

WATER PERMIT NO. 5752-3

Phone: 582-6200

Name of Applicant: Brandon Wood Preserving, Inc.

Post Office Address: PO Box 34, Brandon SD 57005

Amount of Water Claimed: 40 gpm (0.09 cfs)  
~~55 gpm (0.122 cfs)~~ Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Minnehaha

About \_\_\_\_\_ miles \_\_\_\_\_ of \_\_\_\_\_

PRIORITY Date Received: 3-1-93 Fee: \$150 Remarks: Increase

diversion rate on Water Permit No. 5276-3

Corrected Application Received: \_\_\_\_\_ Period of Annual Use: Jan 1 - Dec 31

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

WI-1 Description same as Application YES \_\_\_\_\_ NO \_\_\_\_\_ REMARKS: \_\_\_\_\_

Diversion Point: SE 1/4 SE 1/4 Sec 27-T102N-R48W

Land to be Irrigated: \_\_\_\_\_

|  |  |  |    |   |  |
|--|--|--|----|---|--|
|  |  |  |    |   |  |
|  |  |  |    |   |  |
|  |  |  | 27 |   |  |
|  |  |  |    | ⊗ |  |

Well Log: Driller: Sioux Well Drilling Licensed YES X NO \_\_\_\_\_

Depth of Well: 140' REMARKS: \_\_\_\_\_

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

Assigned on: 3-1-93 By: Karen Schlaak

**FORM 2: Application for uses other than irrigation**

(type or print)

6J

Mail to:  
Water Rights Division  
Joe Foss Building  
523 E Capitol  
Pierre SD 57501-3181  
605 773-3352

No. \_\_\_\_\_ Hydrologic Unit \_\_\_\_\_  
Basin \_\_\_\_\_  
Newspaper \_\_\_\_\_  
(office use only)



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

**Check use of water:**

- |                                             |                                                |                                          |                                          |
|---------------------------------------------|------------------------------------------------|------------------------------------------|------------------------------------------|
| <input type="checkbox"/> Municipal          | <input type="checkbox"/> Suburban Housing      | <input type="checkbox"/> Recreational    | <input type="checkbox"/> Institutional   |
| <input type="checkbox"/> Rural Water System | <input type="checkbox"/> Commercial            | <input type="checkbox"/> Fish & Wildlife | <input type="checkbox"/> Geothermal Heat |
| <input type="checkbox"/> Domestic           | <input checked="" type="checkbox"/> Industrial | <input type="checkbox"/> Other _____     |                                          |
- (over 18 gpm)

**Type of Application:** ☒ **New** ☐ **Vested Right** (Use predates Mar 2, 1955) ☐ **Future Use Reservation**  
(check one) ☐ **Place to Beneficial Use Water Reserved by Future Use Permit No.** \_\_\_\_\_  
☐ **Amendment/Correction to Permit No.** \_\_\_\_\_

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) \_\_\_\_\_  
Addl. water on well under No. 5276-3

- Name of Applicant Brandon Wood Preserving, Inc. Phone 582-6200  
(check one) ☒ Owner ☐ Tenant/lessee  
Mailing Address P. O. Box 34 Brandon State SD 57005  
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 0.122 \*CFS or 55 \*\*GPM \_\_\_\_\_ \*\*\*AF \_\_\_\_\_  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Groundwater - Split Rock Creek
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) SE1/4 SE1/4 Sec. 27-  
T102N-R48W
- County or counties where water will be used Minnehaha
- Annual period during which water is to be used January 1 to December 31
- Give a description of the 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)

Well is used for water supply for industrial process involving generating wood preservative solution. Application is for additional 55 GPM used by wood preserving plant.  
(45 GPM - 0.1 cfs appropriated to Brandon Wood Preserving by No. 5276-3)  
Total used = 100 GPM

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

**STATE OF SOUTH DAKOTA)**  
County of MINNEHAHA )<sup>SS</sup>

I, JEFF TABBERT, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Jeff Tabbert  
Subscribed and sworn to before me this 23 day of February 19 93  
Kathleen Ann S. Case  
Notary Public

**MY COMMISSION EXPIRES 10-5-98**

**SOUTH DAKOTA**  
**WATER PERMIT NO. 5752-3**

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Date of first receipt of application March 1, 1993.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5752-3 to Brandon Wood Preserving, Inc., c/o Jim Engelen, PO Box 34, Brandon SD 57005 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. 5752-3 appropriates 0.09 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 5276-3. Water Permit No. 5276-3 appropriates 0.10 cfs from one well (Split Rock Creek Formation) 140 feet deep located in the SE ¼ SE ¼ Section 27-T102N-R48W. This permit increases the water appropriation from 0.10 cfs (45 gallons per minute) to 0.19 cfs (85 gallons per minute).
2. The water appropriated shall be used for the purpose of supplying water for commercial use and may not exceed the amount of water needed for beneficial use.
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. 5752-3 is March 25, 2002.
5. The date from which applicant may claim right is March 1, 1993.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The 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.
2. Permit No. 5752-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a) Chapter 74:54:01 Ground Water Quality Standards,
  - b) Chapter 74:54:02 Ground Water Discharge Permit,
  - c) Chapter 74:51:01 Surface Water Quality Standards,
  - d) Chapter 74:51:02 Uses Assigned to Lakes,
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.

**WATER MANAGEMENT BOARD**

By: Garland Erbele

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

APR 16 2002

date



# Supplemental Information

(type or print in ink)

## 1. Well Information - Proposed construction

- a) Drill Hole Diameter 8 3/4" Depth 140 feet
- b) Casing Type Plastic 200" Diameter 6" Thickness 3/8" wall
- c) Screen Type Plastic 200" Diameter 6" Thickness 3/8" wall
- d) Gravel Pack Thickness 1 1/2" Length of Gravel Pack 30'
- e) Depth to Top of Water Bearing Material 112'
- f) Depth to Water (ground surface to water level) 22'
- g) Distance to nearest existing domestic well:
- On applicants property \_\_\_\_\_ On property owned by others 1/2 mile

## 2. Dugout Information Estimates (DNA)

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

## 3. Water Storage Dams (DNA)

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 \_\_\_\_\_

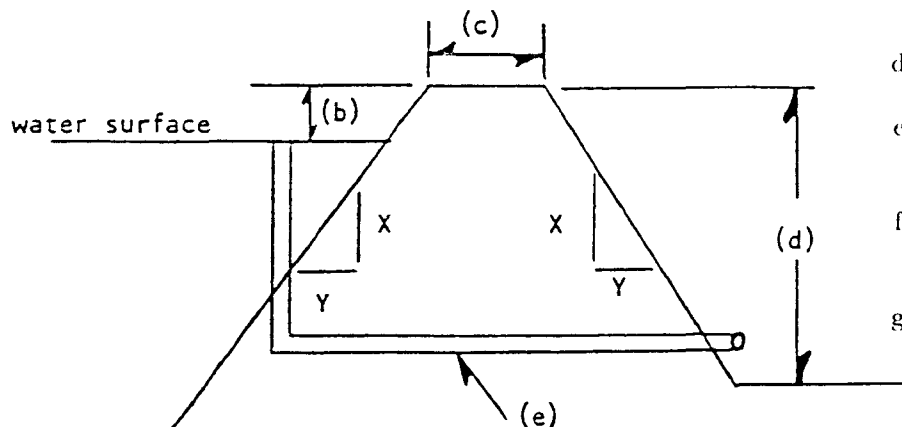
g) X & Y Slope  
Upstream \_\_\_\_\_

Downstream \_\_\_\_\_

Surface Area of Impoundment \_\_\_\_\_

Storage \_\_\_\_\_ acre feet

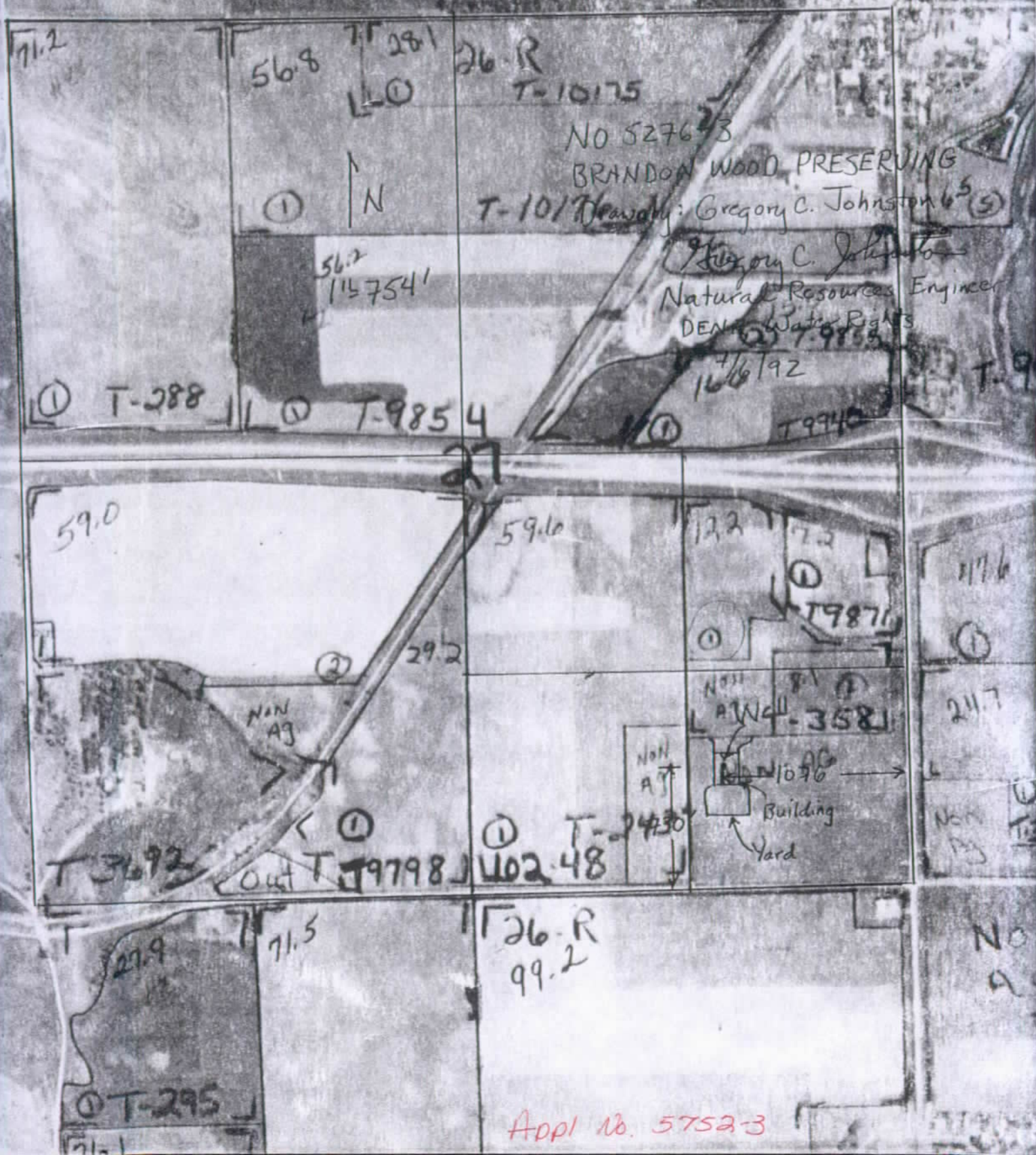
Drainage area above dam \_\_\_\_\_



Signature of Applicant

*James Engeline*  
Brand on Wood Preserving

# NOT TO SCALE



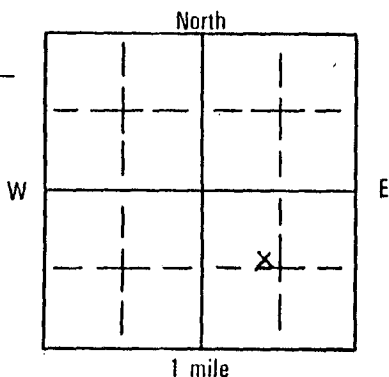
Appl No. 5752-3

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location 1/4 E 1/4 Sec 27 Twp 102N Rg 48WCounty Minnehaha

Please mark well location with an "X"

Well Completion Date Sept 87

## PROPOSED USE:

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

## Method of Drilling:

forward rotary

## CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe \_\_\_\_\_

| PIPEWEIGHT       | DIAMETER    | FROM   | TO     | HOLE DIAMETER |
|------------------|-------------|--------|--------|---------------|
| <u>200</u> LB/FT | <u>6</u> IN | ___ FT | ___ FT | ___ IN        |
| ___ LB/FT        | ___ IN      | ___ FT | ___ FT | ___ IN        |
| ___ LB/FT        | ___ IN      | ___ FT | ___ FT | ___ IN        |
| ___ LB/FT        | ___ IN      | ___ FT | ___ FT | ___ IN        |

## GROUT:

Was the well grouted? ☐ YES ☐ NOTo what depth? 30' FEET

What is grouting material? \_\_\_\_\_

If cement, number of sacks? \_\_\_\_\_

Describe grouting procedure gravity feed with tremmie pipeWhat was grout weight? 15 LB/GALSCREEN: ☐ Perforated pipe ☐ ManufacturedDiameter 5" IN Length 20 FEETMaterial plasticSlot Size .012 Set From 120 Feet To 140 Feet

Slot Size \_\_\_\_\_ Set From \_\_\_\_\_ Feet To \_\_\_\_\_ Feet

Slot Size \_\_\_\_\_ Set From \_\_\_\_\_ Feet To \_\_\_\_\_ Feet

Other information \_\_\_\_\_

Was a packer or seal used? ☐ YES ☒ NO

If so, what material? \_\_\_\_\_

Describe packer(s) and location? \_\_\_\_\_

Was well disinfected upon completion? ☒ YES ☐ NOExplain 50 PPMBacteriological analysis ☐ YES ☒ NO

Laboratory sent to \_\_\_\_\_

## Well Owner:

Name Brandon Wood PreservesAddress 9 Av N + Birch Brandon S.D.

## Well Log:

## Depth

## Formation

## From

## To

|             |     |     |
|-------------|-----|-----|
| top soil    | 0   | 2   |
| clay brown  | 2   | 8   |
| clay yellow | 8   | 38  |
| sand fine   | 38  | 42  |
| clay grey   | 42  | 86  |
| clay yellow | 86  | 88  |
| clay grey   | 88  | 111 |
| sand fine   | 111 | 140 |

STATIC WATER LEVEL 31 Feet

If flowing: closed in pressure \_\_\_\_\_ PSI

GPM flow \_\_\_\_\_ through \_\_\_\_\_ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other; specify \_\_\_\_\_

Can well be completely shut in? \_\_\_\_\_

## WELL TEST DATA:

☐ Pumped☐ Bailed☒ OtherDescribe: air lift  
100 GPM +

## Pumping Level Below Land Surface

\_\_\_\_\_ ft. After \_\_\_\_\_ Hrs. pumped \_\_\_\_\_ GPM

\_\_\_\_\_ ft. After \_\_\_\_\_ Hrs. pumped \_\_\_\_\_ GPM

\_\_\_\_\_ ft. After \_\_\_\_\_ Hrs. pumped \_\_\_\_\_ GPM

## REMARKS:

This well was drilled under license # 129

And this report is true and accurate.

Drilling firm  Sioux Well Drilling

Signature of License Representative:

Wayne H. Wagner

Signature of Well Owner:

Date \_\_\_\_\_

# RECEIPT

413657

## Division of Water Rights

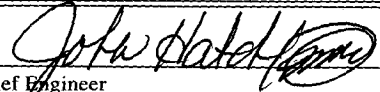
### South Dakota Department of Environment and Natural Resources

Pierre, \_\_\_\_\_ March 1 \_\_\_\_\_, 19 93

RECEIVED OF Brandon Wood Preserving, Inc., PO Box 34, Brandon, SD 57005

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 _____ | 150   | 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 | 150 00 |

By   
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 5, 1993

Jeff Tabbert  
Brandon Wood Preserving, Inc.  
P.O. Box 34  
Brandon, SD 57005

Dear Mr. Tabbert:

Thank you for the information sent on January 21, 1992 to complete the inspection report for Brandon Wood Preserving, Inc. You stated that the maximum pumping rate from the well is 100 GPM. Water Permit No. 5276-3 appropriates 0.1 cfs (45 GPM) from the well for use at the wood preserving plant. When you use the well, does it always pump at 100 GPM? If so, then you are required to apply to for an additional 55 GPM (0.122 cfs). The amount of water that must be appropriated is determined by the maximum pumping rate from the well.

Enclosed is an application to appropriate water with an instruction sheet. Please complete and notarize the application and submit the fee (\$150).

If you have any questions, please feel free to call me anytime.

Sincerely,

Gregory C. Johnston  
Natural Resources Engineer II  
Water Rights Division  
605 773-3352

Enclosure

File No. 5752-3

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Brandon Wood Preserving / Vonni  
Kallemeyn

ADDRESS: Brandon, SD COUNTY: Minnehaha

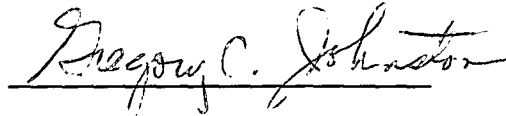
DATE: 3/16/93 TELEPHONE: 582-3913

RE: Qualifications to Permit Application Report for Brandon Wood  
Preserving

COMMENTS:

Vonni Kallemeyn called with information regarding Brandon Wood Preserving. They are in violation of ARSD rules 74:28 (SDCL 34-11A) regarding Hazardous waste. The specific chemical waste is CCA (Chromated Copper Arsenate). They are not presently in compliance, but have improved the situation. Vonni said that the issue is complicated because they are in bankruptcy court and any monetary demands to implement compliance may be in contempt of the bankruptcy court. In addition, CCA is also used as a pesticide and Brandon Wood is a licensed pesticide applicator and is regularly inspected by Dept. of Agriculture personnel.

Secondly, the only waste water generated is from domestic sewage and they have recently been hooked up to the city of Brandon sewer system.



Gregory C. Johnston

Natural Resources Engineer II

DENR, Water Rights Division

File No. 5752-3

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Vonni Kallemeyn

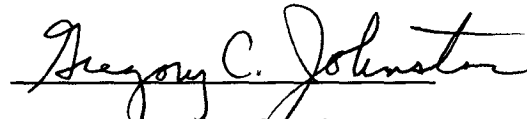
ADDRESS: DENR - Hazardous Waste COUNTY:

DATE: 3/24/93 TELEPHONE: 773-4781

RE: Brandon Wood Preserving Water Permit Application Status

COMMENTS:

E-mailed Vonni regarding the status of the Brandon Wood Preserving Water Permit Application No. 5752-3. The Application will not be advertised for Public hearing and will be deferred until Brandon Wood Preserving is in compliance with DENR Hazardous Waste Rules. Presently, Brandon Wood is in bankruptcy court and this is effecting funds available for mitigative action to achieve compliance. I've asked Vonni to notify the Water Rights Division regarding changes in the status of their compliance with the DENR Hazardous Waste Rules and the ongoing bankruptcy court proceedings.



Gregory C. Johnston

Natural Resources Engineer II

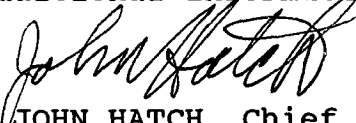
DENR, Water Rights Division

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 5752-3, Brandon Wood Preserving, Inc.

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. 5752-3, Brandon Wood Preserving, Inc., P.O. Box 34, Brandon, SD 57005.

The Chief Engineer is recommending DEFERRAL of Application No. 5752-3 until Brandon Wood Preserving is in compliance with Administrative Rules of South Dakota Chapter 74:28 on hazardous waste.

See report on application for additional information.

  
JOHN HATCH, Chief Engineer  
March 22, 1993

FROM: KALLEMEYN, VONNI

TO: Gronlund, Eric

DATE: 05-26-93

TIME: 10:21

CC: JACOBSON, CARRIE

SUBJECT: Brandon Wood Preserving Compliance

PRIORITY:

ATTACHMENTS:

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As far as I know they are stil in bankruptcy. We have not recieved confirmation that they are in compliance with the regs. We have plans to re-inspect all wood preservers this summer to determine if the sealant has been applied. We will let you know if we hear anything.

It is true that you cannot force BWP to incur costs without the approval of bankruptcy court however if they voluntarily incur the costs you are ok. For instance we had to be careful in our NOV that we didn't mention penalties or didn't force them into incurring costs to come into comliance. Like requiring that they install equipment etc. Hope this helps. Thanks. VK

-----  
FORWARDED FROM: KALLEMEYN, VONNI

FROM: Gronlund, Eric

TO: KALLEMEYN, VONNI

DATE: 05-25-93

TIME: 14:17

CC:

SUBJECT: Brandon Wood Preserving Compliance

PRIORITY:

ATTACHMENTS:

If you recall back to last March you had some discussions with Greg Johnston of Water Rights regarding a water permit application for Brandon Wood Preserving. During those conversations we discovered that BWP was not in compliance with DENR Hazardous Waste Rules and that BWP was in Chapter 11.

Water Rights did not proceed with advertising the application but instead decided to hold the permit to see if they came into compliance. If I understood the situation correctly, we could not cause BWP to incur any costs without the courts approval. The publishing of the notice of hearing of the water permit application would be a cost the company.

To your knowledge has BWP compliance status or bankruptcy status changed? Please let me know at your convenience.

