

Considered: _____

WATER PERMIT NO. 5674-3

Phone: ~~331-2200~~ 336-9100

Name of Applicant: Gay Hiebert

Post Office Address: 2811 W Madison, Sioux Falls SD 57102

Amount of Water Claimed: 0.33 (150 gpm) Total Acres: NA

Source of Water Supply: groundwater (6 wells)

Water to be used for: commercial County: Minnehaha

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 6-15-92 Fee: \$225 Remarks _____

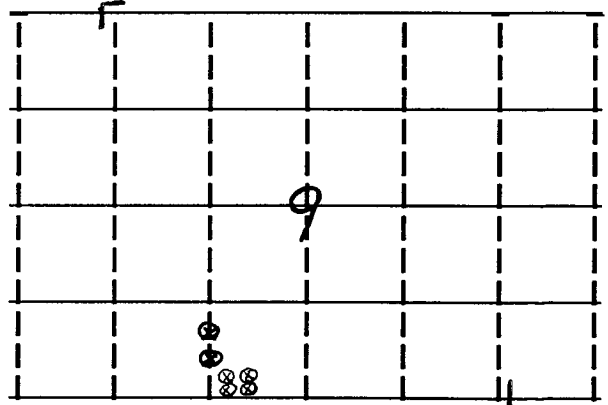
Corrected Application Received _____ Period of Annual Use Jan 1- Dec 31

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

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

Diversion Point: SE 1/4 SW 1/4 Sec 9-T101N-R50W

Land to be Irrigated: _____

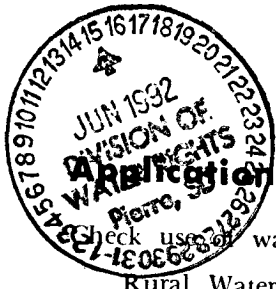


Well Log: Driller: Lacey Well Drilling Licensed YES X NO _____

Depth of Well: approx. 20' REMARKS _____

Type of Map: aerial PREPARED BY: Greg Johnston Reviewed and the Number

Assigned on 6-16-92 By Karen Schlaak

No. 5674-3 Hydrologic Unit 10170203
Map No. _____ Basin Big Sioux River
Newspaper Argus Leader, P.O. Box 5034, SF**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 Gay Hiebert Phone No. 336-9100Post Office Address 2811 W. Madison St. Sioux Falls State SD 57102
(Street, RR or Box) (City) Zip Code2. Amount of water claimed (c.f.s.) 0.33 (150 GPM)3. Source of water supply Wells - Big Sioux Aquifer4. Location of point of diversion Wells No. 1-6 located in the SE1/4 SW1/4 Section 9-101-50
~~and well #7 located in the SW1/4 SW1/4 Section 9-101-50~~ (see Application Map)only 6 total wells.County Minnehaha5. Counties where water will be used Minnehaha6. Annual period during which water is to be used Year round ~~Jan 1 - Dec 31~~ ~~Feb to June & Oct to Nov~~

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)

Wells supply water for Nursery - pump water to 18,000 gallon tank and the water is then distributed throughout nursery.

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 Minnehaha^{ss}I, Gay Hiebert 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 Gay HiebertSubscribed and sworn to before me this 12th day of June 1992Lynne B. Freeze
Notary Public

My Commission Expires February 23, 1995.

**SOUTH DAKOTA
WATER PERMIT No. 5674-3**

Date of first receipt of application June 15, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5674-3 to Gay Hiebert, 2811 W Madison St. Sioux Falls SD 57102 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. 5674-3 appropriates 150 gallons per minute (0.33 cubic feet of water per second) from six wells (Big Sioux:Southern Skunk Creek Aquifer) approximately 20 feet deep located in the SE 1/4 SW 1/4 Section 9-T101N-R50W.
2. The water appropriated shall be used for the purpose of supplying water to the nursery 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. 5674-3 is September 8, 1992.
5. The date from which applicant may claim right is June 15, 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 wells 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 City of Sioux Falls has a senior priority for water from the Big Sioux:Southern Skunk Creek Aquifer under future use withdrawal permits. This permit is approved subject to the City's rights, if or when the city develops the reserved water supply.

WATER MANAGEMENT BOARD

By: _____

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

NOV 23 1992

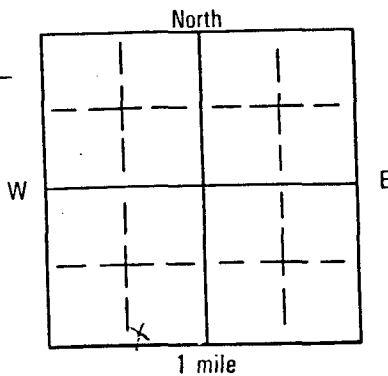
date

SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location Sec 1/4 SE 1/4 Sec 7 Twp 101-11 Rg 50-W

County

MinnehahaPlease mark well
location with
an "X"Well Completion Date 1-2-90

PROPOSED USE:

☐ Domestic ☐ Municipal ☐ Test Holes
☐ Irrigation ☒ Industrial ☐ Stock

Method of Drilling:

False H. Casing

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT DIAMETER FROM TO HOLE DIAMETER

5	LB/FT	8"	IN	1	FT	20	FT	20	IN
	LB/FT		IN		FT		FT		IN
	LB/FT		IN		FT		FT		IN
	LB/FT		IN		FT		FT		IN

GROUT:

Was the well grouted? ☒ YES ☐ NOTo what depth? 10' FEETWhat is grouting material? BentoniteIf cement, number of sacks? 1 1/2 pailsDescribe grouting procedure According to manual

What was grout weight? _____ LB/GAL

SCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 8" IN Length 3 FEETMaterial 200 CI pipe Hand slotted

Slot Size _____ Set From _____ Feet To _____ Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Other information _____

Was a packer or seal used? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

Was well disinfected upon completion? ☒ YES ☐ NOExplain HTHBacteriological analysis ☐ YES ☐ NO

Laboratory sent to _____

Well Owner:

Name

Gary Hielert

Address

2811 W Madison St

Well Log:

Sioux Falls

Depth

Formation

From

To

Topsoil	0	4
Clay + Gravel	4	10
Red Sand	10	16
Brown Sand	12	16
Grey Gravel	16	20

STATIC WATER LEVEL 10' Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other, specify _____

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped☐ Bailed

Describe: _____

☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

REMARKS:

This well was drilled under license # 111

And this report is true and accurate.

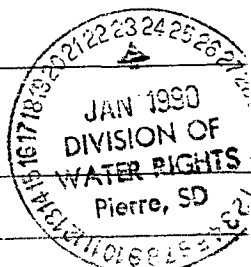
Drilling firm Loce, Well Drilling

Signature of License Representative:

Jean R. R. R.

Signature of Well Owner:

Date _____



10-85

1 mile

Date _____



NOT TO SCALE

Water Permit Application
Hiebert Nursery

Drawn by :

Gregory C. Johnston

Gregory C. Johnston

Natural Resources Engineer
Water Rights Division, DENR
Pierre, SD

$$Y_{21}/92$$

N

$$1'' = 765'$$

SW 1/4 Section 9 - 101N-R50W

SW¹/₄ SW¹/₄

SE $\frac{1}{4}$ SW $\frac{1}{4}$

Well #6

Pumphouse

Well #5

Hiebert
Nursery

Well #3

weil

- Well #1

Well #4

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

413245

Pierre, June 16, 19 92

RECEIVED OF Jeanne Hiebert, Hiebert Greenhouses, Inc., 2811 W Madison St, SF, SD 57104

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

Fee for Application for Permit No. <u>5674-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____	225	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	225 00

By John Hald
Chief Engineer



DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 22, 1991

GAY HIEBERT
2811 W MADISON ST
SIOUX FALLS SD

Dear MR. HIEBERT:

I am writing to follow-up on my October 17, 1990 letter concerning the requirement to apply for a water permit.

Information we have indicates you may need a water permit to use water from your new well(s). A water permit must be obtained for any use of water other than domestic uses, such as individual farm or ranch use, not exceeding 18 gallons per minute during average daily use.

No response to the October 17, 1990 has been received. If you need assistance with completion of the application forms or if you do not believe you need a water permit, please contact Regan Fanning by March 29, 1991 at: Joe Foss Building, 523 E. Capitol, Pierre SD 57501-3181, (605) 773-3352.

Thank you for your attention to this matter.

Sincerely,

Ron Duvall
Natural Resources Engineer

3-1-91



Regan Fanning -
Department of Water & Natural Resources
523 East Capitol
Pierre, SD. 57501-3181

Dear Mr Fanning -

In response to your letters about water permits, we think we might be exempt. We use our own well water for our domestic purposes and according to our figures we do not exceed the 18 gallons per minute average daily use.

Thank you!

Sincerely,

Gay Siebert
Siebert Greenhouses, Inc.
2811 W Madison
Sioux Falls, SD. 57104
605-336-9100



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

October 30, 1991

GAY HIEBERT
2811 W MADISON ST
SIOUX FALLS SD 57102

Dear MR. HIEBERT:

I am writing to follow-up on my October 17, 1990 and February 22, 1991 letters concerning the possibility you may need to apply for a water permit. We have not received any response from you on this matter and would appreciate your earliest reply. A well drillers report filed by LACEY WELL DRILLING states you completed a new well, and based on the information in the report, you may need a water permit.

1. A water permit must be obtained for any water use except for reasonable, private domestic use. Reasonable use is defined as use of 18 or less gallons of water per minute (GPM), on an average daily basis (26,000 gallons per day), with a maximum rate not exceeding 25 GPM. Water distribution systems (i.e. suburban housing, manufactured and mobile home developments; rural water systems; municipalities; etc.) may not exceed 18 GPM without a water permit. 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.
2. Please complete and return the enclosed application forms, with the required fee, to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by November 29, 1991, or contact Don Frye (605 773-3352) if you need assistance or if you don't believe your water use requires a permit.

Thank you for your attention to this matter.

Very truly yours,

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

enclosure

Conversation or File Documentation

NAME OF PERSON OR FILE: GAY HIEBERTADDRESS: 2811 W. MADISON ST, SIOUX FALLS COUNTY MINNEHADADATE: 12/05/91 TELEPHONE 336-9100RE: NEED FOR WATER PERMIT

COMMENTS:

Mr Hiebert called in response to my 10/30/91 letter. He said he didn't average 26,000 gallons per day (18 GPM constant use). He went on to say that he had six wells that supply water to his greenhouse. All six wells are interconnected and feed a booster pump. He was confused about the application and said that during peak usage he pumped between 140 and 150 GPM, but didn't pump during the winter months. I told him it may be best if we have someone stop by and help him fill out the application/map. He said he was leaving for vacation on Dec 20 and would return Feb 10. I said we'd call to set up an appointment. I talked to Greg Johnston and he said he needed to revisit the Sioux Falls area and would stop by and help Mr Hiebert with the application.

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.



March 6, 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Gay Hiebert
2811 W Madison St.
Sioux Falls, SD 57102

Dear Mr. Hiebert:

I am writing in regards to a visit I made to your Nursery on January 21, 1992. I located the wells you are using on an aerial photo and spoke to your foreman about your watering system.

Enclosed are a copy of the map with well locations and a partially completed Water Permit application with an instruction sheet. If you are pumping 150 GPM, you'll need to pay a \$225 application fee. If you are pumping more than 150 GPM, refer to the instruction sheet for the correct fee. Please review and comment on any errors and/or changes on the map and complete the application form and send it in with the appropriate fee as soon as possible.

I'll be down in the Sioux Falls area later this spring, and I'll stop in and visit with you on specific aspects of your system that I was unable to obtain on this last visit.

Thanks for your time and consideration of this matter. If you have any questions, please feel free to contact me any time.

Sincerely,

Gregory C. Johnston
Gregory C. Johnston
Natural Resources Engineer
Water Rights Division
(605)/ 773-3352

encl



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 10, 1992

NOTICE

TO: Gay Hiebert
2811 W. Madison Street
Sioux Falls, SD 57102

FROM: John Hatch, Chief Engineer
Water Rights Division

SUBJECT: Final Notice of Requirement to Apply for a Water Permit

According to records on file with the Water Rights Division, you have been contacted by letter on October 17, 1990, February 22, 1991, October 30, 1991 and on March 6, 1992 to inform you of the legal requirement to obtain a water permit for your business. You were also informed via telephone on December 5, 1991 that a permit is needed and Greg Johnston, Division engineer, prepared a map and a partially completed application after conducting an on-site inspection on January 21, 1992. The partially completed application was mailed to you with the March 6, 1992 letter. The additional inspection work, referred to in Mr. Johnston's letter, does not need to be completed in order for you to submit the application.

South Dakota Codified Law (SDCL) 46-1-15 provides that no person may appropriate water for any purpose without first obtaining a permit to do so. To date, your application has not been received.

Pursuant to SDCL 46-2-18, you can be ordered to discontinue use of water to which you have no legal right. Refusal to obey the order can result in the circuit court issuing a temporary restraining order or an injunction. In addition, violation of a court order is a Class 2 misdemeanor and a civil fine of up to \$500.00 per day for each day of violation may be assessed.

Although an order to discontinue use of water could have been issued in 1991, the order was not issued in the interest of working with you on this matter. However, if you do not comply with the law and apply for a water permit by July 10, 1992, a shutoff order will be issued. Failure to comply with the shutoff order will result in legal action.

Please contact Don Frye, Natural Resources Analyst, if you have any questions (605 773-3352).

cc: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on June 10, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, First Class postage, prepaid envelopes containing a Notice dated June 10, 1992, regarding "Final Notice of Requirement to Apply for a Water Permit" addressed to:

Tom and Halley Collins
Box 676
Hill City, SD 57745

and also a separate Notice addressed to:

Gay Hiebert
2811 W Madison St
Sioux Falls, SD 57102

A copy of the Notices were sent through inter-office mail to:

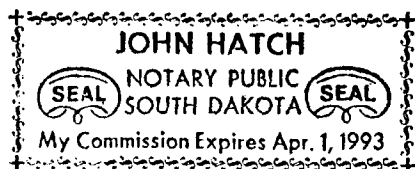
Diane Best, Assistant Attorney General

Jaci R Konop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of June, 1992.



John Hatch
Notary Public

REPORT ON APPLICATION NO. 5674-3
for Gay Hiebert
July 24, 1992

Application No. 5674-3 proposes to appropriate 150 gpm (0.33 cfs) from six wells approximately 20 feet deep located in the SE 1/4 SW 1/4 of section 9, T101N R50W in Minnehaha County. The water is for commercial use at a nursery.

AQUIFER - BIG SIOUX SOUTHERN SKUNK CREEK (BS-SSC)

The Big Sioux Southern Skunk Creek is an alluvium mantled outwash (sand and gravel) under predominantly unconfined (water table) conditions. The Big Sioux Southern Skunk Creek underlies 9700 acres and contains an estimated 32,010 acre feet of recoverable water in storage in Minnehaha County (Hedges, 1982). The aquifer is hydraulically connected to the Big Sioux Middle Skunk Creek aquifer to the north, the Big Sioux South aquifer to the east, to the Big Sioux river to the east, to Skunk Creek which meanders through the length of the aquifer and to the Wall Lake aquifer (Iles, 1991) which is in direct contact with the Southern Skunk aquifer over a portion of its area.

The Division of Water Rights monitors three observation wells completed into the Big Sioux Southern Skunk Creek aquifer. These are MA-57I, MA-80Y and MA-80X. Observation well MA-80X is located within 1/4 mile of this application. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years and gradually declining water levels during dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

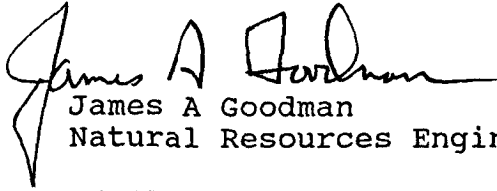
REVIEW OF EXISTING WATER PERMITS/RIGHTS

The nearest existing Water Rights, Nos. 746-3 and 746A-3, are located about 1/2 mile east of this application. Interference is not expected to be a concern. Drawdown caused by pumping in shallow water table aquifers such as the Big Sioux Southern Skunk Creek do not extend very far from an individual production well. This application is located within the future use boundaries established by Future Use Water Permit No. 449-3 for the City of Sioux Falls.

CONCLUSIONS

1. Water is available from the Big Sioux Southern Creek aquifer.
2. Interference is not expected to be a concern. This is an unconfined aquifer and drawdown caused by pumping is not expected to be significant.
3. This application is located within the Future Use area specified by Water Permit No. 449-3 for the City of Sioux Falls.

4. These are existing wells and have been in use for many years.
5. This is an intermittent use of water and will not be used during the winter months.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., 1982, Evaluation of Ground-Water Resources of Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Iles, D.L., L.J. Frykman, 1991, Hydrogeology of the Southern Skunk Creek Management Unit of the Big Sioux Aquifer, Open File Report 63-UR, SDGS, Vermillion, SD, 57069.
- Water Rights, 1992, Unpublished Observation Well Records for Minnehaha County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5674-3, Gay Hiebert

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. 5674-3, Gay Hiebert, 2811 West Madison Street, Sioux Falls, SD 57102.

The Chief Engineer is recommending APPROVAL of Application No. 5674-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion have been 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 wells 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 City of Sioux Falls has a senior priority for water from the Big Sioux:Southern Skunk Creek Aquifer under future use withdrawal permits, and this application is approved subject to the City's rights, if or when the city develops the reserved water supply.

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.

August 4, 1992

Gay Hiebert
2811 W Madison St
Sioux Falls, SD 57102

Dear Mr. Hiebert:

Water Permit Application No. 5674-3 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 Argus Leader printed at Sioux Falls, SD (Ph # 331-2200). 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.

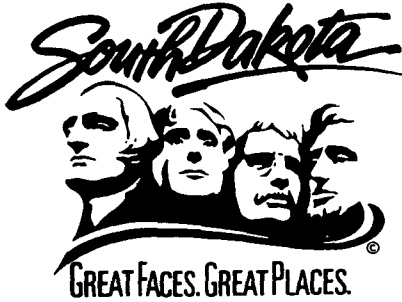
Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur 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

August 4, 1992

The Argus Leader
PO Box 5034
Sioux Falls, SD 57117-5034

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5674-3 to be published twice. Please publish the first notice on August 10, 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 Gay Hiebert, 2811 W Madison St, Sioux Falls, SD 57102 (Ph # 336-9100).

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 _____

Instruction to Newspaper - Publish first Notice on August 10, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5674-3 to Appropriate Water

Notice is given that Gay Hiebert, 2811 W Madison St, Sioux Falls, SD 57102 has filed an application for a water permit to appropriate 150 gallons per minute (0.33 cubic feet of water per second) from six wells (Big Sioux:Southern Skunk Creek Aquifer) approximately 20 feet deep located in the SE 1/4 SW 1/4 Section 9-T101N-R50W. The water is for commercial use at a nursery.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5674-3 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 27, 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. 5674-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for September 8, 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 8, 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 8, 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 27, 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 27, 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.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, }

SS.

COUNTY OF MINNEHAHA }

M. DEVISH

.....being duly sworn, says: That the Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota, by Sioux Falls Newspapers, Inc.; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Monday, the 10 day of August, 19 92,

Monday, the 17 day of August, 19 92,

_____, the _____ day of _____, 19 _____,

_____, the _____ day of _____, 19 _____,

_____, the _____ day of _____, 19 _____,

_____, the _____ day of _____, 19 _____,

_____, the _____ day of _____, 19 _____,

and that \$125.12 was charged for publishing the same including a \$2.00 affidavit fee.

M. Devish

Subscribed and sworn to before me August 17, 19 92

Nancy A. Buckley
Notary Public, South Dakota



NOTICE OF HEARING on Application No. 5674-3 to Appropriate Water

Notice is given that Gay Hiebert, 2811 W Madison St, Sioux Falls, SD 57102 has filed an application for a water permit to appropriate 150 gallons per minute (0.33 cubic feet of water per second) from six wells (Big Sioux: Southern Skunk Creek Aquifer) approximately 20 feet deep located in the SE 1/4 SW 1/4 Section 9-T101N-R50W. The water is for commercial use at a nursery.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5674-3 because 1) inappropriate 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 27, 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. 5674-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for September 8, 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 8, 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 8, 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 27, 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 27, 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
Aug. 10, 17, 1992



NOV 23 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Gay Hiebert
2811 W Madison Street
Sioux Falls, SD 57102

Dear Mr. Hiebert:

Enclosed is Water Permit No. 5674-3 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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 7, 1996

Gay Hiebert
2811 W Madison Street
Sioux Falls, SD 57104

Dear Mr. Hiebert:

After an inspection of Water Permit No. 5674-3 on June 22, 1995, I found a problem with the developed diversion rate of the 5 wells under your permit. Water Permit No. 5674-3 authorizes a diversion rate of 0.33 cfs (150 GPM) and the actual diversion rate is 210 GPM (0.46 cfs), according to the information you provided me over the phone.

Enclosed is a partially completed application for a new permit to increase the diversion rate authorized by Water Permit No. 5674-3 from 0.33 cfs to 0.46 cfs. Please have the form signed before a Notary Public and return it with a \$150.00 application fee (see part 5 of the instruction sheet) to this office by March 22, 1996.

If you have questions or need assistance, please feel free to contact me at (605) 773-3352.

Sincerely,

Barry A. McLaury
Water Rights Program

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 29 1996

5916-3

Gay Hiebert
2811 West Madison Street
Sioux Falls, SD 57102

Dear Ms. Hiebert:

Enclosed is Water License No. 5916-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 415009 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 5916-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Very truly yours,

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

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NOTE: The applicable portions of No. 5674-3 are incorporated into this Water License No. 5916-3.