

Considered: _____

WATER PERMIT NO. 5709-3

Phone: 768-2113

Name of Applicant: D & J Cafe

Post Office Address: E Hiway 212, Lebanon SD 57455

Amount of Water Claimed: 18 gpm 0.04 cfs Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Potter

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 6-28-91 Fee: \$50 Remarks _____

Corrected Application Received 9-1-92 Period of Annual Use Jan 1 - Dec 31

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

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

Diversion Point: NW 1/4 NW 1/4 Sec 11-T118N-R74W

Land to be Irrigated: _____

	⊗				
			//		

Well Log: Driller: Dakota Boring Co. Licensed YES X NO _____

Depth of Well: approx 30' REMARKS _____

Type of Map: aerial PREPARED BY: Lynn Beck Reviewed and the Number

Assigned on 9-8-92 By Karen Schlaak

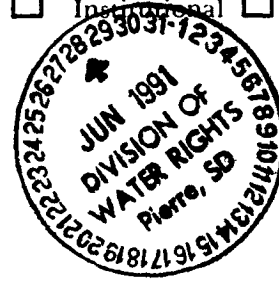
No. 5709-3 Hydrologic Unit 10130105
 Map No. _____ Basin Missouri River
 Newspaper Potter Co News, Box 0, Bettysburg

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

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

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

Type of Application: Check one or more of the following



New ☒ Vested Right ☐ Future Use ☐ Change Use ☐

☐ Amend Permit No. _____ with old priority date retained

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

☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____

☐ Construction to use water reserved by Future Use Permit No. _____

1. Name of Applicant D. J. Cape Phone No. 605 768-2113

Post Office Address E. Hiway 212 Lelton State S.D. Zip Code 57455
(Street, RR or Box) (City)

2. Amount of water claimed (c.f.s) ~~Less than 18 gpm~~ 18 gpm (0.04 cfs)

3. Source of water supply Well

4. Location of point of diversion NW 1/4 11 118 - 74

County Potter

5. Counties where water will be used Potter

6. Annual period during which water is to be used Year around Jan 1-Dec 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 _____)^{ss}

I, _____ 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 Gryce Durvasse

Subscribed and sworn to before me this 26th day of June 1991

NORMAN KOSTBOTH, Notary Public

Norman Kostboth

**SOUTH DAKOTA
WATER PERMIT NO. 5709-3**

Date of first receipt of application June 28, 1991.

Date of return to applicant for corrections, amendments or changes July 1, 1991.

Date of receipt of corrected application September 1, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5709-3 to D & J Cafe, E Highway 212, Lebanon SD 57455 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. 5709-3 appropriates 18 gallons per minute (0.04 cubic feet of water per second) from one existing well (Bowdle-Lebanon Aquifer) approximately 42 feet deep located in the NW 1/4 NW 1/4 Section 11-T118N-R74W.
2. The water appropriated shall be used for the purpose of supplying water to the cafe 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. 5709-3 is December 2, 1992.
5. The date from which applicant may claim right is September 1, 1992.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

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

DEC 24 1992
date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 36 & 24 Depth 30ft Plus
- b) Casing Type Cement Diameter _____ Thickness 2 in
- c) Screen Type Hydrolite Diameter 24 & 36 Thickness 2 in
- d) Gravel Pack Thickness None Length of Gravel Pack None
- e) Depth to Top of Water Bearing Material ? Depend on Rain or snow
- f) Depth to Water (ground surface to water level) about 90 ft
- g) Distance to nearest existing domestic well: 2 miles +
- On applicants property _____ On property owned by others J. Knott

2. Dugout Information Estimates

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

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
If Pipe, diameter _____

f) Secondary Spillway Capacity _____
Spillway width _____

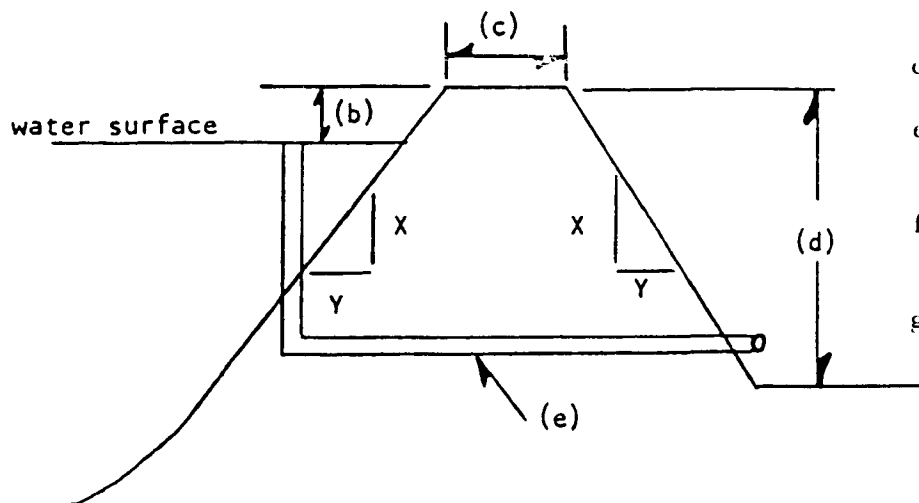
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location S 4 1/4 NW 1/4 Sec 11 Twp 118 Rg 74

County

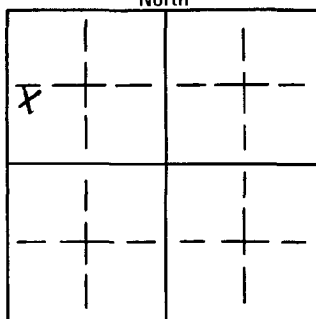
DeBor Potter

North

W

E

Please mark well location with an "X"



1 mile

Well Completion Date #2 June 6 / 84 #?

PROPOSED USE:

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

Method of Drilling:

Bucket

CASING DATA:

☐ Steel ☐ Plastic ☐ OtherIf other describe #1 Cement #2 Hydrate

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ 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? #1 16 #2 10 ft FEETWhat is grouting material? Cement

If cement, number of sacks?

Describe grouting procedure Poured

What was grout weight? _____ LB/GAL

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material #2 Hydrate #2 ?

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 ☐ NO

Explain _____

Bacteriological analysis ☐ YES ☒ NO

Well Owner:

Name

Address

Well Log:

Depth

Formation

From

To

#1
Top Soil

0

1

Gravel
Gravel

1

10

10

28

#2Top Soil

0

1

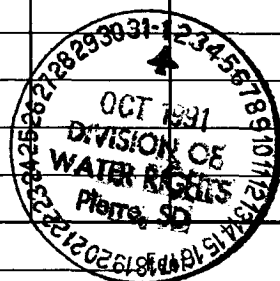
Gravel
Gravel

1

10

10

42

STATIC WATER LEVEL 20

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#1 18 GPM☐ BailedDescribe: #2 More☐ 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 # #2 - 234And this report is true and accurate. #1 ?Drilling firm DeBor Box Co. old

Signature of License Representative:

Urgit H. Worn

Signature of Well Owner:

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412723

Pierre, June 28, 19 91

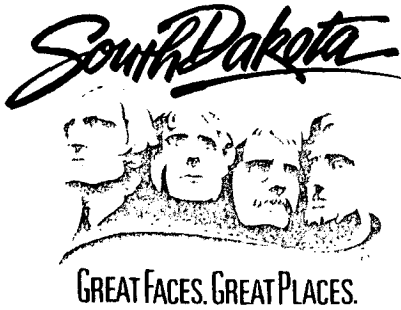
RECEIVED OF D & J Cafe, Joyce Siebrasse, E Highway 212, Lebanon SD 57455

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

Fee for Application for Permit No. <u>5709-3</u> 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 Hatch
Chief Engineer JOHN HATCH

(KS)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 1, 1991

D & J Cafe
Joyce Siebrasse
E Highway 212
Lebanon SD 57455

Dear Ms. Siebrasse

In regard to your water permit application received on June 28, 1991, the following information needs to be submitted and clarified in order to process your application.

1. On Item No. 4 of the application please list the quarter-quarter (40 acre parcel) of the NW 1/4 Section 11-T118N-R74W where the well is located.
2. A map showing the location of the diversion point (place where the well is located) in relation to a government section corner or quarter corner by direction and distance. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local SCS or ASCS office).
3. A well log signed by a South Dakota licensed well driller must accompany the application.

The water permit application can not be considered until the application is complete. The \$50.00 fee is on file with your application. Upon receipt of the above, further processing of your application will continue.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

South Dakota



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE SOUTH DAKOTA 57501-3181

September 16, 1991

D & J Cafe
Joyce Siebrasse
E Highway 212
Lebanon SD 57455

Dear Ms. Siebrasse:

On June 28, 1991, you submitted an application (copy enclosed) for a permit to appropriate water for the D & J Cafe. You were notified on July 1, 1991 (copy enclosed) that the application was incomplete and were instructed what additional information was necessary in order to complete the application. To date, we have not received a response from you.

Obtaining a water permit ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

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

If you have any questions, please contact this office.

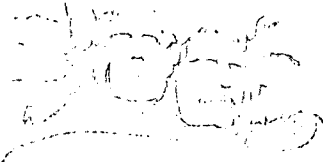
Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosures

South Dakota



GREAT FACES. GREAT PLACES.

October 7, 1991

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE SOUTH DAKOTA 57501-3181

D & J Cafe
Joyce Siebrasse
E Highway 212
Lebanon SD 57455

Dear Ms. Siebrasse:

On October 1, 1991 we received some of the requested information, in order to process your water permit application.

As stated in the July 1, 1991, letter, we still need to have a map showing the location of the diversion point (place where the well is located) in relation to a government section corner or quarter corner by direction and distance. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties. Our suggestion would be to go to your local SCS or ASCS office and obtain an aerial photo. Someone from that office will be able to mark the well location and sign the map.

Upon receipt of the signed map, we will proceed with further processing of your application.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 11, 1992

Subiasse

Joyce Subiasse
D & J Cafe
East Hwy 212
Lebanon SD 57455

Dear Ms. Subiasse:

I am contacting you regarding the possibility that you may need a permit to appropriate water for 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.

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, bars, clubs, 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 July 10, 1992. 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

June 15, 1992

Joyce Siebrasse
D & J Cafe
East Hwy 212
Lebanon SD 57455

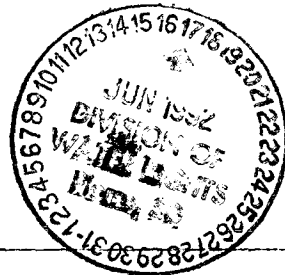
Dear Ms. Siebrasse:

Our records show that your water permit application is on file, and our letter dated June 11, 1992 was sent in error. As I discussed with you on the phone, we will have one of the staff members from the Division of Water Rights contact you to schedule a time to stop by and assist you with the completion of the map and also measure the amount of water that should be claimed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

ERIC GRONLUND, Natural Resources Engineer
Division of Water Rights



Dear Sir

My husband come up with this
aerial map. this is the location of
the D & C Cofe & its well.

If there is something else I have
to do let me know

Joyce Subrass

File No.

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: D & J Cafe, Joyce Siebrasse

ADDRESS: E. Hwy 212, Lebanon, SD 57455 COUNTY: Potter

DATE: 9-1-92 TELEPHONE: (605) 768-2113

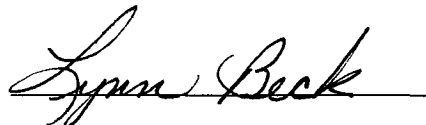
RE: Needed help with application map.

COMMENTS:

The well for D & J Cafe is located 1050' S and 260' E of the NW corner of Section 11, T118N, R74W. The well has a submersible pump and motor with an Autotrol purifier. Virgil Worm drilled the well and installed the pump and motor. They are using less than 18 gpm.

Mrs. Siebrasse said that she doesn't expect to be in business in the next year or two, therefore doesn't want to pay for inspection for licensing. If D & J Cafe is still in business at the time it is necessary to get the license, she will pay for it.

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.

A handwritten signature in cursive script, reading "Lynn Beck", written over a horizontal line.

Lynn Beck

Natural Resources Engineer III

DENR, Water Rights Division

REPORT ON APPLICATION NO. 5709-3
for D & J Cafe
October 14, 1992

Application No. 5709-3 proposes to appropriate 18 gpm (0.04 cfs) from one well approximately 42 feet deep located in the NW 1/4 NW 1/4 of section 11, T118N R74W in Potter County. The water is for commercial use at the cafe.

AQUIFER - BOWDLE LEBANON (B-L)

The Bowdle Lebanon is a unconfined surficial glacial outwash (sand and gravel) under water table conditions. The aquifer underlies 10,100 acres and contains an estimated 22,000 acre feet of recoverable water in storage in Potter County (Hedges, 1982). Ground water movement is from south to north and the aquifer is hydraulically connected to the Bowdle Hoven South aquifer to the north.

The Division of Water Rights monitors seven observation wells completed in the Bowdle Lebanon aquifer. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years (recharge) 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). One of these observation wells PT-58A is located about 1 mile east of this application.

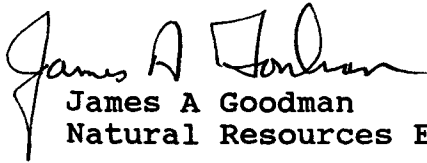
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing water permits/right diversion points within 2 miles of this application. Interference is not expected to be a concern. This is a very small request and will not cause any adverse effects.

CONCLUSIONS

1. Water is available from the Bowdle Lebanon aquifer.
2. Interference is not expected to be a concern. The requested diversion rate is very small and there are no other permitted diversion points in this area.
3. This well appears to be completed in accordance with SD Well Construction Standards.

4. The method of wastewater disposal for this facility is not known.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Hedges, L.S., etal, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

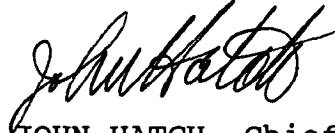
Water Rights, 1992, Unpublished Observation Well Records for Potter County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5709-3, D & J Cafe

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. 5709-3, D & J Cafe, c/o Joyce Siebrasse, East Highway 212, Lebanon, SD 57455.

The Chief Engineer is recommending APPROVAL of Application No. 5709-3 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.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", is written over the printed name.

JOHN HATCH, Chief Engineer
October 26, 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.

October 30, 1992

Joyce Siebrasse
D & J Cafe
East Highway 212
Lebanon, SD 57455

Dear Ms. Siebrasse:

Water Permit Application No. 5709-3 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 Potter County News printed at Gettysburg, SD (Ph # 765-2464). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 30, 1992

Potter County News
Box 0
Gettysburg, SD 57442

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5709-3 to be published twice. Please publish the first notice on November 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 D & J Cafe, E Highway 212, Lebanon, SD 57455 (Ph # 768-2113).

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
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 November 5, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5709-3 to Appropriate Water

Notice is given that D & J Cafe, E Highway 212, Lebanon, SD 57455 has filed an application for a water permit to appropriate 18 gallons per minute (0.04 cubic feet of water per second) from one existing well (Bowdle-Lebanon Aquifer) approximately 42 feet deep located in the NW 1/4 NW 1/4 Section 11-T118N-R74W. The water is for commercial use at the cafe.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5709-3 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 November 23, 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.

If a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Board will consider this application at 10:00 am, December 2, 1992, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. 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. The December 2, 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 November 23, 1992.

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 November 23, 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

NOTICE OF HEARING ON APPLICATION NO. 5709-3 TO APPROPRIATE WATER

Notice is given that D & J Cafe, E Highway 212, Lebanon, SD 57455 has filed an application for a water permit to appropriate 18 gallons per minute (0.04 cubic feet of water per second) from one existing well (Bowdle-Lebanon Aquifer) approximately 42 feet deep located in the NW 1/4 NW 1/4 Section 11-T118N-R74W. The water is for commercial use at the cafe.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5709-3 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 November 23, 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.

If a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Board will consider this application at 10:00 a.m., December 2, 1992, Floyd

Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. 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. The December 2, 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 November 23, 1992.

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 November 23, 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.

(Published in the Potter County News, Nov. 5 and 12, 1992.)

STATE OF SOUTH DAKOTA,
COUNTY OF POTTER, ss.

JACK L. STONER being first duly sworn, on oath says, that he is the publisher of the POTTER COUNTY NEWS, a weekly newspaper published in Gettysburg, County of Potter, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies weekly, and has been published within said county for fifty-two successive weeks next prior to the publication of the notice herein mentioned; that the

*Notice of Hearing
on Application No. 5709-3
To Appropriate Water*

a printed copy of which, taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said

newspaper at least once each week for 2 successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

Nov. 5 + 12, 1992

that the full amount of the fees for the publication of the annexed notice is \$ 58.18

Jack L. Stoner

Subscribed and sworn to before me this 17th

day of Nov., 19 92

Jerry E. Stoner

Jerry E. Stoner, Notary Public
State of South Dakota

My commission expires November 30, 1993.





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 24 1992

Joyce Siebrasse
D & J Cafe
East Highway 212
Lebanon, SD 57455

Dear Ms. Siebrasse:

Enclosed is Water Permit No. 5709-3 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

JUL 2 1996

5810-3

Don Siebrasse
P.O. Box 292
Gettysburg, SD 57442

Dear Mr. Siebrasse:

Enclosed is Water License No. 5810-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 414918 in the amount of \$50.00 which you paid for the inspection 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. 5810-3, 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

ks
enclosures

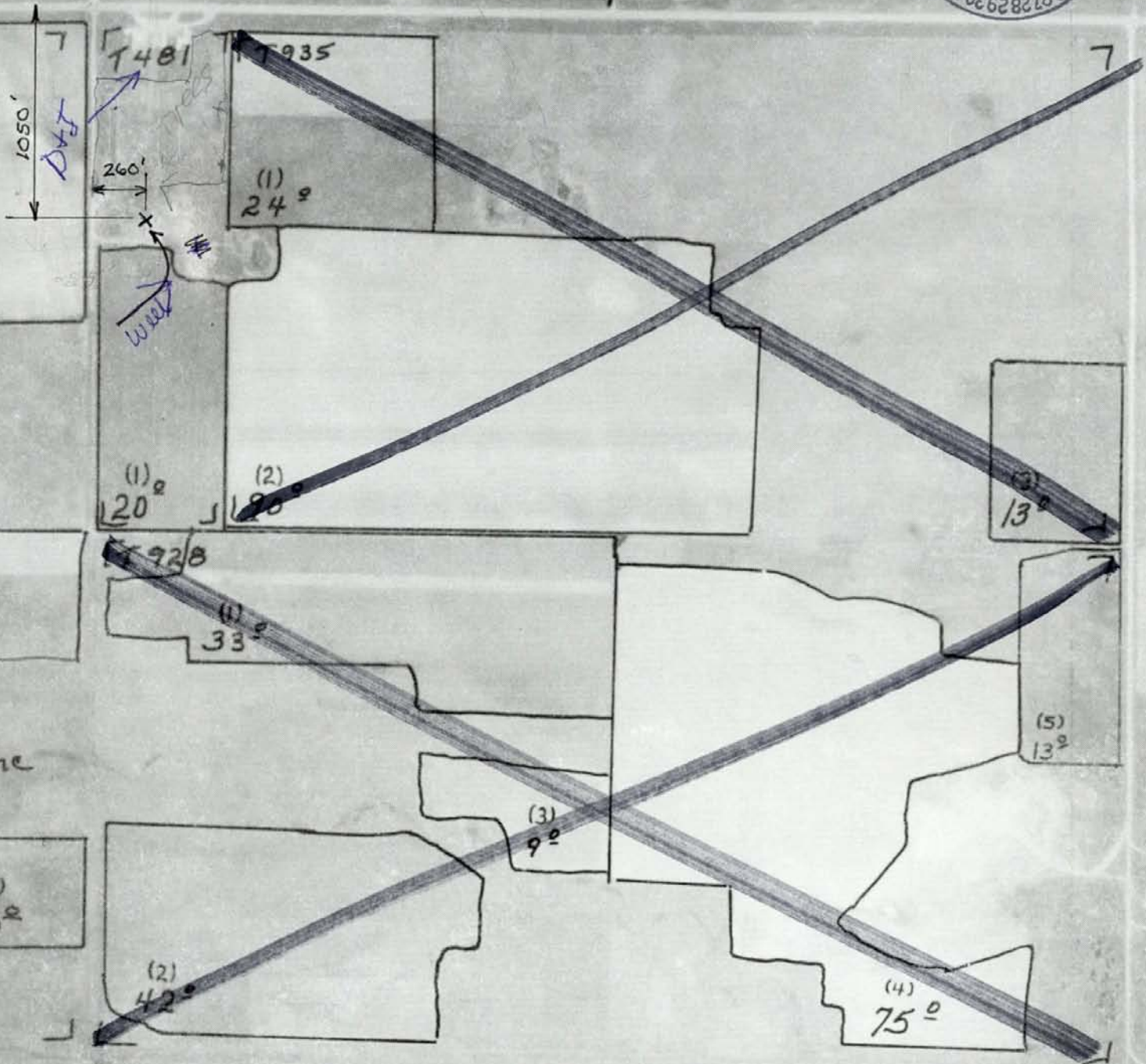
NOTE: The applicable portions of No. 5709-3 are incorporated into this Water License No. 5810-3.

NOT TO SCALE



58

49°



11-118-74

(F15)

Prepared by:

Lynn Beck

Lynn Beck, Natural Resource Engineer
DENR, Water Rights Division
9-1-92

Appl. No. 5709-3