=====

Ref: 8ENF-T

**U.S. EPA REGION VIII**  
**RCRA CEI INSPECTION REPORT**

**Date:** September 2, 1997



1. **Facility Name:** Brandon Wood Preserving, Incorporated (BWPI)
2. **Facility EPA Identification #:** SDD147152219
3. **Facility Location:** 9th Avenue North & Birch Street  
Brandon, South Dakota 57005
4. **Facility Mailing Address:** P.O. Box 34  
Brandon, South Dakota 57005
5. **Facility Contact:** Mr. Jim Engelen, President
6. **Facility Telephone #:** (307) 582-6200
7. **Type of Business:** Wood Preserver
8. **Type of RCRA Facility:** Small Quantity Generator (SQG)/  
Used Oil Generator
9. **Date of Inspection:** July 24, 1997
10. **Type of Inspection:** RCRA Followup Inspection/RCRA Compliance Evaluation  
Inspection
11. **Purpose of Inspection:** To determine compliance with applicable RCRA statute  
and/or regulations
12. **EPA Participants:** Randy Lamdin, U.S. EPA inspector  
Bill Rothenmeyer, U.S. EPA inspector
13. **Facility Participants:** Jim Engelen, President  
Jeff Tabbert, Treating Manager/Certified Applicator
14. **Weather:** Approximately 72 Fahrenheit, Cloudy/Overcast/Humid
15. **Time In:** 8:00 A.M., 1:00 P.M.
16. **Time Out:** 12:00 A.M., 2:00 P.M.

NO ATTACHMENTS- PHOTOGRAPHS

## INTRODUCTION

The purpose of this inspection was twofold in nature. The first was to conduct a RCRA followup inspection as it related to the RCRA compliance evaluation inspection conducted by U.S. EPA inspector Ms. Kris Shurr on May 23-24, 1995. The second was to conduct a RCRA compliance evaluation inspection which covered the period from this previous inspection date to the present. An emphasis was placed upon determining the compliance of the facility with regards to the regulations governing hazardous waste, under the Resource Conservation and Recovery Act (RCRA) of 1976, as amended. Specifically, this inspection effort covered those portions of 40 CFR Parts 260, 261, 262, 265, 266, and 268, as applicable to those facilities which engage in wood preserving and ancillary activities.

## FINDINGS

The U.S. EPA inspectors, Mr. Randy Lamdin and Mr. Bill Rothenmeyer, arrived at the Brandon Wood Preserving, Incorporated (BWPI) facility at approximately 8:00 A.M. to conduct a prearranged RCRA followup inspection/RCRA compliance evaluation inspection. Inspector credentials and the purposes of the RCRA inspection were explained to Mr. Jim Engelen, President of Brandon Wood Preserving, Incorporated. A copy of RCRA 3007 "Inspections" was given to Mr. Engelen as a courtesy to explain inspector access entry, as well as inspector business cards. Mr. Engelen was also afforded a copy of the U.S. EPA Wood Preserving Resource Conservation and Recovery Act (RCRA) Compliance Guide (June 1996) for personal use.

BWPI is a facility that utilizes only Chromated Copper Arsenate (CCA) as a wood preserver. One of the most commonly utilized wood preservatives in the industry, CCA formulations contain arsenic acid, chromic acid, copper oxide, and water. CCA contaminated wastewaters, process residuals, preservative drippage and spent formulations are considered a listed hazardous waste (F035). This wastestream became a listed hazardous waste because CCA is considered a possible carcinogen and chronic exposure can lead to mental confusion, loss of coordination, impaired senses of touch, pain, and temperature, damage to mucous membranes and tissues of the respiratory system, and dermal chemical burns and lesions.

BWPI was started by Mr. Engelen in approximately August 1985. The facility consists of seventeen acres of property, although not all of the acreage is utilized. There are currently three to four full-time employees, including office personnel, and part-time summer hires. When asked, Mr. Engelen informed the inspectors that BWPI gets its raw wood from Tripp Lumber Company in Missoula, Montana. Following CCA treatment at BWPI, Tripp Lumber Company sells its lumber within a two-hundred and fifty (250) mile radius of Brandon, South Dakota. BWPI can be perceived as a contract CCA treater.

## RCRA Compliance Evaluation Inspection (Field Tour)

In order to gain a better familiarity with BWPI and its operation, the U.S. EPA inspectors requested to take a field tour of the facility prior to conducting the office recordkeeping review.

Mr. Engelen and the inspectors toured the BWPI facility from approximately 8:15 A.M. until 10:50 A.M. Inspector findings are noted below.

Mr. Engelen took the inspectors in a westerly direction, outside and just north of the east-west aligned BWPI covered drip pad/retorts/tank storage area building. The inspectors noted a multitude of multi-sized raw wood units, which Mr. Engelen referred to as dimensional lumber. Nothing unusual was noted in this area.

The inspectors and Mr. Engelen then proceeded into an unmowed, weedy area just west of the BWPI covered drip pad/retorts/tank storage area building. The area had a number of unorganized piles of miscellaneous sized, CCA treated and raw wood, which Mr. Engelen referred to as dunnage (Photographs 1 and 2). When asked whether dunnage is still a viable product or waste Mr. Engelen replied that it's a product because local customers occasionally purchase it on a board by board basis. Nothing unusual was noted in this area.

Just due south of the dunnage area, still in the unmowed, weedy area, the inspectors noted a dark blue, truck tanker (Photograph 3). Mr. Engelen informed the inspectors that it was used to transport product CCA to the BWPI facility, but it hasn't been used since 1990. The inspectors asked if any product CCA still remained in the truck tanker and Mr. Engelen stated no. When asked when the truck tanker was last tank integrity tested Mr. Engelen replied in the late 1980's. He added that his intention is to someday sell the truck tanker.

Just southwest of the truck tanker the inspectors noted a small silver structure which Mr. Engelen informed inspectors use to be a glue lamination operation that ceased operation sometime in 1994. Nothing unusual was noted in this area.

The inspection entourage then proceeded in an easterly direction, just south of the east-west aligned BWPI covered drip pad/retorts/tank storage area building. The inspectors noted a multitude of multi-sized CCA treated wood units. Mr. Engelen informed the inspectors that BWPI treats ponderosa pine, red pine, and yellow pine with CCA. This outdoor storage area (Photograph 4) was inspected thoroughly for CCA drippage and none was found. While touring this area Mr. Rothenmeyer asked Mr. Engelen if BWPI has a NPDES permit. Mr. Engelen replied no and informed the inspectors that only sink and toilet wastewater is discharged to an offsite POTW.

The inspectors and Mr. Engelen next observed the forklift maintenance shop, which is connected to but on the south side of the east-west aligned BWPI covered drip pad/retorts building. Mr. Engelen told the inspectors that four (4) forklifts are serviced in this shop. The inspectors observed a total of eight (8), fifty-five (55) gallon drums (Photographs 5 and 6) and five (5), intact spent lead-acid batteries (Photograph 6) just outside of the entrance to the forklift maintenance shop. Two (2) of these drums had a variety of parts in them, however, upon inquiry Mr. Engelen told the inspectors that the other six (6) drums contained used oil. It should be noted that only one (1) of these six (6) used oil drums was labeled "waste oil". The five (5) spent lead-acid batteries appeared to be intact and not leaking. Other than the five (5) unlabeled used oil drums noted and a small, used oil spill in proximity to the six (6) used oil drums aforementioned, nothing unusual was found in this area.

The inspectors noted the kiln area, which was adjacent to and just east of the forklift maintenance shop. Mr. Engelen explained to the inspectors that the kiln is utilized strictly for post-CCA treated dimensional foundation wood because building codes require such wood to have eighteen percent (18%) or less moisture content. Because the kiln was currently in operation the inspectors didn't observe it's interior.

Before passing into the covered, above ground tank storage area the inspectors noted the truck unloading dock area where product CCA is offloaded through a doorway into a 6,000 gallon capacity vertical tank. According to Mr. Engelen, typically 3,200 gallons of a sixty percent (60%) CCA/forty percent (40%) water concentration (before dilution) is unloaded at a time. BWPI purchases product CCA from Chemical Specialties, Incorporated (CSI) out of Texas. The unloading dock has one (1) small, non-POTW connected "blind sump", which is utilized for catching any product CCA. The inspectors noted two (2) small, unknown stains (Photograph 7), but no evidence of a product CCA spill(s).

The inspectors next entered the covered, concrete floor/raised concrete curbed, tank storage area. The first tank observed was the 6,000 gallon capacity vertical product CCA tank and the adjacent facility control panel area. At the latter, Mr. Engelen introduced the inspectors to Mr. Jeff Tabbert, his treating manager/certified applicator. Mr. Tabbert was busy in the facility control panel area. The inspectors noticed some CCA staining at the base of the aforementioned tank, which undoubtedly is the result of periodic hose hooking/unhooking from truck to tank and/or minor piping leakage(s) (Photographs 8 and 9). The residual staining is all contained within the concrete floor/raised concrete curbed area and is considered as "de minimus" losses.

The inspectors subsequently accompanied Mr. Engelen throughout the rest of the tank storage area. In addition to the 6,000 gallon product CCA tank, BWPI has six (6) horizontal tanks (Photograph 10). Mr. Engelen explained to the inspectors that there are three (3), 8,000 gallon capacity tanks, two (2), 9,000 gallon capacity tanks, and one (1), 16,000 gallon capacity tank. Two (2) 8,000 gallon tanks and both 9,000 gallon tanks are retort "work tanks". Two (2) of these tanks are dedicated to one particular retort at a 1.2% CCA/water mixed concentration, while the other two (2) tanks are dedicated to the other retort at a 2.0% CCA/water mixed concentration. Mr. Engelen also mentioned that a couple times monthly one retort's concentration is adjusted to greater than a 2.0% CCA/water mixture to preserve foundation wood and plywood. The remaining 8,000 and 16,000 gallon tanks are for water make-up and brown die respectively. It should be noted that the latter tank is no longer in service.

While observing the tank storage area/control panel area the inspectors noted a one (1) medium, non-POTW connected "blind sump" beneath a horizontal tank, which serves as part of BWPI's secondary containment system. Mr. Engelen explained that this particular "blind sump" serves primarily as a catchment for condensate which drips off this particular tank because of its proximity to the kiln.

A tour of the drip pad/retorts/hazardous waste drum storage area was conducted next. The inspectors observed two (2) retorts at the eastern end of the drip pad (Photographs 11, 12 and 13). Concrete sumps were located beneath each retort door. Fabricated steel insert boxes were placed into the concrete sumps to collect the wastestream, thus making the concrete sumps secondary containment. Mr. Engelen explained to the inspectors that these insert boxes are used to collect CCA/water mix concentration that drips from the retorts when the retort doors are opened after treating raw wood units. When asked what the disposition of the CCA/water mix concentration drippage that is collected is, Mr. Engelen stated that it's put back into the two (2) retort "work tanks" (i.e., it's recycled).

The inspectors and Mr. Engelen then walked the drip pad area (Photographs 14, 15, 16 and 17). The drip pad had a concrete surface that was sealed as required by 40 CFR Part 265 Subpart W. The inspectors noted that the drip pad doesn't appear to be cleaned with a frequency

that allows for requisite weekly inspections (Photograph 18). Mr. Rothenmeyer asked Mr. Engelién whether the forklift working in the drip pad area was dedicated to the drip pad to minimize yard soils CCA contamination and he replied yes. The inspectors noted one (1) large, non-POTW connected "blind sump" with a steel-plated cover in the western half of the drip pad area (Photograph 19). This "blind sump" collects "washdown" (a combination of CCA contaminated water, incidental CCA drippage, dirt, sawdust, and small-sized waste wood) during cleaning of the western half of the drip pad. When the eastern half of the drip pad is cleaned the "washdown" is conveyed over the eastern edge of the drip pad into the fabricated steel insert boxes, the lowest area of the eastern half of the drip pad. "Washdown" from these two locations is recycled back into the retorts on an as needed/generated basis respectively. The solids from these two locations are shoveled into a mobil, tilted, half-drum (Photograph 20) and allowed to gravity drain excess liquids back onto the drip pad. Post-draining, the solids are then shoveled into fifty-five (55) gallon drums and stored in BWPI's hazardous waste drum storage area.

The inspection entourage then proceeded to the hazardous waste drum storage area (Photograph 21). It was located in a small area north of the northernmost retort and just off the northeast corner of the drip pad. The hazardous waste drum storage area appeared to be able to retain anywhere from four (4) to six (6), fifty-five (55) gallon drums of hazardous waste. The inspectors noted one (1), unlabeled, empty drum at this location. Mr. Engelién advised the inspectors that BWPI had just shipped some hazardous waste drums offsite in late June 1997.

The last area viewed by the inspectors during the field tour was another covered building just north of the BWPI covered drip pad. Mr. Engelién said that this building is used for miscellaneous wood cutting activities. The inspectors observed nothing unusual in this area.

#### RCRA Followup Inspection (Office)

Having concluded the field tour, Mr. Engelién and the inspectors returned to the BWPI office area to go over recordkeeping. As alluded to in the introduction section of this document, Mr. Lamdin and Mr. Rothenmeyer were conducting a RCRA followup inspection and a RCRA compliance evaluation inspection simultaneously.

The RCRA inspectors asked Mr. Engelién a few questions/made some observations as a followup to the RCRA compliance evaluation inspection conducted by U.S. EPA inspector Ms. Kris Shurr on May 23-24, 1995. The following address RCRA followup inspection issues.

Mr. Engelién was asked who actually prepares hazardous waste manifests. He stated that Mr. Tabbert, his treating manager/certified applicator, prepares these documents.

During the course of reviewing hazardous waste manifests the inspectors noted a/some 1988 hazardous waste manifest(s). The hazardous waste codes noted on these documents were D004 (arsenic) and D007 (chromium) only. Mr. Lamdin asked Mr. Engelién and Mr. Tabbert if these two (2) hazardous waste codes were used on hazardous waste manifests prior to the F035 (wastewaters, process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium) listing effective date of June 6, 1991. Both BWPI representatives confirmed that D004/D007 were the hazardous waste codes used pre-June 6, 1991, and D004/D007/F035 are the hazardous waste codes used post-June 6, 1991. It appears that BWPI representatives were utilizing process knowledge to determine which hazardous waste codes to use.

During the field tour of the BWPI facility, the inspectors noted no CCA incidental

dripping outside the confines of the drip pad area or the tank storage area. There was no evidence of dripping in the CCA treated wood storage area just due south of the east-west aligned BWPI covered drip pad/retorts/tank storage area building or any noted around the truck unloading dock area. It should be added that this RCRA inspection was announced two days in advance, as opposed to the unannounced RCRA inspection which was conducted May 23-24, 1995.

Mr. Engelen, when questioned about the function of the mobil, tilted, half-drum on the drip pad stated that it's used for both product recovery (the liquid wastestream) and hazardous waste minimization (the solids). This position is contrary to the perception that the activity constitutes illegal treatment without a permit. As long as this half-drum remains on the drip pad as opposed to over exposed soils, product recovery and hazardous waste minimization appear to be legitimate. It should also be noted that inorganics such as arsenic and chromium don't evaporate, as opposed to the water component, which typically does.

In regard to BWPI's hazardous waste generator status determination between November 1992 and April 1995, it appears that the facility has been an episodic large quantity generator (LQG) for one (1) month (May 1994), a small quantity generator (SQG) for nine (9) months (November 1992, April 1993, September 1993, December 1993, March 1994, July 1994, October 1994, November 1994, and April 1995), an episodic conditionally exempt small quantity generator (CESQG) for two (2) months (December 1992 and February 1993), and a no hazardous waste (NHW) [generator] for eighteen (18) months (January 1993, March 1993, May 1993, June 1993, July 1993, August 1993, October 1993, November 1993, January 1994, February 1994, April 1994, June 1994, August 1994, September 1994, December 1994, January 1995, February 1995, and March 1995). During this twelve (12) month period of periodic hazardous waste generation, it appears that BWPI is a small quantity generator (SQG) of hazardous waste fairly consistently, i.e., seventy-five percent (75%) of the time. It should be noted that BWPI actually generates hazardous waste (D004, D007, F035) continuously as raw wood is treated with CCA.

During the field tour of the forklift maintenance shop the inspectors noted no evidence of CCA treated wood sawdust being used as floordry, as previously reported. While observing the miscellaneous wood cutting activities area the inspectors did notice a minor amount of CCA treated wood sawdust when compared to the majority of raw wood sawdust present. As such, the inspectors can neither confirm or deny the use of CCA treated wood sawdust being used as floordry in the forklift maintenance shop. If being done, this practice should be discontinued by BWPI personnel.

In regard to an apparent discrepancy(ies) between hazardous waste amounts generated and documented in the BWPI Hazardous Waste Accumulation Log and what amounts are depicted on relevant hazardous waste manifests, the inspectors can only surmise that the amounts generated entries made into the BWPI Hazardous Waste Accumulation Log are "guesstimates", as opposed to the more accurate hazardous waste manifests amounts entries. As an example, during the time period between June 1995 and June 1997 the BWPI Hazardous Waste Accumulation Log amounts generated entries totaled 1,900 pounds, however, the two (2) relevant hazardous waste manifests amounts entries totaled 1,800 pounds.

The inspectors noted no CCA dripping in any BWPI area except on the drip pad and in the tank storage area. The kiln was in use and could not be inspected. A truck was being loaded

with CCA treated wood during the inspection and no units being loaded appeared to be dripping incidental CCA.

As for personnel training of BWPI employees on the potential hazards of CCA exposure, it should be noted that since November 1992, BWPI has only been an episodic LQG for the month of May 1994. As such, this is the only month in the past fifty-six (56) months that BWPI would have had to maintain personnel training records to document that employees have been properly trained regarding potential health hazards of CCA exposure. It should be noted that the RCRA SQG and CESQG regulations have no recordkeeping requirement for personnel training and no requirement for personnel training respectively.

#### RCRA Compliance Evaluation Inspection (Office)

Following the RCRA followup inspection, the inspectors conducted the office/recordkeeping portion of the RCRA compliance evaluation inspection. The period of time covered during this inspection was from May 25, 1995 through July 24, 1997.

The inspectors requested to see BWPI hazardous waste records during the time period specified. Mr. Engelen and Mr. Tabbert presented the inspectors with their hazardous waste logbook which contained most of the documentation necessary to determine RCRA compliance. The inspectors requested and received copies of BWPI's completed "Drip Pad and Associated Collection Systems Cleaning and Inspection Form" (Attachment 1), "Hazardous Waste Accumulation Log" (Attachment 2), and hazardous waste manifest #'s MI 3143939 and 3513054 (Attachments 3A and 3B). Upon request, BWPI representatives also provided the inspectors with a Concrete Image Maintainers, Incorporated cover letter and an attached SIKAGARD 70 product Material Safety Data Sheet (Attachment 4).

Following an EPA office desktop review of BWPI's "Hazardous Waste Accumulation Log", the inspectors have determined that during the May 1995 to June 1997 timeframe BWPI appears to be a small quantity generator (SQG) of hazardous waste for three (3) months (June 1995, April 1997, and May 1997), a conditionally exempt small quantity generator (CESQG) of hazardous waste for five (5) months (September 1995, April 1996, June 1996, September 1996, and June 1997), and a no hazardous waste (NHW) [generator] for eighteen (18) months (May 1995, July 1995, August 1995, October 1995, November 1995, December 1995, January 1996, February 1996, March 1996, May 1996, July 1996, August 1996, October 1996, November 1996, December 1996, January 1997, February 1997, and March 1997). During this eight (8) month period of periodic hazardous waste generation, it appears that BWPI is a small quantity generator (SQG) of hazardous waste thirty-seven and a half percent (37.5%) of the time and a conditionally exempt small quantity generator (CESQG) of hazardous waste sixty-two and a half percent (62.5%) of the time. In attempting to determine BWPI's hazardous waste generator status it should be noted that during the time period from November 1992 through June 1997 (fifty-six [56] months), BWPI was an episodic large quantity generator (SQG) for one (1) month, a small quantity generator (SQG) for twelve (12) months, a conditionally exempt small quantity generator (CESQG) for seven (7) months, and a no hazardous waste (NHW) [generator] for thirty-six (36) months. As such, other than episodic fluctuations in hazardous waste generation, BWPI is a small quantity generator (SQG) of hazardous waste and is subject to 40 CFR 261.4(a)(9)(i)-(ii), 262.20, 262.21, 262.22, 262.23, 262.34(a),(d)-(f), 262.44, and 268.7, as applicable.

An inspector review of BWPI's "Drip Pad and Associated Collection Systems Cleaning and Inspection Form" revealed a partial cleaning of the drip pad and all of the collection system (110 pounds of hazardous waste total) on September 4, 1995, at 3:00 P.M. with signature, all of the drip pad and collection system (200 pounds of hazardous waste total) on April 25, 1996, at 9:00 A.M. with no signature, all of the drip pad and collection system (100 pounds of hazardous waste total) on June 19, 1996, at no specific time specified with signature, all of the drip pad and collection system (100 pounds of hazardous waste total) on September 10, 1996, at 2:00 P.M. with signature, all of the drip pad and collection system (550 pounds of hazardous waste total) on April 8, 1997, at 9:00 A.M. with signature, all of the drip pad and collection system (500 pounds of hazardous waste total) on May 13, 1997, at 3:00 P.M. with no signature, and all of the drip pad and collection system (no quantity of hazardous waste total specified) on June 22, 1997, at no specific time specified with signature. It should be noted that there are two (2) instances of discrepancies (quantity of material removed to hazardous waste storage/disposal) between BWPI's "Drip Pad and Associated Collection Systems Cleaning and Inspection Form" and "Hazardous Waste Accumulation Log".

An inspector review of the two (2) relevant hazardous waste manifests, MI 3143939 and MI 3513054, revealed that the manifests were properly completed. However, during both the actual inspection and a later desktop review the inspectors determined that neither BWPI retained manifest was accompanied by its respective requisite Land Disposal Restriction (LDR) form. The completed LDR form for manifest MI 3143939 was obtained by Mr. Lamdin via fax from Envotech (TSD), at Mr. Engelen's request, on July 25, 1997. The completed LDR form for manifest MI 3513054 was obtained by Mr. Lamdin via fax from Envotech (TSD), on August 20, 1997, with a fax copy sent to BWPI for their records on that same date. A review of these two (2) LDRs revealed they had been properly completed.

The inspectors noted at the time of the inspection that BWPI compliance with 40 CFR Part 265, Subpart J-Tank Systems was to be determined. After reviewing BWPI's associated collection system, drip pad and truck unloading dock area the inspectors have determined that BWPI has six (6), subsurface sumps. These sumps are located in the tank/retort storage area (3), in the western half of the drip pad (1), in the kiln (1) [which was not physically seen by the inspectors during this inspection], and in the truck unloading dock area (1). All of these sumps, except the truck unloading dock area sump (a closed sump), are part of BWPI's associated collection system.

The inspectors also reviewed BWPI's completed "Drip Pad Weekly Inspection Log", "Storage Yard Incidental Drillage Report" form (none ever completed), and completed charge sheets during the time period specified. The former and latter appeared to be properly completed.

The inspectors asked Mr. Engelen to see the drip pad professional engineer certifications for 1995 and 1996. After some searching Mr. Engelen stated that they had apparently not been done for the two (2) years specified.

Prior to departing the BWPI facility, the RCRA inspectors conducted an out-briefing with Mr. Engelen. On the U.S. EPA Notice of Inspection the inspectors noted five (5) probable RCRA violations, and three (3) areas to be determined (generator status, manifests/LDRs, and tanks). Following signatures by Mr. Engelen, Mr. Lamdin, and Mr. Rothenmeyer on the U.S. EPA Notice of Inspection, Mr. Engelen was provided a copy of the completed form (Attachment 5) and the inspectors departed the BWPI facility at approximately 2:00 P.M.

### Conclusions/Recommendations

This RCRA compliance evaluation inspection, for the period between May 25, 1995 and July 24, 1997, has revealed the following violations at the BWPI facility:

- 1) During the field portion of the inspection the inspectors noted five (5), 55 gallon drums of used oil in front of the forklift maintenance shop which were not properly labeled with the words "Used Oil". This constitutes a violation of 40 CFR 279.22(c)(1).
- 2) During the field portion of the inspection the inspectors noted a small used oil spill in proximity to the six (6), 55 gallon drums of used oil being stored in front of the forklift maintenance shop. This constitutes a violation of 40 CFR 279.22(d)(3).
- 3) During the office portion of the inspection the inspectors noted that BWPI representatives were unable to produce a professional engineer's certified written assessment of their drip pad for 1995 or 1996. This constitutes a violation(s) of 40 CFR 265.443(a)(4)(ii).
- 4) During the field portion of the inspection the inspectors noted that the drip pad was not being cleaned thoroughly enough to allow for weekly inspections of the entire drip pad surface without hindrance/interference from accumulated hazardous waste residues or other materials on the drip pad. This constitutes a violation of 40 CFR 265.443(i).
- 5) During the office portion of the inspection the inspectors noted on completed BWPI "Drip Pad and Associated Collection Systems Cleaning and Inspection Form(s)" that wastes are not being removed at least once every ninety (90) days from the drip pad and associated collection system (cleaning September 4, 1995, next cleaning April 25, 1996 [233 days], cleaning September 10, 1996, next cleaning April 8, 1997 [209 days]). This constitutes illegal storage of hazardous waste without a permit and is a violation(s) of RCRA 3005.
- 6) During the office portion of the inspection the inspectors noted deficiencies in completed BWPI "Drip Pad and Associated Collection Systems Cleaning and Inspection Form(s)" (e.g., on June 19, 1996 entry there is no time of removal specified, on June 22, 1997 entry there is no quantity of waste removal specified and no time of removal specified). This constitutes a violation(s) of 40 CFR 262.34(a)(1)(iii)(B).
- 7) Following an office review of information provided by BWPI representatives, the EPA inspectors noted that BWPI has six (6) subsurface sumps, five (5) of which are part of BWPI's associated collection system. As such, BWPI is subject to 40 CFR 265.190(c). During the office portion of the inspection, when questioned, BWPI representatives informed the inspectors that they didn't know they were subject to 40 CFR Part 265 Subpart J-Tank Systems. Based upon a review of the regulatory requirements BWPI appears to be in violation of the following:
  - a) Failure to have on file, a written assessment by an independent,

registered, professional engineer that attests to the BWPI tank system's integrity. This constitutes a violation(s) of 40 CFR 265.191(a) for hazardous wastes D004/D007 and 40 CFR 265.191(c) for hazardous waste F035 respectively (it should be noted that this/these violation(s) parallel(s) 3) directly above).

- b) Failure to inspect at least once each operating day the aboveground portions of the BWPI tank system/associated collection system. This constitutes a violation(s) of 40 CFR 265.195(a)(2).
  - c) Failure to document in the BWPI operating record that which is noted in 7)b) directly above. This constitutes a violation of 40 CFR 265.195(c).
- 8) During the office portion of the inspection and following an office review of information provided by BWPI representatives, the inspectors noted that there were no Land Disposal Restriction (LDR) certifications/notices for hazardous waste manifests MI 3143939 and MI 3513054 being retained onsite during the inspection (copies of both LDR's were eventually obtained from EnvoTech [TSD]). This constitutes a violation(s) of 40 CFR 268.7(a)(7).

Randy Landin 9/2/97  
Inspector Date

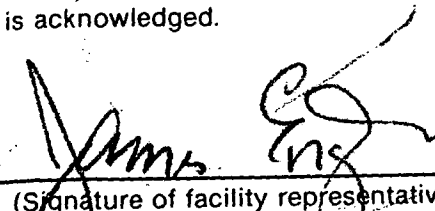
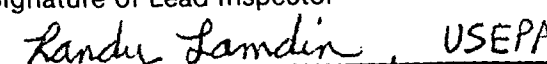
Will A. Benmeyer 9/4/97  
Inspector Date

**U.S. ENVIRONMENTAL PROTECTION AGENCY (REGION VIII)**

One Denver Place, 999 18th St., Denver, CO 80202-2413

**PROGRAM**

**NOTICE OF INSPECTION**

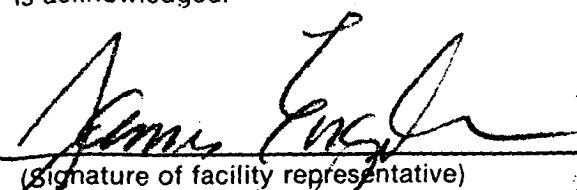
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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|-------------------------------|---------------------|
| <input checked="" type="checkbox"/> Resource Conservation and Recovery Act (RCRA) Public Law 94-580, as amended.<br><input type="checkbox"/> Toxic Substances Control Act (TSCA) Public Law 94-469, as amended.<br><input type="checkbox"/> Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Public Law 92-516, as amended.                                                                                                                                                                                                                                                                 |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      |                               |                     |
| Date<br><b>7/24/97</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Inspector #<br><b>13254<br/>13043</b> | Daily Seq.<br><b>1 OF 1</b> | Hour IN: <b>0800</b><br>OUT: <b>1400</b>                                                                           | CMO Fac.<br><b>—</b>                                                                                                                                                                                                                                                                                      | Facility name<br><b>BRANDON WOOD PRESERVING</b>                      | DUNS #<br><b>SDD147152219</b> |                     |
| Fac. Func.<br><b>—</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Invest. Type<br><b>—</b>              | FATES Reason<br><b>—</b>    | RCRA: Gen. <input checked="" type="checkbox"/><br>Transp. <input type="checkbox"/><br>TSD <input type="checkbox"/> |                                                                                                                                                                                                                                                                                                           | Street<br><b>9TH AVENUE NORTH &amp; BIRCH STREET<br/>P.O. BOX 34</b> |                               |                     |
| Facility Representative(s) Title<br><b>MR. JIM ENGELIEN PRESIDENT</b><br><b>MR. JEFF TABBERT TREATING MANAGER/<br/>CERTIFIED APPLICATOR</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           | City<br><b>BRANDON</b>                                               | State<br><b>SD</b>            | Zip<br><b>57005</b> |
| Phone # <b>(605) - (582-6200)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      |                               |                     |
| Reason for Inspection: Entry by Consent: <input checked="" type="checkbox"/> Warrant: <input type="checkbox"/><br><input checked="" type="checkbox"/> To determine the extent of compliance with the above referenced law, which may require the collection of samples, documents, and/or photographs. <b>(FROM 5/24/95 TO 7/24/97)</b><br><input checked="" type="checkbox"/> Other (Specify) <b>FOLLOWUP TO RCRA CEI CONDUCTED 5/23-24/95</b><br>Violations of above referenced law are suspected from information or complaint. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      |                               |                     |
| <del>XXX</del><br>Samples, Documents, and/or Photos collected (describe below)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      | Medium                        | Date to Lab         |
| 1. COPY OF RCRA 3007 INSPECTIONS TO FACILITY REPRESENTATIVES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      | —                             | —                   |
| 2. COPY OF RCRA WOOD PRESERVING GUIDE TO FACILITY REPRESENTATIVES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      | —                             | —                   |
| 3. COPY OF MSDS SEALANT USED ON DRIP PAD/VENDOR PAPERWORK                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      | —                             | —                   |
| 4. COPIES OF DRIP PAD CLEANING EVENTS (6/1/95 - 7/24/97)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      | —                             | —                   |
| 5. TOOK TWENTY-TWO (22) PHOTOGRAPHS (NO SPLITS)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      | —                             | —                   |
| 6. COPY OF HAZARDOUS WASTE ACCUMULATION LOG                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      | —                             | —                   |
| Samples requested and received by facility: (—) Yes (—) No<br>If yes: (—) Duplicate. (—) Split. <input checked="" type="checkbox"/> Photos (To be received when processed.)                                                                                                                                                                                                                                                                                                                                                                                                                            |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      |                               |                     |
| This inspection has revealed the following probable violations of EPA laws or regulations.<br>1) SUBPART J TANK STANDARDS COMPLIANCE TBD<br>2) USED OIL DRUMS (5) NOT LABELED "USED OIL" (279.22(c)(1))<br>3) USED OIL SPILLAGE/RELEASE NOT MANAGED PROPERLY (279.22(d)(3))<br>4) NO DRIP PAD P.E. CERTIFICATIONS FOR 1995/1996 (265.443(a)(4)(ii))<br>5) DRIP PAD NOT ADEQUATELY CLEANED TO FACILITATE WEEKLY INSPECTIONS OF ENTIRE DRIP PAD SURFACE (265.443(i))                                                                                                                                     |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      |                               |                     |
| The facts established by this inspection will be reviewed by personnel in the EPA Regional Office.<br>A final determination of your facility's compliance with EPA regulations will be made as a result of this review.<br>The review may reveal additional violations.                                                                                                                                                                                                                                                                                                                                |                                       |                             |                                                                                                                    |                                                                                                                                                                                                                                                                                                           |                                                                      |                               |                     |
| Receipt of this Notice of Inspection is acknowledged.<br><br><br>(Signature of facility representative)                                                                                                                                                                                                                                                                                                                                                                                                             |                                       |                             |                                                                                                                    | Signature of Lead Inspector<br><br>Randy Samdin, USEPA<br>Assisting Inspectors (EPA/Contr./State)<br><br>William Rottmeyer, USEPA |                                                                      |                               |                     |

**U.S. ENVIRONMENTAL PROTECTION AGENCY (REGION VIII)**

One Denver Place, 999 18th St., Denver, CO 80202-2413

**NOTICE OF INSPECTION**

**PROGRAM**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                       |                               |                                                                              |                                                                                                                                        |                        |                               |                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------|------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------------------|---------------------|
| <input checked="" type="checkbox"/> Resource Conservation and Recovery Act (RCRA) Public Law 94-580, as amended.<br><input type="checkbox"/> Toxic Substances Control Act (TSCA) Public Law 94-469, as amended.<br><input type="checkbox"/> Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Public Law 92-516, as amended.                                                                                                                                                                                                                       |                                       |                               |                                                                              |                                                                                                                                        |                        |                               |                     |
| Date<br><b>7/24/97</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Inspector #<br><b>13254<br/>13043</b> | Daily Seq. -<br><b>1 OF 1</b> | Hour IN: <b>0800</b><br>OUT: <b>1400</b>                                     | CMO Fac.                                                                                                                               | Facility name          | DUNS #<br><b>SDD147152219</b> |                     |
| Fac. Func.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Invest. Type                          | FATES Reason                  | RCRA: Gen. ( <input checked="" type="checkbox"/> )<br>Transp. ( )<br>TSD ( ) | <b>BRANDON WOOD PRESERVING</b><br>Street<br><b>9TH AVENUE NORTH &amp; BIRCH STREET<br/>P.O. BOX 34</b>                                 |                        |                               |                     |
| Facility Representative(s)<br><b>MR. JIM ENGELIEN<br/>MR. JEFF TABBERT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                       |                               | Title<br><b>PRESIDENT<br/>TREATING MANAGER/<br/>CERTIFIED APPLICATOR</b>     |                                                                                                                                        | City<br><b>BRANDON</b> | State<br><b>SD</b>            | Zip<br><b>57005</b> |
| Phone # <b>(605) - (5826200)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                       |                               |                                                                              |                                                                                                                                        |                        |                               |                     |
| Reason for Inspection: Entry by Consent: <input checked="" type="checkbox"/> Warrant: ( )<br><input checked="" type="checkbox"/> To determine the extent of compliance with the above referenced law, which may require the collection of samples, documents, and/or photographs. <b>(FROM 5/24/95 TO 7/24/97)</b><br><input checked="" type="checkbox"/> Other (Specify) <b>FOLLOWUP TO RCRA CEI CONDUCTED 5/23-24/95</b><br>Violations of above referenced law are suspected from information or complaint. Yes ( ) No <input checked="" type="checkbox"/> |                                       |                               |                                                                              |                                                                                                                                        |                        |                               |                     |
| Samples, Documents, and/or Photos collected (describe below)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                       |                               |                                                                              |                                                                                                                                        |                        | Medium                        | Date to Lab         |
| 1. <b>MANIFESTS/LDR COPIES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                       |                               |                                                                              |                                                                                                                                        |                        | —                             | —                   |
| 2.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                       |                               |                                                                              |                                                                                                                                        |                        | —                             | —                   |
| 3.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                       |                               |                                                                              |                                                                                                                                        |                        | —                             | —                   |
| 4.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                       |                               |                                                                              |                                                                                                                                        |                        | —                             | —                   |
| 5. <b>COPY OF HAZARDOUS WASTE RECEIPT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                       |                               |                                                                              |                                                                                                                                        |                        | —                             | —                   |
| 6.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                       |                               |                                                                              |                                                                                                                                        |                        | —                             | —                   |
| Samples requested and received by facility: (—) Yes (—) No <b>NO</b><br>If yes: (—) Duplicate. (—) Split. <input checked="" type="checkbox"/> Photos (To be received when processed.)                                                                                                                                                                                                                                                                                                                                                                        |                                       |                               |                                                                              |                                                                                                                                        |                        |                               |                     |
| This inspection has revealed the following probable violations of EPA laws or regulations.<br><b>6) FAILURE TO CLEAN/REMOVE WASTE CCA (ILLEGAL STORAGE OF HAZARDOUS WASTE D004/D007/F035) EVERY NINETY (90) DAYS FROM DRIP PAD (AGROFF A&amp;S RCRA SECTION 3005/262.34(a))</b><br><b>7) MANIFESTS/LDRS (6/1/95 - 7/24/97) REVIEW TBD</b><br><b>8) GENERATOR STATUS TBD</b>                                                                                                                                                                                  |                                       |                               |                                                                              |                                                                                                                                        |                        |                               |                     |
| The facts established by this inspection will be reviewed by personnel in the EPA Regional Office.<br>A final determination of your facility's compliance with EPA regulations will be made as a result of this review.<br>The review may reveal additional violations.                                                                                                                                                                                                                                                                                      |                                       |                               |                                                                              |                                                                                                                                        |                        |                               |                     |
| Receipt of this Notice of Inspection is acknowledged.<br><br><br>(Signature of facility representative)                                                                                                                                                                                                                                                                                                                                                                    |                                       |                               |                                                                              | Signature of Lead Inspector<br><b>Randy Landin, USEPA</b><br>Assisting Inspectors (EPA/Contr./State)<br><b>William Robinson, USEPA</b> |                        |                               |                     |

**Water Rights Division - DENR**

**Conversation or File Documentation**

Name of Person: **Brandon Wood Preserving, Inc. (BWPI)** File No. **5276-3 and 5752-3**  
Address: **P.O. Box 34, Brandon SD 57005** County: **Minnehaha**  
Date: Telephone: **(307) 582-6200**  
RE:

Comments: **9-23-97**

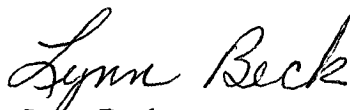
**I spoke with Vonni Kallemeyn, Waste Management DENR, about BWPI's compliance with regulations. Vonni said that EPA conducted an RCRA Follow-up Inspection/RCRA Compliance Evaluation Inspection and produced a report dated September 2, 1997. The report states the violations most of which are administrative and Vonni said the violations should not be a problem with the Water Right.**

**The EPA report is in the Water Right file.**

**The inspection of Water Permit No. 5276-3 was done by Greg Johnston in 1992 as a result an application for additional water was made. Application No. 5752-3 was deferred pending the outcome in bankruptcy court and compliance with DENR Hazardous Waste Rules Chapter 74:28.**

**9-30-97**

**I spoke with Vonni Kallemeyn again and she said BWPI is not in compliance with 74:28 though the noncompliance's are not that bad and they will be put on a compliance schedule soon. I recommend waiting to go ahead with Application No. 5752-3 and licensing of 5752-3 and 5276-3 until they are on a compliance schedule and make a condition of the license and/or permit that they come into compliance according to the schedule.**



Lynn Beck  
Natural Resources Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

December 13, 2001

5252-3

Brandon Wood Preserving, Inc.  
Jim Engelen  
PO Box 34  
Brandon SD 57005

Dear Mr. Engelen:

A review of our files indicates that Brandon Wood Preserving, Inc. was issued Water Permit No. 5276-3 to appropriate 0.10 cubic feet of water per second (cfs) [45 gallons per minute] from one well located in the SE ¼ SE ¼ Section 27-T102N-R48W. A 1992 investigation of the permit found the system capable of diverting 100 gallons per minute. Subsequently, Water Permit Application No. 5752-3 was submitted in March, 1993 to appropriate an additional 0.122 cfs (55 gallons per minute).

It appears that due to some compliance issue with DENR Hazardous Waste Rules and an issue concerning the financial status of the company, the application was placed on hold at that time.

We are in the process of reviewing all permit applications that have been inactive for an extended period of time with the intention of bringing closure to these applications. This letter is to notify you that we intend to schedule a hearing before the Water Management Board to consider this permit application. We need to know whether this well is still supplying water for commercial use at your operation? If so, is your system still capable of diverting 100 gallons per minute? Has your water use increased or decreased over the years?

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

If you have any questions, please contact Karen Schlaak with this office.

Sincerely,

Garland Erbele, Chief Engineer  
Water Right Program  
605 773-3352

## **Water Rights Program - File Documentation**

---

**NAME:** Jim Engelen

**ADDRESS:** Brandon SD

**DATE:** January 18, 2002      **COUNTY:** MA      **TELEPHONE:**

**RE:** Pending application No. 5752-3

**COMMENTS:**

Jim Engelen called regarding my December 13, 2001 letter and the pending application for Brandon Wood Preserving, Inc.

Mr. Engelen stated they were still using the well. At the present time, they were not in violation of any DENR rules.

Regarding their current well capacity, Mr. Engelen stated he would have to contact his well man and get back to me.

  
Karen Schlaak  
Environmental Scientist

Attention: **Karen Schlaak**

Date: 1/24/02

Company:

Number of Pages: 3

Fax Number: 1-605-773-4068

Voice Number: 605-773-3352

From: **JIM ENGELIEN**

Company: Brandon Wood Preserves

Fax Number: 605 582 3741

Voice Number: 605-728-1260

Subject: Water Permitt

**Comments:**

Karen : Putzke Well Drilling sent me the flow chart of the pump out put. If I'm reading this right it looks like the well will produce 85 GPM. Answer to your questions are;

- 1- Yes BWP is still using the well for commercial use.
- 2- Looks like 85 GPM out put
- 3- No BWP water use has not increased

Karen if you have any more questions please call me at 605-728-1260 or email at jengelian@aol.com  
Thank you, Jim Engelen



Fax NO  
582-3741

Plainsco, Inc.  
1409 K Avenue  
PO Box 1187  
Sioux Falls, SD 57101  
(605) 336-8884

Brandon Wood  
MAINTENANCE AND REPAIR DIVISION  
"PUMPS"

DATE Mar. 15, 2000

SALES ORDER NO. 2871229

CUSTOMER Dave Putzke Well  
ADDRESS \_\_\_\_\_  
PHONE \_\_\_\_\_  
ACCOUNT NO. 3571

MANUFACTURER Grundfos  
MODEL 80S30-3  
H.P. 5 VOLTAGE 460 PHASE 3  
SERIAL NO. no # on pump SIZE 4"  
MOTOR SERIAL C87-19-1720

| GPM | CURVE | FEET / HEAD | ACTUAL FEET / HEAD | AMPS -R | Y   | B   |
|-----|-------|-------------|--------------------|---------|-----|-----|
| 0   |       | 135         | 140                |         |     |     |
| 50  |       | 125         | 125                | 7.0     | 7.0 | 6.8 |
| 60  |       | 120         | 120                | 7.1     | 7.1 | 6.9 |
| 70  |       | 115         | 115                | 7.2     | 7.2 | 6.9 |
| 80  |       | 108         | 108                | 7.2     | 7.2 | 7.0 |
| 85  |       | 95          | 95                 | 7.2     | 7.2 | 7.1 |

JOB: Brandon - wood Preservers..

LABOR \$ 600.00

| QTY | PART NUMBER | COMMENTS:                    |
|-----|-------------|------------------------------|
|     |             | Max amps SF 8.9 Rin amps 8.0 |
|     |             |                              |
|     |             |                              |
|     |             |                              |
|     |             |                              |
|     |             |                              |
|     |             |                              |
|     |             |                              |
|     |             |                              |

TESTED BY msj

OTHER COMMENTS

Test only. Pump had a 5 HP instead of a 3 HP.

Jan 24 02 09:48a

KMWF

605-336-7253

p. 1

**FROM:**

**PUTZKE WELL DRILLING & PUMP REPAIR  
1408 S DEERBERRY TRAIL  
SIOUX FALLS, SD 57106  
(605) 361-9333**

---

**BRANDON WOOD  
ATTN: JIM**

**02 PAGES INCLUDING COVER**

---



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 5752-3, Brandon Wood Preserving, Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 5752-3, Brandon Wood Preserving, Inc., Jim Engelen, PO Box 34, Brandon SD 57005-2010.

The Chief Engineer is recommending APPROVAL of Application No. 5752-3 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 with the following qualifications:

1. 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.
2. Permit No. 5752-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a) Chapter 74:54:01 Ground Water Quality Standards,
  - b) Chapter 74:54:02 Ground Water Discharge Permit,
  - c) Chapter 74:51:01 Surface Water Quality Standards,
  - d) Chapter 74:51:02 Uses Assigned to Lakes,
  - e) Chapter 74:51:03 Uses Assigned to Streams, and
  - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.

See report on application for additional information.

Garland Erbele, Chief Engineer  
February 22, 2002

REPORT ON WATER PERMIT APPLICATION NO. 5752-3  
For Brandon Wood Preserving, Inc.  
February 7, 2002

Application No. 5752-3 proposes to appropriate 0.09 cfs (40 gpm) by increasing the diversion rate authorized by Water Permit No. 5276-3. Water Permit No. 5276-3 appropriates 0.10 cfs (45 gpm) from an existing 140 feet deep well located in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of section 27, T102N R48W in Minnehaha County. The water is used for commercial purposes at the plant. The total water appropriation will be 0.19 cfs (85 gpm) for this facility.

#### AQUIFER – SPLIT ROCK CREEK (SRKC)

The Split Rock Creek aquifer is a buried aquifer which is composed of coarse quartzose sands and is interbedded in the Cretaceous bedrock in Minnehaha County (Lindgren, 1992). The aquifer extends into Minnesota to the east, and ground water movement is from east to west and toward the Big Sioux River (Lindgren, 1992). The aquifer underlies 139 square miles and contains an estimated 855,000 acre-feet of water in storage in Minnehaha County. The aquifer is under artesian conditions at this site. Considerable study and effort has been directed at the Split Rock Creek aquifer in the Brandon, Sioux Falls area (Pence, 1997). Pence concluded that the aquifer was capable of potentially yielding over 5 million gallons per day to properly constructed wells.

The well log for this facility indicates mostly clay from the surface to a depth of 111 feet followed by fine sand from 111 to 140 feet below land surface. The completed well had a static water level of 31 feet below land surface and was capable of producing 100 plus gallons per minute using air to develop.

The Water Rights Program does monitor an observation well, MA-87E, which is located about one-half mile east of this application and completed into the Split Rock Creek aquifer. Water levels for this well indicate that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2002). A hydrograph for this observation well is included with this report.

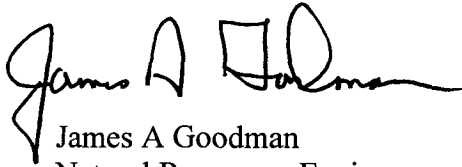
#### REVIEW OF EXISTING WATER PERMIT/RIGHTS

There are three other water permits/rights which obtain water from the Split Rock Creek aquifer located within a one-mile radius of this application. These are two permits for the Town of Corson located about one mile north and one for the City of Brandon located about three-quarters of a mile south of this application. Interference is not expected to be a problem since these wells have been in use with no apparent problems.

#### CONCLUSIONS

1. Water is available from the Split Rock Creek aquifer.

2. The aquifer is under artesian conditions and pumping does create water level fluctuations. However, at the distance between diversion points and with the existing pumping rates interference is not a concern.
3. Approval of this application will allow licensing of this facility to reflect the water system as constructed and used.



James A Goodman  
Natural Resources Engineer

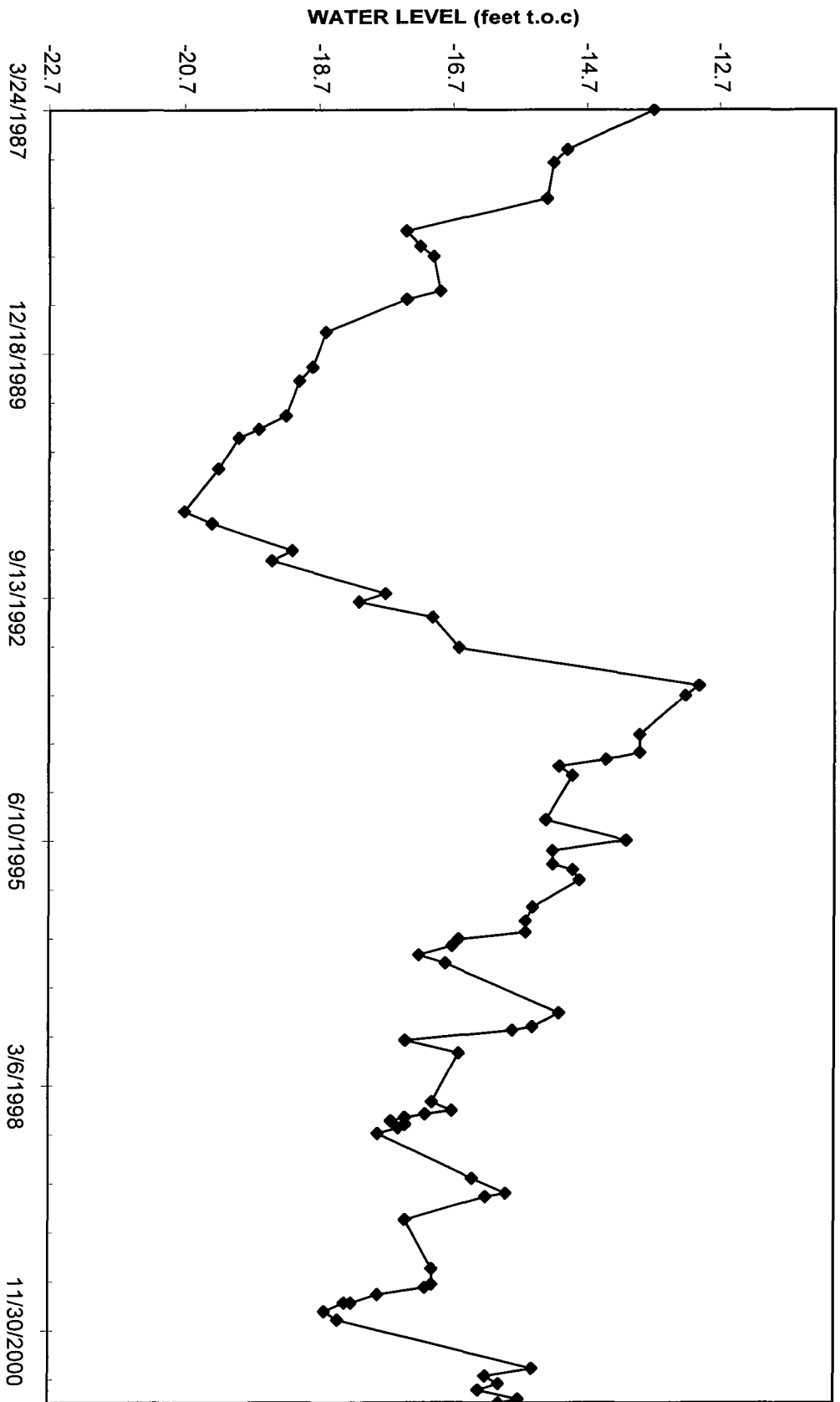
#### BIBLIOGRAPHY

Lindgren, R.J., C.A. Niehus, 1992, Water Resources of Minnehaha County, South Dakota, WRI 91-4101, USGS, Huron, SD, 57350.

Pence, S.F., 1997, Summary of the Split Rock Creek Aquifer Study, Open-File Report 87-UR, SD DENR, SDGS, Vermillion, SD, 57069.

Water Rights, 2002, Unpublished Observation Well Data for Minnehaha County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL  
MA-87E



# Argus Leader

## AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

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

Wednesday, the 6 day of March 2002,

Wednesday, the 13 day of March 2002,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2002,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2002,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2002,

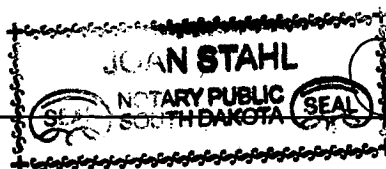
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2002,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2002,

and that \$94.92 was charged for publishing the same including A \$5.00 affidavit fee.

*Nancy Hyronimus*

Subscribed and sworn to before 3/19/2002.



*Joan Stahl*

Notary Public, South Dakota

My Commission expires June 30th, 2005

### State Notices

#### NOTICE OF APPLICATION NO. 5752-3

to Appropriate Water  
Notice is given that Brandon Wood Preserving, Inc., c/o Jim Engellen, PO Box 34, Brandon SD 57005 has filed an application for a water permit to appropriate 0.09 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 5276-3. Water Permit No. 5276-3 appropriates 0.10 cfs from one well (Split Rock Creek Formation) 140 feet deep located in the SE 1/4 SE 1/4 Section 27-T102N-R48W. This application will increase the water appropriation from 0.10 cfs (45 gallons per minute) to 0.19 cfs (85 gallons per minute). This water is for commercial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5752-3 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, 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 March 25, 2002.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

10982 Mar. 6, 13, 2002

RECEIVED

MAR 22 2002

WATER RIGHTS  
PROGRAM

Instruction to Newspaper - Publish first Notice on March 6, 2002 with the second publication 7 days later. The applicant is responsible for payment.

---

NOTICE OF APPLICATION NO. 5752-3 to Appropriate Water

Notice is given that Brandon Wood Preserving, Inc., c/o Jim Engelen, PO Box 34, Brandon SD 57005 has filed an application for a water permit to appropriate 0.09 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 5276-3. Water Permit No. 5276-3 appropriates 0.10 cfs from one well (Split Rock Creek Formation) 140 feet deep located in the SE ¼ SE ¼ Section 27-T102N-R48W. This application will increase the water appropriation from 0.10 cfs (45 gallons per minute) to 0.19 cfs (85 gallons per minute). *This water is for commercial use.*

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5752-3 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

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DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

February 25, 2002

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

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 5752-3 to Appropriate Water to be published twice. Please publish the first notice on March 6, 2002 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 Brandon Wood Preserving, Inc., % Jim Engelen,, PO Box 34, Brandon, SD 57005-2010 (Ph # 605-582-6200).

**Please send the Water Rights Program the first publication immediately.** The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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

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

No. 5752-3

Date \_\_\_\_\_

We are in receipt of your letter of February 25, 2002 enclosing Notice of Hearing to Appropriate Water by Application No. 5752-3 which was first published in our issue of \_\_\_\_\_. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Newspaper



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

**NOTE: TO BE SURE OF PUBLICATION ON  
THE CORRECT DATES, CONTACT  
THE NEWSPAPER RIGHT AWAY.**

February 25, 2002

Brandon Wood Preserving, Inc.  
% Jim Engelen  
PO Box 34  
Brandon, SD 57005

Dear Mr. Engelen:

Water Permit Application No. 5752-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Argus Leader printed at Sioux Falls, SD (Ph # 605-331-2200). You will need to contact the newspaper and authorize publication of this notice. 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. Upon receiving authorization, 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 also 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 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

APR 16 2002

Brandon Wood Preserving Inc.  
% Jim Engelen  
PO Box 34  
Brandon, SD 57005

Dear Mr. Engelen:

Enclosed is Water Permit No. 5752-3 authorizing 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.

Sincerely,

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

enclosures

**Permit Nos. 5276-3 & 5752-3**  
**Big Sioux 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, July 25, 2002, made a thorough examination of the water use system constructed by **Brandon Wood Preserving, Inc.** of **P.O. Box 34, Brandon SD 57005** holder of Permit Nos. **5276-3 and 5752-3**, bearing the priority of **January 19, 1989 and March 1, 1993** authorizing the diversion of **0.10 and 0.09** cu. ft. per second of the waters of **Split Rock Creek Formation** for **commercial use** purposes, in **Minnehaha** County.

Inspection contact & relationship     **Jim Engeliem, President of Brandon Wood Preserving, Inc.**  
to permit holder, if applicable:

**A. Works used to divert the water:**

**Well Information:**

- 1) Well Drilling Firm: Sioux Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 140 feet
- 4) Well log is available yes

**Casing:**

- 1) Diameter 6 inches
- 2) Length 120 feet
- 3) Type pvc

**Screen:**

- 1) Type pvc
- 2) Length 20 feet
- 3) Static water level 31 feet

**Pump and Motor:** Myers submersible 85 gpm pump capacity and a 3-hp motor.

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

- 1) Type plastic
- 2) Size 1.5 inches
- 3) Length 175 feet

**C. System Type:**

Wood Preserving Plant consisting of three 12,000-gallon tanks for water storage where chemicals are mixed with water to generate wood preservative.

**D. Compliance with Permit Requirements:**

- 1) Permit qualifications being abided by yes

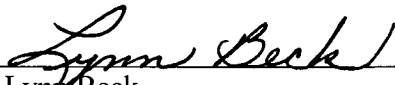
The system is in good condition with the point of diversion located as follows: 745' N and 980' W of the SE corner in the SE¼ SE¼ Section 27-T102N-R48W. The works are capable of diverting and conveying to the place of use 0.19 cu. ft. per second of water which is to be used for commercial purposes. Water has been put to beneficial use to the maximum extent as follows:

**Water is used in the wood preserving process.**

The license should be issued for a combined rate of .19 cfs.

All structures, wells and lands on map yes

Comments or other permit(s) associated with the project: **Permit Nos. 5276-3 and 5752-3 should be incorporated and licensed for a combined rate of 0.19 cfs, 0.10 cfs with a priority date of January 19, 1989 and 0.09 cfs with a priority date of March 1, 1993.**

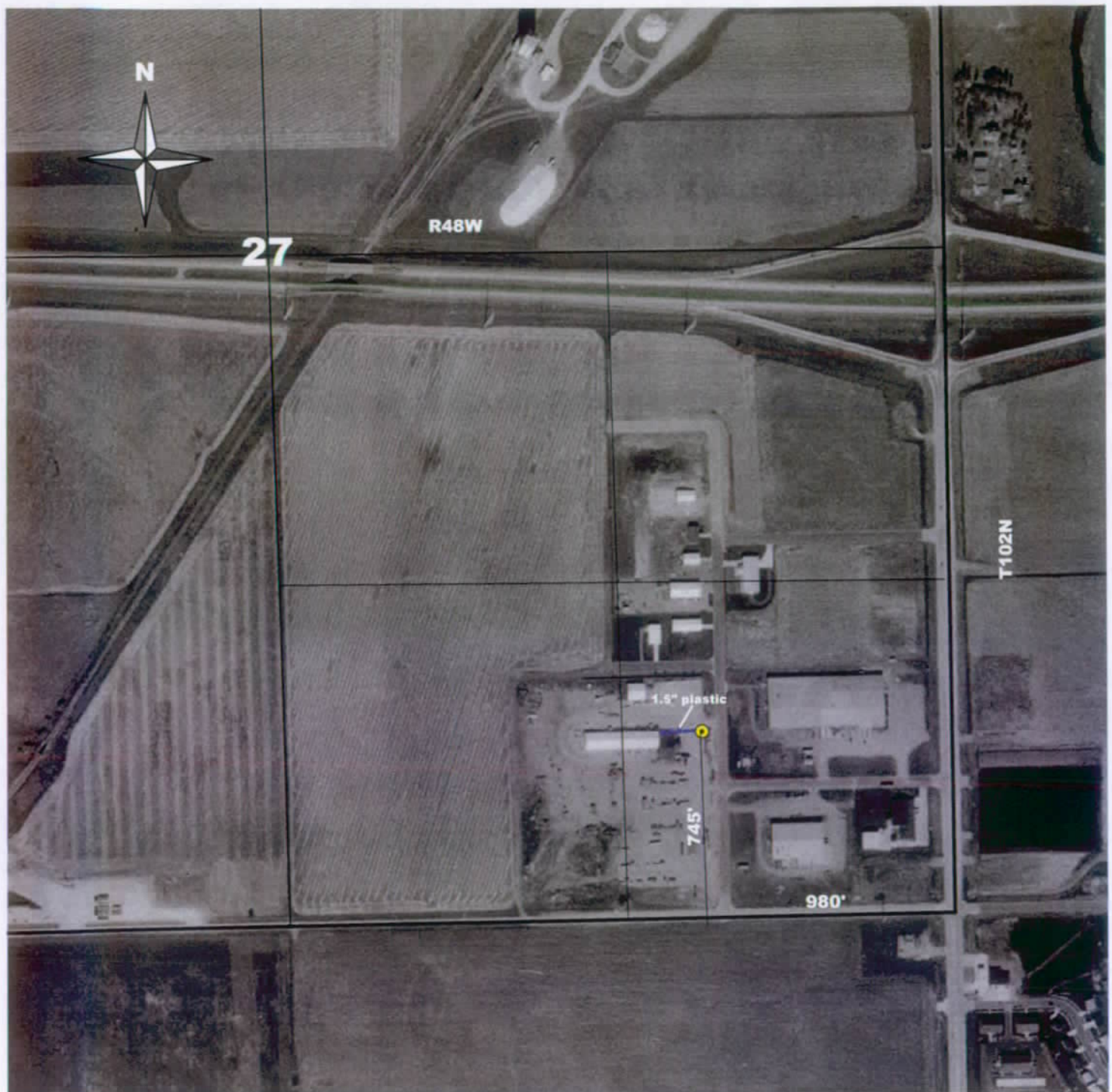


Lynn Beck

Natural Resources Engineer Specialist  
DENR, Water Rights Program

Date report completed: October 8, 2002

**WATER RIGHT NOS. 5276-3 AND 5752-3  
BRANDON WOOD PRESERVING, INC.**



1000 0 **SCALE** 1000 2000 Feet

*Lynn Beck*

**Lynn Beck  
Natural Resources Engineer Specialist  
DENR, Water Rights Program  
October 8, 2002**



South Dakota Department of  
Environment and Natural Resources



Protecting South Dakota's Tomorrow ... Today

# STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 5752-3

(1) Brandon Wood Preserving, Inc., 800 N 9<sup>th</sup> Ave, Brandon SD 57005 made Application No. 5752-3, March 1, 1993 for a water permit to divert an additional 0.09 cubic feet of water per second (cfs) from groundwater (one well), Minnehaha County, South Dakota for commercial purposes. Permit No. 5752-3, with a priority date of March 1, 1993 was approved March 25, 2002 and issued to the applicant for diversion of water with construction of the described water supply system completed the application to beneficial use of water completed.

Water Permit No. 5276-3, with a priority date of January 19, 1989 authorized 0.10 cfs from the same well. The applicable portions of No. 5276-3 are incorporated into No. 5752-3.

(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 Incorporated Water Right No. 5752-3 is issued a license, bearing priority dates of January 19, 1989 (0.10 cfs) and March 1, 1993 (0.09 cfs) to appropriate 0.19 cfs from groundwater (one well) for commercial purposes.

The diversion point is located 745 feet north and 980 feet west of the southeast corner of Section 27-T102N-R48W (SE ¼ SE ¼).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Right No. 5752-3 including the following now applicable qualifications:

- 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.
- Permit No. 5752-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
  - a. Chapter 74:54:01 Ground Water Quality Standards
  - b. Chapter 74:54:02 Ground Water Quality Standards
  - c. Chapter 74:51:01 Surface Water Quality Standards
  - d. Chapter 74:51:02 Uses Assigned to Lakes
  - e. Chapter 74:51:03 Uses Assigned to Streams, and
  - f. Chapter 74:52:01 through 74:52: 11 Surface Water Discharge Provisions.



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

DEC 02 2002

date





DEC 02 2002

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

5752-3

Brandon Wood Preserving, Inc.  
% Jim Engelen  
800 N 9<sup>th</sup> Ave  
Brandon SD 57005

Dear Mr. Engelen:

Enclosed is Water License No. 5752-3. This is the final water right document completing the process of obtaining a Water Right. The applicable portions of No. 5276-3 are incorporated into this water right.

In 1993, when the application was originally submitted, a \$150 application fee was also submitted. The correct application/license fee is \$100. Therefore, \$50 will be refunded to you. You should receive the refund check within the next couple of weeks.

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. 5752-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

enclosures

PAYMENT REQUEST FORM

PAYEE: Brandon Wood Preserving Inc  
% Jim Engelién  
800 N 9<sup>th</sup> Avenue  
Brandon SD 57005

FROM: Water Rights Program  
523 E. Capitol  
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Refund of \$50.00. Overpayment of application fee

AMOUNT: \$50.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

*Barland Erbe*

DEC 02 2002

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.