

Considered: _____

WATER PERMIT NO. 5718-3

Phone: 352-0700

Name of Applicant: ~~Sue Fuorst~~ Kasperson Oil

Post Office Address: RR 5, Box 164A, Huron

Amount of Water Claimed: 45 gpm 0.1 cfs Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Beadle

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 9-24-92 Fee: \$50 Remarks _____

Corrected Application Received 10-15-92 Period of Annual Use Jan 1 - Dec 31

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

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

Diversion Point: SW 1/4 SW 1/4 Sec 35-T111N-R62W

Land to be Irrigated: _____

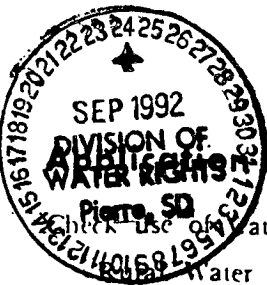
		35		

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

Depth of Well: 80' REMARKS _____

Type of Map: plat PREPARED BY: Kay L. Joy, SCS Reviewed and the Number

Assigned on 10-16-92 By Karen Schlaak

523 E. Capitol
Pierre, SD 57501
(605) 773-3352No. 5718-3 Hydrologic Unit 10160006
Map No. _____ Basin James River
Newspaper Daily Plainsmen, Box 1278, Huron

For Permit To Appropriate Water Within The State Of South Dakota

Check Use of Water: Industrial ☐ Commercial ☒ Municipal ☐ Other Common Distribution System ☐
 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 Sue Fuerst Don Kasperon Phone No. (605) 352-0700Post Office Address RR-5-Box 114-B Huron- State S.D.-57350
(Street, RR or Box) (City) (Zip Code)2. Amount of water claimed (c.f.s.) 45 gallons - PER MINUTE (0.1 cfs)3. Source of water supply Deep Well4. Location of point of diversion Next To BuildingSW 1/4 SW 1/4 Sec 35-T11N-R62W

_____ County _____

5. Counties where water will be used Beadle6. 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)

For use in West Park Cafe

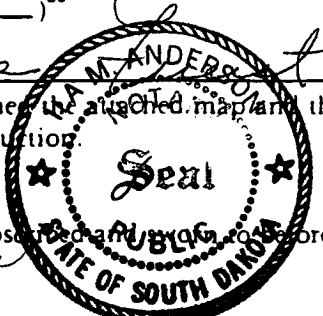
Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)
County of _____)1. Sue Fuerst 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.My commission
expires 8-26-99

Ala M. Anderson

Subscribed and sworn to before me this 23 day of September 1992Signed Sue FuerstAla M. Anderson

Notary Public



**SOUTH DAKOTA
WATER PERMIT NO. 5718-3**

Date of first receipt of application September 24, 1992.

Date of return to applicant for corrections, amendments or changes October 1, 1992.

Date of receipt of corrected application October 15, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5718-3 to Don Kasperson, RR 5, Box 164A, Huron SD 57350 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5718-3 appropriates 45 gallons per minute (0.1 cubic feet of water per second) from one existing well (Warren West James Aquifer) 80 feet deep located in the SW 1/4 SW 1/4 Section 35-T111N-R62W.
2. The water appropriated shall be used for the purpose of supplying water at the Kasperson Oil Facility 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. 5718-3 is February 2, 1993.
5. The date from which applicant may claim right is September 24, 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 16 1993
date

Supplemental Information

(type or print in ink)

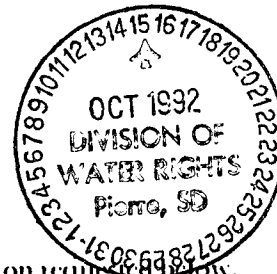


1. Well Information - Proposed construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well: 40-2012
- On applicants property _____ On property owned by others X

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 _____

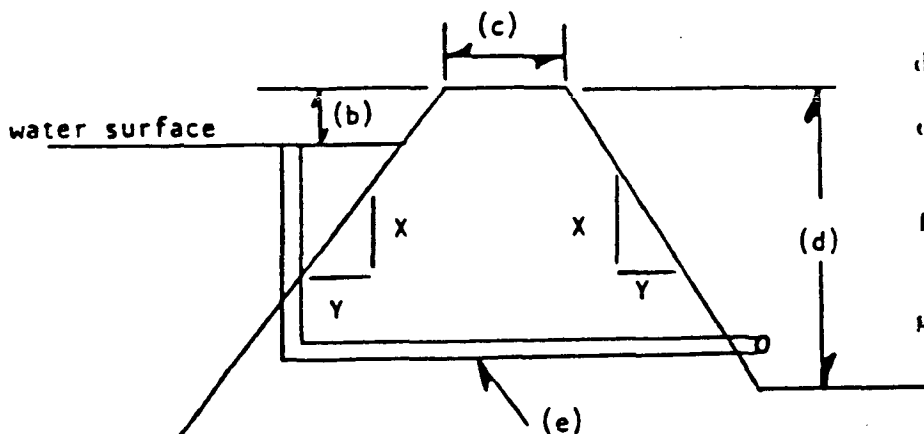
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Sue Everett
Signature of Applicant

07-92

Date:

940

WELL REPORT

HURON
DRILLING CO.
Huron, S. D.Dr. Paul Hohm
OWNERWest Park
DESCRIPTIONApr. 7, 1959
DATE

CASING LOG

Depth 80 ft.
 Flows gpm 30 ft. 4" Galv. pipe to 30 ft.
 Pumps 10 gpm 50 ft. 3" Copper pipe to 80 ft.
 Head 10 ft. ft. pipe to ft.
50 ft. @ bottom
 Perforations ft. pipe to ft.

Pressure

30-80

REMARKS

3 days

Drilling Time

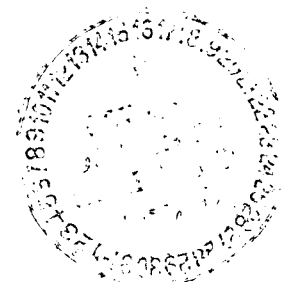
Rig No. 1Jack Kuehl

Foreman

HURON DRILLING INC.
 P.O. BOX 1422
 HURON, SOUTH DAKOTA 57350

COPY

HURON DRILLING INC.
 P.O. BOX 1422
 HURON, SOUTH DAKOTA 57350



RECEIPT

413451

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ October 1, 19 92

RECEIVED OF West Park Restaurant & Casino, West Hiway 14, Huron, SD 57350

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

Fee for Application for Permit No. <u>5718-3</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/mk
Chief Engineer



*changed to
West Park Cafe*

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 12, 1992

SUE FUERST
BUD'S WEST PARK
RR 5 BOX 164B
HURON SD 57350

Wanda Cummings

Dear MS. FUERST:

I am writing to follow-up on my October 1990 and June 19, 1991 letters regarding the need for a permit to appropriate water for use in your facility. Based on the information we have, we believe you need a permit. We would appreciate your earliest attention to this matter.

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

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

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

Very truly yours,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

August 26, 1992

Sue Fuerst
West Park Cafe
RR 5 Box 164B
Huron SD 57350

Dear Ms Fuerst:

I am writing to follow-up to my October 1990, June 19, 1991, and February 12, 1992 letters regarding the legal requirement that you obtain a permit to appropriate water for use in your facility.

Pursuant to South Dakota Codified Laws 46-1-15 and 46-5-10, a water permit is required for a business to use water from a private well. Without a water permit, you have 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 September 25, 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

October 1, 1992

Sue Fuerst
RR 5, Box 164B
Huron SD 57350

Dear Ms. Fuerst:

In regard to your water permit application received on September 24, 1992, the following information needs to be submitted in order to process your application.

1. Enclosed is the map submitted with the application. Mark the location of the well on the map with an "X". The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties (i.e. local SCS or ASCS office).
2. On the application, Item No. 2 you indicated the amount of water claimed to be 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 cafe.
3. A well log signed by a South Dakota licensed well driller must accompany the application. I have checked our files and cannot find a log for this well. On the Supplemental Information sheet, please complete as much of Item No. 1 regarding the well information as possible (such as the depth).

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

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosures

REPORT ON APPLICATION NO. 5718-3
for Sue Fuerst
October 28, 1992

Application No. 5718-3 proposes to appropriate 45 gpm (0.1 cfs) from one existing well approximately 80 feet deep located in the SW 1/4 SW 1/4 of section 35, T111N R62W in Beadle County. The water is for commercial use at the West Park Cafe.

AQUIFER - WARREN WEST JAMES (W-WJ)

The Warren West James is a predominantly confined glacial outwash (sand and gravel). The aquifer underlies 119,500 acres and contains an estimated 568,000 acre feet of recoverable water in storage in Beadle County (Hedges, 1982). The well completion information supplied with the application indicates a total well depth of 80 feet, a 10 feet below land surface static water level and a pumping rate of 10 gpm. This report also indicates a screened zone from 30 to 80 feet below land surface. No geologic information is available for this well.

The Division of Water Rights monitors 17 observation wells completed into the Warren West James aquifer in Beadle County. Observation well BD-79C is located about 2 miles northwest and observation well BD-76K is located about 2 1/2 miles southwest of this application. Water levels for these wells show good response to pumping in the area (irrigation and municipal) and climatic conditions. The overall trend in the area immediately to the west of this application has been a decline in water levels (about 30 feet) followed by a period of little change since 1982. The aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

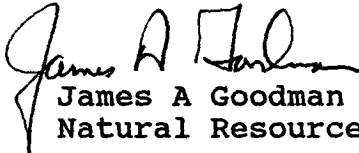
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no existing water permits/rights within 1 mile of this application which obtain water from the Warren West James aquifer. Interference is not a concern. This well has been in use since 1959 with no reported problems. The City of Huron Well Field is located about 2 miles southwest of this application. The validity of the permits and lack of appropriate permits for the Huron Well Field is a separate issue and should not affect this application.

CONCLUSIONS

1. Water is available from the Warren West James aquifer.
2. Geologic information for this well is not sufficient to evaluate the aquifer. Also the well construction information is not sufficient to determine if the well is constructed in accordance with SD Well Construction Standards.

3. In all probability this request is for more water than is actually used. This application should be for 8 to 15 gpm.
4. There is a septic system to dispose of the wastewater for this facility.
5. Sue Fuerst has sampled regularly and will continue to do so for the Drinking Water Program. She leases this facility and feels that the owner should be the person required to obtain the necessary permits. (Phone Conversation - October 28, 1992)


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Hedges, L.S., et al, 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.

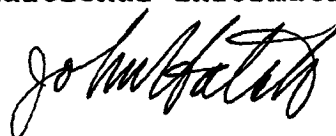
Water Rights, 1992, Unpublished Observation Well Records for Beadle County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5718-3, Sue Fuerst

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. 5718-3, Sue Fuerst, RR 5 Box 164B, Huron, SD 57350.

The Chief Engineer is recommending APPROVAL of Application No. 5718-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be 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 above the printed name.

JOHN HATCH, Chief Engineer
November 13, 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.

November 17, 1992

Sue Fuerst
RR 5 Box 164B
Huron, SD 57350

Dear Ms. Fuerst:

Water Permit Application No. 5718-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Daily Plainsmen printed at Huron, SD (Ph # 352-6401). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
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

November 17, 1992

Daily Plainsmen
Box 1278
Huron, SD 57350

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5718-3 to be published twice. Please publish the first notice on November 24, 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 Sue Fuerst, RR 5 Box 164B, Huron, SD 57350 (Ph # 352-0700).

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 _____

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Sue Fuerst - Water Permit Application No. 5718-3

ADDRESS: RR 5, Box 164B, Huron, SD COUNTY: Beadle

DATE: 11/18/92 TELEPHONE: _____

RE: Call from the Huron Daily Plainsman

COMMENTS:

Phyllis from the Huron Daily Plainsman received a call from Sue Fuerst about the publication of the notice for Application No. 5718-3. Upon finding out the cost of publishing the notice Mrs. Fuerst became irrate and did not authorize publication. I told Phyllis that if they did not authorize publication to not publish the notice. I further stated that we would write Mrs. Fuerst a letter explaining they must obtain a water permit for their use of water and her responsibility as the applicant to publish the notice (ie. - applicant is responsible for paying for publication). I said with that letter we would send out a new notice and hopefully she would authorize publication.

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

NAME: Eric Kronlund



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 19, 1992

Sue Fuerst
RR 5, Box 164B
Huron SD 57350

Dear Ms. Fuerst:

A phone call was received from the Huron Daily Plainsman regarding your Water Permit Application No. 5718-3 for commercial use at the West Park Cafe. The Plainsman indicated that you did not authorize publication of the notice of hearing because of the cost.

South Dakota Codified Law 46-2A-4 states the applicant shall publish notice of the application and recommendation at least once a week for two successive weeks in one official newspaper in the county where the water will diverted or used. The law further states that no application for a permit will be considered and approved by the Water Management Board until proof of all required publications has been filed with this office.

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 has no legal right to the use of water and is not entitled to receive protection in the event of interference by a new or future users who has a water right.

We have resent the Notice of Hearing (copy enclosed) to the Huron Daily Plainsman (phone # 352-6401). Please contact the paper to authorize publication of the notice and to arrange for payment.

If you have any question, please contact Eric Gronlund with this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

cc: Phyllis, Huron Daily Plainsman

Instruction to Newspaper - Publish first Notice on November 24, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5718-3 to Appropriate Water

Notice is given that Sue Fuerst, RR 5 Box 164B, Huron, SD 57350 has filed an application for a water permit to appropriate 45 gallons per minute (0.1 cubic feet of water per second) from one existing well (Warren West James Aquifer) 80 feet deep located in the SW 1/4 SW 1/4 Section 35-T111N-R62W. The water is for commercial use at the West Park Cafe.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5718-3 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 December 11, 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. 5718-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for December 21, 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 December 21, 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 December 21, 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 December 11, 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 December 11, 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 19, 1992

Daily Plainsmen
Box 1278
Huron, SD 57350

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5718-3 to be published twice. Please publish the first notice on December 1, 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 Sue Fuerst, RR 5 Box 164B, Huron, SD 57350 (Ph # 352-0700).

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 December 1, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5718-3 to Appropriate Water

Notice is given that Sue Fuerst, RR 5 Box 164B, Huron, SD 57350 has filed an application for a water permit to appropriate 45 gallons per minute (0.1 cubic feet of water per second) from one existing well (Warren West James Aquifer) 80 feet deep located in the SW 1/4 SW 1/4 Section 35-T111N-R62W. The water is for commercial use at the West Park Cafe.

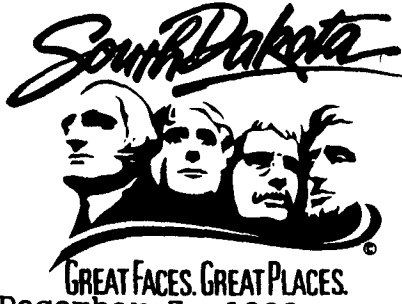
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5718-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the 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 December 18, 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. 5718-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for December 28, 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 December 28, 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 December 28, 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 December 18, 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 December 18, 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.



December 7, 1992

Sue Fuerst
RR 5, Box 164B
Huron, SD 57350

Don Kasperson
RR 5, Box 164B
Huron, SD 57350

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Dear Ms. Fuerst and Mr. Kasperson:

I am writing in regards to the publication of the notice of hearing for the use of water at the West Park Cafe. A application was submitted by Ms. Fuerst last September to obtain the necessary water permit. A water permit is required for all commercial uses of water from a private water supply.

This application was processed and the notice of hearing was mailed to the Huron Daily Plainsman. Ms. Fuerst did not authorize publication because of the cost of publication of the notice and because she does not own the property. A follow-up letter (copy enclosed) explaining the applicant's responsibility to authorize publication of the notice of hearing was sent; however, authorization to publish the notice of hearing was again denied.

I intend to send another notice of hearing to the Huron Daily Plainsman for publication on January 6 and 13, 1993. Copies of this notice and a letter directing authorization of the publication will be sent to both of you prior to the end of the year. It is my understanding that the property served by this well is owned by Mr. Kasperson, who operates the service station, and that the cafe is leased to Ms. Fuerst. I believe you should both discuss who will authorize publication and arrange for payment of the notice of hearing.

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. If there is failure to authorize publication of the notice of hearing once again, the Chief Engineer will likely issue the order to discontinue the use of water from this well.

Please contact me if you have questions about the statutory requirements to obtain a water permit for commercial use of water. I am willing to explain any aspect of the water permitting process including the requirement for publication of the notice of hearing.

Sincerely,

Eric Gronlund
Water Rights Division
605 773-3352

enclosure



**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.

December 14, 1992

Sue Fuerst
RR 5 Box 164B
Huron, SD 57350

Don Kasperson
RR 5 Box 164B
Huron, SD 57350

Dear Ms. Fuerst and Mr. Kasperson:

Water Permit Application No. 5718-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Daily Plainsmen printed at Huron, SD (Ph # 352-6401). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
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

December 14, 1992

Daily Plainsmen
Box 1278
Huron, SD 57350

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5718-3 to be published twice. Please publish the first notice on January 6, 1993, 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 Sue Fuerst, RR 5 Box 164B, Huron, SD 57350 (Ph # 352-0700).

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

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application No. _____ which was first published in our issue
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Don Kasperson

ADDRESS: RR 5, Box 164A, Huron COUNTY: BD

DATE: 12/21/92 TELEPHONE: _____

RE: Call from Don Kasperson

COMMENTS:

Mr. Kasperson called to ask that Kasperson Oil be the name on WP Application No. 5718-3. He stated that since he was the owner of the property and that Ms. Fuerst only leased the cafe from him that the permit should be in the name of Kasperson Oil, RR 5, Box 164A, Huron, SD.

Mr. Kasperson was going to make the necessary change with the Huron Daily Plainsman.

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

NAME: Eric Hamlund

Instruction to Newspaper - Publish first Notice on January 6, 1993, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5718-3 to Appropriate Water

Notice is given that ^{Kasperson Oil}~~Sub Furst~~, RR 5 Box 164A, Huron, SD 57350 has filed an application for a water permit to appropriate 45 gallons per minute (0.1 cubic feet of water per second) from one existing well (Warren West James Aquifer) 80 feet deep located in the SW 1/4 SW 1/4 Section 35-T111N-R62W. The water is for commercial use at the West Park Cafe.

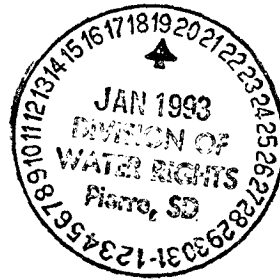
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5718-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the 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 January 25, 1993. 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. 5718-3 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for February 2, 1993, 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 February 2, 1993, 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 February 2, 1993, 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 January 25, 1993.

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 January 25, 1993, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss
 County of Beadle)

I, Mary Walz

certify that the attached printed Notice was

taken from the Huron Plainsman

printed and published in Huron

County of Beadle and State of

South Dakota. The notice was published in
 the newspaper on the following two dates:

January 6, 1993

January 13, 1993

Cost of Printing: \$134.28

Mary B. Walz
 (Signature)

Business Manager
 (Title)

January 13, 1993
 (Date Signed)

F.P. 1-6-93 L.P. 1-13-932
**NOTICE OF HEARING
 ON APPLICATION
 NO. 5718-3**

TO APPROPRIATE WATER

NOTICE is given that Don Kasperson, RR 5 Box 164A, Huron, SD 57350 has filed an application for a water permit to appropriate 45 gallons per minute (0.1 cubic feet of water per second) from one existing well (Warren West James Aquifer) 80 feet deep located in the SW 1/4 SW 1/4 Section 35-T111N-R62W. The water is for commercial use at the West Park Cafe.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5718-3 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 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 January 25, 1993. 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. 5718-3 and 2) the Chief Engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for February 2, 1993, 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 February 2, 1993, 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 petition. Anyone filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The February 2, 1993, 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 January 25, 1993.

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 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 January 25, 1993, 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.

No. 1 (adv.)

14 1/2" x 2 1/4" x 4.63 = 134.28



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 16 1993

Don Kasperson
RR 5 Box 164A
Huron, SD 57350

Dear Mr. Kasperson:

Enclosed is Water Permit No. 5718-3 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,

A handwritten signature in cursive script, appearing to read "John Hatch".

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

enclosures

REPORT ON INSPECTION OF PERMIT NO. 5718-3

DATE OF INSPECTION: 9-25-95

Other permit(s) associated with the project: #

DIVERSION POINT LEGAL LOCATION: 175 feet north and 96 feet east of the SW corner Section 35, T111N, R62W; SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35.

WELL INFORMATION:

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 52 feet
- 4) Well log is available yes

Casing:

- 1) Diameter 5 inches
- 2) Length 32 feet
- 3) Type pvc

Screen:

- 1) Type pvc
- 2) Length 20 feet
- 3) Static water level 15 feet

Pump:

- 1) Make submersible
- 2) Model #
- 3) Size
- 4) Capacity 15 GPM

Motor:

- 1) Make submersible
- 2) Model No. #
- 3) Horsepower rating $\frac{1}{2}$ hp

Distribution lines:

Size 5 inches Type copper Length 50 feet

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

Permit No. 5718-3
James River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, 9-25-95 made a thorough examination of the water use system constructed by Don Kasperson of RR 5 Box 164A, Huron, SD 57350 holder of Permit No. 5718-3, bearing the priority of September 24, 1992 authorizing the diversion of 0.1 cu. ft. per second of the waters of the Warren West James Aquifer for commercial purposes, in Beadle County.

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

A. Works used to divert the water:

One well 52 feet deep with 32 feet of 5 inch pvc casing and 20 feet of pvc screen. The well has a submersible pump and motor with a capacity of 15 gpm and 1½ hp.

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

50 feet of copper pipe.

C. Works used to apply water to beneficial use:

Commercial use for a resteraunt and gas station.

The system is in the following condition good. The point of diversion is located 175 feet north and 96 feet east of the SW corner of Section 35, T111N, R62W. The works are capable of diverting and conveying to the place of use 0.033 cu. ft. per second of water which is to be used for commercial purposes. Water has been put to beneficial use to the maximum extent as follows:

Supply water for the Kasperson Oil facility.

The license should be issued for 0.033 cfs.

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none

Lynn Beck

Lynn Beck

Natural Resources Engineer

DENR, Water Rights Program

4-4-96

Date

STATE OF SOUTH DAKOTA

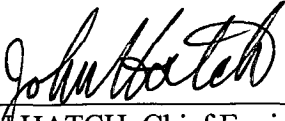
WATER LICENSE NO. 5718-3

(1) Don Kasperson, RR 5 Box 164A, Huron SD 57350 made Application No. 5718-3, September 24, 1992 for a water permit to divert 0.10 cubic feet of water per second from groundwater (one well), Beadle County, South Dakota for commercial use purposes. Permit No. 5718-3, with a priority date of September 24, 1992 was approved February 2, 1993 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.033 cubic feet of water per second for beneficial use. The location of the diversion point is 175 feet north and 96 feet east of the southwest corner of Section 35-T111N-R62W (SW 1/4 SW 1/4).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use at the Kasperson Oil facility (restaurant and gas station).

(4) Pursuant to South Dakota Water Law 46-5-30.1 Don Kasperson, RR 5 Box 164A, Huron SD 57350 the holder and/or owner of Water Permit No. 5718-3 is issued a license to appropriate water, the right to use 0.033 cubic feet of water per second from groundwater (one well) with a priority date of September 24, 1992 from the location specified in (2) of this license. The water is used for the purpose of commercial use. This license is subject to any limitations or qualifications listed in Water Permit No. 5718-3 and subject to South Dakota State Law.



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

JUL 2 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 15, 1996

5718-3

Don Kasperson
RR 5, Box 164A
Huron, SD 57350

Dear Mr. Kasperson:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 5718-3, has been completed. Your final water right document, the Water License, can now be issued.

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

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

Sincerely,

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

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

RECEIPT

414910

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ April 17, 19 96

RECEIVED OF Kasperson, Inc. (Don Kasperson), RR 5, Box 164A, Huron, SD 57350

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>5718-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 2 1996

5718-3

Don Kasperson
RR 5, Box 164A
Huron, SD 57350

Dear Mr. Kasperson:

Enclosed is Water License No. 5718-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 414910 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. 5718-3, 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

January 17, 2001

2000 South Dakota Water Use Questionnaire

To:

Address correction requested:

DON KASPERSON

~~RR 5 BOX 164A~~

HURON SD 57350

P.O. Box 85

One questionnaire is being provided for each permitted water source. The following information is based on Water Permit\Right No. 5718-3. If you have other permits\rights in the same water source, also include water use under those permits\rights on this questionnaire.

Water Source: GROUNDWATER

County: BEADLE

Aquifer: WARREN

Pumping Pt. Legal: SEC 35-T111N-R62W

Management Unit: WEST JAMES

Type of Water Use: COMMERCIAL

1) Please estimate your year 2000 water use from the above water source: _____ gallons

2) If no water use in 2000, please list the reason(s) why in the comments section.

Comments: Sold out to S. Dak. D.O.T. in Aug 2000

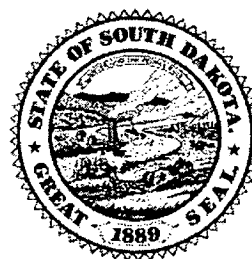
Contact Person: Don Kasperson

Telephone No: 605-352-3749

Questions? Please call Mark Rath or Ron Duvall at 605 773-3352 for assistance.

Thank you for completing the 2000 water use questionnaire.

Water Rights on the Web: www.state.sd.us/denr/wr





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 13, 2001

5718-3

SD Dept. of Transportation
Wayne Cramer, Area Engineer
PO Box 940
Huron SD 57350-0940

Dear Mr. Cramer:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 5718-3. The water right is currently listed in the name of Don Kasperson.

The transfer form should be checked over for accuracy and **signed by the new owner** in the presence of a notary public. State agencies are not required to submit the filing fee.

In our phone conversation you indicated that DOT bought the property because of the highway bypass project. It is my understanding that DOT does not intend to use the well and after completion of the project, the property may be sold. If or when the property is sold, the new owner should contact our office if they intend to use the well for commercial purposes.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181



No. 5718-3

Date: _____

I/We request that Water Right No. 5718-3

formerly owned by: Don Kaspersen

be transferred to: (name & address) SD Dept. of Transportation, PO Box 940, Huron SD 57350-0940

Telephone No. 605 353-7140

Title to the following described land(s)/property has been transferred as described above:

one well located in SW 1/4 SW 1/4 Section 35-T111N-R62W

I/We understand that the validity of Water Right No. 5718-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

~~A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.~~

STATE OF SOUTH DAKOTA)

County of Hughes)

I/We Dennis Landguth, DOT Dep. Sec. being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Dennis Landguth
(Signed)

Subscribed and sworn to before me this 28th day of March, 20 01.

Jean R. Rounds
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 2, 2001

5718-3

SD Dept of Transportation
Wayne Cramer, Area Engineer
PO Box 940
Huron, SD 57350-0940

Dear Mr. Cramer:

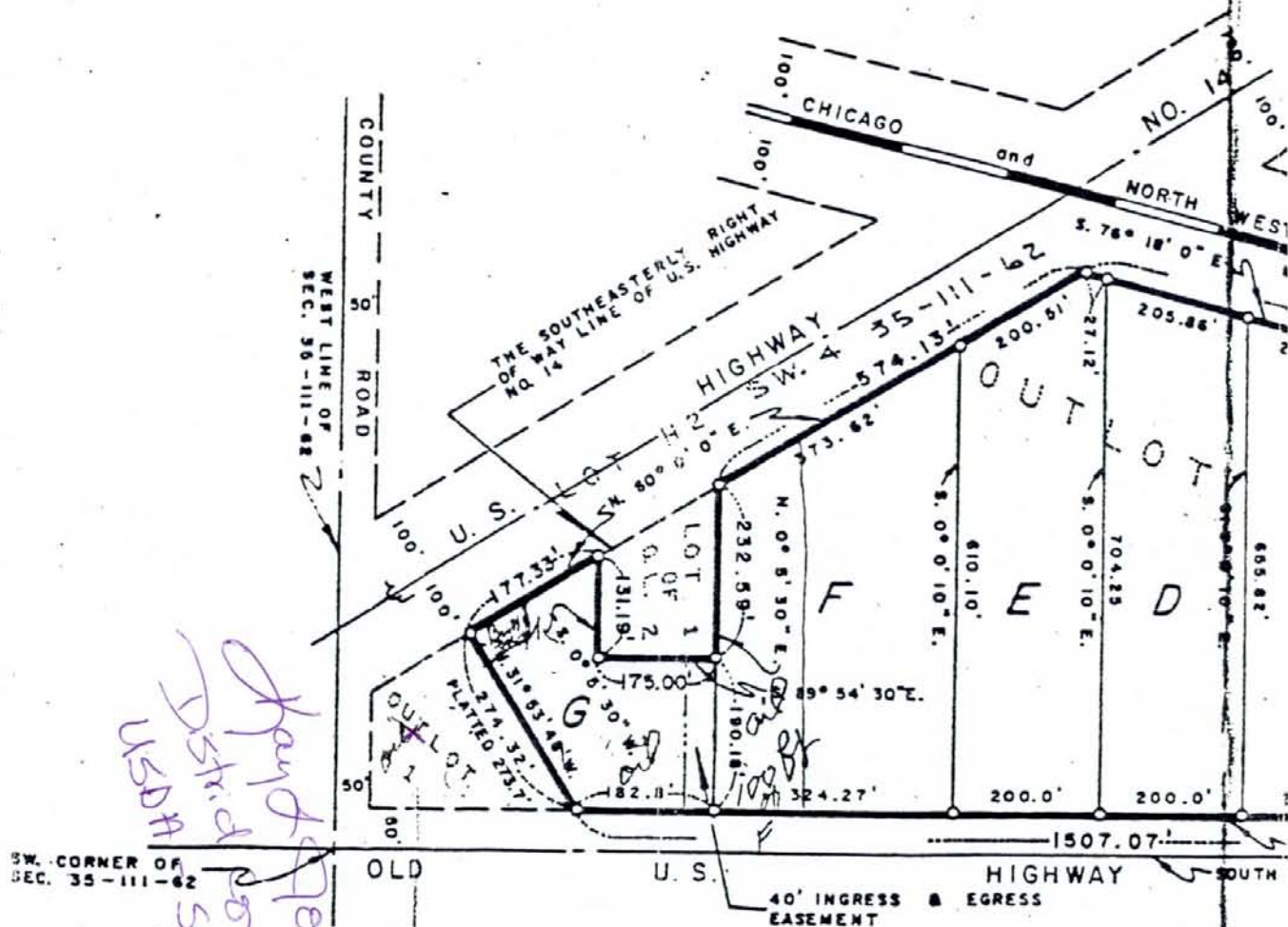
Thank you for following up on the ownership change for Water Right No. 5718-3. The transfer has been completed. The water permit formerly listed in the name of Don Kasperson is now listed in the name of SD Dept. of Transportation.

If I can answer any questions for you, please contact me.

Sincerely,

Glenda Marks
Secretary
Water Rights Program
(605) 773-3352

South 1/2 of SW 1/4 of Section
34 + 111 N R 62 W
outlot 1



KNOW ALL MEN BY THESE PRESENTS that Paul Hohm, owner
State of South Dakota and County of Beadle, to wit;



App'l No. 5718-3

NOT TO SCALE

NHSL
②

111-62

W
④

G-12

F23511
39.6

47.2

T2210
~~90.2~~
86.7

Prepared by:

Lynn Beck

Lynn Beck

Natural Resources Engineer
DENR, Water Rights Program
4-4-96

19.1

NW
NHSL
④NE
NHSL
⑤

NC

35

47
②

25.8

NC

NC

96'
175'

111-62

G-12

2005 South Dakota Water Use Questionnaire

To:

Address correction requested:

SD DEPT OF TRANSPORTATION
PO BOX 940
HURON SD 57350 0940

One questionnaire is being provided for each permitted water source. The following information is based on Water Permit/Right No. 5718-3. If you have other permits/rights in the same water source, also include water use under those permits/rights on this questionnaire.

Water Source: GROUNDWATER

County: BEADLE

Aquifer: WARREN

Pumping Pt. Legal: SEC 35-T111N-R62W

Management Unit: WEST JAMES

Type of Water Use: COMMERCIAL

1) Please estimate your year 2005 water use from the above water source: _____ gallons

2) If no water use in 2005, please list the reason(s) why in the comments section.

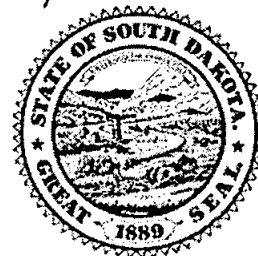
Comments:

SDDOT No longer owns property formally
called "West Park".
was sold to ---- McGillvrey Oil Co., Inc
601 Commercial Ave. SW
P.O. Box 337
Wolsey SD 57384

Contact Person: _____

Telephone No: _____

Questions? Please call Mark Rath or Ron Duvall at 605 773-3352 for assistance.



Thank you for completing the 2005 water use questionnaire. RECEIVED

Water Rights on the Web: www.state.sd.us/denr/wr

FEB 07 2006
WATER RIGHTS
PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

February 15, 2006

No. 5718-3

McGillvrey Oil Co., Inc.
PO Box 337
Wolsey SD 57384

Dear Sir:

The 2005 SD Water Use Questionnaire for Water Right No. 5718-3 was returned by SD Dept of Transportation indicating they had sold to McGillvrey Oil Co., Inc. The questionnaire and a partially completed "Notice of Transfer" form for use in filing a transfer on Water Right No. 5718-3 are enclosed. I have also enclosed a copy of the water right for your records.

The transfer form should be checked over for accuracy and signed by the new owner. Upon completion, return the form and questionnaire to our office. A filing fee of \$2.50 is required for the transfer.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

June 27, 2006

No. 5718-3

Rich McGillvrey
McGillvrey Oil Co., Inc.
PO Box 337
Wolsey SD 57384

Dear Sir:

On February 15, 2006, I wrote you concerning Water Right No. 5718-3 listed in the name of SD Dept of Transportation for the well located in SW ¼ SW ¼ Section 35-T111N-R62W. In a May 11th phone conversation, you indicated the water right should be transferred to R & L Partnership. This is a reminder that we have not received the *Notice of Transfer of Ownership* form.

Enclosed is another partially completed *Notice of Transfer of Ownership* form. The transfer form should be completed, checked over for accuracy and **signed by the new owner.** Upon completion, return the form to our office with a required filing fee of \$2.50.

It is important to us to keep our records current. If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosure