

Considered: _____

WATER PERMIT NO. 5571-3

Phone: 622-7017

Name of Applicant: City of Aberdeen

Post Office Address: 123 South Lincoln, Aberdeen SD 57401

Amount of Water Claimed: 12.7 (5,500 AF) Total Acres: _____

Source of Water Supply: Elm River

Water to be used for: municipal County: Brown

About 6 miles NW of Aberdeen

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 7-24-91 Fee: _____ Remarks _____

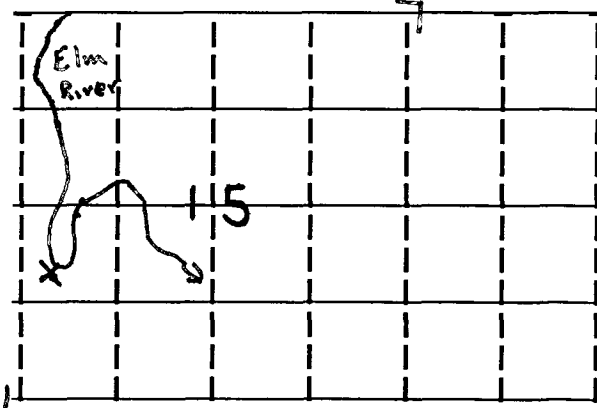
Corrected Application Received _____ Period of Annual Use January 1 - Dec 31

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

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

Diversion Point: NW 1/4 SW 1/4 Sec 15-T124N-R63W

Land to be Irrigated: NA



Well Log: Driller: NA Licensed YES _____ NO _____

Depth of Well: _____ REMARKS _____

Type of Map: plat PREPARED BY: Francis Brink Reviewed and the Number

Assigned on 8-5-91 By Karen Schlaak

No. 5571-3 Hydrologic Unit 10160003
 Map No. _____ Basin James River
 Newspaper American News, PO Box 4430 (Daily)

523 E. Capitol
 Pierre, SD 57501
 (605) 773-3352

57401-4430

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

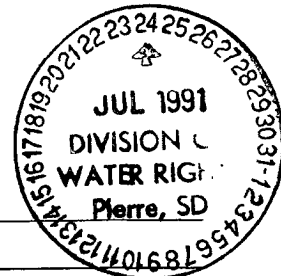
New ☐ Vested Right ☐ Future Use ☐ Change Use ☐

☐ 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. 3428-3



1. Name of Applicant City of Aberdeen by: Francis E. Brink, City Eng. Phone No. 622-7017

Post Office Address 123 South Lincoln Aberdeen State SD 57401
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s.) 12.7 cfs

3. Source of water supply Elm River

4. Location of point of diversion Water Treatment Plant in SW 1/4 Sec. 15-T124N R 63W.

(NW 1/4 SW 1/4)

County Brown

5. Counties where water will be used Brown

6. Annual period during which water is to be used Annual January 1 - December 31

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)

Nominal plant capacity was increased to 16 MGD, peak, in 1983, and transmission piping between the plant and Aberdeen was reconstructed in 1989 to accommodate this flow rate. Application will provide for diversion rates consistent with plant capacity.

Existing License 12.0cfs

This Application 12.7cfs

24.7cfs = 16 MGD

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 _____)

I, Timothy G. Rich, Mayor

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 Timothy G. Rich

Subscribed and sworn to before me this 22nd day of July 1991

Candace A. Lindskov
 Notary Public

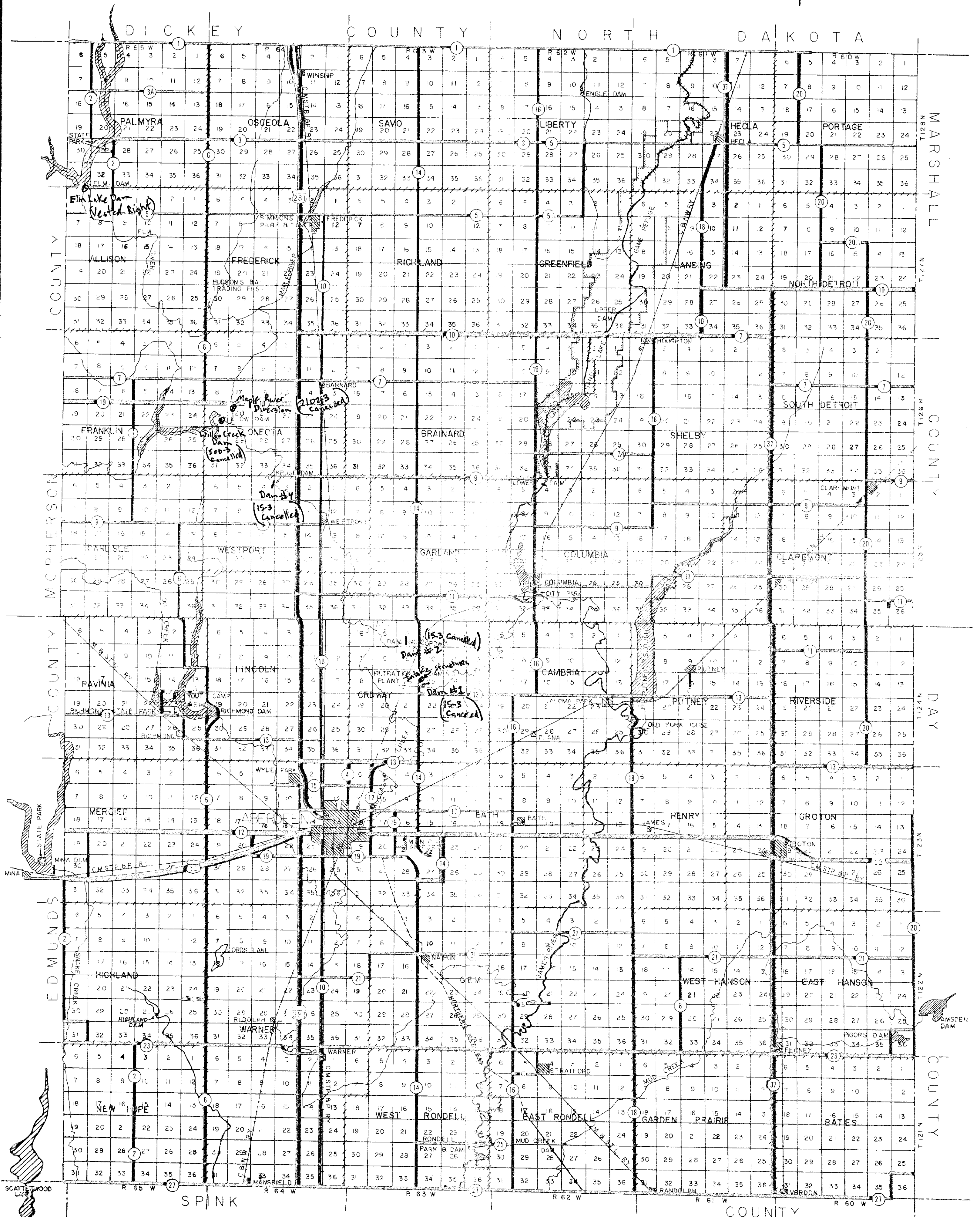
my Commission expires 6-9-96

BROWN COUNTY SO. DAK.

HIGHWAY MAP

SCALE IN MILES

U.S. HIGHWAY
STATE HIGHWAY
COUNTY HIGHWAY
GAS PIPE LINE



Appl. 5571-3

**SOUTH DAKOTA
WATER PERMIT No. 5571-3**

Date of first receipt of application July 24, 1991.

Date of return to applicant for corrections, amendments or changes July 30, 1991.

