PROOF OF PUBLICATION: Received \_\_\_\_\_ Not Received \_\_\_\_\_

APPLICATION: Approved \_\_\_\_\_ Subject to \_\_\_\_\_

F.F. & C/.L. Adopted \_\_\_\_\_

Not Approved \_\_\_\_\_

Deferred \_\_\_\_\_

PRIORITY

Date Received: 2-20-91

Fee: \$15.00

Remarks standby well

to supplement Aurora-Brule Rural Water System - 1950 priority date

Corrected Application Received \_\_\_\_\_ Period of Annual Use \_\_\_\_\_

WATER QUALITY APPROVAL RECEIVED \_\_\_\_\_

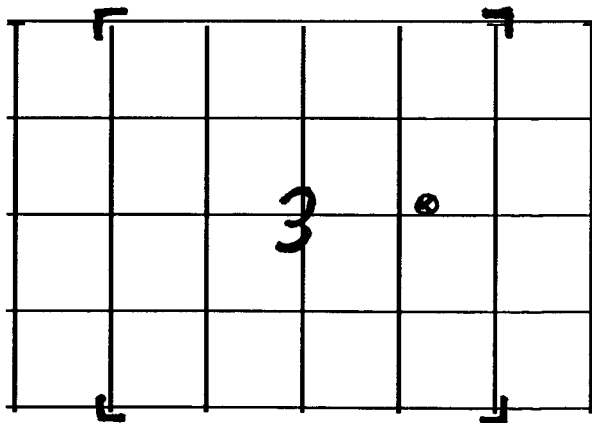
APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES \_\_\_\_\_ NO \_\_\_\_\_ REMARKS \_\_\_\_\_

Diversion Point: SE 1/4 NE 1/4 Sec 3-T103N-R68W

(east well)

Land to be Irrigated: \_\_\_\_\_



Well Log: Driller: not available

Licensed YES \_\_\_\_\_ NO \_\_\_\_\_

Depth of Well: 1200'

REMARKS \_\_\_\_\_

Type of Map: plat

PREPARED BY: Kevin Ring

Reviewed and the Number

Assigned on 3-4-91

By Karen Schlaak



FORM 2: Application for uses other than irrigation (type or print)

Mail to: Water Rights Div.  
DWNR, Foss Bldg.  
Pierre, SD 57501  
(605) 773-3352

No. \_\_\_\_\_ Hydrologic Unit \_\_\_\_\_  
Map No. \_\_\_\_\_ Basin \_\_\_\_\_  
Newspaper \_\_\_\_\_

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

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

Type of Application: Check one or more of the following

New ☐ Vested Right ☒ Future Use ☐ Change Use ☐  
☐ Amend Permit No. \_\_\_\_\_ with old priority date retained  
Change diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ \_\_\_\_\_  
☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. \_\_\_\_\_  
☐ Construction to use water reserved by Future Use Permit No. \_\_\_\_\_

1. Name of Applicant City of Kimball Phone No. 778-6277  
Post Office Address Box 16 Kimball State SD 57355  
(Street, RR or Box) (City) (Zip Code)

2. Amount of water claimed (c.f.s.) \_\_\_\_\_

3. Source of water supply City Well & Aurora-Brule Rural Water System

4. Location of point of diversion \_\_\_\_\_  
\_\_\_\_\_ County \_\_\_\_\_

5. Counties where water will be used Brule

6. Annual period during which water is to be used All Year

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

We were advised to apply for a permit. We are not using our City well since we were connected to the Aurora-Brule Rural Water System.

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

STATE OF SOUTH DAKOTA)  
County of Brule )<sup>ss</sup>

I, Robert L. Miller, Mayor of the City of Kimball the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Robert L. Miller

Subscribed and sworn to before me this 22nd day of September 19 88

Mike E. [Signature]  
Notary Public

My Commission Exprs. 9-1-96

No. 5509-3 Hydrologic Unit 10140101  
 Map No. \_\_\_\_\_ Basin Missouri River  
 Newspaper Brule Co News, Box 46, Kimball, SD

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

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

Type of Application: Check one or more of the following

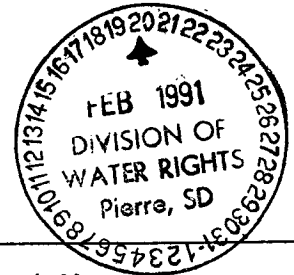
New ☐ Vested Right ☒ Future Use ☐ Change Use ☐

☐ Amend Permit No. \_\_\_\_\_ with old priority date retained

Change diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ \_\_\_\_\_

☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. \_\_\_\_\_

☐ Construction to use water reserved by Future Use Permit No. \_\_\_\_\_



1. Name of Applicant City of Kimball Phone No. (605) 778-6277

Post Office Address PO Box 16 Kimball State SD 57355  
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s.) Standby well to supplement Aurora-Brule Rural Water System  
approximately or equal to .45 cfs

3. Source of water supply Well

4. Location of point of diversion East well, Lot CH2 in the SE 1/4 of the NE 1/4, Section 3,  
Township 103 North, Range 68 West of the 5th P.M., Brule County, South Dakota

County Brule

5. Counties where water will be used Brule

6. Annual period during which water is to be used as supplement or emergency standby for Aurora-Brule  
Rural Water System

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

The City of Kimball was advised to apply for a permit. South Dakota Public Water System Data indicates that the well was drilled in 1950. The well is used only as an emergency standby. Kimball is currently connected to the Aurora-Brule Rural Water System. This well is commonly known as the east well. Driller's logs are not available for this well.

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

STATE OF SOUTH DAKOTA)  
 County of Brule)<sup>ss</sup>

I, Robert L. Miller, Mayor of the City of Kimball, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Robert L. Miller

Subscribed and sworn to before me this 19 day of February 1991

Notary Public  
 My Commission  
 Expires March 2, 1998

Steve Nader  
 Notary Public

**SOUTH DAKOTA**

**VESTED WATER RIGHT NO. 5509-3**

Date of Receipt of Claim February 20, 1991.

Date of Validation May 23, 1991.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 5509-3 for the City of Kimball, PO Box 16, Kimball SD 57355 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 5509-3 appropriates 0.45 cubic feet of water per second from one well (Dakota Formation) 1200 feet deep located in the SE 1/4 NE 1/4 Section 3-T103N-R68W.
2. The appropriated water is used as a standby water supply for the City of Kimball and may not exceed the amount of water needed for beneficial use for municipal purposes.
3. The water is to be used during the following annual period: January 1 - December 31.
4. The priority date of the Vested Water Right is: January 1, 1950.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

**WATER MANAGEMENT BOARD**

By: \_\_\_\_\_

Chief Engineer, Water Right Division  
Department of Environment and Natural Resources

**JUL 23 1991**

\_\_\_\_\_  
date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 5509-3

(1) The City of Kimball of PO Box 16, Kimball, SD 57355 made Application No. 5509-3, February 20, 1991 for validation of a vested right claim to appropriate 0.45 cubic feet of water per second from groundwater (one well), Brule County, South Dakota for municipal purposes. Vested Water Right No. 5509-3 was validated May 23, 1991 with a priority date of January 1, 1950. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to divert 0.45 cubic feet of water per second for beneficial use. The location of the diversion point is in the SE 1/4 NE 1/4 Section 3, T103N, R68W.

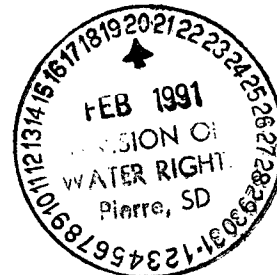
(3) Pursuant to Section 46-5-30.1 the City of Kimball of PO Box 16, Kimball, SD 57355 the holder(s) and/or owner(s) of Vested Water Right No. 5509-3 is issued a license to appropriate 0.45 cubic feet of water per second from groundwater (one well) with a priority date of January 1, 1950 from the location specified in (2) of this license. The water is to be used for the purpose of municipal use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 5509-3 and subject to South Dakota State Law.

  
\_\_\_\_\_  
JOHN HATCH, Chief Engineer  
Water Rights Division  
Department of Environment and  
Natural Resources

**JUL 23 1991**

---

(type or print in ink)



a) Drill Hole Diameter 8 in. Depth 1,200 ft.

b) Casing Type iron Diameter 8 in. Thickness unknown

c) Screen Type unknown Diameter unknown Thickness unknown

d) Gravel Pack Thickness unknown Length of Gravel Pack \_\_\_\_\_

e) Depth to Top of Water Bearing Material unknown

f) Depth to Water (ground surface to water level) unknown

g) Distance to nearest existing domestic well:

