

Considered: _____

WATER PERMIT NO. 5641-3

Phone: 605 225-0520

Name of Applicant: Heartland Grain Fuels, L.P.

Post Office Address: 3601 Brown County 12 W, Aberdeen SD 57401

Amount of Water Claimed: 0.77 cfs Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: industrial County: Brown

About 1 miles west of Aberdeen

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 3-18-92 Fee: \$300 Remarks _____

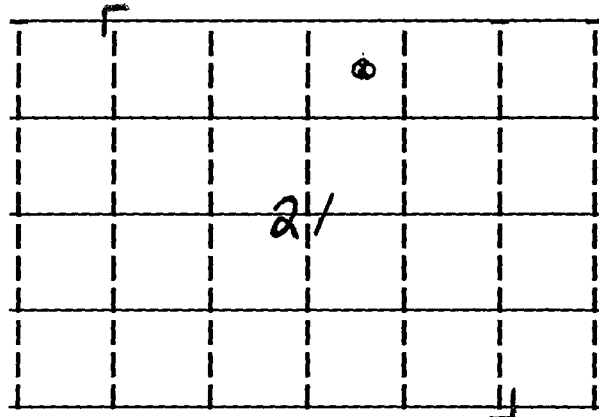
Corrected Application Received _____ Period of Annual Use May 1 - Sept 30

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

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

Diversion Point: NW 1/4 NE 1/4 Sec 21-T123N-R64W

Land to be Irrigated: _____



Well Log: Driller: Pullman Drilling Licensed YES X NO _____

Depth of Well: 190' REMARKS _____

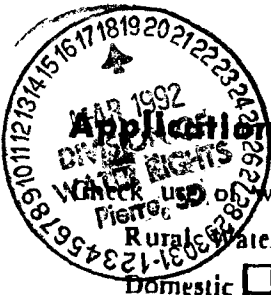
Type of Map: plat PREPARED BY: Lomnie Anderson, P.E. Reviewed and the Number

Assigned on 3-17-92 By Karen Schlaak

No. 5641-3 Hydrologic Unit 10160003
Map No. _____ Basin James River
Newspaper American News, PO Box 4430

225-4100

57402-4430

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

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

Type of Application: Check one or more of the following

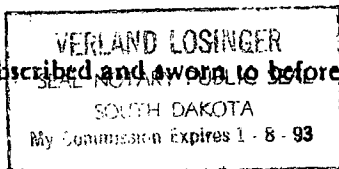
New ☒ Vested Right ☐ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant Heartland Grain Fuels, L.P. Phone No. 605-225-0520Post Office Address 7601 Brown County 12, W. Aberdeen, State SD 57401
(Street, RR or Box) (City) Zip Code2. Amount of water claimed (c.f.s.) 350 GPM (0.77 cfs)3. Source of water supply Well (ground water)4. Location of point of diversion NW 1/4 of the NE 1/4 of Section 21
T 123 R 64 (see attached drawing)County Brown5. Counties where water will be used Brown6. Annual period during which water is to be used May 1 - September 30

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)
 Heartland Grain Fuels will be constructing a 4 million gallon per year ethanol plant. The well water we are applying for will be used as a cooling source for fermentation tanks during the warm summer months. During the rest of the year, cooling towers will be used to cool the tanks.

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 _____)^{ss}

I, Heartland Grain Fuels, L.P. 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 Ed Bosanko, ChairmanSubscribed and sworn to before me this 17th day of March 1992

Notary Public

**REISSUED
SOUTH DAKOTA
WATER PERMIT NO. 5641-3**

Date of first receipt of application March 18, 1992.

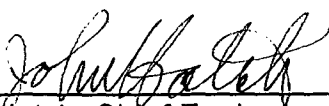
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5641-3 to Heartland Grain Fuels, L.P., 2601 Brown County 12W, Aberdeen SD 57401 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. to appropriate 0.77 cubic feet of water per second from one well (Middle James-Columbia Aquifer) 190 feet deep located in the NW 1/4 NE 1/4 Section 21-T123N-R64W.
2. The water appropriated shall be used for the purpose of supplying water for industrial purposes and may not exceed the amount of water needed for beneficial use for industrial use.
3. The water is to be used during the following described annual period: May 1 - September 30.
4. The date of approval of Permit No. 5641-3 is June 3, 1992.
5. The date from which applicant may claim right is March 18, 1992.
6. One-fifth of the construction is to be completed on or before September 18, 1994.
7. All construction is to be completed on or before March 18, 1997.
8. Water is to be put to beneficial use on or before March 18, 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. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 5641-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.

WATER MANAGEMENT BOARD

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

JUN 9 1995

date



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 9, 1995

Bob Sedlacek
Heartland Grain Fuels, L.P.
3601 Brown County 12 W
Aberdeen SD 57401

Dear Mr. Sedlacek:

Enclosed is Reissued Water Permit No. 5641-3 for Heartland Grain Fuels, L.P. This permit authorizes construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

If you have any questions, please contact this office.

Very truly yours,

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

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

enclosure

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 18" Depth 190 FT
- b) Casing Type PVC Diameter 10" Thickness .500
- c) Screen Type PVC Diameter 10" Thickness .500
- d) Gravel Pack Thickness 4" Length of Gravel Pack 60'
- e) Depth to Top of Water Bearing Material 113'
- f) Depth to Water (ground surface to water level) 20'
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
If Pipe, diameter _____

f) Secondary Spillway Capacity _____
Spillway width _____

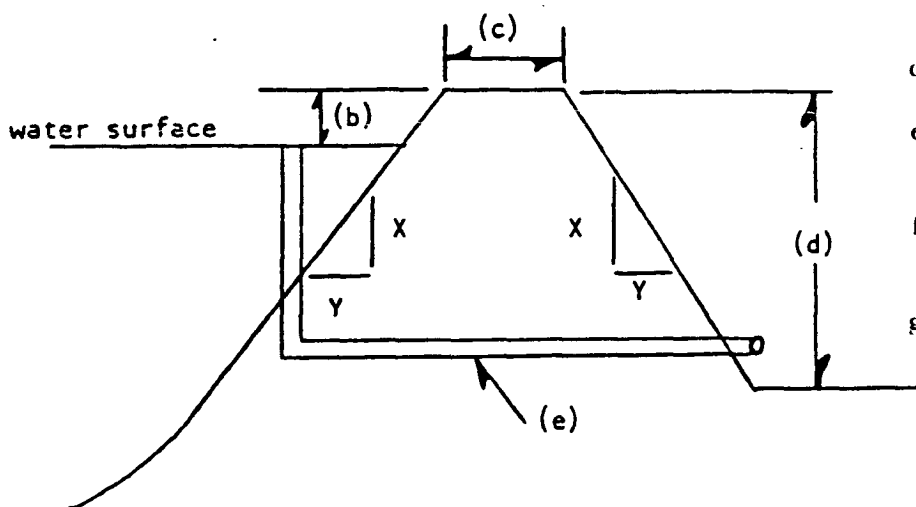
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Ed Bosanko, Chairman

Signature of Applicant

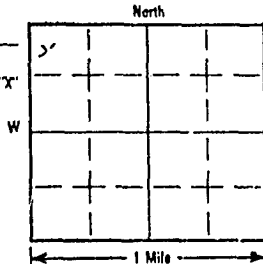
SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NW 1/4 NW 1/4 Sec 21 Twp 13-N Rg 64-W

County Brown

Please mark well location with an "X"



Well Completion Date 7-7-92

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? _____ ft. from _____ (Identify source).

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☒ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Forward Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other C

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>10</u> IN	<u>0</u> FT	<u>150</u> FT	<u>20</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Grout</u>	<u>30</u>	<u>lb./gal</u>	<u>30</u> ft.	<u>140</u> ft.
<u>Cement</u>	<u>30</u>	<u>lb./gal</u>	<u>140</u> ft.	<u>30</u> ft.

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☒ Manufactured

Diameter 10 IN Length 40 FEET

Material PVC

Slot Size 1/16 Set From 150 Feet to 190 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? Brass pack

DISINFECTION:

Was well disinfected upon completion? ☒ YES, How: Belts

NO, Why Not? _____

Laboratory sent to for water quality analysis _____

Well Owner: SD Grain Truck LP
Business Name: Hartford Grain Truck, L.P.
Address: 3601 Brown Co. West 12
Aberdeen, SD 57401

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Yellow Clay</u>	<u>0</u>	<u>15</u>
<u>Blue Clay w/ sand streak</u>	<u>15</u>	<u>20</u>
<u>Blue Clay</u>	<u>20</u>	<u>70</u>
<u>Blue Clay w/ sand streak</u>	<u>70</u>	<u>110</u>
<u>Fine Sand</u>	<u>110</u>	<u>190</u>

TD 190'

STATIC WATER LEVEL 18 Feet

If flowing: closed in pressure _____ PS

GPM flow _____ through _____ inch pip

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: _____

☐ Bailed _____

☐ Other _____

Pumping Level Below Land Surface

94 ft. After 4 Hrs. pumped 450 G

ft. After _____ Hrs. pumped _____ G

If pump installed, pump rate _____ GPM

REMARKS



This well was drilled under license # 440

And this report is true and accurate.

Drilling firm Pullman Well Drilling

Signature of License Representative: _____

R. E. Riehl

Signature of Well Owner or Equitable Property Holder: _____

Date: 12-17-92

PULLMAN DRILLING — DRILLERS LOG

Phone: 1-800-451-4884

SOUTH DAKOTA GRAIN FUELS LP
JOB NAME

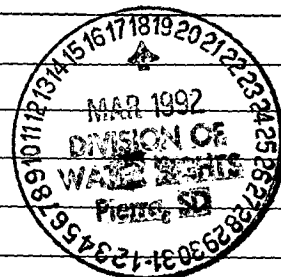
ABERDEEN, SD
LOCATION

Feb. 25, 1992
DATE

RIG NO.

JERAINE
FOREMAN

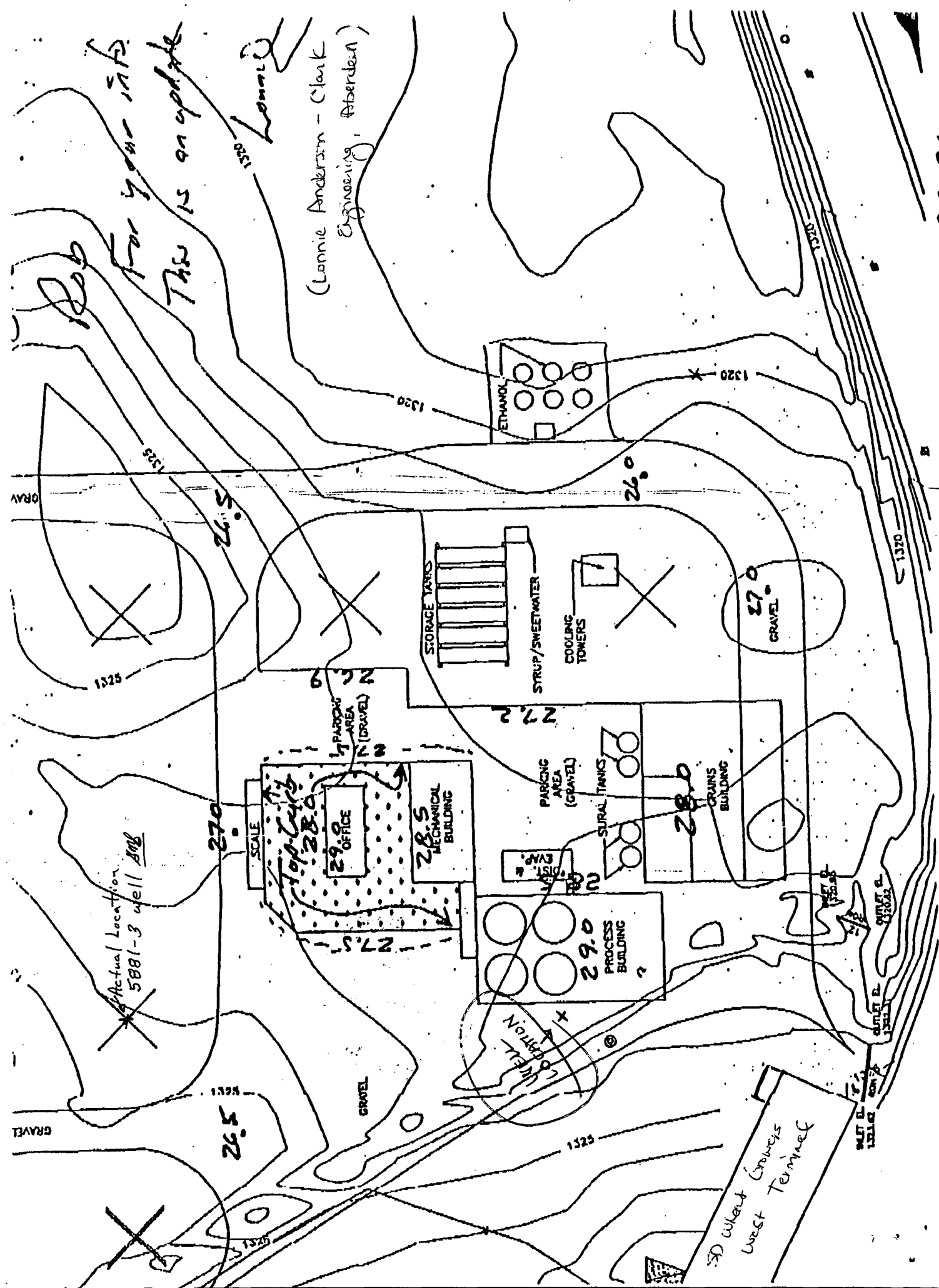
Jt No.	DEPTH	TIME	REMARKS
1	20		0-10 Yellow Clay 10-20 Yellow Sand & Clay
2	40		20-40 Blue Clay
3	60		40-60 Blue Clay
4	80		60-80 Blue Clay w/Sand Streaks
5	100		80-100 Blue Clay w/Sand Streaks Rock @ 92 ft.
6	120		100-113 Blue Clay w/Sand Streaks 113-120 Fine Sand
7	140		120-140 Fine Sand w/Clay Breaks and Coal Breaks
8	160		140-160 Fine Sand
9	180		160-180 Fine Sand w/Coal Layers
10	200		180-190 Fine Sand 190-194 Blue Clay 194-200 Fine Sand
11	220		200-205 Blue Clay 205-210 Fine Sand 210-220 Blue Clay
12	240		220-240 Blue Clay w/Sand Streaks
13	260		240-260 Blue Clay w/Sand Streaks
14			
15			
16			
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25			
26			
27			
28			



8-9-91

~~For your info.~~
~~This is an update~~

1980 Lonnie
(Lonnie Anderson - Clark
Engineering, Aberdeen)



RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

413132

Pierre, March 18, 19 92

RECEIVED OF South Dakota Grain Fuesl, L.P., P.O. Box 1435, Aberdeen, SD 57402-1435

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

Fee for Application for Permit No. <u>5641-3</u> to Appropriate Water, to construct works and to put water to beneficial use	300	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	300	00

By John Hatch
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 13, 1991

South Dakota Grain Fuels, L.P.
Jeff Bruin, Project Supervisor
PO Box 1435
Aberdeen SD 57401-1435

Dear Mr. Bruin:

In regard to the water permit application received on November 12, 1991, the following information needs to be submitted and clarified in order to process the application for the South Dakota Grain Fuels, L.P.

1. Please complete Item No. 2 of the application listing the amount of water claimed. The filing fee is based on this amount. Enclosed is the check for \$325. This would be the correct fee if the application is for 450 gpm to 525 gpm.
2. Item No. 4 should list the quarter-quarter (40 acre parcel) section, township and range of the well location. Section 17 and 21 are both listed on the application. Which is correct?
3. The map submitted with the application must reference the location of the diversion point (place where the well is located) in relation to a government section corner or quarter corner by direction and distance.
4. Since it is not practical to drill a test hole, please contact the well driller for an estimate of the formations to be encountered based on available geologic information.

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

Sincerely,

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 28, 1992

South Dakota Grain Fuels, L.P.
Jeff Bruin, Project Supervisor
PO Box 1435
Aberdeen SD 57401-1435

Dear Mr. Bruin:

On November 12, 1991, you submitted an application (copy enclosed) for a permit to appropriate water for the South Dakota Grain Fuels. You were notified on November 13, 1991 (copy enclosed) that the application was incomplete and were instructed what additional information was necessary in order to complete the application. To date, we have not received a response from you.

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.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosure

REPORT ON APPLICATION NO. 5641-3
for Heartland Grain Fuels
April 20, 1992

Application No. 5641-3 proposes to appropriate 0.77 cfs from one well approximately 190 feet deep located in the NW 1/4 NE 1/4 of section 21, T123N R64W in Brown County. The water will be used for industrial purposes.

AQUIFER - MIDDLE JAMES COLUMBIA (MJ-C)

The Middle James Columbia is a glacial outwash (sand and gravel) under confined (artesian) conditions. The driller's log submitted with the application indicates that sand was encountered from 120 feet to about 190 feet below land surface. The log describes clay with sand streaks beginning at about 60 feet and continuing below 190 feet. The Middle James Aberdeen underlies 118,800 acres and contains an estimated 356,000 acre feet of recoverable water in Brown County (Hedges, 1982). The aquifer is hydraulically connected to the Middle James Columbia to the north and extends into Spink County to the south. Also the Middle James aquifer system is potentially interconnected to the overlying Elm aquifer which may provide most of the recharge to the aquifer (Koch, 1976).

The Division of Water Rights monitors one observation well BN-82C which is completed into the Middle James Aberdeen and is located about 2 miles south of this application. The water levels in this well show response to climatic conditions, that is, rising during wet years and gradually declining during dry years. In general, the water levels have not changed much for the period of record and indicate that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There is one existing Water Permit No. 5485-3 which is located approximately 1 1/2 miles south of this proposed diversion. Interference is not expected to be adverse. Drawdown will occur as a result of pumping in artesian aquifers such as the Middle James Columbia. Significant drawdown is not expected at a distance of 1 1/2 mile and should not affect water availability from the aquifer.

CONCLUSIONS

1. Water is available from the Middle James Columbia aquifer.
2. The aquifer is under confined (artesian) conditions. Drawdown due to pumping can be expected. This should not adversely affect water availability from the aquifer.
3. Any well authorized by this permit must be constructed in accordance with SD Well Construction Standards. The applicant should consider drilling two wells for this project so that there

is a backup available.

4. The water will be used for cooling purposes and used only during the warm summer months.
5. Heartland Grain Fuels has applied for a discharge permit. The permit is being advertised at this time.


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., etal, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Koch, N.C., W. Bradford, 1976, Geology and Water Resources of Brown County, South Dakota, SDGS Bulletin 26, SD DENR, SDGS, Vermillion, SD, 57069.
- Water Rights, 1992, Unpublished Observation Well Records for Brown County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5641-3, Heartland Grain Fuels, L.P.

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. 5641-3, Heartland Grain Fuels, L.P., c/o Ed Bosanko, 3601 Brown County 12 West, Aberdeen, SD 57401.

The Chief Engineer is recommending APPROVAL of Application No. 5641-3 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) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 5641-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted with cement (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:29.

See report on application for additional information.


JOHN HATCH, Chief Engineer
April 24, 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 29, 1992

Aberdeen American News
PO Box 4430
Aberdeen, SD 57402-4430

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5641-3 to be published twice. Please publish the first notice on May 7, 1992, 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 Heartland Grain Fuels, L.P., 3601 Brown County 12 W, Aberdeen, SD 57401 (Ph # 225-0520).

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. No action may be taken on the permit application until proof of publication has been received.

Sincerely, .

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE

No. _____

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

Date _____

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

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

April 29, 1992

Ed Bosanko
Heartland Grain Fuels, L.P.
3601 Brown County 12 W
Aberdeen, SD 57401

Dear Mr. Bosanko:

Water Permit Application No. 5641-3 for industrial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Aberdeen American News printed at Aberdeen, SD (Ph # 225-4100). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing 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. The newspaper has been instructed to send us the Proof 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 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.

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

NOTICE OF HEARING on Application No. 5641-3 to Appropriate Water

Notice is given that Heartland Grain Fuels, L.P., 3601 Brown County 12 W, Aberdeen, SD 57401 has filed an application for a water permit to appropriate 0.77 cubic feet of water per second from one well (Middle James:Columbia Aquifer) 190 feet deep located in the NW 1/4 NE 1/4 Section 21-T123N-R64W. The water will be used for industrial purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5641-3 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 May 26, 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. 5641-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for June 3, 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 June 3, 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 June 3, 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 May 26, 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; 46-6-3, 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.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF BROWN

ss.

Karie Pauley BEING DULY SWORN, ON HIS OATH SAYS:

That the ABERDEEN AMERICAN NEWS is a DAILY newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned, that affiant is an employee and principal clerk of said publisher and has personal knowledge of all the facts stated in this affidavit; that the advertisement headed

Application #5641-3

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each week for 2 successive weeks

The first publication being made on the 7th day of May

The second publication being made on the 14th day of May

The third publication being made on the day of

The fourth publication being made on the day of

The fifth publication being made on the day of

The sixth publication being made on the day of

The seventh publication being made on the day of

The eighth publication being made on the day of

The ninth publication being made on the day of

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 \$ 75.65, 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 14th day of

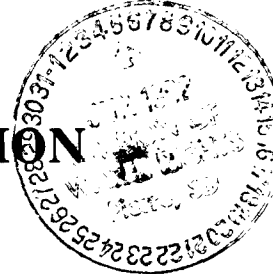
May 1992

Ella Jaaska

Notary Public, Brown County, S. D.

My commission expires 7-17-95

Daily circulation of 19,930.



(No. 921 - May 7, 14 - 2T)

NOTICE OF HEARING on Application No. 5641-3 to Appropriate Water

Notice is given that Heartland Grain Fuels, L.P., 3601 Brown County 12 W, Aberdeen, SD 57401 has filed an application for a water permit to appropriate 0.77 cubic feet of water per second from one well (Middle James: Columbia Aquifer) 190 feet deep located in the NW 1/4 NE 1/4 Section 21-T123N-R64W. The water will be used for industrial purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5641-3 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 May 26, 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. 5641-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for June 3, 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 June 3, 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 June 3, 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 May 26, 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 1-24. 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; 46-2-1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30, 2, 46-5-30, 4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Public

Receive

At

By



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 6 1992

Ed Bosanko
Heartland Grain Fuels, L.P.
3601 Brown County 12 W
Aberdeen, SD 57401

Dear Mr. Bosanko:

Enclosed is Water Permit No. 5641-3 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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

FACSIMILE TRANSMITTAL COVER SHEET

TRANSMITTAL DATE 6/7/95

TIME _____

TO Bob Sedlacek, Heart

FAX NO 605 229-5744

FAX NO _____

FAX NO _____

FAX NO _____

FAX NO _____

MESSAGE For some reason the actual issued water permit is not in the
file. In its place, I'm sending a copy of the report & recommendation
on Permit No. 5641-3. The permit was approved June 3, 1992.
The attached information will give you the specifics of what is
contained in the water permit. I will get you a copy of the
actual water permit ASAP.

FROM Eric Gronlund

AGENCY DENR/WATER RIGHTS DIVISION

ADDRESS JOE FOSS BUILDING, 523 EAST CAPITOL, PIERRE, SD 57501-3181

PHONE (605) 773-3352 FAX (605) 773-4068

****THIS TRANSMISSION INCLUDES 4 PAGES INCLUDING THIS PAGE****

IF THERE IS ANY PROBLEM WITH THIS TRANSMITTAL, PLEASE CALL (605) 773-3352.

THANK YOU.



June 16, 1995

CLARK
ENGINEERING
CORPORATION

John Hatch
Water Rights
S.D. Dept. of Environment
& Natural Resources
Joe Foss Building
Pierre, SD 57501

Fax: 605-773-4068

RE: Heartland Grain Fuels
Aberdeen, SD

Dear

Consulting Engineers
Land Surveyors

This letter is referenced to the Heartland Grain Fuels Ethanol Alcohol Plant located on the immediate west edge of Aberdeen. They are located in the N½ of Sec. 21-T123N-R64W of the 5th P.M., Brown County, SD.

They currently have a well on site that is approximately 190' deep and pumps approximately 350 gpm. They would like to add a second well on their site and increase their pumping to a total of 1,200 gpm. This water is used as non-contact cooling water at the plant. They also have a discharge permit to discharge the contact cooling water into Foote Creek.

I'd appreciate if you would review their file and advise me of the procedure and forms used to apply for the new well. If you have questions or need other information, please call.

Equal
Opportunity
Employer

Sincerely,

Lonnie G. Anderson, P.E.
CLARK ENGINEERING CORPORATION

LGA/lk
cc: file



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 21, 1995

Lonnie G. Anderson,
Clark Engineering Corporation
P.O. Box 20
Aberdeen, SD 57402-0020

Dear Mr. Anderson:

I am writing in response to your letter to John Hatch on water permitting for Heartland Grain Fuels. Water Permit No. 5641-3 appropriates 0.77 cubic feet of water per second (cfs) from one well (Middle James - Columbia Aquifer) for industrial use by the plant. Enclosed is a copy of Permit No. 5641-3.

Any additional appropriation of water will require a water permit. I assume the proposed construction of the new well will be approximately the same depth as the existing well. The application will then be for an additional appropriation of 1.89 cfs from the existing and proposed well. The plant's total appropriation will then be 2.67 cfs (1200 gpm).

If the proposed well is constructed into a different water source, water permits are necessary to reflect the maximum pump rate from each individual well. This approach may require separate water permits. A water permit being necessary for any additional appropriation from the existing well above the 0.77 cfs authorized by Permit No. 5641-3 and a separate water permit for the appropriation from the new well.

A water permit application form is enclosed. If you have any questions, please feel free to contact me.

Sincerely,

Eric Gronlund
Water Rights Division
605 773-3352

enclosures



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

Date 3-10-99

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

FROM: Hartland Grain Field 38469 133rd St. Aberdeen, S.D.
name address city

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5641-3.

Water Permit No. 5641-3 states that the diversion system is to be constructed by June 3, 1997, and that the water it put to beneficial use by June 3, 2001.

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

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

R. F. McElwain
signature



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 16, 2000

5881-3

Heartland Grain Fuels, L.P.
38469 133rd St
Aberdeen SD 57401

Dear Sir:

On August 8, 2000 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit Nos. 5641-3 and 5881-3, was completed by Stacy Johnson, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law require that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 13 2001

5881-3

Heartland Grain Fuels, L.P.
38469 133rd St.
Aberdeen, SD 57401

Dear Sir:

Enclosed is Water License No. 5881-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416692 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

enclosures

Note: The applicable portions of Water Permit No. 5641-3 were incorporated into Water License No. 5881-3