Date of receipt of corrected application August 21, 1991.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5571-3 to the City of Aberdeen, 123 South Lincoln, Aberdeen SD 57401 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5571-3 appropriates an additional 12.7 cubic feet of water per second (cfs) from the Elm River, Maple River and Willow Creek. This permit increases the diversion rate from 12.0 cfs to 24.7 cfs. The point of diversion from the Elm River is located at the water treatment plant intakes in the NW 1/4 SW 1/4 Section 15-T124N-R63W. This permit allows diversion of an additional 12.7 cfs from either natural flows or stored water released from the Elm Lake Dam located in the SE 1/4 Section 31-T128N-R65W; Willow Lake Dam located in the center of Section 19-T126N-R64W and two in-channel storage dams on the Elm River located in the SW 1/4 Section 15-T124N-R63W and the SE 1/4 Section 4-T124N-R63W; or by direct diversion from a dam in the NE 1/4 Section 4-T125N-R64W all authorized by Water Right No. 3009-3 or a combination of natural flows and releases from storage. The increased diversion rate will allow the city to operate the water treatment plant at maximum capacity to meet municipal needs during high demand periods.
2. The water appropriated shall be used for the purpose of supplying water to the City and may not exceed the amount of water needed for beneficial use for municipal use.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date of approval of Permit No. 5571-3 is February 11, 1992.
5. The date from which applicant may claim right is (see qualification No. 2).
6. One-fifth of the construction is to be completed on or before August 11, 1994.
7. All construction is to be completed on or before February 11, 1997.
8. Water is to be put to beneficial use on or before February 11, 2001.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

(continued)

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Water Permit No. 5571-3 allows for diversion of an additional 12.7 cfs from either natural flows or water released from storage, or a combination of both. The priority dates for natural flows or stored water as applicable, are as follows:
 - July 24, 1991 for natural flows
 - December 30, 1976 for water reserved by Future Use Permit No. 3428-3, when developed under future applications
 - September 11, 1974 for stored water released from Willow Creek Dam with the source being water diverted from the Maple River into Willow Creek Dam
 - October 7, 1957 for stored water released from Willow Creek Dam
 - January 1, 1937 for stored water released from Elm Lake Dam
 - December 23, 1933 for stored water released from Dam Nos. 2 and 4 on the Elm River or by direct diversion of water from Dam No. 1

WATER MANAGEMENT BOARD

By: 

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

AUG 6 1992

date

**REISSUED
SOUTH DAKOTA
WATER PERMIT NO. 5571-3**

Date of first receipt of application July 24, 1991.

Date of return to applicant for corrections, amendments or changes July 30, 1991.

Date of receipt of corrected application August 21, 1991.

Date of readvertisement February 16 & 23, 1996.

The Chief Engineer, on behalf of the Water Management Board, reissues Water Permit No. 5571-3 to the City of Aberdeen, 123 South Lincoln, Aberdeen SD 57501 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5571-3 appropriates an additional 12.7 cubic feet of water per second (cfs) from the Elm River, Maple River and Willow Creek. This permit increases the diversion rate from 12.0 cfs to 24.7 cfs. The point of diversion from the Elm River is located at the water treatment plant intakes in the NW 1/4 SW 1/4 Section 15-T124N-R63W. This permit allows diversion of an additional 12.7 cfs from either natural flows or stored water released from the Elm Lake Dam located in the SE 1/4 Section 31-T128N-R65W; Willow Lake Dam located in the center of Section 19-T126N-R64W and two in-channel storage dams on the Elm River located in the NE 1/4 Section 4-T125N-R64W and the SE 1/4 Section 4-T124N-R63W; or by direct diversion from a dam in the SW 1/4 Section 15-T124N-R63W; all authorized by Water Right No. 3009-3 or a combination of natural flows and releases from storage. The increased diversion rate will allow the city to operate the water treatment plant at maximum capacity to meet municipal needs during high demand periods.
2. The water appropriated shall be used for the purpose of supplying water to the City and may not exceed the amount of water needed for beneficial use for municipal use.
3. The water is to be used during the following described annual period: January 1 - December 31
4. The date of approval of Permit No. 5571-3 is February 11, 1992.
5. The date from which applicant may claim right is (see qualification No. 2).
6. One-fifth of the construction is to be completed on or before August 11, 1994.
7. All construction is to be completed on or before February 11, 1997.
8. Water is to be put to beneficial use on or before February 11, 2001.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

REISSUED Water Permit No. 5571-3

City of Aberdeen

Page 2

2. Water Permit No. 5571-3 allows for diversion of an additional 12.7 cfs from either natural flows or water released from storage, or a combination of both. The priority dates for natural flows or stored water as applicable, are as follows:
- July 24, 1991 for natural flows
 - December 30, 1976 for water reserved by Future Use Permit No. 3428-3, when developed under future applications
 - September 11, 1974 for stored water released from Willow Creek Dam with the source being water diverted from the Maple River into Willow Creek Dam
 - October 7, 1957 for stored water released from Willow Creek Dam
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 - December 23, 1933 for stored water released from Dam Nos. 2 and 4 on the Elm River or by direct diversion of water from Dam No. 1

WATER MANAGEMENT BOARD

By: _____

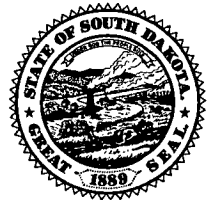
John Hatch

John Hatch, Chief Engineer
Water Rights Program

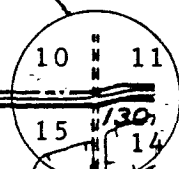
Department of Environment and Natural Resources

OCT 15 1996

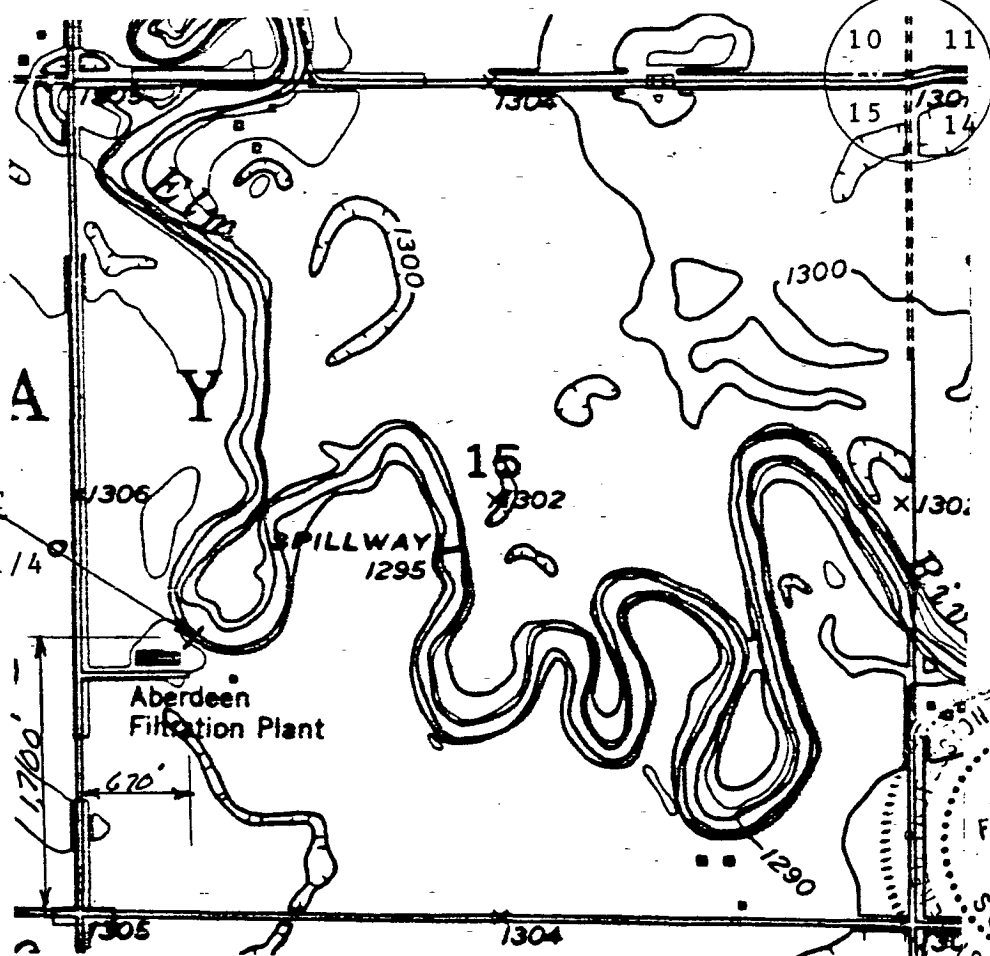
date



Admission



DIVERSION POINT



in NW 1/4 SW 1/4
Sec 15, T124N,
R63W in Brown
County, SD

**Aberdeen
Filtration Plant**

A circular professional engineer seal for Francis E. Brink, State of South Dakota, Registration No. 1041. The seal features the text "PROFESSIONAL ENGINEER" at the top, "REG. NO. 1041" in the center, and "FRANCIS E. BRINK" below it. The outer ring of the seal contains the text "STATE OF SOUTH DAKOTA".

Francis E. Brink
Registered Land Surveyor #SD 1641

July 31, 1991
Date

NOT TO SCALE



NOT TO SCALE



NOT TO SCALE

Maple River
Diversion

43.7 T-3728

10.8

T-3728

110.0

E-8

4
20

T-3728

37.7

41.3

T-3728

81.1

T-3728

126-64

5

7

Maple River

NOT TO SCALE



NOT TO SCALE

6

T-3686

T-3686

D-8

T-4751

Pump House

Willow Creek Dam

Outlet

36.0

T-3686

19

T-4751

126 64

ABERDEEN MUNICIPAL WATER SUPPLY

EXHIBIT A

WORKS	LOCATION	PRIORITY DATE	PHYSICAL FEATURES				COMMENTS
			Height	Max. Depth	Surface Area	Storage Capacity	
			Ft.	Ft.	Ft.	Ft.	
Elm Lake Dam	S.E. & Sec. 31-128-65	Used since 1937; Vested Rights applied for 1976	50	34	1520	15,200 total (9,500 avail to City in top 12')	Built jointly by Aberdeen and S.D. Dept. Game, Fish and Parks. City of Aberdeen utilizes not more than top 12' measured from the spillway
Willow Lake Dam	Center Sec. 19-127-64	October 7, 1957 W.L. 500-3	40	27	400	4100	Constructed by City of Aberdeen in 1935. Went out in 1943. Repaired in 1957. Prime Source of water supply
Elm River Dam #1	S.W. & Sec. 15-124-63	December 23, 1933 W.P. # 15-3 W.L. # 15-3	9	9	18	181	Authorized two dams and water purification plant. Diversion Rate 12 cfs. This dam is considered a part of treatment plant and constitutes intake suction pool for the plant.
Elm River Dam #2	S.W. & Sec. 4-124-63	December 23, 1933 W.P. # 15-3 W.L. # 15-3	12	12	52	522	One of two authorized dams for W.L. 15-3. Permit provided for 250 MG (767 A.F.) storage.
Elm River Dam #4 (Kruse)	N.E. & Sec. 4-125-64	December 23, 1933 W.P. # 15-3 W.L. # 15-3	9	9	23	233	One of two authorized dams for W.L. 15-3. Permit provided for 250 MG (767 A.F.) storage.
Maple River Diversion Project	N.W. & Sec. 20-126-64	September 11, 1976 W.P. # 2102-3	Pumping Station.	N.A.	N.A.	N.A.	Pumping Station and Pump Control Pool Permit provides for diversion rate of 18,563 cfs. of Maple River Flood waters into Willow Lake Dam.
Eyesone Pit-Abandoned Gravel Pit	W. 500', S.E. & N.E. & Sec. 6-124-63	March 1976 W.P. # 255-1-3	Dugout & Well	20-70	10	5 cfs	Abandoned gravel pit proposed as large diameter surface well. Diversion works to be irrigation pumps initially with permanent pump setting if to be used continuously. W.P. # 2551-3 provides for 5 cfs.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412807

Pierre, August 23, 1991

RECEIVED OF City of Aberdeen, Box 1420, Aberdeen, SD 57402-1420

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

Fee for Application for Permit No. <u>5571-3</u> to Appropriate Water, to construct works and to put water to beneficial use	1,325	00
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)	Total	1,325 00

5571-3

By

John Hatch 

Chief Engineer



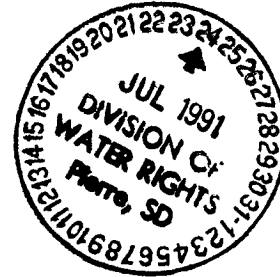
CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420 • Aberdeen, SD 57402-1420 • (605) 622-7017

ENGINEERING DEPARTMENT

July 23, 1991

Mr. John Hatch
Chief Engineer
SDDENR
Water Rights Division
Joe Foss Building - 523 E. Capitol
Pierre, South Dakota 57501-3181



Dear John:

Karen has advised me that Future Use Permit 3428-3 will come up for review by the Board in October. This permit provided for 24 cfs additional diversion rate from the river and a 20,000 acre-ft. impoundment. We intend to ask for an extension of this permit. I'll be sending a letter soon to Kathy to this effect but in the meantime we want to apply for a sufficient diversion rate from that Future Use Permit to cover the present treatment rate of the plant. Our present permit is good for only 12 cfs but the plant has treatment capacity of 24.7 cfs (16MGD).

Attached is an application for 12.7 cfs from Future Use Permit 3428-3 as approved for filing by the City Commission. I'll discuss it with you in Pierre this week if there are any questions.

Very truly yours,

Francis Brink, P.E.
City Engineer

FB/rw

w/attachment



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

July 30, 1991

Francis E Brink, City Engineer
123 South Lincoln
Aberdeen SD 57401

Dear Mr. Brink:

In regard to the water permit application received on July 24, 1991, for the City of Aberdeen, the following information needs to be submitted and clarified in order to process the application.

A map showing the location of the diversion point in relation to a government section corner or quarter corner by direction and distance. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local SCS or ASCS office).

The filing fee will be based on the amount of acre feet claimed. Please let us know this amount and we will determine the filing fee.

Upon receipt of the above, further processing of the City's application will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure



CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420 • Aberdeen, SD 57402-1420 • (605) 622-7017

ENGINEERING DEPARTMENT

July 31, 1991



Karen Schlaak
Natural Resources Analyst
SDDENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Karen:

Attached is a certificate of survey showing location of the point of diversion referred to in the City of Aberdeen's application for 12.7cfs from the Elm River (copy attached). The point of diversion is the location of the water treatment plant in the NW1/4 SW1/4 Sec. 15, T124N, R63W in Brown County.

The City is primarily interested in increasing the allowable diversion rate from flows in the Elm River at the water treatment plant and is requesting that 12.7cfs be shown on the permit, if approved. If an annual acre-foot limitation is placed on the permit, we would ask that it not be less than 5,500 acre-feet which would represent a 60 percent average annual usage. You may use the 5,500 acre-foot value for computing the filing fee.

Please contact me at your convenience if further information is needed on the application. Thank you.

Very truly yours,

Francis E. Brink, P.E.
City Engineer

FB/cl

w/attachments (2)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

August 5, 1991

Francis E Brink, City Engineer
123 South Lincoln
Aberdeen SD 57401

Dear Mr. Brink:

We have received your letter dated July 31, 1991 and the map showing the location of the point of diversion for the application submitted on behalf of the City of Aberdeen.

The filing fee, based on the 5,500 acre feet amount, will be \$1325.00. Upon receipt of this fee, further processing of the City's application will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352



CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420 • Aberdeen, SD 57402-1420 • (605) 622-7017

ENGINEERING DEPARTMENT



August 21, 1991

Karen Schlaak
Natural Resources Analyst
SDDENR
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

Re: Water Right Permit Application - City of Aberdeen
Filing Fee \$1325.00

Dear Karen:

Transmitted with this correspondence is Check No. 040213 in the amount of \$1,325.00 for filing fees for the water right application recently submitted by the City of Aberdeen. This is to cover the 5,500 acre feet requested in the application. ~~Tell John this is not to go for shingles on the cabin now.~~

Very truly yours,

Francis E. Brink, P.E.
City Engineer

FB/cl

w/enclosure

**CITY OF ABERDEEN
REVIEW OF FUTURE USE PERMIT NO. 3428-3 AND
WATER PERMIT APPLICATION NO. 5571-3**

September 3, 1991

BACKGROUND

Water Right No. 3009-3 held by the City of Aberdeen authorizes the following:

- 1) Direct diversion of 12.0 cfs from the Elm River and attendant storage of 936 acre-feet by three in-channel storage dams on the Elm River.
- 2) Storage of 15,200 acre-feet in Elm Lake dam. The city may use the top 12 feet below the spillway crest (9,500 acre-feet).
- 3) Storage of 4,100 acre-feet in Willow Creek dam and diversion of 18.56 cfs of flood flows from the Maple River into Willow Creek dam.
- 4) Diversion of 5.0 cfs of ground water from the Eyestone gravel pit.

Water Permit Application No. 5571-3 is to increase the diversion rate from 12.0 cfs to 24.7 cfs from the Elm River. ~~According to the permit application, the additional 12.7 cfs is to be taken out of Future Use Permit No. 3428-3 which reserves 24.0 cfs for future use from the Elm River and Maple River.~~ In addition to the 24.0 cfs, the future use permit also provides for storage of an additional 20,000 acre-feet on the Elm River. } leave in 9/8

Francis Brink, city engineer, indicated via telephone on August 28, 1991, that no increase is needed in the annual volume of water used by the city. According to Mr. Brink, the city currently uses 4,000 to 5,000 acre-feet of water annually. Permit No. 3009-3 authorizes a diversion rate of 12.0 cfs from the Elm River which totals 8,688 acre-feet annually, if diverted on a continuous basis.

DISCUSSION

Permit No. 3009-3 and Future Use Permit No. 3428-3 do not specify whether the authorized diversion rates are for stored water or natural flows. I don't believe the diversion rate specified on the future use permit is for water released from storage since the priority date assigned to Permit No. 3009-3 predates the priority date assigned to the future use permit. Therefore, the intent of Future Use Permit No. 3428-3 must have been to reserve only natural flows for future use, plus water for the 20,000 acre-feet storage reservoir. I believe the 12.0 cfs diversion rate authorized by Permit No. 3009-3 allows diversion of either natural flows or flows released from storage.

Future Use Permit No. 3428-3
Water Permit Application No. 5571-3
September 3, 1991

RECOMMENDATION

- 1) If Application No. 5571-3 is approved, the approval should allow diversion of an additional 12.7 cfs from either natural flows or water released from storage. The following priority dates should be assigned:
 - December 30, 1976, for natural flows (reserved by Future Use Permit No. 3428-3.)
 - December 23, 1933, for storage released from Dam Nos. 1, 2, and 4 on the Elm River.
 - January 1, 1937, for storage released from Elm Lake dam.
 - October 7, 1957, for storage released from Willow Creek dam and September 11, 1974, for water diverted into Willow Creek dam from the Maple River and then released for use by the city.

The vested right portion of Water Right No. 3009-3 has been contested and has not been validated by the Water Management Board. The claim should be considered by the Board prior to or at the same time as Application No. 5571-3, if the January 1, 1937, priority date associated with the claim is included on Application No. 5571-3.

- 2) According to Francis Brink, city engineer, no increase is needed in the annual volume of water used by the city. Therefore, if Future Use Permit No. 3428-3 is allowed to remain in effect, then the amount of water reserved should be 10,426 acre-feet (60% of total pumping expected to be developed.)
- 3) The application fee for No. 5571-3 should be \$150.00 to place 12.7 cfs to beneficial use with no increase in the annual volume authorized by Water Right No. 3009-3. Therefore, \$1,175.00 needs to be refunded to the city.
- 4) The review of Future Use Permit No. 3428-3 needs to include the proposed 20,000 acre-feet storage structure.



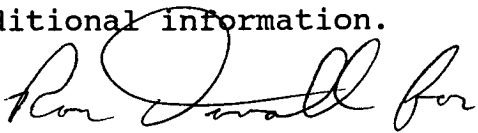
Ron Duvall
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5571-3, City of Aberdeen

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 Water Permit Application No. 5571-3, City of Aberdeen, 123 South Lincoln, Aberdeen, SD 57401.

The Chief Engineer is recommending DEFERRAL of Application No. 5571-3 to allow additional time for review of the application.

See report on application for additional information.


JOHN HATCH, Chief Engineer
9-16-91

Report on Water Permit Application No. 5571-3
City of Aberdeen
December 12, 1991

Water Permit Application No. 5571-3, City of Aberdeen, proposes to appropriate an additional 12.7 cubic feet of water per second, (cfs) from the Elm River, Maple River and Willow Creek. The applicant requests an increase in diversion rate from 12.0 cfs to 24.7 cfs with water to be from natural flows and/or from storage. The diversion point from the Elm River is located in the NW1/4 SW1/4 of Section 15-T124N-R63W at the water treatment plant intakes. The water is to be used by the city for municipal purposes.

Water Source

The source of water for the proposed diversion is from the Elm River, Maple River and Willow Creek. The Elm River is a tributary to the James River, flowing into the James River at a point just south of Columbia, SD. Flow in the Elm River is regulated by means of Elm Lake Dam located on the river in extreme northern Brown County. Water from Willow Creek Dam, located on a tributary to the Elm River approximately 8 miles northwest of Westport, SD, is also released to the Elm River. These dams store flows during periods of high runoff, typically in the Spring. Stored water is released as required throughout the rest of the year.

The U.S. Geological Survey (USGS) maintains a river gaging station on the Elm River at Westport approximately 8 miles upstream of the proposed diversion point. Flow records, based on 44 years of record (1945-1989) show the median of yearly mean flows to be 30 cfs.

Specification of Priority Dates

If Water Permit Application No. 5571-3 is approved, the diversion of the additional 12.7 cfs may be from either natural flows or from water released from storage or a combination of both. Dependent upon the source of the water to be diverted, the following priority dates should be assigned:

- July 24, 1991 for natural flows.
- December 30, 1976, for water reserved by Future Use Permit No. 3428-3 when developed under future applications.
- December 23, 1933, for stored water released from Dam Nos. 2 and 4 on the Elm River, or by direct diversion of water from Dam No. 1.
- January 1, 1937, for stored water released from Elm Lake Dam.
- October 7, 1957, for stored water released from Willow Creek

Dam with the source being from Willow Creek watershed.

- September 11, 1974, for stored water released from Willow Creek Dam with the source being water diverted from the Maple River into the dam.

Review of Existing Water Rights

There are two existing water rights, Nos. 2571-3 and 3987-3, appropriating 0.3 cfs, located on the river above the city intakes, but below most of the storage dams. The priority dates for these water rights are junior to the City of Aberdeen's water rights for storage in those dams. There are no existing water rights located on the Elm River below the proposed diversion point to the point of confluence with the James River approximately 9 miles downstream. There are 123 existing water rights/permits appropriating 272.39 cfs located on the James River below the Elm River confluence to the Hutchinson-Yankton County line. Of these, 106 water rights/permits appropriating 204.2 cfs are senior to the December 30, 1976 priority date. Eighty water right/permits appropriating 141.3 cfs are senior to the September 11, 1974 priority, 27 water rights/permits are senior to the October 7, 1957 priority and one water right appropriating 5.0 cfs is senior to both the January 1, 1937 and December 23, 1933 priority dates.

Water Right No. 3009-3, held by the City of Aberdeen, of which a portion is a vested right claim, allows for the storage of water in several in-channel dams along with storage in Willow Creek Dam and Elm Lake Dam. Water stored in these dams during periods of high flow, is released into the Elm River to provide water for municipal use by the city during low flow periods. Future Use Permit No. 3428-3, also held by the City of Aberdeen, reserves 24.0 cfs of flows for future use. The 24 cfs may be used by direct diversion or stored in up to 20,000 acre feet of storage reservoirs.

Conclusions

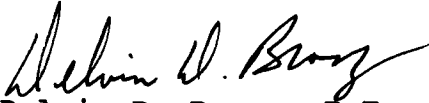
1. Water Permit Application No. 5571-3 proposes to increase the diversion rate from 12.0 cfs to 24.7 cfs.
2. Flow records from the USGS gaging station on the Elm River at Westport show the median yearly mean discharge to be 30 cfs.
3. There are no existing water rights located on the Elm River with priority dates senior to the City of Aberdeen's priority date for storage. There are several water rights/permits located on the James River which have

priority dates senior to the several priority dates associated with this project.



Mark D. Rath
Natural Resources Engineer II

Approved by,



Delvin D. Brosz, P.E.
Natural Resources Engineer IV

References

1. USGS. 1989. Water Resources Data South Dakota Water Year 1989. U.S. Geological Survey Water-Data Report SD-89-1.
2. SDDENR. 1991. Division of Water Rights Records. S.D. Department of Environment and Natural Resources.

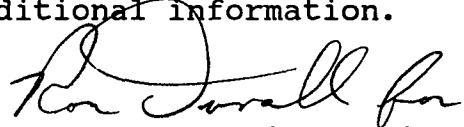
REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5571-3, City of Aberdeen

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 5571-3, City of Aberdeen, 123 South Lincoln, Aberdeen, SD 57401.

The Chief Engineer is recommending APPROVAL of Application No. 5571-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Water Permit No. 5571-3 allows for diversion of an additional 12.7 cfs from either natural flows or water released from storage, or a combination of both. The priority dates for natural flows or stored water as applicable, are as follows:
 - July 24, 1991 for natural flows
 - December 30, 1976 for water reserved by Future Use Permit No. 3428-3, when developed under future applications
 - September 11, 1974 for stored water released from Willow Creek Dam with the source being water diverted from the Maple River into Willow Creek Dam
 - October 7, 1957 for stored water released from Willow Creek Dam
 - January 1, 1937 for stored water released from Elm Lake Dam
 - December 23, 1933 for stored water released from Dam Nos. 2 and 4 on the Elm River or by direct diversion of water from Dam No. 1

See report on application for additional information.


JOHN HATCH, Chief Engineer
12-20-91

COMMENT: Approval of Permit No. 5571-3 does not place to beneficial use water reserved by Future Use Permit No. 3428-3. Natural flows diverted under the July 24, 1991 priority date will be available only when Dam No. 1 is overflowing. Stored water is expected to be the usual water source.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 7, 1992

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

Francis Brink, City Engineer
City of Aberdeen
PO Box 1420
Aberdeen SD 57402-1420

Dear Mr. Brink:

The Notice of Hearing for Water Permit Application No. 5571-3 and review of Future Use Permit No. 3428-3 have been sent to the Publisher of the American News printed at Aberdeen SD. For your information, copies of the notices, the recommendations of the Chief Engineer, a report on Application No. 5571-3 and a Notice of Hearing of Validation of Water Right No. 3009-3 are enclosed. Please review the notices prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of the Notice of Hearings and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish the notices once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proofs of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 7, 1992

American News
PO Box 4430
Aberdeen SD 57402-4430

Dear Sir:

Enclosed is a Notice of Hearing to Review Future Use Water Permit No. 3428-3 and Notice of Hearing on Application No. 5571-3 to Appropriate Water each to be published twice. Please publish the first notice on or before January 14, 1992 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICES ARE TO BE PUBLISHED, before you make the first publications. Please BILL the APPLICANT for the cost of the publications. The APPLICANT is the City of Aberdeen, PO Box 1420, Aberdeen SD 57402-1420.

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 publications 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 publications are returned IMMEDIATELY with the enclosed Proof of Publication forms. DO NOT WAIT until the end of the month or the billing cycle. The permits cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE
No. _____

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

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on January 14, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5571-3 to Appropriate Water

Notice is given that the City of Aberdeen, Box 1420, Aberdeen, SD 57402-1420 has filed an application for a water permit to appropriate an additional 12.7 cubic feet of water per second (cfs) from the Elm River, Maple River and Willow Creek. The application requests an increase in diversion rate from 12.0 cfs to 24.7 cfs. The point of diversion from the Elm River is located at the water treatment plant intakes in the NW 1/4 SW 1/4 Section 15, T124N, R63W. This application, if approved, will allow diversion of an additional 12.7 cfs from either natural flows or stored water released from the Elm Lake Dam located in the SE 1/4 Section 31, T128N, R65W; Willow Lake Dam located in the center of Section 19, T126N, R64W; and two in-channel storage dams on the Elm River located in the SW 1/4 Section 15, T124N, R63W, and the SW 1/4 Section 4, T124N, R63W; or by direct diversion from a dam in the NE 1/4 Section 4, T125N, R64W all authorized by Water Right No. 3009-3 or a combination of natural flows and releases from storage. The proposed increase in diversion rate will allow the city to operate the water treatment plant at maximum capacity to meet municipal needs during high demand periods.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5571-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application 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 recommendation. 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 January 31, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, 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 No. 5571-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for February 11, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the February 11, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board 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 February 11, 1992, 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 application. The request for an automatic delay must be filed by January 31, 1992.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application 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 this application or to assure access to the hearing by the handicapped.

This application is 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; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF BROWN

SS.

Karie Pauley BEING DULY SWORN, ON HIS OATH

That the ABERDEEN AMERICAN NEWS is a DAILY news, general circulation, printed and published in Aberdeen, Brown South Dakota, by the Aberdeen News Company, a corporation, been such a newspaper during the times hereinafter mentioned. I, the affiant, being an employee and principal clerk, have the personal knowledge of all the facts stated in this advertisement headed

Notice of Hearing

a printed copy of which is hereunto attached

ed in the regular and entire issue of said

plement thereof, once each week

The first publication being made on the

The second publication being made on the

The third publication being made on the

The fourth publication being made on the

The fifth publication being made on the

The sixth publication being made on the

The seventh publication being made on the

The eighth publication being made on the

The ninth publication being made on the

That said newspaper is a legal newspaper, being published five days or more each week, having a bona fide circulation of more than two hundred copies daily, having been published in the English language within the said County of Brown for more than one year next prior to the first publication of said notice, and is printed in whole in an office maintained at the place of publication of said newspaper. That the whole amount of the fee paid for the publication of the annexed notice is \$ 93.45, which inures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Karie Pauley

Subscribed and sworn to before me this 21st day of

January 1992

Ella Jaaski

Notary Public, Brown County, S. D.

My commission expires 7-17-95

Daily circulation of 19,930.

ral flows and releases from storage. The proposed increase in diversion rate will allow the city to operate the water treatment plant at maximum capacity to meet municipal needs during high demand periods.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5571-3 because: 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT A HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application 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 recommendation. 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 January 31, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, 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 No. 5571-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for February 11, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E. Capitol, Pierre, SD. If this application is opposed or the recommendation is contested, the February 11, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board 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 February 11, 1992, 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 application. The request for an automatic delay must be filed January 31, 1992.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the hearing. Any hearing will be an adversarial 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 process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and Supreme Court as provided by law. Contact the Water Rights Division for copies of information pertaining to this application or to assure access to hearing by the handicapped.

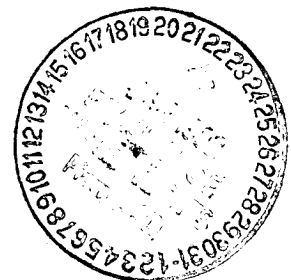
This application is made pursuant to SDCL 46-1-1 thru 46-1-12 thru 46-2-1, 46-2-9, 46-2-11, 46-2-13, 46-2A-1, thru 46-2A-10, 46-2A-12, 46-2A-15, 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.5-31, 46-6-26, and Board Rules 74:02:01:01 thru 74:02:01:15.

Publication Fees \$

Received Payment,

Aberdeen News Co.

By





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 6 1992

Francis Brink, City Engineer
City of Aberdeen
123 S Lincoln
Aberdeen, SD 57401

Dear Mr. Brink:

Enclosed is Water Permit No. 5571-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.



CITY OF ABERDEEN

123 South Lincoln • P.O. Box 1420 • Aberdeen, SD 57402-1420 • (605) 622-7017

ENGINEERING DEPARTMENT

August 10, 1992



Mr. John Hatch
Chief Engineer, Water Rights Division
SDDENR
Joe Foss Building - 523 East Capitol
Pierre, South Dakota 57501

Re: Water Permit 5571-3

Dear John:

We have received the transmittal of Water Permit 5571-3 and the accompanying notice of completion form. Accompanying this correspondence is the notice of completion and application of water to beneficial use. The date of completion reflects the final phase of transmission line reconstruction between the plant and the city. I have inserted today's date for the date of application to beneficial use, but as you know the full amount of the appropriation will be applied as needed.

If this is incorrect, please let me know and I will amend it. We are appreciative of you and your staff in their thoughts, guidance and assistance in getting things in order for the plant diversion rate permit.

Very truly yours,

Francis E. Brink, P.E.
City Engineer

FB/cl

w/attachment

pc: Klabo
Gerdes
w/attachment (1)



**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**

DATE: August 10, 1992

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

Attention: John Hatch

FROM: City of Aberdeen, P.O. Box 1420 Aberdeen, South Dakota 57402-1420

Construction of the water diversion system has been completed and the water can be put to beneficial use to the maximum extent of the permit. The City of Aberdeen has not exceeded the amounts specified in Water Permit No. 5571-3.

Water Permit No. 5571-3 states that the diversion system is to be constructed by February 11, 1997, and that the water it put to beneficial use by February 11, 2001.

The diversion system was completed on November 1, 1990.
Applying the water to beneficial use was completed on August 10, 1992.

You may schedule an inspection so that the Water License may be issued.


Francis E. Brink, P.E.
City Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 8, 1995

Permit No. 5476-3

Permit No. 5571-3

Robin Bobzien, Public Works Director
City of Aberdeen
123 S Lincoln
Aberdeen SD 57401

Dear Mr. Bobzien:

I am writing in reference to an inspection I completed on May 11, 1995, for two of the city's water permits. Steve Gerdes was very helpful in assisting with the inspection.

Permit No. 5571-3 increases the filtration plant diversion rate from 12.0 cubic feet of water per second (cfs) to 24.7 cfs (16 million gallons per day) and Permit No. 5476-3 is for one well located just North of the Eyestone Pit in the NE1/4 NE1/4 section 6-T124N-R63W. The purpose of the inspection is to license each permit for the amount of water that has been put to beneficial use.

Based on the inspection and file review, the following action or information is needed:

Permit No. 5571-3

- The legal description of the pumping point from the Elm River was incorrectly advertised during publication of the notice of hearing. I have enclosed a copy of the notice for your reference. The notice incorrectly referenced direct diversions being from a dam in the NE1/4 section 4-T125N-R64W (correct location is the SW1/4 section 15-T124N-R63W.) This notice will need to be readvertised to ensure that all legal publication requirements are met. We will pay the cost for readvertising the notice. A copy of the readvertisement will be sent to the city for your review prior to publication.

Permit No. 5476-3

- Steve Gerdes informed me that the well authorized by this permit is capable of diverting 1,000 gpm (2.22 cfs) as allowed by the permit. However, Mr. Gerdes did not have access to any of the specifications for the pump equipment in the well. I was directed to contact you to get specifics concerning the type of motor/pump, model No., horsepower, etc. Please forward this information to me so I can complete the inspection report.

August 8, 1995
Robin Bobzien, Public Works Director
Page 2 of 2

- Another important issue to be addressed is the annual volume of water used from this well. When licensing a water permit which places water to beneficial use from a future use permit, the volume of water not developed is placed back into the future use permit. This water may then be developed at a later date under another water permit. Permit No. 5476-3 places water to beneficial use which was reserved under Future Use Permit No. 192-3. According to No. 5476-3, up to 1,600 acre-feet may be used annually (2.22 cfs pumped continuously for one year.) Please advise whether you want No. 5476-3 licensed for 1,600 acre-feet or if you would like No. 5476-3 licensed for a lesser volume with the difference returned to the future use permit. Attached for your reference is a conversation document dated October 3, 1990, concerning this issue.

Upon receipt of the requested information, licensing of the water permits will proceed. A licensing fee of \$50.00 will be assessed for each permit. You may remit the fees now or wait for a formal request at a later date.

If you have any questions concerning the inspection or this letter, please let me know (605) 773-3352. I will try to assist you in any way possible. I would also like to thank Mr. Gerdes for taking some time to answer my questions and for showing me the pumping equipment at the filtration plant.

Sincerely,



Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 2, 1996

Robin Bobzien, Public Works Director
City of Aberdeen
123 S Lincoln
Aberdeen SD 57401

Dear Mr. Bobzien:

I am writing to follow-up on correspondence with you dated August 8, 1995. Enclosed is a copy of the letter for your review with the specified enclosures.

To date, I have not received a response to the letter. In order to license Water Permit Nos. 5571-3 and 5476-3, we need to complete readvertisement of No. 5571-3 as mentioned in the letter and I also need the requested information concerning the well authorized by No. 5476-3.

We will proceed with the readvertisement in the near future. A copy of the readvertisement will be forwarded to you for your review prior to publication.

Please contact me if you have any questions or need assistance at (605) 773-3352. Thank you for your attention to this matter.

Sincerely,

Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosures

c: Bruce Nelson, Finance Officer

REPORT ON WATER PERMIT NO. 5571-3
CITY OF ABERDEEN
January 2, 1996

Water Permit No. 5571-3 appropriates an additional 12.7 cubic feet of water per second (cfs) from the Elm River, Maple River and Willow Creek. This permit increases the diversion rate from 12.0 cfs to 24.7 cfs. Readvertisement of this permit is necessary to correct the location of two of the diversion points prior to issuance of the water license.

The point of diversion from the Elm River is located at the water treatment plant intakes in the NW 1/4 SW 1/4 Section 15-T124N-R63W. This permit allows diversion of an additional 12.7 cfs from either natural flows or stored water released from the Elm Lake Dam located in the SE 1/4 Section 31-T128N-R65W; Willow Lake Dam located in the center of Section 19-T126N-R64W; and two in-channel storage dams on the Elm River located in the NE 1/4 Section 4-T125N-R64W and the SE 1/4 Section 4-T124N-R63W; or by direct diversion from a dam in the SW 1/4 Section 15-T124N-R63W; all authorized by Water Right No. 3009-3 or a combination of natural flows and releases from storage. This readvertisement does not authorize any increase in the developed water appropriation.

Conclusions

1. This is a readvertisement of the Notice of Hearing for Water Permit No. 5571-3.
2. This readvertisement is necessary to correct the legal description of two of the diversion points prior to issuance of the water license.
3. The correct legal descriptions are as follows: two in-channel storage dams on the Elm River are located in the NE 1/4 Section 4-T125N-R64W and the SE 1/4 Section 4-T124N-R63W or by direct diversion from a dam in the SW 1/4 Section 15-T124N-R63W.



Eric Gronlund
Natural Resources Engineer



Ron Duvall
Natural Resources Engineer IV

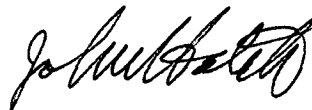
**RECOMMENDATION OF CHIEF ENGINEER FOR READVERTISED WATER
PERMIT APPLICATION NO. 5571-3, City of Aberdeen**

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 readvertised Water Permit Application No. 5571-3, City of Aberdeen, %Robin Bobzien, Public Works Director, 123 S. Lincoln, Aberdeen, SD 57401.

The Chief Engineer is recommending APPROVAL of Application No. 5571-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Water Permit No. 5571-3 allows for diversion of an additional 12.7 cfs from either natural flows or water released from storage, or a combination of both. The priority dates for natural flows or stored water is applicable, are as follows:
 - July 24, 1991, for natural flows
 - December 30, 1976, for water reserved by Future Use Permit No. 3428-3, when developed under future applications
 - September 11, 1974, for stored water released from Willow Creek Dam with the source being water diverted from the Maple River into Willow Creek Dam
 - October 7, 1957, for stored water released from Willow Creek Dam
 - January 1, 1937, for stored water released from Elm Lake Dam
 - December 23, 1933, for stored water released from Dam Nos. 2 and 4 on the Elm River or by direct diversion of water from Dam No. 1

See report on application for additional information.



JOHN HATCH, Chief Engineer
February 6, 1996



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 7, 1996

Robin Bobzien, Public Works Director
City of Aberdeen
123 S. Lincoln
Aberdeen, SD 57401

Dear Mr. Bobzien:

The original notice of hearing for Water Permit No. 5571-3 was published with an error in the location of two of the diversion points. Therefore, the notice of hearing needs to be readvertised to correct the error. A notice of hearing has been sent to the Publisher of the American News printed at Aberdeen, SD (Ph # (605) 225-4100). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the readvertisement are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Water Rights Program. Please contact us if you have any questions.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 7, 1996

American News
P.O. Box 4430
Aberdeen, SD 57401-4430

Attn: Legal Department

Enclosed is a Readvertisement of Notice of Hearing on Permit No. 5571-3 to be published twice. Please publish the first notice on February 16, 1996, with the second publication 7 days later.

Please bill the Water Rights Program for the cost of the advertisement.

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

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

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

Name _____

Newspaper _____

Readvertisement of NOTICE OF HEARING ON APPLICATION NO. 5517-3 to Appropriate Water

Notice is given of readvertisement of Water Permit No. 5571-3 held by the City of Aberdeen, 123 S. Lincoln, Aberdeen, SD 57401. The water permit was originally applied for July 24, 1991. Water Permit No. 5571-3 appropriates an additional 12.7 cubic feet of water per second (cfs) from the Elm River, Maple River and Willow Creek. The permit increases the diversion rate from 12.0 cfs to 24.7 cfs. Readvertisement of this permit is necessary to correct the location of two of the diversion points. The point of diversion from the Elm River is located at the water treatment plant intakes in the NW 1/4 SW 1/4 Section 15-T124N-R63W. This permit allows diversion of an additional 12.7 cfs from either natural flows or stored water released from the Elm Lake Dam located in the SE 1/4 Section 31-T128N-R65W; Willow Lake Dam located in the center of Section 19-T126N-R64W; and two in-channel storage dams on the Elm River located in the NE 1/4 Section 4-T125N-R64W and the SE 1/4 Section 4-T124N-R63W; or by direct diversion from a dam in the SW 1/4 Section 15-T124N-R63W; all authorized by Water Right No. 3009-3 or a combination of natural flows and releases from storage. This readvertisement does not authorize any increase in the developed water appropriation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Readvertised Application No. 5571-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, 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 March 4, 1996.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Brown) SS

I, Roberta Dempsey



certify that the attached printed Notice was

taken from the February 23rd
Aberdeen American News

printed and published in Aberdeen

County of Brown and State of

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

Feb 16, 1996

Feb 23, 1996

Cost of Printing: 69.89

7 1/4" @ 482 per inch

Roberta Dempsey
(Signature)

Receptionist
(Title)

Feb 23 1996
(Date Signed)

(No. 57 - Feb. 16, 23 - 27)
Re-advertisement of NOTICE OF
HEARING ON APPLICATION NO. 5517-3
to Appropriate Water

Notice is given of re-advertisement of Water Permit No. 5571-3 held by the City of Aberdeen, 123 S. Lincoln, Aberdeen, SD 57401. The water permit was originally applied for July 24, 1991. Water Permit No. 5571-3 appropriates an additional 12.7 cubic feet of water per second (cfs) from the Elm River, Maple River and Willow Creek. The permit increases the diversion rate from 12.0 cfs to 24.7 cfs. Re-advertisement of this permit is necessary to correct the location of two of the diversion points. The point of diversion from the Elm River is located at the water treatment plant intakes in the NW 1/4 SW 1/4 Section 15-T124N-R63W. This permit allows diversion of an additional 12.7 cfs from either natural flows or stored water released from the Elm Lake Dam located in the SE 1/4 Section 31-T128N-R65W; Willow Lake Dam located in the center of Section 19-T126N-R64W; and two in-channel storage dams on the Elm River located in the NE 1/4 Section 4-T125N-R64W and the SE 1/4 Section 4-T124N-R63W; or by direct diversion from a dam in the SW 1/4 Section 15-T124N-R63W; all authorized by Water Right No. 3009-3 or a combination of natural flows and releases from storage. This re-advertisement does not authorize any increase in the developed water appropriation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Re-advised Application No. 5571-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, 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 March 4, 1996.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

PAYMENT REQUEST FORM

PAYEE: Aberdeen American News
P.O. Box 4430
Aberdeen, SD 57402-4430

FROM: Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Readvertisement of Notice of Hearing on Application No. 5517-3
to Appropriate Water published on February 16 & 23, 1996.

AMOUNT: \$69.89

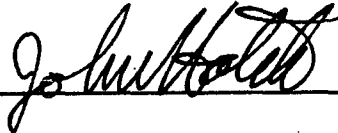
FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:



8-28-96

I declare and affirm under the penalties of perjury that this claim is
in all things, true and correct. I further agree to comply with the
provisions of the Civil Rights Act of 1964 and regulations issued
thereunder relating to nondiscrimination in federal assisted programs.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 27, 1996

5476-3

5571-3

Bruce Nelson, Finance Officer
City of Aberdeen
123 S. Lincoln
Aberdeen, SD 57401

Dear Mr. Nelson:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit Nos. 5476-3 and 5571-3, have been completed. Your final water right documents, the Water Licenses, can now be issued.

Statutes require that we charge a \$50.00 fee per license for the inspection and issuance of the Water Licenses. Upon receipt of the \$50.00 fee per license from you (\$100.00 total), we will begin processing your Water Licenses.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit numbers. This will insure proper handling of the fee.

RECEIPT

415034

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ July 31, 19 96

RECEIVED OF City of Aberdeen, Box 1420, Aberdeen, SD 57402-1420

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. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>5571-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch (R)
Chief Engineer

Permit No. 5571-3
James River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, May 11, 1995, made a thorough examination of the water use system constructed by the City of Aberdeen of 123 S Lincoln, Aberdeen SD 57401 holder of Permit No. 5571-3, bearing the priority of (see qualification No. 2 on Permit No. 5571-3 authorizing the diversion of 12.7 cu. ft. per second of either natural flows or stored water from the waters of the Elm River, Maple River, and Willow Creek for municipal purposes, in Brown County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

Operate six motor/pump units located in the filtration plant (see inspection checklist for specs on equipment)

B. Works used to transport water to place of use:

According to Steve Gerdes, water superintendent, the line capacity is 16 million gallons per day which equates to 24.7 cfs. Even though more capacity exists based on totaling the individual pump rates, the flow hydraulics are not efficient operating at over 16 MGD.

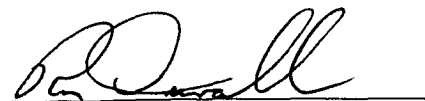
C. Works used to apply water to beneficial use:

City Distribution System

The system is in the following condition good. The point of diversion is located Elm River: 600 feet E and 2,000 feet N from the SW corner of section 15-T124N-R63W (NW1/4 SW1/4). The works are capable of diverting and conveying to the place of use 24.7 (12.0 -- No. 3009-3; 12.7 -- No. 5571-3)* cu. ft. per second of water which is to be used for municipal purposes.

Applicable permit qualifications have been complied with: Yes ☒ No

Exceptions to compliance are: none Date report completed: August 7, 1995



Ron Duvall
Natural Resources Engineer
DENR, Water Rights Program

***I recommend that Water Right No. 3009-3 and Permit No. 5571-3 not be incorporated. Water Right No. 3009-3 already incorporates several water permits with various water sources, storage amounts, and associated priority dates. Incorporating No. 3009-3 into No. 5571-3 would add another layer of complexity to an already complex water license.**

INSPECTION CHECKLIST FOR PERMIT NO. 5571-3

DATE OF INSPECTION:	May 11, 1995
NAME & ADDRESS OF INSPECTION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	Steve Gerdes, Water Superintendent
NAME & ADDRESS OF PERMIT HOLDER	City of Aberdeen 123 S Lincoln Aberdeen SD 57401
DIVERSION POINT LEGAL LOCATION	Elm River: 600 feet E and 2,000 feet N from the SW corner of section 15- T124N-R63W (NW1/4 SW1/4)

Other permit(s) associated with the project: 3009-3

Motor: (1)

- 1) Make General Electric
- 2) Model No. 5K 365Y3
- 3) Horsepower rating 15 hp

Pump:

- 1) Make American Well Works
- 2) Fig 4004
- 3) Size 2 MGD (Mil. Gal per Day)
- 4) Capacity 1400 GPM

Motor: (2)

- 1) Make General Electric
- 2) Model No. 5K286AL305C
- 3) Horsepower rating 20 hp

Pump:

- 1) Make Peerless
- 2) SN 412034
- 3) Size 2 MGD
- 4) Capacity 1400 GPM

Motor: (3)

- 1) Make Shakstaa
- 2) Model No. C66141
- 3) Horsepower rating 30 hp

Pump:

- 1) Make American
- 2) Fig 4004
- 3) Size 4 MGD
- 4) Capacity 2800 GPM

Motor: (4)

- 1) Make Fair-Banks Morse
- 2) Model No. T1202-1
- 3) Horsepower rating 25 hp

Pump:

- 1) Make Fair-Banks Morse
- 2) Model P2B24
- 3) Size 4 MGD
- 4) Capacity 2949 GPM

Motor: (5)

- 1) Make Fair-Banks Morse
- 2) Model No. T1202-1
- 3) Horsepower rating 25 hp

Pump:

- 1) Make Fair-Banks Morse
- 2) Model P2B23
- 3) Size 4 MGD
- 4) Capacity 2949 GPM

Motor: (6)

- 1) Make General Electric
- 2) Model No. BWJ202123
- 3) Horsepower rating 75 hp

Pump:

- 1) Make Peerless
- 2) Model 24HXB, SN 240368
- 3) Size 6 MGD
- 4) Capacity 5600 GPM

DISTRIBUTION LINES:

According to Steve Gerdes, water superintendent, the line capacity is 16 million gallons per day which equates to 24.7 cfs. Even though more capacity exists based on totaling the individual pump rates, the flow hydraulics are not efficient operating at over 16 MGD.

PERMIT QUALIFICATIONS:

- 1) Special qualifications to permit being abided by Y
- 2) All structures, wells and lands on map Y

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5571-3

(1) City of Aberdeen, 123 S Lincoln, Aberdeen SD 57401 made Application No. 5571-3, July 24, 1991 for a water permit to divert an additional 12.7* cubic feet of water per second (cfs) from either natural flows or stored water from waters of the Elm River, Maple River, and Willow Creek, Brown County, South Dakota for municipal use purposes. Permit No. 5571-3, was approved February 11, 1992 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before February 11, 1997 and for the application to beneficial use of said water on or before February 11, 2001.

The permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on August 11, 1992. The "*Notice*" stated the diversion system was completed on November 1, 1990 and the water placed to beneficial use on August 10, 1992.

The permit was readvertised February 16 and 23, 1996 to correct an error on the original notice of hearing in the legal description of two of the diversion points. The readvertisement of the original notice of hearing did not authorize an increase in the developed water appropriation.

The priority dates for the natural flows or stored water are as follows:

- July 24, 1991 for natural flows
- December 30, 1976 for water reserved by Future Use Permit No. 3428-3, when developed under future applications
- September 11, 1974 for stored water released from Willow Creek Dam with the source being water diverted from the Maple River into Willow Creek Dam
- October 7, 1957 for stored water released from Willow Creek Dam
- January 1, 1937 for stored water released from Elm Lake Dam
- December 23, 1933 for stored water released from Dam Nos. 2 and 4 on the Elm River or by direct diversion of water from Dam No. 1

* Water Right No. 3009-3 also appropriates 12.0 cfs from the water sources described above for a total, combined diversion rate of 24.7 cfs.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 12.7 cubic feet of water per second for beneficial use. The location of the diversion point to the treatment plant is Elm River: 600 feet east and 2,000 feet north from the southwest corner of Section 15-T124N-R63W (NW 1/4 SW 1/4)

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(continued)

Water License No. 5571-3

City of Aberdeen

Page 2

(4) Pursuant to South Dakota Water Law 46-5-30.1 the City of Aberdeen, 123 S Lincoln, Aberdeen SD 57401 the holder and/or owner of Water Permit No. 5571-3 is issued a license to appropriate water, the right to use 12.7 cubic feet of water per second from either natural flows or stored water from waters of the Elm River, Maple River, and Willow Creek with priority dates as described above from the location specified in (2) of this license. The water to be used for the purpose of municipal use. This license is subject to any limitations or qualifications listed in Water Permit No. 5571-3 and subject to South Dakota State Law.



JOHN MATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 15 1996

date



NOT TO SCALE

water plant



T2492
Permit No. 5571-3

155.1
D. J. Small
Natural Resources Engineer
8/7/95



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 15 1996

Bruce Nelson, Finance Officer
City of Aberdeen
123 S Lincoln
Aberdeen SD 57401-1420

Dear Mr. Nelson:

Enclosed are Water License Nos. 5476-3, 5571-3 and Reissued Water Permit No. 5571-3. The receipts which were assessed for the investigation and issuance of the licenses are also enclosed. Water License Nos. 5476-3 and 5571-3 are the final documents which complete the process of obtaining water rights.

As long as the City of Aberdeen uses the water beneficially, as stated in the Water Licenses, State Water Laws provide that the City has a continuing right to use the water.

Very truly yours,

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

ks

enclosures