On applicants property 200 ft +/- On property owned by others \_\_\_\_\_

a) Surface Dimensions \_\_\_\_\_ Depth \_\_\_\_\_

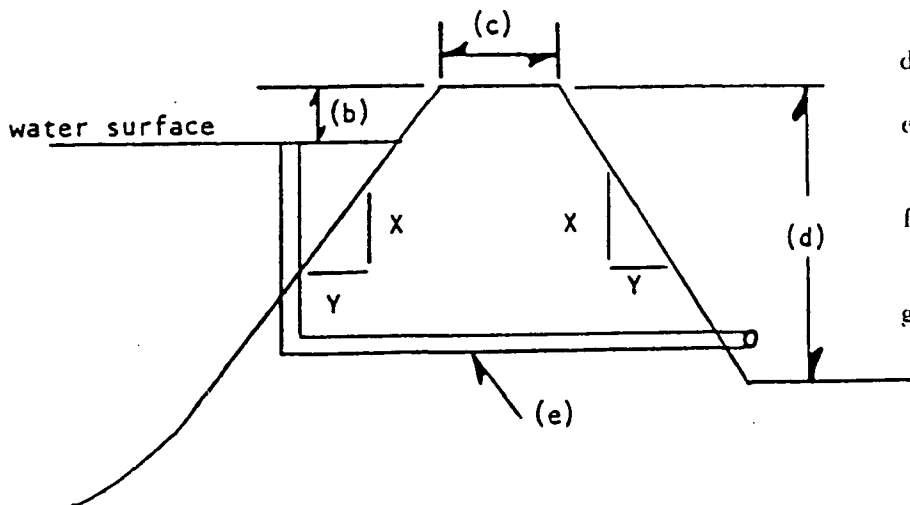
b) Depth to water (ground surface to water level) \_\_\_\_\_

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

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

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- b) Freeboard \_\_\_\_\_
- c) Crest Width \_\_\_\_\_
- Crest Length \_\_\_\_\_



- d) Height \_\_\_\_\_
- e) Primary Outlet Capacity \_\_\_\_\_  
If Pipe, diameter \_\_\_\_\_
- f) Secondary Spillway Capacity \_\_\_\_\_  
Spillway width \_\_\_\_\_
- g) X & Y Slope  
Upstream \_\_\_\_\_  
Downstream \_\_\_\_\_

Surface Area of Impoundment \_\_\_\_\_

Storage \_\_\_\_\_ acre feet

Drainage area above dam \_\_\_\_\_

Signature of Applicant

**Affidavit of Water Use**

No. \_\_\_\_\_

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction of water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System  
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) \_\_\_\_\_ City of Kimball

Post Office Address \_\_\_\_\_ PO Box 16 \_\_\_\_\_ SD \_\_\_\_\_ 57355  
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation \_\_\_\_\_ Date of Posting \_\_\_\_\_

Date of recording \_\_\_\_\_ Recording date \_\_\_\_\_  
Where Book Page

B. Date of start of construction of water supply system \_\_\_\_\_

C. Date that water was first applied to beneficial use \_\_\_\_\_ 1950 est.

D. Name of owner of original water supply system \_\_\_\_\_ City of Kimball

E. Amount of water originally applied to beneficial use \_\_\_\_\_ approximately 200 gal/min or .45 cfs

F. Present Use of Water - Amount of water now being used \_\_\_\_\_ standby and emergency use

Date that this water was first used \_\_\_\_\_ 1950 est.

## G. Chronological History of Water Use

Well served the City of Kimball until the City was connected to the Aurora-Brule Rural Water System in the fall of 1980.

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

State of South Dakota )

County of \_\_\_\_\_ Brule ) <sup>ss</sup>

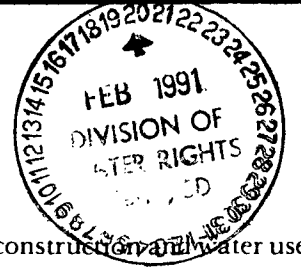
I, Robert L. Miller, Mayor of the City of Kimball, the applicant, certify that I have read the foregoing  
(print or type)  
 and that the matters therein stated are true.

Signed Robert L. MillerSubscribed and sworn to before me Feb 19, 1991

Notary Public  
My Commission

Notary Public or other qualified officer

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

\_\_\_\_\_, 19\_\_\_\_\_  
(Print name)\_\_\_\_\_, 19\_\_\_\_\_  
(Print name)

Recommendations: This record for 11-2 is as follows:

1. The United States Fire Insurance Services do not recommend the use of water mains smaller than 6 inches in diameter. A pumper firetruck should never be connected to a fire hydrant serving mains less than 6 inches in diameter because contamination of the water supply could result in back siphonage conditions or damage to the distribution system because of possible negative pressures. To be assured of adequate fire and back siphonage protection, all future water main installations must be 6 inches in diameter or larger. The Department of Water and Natural Resources recommends that when using less than 6 inch diameter mains, only flushing hydrants be installed.
2. Although Kimball is now on Aurora-Brule Rural Water System and only uses their wells on a standby basis, it is recommended that water rights be obtained for the wells. Forms are enclosed in Alyce Haskin's copy of this report. For more information contact the Department of Water and Natural Resources, Office of Water Rights, Joe Foss Building, Pierre, South Dakota 57501.
3. Kimball is required a certified waterworks operator. We would like to encourage you to give your operator the opportunity to attend some of the various training courses that are available and become certified. For more information as to class dates, location etc, please contact Mr. George Vansco, Department of Water and Natural Resources, Joe Foss Building, Pierre, South Dakota 57501.

Copied  
from  
Drinking  
Waters  
files

I would like to thank Alyce and Ronnie for their time and cooperation during this survey, it was greatly appreciated.

Bacteriological Sampling & Analysis

The State Department of Water and Natural Resources requires that all public water supplies submit water samples on a routine basis to the State Department of Health laboratory in Pierre or other EPA Certified laboratory. Bacteriological samples should be collected from different points in the distribution system so that the water sampling record will provide an indication of the water quality within the entire distribution system.

Your water analysis record for 1982 is as follows:

|                   |               |                 |          |
|-------------------|---------------|-----------------|----------|
| Samples Required  | <u>1/mo.</u>  | Safe Samples    | <u>1</u> |
| Samples Submitted | <u>1</u>      | Unsafe Samples  | <u>0</u> |
| Survey Samples    | <u>1 safe</u> | Recheck Samples | <u>0</u> |

Respectfully submitted,

Judene Holan  
Environmental Technician II  
Office of Drinking Water

Enclosures

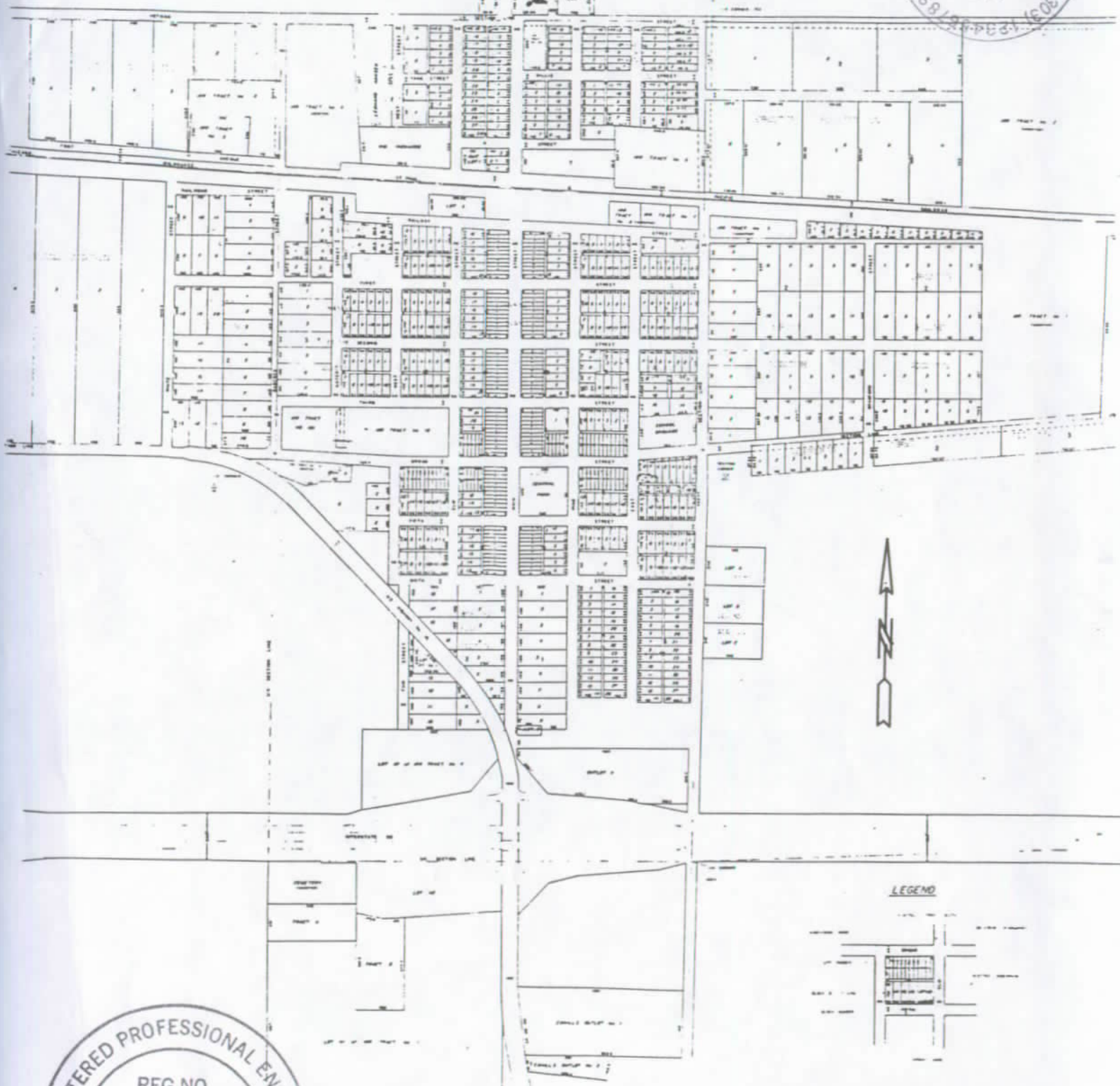
c12210jh,dw

CITY OF KIMBALL  
BRULE COUNTY, SOUTH DAKOTA

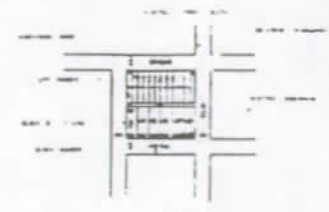
71026-4809

THIS MAP IS FOR GENERAL INFORMATION USE  
ONLY AND MUST BE USED WITH THE BRULE  
COUNTY REGISTER OF DEEDS FOR LEGAL  
PROOF OF OWNERSHIP

EAST WELL



LEGEND



LOCATION MAP  
EAST WELL  
CITY OF KIMBALL

# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412546

Pierre, February 21, 1991

RECEIVED OF City of Kimball, PO Box 16, Kimball, SD 57355

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

|                                                                                                                                    |             |
|------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Fee for Application for Permit No. <u>5509-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____ | 1500        |
| Fee for Application for Permit No. _____ 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 Certified Copy of _____                                                                                                    |             |
| Fee for Print Copy of Map _____                                                                                                    |             |
| Fee for Certifying _____                                                                                                           |             |
| Fee for _____                                                                                                                      |             |
| (Any Other Work Provided by Law)                                                                                                   |             |
| <b>Total</b>                                                                                                                       | <b>1500</b> |

By

John Hatch / [Signature]  
Chief Engineer

Miller, Miller  
and  
Sebastian  
Attorneys at Law

WALTER C. MILLER  
BOX 67  
PLANKINTON, SD. DAK. 57368  
PHONE 342-4861

RONALD K. MILLER  
MICHAEL E. SEBASTIAN  
BOX 109  
KIMBALL, S. DAK. 57355  
PHONE 778-6316

September 22, 1983

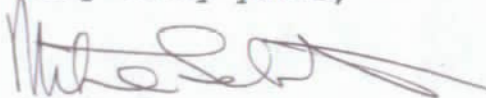
Water Rights Division, DWNR  
Joe Foss Building  
Pierre, South Dakota 57501

Gentlemen:

The City of Kimball recently received an Application for Permit to Appropriate Water within the State of South Dakota, along with some instructions.

Could you advise as to the reason they received this application and particularly what you want done with it.

Very truly yours,



Michael E. Sebastian  
City Attorney

MES/cs



City of Kimball

October 12, 1983

Miller, Miller & Sebastian  
Box 109  
Kimball, South Dakota 57355

ATTENTION: Michael E. Sebastian

Dear Mr. Sebastian:

This letter is in response to your question concerning Water Permit Application forms sent to the City of Kimball. The Office of Drinking Water, during their inspections of Public Water Supply systems occasionally comes upon a water source that does not currently have a water permit on file in our office. They usually send out forms and contact our office. SDCL 46-1-6 (4) and 46-5-8.2 as amended by the 1983 Legislature require a permit application for any wells capable of diverting 18 gallons per minute or more. If this does not apply to wells in Kimball then a permit application need not be filed. If you have any further questions please contact this office.

Thank you,

Kevin C. Larson  
Water Resources Engineer

KCL:ms

## Conversation or File Documentation

NAME OF PERSON OR FILE: City of KimballADDRESS: Box 16 57355 COUNTY BruleDATE: Oct 4, 1988 TELEPHONE 778-6277RE: application rec'd

## COMMENTS:

I spoke to Garland Erbele today, Office of Drinking Water to find out if anyone from their office had advised the City of Kimball to apply for a water permit (i.e., whether the appl. rec'd was for their well or for hooking up to the RW system). Cheryl Kjar had been out there and gave them appl. mat'l to apply for a water permit for their well.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Susan A. Bowler



# Department of Water & Natural Resources

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

October 5, 1988

Robert L. Miller, Mayor  
City of Kimball  
Box 16  
Kimball, SD 57355

Dear Mr. Miller:

This is in response to the water permit application received from you on September 26, 1988, a copy of which is enclosed. The vested right application is incomplete for the following reasons:

- (1) The \$15 application fee needs to be submitted (see enclosed instruction sheet).
- (2) A driller's log, signed by a South Dakota licensed well driller, needs to be submitted (see enclosed instruction sheet).
- (3) The enclosed Form 2A needs to be filled out and returned (see enclosed instruction sheet).
- (4) A map, signed by a South Dakota Registered Land Surveyor, a South Dakota Registered Engineer, or by a government employee who normally prepares maps as part of his duties, showing the location of the well must be submitted (see enclosed instruction sheet).
- (5) The enclosed Affidavit of Water Use must be completed, notarized and returned (see enclosed instruction sheet).

The Water Management Board cannot consider a water permit application until it is complete. Please submit the required fee, Form 2A, a signed well log, a signed map, and the Affidavit of Water Use to continue processing of your water permit application.

Please feel free to call if you have any questions.

Sincerely,

Susan A. Bowar  
Natural Resources Engineer  
Water Rights Division  
(605) 773-3352

enclosures





DEPARTMENT OF WATER & NATURAL RESOURCES

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

January 9, 1991

Robert L. Miller, Mayor  
City of Kimball  
Box 16  
Kimball SD 57355

Dear Mayor Miller:

On September 26, 1988, you submitted an application (copy enclosed) for a permit to appropriate water for municipal use. You were notified on October 5, 1988 that the application was incomplete and were instructed what additional information was necessary in order to complete the application (copy enclosed). To date, we have not received a response from you.

As stated on the application, we are aware that the City is connected to the Aurora-Brule Rural Water System. It is still necessary that the City apply for a permit for their well if the water supply is maintained for either fire protection or standby purposes, or both and if the water diversion works are maintained in working condition for immediate use upon demand.

Obtaining a water permit ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right. Currently, a water permit for the City of Kimball has not been found on file with the Division of Water Rights. If you no longer use water, please inform us.

Please respond by submitting the information requested in the October 5, 1988 letter or contacting me by March 15, 1991.

Sincerely,

Eric Gronlund  
Water Rights Division  
Phone: (605) 773-3352

enclosure

February 26, 1991

BOX 398

MITCHELL, S. DAK. 57301

PHONE (605) 996-7761

Eric Gronlund  
SD Dept of Water and Natural Resources  
Water Rights Division  
Foss Building  
Pierre SD 57501-3181



RE: Kimball, South Dakota - Well Permit  
SPN #5047

**SCHMUCKER, PAUL, NOHR & ASSOCIATES**

**ENGINEERS  
SURVEYORS**

Dear Mr. Gronlund:

Enclosed are two (2) maps showing the east and west Kimball wells.  
Please enclose them with the application for a well permit submitted by  
Kimball.

Sincerely,

SCHMUCKER, PAUL, NOHR & ASSOCIATES

*Kevin King*  
Kevin King

KK:rf

Enclosures

REPORT ON APPLICATION NOS. 5509-3 AND 5510-3  
for the City of Kimball  
April 3, 1991

Application Nos. 5509-3 and 5510-3 each claim a vested right for 0.45 cfs from wells 1200 feet and 1100 feet deep respectively. Both wells are located in the SE 1/4 NE 1/4 of section 3, T103N R68W in Brule County. Vested Right Claim No. 5509-3 claims a priority date of January 1, 1950 and Vested Right No. 5510-3 claims a priority date of January 1, 1912. These wells are used for emergency standby purposes by the City. The City of Kimball is serviced by the Aurora-Brule Rural Water System.

AQUIFER - DAKOTA FORMATION (DKDT)

The Dakota Formation consists of sandstones and shales and is approximately 250 feet thick in this area (Schoon, 1971). The Dakota Formation is under artesian conditions but will not flow at the land surface. The USGS reports that one well drilled in 1912 was completed to a depth of 1250+ feet and had a static water level of 165 feet on August 29, 1956 and a second well drilled in 1951 was completed to a depth of 1050 feet and had a static water level of 165 feet on August 29, 1991 (Davis, 1961). The Dakota Formation underlies 837 square miles and contains an estimated 7.36 million acre feet of recoverable water in Brule County (Hedges, 1982).

The Division of Water Rights monitors an observation well BL-83A located near Chamberlain about 18 miles west of Kimball. Water levels for this well have declined 7 to 8 feet since the well was completed in 1983 (Water Rights, 1991). Many reports indicate that water levels have been declining in the Dakota Formation since the first wells were drilled. The primary reason for the decline is the large number of wells allowed to flow to waste.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other water right/permits from the Dakota Formation in this area. Interference will not be a problem.

CONCLUSIONS

1. Water is available from the Dakota Formation.
2. Interference is not expected to be a problem. There are no other users other than domestic use in this area.
3. Information in the application indicates these wells were completed in 1912 and 1950. Affidavits supplied with both of these applications indicate they qualify for vested rights and can be validated.
4. SDCL 46-6-3.1 allows water to be used by a water distribution system from an aquifer stratigraphically lower than the Greenhorn Formation even if the quantity of water withdrawn from the source

exceeds the average annual recharge to the source. The Dakota Formation is lower than the Greenhorn Formation. Also, even though the water levels have been declining in the Dakota Formation, this decline has been attributed to the large number of wells allowed to flow to waste.

  
James A Goodman  
Natural Resources Engineer

Davis, R.W., 1961, Progress Report on Wells Penetrating Artesian Aquifers in South Dakota, USGS Water Supply Paper 1534, USGS, Washington, DC.

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

Schoon, R.A., 1971, Geology of Hydrology of the Dakota Formation in South Dakota, RI #104, SD DWR, SDGS, Vermillion, SD, 57069.

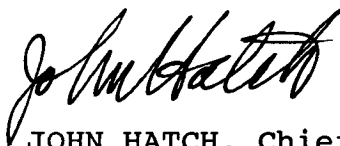
Water Rights, 1991, Dakota Formation Observation Well Data, SD DWR, Div. of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER  
RIGHT APPLICATION NO. 5509-3, City of Kimball

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Validation of Vested Water Right Application No. 5509-3, City of Kimball, PO Box 16, Kimball, SD.

The Chief Engineer is recommending VALIDATION of Application No. 5509-3 for 0.45 cfs because 1) water has been appropriated as described for municipal use with a priority date of January 1, 1950, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", is written over the typed name.

JOHN HATCH, Chief Engineer  
April 9, 1991



**DEPARTMENT OF WATER & NATURAL RESOURCES**

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

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

April 17, 1991

Robert L. Miller, Mayor  
City of Kimball  
PO Box 16  
Kimball, SD 57355

Dear Mr. Miller:

Your Application Nos. 5509-3 and 5510-3 for vested water right claims have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claims has been sent to the Publisher of the Brule County News printed at Kimball, SD. For your information, a copy of the notice, the recommendations of the Chief Engineer and a report on the applications are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the applications can be considered.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

cc: Ronald Mashek, Utility Manager



DEPARTMENT OF WATER & NATURAL RESOURCES

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

April 17, 1991

Brule County News  
Box 46  
Kimball, SD 57355

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application Nos. 5509-3 and 5510-3 to be published twice. Please publish the notice on or before April 25, 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 the City of Kimball, PO Box 16, Kimball, SD 57355.

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 applications cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: ATTN: Eric Gronlund  
Water Rights Division  
523 E Capitol  
Pierre SD 57501-3181

Date \_\_\_\_\_  
We are in receipt of your letter of \_\_\_\_\_ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Newspaper

Instruction to Newspaper - Publish first Notice on April 25, 1991, with the second publication 7 days later. The applicant is responsible for payment.

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NOTICE OF HEARING To Validate  
Vested Water Right Application Nos. 5509-3 and 5510-3 to Appropriate Water

Notice is given that the City of Kimball, PO Box 16, Kimball, SD 57355 has filed applications to validate vested water right claims.

Vested Right Claim No. 5509-3 is to appropriate 0.45 cfs from one well (Dakota Formation) 1200 feet deep located in the SE 1/4 NE 1/4 Section 3-T103N-R68W. The water use has a claimed priority date of January 1, 1950, and is used as a standby well for municipal use by the city. The City of Kimball is currently connected to the Aurora-Brule Rural Water System.

Vested Right Claim No. 5510-3 is to appropriate 0.45 cfs from one well (Dakota Formation) 1100 feet deep located in the SE 1/4 NE 1/4 Section 3-T103N-R68W. The water use has a claimed priority date of January 1, 1912 and is used as a standby well for municipal use by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application Nos. 5509-3 for 0.45 cfs and 5510-3 for 0.45 cfs because 1) water has been appropriated as described for municipal use with a priority date of January 1, 1950 (No. 5509-3) and with a priority date of January 1, 1912 (No. 5510-3), 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the applications or the applicant files a petition contesting the chief engineer's recommendations, the Water Management Board will NOT CONDUCT a HEARING to consider these applications and the chief engineer will issue the vested water right applications as recommended. Petitions filed in support of the applications will NOT require the Board to hear the applications.

Any person interested in opposing or supporting these applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 13, 1991. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application Nos. 5509-3 and 5510-3 and 2) the chief engineer's recommendations, a special Board meeting is scheduled for May 23, 1991, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E Capitol, Pierre, SD. If these applications are opposed or the recommendations contested, the May 23, 1991 hearing date may be rescheduled for another Board meeting. If the hearing is rescheduled, notice of the time and place will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The May 23, 1991 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by May 13, 1991.

If a hearing is held, the Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the applications based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have 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. Contact the Water Rights Division to request copies of information pertaining to these applications or to assure access to the hearing by the handicapped.

These applications are made 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-18; 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, 46-5-49; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22, and 74:02:01:37.02.

# AFFIDAVIT OF PUBLICATION

State of South Dakota

SS

County of Brule

Holly K. Korzan of said county, being, first duly sworn, on oath, says: That she is the publisher or an employee of the publisher of the Brule County News, a weekly newspaper, published in the City of Kimball, in said County of Brule, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2; that said newspaper has been published within the said County of Brule and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the Notice of Hearing to Validate Vested Water Right Application Nos 5509-3 & 5510-3 to Appropriate Water a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for two successive week(s) to wit:

Apr 25, 1991; \_\_\_\_\_, 19\_\_\_\_;  
May 2, 1991; \_\_\_\_\_, 19\_\_\_\_;  
\_\_\_\_\_, 19\_\_\_\_; \_\_\_\_\_, 19\_\_\_\_;

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; 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; that the fees charged for the publication thereof are:

54.00.

Signed: Holly K. Korzan  
Subscribed and sworn to before me this 2 day  
of May, 1991. My Commission  
[Signature] Expires June 11, 1998  
Notary Public in and for the County of Brule, South  
Dakota.



## NOTICE OF HEARING To Validate Vested Water Right Application Nos. 5509-3 and 5510-3 to Appropriate Water

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Vested Right Claim No. 5510-3 is to appropriate 0.45 cfs from one well (Dakota Formation) 1100 feet deep located in the SE 1/4 NE 1/4 Section 3-T103N-R68W. The water use has a claimed priority date of January 1, 1912 and is used as a standby well for municipal use by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application Nos. 5509-3 for 0.45 cfs and 5510-3 for 0.45 cfs because 1) water has been appropriated as described for municipal use with a priority date of January 1, 1950 (No. 5509-3) and with a priority date of January 1, 1912 (No. 5510-3), 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the applications or the applicant files a petition contesting the chief engineer's recommendations, the Water Management Board will NOT CONDUCT a HEARING to consider these applications and the chief engineer will issue the vested water right applications as recommended. Petitions filed in support of the applications will NOT require the Board to hear the applications.

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For purposes of publishing 1) the notice of hearing on Application Nos. 5509-3 and 5510-3 and 2) the chief engineer's recommendations, a special Board meeting is scheduled for May 23, 1991, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E Capitol, Pierre, SD. If these applications are opposed or the recommendations contested, the May 23, 1991 hearing date may be rescheduled for another Board meeting. If the hearing is rescheduled, notice of the time and place will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The

May 23, 1991 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by May 13, 1991.

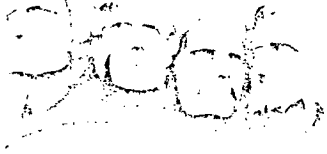
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(April 25, May 2)

*South Dakota*



GREAT FACES. GREAT PLACES.

JUL 23 1991

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

5509-3  
5510-3

Robert L Miller, Mayor  
City of Kimball  
PO Box 16  
Kimball, SD 57355

Dear Mr. Miller:

Enclosed are your Validated Vested Water Right and Water License Nos. 5509-3 and 5510-3. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosures