

Considered: _____

WATER PERMIT NO. 5728-3

Phone: 448-2646

Name of Applicant: Cottonwood Bait & Tackle

Post Office Address: RR 2, Box 85, Lake City SD 57247

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

Source of Water Supply: groundwater

Water to be used for: commercial County: Marshall

About 1/2 West miles _____ of Lake City

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 9-30-92 Fee: \$50 Remarks _____

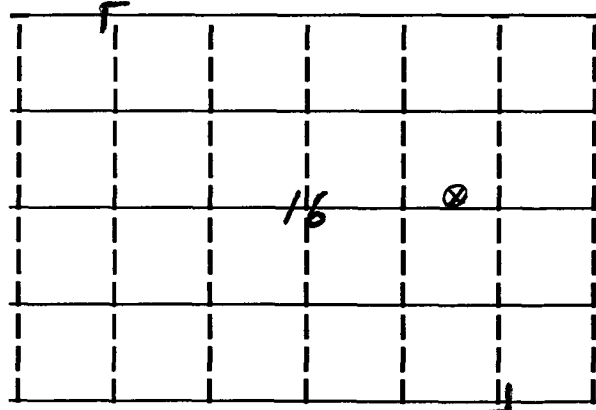
Corrected Application Received 11-17-92 Period of Annual Use Jan 1 - Dec 31

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

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

Diversion Point: SE 1/4 NE 1/4 Sec 16-T126N-R55W

Land to be Irrigated: _____



Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: 180' REMARKS _____

Type of Map: aerial PREPARED BY: Marjorie Freudenthal Reviewed and the Number

Assigned on 11-17-92 By Karen Schlaak

**SOUTH DAKOTA
WATER PERMIT NO. 5728-3**

Date of first receipt of application September 30, 1992.

Date of return to applicant for corrections, amendments or changes October 2, 1992.

Date of receipt of corrected application November 17, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5728-3 to Cottonwood Bait & Tackle, RR 2, Box 85, Lake City SD 57247 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. 5728-3 appropriates 18 gallons per minute (0.04 cubic feet of water per second) from one existing well (Coteau Lake Aquifer) 180 feet deep located in the SE 1/4 NE 1/4 Section 16-T126N-R55W.
2. The water appropriated shall be used for the purpose of supplying water to the business 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. 5728-3 is March 3, 1993.
5. The date from which applicant may claim right is September 30, 1992.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

WATER MANAGEMENT BOARD

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

MAR 26 1993
date

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter 9" Depth 180'
- b) Casing Type PLASTIC Diameter 5" Thickness 200 PSI
- c) Screen Type 1" Diameter 3" Thickness 200 PSI
- d) Gravel Pack Thickness NONE Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material 165'
- f) Depth to Water (ground surface to water level) 35'
- g) Distance to nearest existing domestic well:
 On applicants property _____ On property owned by others 400'

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

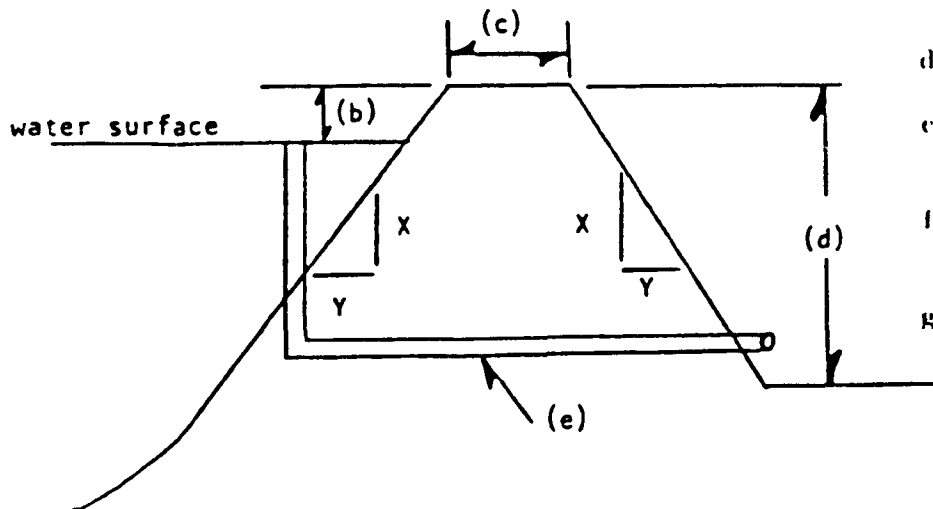
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant _____

NOT TO SCALE



Appl No. 5728-3

Marjorie Freudenthal
Acting CEO
Marshall County ASC Office
Britton South Dakota

RECEIPT

413510

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, November 17, 19 92

RECEIVED OF Cottonwood Bait Co., Rte 2 Box 48, Lake City, SD 57247

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

Fee for Application for Permit No. <u>5728-3</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



Department of Water & Natural Resources

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

September 27, 1984

Cottonwood Bait & Tackle
Box 132
Lake City, SD 57247

Dear Mr. Manecke:

The Division of Environmental Quality of this Department is conducting a survey of non-community public water supply systems. As a part of the survey, we have reviewed our records and we can not find any water rights on file for Cottonwood Bait & Tackle.

A water permit is required pursuant to SDCL 46-1-15 to use water from a private source for commercial use. Any use of water, except for private domestic use, requires a water permit. Examples of commercial use are: truckstops, motels, restaurants, tourist attractions, commercial campgrounds and any other business operation. Examples of non-commercial use that require permits for private supplies are: churches, hospitals and nursing homes (any amount of water) and schools that pump more than 18 gallons per minute.

If you have a water permit that has been issued under another name or if you believe a permit has been issued under another name, please contact us. We are enclosing the necessary permit application forms and instructions, if you need a permit. Please complete and submit with a (see instructions) filing fee.

An existing business without a water right has no right to the use of water. Except for private domestic use, any water user without a water right is not entitled to receive protection in the event of well interference by a new or future user who has a water right. The new user with a water right will have the senior priority over an existing user without a water right. In South Dakota, the first in time (senior priority) is the first in right, except for individual domestic use. Individual household, farm or ranch use does not require a permit and has preference over all other users of water.

If you have any questions or need assistance with completion of the forms, please feel free to contact us.

Sincerely,

A handwritten signature in black ink that reads "Kevin C. Larson". The signature is written in a cursive, flowing style.

Kevin C. Larson
Water Resources Engineer
Office of Water Rights
Phone: (605) 773-3352

Enclosures



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

April 25, 1985

NOTICE

Cottonwood Bait & Tackle
Box 132
Lake City, South Dakota 57247

Dear Mr. Manecke:

September 27, 1984 we notified you that State Law requires that a water permit be obtained for any use of water from a private source for use in a business operation. We have not heard from you on this. Failure to comply with State Laws--SDCL 46-1-6(6), 46-1-15, 46-5-8.2, 46-5-9, and 46-5-10 and Water Management Board Rule ARSD 74:02:01:03--can result in an order to stop water use until an application for a water permit has been submitted and approved.

If you have questions or need another set of permit applications forms or if you believe you already have the required water permit or need assistance in completing the forms, feel free to contact us. Please submit the completed application forms prior to June 25, 1985.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hatch". The signature is written in a cursive, flowing style.

John Hatch, Chief Engineer
Water Rights Division
Phone: (605) 773-3352

S519.WR



Department of Water & Natural Resources

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

NOTICE

January 30, 1986

Gordon E. Manecke
Cottonwood Bait & Tackle
Box 132
Lake City, SD 57247

Dear Mr. Manecke:

September 27, 1984 and April 25, 1985 we notified you that state law requires a water permit for water use by your business. We have not received an application from you for the required water permit. Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, if you wish to continue to use water during 1986, you will need to have an application on file prior to April 1, 1986.

The filing fee for use of 45 gallons per minute or less is \$50.00. The applicant must pay the cost of advertising. If your water system has been in continuous use since prior to 1955, it may qualify for a vested right. The filing fee for a vested right is \$10.50.

If you need any help in preparing the application, map or additional forms, please contact us.

Very truly yours,

A handwritten signature in black ink that reads "John Hatch". The signature is written in a cursive, flowing style.

John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

S522.wr

PS Form 3811, Dec. 1985

● **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space
on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).

- ☒ Show to whom and date delivered —¢
☐ Show to whom, date, and address of delivery .. —¢

2. ☐ **RESTRICTED DELIVERY**

(The restricted delivery fee is charged in addition to
the return receipt fee.) —¢

TOTAL \$ _____

3. **ARTICLE ADDRESSED TO:** Gordon E. Manecke
Cottonwood Bait & Tackle
Box 132
Lake City, SD 57247

4. **TYPE OF SERVICE:**

- ☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER

P 614 819 58

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

5. *G E Manecke Lake City, SD*
DATE OF DELIVERY
1-3-86

POSTMARK

Lake City
SD
3
1986

6. **ADDRESSEE'S ADDRESS** (Only if requested)

7. **UNABLE TO DELIVER BECAUSE:**

7a. **EMPLOYEE'S INITIALS**

2/H

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

ASSOCIATE
MYLES J. DEVINE

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

TELEPHONE 448-5332
AREA CODE 605



February 4, 1986

Mr. John Hatch, Chief Engineer
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Dear Sir:

I have before me your letter of January 30, 1986, to
Gordon E. Manecke of Lake City, South Dakota.

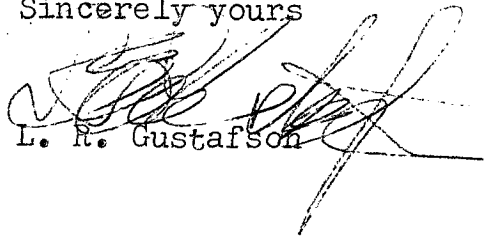
Mr. Manecke has no recollection of receiving prior
letters from you. Mr. Manecke gets his water for the
Resort exclusively from a well that is several hundred
feet from the lake shore and is forty feet (40') deep.

He has not appropriated any water from Cottonwood Lake
for uses in and around the Resort.

The well he is using has been there since before 1955.

I trust that with this explanation you will be able to
determine that he is not required to file.

Sincerely yours


L. R. Gustafson

LRG:sd

WATER RIGHTS DIVISION
(605) 773-3352

February 12, 1986

Cottonwood Bait & Tackle

L. R. Gustafson
Box 202
Britton, South Dakota 57430

Dear Mr. Gustafson:

This is in answer to your letter of February 4, 1986, on behalf of Mr. Gordon E. Manecke, Lake City, South Dakota. A water permit is required pursuant to SDCL 46-1-15 to use water for commercial purposes. The only exception to this requirement is for domestic use as defined in SDCL 46-1-6 (4) and SDCL 46-5-8. Water use by a resort is considered commercial use and not domestic use.

If Mr. Manecke's well has been in existence and used by the resort since prior to 1955 it would qualify for a vested right. The Filing Fee for a vested right is \$10.50. I have enclosed the necessary forms for filing a vested right. If you have any questions, please contact us.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division

JH:ms

SOUTH Dakota Department of
Water & Natural Resources

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

August 4, 1986

NOTICE

TO: Gordon E Manecke, Cottonwood Bait & Tackle, Box 132, Lake City, SD 57247

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352



SUBJECT: Notice of Requirement to File Vested Water Right Claim

This Notice is in regard to your use of water for commercial purposes for Cottonwood Bait and Tackle. On September 27, 1984, application forms were sent to you for filing a vested right claim for your well and use of water for commercial purposes. You were again notified April 25, 1985, and January 30, 1986 that you were required to file a water permit application. A February 12, 1986 letter to L.R. Gustafson, Attorney, also addressed the requirement of obtaining a permit for your commercial use of water. To date, we have not received the application from you.

In order for a water right to be considered as a "vested right", under South Dakota law, the business would have had to have been in operation on or before March 2, 1955. If your business started after this date, a new application will need to be filed.

South Dakota Water Law SDCL 46-5-49 as passed by the 1986 Legislature states that if the Chief Engineer is aware of a water use system for which the owner claims vested right status, the owner may be required to file the vested right claim within 90 days. Any claim filed after the 90 days will be considered a new application and receive a new priority date, which would be the date the application is received in this office. You have 90 days from the date of this notice to submit your application. The filing fee for a vested right is \$15.00.

Enclosed is a set of application forms to claim vested rights. If your well does not qualify for vested right status, the filing fee for your application would be based upon the amount of water used. We will be glad to help you complete the application and answer any questions you may have.

cc: L.R. Gustafson

CERTIFICATION

I hereby certify that on August 4, 1986 I have personally deposited with the U.S. Mail postage prepaid envelopes containing Notice pertaining to Requirement to File Vested Right Claim addressed as stated on the notice.

Karen Schlaak
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of August, 1986.



John Hatch
Notary Public

South Dakota



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 4, 1991

COTTONWOOD RESORT
GORDON MANECKE
BOX 132
LAKE CITY SD 57247

Dear MR. MANECKE:

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, 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 December 1990. 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



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 1, 1992

Charles and Jane Johnson
Cottonwood Bait/Tackle
Rt 2 Box 48
Lake City SD 57247

Dear Mr & Mrs Johnson:

This letter is a reminder of the legal requirement that you obtain a permit to appropriate water for use in your facility. On January 23, 1992, we sent you the materials you would need in order to apply for the required water permit. We have not heard from you on this matter. 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 is another set of 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 30, 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 2, 1992

Cottonwood Bait & Tackle
Charles L. Johnson
RR 2, Box 85
Lake City SD 57247

Dear Mr. Johnson:

In regard to your water permit application received on September 30, 1992, the following information needs to be submitted and clarified in order to process your application.

1. A map showing the location of the diversion point (place where the well is located) in relation to a government section corner or quarter corner by direction and distance. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties. Aerial photos can be obtained from the county Agricultural Stabilization and Conservation Service (ASCS office).
2. On Item No. 4 of the application, please indicate the quarter-quarter (40 acre parcel) section, township and range where the well is located.
3. Please submit a well completion report for the well, if one is available.
4. Under Type of Application, you have checked vested right. In order to qualify for a vested right, water must have been applied to beneficial use before March 2, 1955. If the well was drilled and used for commercial purposes prior to this date, please complete the enclosed Affidavit of Water Use Form and have it signed and notarized. This form is used to establish a priority date for the vested right claim.

Enclosed is the check for \$50. If this permit qualifies for a vested right, then the filing fee will be \$15. If not, please return the \$50 fee.

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

enclosure

WATER PERMIT APPLICATION No. 5728-3
COTTONWOOD BAIT & TACKLE
JANUARY 11, 1993

Water Permit Application No. 5728-3 proposes to appropriate 18 gallons per minute (0.04 cubic feet of water per second) from one existing well 180 feet deep located in the SE 1/4 NE 1/4 Sec. 16, T126N-R55W. The water is for commercial use.

AQUIFER: COTEAU LAKES (COL)

AQUIFER CHARACTERISTICS

A well log is not available for this well, however, based on the well depth and static water level reported with this application, this well appears to be completed into the Coteau Lakes Aquifer. The Coteau Lakes aquifer is a buried outwash deposit of sand and gravel that underlies 32,000 acres and contains an estimated 120,000 acre-feet of recoverable water in storage in Marshall County (Hedges, 1982). The aquifer is confined (artesian) in some places and unconfined (water table) in others. Recharge to the aquifer occurs primarily through infiltration of precipitation. The aquifer is probably hydraulically connected to area lakes and the lakes act as sources of recharge and discharge for the aquifer.

The Division of Water Rights monitors one observation well (ML-70Q), completed into the Coteau Lakes aquifer in Marshall County. Water levels for this well show good response to seasonal and climatic conditions, that is, each year water levels are highest in the spring and early summer and water levels are generally higher during wet years than dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

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

CONCLUSIONS

1. Unappropriated water is available from the Coteau Lakes aquifer for this appropriation.
2. This appropriation can be made without adverse impact on existing users. The diversion rate is relatively small and this well has been used for many years with no apparent problems.

3. Very little information has been supplied concerning the well construction for this application. It can not be determined if this well is constructed in accordance with the SD Well Construction Standards.



Ken Buhler
Natural Resources Engineer

Approved by:



James Goodman, P.E.
Natural Resources Engineer

REFERENCES:

Division of Water Rights, 1993, "Observation Well Files", DENR-
Division of Water Rights, Joe Foss Building, Pierre, SD
57501

Division of Water Rights, 1993, "Water Permit Files", DENR-
Division of Water Rights, Joe Foss Building, Pierre, SD
57501

Hedges, L.S., D. Iles, R. Burrower, R. Schoon, 1982, Evaluation of
Ground-Water Resources Eastern South Dakota and Upper Big
Sioux River, South Dakota and Iowa, U.S. Army Corps of
Engineers Contract DACW 45-80-C-0185, SD Dept. of Water and
Natural Resources, Office of Geological Survey, Vermillion,
SD 57069

Koch, N.C., 1975, Geology and Water Resources of Marshall County,
SD, DENR- Division of Geological Survey, Vermillion, SD,
57069

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5728-3, Cottonwood Bait and Tackle

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. 5728-3, Cottonwood Bait and Tackle, c/o Charles Johnson, RR 2 Box 85, Lake City, SD 57247.

The Chief Engineer is recommending APPROVAL of Application No. 5728-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest with the following qualification:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

See report on application for additional information.



JOHN HATCH, Chief Engineer
January 12, 1993



**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.

January 28, 1993

Charles Johnson
RR 2 Box 85
Lake City, SD 57247

Dear Mr. Johnson:

Water Permit Application No. 5728-3 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

January 28, 1993

The Britton Journal
Box 69
Britton, SD 57430-0069

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5728-3 to be published twice. Please publish the first notice on February 3, 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 Cottonwood Bait & Tackle, RR 2 Box 85, Lake City, SD 57247 (Ph # 448-2646).

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 February 3, 1993, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5728-3 to Appropriate Water

Notice is given that Cottonwood Bait & Tackle, RR 2 Box 85, Lake City, SD 57247 has filed an application for a water permit to appropriate 18 gallons per minute (0.04 cubic feet of water per second) from one existing well (Coteau Lakes Aquifer) 180 feet deep located in the SE 1/4 NE 1/4 Section 16-T126N-R55W. The water is for commercial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5728-3 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 February 22, 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.

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, March 3, 1993, 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 March 3, 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 February 22, 1993.

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 February 22, 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)
 County of Marshall) ss



I, Charles L. Cord

2T(Feb. 3-10)

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

NOTICE OF HEARING
 on Application No. 5728-3
 to Appropriate Water

printed and published in City of Britton

County of Marshall and State of

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

Feb. 3, 1993

Feb. 10, 1993

Cost of Printing: \$47.71

Notice is given that Cottonwood Bait & Tackle, RR 2 Box 85, Lake City, SD 57247 has filed an application for a water permit to appropriate 18 gallons per minute (0.04 cubic feet of water per second) from one existing well (Coteau Lakes Aquifer) 180 feet deep located in the SE1/4 NE1/4 Section 16-T126N-R55W. The water is for commercial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5728-3 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 February 22, 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.

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., March 3, 1993, 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 March 3, 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 February 22, 1993.

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 February 22, 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.

Charles L. Cord

(Signature)

publisher

(Title)

Feb. 10, 1993

(Date Signed)



MAR 26 1993

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Charles Johnson
Cottonwood Bait & Tackle
RR 2 Box 85
Lake City, SD 57247

Dear Mr. Johnson:

Enclosed is Water Permit No. 5728-3 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. 5728-3
James River - Water District

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

Contact Person & Address: Charles Guy, 43880 Highway 10, Lake City SD 57247

Report Of Examination Of Works

On, July 24, 2002, I made a thorough examination of the water use system constructed by Charlies Resort of 43880 Highway 10, Lake City SD 57247 holder of Permit No. 5728-3, bearing the priority of September 30, 1992, authorizing the diversion of 0.04 cu. ft. per second water from Coteau Lake Aquifer one well for commercial purposes, in Marshall County.

The system is in the following condition good. The point of diversion is located Well: from the NE corner it is 2423 feet south and 838 feet west in Section 16 T126N-R55W with a longitude of -97.425409 and a latitude of 45.725692. The works are capable of diverting and conveying to the place of use 0.02 cu. ft. per second of water that is to be used for commercial purposes. The license should be issued for 0.02 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: <u>Vrchota Well Drilling</u> | 2) No. of Wells <u>1</u> |
| 3) Depth(s) <u>180</u> feet | 4) Well log is available <u>no</u> |

Casing:

- | | |
|-----------------------------------|-------------------------------|
| 1) Diameter <u>unknown</u> inches | 2) Length <u>unknown</u> feet |
| 3) Type <u>unknown</u> | |

Screen:

- | | |
|---|-------------------------------|
| 1) Type <u>unknown</u> | 2) Length <u>unknown</u> feet |
| 3) Static water level <u>unknown</u> feet | |

Pump\ Motor:

- | | |
|------------------------------|------------------------------|
| 1) Pump Make <u>Grundfos</u> | 2) Pump Model <u>unknown</u> |
|------------------------------|------------------------------|

- 3) Capacity 6.9 GPM 4) Motor Make Franklin Electric
5) Motor Model No. unknown 6) Horsepower rating 1 hp

Distribution System:

- 1) Type Black pipe 2) Size 1.5 inches 3) Length 100 feet

COMMENTS: A new pump was put in four years ago by Walt Lenius.

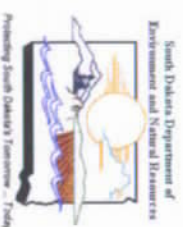
Stacy J. Johnson
Stacy J. Johnson
Natural Resources Project Engineer
DENR, Water Rights Program

9-24-02
Date

Water Permit No. 5728-3



South Dakota



Stacy J. Johnson 8-22-09
 Stacy J. Johnson
 Natural Resources Project Engineer
 SD DENR Water Rights Program

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5728-3

(1) Cottonwood Bait & Tackle, Lake City SD made Application No. 5728-3, September 30, 1992 for a water permit to divert 0.04 cubic feet of water per second from groundwater (one well), Marshall County, South Dakota for commercial purposes. Permit No. 5728-3, with a priority date of September 30, 1992 was approved March 3, 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 water completed.

On July 25, 2002, Water Permit No. 5728-3 was transferred to Charlies Resort, 43880 Hwy 10, Lake City SD 57247.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 5728-3 is issued a license, bearing a priority date of September 30, 1992, to appropriate 0.02 cubic feet of water per second from groundwater (one well). The water is diverted for commercial purposes from the following location:

2,423 feet south and 838 feet west from the northeast corner of Section 16-T126N-R55W (SE ¼ NE ¼)

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 5728-3 including the following qualification:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 21 2003

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 25, 2002

5728-3

Charlies Resort
c/o Charles Guy
43880 Hwy 10
Lake City SD 57247

Dear Mr. Guy:

On July 24, 2002 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 5728-3, 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
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 24, 2003

REMINDER NOTICE

5728-3

Charlies Resort
c/o Charles Guy
43880 Hwy 10
Lake City SD 57247

Dear Mr. Guy:

On September 25, 2002, we advised you that a \$50.00 fee was due for the completed investigation of your Water Permit No. 5728-3. 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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date MARCH 28, 20 02

RECEIVED OF Charlie's Resort, 43280 SD Highway 10, Lake City SD 57277

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	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. <u>5728-3</u>		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50.00

No. 000095

By Darland Ebele
Chief Engineer gme

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED

JUL 25 2002

WATER RIGHTS
PROGRAM

No. 5728-3

Date: 7-24-02

I/We request that Water Right/Permit No. 5728-3

formerly owned by: Cottonwood Bait & Tackle, RR2, Box 85, Lake City SD 57247

be transferred to: (name & address) Charles Resort 43820 Hwy 10
Lake City SD 57247

Telephone No. (605) 448-2226

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

SE 1/4 NE 1/4 Section 16 T126N-R55W

I/We understand that the validity of Water Right/Permit No. 5728-3 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 required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Charles Guy, the new owner, certify that the above information is true and correct.
Charles Guy

Charles Guy
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. 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.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NE 417243

Pierre, July 25, 2002

RECEIVED OF Charles Guy, Charles Resort, 43880 Hwy 10, Lake City SD 57247
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. _____

Fee for Filing Transfer Form 5728-3

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By

David S. Eide

Chief Engineer

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 21 2003

5728-3

Charlies Resort
% Charles Guy
43880 Hwy 10
Lake City SD 57247

Dear Mr. Guy:

Enclosed is Water License No. 5728-3. This is the final water right document completing your process of obtaining a Water Right.

The water permit formerly held by Cottonwood Bait & Tackle, was transferred to Charlies Resort prior to the water license being issued. Enclosed is Receipt No. 000695 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License and Receipt No. 417243 in the amount of \$2.50 which you paid for the transfer of the License.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

enclosures