

Considered: _____

WATER PERMIT NO. VR 5648-3

Phone: 947-4492

Name of Applicant: Sandy Beach Resort

Post Office Address: RR 1, Box 79M, Waubay SD 57273

Amount of Water Claimed: 0.088 cfs - 40 gpm Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Day

About 6 miles North of Waubay

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 3-2-92 Fee: \$15 Remarks Priority date

of January 1, 1952

Corrected Application Received 4-2-92 Period of Annual Use Jan 1 - Dec 31

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

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

Diversion Point: NE 1/4 SW 1/4 Sec 15-T123N-R53W

Land to be Irrigated: _____

		15		
		⊗		

Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: 30' REMARKS _____

Type of Map: topo PREPARED BY: Buane Buckmeier, ASCS Reviewed and the Number

Assigned on 4-2-92 By Karen Schlaak

No. 5648-3 Hydrologic Unit 10160010
Map No. _____ Basin James River
Newspaper Waubay Clipper, 54 1/2 Main St (Mon)

947-4501

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

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

Type of Application: Check one or more of the following

New ☐ Vested Right ☒ Future Use ☐ Change Use ☐

☐ Amend Permit No. _____ with old priority date retained

Change diversion point(s) ☐ **Add diversion point(s)** ☐ **Other** ☐

☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No.☐ Construction to use water reserved by Future Use Permit No. _____

1. Name of Applicant Sandy Beach Resort Phone No. 605-947-4492

Post Office Address RR 1 Box 79m Waukegan State SD 57273
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s) 40 GPM (0.088)

3. Source of water supply well

4. Location of point of diversion ^{NE 1/4} ~~NE 1/4~~ of SW 1/4 Sec 15 Twp 123 Range 53

County Lay

5. Counties where water will be used Dax

6. Annual period during which water is to be used Jan 1st To Dec 31st

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)

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 Day) ss

1. David E. Bents the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Robert B. F.

his 27th day of February 1992

Janet H. Knapp
Notary Public

Notary Public

4-87

My Commission Expires January 31, 1999

SOUTH DAKOTA

VESTED WATER RIGHT NO. 5648-3

Date of Receipt of Claim March 2, 1992.

Date of Validation July 13, 1992.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 5648-3 for Sandy Beach Resort, RR 1, Box 79M, Waubay SD 57273 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 5648-3 appropriates 40 gallons per minute (0.088 cubic feet of water per second) from one well (Coteau Lakes Aquifer) 30 feet deep located in the NE 1/4 SW 1/4 Section 15-T123N-R53W.
2. The appropriated water is used for supplying water to a campground and store and may not exceed the amount of water needed for beneficial use for commercial purposes.
3. The water is to be used during the following annual period: January 1 - December 31.
4. The priority date of the Vested Water Right is January 1, 1952.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____

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

AUG 12 1992

_____ date

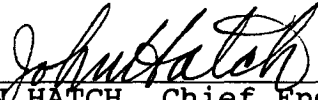
STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 5648-3

(1) Sandy Beach Resort of RR 1, Box 79M, Waubay, SD 57273 made Application No. 5648-3, March 2, 1992 for validation of a vested right claim to appropriate 0.088 cubic feet of water per second (40 gallons per minute) from groundwater (one well), Day County, South Dakota for commercial purposes. Vested Water Right No. 5648-3 was validated July 13, 1992 with a priority date of January 1, 1952. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to divert 0.088 cubic feet of water per second (40 gallons per minute) for beneficial use. The location of the diversion point is: in NE 1/4 SW 1/4 Section 15, T123N, R53W.

(3) Pursuant to Section 46-5-30.1 Sandy Beach Resort of RR 1, Box 79M, Waubay, SD 57273 the holder(s) and/or owners(s) of Vested Water Right No. 5648-3 is issued a license to appropriate 0.088 cubic feet of water per second (40 gallons per minute) from groundwater (one well) with a priority date of January 1, 1952 from the location specified in (2) of this license. The water is to be used for the purpose of commercial use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 5648-3 and subject to South Dakota State Law.



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

AUG 12 1992

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 30 in Depth 30 ft
- b) Casing Type Concrete Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property 100 ft On property owned by others 500 ft

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 _____

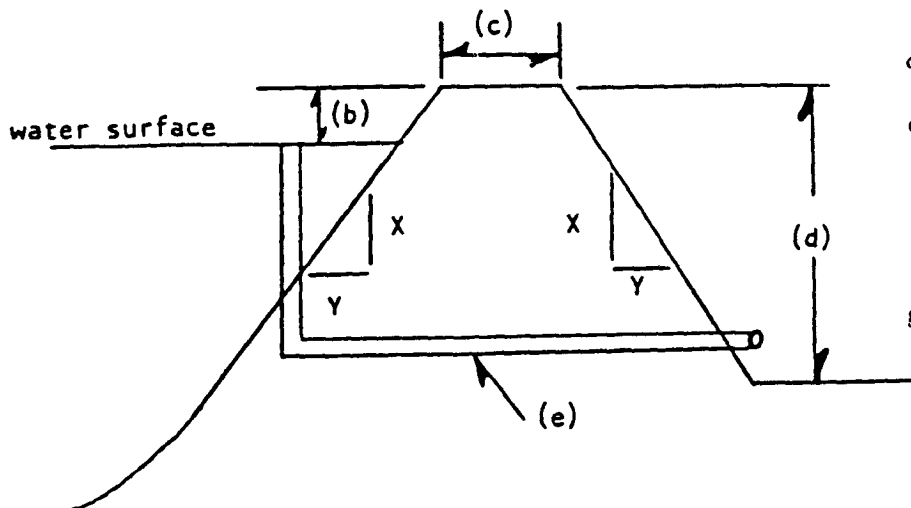
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



David J. [Signature]
Signature of Applicant

Affidavit of Water Use

No. _____

(Type or Print in Ink)

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



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

Name of Applicant (Same as Form 2) Sandy Beach Resort
 Post Office Address RR1 Box 79m Waubay S.D. 57273
 (Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

 Date of recording _____ Recording date _____
 Where Book Page
B. Date of start of construction of water supply system 1952C. Date that water was first applied to beneficial use 1952D. Name of owner of original water supply system James PetersonE. Amount of water originally applied to beneficial use 40 gallons per minute SeasonalF. Present Use of Water - Amount of water now being used 40 gallons per minute SeasonalDate that this water was first used 1952

G. Chronological History of Water Use

water to supply cabins each ground and 5 for 1
For Seasonal Use.

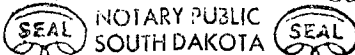
Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota)

County of Day ss
 I, David E. Benita the applicant, certify that I have read the foregoing
 (print or type)
 and that the matters therein stated are true.
Signed David E. Benita

JANET K. KNAPP

Subscribed and sworn to before me

NOTARY PUBLIC
SOUTH DAKOTAJANET K. KNAPP, Notary Public
Day County, South Dakota

My Commission Expires January 31, 1999 Notary Public or other qualified officer

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

James E. Haslam 1992
 (Print name)

 _____ 19____
 (Print name)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

413111

Pierre, _____

March 2, 1992

RECEIVED OF Sandy Beach Resort, RR 1, Box 79M, Waubay, SD 57273

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

Fee for Application for Permit No. <u>5648-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	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	15 00

By

John Hatch 

Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 3, 1992

Sandy Beach Resort
David Benike
RR 1, Box 79M
Waubay SD 57273

Dear Mr. Benike:

In regard to your water permit application received on March 2, 1992, the following information needs to be submitted in order to process your application.

1. A map showing 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. 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).
2. A well log signed by a South Dakota licensed well driller must accompany the application. If a well log is not available, please let us know.

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

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352



United States
Department of
Agriculture

Agricultural
Stabilization and
Conservation Service

Day County ASCS Office
P.O. Box 150
Webster, SD 57274

March 24, 1992

Dave Benike
Sandy Beach Resort
Enemy Swim Lake
Waubay, SD 57273



Dear Mr. Benike,

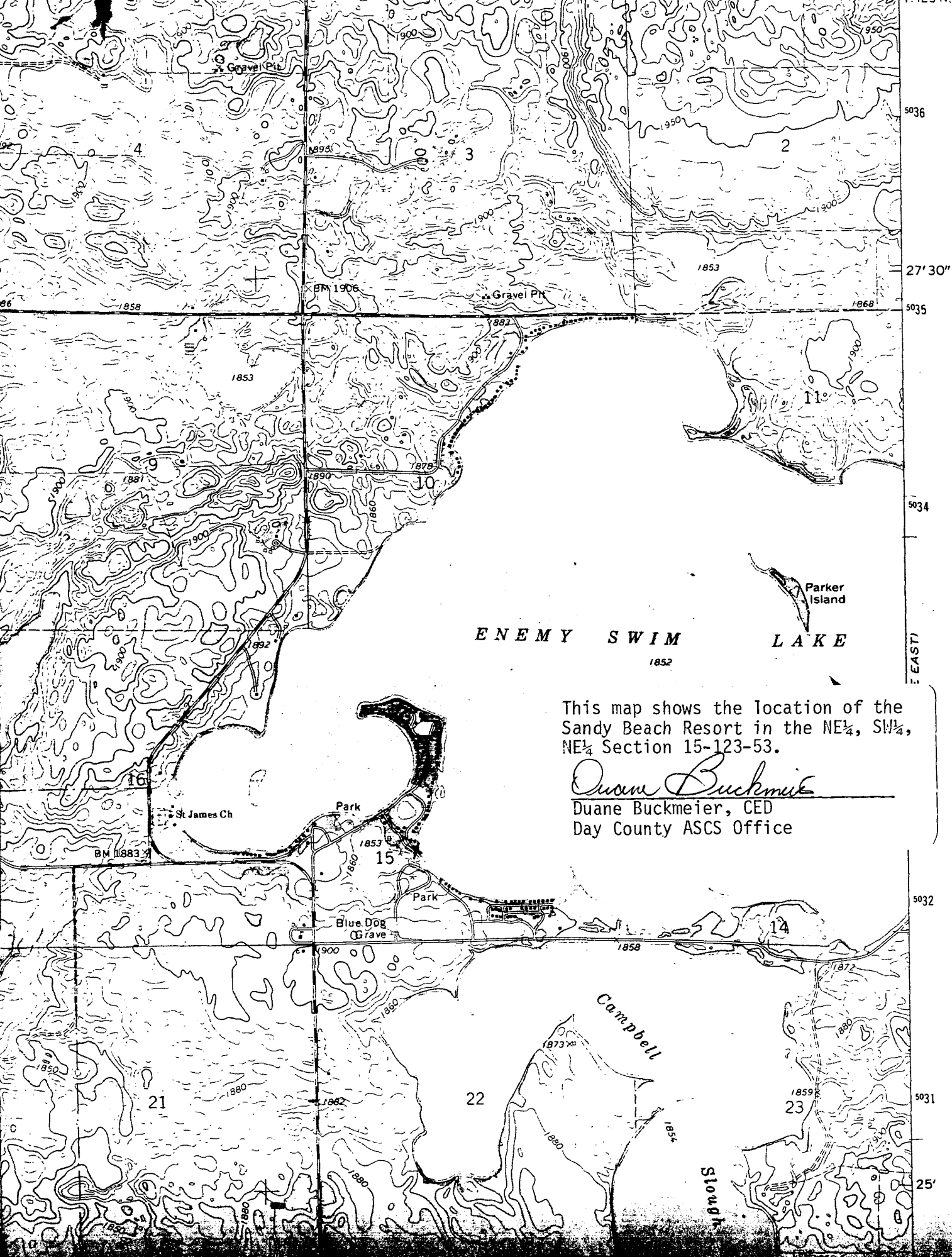
Attached please find the map with the signature of the office manager, Duane Buckmeier, verifying that this indeed is the map which shows the location of the Sandy Beach Resort.

If you have any questions, please feel free to contact our office at 345-4626.

Thank you.

Sincerely yours,

Duane Buckmeier
County Executive Director



ENEMY SWIM LAKE

This map shows the location of the
Sandy Beach Resort in the NE $\frac{1}{4}$, SW $\frac{1}{4}$,
NE $\frac{1}{4}$ Section 15-123-53.

Duane Buckmeier
Duane Buckmeier, CED
Day County ASCS Office



Please find enclosed The map you requested

There is no well Log available as This property has changed hands several times and The previous owners that originally drilled The wells are deceased and no records are available

Sincerely

David E. R. L.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 30, 1992

Sandy Beach Resort
David Benike
RR 1, Box 79M
Waubay SD 57273

Dear Mr. Benike:

We have received your letter and topographic map for the water permit application for Sandy Beach Resort.

Mr. Buckmeier, Day County ASCS Office states that the well is located in the NE 1/4, SW 1/4, NE 1/4 Section 15-123-53. Your application states the well is located in the N 1/4 SW 1/4 Section 15-123-53. It appears from the location indicated on the map, the well would be located in the NE 1/4 SW 1/4 Section 15-123-53. Do you agree with this location? Please let us know.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

Conversation or File Documentation

NAME OF PERSON OR FILE: David Benike - Sandy Black ResortADDRESS: Waubesa COUNTY _____DATE: 4-2-92 TELEPHONE _____RE: Pending application

COMMENTS:

Mr. Benike called and stated that the well
is located in the NE 1/4 SW 1/4 Section 15-123-53

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

NAME: Karen Schlaak

REPORT ON VESTED RIGHT APPLICATION NO. 5648-3
for Sandy Beach Resort
May 20, 1992

Vested Right Application No. 5648-3 proposes to appropriate 40 gpm (0.089 cfs) from one well approximately 30 feet deep located in the NE 1/4 SW 1/4 of section 15, T123N R53W within the former boundaries of the Sisseton Wahpeton Indian Reservation in Day County. The water use has a claimed priority date of January 1, 1952 and is used as a commercial water supply for the campground and store.

AQUIFER - COTEAU LAKES (COL)

The Coteau Lakes is a glacial outwash (sand and gravel) under predominantly unconfined (water table) conditions. The Coteau Lakes underlies 58,200 acres and contains an estimated 130,910 acre feet of recoverable water in storage in Day County (Hedges, 1982). The aquifer extends into Roberts and Codington Counties and is hydraulically connected to some area lakes. In this instance, the well location is on the southwest shore of Enemy Swim Lake and is hydraulically connected to the lake. (GRANT COUNTY)

The Division of Water Rights does not monitor any observation wells near this application. The nearest observation well (DA-78D) completed into the Coteau Lakes is located about 5 miles south of this application. Water levels for this well show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. The record indicates the aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

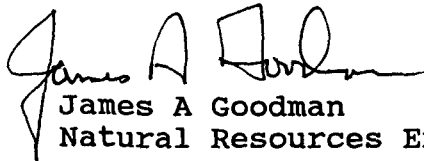
REVIEW OF EXISTING WATER PERMITS/RIGHTS

The nearest existing water permits/rights are located about 1/2 mile north of this application. Interference is not expected to be a concern. The diversions rates are relatively small and the lake acts as a recharge boundary. Drawdown caused by pumping will not be significant.

CONCLUSIONS

1. Water is available from the Coteau Lakes aquifer.
2. Interference will not be a concern.
3. Not enough information was supplied with this application to determine if this well is constructed in accordance with SD Well Construction Standards, but the casing type is listed as concrete and this type of construction would not be allowed for this use under present standards.

4. The affidavit supplied with the application indicates that water has been used continuously since 1952 as a seasonal water supply to cabins, a campground and a store. This application can be validated as a Vested Right.



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.

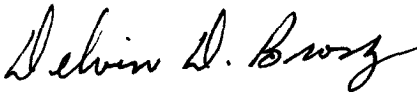
Water Rights, 1992, Unpublished Observation Well Records for the Coteau Lakes Aquifer in Day County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 5648-3, Sandy Beach Resort

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 Validation of Vested Water Right Application No. 5648-3, Sandy Beach Resort, c/o David Benike, RR 1 Box 79M, Waubay, SD 57273.

The Chief Engineer is recommending VALIDATION of Application No. 5648-3 for 0.088 cfs (40 gallons per minute) because 1) water has been appropriated as described for commercial use with a priority date of January 1, 1952, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.

for 
JOHN HATCH, Chief Engineer
May 22, 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 26, 1992

Waubay Clipper
546 Main St
Waubay, SD 57273

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 5648-3 to be published twice. Please publish the notice on June 8, 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 the Sandy Beach Resort, RR 1 Box 79M, Waubay, SD 57273 (Ph # 947-4492).

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

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

Sincerely,

Eric Gronlund /KS

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

Date _____

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

Name

Newspaper



**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.

May 26, 1992

David Benike
Sandy Beach Resort
RR 1 Box 79M
Waubay, SD 57273

Dear Mr. Benike:

Your Application No. 5648-3 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Waubay Clipper printed at Waubay, SD (Ph # 947-4501). 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 and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund /ks

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 June 8, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 5648-3 to Appropriate Water

Notice is given that the Sandy Beach Resort, RR 1 Box 79M, Waubay, SD 57273 has filed an application to validate a vested water right claim to appropriate 40 gallons per minute (0.088 cubic feet of water per second) from one well (Coteau Lakes Aquifer) 30 feet deep located in the NE 1/4 SW 1/4 Section 15-T123N-R53W. The water use has a claimed priority date of January 1, 1952, and is used as a commercial water supply for the campground and store.

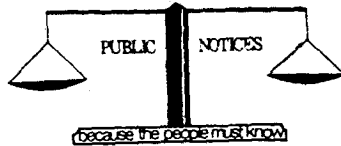
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 5648-3 because 1) water has been appropriated as described for commercial use with a priority date of January 1, 1952, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the 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 vested water right application 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 June 25, 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. 5648-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for July 6, 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 July 6, 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 July 6, 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 June 25, 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 the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the 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, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22.



**Notice of Hearing to
Validate Vested Water
Right Application
No. 5648-3 to
Appropriate Water**

Notice is given that the Sandy Beach Resort, Rt. 1, Box 79M, Waubay, SD. 57273 has filed an application to validate a vested water right claim to appropriate 40 gallons per minute (0.088 cubic feet of water per second) from one well (Coteau Lakes Aquifer) 30 feet deep located in the NE 1/4 SW 1/4 Section 15-T123N-R53W. The water use has a claimed priority date of January 1, 1952, and is used as a commercial water supply for the campground and store.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 5648-3 because:

1. water has been appropriated as described for commercial use with a priority date of January 1, 1952;
2. the use has been developed without unlawful impairment of existing rights;
3. it is a beneficial use of water; and
4. it is in the public interest.

Unless a petition is filed opposing the 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 vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

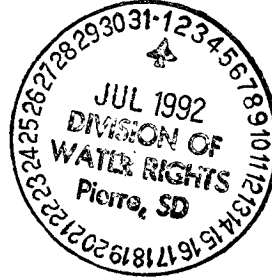
Any person interested in opposing or supporting this

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF DAY

SS.

OK



I, Carol Weyh, of said county and state being duly sworn, on oath says that she is a reader of the Waubay Clipper, a weekly newspaper printed and published in Waubay of said County of Day, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly; and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned; and was and is printed wholly or in part in an office maintained at said place of publication; that the notice of

Hearing on Application #5648-3

161 lines - 11ems - 8 pt. Type

a printed copy of which is attached was printed and published in said newspaper at least once each week, for 2 successive weeks on the day of each week on which said newspaper was regularly published, to-wit:

June 15, 1992
June 22, 1992

That the full amount of the fees for the publication of the annexed notice is \$ 74.40.

Carol Weyh

Subscribed and sworn to before me this 29th day of

June 1992

Linda M. Walters

Notary Public, Day County, South Dakota.

LINDA M. WALTERS
Notary Public, DAY COUNTY, S. DAK.
My Commission Expires JULY 5, 1999

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 recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD. 57501 (605 773-3352)" and the applicants mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 2, 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. 5648-3; and
2. the Chief Engineer's recommendation, a meeting at the Division of Water Rights Office to hear this application is scheduled for July 13, 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 July 13, 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 July 13, 1992, hearing date will be automatically delayed for a

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 July 2, 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 the validation;
2. approve the validation with qualifications;
3. defer; or
4. deny validation of the 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, 46-2A-18, 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49, 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-2-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22.

**ERIC GRONLUND
WATER RIGHTS
DIVISION**

523 E. CAPITOL

PIERRE, SD. 57501-3181

(Publish June 15 & 22, 1992)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 12 1992

5648-3

David E. Benke
Sandy Beach Resort
RR 1, Box 79M
Waubay, SD 57273

Dear Mr. Benke:

Enclosed are your Validated Vested Water Right and Water License No. 5648-3. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosures