

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

WATER PERMIT NO. 5672-3

Phone: 352-8759

Name of Applicant: Magness Livestock Market

Post Office Address: RR 1, Box 140, Huron SD 57350

Amount of Water Claimed: 0.05 cfs Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Beadle

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

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: \$50 Remarks \_\_\_\_\_

Corrected Application Received 6-10-92 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: SE 1/4 NE 1/4 Sec 5-T110N-R61W

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

|  |  |    |   |  |
|--|--|----|---|--|
|  |  |    |   |  |
|  |  |    | ⊗ |  |
|  |  | \$ |   |  |
|  |  |    |   |  |
|  |  |    |   |  |

Well Log: Driller: Huron Drilling Licensed YES X NO \_\_\_\_\_

Depth of Well: 1090' REMARKS \_\_\_\_\_

Type of Map: aerial PREPARED BY: Kathryn Chase, ASCS Reviewed and the Number

Assigned on 6-10-92 By Karen Schlaak

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

No. 5672-3 Hydrologic Unit 10160006  
 Map No. \_\_\_\_\_ Basin James River  
 Newspaper Daily Plainsmen, Box 1278, Huron

**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 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 Magness Livestock Market Phone No. 352-8759  
 Post Office Address RR 1, Box 140, Huron State SD 57350  
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s) 22 cpm (0.05 cfs)3. Source of water supply flowing well drilled in 19684. Location of point of diversion Section 5-110-61 SE 1/4 NE 1/4County Beadle5. Counties where water will be used Beadle6. Annual period during which water is to be used 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)

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 Beadle, ss

I, Magness Livestock Market by Gordon Magness Jr Pres 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 Gordon Magness JrSubscribed and sworn to before me this 16 day of March 1992

[Signature]  
 Notary Public

**SOUTH DAKOTA  
WATER PERMIT No. 5672-3**

Date of first receipt of application March 18, 1992.

Date of return to applicant for corrections, amendments or changes March 18, 1992.

Date of receipt of corrected application June 10, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5672-3 to Magness Livestock Market, RR 1, Box 140, Huron SD 57350 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. 5672-3 authorizes 22 gallons per minute (0.05 cubic feet of water per second) from one well 1090 feet deep (Dakota Formation) located in the SE 1/4 NE 1/4 Section 5-T110N-R61W.
2. The water appropriated shall be used for the purpose of supplying water to the livestock market 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 described annual period: January 1 - December 31.
4. The date of approval of Permit No. 5672-3 is September 1, 1992.
5. The date from which applicant may claim right is June 10, 1992.
6. 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 approved under this Permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used. The well shall also be equipped with a pressure gauge and a record kept of any pressure fluctuations. Such records shall be available to the Chief Engineer upon request. If this well is abandoned or the Permit cancelled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.

**WATER MANAGEMENT BOARD**

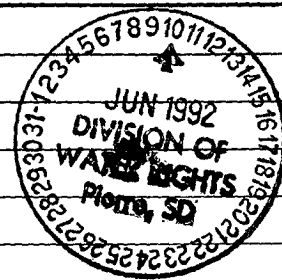
By: John Hatch  
John Hatch, Chief Engineer, Water Rights Division  
Department of Environment and Natural Resources

NOV 30 1992

date



| Cobbie Magness<br>(Livestock Market)<br>JOB NAME |       | Sec5-110-61 Beadle Co<br>LOCATION | 7/28/69<br>DATE                                                        | 7<br>RIG NO. | K. Osberg<br>FOREMAN |
|--------------------------------------------------|-------|-----------------------------------|------------------------------------------------------------------------|--------------|----------------------|
| Jt<br>No.                                        | DEPTH | TIME                              | REMARKS                                                                |              |                      |
| 1                                                | 20    |                                   |                                                                        |              |                      |
| 2                                                | 40    |                                   |                                                                        |              |                      |
| 3                                                | 60    |                                   | 9" hole to 61' 5" drag bit                                             |              |                      |
| 4                                                | 80    |                                   | mixed 4 bags of mud @ 60'                                              |              |                      |
| 5                                                | 100   |                                   |                                                                        |              |                      |
| 6                                                | 120   |                                   |                                                                        |              |                      |
| 7                                                | 140   |                                   |                                                                        |              |                      |
| 8                                                | 160   |                                   | put on Radlar bit @ 140'                                               |              |                      |
| 9                                                | 180   |                                   | tripped out Rollar bit @ 155'                                          |              |                      |
| 10                                               | 200   |                                   | went in with 5" James Bit reamed thru boulder @ 140 ' and down to 155' |              |                      |
| 11                                               | 220   |                                   |                                                                        |              |                      |
| 12                                               | 240   |                                   |                                                                        |              |                      |
| 13                                               | 260   |                                   | Chalk @ 155'                                                           |              |                      |
| 14                                               | 280   |                                   | codell @ 270'                                                          |              |                      |
| 15                                               | 300   |                                   |                                                                        |              |                      |
| 16                                               | 320   |                                   |                                                                        |              |                      |
| 17                                               | 340   |                                   |                                                                        |              |                      |
| 18                                               | 360   |                                   |                                                                        |              |                      |
| 19                                               | 380   |                                   |                                                                        |              |                      |
| 20                                               | 400   |                                   |                                                                        |              |                      |
| 21                                               | 420   |                                   |                                                                        |              |                      |
| 22                                               | 440   |                                   |                                                                        |              |                      |
| 23                                               | 460   |                                   | 4th gear @ 460' shigged                                                |              |                      |
| 24                                               | 480   |                                   | greenhorn top                                                          |              |                      |
| 25                                               | 500   |                                   |                                                                        |              |                      |
| 26                                               | 520   |                                   |                                                                        |              |                      |
| 27                                               | 540   |                                   |                                                                        |              |                      |
| 28                                               | 560   |                                   |                                                                        |              |                      |
| 29                                               | 580   |                                   |                                                                        |              |                      |
| 30                                               | 600   |                                   |                                                                        |              |                      |
| 31                                               | 620   |                                   |                                                                        |              |                      |
| 32                                               | 640   |                                   |                                                                        |              |                      |
| 33                                               | 660   |                                   |                                                                        |              |                      |
| 34                                               | 680   |                                   |                                                                        |              |                      |
| 35                                               | 700   |                                   |                                                                        |              |                      |
| 36                                               | 720   |                                   | 720-740 sandy                                                          |              |                      |
| 37                                               | 740   |                                   | 740-760 sandy                                                          |              |                      |
| 38                                               | 760   |                                   | 760-784 sandy                                                          |              |                      |
| 39                                               | 780   |                                   | put on 4½" W2 rollar Bit @ 785'                                        |              |                      |
| 40                                               | 800   |                                   | 785-790 sand poor                                                      |              |                      |
|                                                  |       |                                   | 790-800 good sand                                                      |              |                      |



# HURON DRILLING INC. DRILLERS LOG

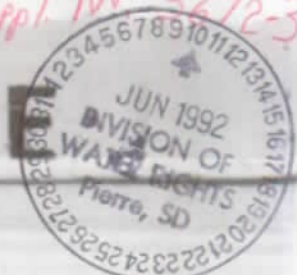
**PAGE NO.** 2

|                                                    |                                    |                 |              |                      |
|----------------------------------------------------|------------------------------------|-----------------|--------------|----------------------|
| • Cobbie Magness<br>(Livestock Market)<br>JOB NAME | Sec 5-110-61 Beadle Co<br>LOCATION | 7/28/69<br>DATE | 7<br>RIG NO. | K. Osberg<br>FOREMAN |
|----------------------------------------------------|------------------------------------|-----------------|--------------|----------------------|

[illegible]

WP Appl No 5672-3

NOT TO SCALE



378-78-R

5

SE-NE

10.8

11.9

8.5

Well located here

613.8 ft

9.3

3771.9 ft

Annex & Co.

59.15

from SE 5-110-61 proceed N 3771.9 ft + west 613.8 ft  
Well located in the SE-NE-5-110-61

City of  
Luron

4

16.1

Pappas

Kathryn Chase  
Program Assistant Compliance  
Beadle County ASOS Office  
6-9-92

110-61

T-993

7.5

6 / 16.0

378-78R

31.0

# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

413239

Pierre, June 10, 19 92

RECEIVED OF Magness Livestock Market, Huron, SD 57350

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

|                                                                                                                       |    |    |
|-----------------------------------------------------------------------------------------------------------------------|----|----|
| Fee for Application for Permit No. 5672-3 to Appropriate Water, to construct works and to put water to beneficial use | 50 | 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                                                                                                                 | 50 | 00 |

By John Hatley  
Chief Engineer



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

July 23, 1991

MAGNESS LIVESTOCK CAFE  
SHIRLEY HOFER  
RT 1 BOX 42  
YALE SD 57386

Dear MS. HOFER:

I am contacting you regarding the possibility that you need a permit to appropriate water for water use in your facility. We have reviewed our records after receiving information from the Office of Drinking Water and can not locate a water permit for your facility.

The enclosed "Summary of South Dakota Water Law and Water Right Information" provides general information regarding what uses of water need to be permitted. Water uses that require permits, such as commercial use, are listed under item 7 in the enclosed summary. Domestic water uses that do not require permits are listed under item 5. Pursuant to South Dakota Codified Laws 46-1-15 and 46-5-10, you must have a water permit to use water for any purpose, except for domestic uses defined by SDCL 46-1-6(4). A vested water right can be claimed for water uses beginning on or prior to February 28, 1955, for ground water or March 2, 1955, for surface water.

If your water use is not permitted, then any other water user with a water permit has first priority to water even if your water use began prior to the permitted use. This is important when a limited supply of water is available and your water use is adversely affected. The permitted use will be protected, the unpermitted use is illegal and will not be protected.

Enclosed are water permit application forms and an instruction sheet. Please complete and return the application with the required fee to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by August 30, 1991. If you have questions or need assistance contact Don Frye, Natural Resources Analyst (605-773-3352).

Very truly yours,

RON DUVAL, Natural Resources Engineer  
for JOHN HATCH, Chief Engineer  
Water Rights Division  
enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

October 29, 1991

MAGNESS LIVESTOCK CAFE  
SHIRLEY HOFER  
RT 1 BOX 42  
YALE SD 57386

Dear MS. HOFER:

I am writing to follow-up on my July 23, 1991 letter regarding the possibility that you may need a permit to appropriate water for use in your facility. We have reviewed our records and can not locate a water permit for your facility.

Pursuant to South Dakota Codified Laws 46-1-15 and 46-5-10, a water permit is required to use water from any water source, except for private domestic use. Examples of commercial use that require permits for private water supplies are: truckstops, motels, restaurants, tourist attractions, commercial campgrounds and any other business operation. Examples of noncommercial use that require permits for private water supplies are: churches, hospitals and nursing homes (any amount of water) and schools that pump more than 18 gallons per minute or use water outside of the school building. A vested water right can be claimed for water uses beginning on or prior to February 28, 1955, for ground water or March 2, 1955, for surface water.

An existing business without a water permit has no legal right to the use of water. Water users without a water permit are not protected if their water use is interfered with by someone who has a water right. If you believe you already have a water permit or if you have a permit issued under another name, please contact us.

Enclosed are water permit application forms and an instruction sheet. Please complete and return the application with the required fee to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by November 29, 1991. If you have questions or need assistance contact Don Frye, Natural Resources Analyst (605-773-3352).

Very truly yours,

Ron Duvall, Natural Resources Engineer  
for JOHN HATCH, Chief Engineer  
Water Rights Division  
enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 12, 1992

SHIRLEY HOFER  
STOCKYARDS CAFE  
E. HWY 1442  
HURON SD 57350

Dear MS. HOFER:

I am writing to follow-up on my July 23, 1991 and October 29, 1991 letters regarding the need for a permit to appropriate water for use in your facility. Based on the information we have, we believe you need a permit. We would appreciate your earliest attention to this matter.

Pursuant to South Dakota Codified Laws 46-1-15 and 46-5-10, except for private domestic use, a water permit is required to use water from any water source. Examples of commercial enterprises that require permits for private water supplies are: truckstops, motels, restaurants, tourist attractions, bars, clubs, commercial campgrounds and any other business operation. Examples of institutions that require permits for private water supplies are: churches, hospitals and nursing homes (any amount of water) and schools that pump more than 18 gallons per minute or use water outside of the school building.

An existing business or institution without a required water permit has no legal right to the use of water. Water users without a water permit are not protected if their water use is interfered with by someone who has a water right. If you believe you already have a water permit or if you have a permit issued under another name, please contact us.

We have previously sent you water permit application forms and an instruction sheet. Please complete and return the application with the required fee to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501". If you have questions, or don't believe you need a water permit, contact Don Frye, Natural Resources Analyst (605-773-3352).

Very truly yours,

RON DUVALL, Natural Resources Engineer  
for JOHN HATCH, Chief Engineer  
Water Rights Division



March 18, 1992

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

Magness Livestock Market  
Gordon Magness, Jr.  
RR 1, Box 140  
Huron SD 57350

Dear Mr. Magness:

In regard to your water permit application received on March 18, 1992, the following information needs to be submitted in order to process the application.

1. On Item No. 2 of the application, please indicate the quarter-quarter (40 acre parcel) of Section 5 where the well is located.
2. Please submit a map or aerial photo 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).
3. A well log signed by a South Dakota licensed well driller must accompany the application.
4. The filing fee for this application will be \$50.00.

On the Application you have marked "vested right". In order to qualify for a vested right, the well construction and beneficial use of the water must be made prior to 1955. The application states the well was drilled in 1968. Therefore, it would not be a vested right.

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

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Natural Resources Analyst  
605 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

May 27, 1992

Magness Livestock Market  
Gordon Magness, Jr.  
RR 1, Box 140  
Huron SD 57350

Dear Mr. Magness:

On March 18, 1992, you submitted an application (copy enclosed) for a permit to appropriate water for commercial use. You were notified on March 18, 1992 (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*

Karen Schlaak  
Natural Resources Analyst  
(605) 773-3352

enclosures

REPORT ON APPLICATION NO. 5672-3  
for Magness Livestock Market  
July 22, 1992

Application No. 5672-3 proposes to appropriate 22 gpm (0.05 cfs) from one well approximately 1090 feet deep located in the SE 1/4 NE 1/4 of section 5, T110N R61W in Beadle County. The water is for commercial use at the livestock market.

AQUIFER - DAKOTA FORMATION (DKOT)

The Dakota Formation consists of interbedded sandstone and shale with a maximum thickness of about 450 feet in this area (Schoon, 1971). The Dakota Formation underlies 1250 square miles and contains an estimated 18 million acre feet of recoverable water in storage in Beadle County (Hedges, 1982). The aquifer is confined and under artesian conditions at this site. The driller's log accompanying this application indicate the top of the Dakota Formation was encountered at 720 feet and continued to a depth of 1090 feet where drilling stopped. The well is free flowing and is reportedly capable of flowing 22 gpm.

The Division of Water Rights does not measure any observation wells completed into the Dakota Formation in this area. The nearest Water Rights Division observation well is HD-87A which is located at Rose Hill approximately 28 miles west of this application. Water levels for this well have declined about 8 feet since the spring of 1988. This amounts to a decline of about 1.5 to 2 feet per year (Water Rights Division, 1992). There is one USGS observation well completed into the Dakota Formation about 4 miles west of this application. Records are available for this well since 1967. These records indicate that the water level has continuously declined (Bradford, 1981); however, because of the construction of the well, this data may not be accurate. Many reports have been written which document the decline of head pressure in the Dakota Formation and this has been caused primarily by the large number of uncontrolled flowing wells and wells which have been allowed to flow to waste which have been completed into the aquifer.

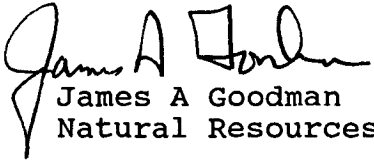
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are numerous flowing domestic wells completed into the Dakota Formation in this area. The nearest permitted Dakota Formation well is over 3 miles away. Interference is not expected to be a concern. This well has been in use since 1969 with no apparent problems. In theory, any diversion from a confined aquifer (artesian conditions) like the Dakota Formation will create some drawdown. Although all the diversions from flowing wells in the area have caused some effect upon the aquifer, since the wells continue to flow at the surface no complaints or problems have occurred.

CONCLUSIONS

1. Water is available from the Dakota Formation.

2. The Dakota Formation is a confined aquifer and under artesian conditions.
3. Most of the Dakota Formation wells in this area are free flowing at the land surface.
4. There is not enough information provided with this application to determine if this is constructed in accordance with present SD Well Construction Standards.
5. Water levels in wells completed into the Dakota Formation have been declining for many years. The rate of decline appears to be slowing. This would be reasonable and expected because as the water levels decline the rate of flow from free flowing wells should be reduced and thus cause less decline.
6. The water is for commercial use at the livestock market. This is a free flowing well and must be valved or controlled to prevent the waste of water.
7. The facility has been inspected and there have been no complaints associated with the wastewater system. This system was constructed prior to 1975, so it was grandfathered in.

  
James A Goodman  
Natural Resources Engineer

#### BIBLIOGRAPHY

Bradford, W.L., 1981, Water Levels in Bedrock Aquifers in South Dakota, USGS Open File Report 81-627, USGS, Huron, SD, 57350.

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.

Schoon, R.A., 1971, Geology and Hydrology of the Dakota Formation in South Dakota, RI No. 104, SD DENR, SDGS, Vermillion, SD, 57069.

Water Rights, 1992, Unpublished Records for Dakota Formation Wells in South Dakota, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 5672-3, Magness Livestock Market

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. 5672-3, Magness Livestock Market, c/o Gordon Magness Jr., RR 1 Box 140, Huron, SD 57350.

The Chief Engineer is recommending APPROVAL of Application No. 5672-3 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) 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 approved under this Permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used. The well shall also be equipped with a pressure gauge and a record kept of any pressure fluctuations. Such records shall be available to the Chief Engineer upon request. If this well is abandoned or the Permit cancelled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.

See report on application for additional information.



JOHN HATCH, Chief Engineer  
July 29, 1992



**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.

July 29, 1992

Gordon Magness, Jr.  
Magness Livestock Market  
RR 1 Box 140  
Huron, SD 57350

Dear Mr. Magness:

Water Permit Application No. 5672-3 for commercial 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 Daily Plainsmen printed at Huron, SD (Ph # 352-6401). 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*  
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.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

July 29, 1992

Daily Plainsmen  
Box 1278  
Huron, SD 57350

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5672-3 to be published twice. Please publish the first notice on August 5, 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 Magness Livestock Market, RR 1 Box 140, Huron, SD 57350 (Ph # 352-8759).

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

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

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

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

Instruction to Newspaper - Publish first Notice on August 5, 1992, with the second publication 7 days later. The applicant is responsible for payment.

-----

NOTICE OF HEARING on Application No. 5672-3 to Appropriate Water

Notice is given that Magness Livestock Market, RR 1 Box 140, Huron, SD 57350 has filed an application for a water permit to appropriate 22 gallons per minute (0.05 cubic feet of water per second) from one well 1090 feet deep (Dakota Formation) located in the SE 1/4 NE 1/4 Section 5-T110N-R61W. The water is for commercial use at the livestock market.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5672-3 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 August 24, 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.

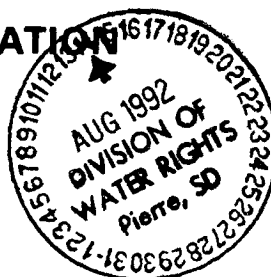
For purposes of publishing 1) the notice of hearing on Application No. 5672-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for September 1, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the September 1, 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 September 1, 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 August 24, 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 Eric Gronlund by August 24, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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-20, 46-2A-21; 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. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
 ) ss.  
 County Beadle )



I, Mary Walz  
 certify that the attached printed Notice was taken  
 from the Huron Plainsman

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

City \_\_\_\_\_ of Huron

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

August 5th 1992

August 12th 1992

Mary Walz  
 (Signature)

Business Manager  
 (Title)

August 12th 1992  
 (Date Signed)

Cost of Printing: one hundred thirty-seven and 96/100

F.P. 8-5-92 L.P. 8-12-92  
**NOTICE OF HEARING**  
 on Application  
 No. 5672-3

**to Appropriate Water**  
 Notice is given that Magness  
 Livestock Market, RR 1 Box 140,  
 Huron, SD 57350 has filed an ap-  
 plication for a water permit to ap-  
 propriate 22 gallons per minute  
 (0.05 cubic feet of water per sec-  
 ond) from one well 1090 feet  
 deep (Dakota Formation) located in  
 the SE 1/4 NE 1/4 Section 5-  
 T110-R61W. The water is for  
 commercial use at the livestock  
 market.

Pursuant to SDCL 46-2A-2, the  
 Chief Engineer recommends AP-  
 PROVAL of Application No.  
 5672-3 because 1) unappropri-  
 ated water is available, 2) exist-  
 ing 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 contest-  
 ing the chief engineer's recom-  
 mendation, the Water Manage-  
 ment Board will NOT CONDUCT  
 A HEARING to consider this ap-  
 plication and the chief engineer  
 will issue the permit as recom-  
 mended. Petitions filed in support  
 of the application will NOT re-  
 quire the Board to hear the applica-  
 tion.

Any person interested in op-  
 posing or supporting this applica-  
 tion must file a written petition  
 with BOTH the applicant and  
 Chief Engineer. The applicant  
 must also file a petition if op-  
 posed to the Chief Engineer's  
 recommendation. The Chief En-  
 gineer'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 inter-  
 ested person or the applicant  
 must be filed by August 24, 1992.  
 The petition may be informal, but  
 must include a statement de-  
 scribing the petitioner's interest in  
 the application, the petitioner's  
 reasons for opposing or support-  
 ing the application, and the sig-  
 nature and mailing address of the  
 petitioner or the petitioner's legal  
 counsel, if legal counsel is ob-  
 tained.

For purposes of publishing 1)  
 the notice of hearing on applica-  
 tion No. 5672-3 and 2) the chief  
 engineer's recommendation, a  
 meeting at the Division of Water  
 Rights office to hear this applica-  
 tion is scheduled for September  
 1, 1992, at 9:00 a.m. in Room  
 413, Joe Foss Building, 523 E

Capitol, Pierre SD. If this applica-  
 tion is opposed or the recommen-  
 dation is contested, the Septem-  
 ber 1, 1992, hearing date will be  
 rescheduled for a regularly  
 scheduled Board meeting. Notice  
 of the time and place of the re-  
 scheduled 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 attend-  
 ing the hearing, may contact the  
 Division of Water Rights to con-  
 firm a hearing date and location.  
 The September 1, 1992, hearing  
 date will be automatically de-  
 layed for at least 20 days upon  
 written request to the Chief En-  
 gineer from the applicant or any in-  
 terested person opposing the ap-  
 plication. The request for an au-  
 tomatic delay must be filed by  
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If a hearing is held, the Chief  
 Engineer's recommendation is  
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 to 1) approve, 2) approve with  
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 present evidence or cross-exam-  
 ine witnesses according to SDCL  
 1-26. These and other due pro-  
 cess 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. Con-  
 tact Eric Gronlund by August 24,  
 1992, at the above Water Rights  
 Division address to request cop-  
 ies of information pertaining to  
 this application, to assure access  
 to the hearing by the handi-  
 capped or to obtain an interpreter  
 for the hearing impaired.

This application is made pursu-  
 ant 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-20, 46-2A-21; 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.

Robert E. Roberts  
 Secretary  
 Department of Environment and  
 Natural Resources

523 E. Capitol, Pierre, SD 57501 No. 415 (adv.)



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

NOV 3 0 1992

Gordon Magness, Jr.  
Magness Livestock Market  
RR 1 Box 140  
Huron, SD 57350

Dear Mr. Magness:

Enclosed is Water Permit No. 5672-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

**REPORT ON INSPECTION OF PERMIT NO. 5672-3**

**DATE OF INSPECTION: 9-25-95**

Other permit(s) associated with the project: none

**DIVERSION POINT LEGAL LOCATION: 614 feet west and 1508 feet south of the NE corner of Section 5, T110N, R61W.**

**WELL INFORMATION: The well is an artesian well valved and has a pressure gage.**

- 1) Well Drilling Firm: Huron Drilling Inc.
- 2) No. of Wells 1
- 3) Depth(s) 1090 feet
- 4) Well log is available yes

**Casing:**

- 1) Diameter 3 inch copper inside 6 inch steel
- 2) Length 1090 feet
- 3) Type .280 type M and K copper inside steel and copper

**Screen:**

- 1) Type copper
- 2) Length # feet
- 3) Static water level flowing well feet

**Pump:**

- 1) Make Century electric jet pump
- 2) Model #
- 3) Size #
- 4) Capacity 22 GPM

**Motor:**

- 1) Make Century Electric
- 2) Model No. 9150
- 3) Horsepower rating 0.5 hp

**DISTRIBUTION LINES OR CANALS:**

- 1) Type plastic 2) Size 1 inches 3) Length 15 feet into cafe and unknown length to 50 cattle tanks.

**PERMIT QUALIFICATIONS AND REGULATIONS:**

- 1) Special qualifications to permit being abided by yes  
2) All structures, wells and lands on map yes  
3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

**Permit No. 5672-3**  
**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, September 25, 1995 made a thorough examination of the water use system constructed by Magness Livestock Market of RR 1, Box 140, Huron, SD 57350 holder of Permit No. 5672-3, bearing the priority of June 10, 1992 authorizing the diversion of 0.05 cu. ft. per second of the waters of Dakota Formation for commercial purposes, in Beadle County.

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

A. Works used to divert the water:

One flowing well 1090 feet deep, with 3 inch copper casing inside 6 inch steel and 5 inch copper, copper screen. The well has a Century Electric Jet pump and motor, model no. 9150 with a 22 gpm capacity and 0.5 hp.

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

15 feet of 1 inch plastic pipe to the cafe and an unknown length of 1 inch plastic pipe to 50 cattle tanks.

C. Works used to apply water to beneficial use:

Water used at the cafe and 50 cattle tanks, commercial use.

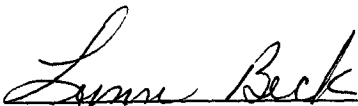
The system is in the following condition good. The point of diversion is located 614 feet west and 1508 feet south of the NE corner of Section 5, T110N, R61W. The works are capable of diverting and conveying to the place of use 0.05 cu. ft. per second of water which is to be used for commercial purposes. Water has been put to beneficial use to the maximum extent as follows:

At the cafe and for 50 cattle tanks.

The license should be issued for 0.05 cfs.

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none



Lynn Beck

Natural Resources Engineer

DENR, Water Rights Program

11-15-95  
Date

Prepared by

Lynn Beck

Lynn Beck  
Natural Resources Engineer  
DENR Water Rights Program

11-15-95

T-1320

T-9505

W  
NHSL  
① 9.5W  
NHSL  
② 10.8

Wd1

614

5

W  
NHSL  
①

110-61

T-993

7.5  
W  
NHSL  
①6  
160

31.0

W  
NHSLLicense 5672-3  
No.

**STATE OF SOUTH DAKOTA**  
**WATER LICENSE NO. 5672-3**

---

(1) Magness Livestock Market of RR 1 Box 140, Huron, SD 57350 made Application No. 5672-3, March 18, 1992 for a water permit to appropriate 0.05 cubic feet of water per second (22 gallons per minute) from groundwater (one well), Beadle County, South Dakota for commercial purposes. Permit No. 5672-3, with a priority date of June 10, 1992 was approved September 1, 1992 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

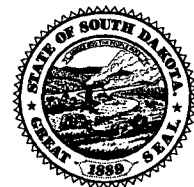
(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.05 cubic feet of water per second for beneficial use. The location of the diversion point is 614 feet west and 1,508 feet south of the NE corner of Section 5, T110N, R61W (SE 1/4 NE 1/4).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use for 50 cattle tanks and for use at the cafe.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Magness Livestock Market of RR #1 Box 140, Huron, SD 57350 the holder and/or owner of Water Permit No. 5672-3 is issued a license to appropriate water, the right to use 0.05 cubic feet of water per second from groundwater (one well) with a priority date of June 10, 1992 from the location specified in (2) of this license. The water is to be used for commercial purposes. This license is subject to any limitations or qualifications listed in Water Permit No. 5672-3 and subject to South Dakota State Law.

  
\_\_\_\_\_  
John Hatch, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources

DEC 18 1995  
\_\_\_\_\_  
date





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

November 17, 1995

5672-3

Gordon Magness Jr., President  
Magness Livestock Market  
RR 1, Box 140  
Huron, SD 57350

Dear Mr. Magness:

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 No. 5672-3, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

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

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

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

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

# RECEIPT

## Division of Water Rights

414702

### South Dakota Department of Environment and Natural Resources

Pierre, \_\_\_\_\_, December 7, 19 95

RECEIVED OF Magness Livestock Market, RR 1, Box 140, East Hwy. 14, Huron, SD 57350

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>5672-3</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  
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

DEC 18 1995

5672-3

Gordon Magness Jr., President  
Magness Livestock Market  
RR 1, Box 140  
Huron, SD 57350

Dear Mr. Magness:

Enclosed is Water License No. 5672-3 and Receipt No. 414702 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 5672-3 is the final document which completes the process of obtaining a water right.

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.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch".

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

gm  
enclosures