

Considered: _____

WATER PERMIT NO. 5711-3

Phone: 688-7147

Name of Applicant: Buffalo Lake Restaurant c/o Mabel Amos Aimos

Post Office Address: Box 43, HC 1, Eden SD 57232 11977 BIA Road

Amount of Water Claimed: 10 gpm 0.022 cfs Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Marshall

About 10 miles West of Sisseton

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 9-11-92 Fee: \$50 Remarks _____

Corrected Application Received 9-18-92 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: SW 1/4 SW 1/4 Sec 35-T126N-R53W

Land to be Irrigated: _____

			35		
		⊗			

Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: 33' REMARKS well log not available

Type of Map: aerial PREPARED BY: Marjorie Fredenthal, ASCS Reviewed and the Number

Assigned on 9-22-92 By Karen Schlaak

Mail to: Water Rights Div.
523 E. Capitol
Pierre, SD 57501
(605) 773-3352



No. 5711-3 Hydrologic Unit 10160010
Map No. _____ Basin James River
Newspaper The Britton Journal, Box 69

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

- ☐ 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

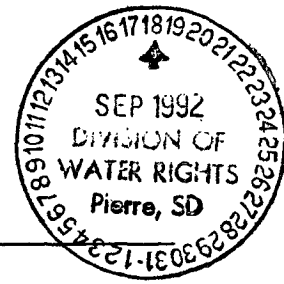
New ☒ Vested Right ☒ Future Use ☐ Change Use ☐

☐ 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. _____

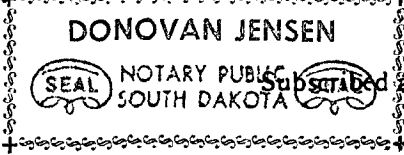


- Name of Applicant BUFFALO LAKE RESTAURANT c/o MABEL ALMOS Phone No. 605-698-7147
- Post Office Address Box 43 HCOI EDEN State 57232
(Street, RR or Box) (City) Zip Code
- Amount of water claimed (c.f.s.) ~~10~~ 10 GAL per min (0.022 cfs)
- Source of water supply WELL
- Location of point of diversion T 126 N, R 83 W, Sec 35
SW 1/4 of SW 1/4
- County MARSHALL
- Counties where water will be used MARSHALL
- Annual period during which water is to be used Annually 1992 — Jan 1-Dec 31
- 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)
Application FOR water rights for existing Restaurant

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 Marshall) ss

I, Mabel Almos 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 Mabel Almos

Donovan Jensen
Notary Public

**SOUTH DAKOTA
WATER PERMIT NO. 5711-3**

Date of first receipt of application March 18, 1991.

Date of return to applicant for corrections, amendments or changes March 18, 1991.

Date of receipt of corrected application September 18, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5711-3 to Buffalo Lake Restaurant, c/o Mabel Almos, Box 43, HC 1, Eden SD 57232 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. 5711-3 appropriates 10 gallons per minute (0.022 cubic feet of water per second) from one well (Coteau Lake Aquifer) 33 feet deep located in the SW 1/4 SW 1/4 Section 35-T126N-R53W.
2. The water appropriated shall be used for the purpose of supplying water to the restaurant 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. 5711-3 is December 2, 1992.
5. The date from which applicant may claim right is September 18, 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

MAR 17 1993
date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 20" Depth 33 ft
- b) Casing Type PVC Diameter 12" Thickness 3/8"
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) 26'
- g) Distance to nearest existing domestic well:
- On applicants property none On property owned by others 1/4 mile

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

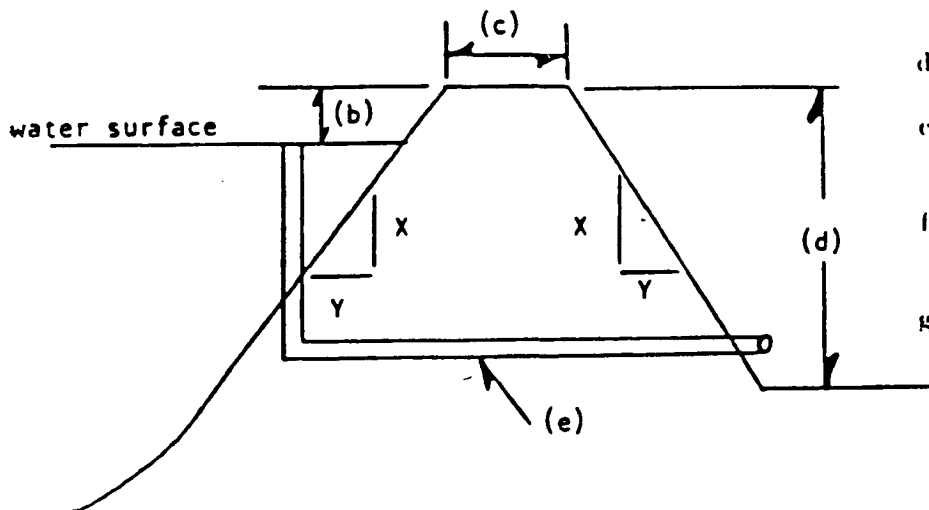
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



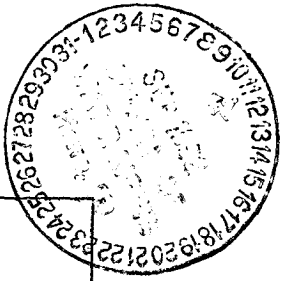
Signature of Applicant _____

NOT TO SCALE

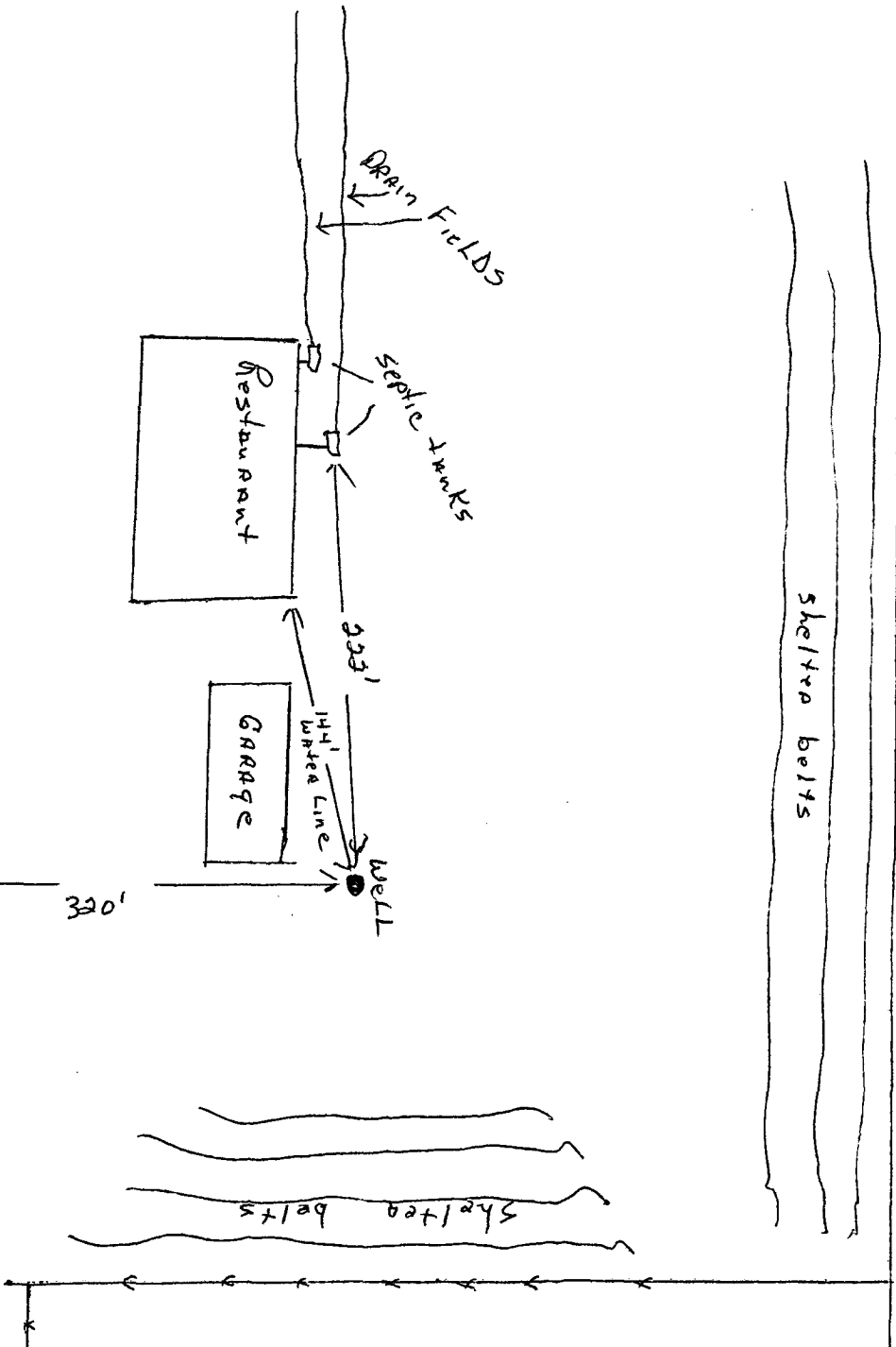


Appl. No. 5711-3

Marjorie Freudenthal
Marshall County ASO Office
Britton SD 57430



Township 126 N
Range 53 W
Section 35



← Buffalo Lake
2.5 miles
EDEN, SD 9 miles

B I A ROAD #3

SD Hwy #10 0.75 mile

RECEIPT

413416

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ September 11, 19 92

RECEIVED OF Mabel Almos, Buffalo Lake Restaurant, HC 01, Box 43, Eden, SD 57232

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

Fee for Application for Permit No. <u>5711-3</u> to Appropriate Water, to construct 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 _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch 
Chief Engineer

ASSOCIATE
MYLES J. DEVINE

L. R. GUSTAFSON
ATTORNEY AT LAW
Box 202
BRITTON, SOUTH DAKOTA 57430

TELEPHONE 448-5332
AREA CODE 605



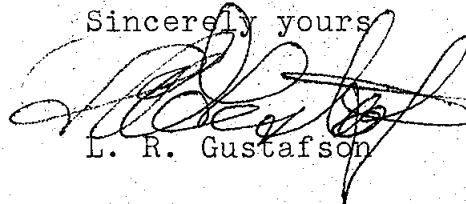
March 15, 1991

Water Rights Division
Joe Foss Building
523 E. Capitol
Pierre, South Dakota 57501

Dear Sir:

Enclosed you will find the application for Permit to
Appropriate Water with the State of South Dakota, for
Mabel Almos, of Eden, South Dakota.

Sincerely yours



L. R. Gustafson

lrg:amg
Encl.

PROVER BOUND



DEPARTMENT OF WATER & NATURAL RESOURCES

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

March 19, 1991

L. R. Gustafson, Attorney
Box 202
Britton SD 57430

Dear Mr. Gustafson:

In regard to the water permit application received on March 18, 1991, for Mabel Amos, the following information needs to be submitted and/or clarified in order to process the application.

1. On Item No. 2 of the application, please include the maximum diversion rate in gallons per minute from the well. The application fee is based on the amount of water claimed. If the maximum diversion rate is less than 45 gallons per minute the application fee will be \$50.00.
2. Item No. 4 indicates the location of the well is in Section 4-T125N-R53W. Please indicate which quarter-quarter (40 acre parcel) of Section 4, the well is located.
3. 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 a part of his assigned duties (i.e. local SCS or ASCS office).
4. A well log or driller's test 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. Upon receipt of the above information, further processing of your application will continue.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 27, 1991

L. R. Gustafson, Attorney
Box 202
Britton SD 57430

Dear Mr. Gustafson:

On March 15, 1991, you submitted an application (copy enclosed) for a permit to appropriate water for commercial use for Mabel Almos. You were notified on March 19, 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.

Obtaining a water permit ultimately benefits the permit holder by protecting their 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, Mabel Amos must have a water permit prior to using water.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 11, 1992

Tom Opsahl
Buffalo Lake Restaurant
HC 01 BOX 43
EDEN SD 57232

Dear Mr. Opsahl:

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

July 21, 1992

Tom Opsahl
Buffalo Lake Restaurant
HC 01 Box 43
Eden SD 57232

Dear Mr. Opsahl:

I am writing to follow-up to my June 11, 1992 letter regarding the legal requirement that you obtain a permit to appropriate water for use in your facility. We have reviewed our records and can not locate a water permit for your business. **A Business without a water permit has no legal right to the use of water. The Chief Engineer can issue a shut off order, if the illegal use of water continues.**

Please complete and return the application that was sent to you with my June 11, 1992 letter. Send the application, with the required fee, to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by August 21, 1992. If you believe you already have a water permit, have a permit issued under another name, 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

South Dakota



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 2, 1992

Tom Opsahl
Buffalo Lake Restaurant
HC 01 Box 43
Eden SD 57232

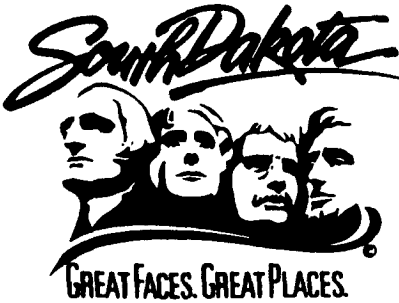
Dear Mr. Opsahl:

I am writing to follow-up to my June 11, 1992 and July 21, 1992 letters regarding the legal requirement that you obtain a permit to appropriate water for use in your facility. **A business without a water permit has no legal right to the use of water and the Chief Engineer can issue a shut off order if the illegal use of water continues.**

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 October 1, 1992. 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

September 14, 1992

Buffalo Lake Restaurant
c/o Mabel Almos
Box 43, HC 1
Eden SD 57232

Dear Ms. Almos

We received your water permit application on September 11, 1992. Enclosed is the aerial photo submitted with the application. On the aerial photo, please mark the location of the well with an "X".

Also, Item No. 2 of the application states the amount of water claimed is 45 gallons per minute. The amount of water claimed should be based on your pump rate. This amount would appear to be excessive for commercial use in a restaurant.

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

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

REPORT ON APPLICATION NO. 5711-3
for Buffalo Lake Restaurant
October 20, 1992

Application No. 5711-3 proposes to appropriate 10 gpm (0.022 cfs) from one well approximately 33 feet deep located in the SW 1/4 SW 1/4 of section 35, T126N R53W within the former Sisseton Wahpeton Indian Reservation in Marshall County. The water is for commercial use at the restaurant.

AQUIFER - COTEAU LAKES (COL)

The Coteau Lakes aquifer is an unconfined glacial outwash (sand and gravel) in this area. In other parts of Marshall County the aquifer may be confined and under artesian conditions (Koch, 1975). The aquifer underlies 32,000 acres and contains an estimated 120,000 acre feet of recoverable in storage in Marshall County (Hedges, 1982). The aquifer extends to the south into Day County. Ground water movement varies locally and is topographically dependent. Generally, ground water movement is toward the major lakes in the area.

The Division of Water Rights monitors one observation well, ML-70Q which is located about 3 miles west of this application. Water levels for this well 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).

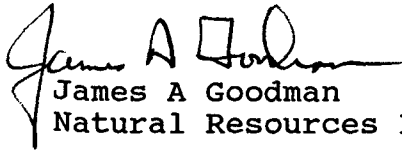
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other permits/rights in this area. Interference is not expected to be a concern.

CONCLUSIONS

1. Water is available from the Coteau Lakes aquifer.
2. Interference is not expected to be a problem. There are no other permits in the area and the requested diversion rate is very small.
3. There is little well construction information available. It can not be determined if this well is completed in accordance with SD Well Construction Standards.

4. The facility has a septic tank system. The location of the septic tanks and drain field complies with SD Well Construction Standards.


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., etal, 1982, Evaluation of Ground Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Koch, N.C., 1975, Geology and Water Resources of Marshall County, South Dakota, Bulletin 23, SDGS, Vermillion, SD, 57069.
- Water Rights, 1992, Unpublished Observation Well Records for Marshall County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5711-3, Buffalo Lake Restaurant

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. 5711-3, Buffalo Lake Restaurant, c/o Mabel Almos, HC 1 Box 43, Eden, SD 57232.

The Chief Engineer is recommending APPROVAL of Application No. 5711-3 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 cursive script, reading "John Hatch".

JOHN HATCH, Chief Engineer
October 21, 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 29, 1992

Mabel Almos
HC 1 Box 43
Eden, SD 57232

Dear Ms. Almos:

Water Permit Application No. 5711-3 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 Britton Journal printed at Britton, SD (Ph # 448-2281). 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 29, 1992

The Britton Journal
Box 69
Britton, SD 57430-0069

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5711-3 to be published twice. Please publish the first notice on November 4, 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 Buffalo Lake Restaurant, HC 1 Box 43, Eden, SD 57232 (Ph # 688-7147).

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 4, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5711-3 to Appropriate Water

Notice is given that Buffalo Lake Restaurant, c/o Mabel Almos, HC 1 Box 43, Eden, SD 57232 has filed an application for a water permit to appropriate 10 gallons per minute (0.022 cubic feet of water per second) from one well (Coteau Lake Aquifer) 33 feet deep located in the SW 1/4 SW 1/4 Section 35-T126N-R53W. The water is for commercial use at the restaurant.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5711-3 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.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County Marshall) ss.

I, C.L. Card

certify that the attached printed Notice was taken
 from the Britton Journal

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 Britton

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

Nov. 4, 1992

Nov. 11, 1992

C.L. Card

(Signature)

publisher

(Title)

Nov. 11, 1992

(Date Signed)

Cost of Printing: \$47.20



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.

2T(Nov. 4-11)

NOTICE OF HEARING on Application No. 5711-3 to Appropriate Water

Notice is given that Buffalo Lake Restaurant, c/o Mabel Almos, HC 1 Box 43, Eden, SD 57232 has filed an application for a water permit to appropriate 10 gallons per minute (0.022 cubic feet of water per second) from one well (Coteau Lake Aquifer) 33 feet deep located in the SW1/4 SW1/4 Section 35-T126N-R53W. The water is for commercial use at the restaurant.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5711-3 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 17 1993

Mabel Almos
Buffalo Lake Restaurant
Box 43 HC 1
Eden, SD 57232

Dear Ms. Almos:

Enclosed is Water Permit No. 5711-3 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

Permit No. 5711-3
James River - Water District

Other permit/license(s) associated with project: none

Contact Person & Address: Mabel Almos, 11977 BIA Road, Eden, SD 57232

Report Of Examination Of Works

On, October 16, 2001, I made a thorough examination of the water use system constructed by Buffalo Lake Restaurant of 11977 BIA Road, Eden, SD 57232 holder of Permit No. 5711-3, bearing the priority of September 18, 1992, authorizing the diversion of 0.022 cu. ft. per second of waters of a Coteau Lake Aquifer well for commercial purposes, in Marshall County.

The system is in the following condition good. The point of diversion is located Well: from the SW corner of Section 35 T126N-R53W it is 990 feet east and 1004 feet north with a longitude of -97.264642 and a latitude of 45.6480770. The works are capable of diverting and conveying to the place of use 0.022 cu. ft. per second of water that is to be used for commercial purposes. The license should be issued for 0.022 cfs.

Review of 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 NA
- 4) Exceptions to compliance are: none

Report On the Specifics of the System

Diversion Point Information:

- 1) Well Drilling Firm: Offeral (Milbank out of business) 2) No. of Wells 1
- 3) Depth(s) 33 feet 4) Well log is available no

Casing:

- 1) Diameter 12 inches 2) Length unknown feet
- 3) Type PVC

Screen:

- 1) Type unknown 2) Length unknown feet
- 3) Static water level 26 feet

Pump\ Motor:

- 1) Pump Make submersible 2) Pump Model unknown

3) Capacity 10 GPM

4) Motor Make Jacuzzi

5) Motor Model No. unknown

6) Horsepower rating unknown hp

Distribution System:

1) Type Plastic 2) Size 12 inches 3) Length 144 feet

Stacy J. Johnson

Stacy J. Johnson

Natural Resources Project Engineer

DENR, Water Rights Program

10-30-01

Date

Section 35 T126N-R53W

Center of Section

Well

It is located 990 feet east and 1004 feet north of the SW Corner



0.2 0 0.2 0.4 Miles

Stacy J Johnson
Natural Resources Project Engineer
SD DENR Water Rights Program

Stacy J Johnson
10-22-01

STATE OF SOUTH DAKOTA

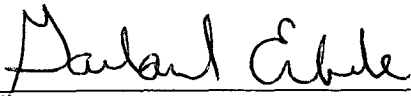
WATER LICENSE NO. 5711-3

(1) Buffalo Lake Restaurant, 11977 BIA Road, Eden SD 57232 made Application No. 5711-3, March 18, 1991 for a water permit to divert 0.022 cubic feet of water per second from groundwater (one well), Marshall County, South Dakota for commercial purposes. Permit No. 5711-3, with a priority date of September 18, 1992 was approved December 2, 1982 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of said water completed.

(2) It is certified that the permit holder 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 0.022 cubic feet of water per second for beneficial use. The location of the diversion point is 990 feet east and 1,004 feet north of the southwest corner of Section 35-T126N-R53W (SW ¼ SW ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Buffalo Lake Restaurant, 11977 BIA Road, Eden SD 57232 the holder and/or owner of Water Right No. 5711-3 is issued a license to appropriate water, the right to use 0.022 cubic feet of water per second from groundwater (one well) with a priority date of September 18, 1992 from the location specified in (2) of this license for commercial purposes. This license is subject to any limitations or qualifications listed in Water Right No. 5711-3 and subject to South Dakota State Law.



GARLAND ERBELE, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 16 2002

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 19, 2002

REMINDER NOTICE

5711-3

Mabel Almos
Buffalo Lake Restaurant
11977 BIA Rd
Eden, SD 57232

Dear Ms. Almos:

On November 1, 2001, we advised you that a \$50.00 fee was due for the completed investigation of your Water Permit No. 5711-3. The fee also covers issuance of your water license which is the final document in obtaining and perfecting a water permit.

To date, we have not received the fee and therefore can not issue the water license. Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by any permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352. The check or money order for the fee should be made payable to the "Water Rights Program".

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

CERTIFICATION

I hereby certify that on February 19, 2002, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 19, 2002 regarding Reminder Notice Nos. 1913-2, 2471B-3, 5627A-3, 5685-3, 5711-3, 5780-3, 6096-3 addressed as stated below:

5627A-3
Levi Tschetter
Poinsett Colony
46527 189th St.
Estelline, SD 57234

2471B-3
Buell & Craig Slepikas
542 4th St SW
Huron, SD 57350

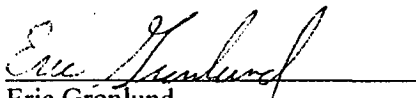
1913-2
Greg Bryant
Happy Holiday Campground
8990 S Hwy 16
Rapid City, SD 57702

5711-3
Mabel Almos
Buffalo Lake Restaurant
11977 BIA Rd
Eden, SD 57232

5685-3
Jim Geier
Bowdle Livestock Exchange
32575 Hwy 12
Bowdle, SD 57428

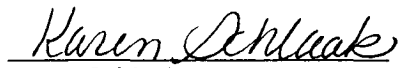
5780-3
Walter C. Wolf
Box 349
Leola, SD 57456

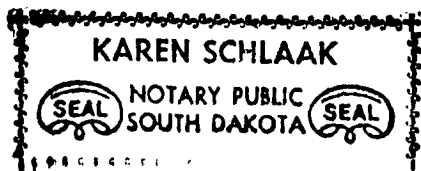
6096-3
Alvin Waldner
Huron Colony
40068 Huron Colony Lane
Huron, SD 57350


Eric Grönlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 20th day of February, 2002.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 1, 2001

5711-3

Buffalo Lake Restaurant
11977 BIA Road
Eden SD 57232

Dear Sir:

On October 16, 2001 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 5711-3, was completed by Stacy Johnson, a staff engineer with our program. Your final water right document, the water license, can now be issued.

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

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

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

Sincerely,

Karen Schlaak

Karen Schlaak
Environmental Scientist
Water Rights Program
(605) 773-3352

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

417118

Pierre, March 22, 2002

RECEIVED OF Nobel Almos, Buffalo Lake Restaurant, 11977 BIA Rd., Eden, SD 57832
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. 5711-3

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

50 00

By

Chief Engineer

Darland Ehle

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 16 2002

5711-3

Mabel Almos
Buffalo Lake Restaurant
11977 BIA Road
Eden SD 57232

Dear Ms Almos:

Enclosed is Water License No. 5711-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 417118 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. 5711-3, 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.

Sincerely,

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

enclosures