

WATER PERMIT NO. 5801-3Phone: 605-546-2298Name of Applicant: Pearl Creek ColonyPost Office Address: Rt 2, Box 30, Iroquois SD 57353Amount of Water Claimed: 0.1 cfs (45 gpm)

Total Acres: _____

Source of Water Supply: groundwater & wastewaterWater to be used for: for irrigation ^{hog confinement facility with wastewater being used}County: BeadleAbout 3 miles W, 3S of Iroquois

PRIORITY

Date Received: 2-8-94Fee: \$50.00Remarks: Irrigationof lands covered by Water Permit No. 4114-3

Corrected Application Received: _____

Period of Annual Use: March 1 - Nov 30

WATER QUALITY APPROVAL RECEIVED: _____

APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____

NO _____

REMARKS: _____

Diversion Point: NE 1/4 NW 1/4 ~~NW 1/4 NE 1/4~~ Sec 21-T110N-R59WLand to be Irrigated: irrigation of lands authorized
by 2727-3, 3607-3, 4114-3N 1/2 Section 16, SW 1/4 Section 16 & NW 1/4 Section
21, all in T110N, R59W

Well Log: Driller: Pullman Well DrillingLicensed YES X NO _____Depth of Well: 75 feet

REMARKS: _____

Type of Map: topoPREPARED BY: James S. Hodgens

Reviewed and the Number

Assigned on: 2-6-94By: Karen Schlaak

PL 115/94
see file doc/pending

FORM 2: Application for irrigation in South Dakota

(type or print)

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

No. 5801-3 Hydrologic Unit 10160006
Basin James River
Newspaper The Plainsman, Box 127B, Huron
(office use only)



Application For Soil/Water Compatibility Permit And Permit To Appropriate Water

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(check one)

(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.) _____

1. Name of Applicant PEARL CREEK COLONY Phone (605) 546-2298
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address ROUTE 2, BOX 30 ROQUOIS State SD 57353
(Street, RR, or Box) (City) (Zip Code)
2. Amount of water claimed 0.1 *CFS or 45 **GPM _____ ***AF Total Acreage _____
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable)
3. Source of water supply WELL CONSTRUCTED 8-13-93 BY PULLMAN DRILLING
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
ONE WELL NE 1/4 NW 1/4 SECT 21 T110N R59W
5. County or counties where water will be used BEADLE Hog confinement facility Jan 1 - Dec 31
County BEADLE
6. Annual period during which water is to be used IRRIGATION - MARCH 1 - NOVEMBER 30
7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NE 1/4 NE 1/4 16 T110N R59W	40		
NW 1/4 NE 1/4 16 T110N R59W	40		
SW 1/4 NE 1/4 16 T110N R59W	40		
SE 1/4 NE 1/4 16 T110N R59W	40		

8. Type of Irrigation: Gravity: ☐ Towline: ☐ Center Pivot: ☒ Gun: ☐ Other (Specify): _____
9. Crops to be irrigated: CORN, BEANS, ALFALFA
10. Give a description of the project. (Attach sheet if more space is needed)

Water is to be withdrawn for use in watering and waste flushing from a proposed hog confinement unit. Waste waters will be treated on-site in a lagoon. To maximize use of resources and minimize waste, the treated wastewater will be mixed with water from existing irrigation wells located on NW 1/4 Section 16, SW 1/4 Section 16 and ~~NW 1/4 Section 21~~ to operate existing center pivot irrigation systems on these quarters, as well as on the NE 1/4 Section 16. Water sample no 85-0745 validated July 17, 1985 from the well on NW 1/4 Section 21 is submitted for use in determining water quality for this new well approximately 1000 feet distant.

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

STATE OF SOUTH DAKOTA)

County of Beadle ss

I, Pearl Creek Colony, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Pearl Creek Colony By David Waldner V. Pres.
Subscribed and sworn to before me this 7 day of February 19 94
Anita Sukramer
Notary Public

**SOUTH DAKOTA
WATER PERMIT NO. 5801-3**

Date of first receipt of application February 8, 1994.

Date Soil/Water Compatibility Permit received February 11, 1994.

The Water Management Board approved Water Permit Application No. 5801-3 on June 28, 1994 for Pearl Creek Colony, c/o David Waldner, Rt 2, Box 30, Iroquois SD 57353 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. 5801-3 appropriates 0.10 cubic feet of water per second (cfs) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W for use in a hog confinement facility. Waste water from the facility will be treated in a lagoon located in the W 1/2 NE 1/4 Section 21-T110N-R59W. The treated waste water will be blended with water from existing irrigation wells located in the S 1/2 NW 1/4, NW 1/4 SW 1/4 Section 16 and the N 1/2 NW 1/4 Section 21 to irrigate lands located in the N 1/2 and SW 1/4 Section 16; all in T110N-R59W. The irrigation wells and irrigated acres listed above are authorized by Water Right Nos. 2727-3, 3607-3 and 4114-3.
2. The water is to be used during the following described annual period: January 1 - December 31 for hog confinement facility (water used for blending purposes from existing irrigation wells is subject to the conditions of applicable water right).
3. The date from which applicant may claim right is February 8, 1994.
4. One-fifth of the construction is to be completed on or before December 28, 1996.
5. All construction is to be completed on or before June 28, 1999.
6. Water is to be put to beneficial use on or before June 28, 2003.
7. 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. Approval of this Permit is subject to submission of plans and specifications for the wastewater lagoon to the chief engineer and the Division of Environmental Regulation prior to construction, for review and approval. The plans and specifications shall be prepared by a person who is registered as a professional engineer pursuant to SDCL 36-18.
3. Operation of the disposal systems to dispose of waste and wastewater shall be in a manner that prevents runoff from the disposal sites and from entering the waters of the State. The diffused drainage of natural precipitation on agricultural lands resulting from a "non-point source" is not subject to these conditions.

(continued)

4. No wastewater may be released from the wastewater lagoon except through the disposal system, unless an extended period of above normal precipitation results in excess stored water and prevents operation of equipment to lower water levels due to field and weather conditions.
5. Design, construction and management of the lagoons shall be sufficient to maintain seepage rate of less than 10^{-7} centimeters per second. Compaction of the soils within the wastewater lagoon must be at least ninety percent of the Standard Procter Density (ASTM D6980-70).
6. Approval of Permit No. 5801-3 is subject to compliance with the following then existing and applicable Water Management Board rules:
 - a. Chapter 74:03:15 Ground Water Quality Standards,
 - b. Chapter 74:03:16 Ground Water Discharge Permit,
 - c. Chapter 74:03:02 Surface Water Quality Standards,
 - d. Chapter 74:03:04 Uses Assigned to Streams, and
 - e. Chapters 74:03:17 through 74:03:26 Surface Water Discharge Provisions.
7. Operation of the disposal system to dispose of waste and wastewater shall not be applied through the pivot located in the NW 1/4 of Section 21-T110N-R59W.

WATER MANAGEMENT BOARD

By: _____

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

NOV 14 1994

date

**PARTIES OF RECORD LIST
APPLICATION NO. 5801-3
PEARL CREEK COLONY**

Applicant

Pearl Creek Colony
%David Waldner
Rt 2, Box 30
Iroquois, SD 57353

Opposition

Attorney

Gary D. Blue
Blue & Haeder Law Offices
P.O. Box 1414
Huron, SD 57350-1414

Jerry Culver
Rt 2, Box 56
Iroquois, SD 57353

RECEIPT

414031

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, February 8, 1994RECEIVED OF Pearl Creek Hutterian Brethren, Inc., RR 2 Box 30, Iroquois, SD 57353

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

Fee for Application for Permit No. <u>5801-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	50	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4802

WR#

OWNERS NAME: PEARL CREEK COLONY OWNERS ADDRESS: ROUTE 2 BOX 30
IROQUOIS SD 57353

COUNTY LAND LOCATED IN: BEADLE PHONE: 546-2298

LEGAL DESCRIPTION:

☒ Well

☐ Surface

1. LOCATION: NE $\frac{1}{4}$ NW $\frac{1}{4}$ 21-T110N-R39W
Depth: _____

Legal Description	Acres	Legal Description	Acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 16-T110N-R39W	40		
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 16-T110N-R39W	40		
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 16-T110N-R39W	40		
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 16-T110N-R39W	40		

2. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: _____ CENTER PIVOT: XXX GUN: _____ OTHER: (Specify) _____

3. CROPS TO BE IRRIGATED: CORN, BEANS, ALFALFA

WATER QUALITY:

4. WATER SAMPLE NUMBER: 85-0745 7. ADJUSTED (SAR): 3.84
5. SALINITY (EC X 10⁶): 800 8. PERCENT SODIUM: 34.80
6. SODIUM (SAR): 1.86

Requirements:

The depression mapped as Tetonka-Hoven silt loams, (Te) shall remain in permanent vegetation.



Clad B Johnson
Director, Division of Conservation

FEBRUARY 11, 1994
Date

XXX APPROVED
____ DISAPPROVED
____ WAIVER

XXX REQUIREMENTS

Soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

SOUTH DAKOTA WATER WELL COMPLETION REPORT

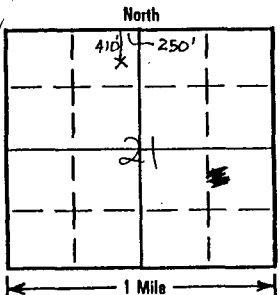
07/92

Loc: NE 1/4 SE 21 Sec. 26 Twp 110 Rg 59
NE NW 21

County

Beale

Please mark well location with an "X"

LOCATION CORRECTED
J. H. Huggins 2-1-99
PER DAVE WALDNERWell Completion Date 8-13-93

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 200 ft. from gig barn (identify source).

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT <u>8</u>	IN <u>8</u>	FT <u>0</u>	FT <u>75</u>	IN <u>12 1/4</u>
LB/FT _____	IN _____	FT _____	FT _____	IN _____
LB/FT _____	IN _____	FT _____	FT _____	IN _____

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	<u>7</u>	lb./gal <u>0</u>	ft. <u>0</u>	ft. <u>20</u>
<u>1/2" ch</u>	<u>5</u>	lb./gal <u>20</u>	ft. <u>20</u>	ft. <u>50</u>

Describe grouting procedure

line to 50 ftSCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 4 IN Length 20 FEETMaterial GravelSlot Size 0.25 Set From 5.5 Feet to 75 Feet

Other information

Gravel packedWAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION:

Was well disinfected upon completion? ☒ YES, How: Belbto

_____, NO, Why Not? _____

Laboratory sent to for water quality analysis _____

Well Owner:

Pearl Creek Colony

Business Name:

Address:

RR
Troquois, SD 57353

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Yellow Clay</u>	<u>0</u>	<u>20</u>
<u>Yellow Sand</u>	<u>20</u>	<u>30</u>
<u>Blue Clay</u>	<u>30</u>	<u>50</u>
<u>Medium Coarse Sand</u>	<u>50</u>	<u>75</u>
<u>Shale</u>	<u>75</u>	<u>80</u>

75 ft T.P.STATIC WATER LEVEL 70 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducer ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: 100 +
☐ Bailed air compressor
☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm Pullman Well Drilling

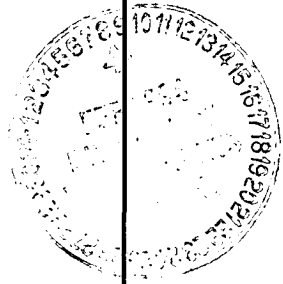
Signature of License Representative:

R. E. Kuhl

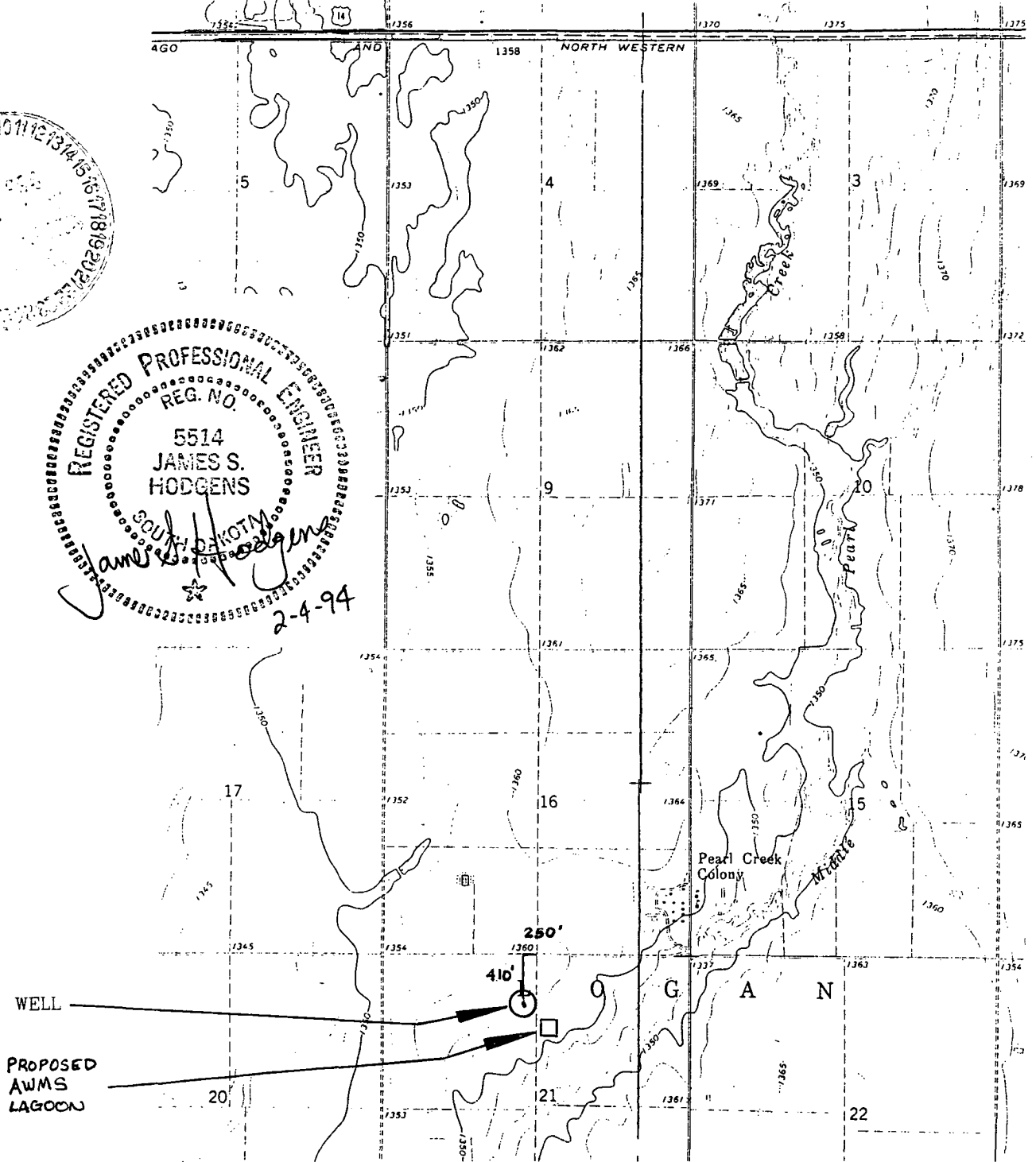
Signature of Well Owner or Equitable Property Holder:

Date: 12-9-93

6 MI. TO CAVOUR 3 MI. TO IROQUOIS



REGISTERED PROFESSIONAL ENGINEER
 REG. NO. 5514
 JAMES S. HODGENS
 SOUTH DAKOTA
James S. Hodgens
 2-4-94



SITE DESCRIBED AS NE 1/4 OF NW1/4 OF SECTION 21 T-110-N, R-59-W
 TAKEN FROM USGS PEARL CREEK COLONY QUADRANGLE.

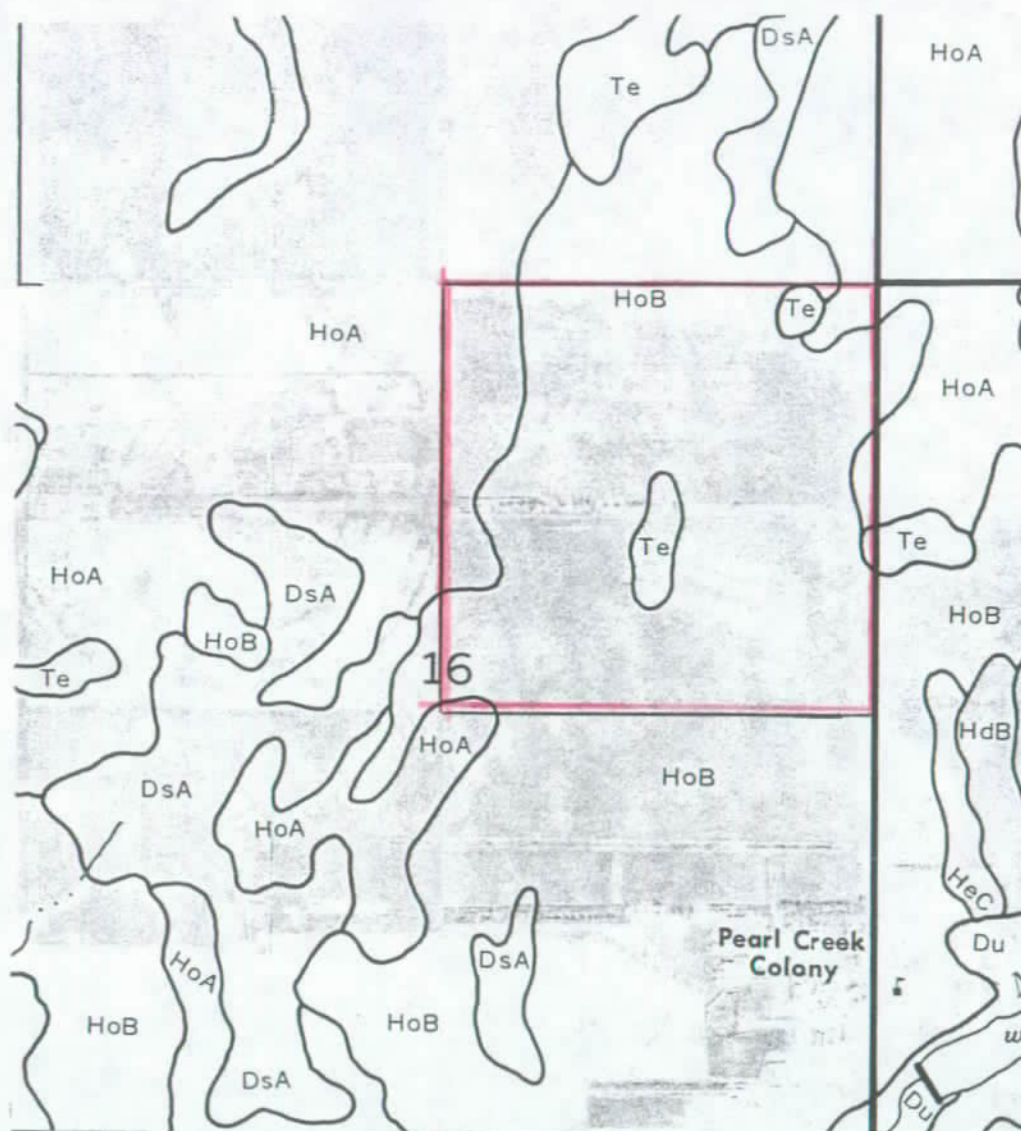


SCALE: 1" = 0.5 MILE				
JOB NO. 9302A		DATE 2/3/94		
DRAWN: DSS		CHECKED: JSH		
REV.	DATE	DESCRIPTION	BY	CKD

WELL LOCATION MAP

PEARL CREEK COLONY
 WATER APPROPRIATION PERMIT
 APPLICATION

DAKOTA ENVIRONMENTAL INC. P.O. BOX 636 HURON, SD 57350 605-352-5610



- HoA Houdek-Prosper loams, 0 to 2% slopes deep, well drained and moderately well drained soils. Slow intake of irrigation.
- HoB Same as HoA, except 2 to 6% slopes
- Te Tetonka-Hoven silt loams. Deep poorly drained, level soils in closed upland depressions. Percs slowly.

Site is described as NE 1/4 Section 16 T-110-N, R-59-W

Map taken from USDA SCS Soil Survey of Beadle County, South Dakota



SCALE: 1" = 0.25 MILE

JOB NO. 9302A

DATE 2/4/94

DRAWN: DSS

CHECKED: JSH

REV	DATE	DESCRIPTION	BY	CKD

IRRIGATION AREA

PEARL CREEK COLONY
SOIL/WATER COMPATIBILITY
PERMIT APPLICATION

DAKOTA ENVIRONMENTAL INC. P.O. BOX 636 HURON, SD 57350 605-352-5610

FILE DOCUMENTATION

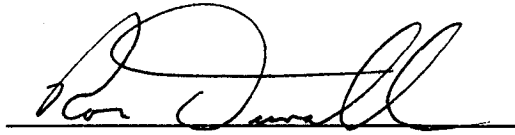
NAME: David Waldner

ADDRESS: Pearl Creek Colony, RR 2, Box 30, Iroquois SD 57353

RE: Farrow to Finish Swine Operation

David Waldner called concerning the water right requirements for a swine confinement operation. I told Mr. Waldner that a permit to appropriate water was necessary if more than 18 gpm on an average daily basis (peak 25 gpm) was needed for the facility. Mr. Waldner indicated that the original design would have required no more than 26,000 gpd; however, a change in the waste disposal from a scraper to a flushing system would now require in excess of 26,000 gpd. The facility is under construction but is not yet to the point of installing the flushing or scraper system. Mr. Waldner indicated that the colony would like to apply for the permit and see if the colony can be assured the water is available for the flush type system. The well is constructed. Waste water is to be blended with ground water authorized for use by existing water permits and then be pumped through center pivot irrigation systems (I believe it was through 4 pivots).

I sent Mr. Waldner application forms and informed him of the water availability situation from the Pearl Creek aquifer. Mr. Waldner said he could recall the situation faced by the City of Iroquois.

 1/5/94
Ron Duvall, Natural Resources Engineer

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Pearl Creek Colony

ADDRESS: COUNTY: Iroquois

DATE: 2/8/94 TELEPHONE: Consultant - James Hodgens - 352-5610

RE: Call to James Hodgens

COMMENTS:

I called Mr. Hodgens about Pearl Creek Colony's water permit application. They listed the NE1/4 of Section 16 as newly irrigated. I found the WR No. 4114-3 included irrigation of the pivots in the N1/2 of Section 16. Mr. Hodgens stated that Jim Stukel had said a S/W Compatibility Permit did not exist for the NE1/4 of Section 16. I asked Mr. Hodgens what wells in addition to the well used for the confinement facility would be blended with the wastewater from the lagoon for irrigation. He said only those three wells listed in the project description. I told Mr. Hodgens that I would straighten out the question of whether a permit was necessary for the NE1/4 of Section 16.

After reviewing the file, I discovered that the NE1/4 of Section 16 never obtained the necessary S/W Compatibility Permit, however the NE1/4 was permitted by WR No. 4114-3 for irrigation from a water permitting standpoint.

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

NAME: Eric Hundert

FROM: Seefeldt, Rodger

TO: Gronlund, Eric

DATE: 02-09-94

TIME: 15:33

CC: Seefeldt, Rodger

SUBJECT: FYI - Pearl Creek Colony facility

PRIORITY:

ATTACHMENTS:

P&S for this facility have not been sent in for review and approval as of yet. That is why they have hired James Hodgins with DEC. According to what information I have been told, they will need to submit P&S for review and approval because of the proposed numbers of animals in their proposed operation. This was brought to my attention through a concerned neighbors/citizens group that called and asked questions about the Colony. This group then talked with the Colony and informed the Colony of the appropriate moves they (the Colony) needed to make. This was another case of where a Colony was again constructing without checking first what they needed to do and getting the AWMS design work done first. Thanks for passing the information on to me. I probably should have let you know earlier that they might need a water rights permit due to the proposed size of the proposed operation. I think they are planning for 1,000 or 1,500 sows in a farrow to finish operation.

REPLY FROM: Seefeldt, Rodger FROM: Gronlund, Eric

TO: Seefeldt, Rodger
Kent Woodmansey

DATE: 02-09-94

TIME: 09:49

CC:

SUBJECT: FYI - Pearl Creek Colony facility

PRIORITY:

ATTACHMENTS:

A water permit application for a hog confinement facility has been submitted for the Pearl Creek Colony (Iroquois).

Here's what I know: The facility is under construction, they applied to appropriate 45 gpm, if their able to get the permit the waste disposal will be through a flushing system, if a water permit is not obtainable they'll install a scraper system and stay under a 18 gpm diversion rate. Wastewater from lagoon will be blended with well water and used for irrigation of 4 currently permitted quarters.

They have James Hodgins from Dakota Environmental as their consultant.

Here's what I don't know: The size of the facility, whether they've run P & S through you, etc., etc.

I assume that you are aware of this operation but thought I'd send you an e-mail incase its news to you. Do they have approved P&S? If not, do they need P&S approval? I assume the answer to the last question is based on the size (animal units) of the facility.

REPORT ON WATER PERMIT APPLICATION NO. 5801-3
for Pearl Creek Colony
February 23, 1994

Application No. 5801-3 proposes to appropriate 0.10 cfs from one well approximately 80 feet deep located in the NE 1/4 NW 1/4 of section 21, T110N R59W in Beadle County for use in a hog confinement facility. Waste water from the facility will be treated in a lagoon located in the W 1/2 NE 1/4 of section 21, T110N R59W. The treated waste water will be blended with water from existing irrigation wells located in the S 1/2 NW 1/4, NW 1/4 SW 1/4 of section 16 and the N 1/2 NW 1/4 of section 21 to irrigate lands located in the N 1/2, SW 1/4 of section 16 and the NW 1/4 of section 21; all in T110N R59W. The irrigation wells and the irrigated acres listed are authorized by Water Right Nos. 2727-3, 3607-3 and 4114-3.

AQUIFER - FLOYD PEARL CREEK (F-PC)

The Floyd Pearl Creek is buried glacial outwash (sand and gravel) under confined or artesian conditions in the area of this application. However over much of the area the aquifer is buried unconfined or surficial. The aquifer underlies 11,000 acres and contains an estimated 45,000 acre feet of recoverable water in storage (Hedges, 1982). The Floyd Pearl Creek is a small management unit of the much larger Floyd East James aquifer. The East James management unit was separated from the rest of the aquifer for hydrologic reasons. Even though the entire aquifer system appears to be hydraulically connected, the groundwater flow system for the Pearl Creek management system justifies the distinction. Recharge to the aquifer has been estimated to range from 0.22 to 0.90 inches per year (Hedges, 1983) (200 to 825 acre feet per year). A more recent study (Emmons, 1988) estimated the rate of recharge to be approximately 2.5 inches per year (2290 acre feet per year).

Water use from the Floyd Pearl Creek aquifer is reported as follows.

<u>Year</u>	<u>Total Irrigation Use</u>	<u>Iroquois Use</u>
1988	1532 acre feet	0
1989	1158 acre feet	23.2 acre feet
1990	787 acre feet	37.4 acre feet
1991	621 acre feet	46.7 acre feet
1992	396 acre feet	40.5 acre feet
1993	190 acre feet	40.3 acre feet

The source of this data is the annual Irrigation Questionnaires and other reported data for the Town of Iroquois.

The Division of Water Rights monitors 4 observation wells (BD-77E, BD-76R, BD-77B and BS-77F) which have been completed into the Floyd Pearl Creek aquifer. Hydrographs for these wells are included with this report. Water level records for these wells

indicate that recharge does occur. Also the effects of pumping are obvious especially for well BD-77F which is the only observation well which exhibits true confined conditions. In general, water levels declined until 1984 then rose through 1987, declined until 1993 and rose to present. This can be directly attributed to climatic conditions. The total magnitude of fluctuation has ranged from 9 to 15 feet from the lowest to highest water levels recorded (Water Rights, 1994).

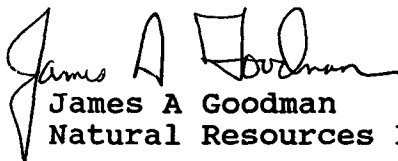
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are five irrigation wells authorized by Water Right Nos. 2727-3, 3606-3, 3607-3, 4113-3 and 4356-3 all located within a 1 mile radius of this application. All these existing rights are held by the applicant. Interference is not expected to be a concern. All of these wells are unconfined or under slightly confined conditions. Drawdown will occur but the addition of this 45 gpm well will not cause any adverse effects. The diversion rate is too small to cause any significant drawdown in the area.

CONCLUSIONS

1. Depending upon which estimate is used for recharge the Floyd Pearl Creek aquifer is either fully appropriated or has as much as 700 hundred acre feet of water remaining based upon water use. Another estimate of recharge was provided in a Report on Application No. 5623-3 Town of Iroquois (Goodman, 1992) where a rate of 1.6 inches per year (1470 acre feet) was calculated based upon water use and observation well water levels from 1979 through 1991. At best, this estimate should be conservative as it ignores the effects of subsurface inflow and outflow. In general, the observation well hydrographs indicate that the aquifer is capable of sustaining additional withdrawals.
2. Based upon water use and upon the estimated recharge to the aquifer, there are years when the water use may exceed the estimated annual recharge to the aquifer. The amount of water requested by this application is relatively small and would not seriously affect water availability from the aquifer.
3. This application would use a maximum of 73 acre feet annually assuming continuous pumping. It is doubtful that the water use would approach this figure. Also the water would be reused as irrigation water when the waste water is pumped through existing irrigation systems.
4. Interference is not expected to be a concern. The wells in this area are basically under unconfined conditions and drawdown caused by pumping is not significant. This is born out by the observation well hydrographs. There have been no reported problems with the existing diversions.

5. The well authorized by this application is already constructed and is built in accordance with SD Well Construction Standards.
6. Plans and Specifications are not available for the facility at this time. The Plans are subject to change depending upon the water available to the facility. The Plans will need to be approved by the Division of Environmental Regulation.
7. The Water Management Board has denied two water permit applications Nos. 4889-3 (City of Huron for 15 cfs) and 4854A-3 (Wendell Fenner for 2.28 cfs) from the Floyd Pearl Creek aquifer. The Huron permit was for a large volume of appropriation and the Fenner request was for an extension of time to develop the permit.

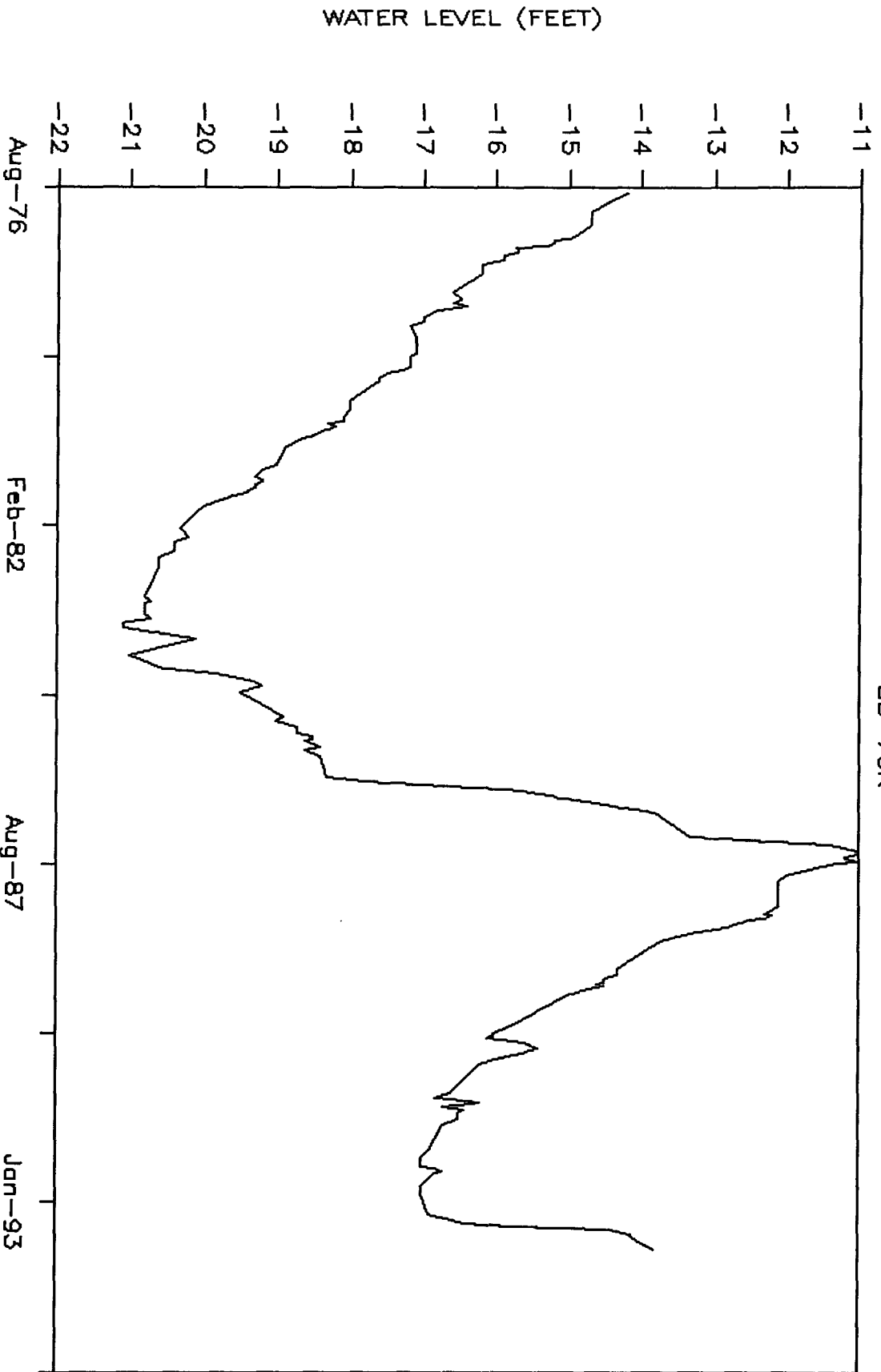

James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

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- Goodman, J.A., 1992, Report on Application No. 5623-3 for the Town of Iroquois, SD DENR, Division of Water Rights, Pierre, SD, 57501.
- Hedges, L.S., etal, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Hedges, L.S., etal, 1983, Same, Task 7: Ground Water Recharge, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Water Rights, 1994, Unpublished Observation Well Data for the Floyd Pearl Creek Aquifer, SD DENR, Division of Water Rights, Pierre, SD, 57501.

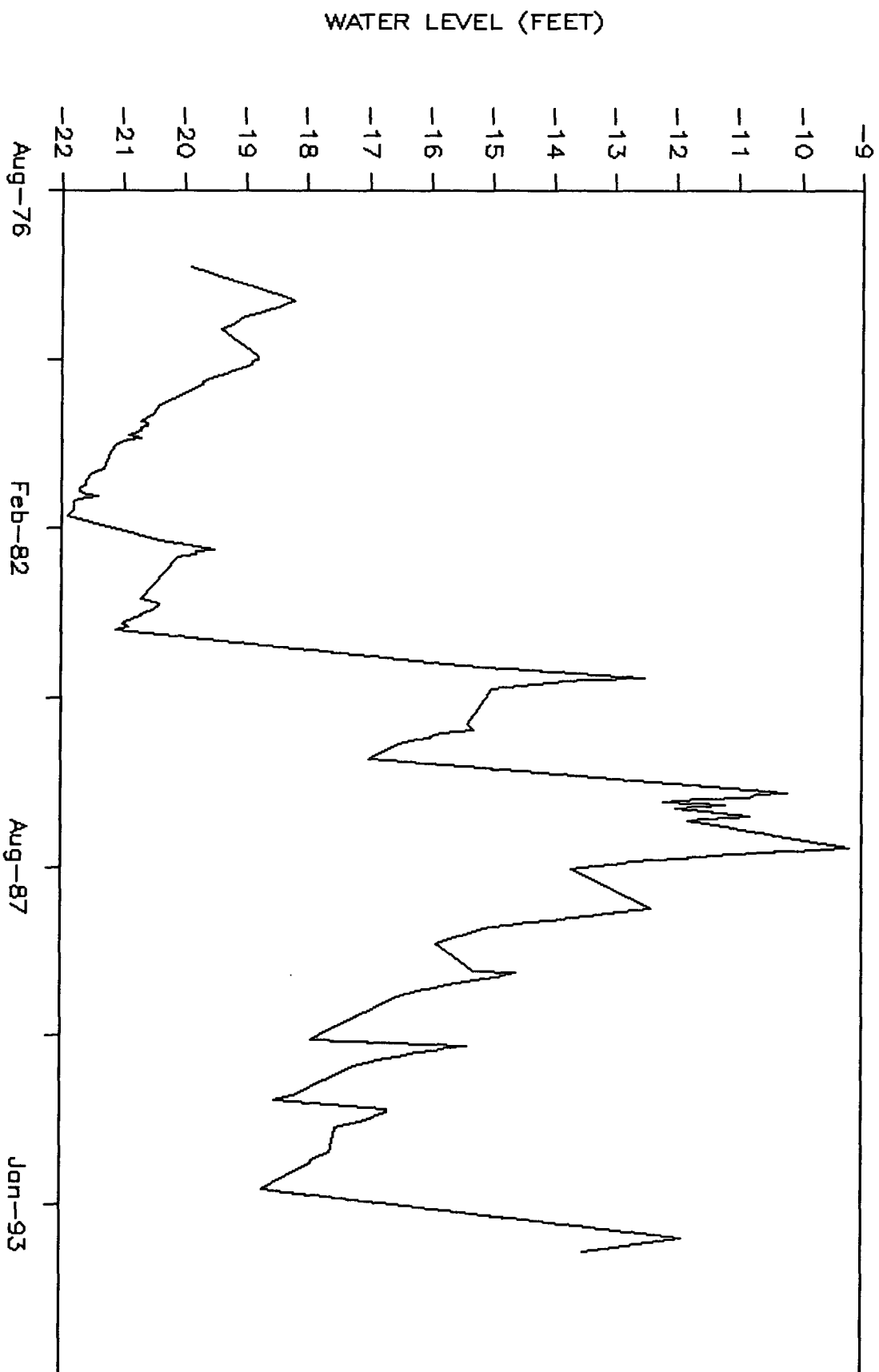
WATER RIGHTS OBSERVATION WELL

BD-76R



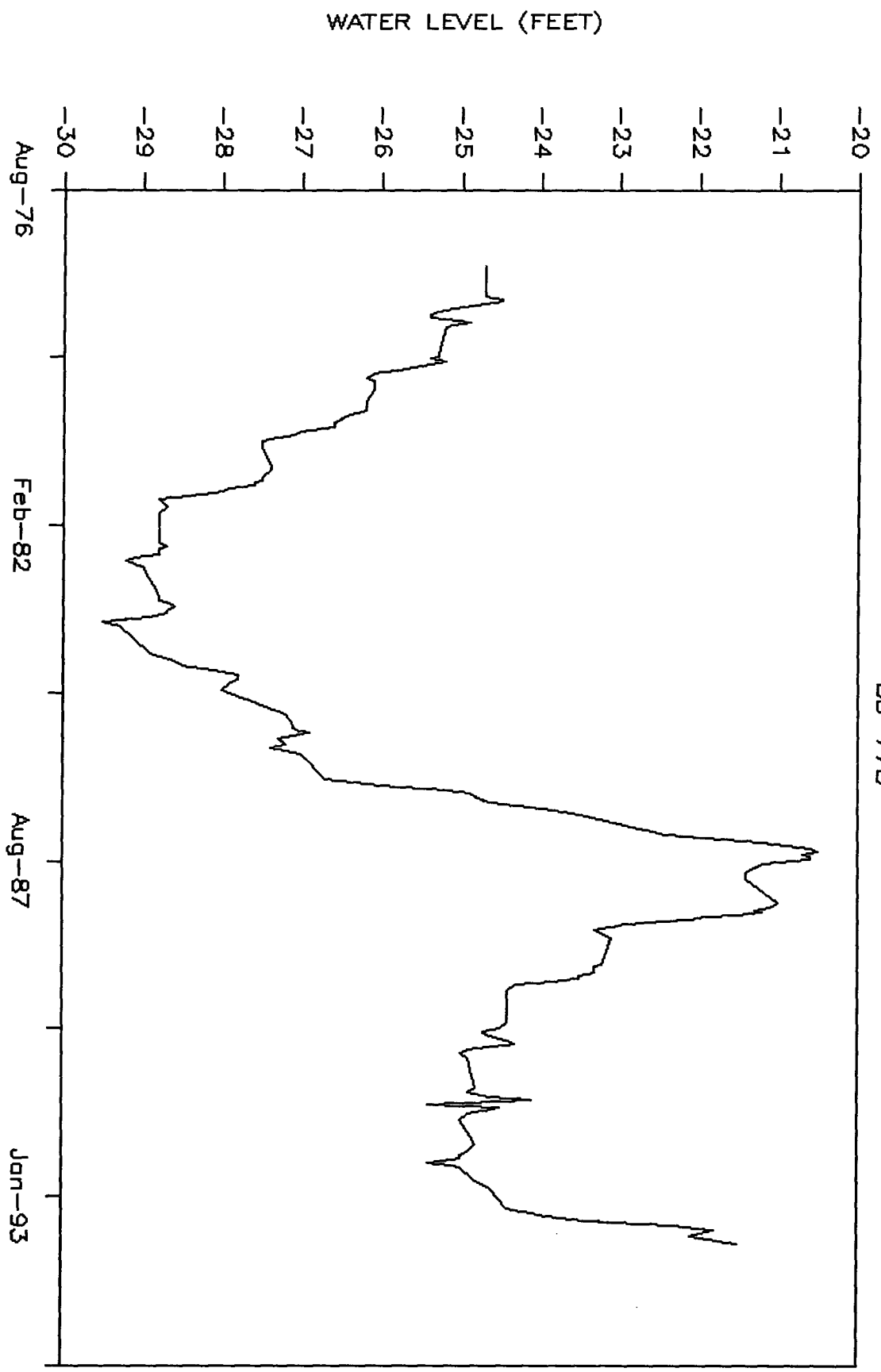
WATER RIGHTS OBSERVATION WELL

BD-77E



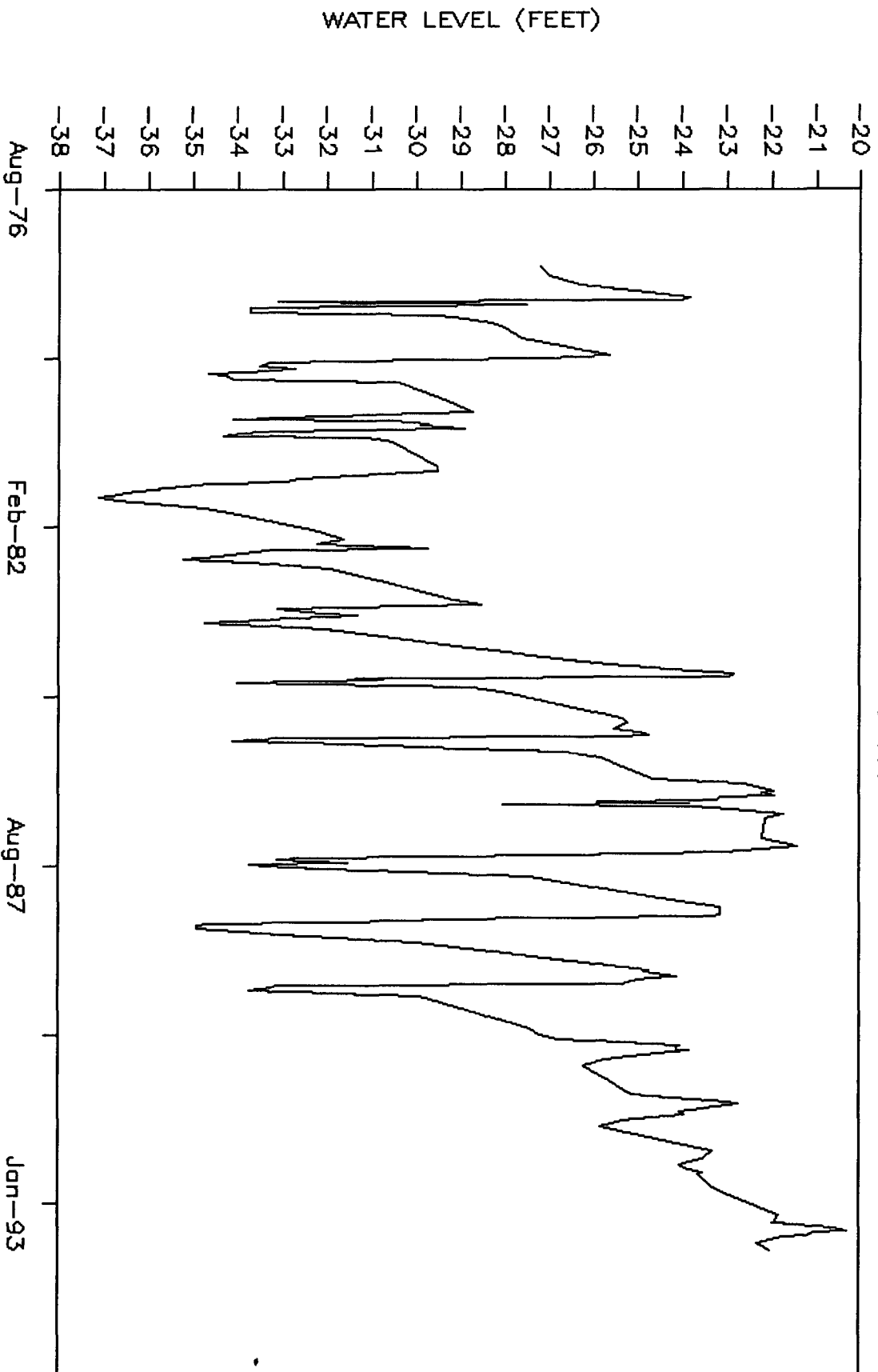
WATER RIGHTS OBSERVATION WELL

BD-77B



WATER RIGHTS OBSERVATION WELL

BD-77F



**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5801-3, Pearl Creek Colony**

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. 5801-3, Pearl Creek Colony, c/o David Waldner, Route 2, Box 30, Iroquois, SD 57353.

The Chief Engineer is recommending APPROVAL of Application No. 5801-3 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) 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. Approval of this Permit is subject to submission of plans and specifications for the wastewater lagoon to the chief engineer and the Division of Environmental Regulation prior to construction, for review and approval. The plans and specifications shall be prepared by a person who is registered as a professional engineer pursuant to SDCL 36-18.
3. Operation of the disposal systems to dispose of waste and wastewater shall be in a manner that prevents runoff from the disposal sites and from entering the waters of the State. The diffused drainage of natural precipitation on agricultural land resulting from a "non-point source" is not subject to these conditions.
4. No wastewater may be released from the wastewater lagoon except through the disposal system, unless and extended period of above normal precipitation results in excess stored water and prevents operation of equipment to lower water levels due to field and weather conditions.
5. Design, construction and management of the lagoons shall be sufficient to maintain seepage rate of less than 10^{-7} centimeters per second. Compaction of the soils within the wastewater lagoon must be at least ninety percent of the Standard Proctor Density (ASTM D6980-70).

6. Approval of Permit No. 5801-3 is subject to compliance with the following then existing and applicable Water Management Board rules:
- a. Chapter 74:03:15 Ground Water Quality Standards,
 - b. Chapter 75:03:16 Ground Water Discharge Permit,
 - c. Chapter 74:03:02 Surface Water Quality Standards,
 - d. Chapter 74:03:04 Uses Assigned to Streams, and
 - 5. Chapters 74:03:17 through 74:03:26 Surface Water Discharge Provisions

See report on application for additional information.

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

JOHN HATCH, Chief Engineer
March 3, 1994



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

March 3, 1994

David Waldner
Pearl Creek Colony
Rte 2 Box 30
Iroquois, SD 57353

Dear Mr. Waldner:

Water Permit Application No. 5801-3 for use in a hog confinement facility 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 Plainsman printed at Huron, SD (Ph # 352-6401). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

c: James Hodgens, Dakota Environmental, PO Box 636, Huron, SD 57350



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 3, 1994

The Plainsman
Box 1278
Huron, SD 57350

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5801-3 to be published twice. Please publish the first notice on March 9, 1994, 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 Pearl Creek Colony, Rte 2 Box 30, Iroquois, SD 57353 (Ph # 546-2298).

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

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

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on March 28, 1994, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5801-3 to Appropriate Water

Notice is given that the Pearl Creek Colony, c/o David Waldner, Rte 2 Box 30, Iroquois, SD 57353 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W for use in a hog confinement facility. Waste water from the facility will be treated in a lagoon located in the W 1/2 NE 1/4 Section 21-T110N-R59W. The treated waste water will be blended with water from existing irrigation wells located in the S 1/2 NW 1/4, NW 1/4 SW 1/4 Section 16 and the N 1/2 NW 1/4 Section 21 to irrigate lands located in the N 1/2, SW 1/4 Section 16 and the NW 1/4 Section 21; all in T110N-R59W. The irrigation wells and irrigated acres listed above are authorized by Water Right Nos. 2727-3, 3607-3 and 4114-3.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5801-3 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.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 28, 1994. 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.

The Water Management Board will consider this application at 10:00 a.m., April 6, 1994, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The April 6, 1994, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by March 28, 1994.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by March 28, 1994, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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

F.P. 3-9-94

L.P. 3-16-94

**NOTICE OF HEARING ON
APPLICATION NO. 5801-3
TO APPROPRIATE WATER**

Notice is given that the Pearl Creek Colony, c/o David Waldner, Rte. 2, Box 30, Iroquois, SD 57353 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W for use in a hog confinement facility. Waste water from the facility will be treated in a lagoon located in the W 1/2 NE 1/4 Section 21-T110N-R59W. The treated waste water will be blended with water from existing irrigation wells located in the S 1/2 NW 1/4, NW 1/4 SW 1/4 Section 16 and the N 1/2 NW 1/4 Section 21 to irrigate lands located in the N 1/2 SW 1/4 Section 16 and the NW 1/4 Section 21; all in T110N-R59W. The irrigation wells and irrigated acres listed above are authorized by Water Right Nos. 2727-3, 3607-3 and 4114-3.

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Russell L. Stone,
Acting Secretary,
Department of Environment and
Natural Resources.

No. 119 (adv.)



*called Holly
Wernick
3-14-94*

*First print: 3-9
last print: 3-16.*

PROOF OF PUBLICATION



STATE OF SOUTH DAKOTA)
) ss
 County of Beadle)

I, Daryl E. Beall

certify that the attached printed Notice was

taken from the Plainsman

printed and published in Huron

County of Beadle and State of

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

March 9, 1994

March 16, 1994

Cost of Printing: \$125.32

Daryl E. Beall
 (Signature)

Publisher
 (Title)

March 16, 1994
 (Date Signed)

F.P. 3-9-94

L.P. 3-16-94

**NOTICE OF HEARING ON
 APPLICATION NO. 5801-3
 TO APPROPRIATE WATER**

Notice is given that the Pearl Creek Colony, c/o David Waldner, Rte. 2, Box 30, Iroquois, SD 57353 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W for use in a hog confinement facility. Waste water from the facility will be treated in a lagoon located in the W 1/2 NE 1/4 Section 21-T110N-R59W. The treated waste water will be blended with water from existing irrigation wells located in the S 1/2 NW 1/4, NW 1/4 SW 1/4 Section 16 and the N 1/2 NW 1/4 Section 21 to irrigate lands located in the N 1/2 SW 1/4 Section 16 and the NW 1/4 Section 21; all in T110N-R59W. The irrigation wells and irrigated acres listed above are authorized by Water Right Nos. 2727-3, 3607-3 and 4114-3.

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 Russell L. Stone,
 Acting Secretary,
 Department of Environment and
 Natural Resources.

No. 119 (adv.)

13" ② x 4.82 = 125.32

**Water Rights Division
File Documentation**

NAME OF PERSON OR FILE: Pearl Creek Colony

ADDRESS: Iroquois SD COUNTY: Beadle

DATE: March 21, 1994 TELEPHONE:

RE: Publication Notice

COMMENTS:

On March 14, 1994 we received a faxed copy of the Notice of Hearing on Application No. 5801-3 from the Daily Plainsman. I talked with Holly and gave her the correction to be made on the March 16th publication. On March 18, 1994 we received the Proof of Publication with a clipping indicating the error was not corrected. I checked with the paper to verify if the correction had been made. The error had not been corrected.



Karen Schlaak
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 12, 1994

Keith Haugland, Publisher
The Plainsman
Box 1278
Huron, SD 57350

Dear Mr. Haugland:

I am writing in regard to The Plainsman's publication of a notice of hearing for Application No. 5801-3 to appropriate water for Pearl Creek Colony.

The notice of hearing was published March 9 and 16, 1994. The first publication of the notice was reviewed for errors. Upon finding an error in which a comma was omitted in a legal description, The Plainsman was immediately contacted to correct the error prior to the second publication. The error was not corrected. This error caused a 480 acre parcel to be legally described as only an 80 acre parcel. A copy of the notice of hearing with the error highlighted is enclosed.

I am writing to emphasize the importance of advertising notice of hearings correctly. The Water Management Board during a contested case hearing, considered this error very significant and determined that the application will need to be readvertised. Failure to correct the initial error will cost the Pearl Creek Colony a significant amount of time and expense while awaiting a Board decision on their project. Consideration of this application will be delayed at least until July 6, 1994.

A notice of hearing for readvertising this application will be sent to The Plainsman in the next week.

Very truly yours,

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

enclosure

c: David Waldner, Pearl Creek Colony
Gary Fees, Advertisement Manager

PROOF OF PUBLICATION



STATE OF SOUTH DAKOTA)
) ss
 County of Beadle)

I, Daryl E. Beall

certify that the attached printed Notice was

taken from the Plainsman

printed and published in Huron

County of Beadle and State of

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

March 9, 1994

March 16, 1994

Cost of Printing: \$125.32

Daryl E. Beall
 (Signature)

Publisher
 (Title)

March 16, 1994
 (Date Signed)

FP 3-8-94 L.P. 3-18-94

**NOTICE OF HEARING ON
 APPLICATION NO. 5801-3
 TO APPROPRIATE WATER**

Notice is given that the Pearl Creek Colony, c/o David Waldner, Rte. 2, Box 30, Irredundant, SD 57353 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W for use in a hog confinement facility. Waste water from the facility will be treated in a lagoon located in the W 1/2 NE 1/4 Section 21-T110N-R59W. The treated waste water will be blended with water from existing irrigation wells located in the S 1/2 NW 1/4, NW 1/4 SW 1/4 Section 18 and the N 1/2 NW 1/4 Section 21 to irrigate lands located in the N 1/2 SW 1/4 Section 18 and the NW 1/4 Section 21, all in T110N-R59W. The irrigation wells and irrigated acres listed above are authorized by Water Right Nos. 2727-3, 3607-3 and 4114-3.

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 Russell L. Stone,
 Acting Secretary,
 Department of Environment and
 Natural Resources.

No. 119 (adv.)

13" x 2" x 4.82 = 125.32

published N $\frac{1}{2}$ SW $\frac{1}{4}$
 should have been N $\frac{1}{2}$, SW



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 12, 1994

NOTICE

TO: David Waldner
Pearl Creek Colony
Route 2, Box 30
Iroquois, SD 57353

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

SUBJECT: Readvertisement of Water Permit Application No. 5801-3, Pearl Creek Colony

On April 6, 1994, the Water Management Board ruled that Water Permit Application No. 5801-3 could not be considered until the notice of hearing is readvertised. The Board determined that there was insufficient public notice due to an error in the March 9 and 16, 1994, notice of hearing published in The Plainsman.

The readvertisement is needed to ensure that the Water permit application is free from legal problems due to inaccurate and incomplete public notice. The information needed to readvertise the notice will be sent to you and the newspaper within the next week.

If you have any questions, please contact Eric Gronlund at 773-3352.

c: Diane Best, Assistant Attorney General
Gary Blue, Attorney

CERTIFICATION

I hereby certify that on April 12, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 12, 1994, regarding Readvertisement of Water Permit Application No. 5801-3, Pearl Creek Colony, addressed as stated below:

David Waldner, Pearl Creek Colony, Route 2, Box 30, Iroquois, SD 57353.

Gary Blue, Attorney, Blue & Haeder Law Offices, P.O. Box 1414, Huron, SD 57350.

Copy Sent Inter-office to:

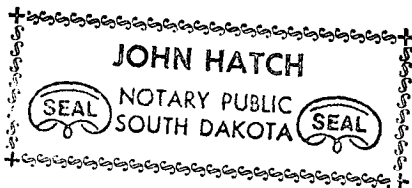
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of April, 1994.



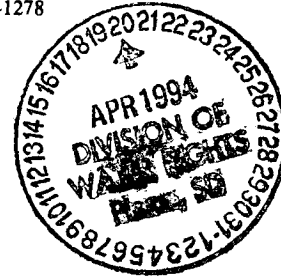
John Hatch
Notary Public
JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



PLAINSMAN

HURON, SOUTH DAKOTA 57350-1278

49 3rd St. S.E.
P.O. Box 1278



605-352-6401
FAX 605-352-7754

April 19, 1994

Mr. John Hatch
Chief Engineer
Water Rights Division
Department of Environment and Natural Resources
523 East Capitol
Pierre, SD 57501-3181

Dear Mr. Hatch:

Thank you for your letter to Keith Haugland, whom I replaced in November.

I was aware of the unfortunate mistake which delayed consideration of the Pearl Creek Colony application and am terribly sorry. But simply apologizing is not enough. I want to assure you that I do, in fact, take public notice advertising ("legals") very seriously. And, armed with your letter, I am in the process of emphasizing to my staff the importance of getting it right the first time. But our failure to correct the error, after it was brought to our attention, is indefensible and totally unacceptable. The processing of the Pearl Creek notice of hearing legal advertisement is being investigated by several of us at the *Plainsman* to identify where the system failed, in order to assure it does not happen again.

I accept your criticism as deserved and your advice as helpful and welcome. Thank you for both. We must . . . we shall . . . do better in the future.

Sincerely,

Daryl Beall
President and Publisher

copies: David Waldner, Pearl Creek Colony
Jay Hodgins, Dakota Environmental
Holly Westercamp, Interim Advertising Manager
Kim Marone, Creative Services Coordinator
Mary Walz, Business Manager
Carl Muggenburg, Operations Director
Gary Fenski, Composing Manager



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 21, 1994

The Plainsman
Box 1278
Huron, SD 57350

ATTENTION: Legal Department

Enclosed is a readvertisement of the Notice of Hearing on Application No. 5801-3 to be published twice. Please publish the first notice on May 4, 1994 with the second publication 7 days later.

This readvertisement of the notice of hearing is necessary due to an error in the March 9 and 16, 1994 notice of hearing in The Plainsman.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The Applicant is Pearl Creek Colony, c/o David Waldner, Rt. 2, Box 30, Iroquois, SD 57353 (Ph # 546-2298).

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

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on May 4, 1994, with the second publication 7 days later.

Readvertisement of NOTICE OF HEARING on Application No. 5801-3
to Appropriate Water

Notice is given that the Pearl Creek Colony, c/o David Waldner, Rte 2 Box 30, Iroquois, SD 57353 has filed an application for a water permit to appropriate 0.10 cubic feet of water per second (cfs) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W for use in a hog confinement facility. Waste water from the facility will be treated in a lagoon located in the W 1/2 NE 1/4 Section 21-T110N-R59W. The treated waste water will be blended with water from existing irrigation wells located in the S 1/2 NW 1/4, NW 1/4 SW 1/4 Section 16 and the N 1/2 NW 1/4 Section 21 to irrigate lands located in the N 1/2 and SW 1/4 Section 16 and the NW 1/4 Section 21; all in T110N-R59W. The irrigation wells and irrigated acres listed above are authorized by Water Right Nos. 2727-3, 3607-3 and 4114-3. Readvertisement of the March 9 and 16, 1994 notice of hearing on Application No. 5801-3 is necessary to correct an error in the legal description of the irrigated lands.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5801-3 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.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 24, 1994. People who previously submitted a petition to this application will still be parties and do not need to file another petition to intervene. 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.

The Water Management Board will consider this application at 10:30 a.m., July 6, 1994, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The July 6, 1994, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by June 24, 1994.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by June 24, 1994, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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

BLUE & HAEDER

Law Offices

239 WISCONSIN AVENUE SW
POST OFFICE BOX 1414
HURON, SOUTH DAKOTA 57350-1414

ROBERT V. HAEDER
GARY D. BLUE

GEORGE BLUE - OF COUNSEL

TELEPHONE
(605) 352-6783
FAX NUMBER
(605) 352-8594



April 26, 1994

Eric Gronlund
Water Rights Division
Department of Environment and natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

RE: Water Permit Application No. 5801-3, Pearl Creek Colony

Dear Eric:

This will confirm that I received your letter of April 21 Monday and that I contacted you to inform you that I would be out of South Dakota from June 29 through July 8, in an effort to see if we could have the hearing in June or to schedule it earlier without requesting the 20-day delay.

I understanding you were going to check but hold out little hope for a scheduling change.

If we cannot get the date changed, let me know because I will need to request the 20-day delay.

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

With my best wishes, I remain,

Very sincerely yours,

Gary D. Blue

GDB/ssh

cc: Jerry Culver



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

Water Rights Division - DENR
Conversation File Documentation

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

NAME OF PERSON OR FILE: Water Permit Application No. 5801-3, Pearl Creek Colony

ADDRESS: COUNTY:

DATE: April 28, 1994 TELEPHONE:

RE: Call to The Plainsman to cancel May 4 and 11, 1994 notice of hearing

COMMENTS:

I contacted Phyllis Werle with the Plainsman and told her to cancel the publication of the notice of hearing for Water Permit Application No. 5801-3.

The reason for canceling the notice is that Mr. Blue has a conflict with the July 6 and 7, 1994 hearing date. He as indicated that he would request a 20 day delay pursuant to the statutes. In order to try to accommodate all parties we at going to discuss with the Board at the May 5, 1994 RDTN mtg the possibility of changing the date of the July 6 and 7 Board meeting.

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

NAME: Eric Henderson



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 28, 1994

David Waldner
Pearl Creek Colony
Rt. 2, Box 30
Iroquois, SD 57353

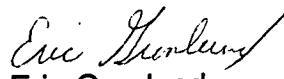
Dear Mr. Waldner:

I am writing to inform you that I contacted The Plainsman and canceled the May 4 and 11, 1994, publication of the notice of hearing on Water Permit Application No. 5801-3. This action was taken because we intend to discuss with the Water Management Board the possibility of changing the July 6 and 7, 1994, meeting date.

During a Board meeting to be held over the Rural Development Telecommunication Network next week, we plan discuss with the Board changing the July meeting date due to scheduling conflicts. A notice of hearing will then be sent to all parties and The Plainsman for readvertising Water Permit Application No. 5801-3.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Eric Gronlund
Water Rights Division
605 773-3352

c: James Hodgens, Dakota Environmental
Gary D. Blue, Attorney



May 10, 1994

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

David Waldner
Pearl Creek Colony
Rte 2 Box 30
Iroquois, SD 57353

Dear Mr. Waldner:

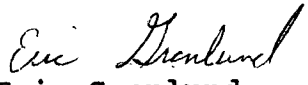
Readvertisement of the notice of hearing for Pearl Creek Colony's Water Permit Application No. 5801-3 has been sent to the Publisher of The Plainsman printed at Huron, SD (Phone # 352-6401). For your information, a copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

This readvertisement is necessary because of an error in the March 9 and 16, 1994 notice of hearing published by The Plainsman. The Water Management Board determined that there was insufficient public notice due to the error.

Mr. Jerry Culver, who is represented by Gary Blue, is a party to the hearing and will not need to file another petition to intervene. The Board meeting was changed to June 28, 1994, to accommodate the schedule of Gary Blue, attorney for petitioner, Jerry Culver.

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

c: James Hodgens, Dakota Environmental, PO Box 636, Huron, SD 57350



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 10, 1994

Gary Blue
Blue and Haeder
PO Box 1414
Huron, SD 57350

RE: Water Permit Application No. 5801-3, Pearl Creek Colony

Dear Mr. Blue:

Please find enclosed a copy of the notice of hearing for Water Permit Application No. 5801-3. You had petitioned to intervene in the hearing before the Water Management Board on behalf of Jerry Culver.

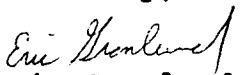
This readvertisement is necessary because of an error in the March 9 and 16, 1994 notice of hearing published by The Plainsman. The notice of hearing is scheduled to be readvertised in The Plainsman on May 18 and 25, 1994.

The Water Management Board will consider this application at 10:30 a.m., June 28, 1994, Ramkota Inn Best Western, Gallery D, 920 West Sioux, Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items. Mr. Culver will remain a party to hearing and is not required to file another petition to intervene.

The Board meeting date was changed to June 28, 1994, to accommodate your schedule.

If you have any questions regarding the readvertisement, please feel free to contact this office.

Sincerely,


Eric Gronlund
Water Rights Division
(605)773-3352

enclosure

c: Jerry Culver, Rt 2 Box 56, Iroquois, SD 57353



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 10, 1994

The Plainsman
Box 1278
Huron, SD 57350

Attn: Legal Department

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The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is Pearl Creek Colony, c/o David Waldner, Rt 2 Box 30, Iroquois, SD 57353 (Ph # 546-2298).

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on May 18, 1994, with the second publication 7 days later.

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5801-3 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.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 17, 1994. People who previously submitted a petition to this application will still be parties and do not need to file another petition to intervene. 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.

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Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by June 17, 1994, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss
 County of Beadle)

I, Mary Walz

certify that the attached printed Notice was

taken from the Plainsman

printed and published in Huron

County of Beadle and State of

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

May 18, 1994

May 25, 1994

Cost of Printing: \$134.96

Mary B. Walz
 (Signature)

Business Manager
 (Title)

May 25, 1994
 (Date Signed)

F.P. 5-18-94 L.P. 5-25-94

**Readvertisement of
 NOTICE OF HEARING
 on Application No. 5801-3
 to Appropriate Water**

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No. 237 (adv.)

14" x 4 1/2" = 134.96



WATER MANAGEMENT BOARD



APPLICATION NO. 5801-3

PETITION

Pearl Creek Colony, Applicant

TO THE WATER MANAGEMENT BOARD:

Your Petitioner, Gary D. Blue, states that he is an attorney in Huron, Beadle County, South Dakota, and makes this Petition on behalf of his client, Jerry Culver;

That your Petitioner's address is Gary D. Blue, Blue & Haeder, Post Office Box 1414, Huron, South Dakota 57350-1414, and that the address of my client, Jerry Culver is Rt. 2, Box 56, Iroquois, SD 57353;

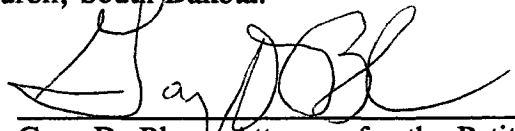
That Jerry Culver and his family live on their farm in Section 33, Township 110 North, Range 59, Beadle County, South Dakota; that they own three quarters in that section and farm that property as well as lease property in Sections 28 and 29 in the same township and range; that this property lies directly south of the proposed site of the above application;

That Jerry Culver and his family feel that Application No. 5801-3 should not be allowed for the following reasons:

- (a) That the water is to be used for blending the wastes from a confinement hog operation and then for irrigation; that this is a shallow well and that the land to be irrigated includes the Northwest Quarter of Section 21-110-59 through which Pearl Creek flows; and that the contamination of Pearl Creek and the use of such water from a shallow well will result in the contamination of the water;
- (b) That Jerry Culver and his family feel that the use of said water for said purposes will unlawfully impair the rights of all landowners through whose property Pearl Creek passes including real estate farmed by Jerry Culver;
- (c) That Jerry Culver further feels said use is not in the best interest because of the odor that will be coming from the project and the fact that it is due north of his property and his home.

Therefore, your Petitioner, on behalf of Jerry Culver and his family, asks the Water Management Board to deny the above application.

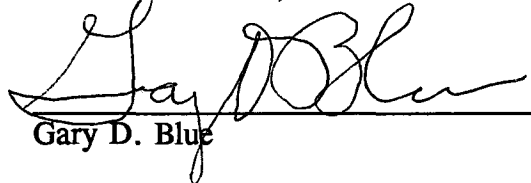
Dated this 28th day of March, 1994, at Huron, South Dakota.



Gary D. Blue - Attorney for the Petitioner
Blue & Haeder
239 Wisconsin Southwest, P.O. Box 1414
Huron, SD 57350-1414
Telephone (605)352-6783; FAX 352-8594

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF BEADLE)

Gary D. Blue, being duly sworn on oath, deposes and states that he has read the above and foregoing Petition and knows and understands the contents thereof, and that the same is true and correct of his own knowledge.

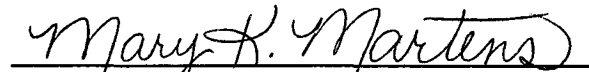
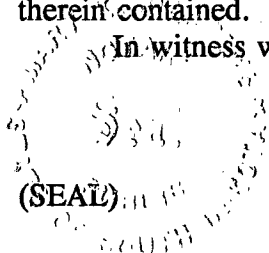


Gary D. Blue

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF BEADLE)

On this 28th day of March, 1994, before me, the undersigned officer, personally appeared Gary D. Blue, known to be or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purpose therein contained.

In witness whereof I hereunto set my hand and official seal.



Mary K. Martens - Notary Public
My Commission Expires: 2-21-99

CERTIFICATE OF MAILING

The undersigned hereby certifies that, on the 28th day of March, 1994, a true and correct copy of the foregoing Petition was sent by United States mail, with first-class postage thereon fully prepaid, to the following persons at their last known post office addresses: Chief Engineer Water Rights Division, Foss Building, 523 East Capitol, Pierre, SD 57501; and Pearl Creek Colony, % David Waldner, Rt. 2, Box 30, Iroquois, SD 57353.



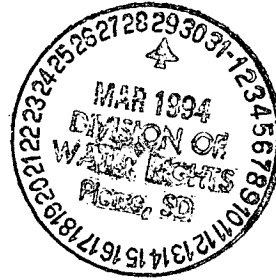
Gary D. Blue

BLUE & HAEDER

LAW OFFICES
239 WISCONSIN SW
POST OFFICE BOX 1414
HURON, SOUTH DAKOTA 57350

GEORGE BLUE
ROBERT V. HAEDER
GARY D. BLUE

TELEPHONE
(605) 352-6783



March 28, 1994

Chief Engineer
Water Rights Division
Foss Building
523 East Capitol
Pierre, SD 57501

RE: Application No. 5801-3
Applicant: Pearl Creek Colony, % David Waldner
Rt. 2, Box 30
Iroquois, SD 57353

Dear Sir:

Enclosed is a Petition in opposition to the above application. I have also enclosed a Certificate of Mailing showing that a copy was mailed to Pearl Creek Colony, % David Waldner.

If you have any questions concerning this matter, please feel free to contact my office.

With my best wishes, I remain,

Very sincerely yours,

Gary D. Blue

Gary D. Blue

GDB/ssh

Enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 14 1994

David Waldner
Pearl Creek Colony
Rt 2 Box 30
Iroquois, SD 57353

Dear Mr. Waldner:

Enclosed is Water Permit No. 5801-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 1, 1995

PAUL WALDNER
PEARL CREEK COLONY
RR 02 BOX 30
IROQUOIS SD 53753-9802

Re: Pearl Creek Colony Animal Waste Management System
Plans and Specifications, Revised Plans, and As-Built Plans

Dear Mr. Waldner:

The Department of Environment and Natural Resources (DENR) is in receipt of three (3) copies of the plans and specifications, revised plans, and as-built plans for your Animal Waste Management System. The animal waste management system will be located in the Northeast 1/4 of the Northwest 1/4 of Section 21, Township 110 North, Range 59 West in Beadle County, South Dakota.

This system is for a 9,170-head/3,668-animal unit swine confinement feeding operation with zero (0) acres of drainage area. This system consists of diversion dikes/channels, piping, a manhole, and two (2) lagoons. The lagoons have been designed for at least 180 days of liquid/slurry storage.

The DENR has reviewed the project for storage and seepage requirements and hereby approves the plans and specifications for the above mentioned project. This approval expires on February 1, 1997, unless construction has been started by that date. One copy of the approved plans and specifications is being retained for our files.

If any deviations are required from the approved plans, then those changes and all change orders must be submitted for approval prior to construction. A complete set of as-built P&S will be required if several major deviations result.

A list of requirements which you must implement and recommendations which you may wish to implement are listed on the attached pages.

Paul Waldner
Pearl Creek Colony
Page 2
February 1, 1995

Upon receipt of the enclosed Notice of Completion, a Certificate of Compliance is available for an animal waste management system when constructed as approved as long as this operation does not significantly change. Continued compliance is dependant upon proper operation and maintenance activities being performed by the owner/operator. This certificate does not relieve the owner/operator from any liabilities for noncompliance. Enclosed is an example of how a Certificate for your facility will look.

For more information on this review and approval please see the attached page of requirements and/or recommendations. If you have any questions regarding the content of this letter, please feel free to contact me. Thank you for your cooperation.

Sincerely,



Raymond F. Birch, P.E.
Staff Engineer
Department of Environment and Natural Resources
Phone: (605) 773-3296

cc: Jay Hodgens, PE, Dakota Environmental Consultants, Inc., Huron, SD
Jon Bargmann, Point Source Control Program, DENR, Watertown, SD

Requirements

This review is to determine whether seepage and storage requirements are being met, all other design considerations should be in accordance with the latest adopted SCS design criteria.

Based on the system design, soil boring logs, review of nearby well log data, the sandy nature of the soil below the proposed lagoon bottoms, and the proximity to Pearl Creek, it has been determined that ground-water monitoring will be required at this site. At least one (1) upgradient well and two (2) downgradient wells must be installed. The following parameters must be monitored:

- | | | | |
|------------------|--------|---------------------------|-------------|
| 1. Chlorides | (mg/L) | 5. Fecal Coliform | (No./100ml) |
| 2. Ammonia as N | (mg/L) | 6. Total Dissolved Solids | (mg/L) |
| 3. Nitrates as N | (mg/L) | 7. Water Levels | |
| 4. Sulfates | (mg/L) | | |

All wells must be monitored throughout the life of the facility. Quarterly monitoring for these parameters will be required for at least one (1) year. The quarterly monitoring and sampling results including water levels shall be submitted to the Ground-Water Quality Program at the end of each quarter for review and evaluation. Depending upon the results of the first year of monitoring, the monitoring schedule may be reduced to semi-annual sampling. Water levels in the monitoring wells must also be recorded on a regular basis. The DENR reserves the right to alter the monitoring plan or require a Ground-Water Discharge Plan should on-site conditions warrant other action.

Once the monitoring wells have been installed, the following information shall be submitted to the Ground-Water Quality Program: A map indicating the location of the monitoring wells and their respective elevations, a well construction report and soil boring log for each well, and the water level measurements for each well. Please submit the above information to Mark Vomacka, Ground-Water Quality Program, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, 57501-3181.

Recommendations

All local, city, and county governmental agencies should be contacted for their approval and/or comments prior to construction of the animal waste management system. If a stream, lake, or wetland is located in the construction site, then the Corps of Engineers and the Fish and Wild Life Service should be contacted for their approval and/or comments prior to construction of the animal waste management system.

Paul Waldner
Pearl Creek Colony
Page 4
February 1, 1995

A nutrient management plan was submitted with the plans and specifications for this site. A nutrient management plan will allow you to better plan your fertilizer use of the valuable nutrients contained in the solid and liquid wastes, and minimize or eliminate any potential surface and/or ground-water contamination. According to the nutrient management plan submitted, the short term application of the nitrogen appears to be alright. The DENR has concerns about the long term continued application of the nitrogen to the cropland. According to a South Dakota State University Cooperative Extension Service pamphlet, the amount of nitrogen applied to the cropland should be equal to the amount of nitrogen taken up by the harvested crop.

The latest National Resources Conservation Service (formerly the Soil Conservation Service) design criteria requires that the pond/lagoon liners shall be a minimum of one (1) foot in thickness and have a seepage rate of 1/16 inch per day or less (see enclosed sheet). The plans and specifications do not include the necessary documentation to show that the required seepage rate will be met using only a 1-foot thick liner at the designed compaction with the designed 15-foot of liquid head. In similar systems, the design reports/plans and specifications have indicated the need for liners of 16 to 18 inches of thickness to meet the required seepage rate. If a thicker liner is required, it would be less costly to increase the liner thickness now then it would be later on. Because monitoring wells are being required, the DENR is recommending rather than requiring this documentation be submitted. The more seepage there is from the system, the more likely it is that pollutant levels will rise to where a Ground-Water Discharge Permit may be needed. Also, please be reminded that the second pond/lagoon liner must be kept wet at all times to insure that the liner integrity is maintained.

As with the item above, because monitoring wells are required, the DENR is recommending rather than requiring the following changes to the design to minimize the potential for erosion of the pond liner:

1. A rock riprap chute and splash pad should be constructed under the primary inlet pipe in lagoon number one.
2. The rock riprap chute below the secondary inlet pipe in lagoon number one should be extended to the lagoon floor and a splash pad constructed.
3. To minimize erosion around their edges, all rock riprap chutes shall be placed in a manner to form a channel.

PLANS & SPECIFICATIONS (P&S) DESIGN REVIEW CHECKLIST

Name PEARL CREEK COLONY (WALDNER, PAUL)

Date January 23, 1995

Item		Yes	No
01)	PE stamp & engineers signature on P&S	X	
02)	Well and/or water supply Information & location(s) 2 - 500' NW/POND & 1/4 MILE W/SITE	X	
03)	Soil borings (locations, depths, number of, etc.) EIGHT (8)	X	
04)	Number & type of animals 9,170-HEAD/3,668-AU	X	
05)	Calculations for solids volume for animal numbers	X	
06)	Calculations for 25-year 24-hour storm	X	
07)	Calculations for annual runoff (Required: Yes No X)		X
08)	Calculations for annual rainfall (Required: Yes No X)		X
09)	Calculations for evaporation (Design Period allows: Yes X No)	X	
10)	Calculations for volume required for debris basins/ponds POND ONLY	X	
11)	Calculations for sizing of debris basins & ponds POND ONLY	X	
12)	O&M guideline Included (Signed: Yes X No)	X	
13)	Construction specifications	X	
14)	Piping, PVC or concrete or rock riprap chutes & splash pads, etc.	X	
15)	Compaction & liner requirements MINIMUM 12" CLAY LINER @ 95% COMPACTION	X	
16)	Nutrient management plan (NMP)	X	
17)	Fence location & type (gate & lock) 4-STRAND BARB WIRE	X	
18)	Warning signs (size, letter size, & wording) 4-2' x 3' LETTER SIZE NOT GIVEN	X	
19)	Storage design period (Basin: N/A days Pond{s}: 180 days)	X	
20)	Correct freeboard (Recommended: 1.0-FT Have: 1.0-FT)	X	
21)	Permanent marker	X	
22)	Permanent marker placed at elevation 94.5 & 87.5 Elevations OK YES	X	
23)	Designated stock piling area (Required: Yes No X)		X
24)	Legal description for AWMS (NE 1/4, NW 1/4, Sec. 21, T110N, R59W)	X	
25)	Legal description of NMP (SW 1/4, Sec. 16, T110N, R59W)	X	
25)	Legal description of NMP (NW 1/4, Sec. 16, T110N, R59W)	X	
25)	Legal description of NMP (NE 1/4, Sec. 16, T110N, R59W)	X	
25)	Legal description of NMP (1/4, Sec. , T , R)		

DENR POND SIZING CALCULATIONS

THIS WORK SHEET WILL CALCULATE THE USEABLE STORAGE VOLUME
OF AN ANIMAL WASTE HOLDING POND OR LAGOON GIVEN THE
BOTTOM DIMENSIONS AND THE SIDE SLOPES OF THE POND OR LAGOON

Pearl Creek Colony (Paul Waldner) Project

January 23, 1995

Lagoon # 1

Calculations & Design Data

Volume required for wastes = 297,360 ft³; Volume required for
washdown water = 59,472 ft³; Volume required for flush water =
918,120 ft³; Total volume required = 1,274,952 ft³; Bottom
elevation = 81.0; Bottom = 390' x 185'; Top of dike elevation =
96.0; High water elevation = 94.5; 25-year precipitation on pond
= 0.375-ft; Recommended freeboard = 1.0-ft; Design freeboard =
1.0-ft; ss = 3:1; Residual depth = 0.5-ft; Storage is between
elevation 81.5 & 94.5;

FLOOR LENGTH		390.00		FLOOR WIDTH		185.00	
MAXIMUM DEPTH		13.50		USEABLE DEPTH		13.00	
RISE 1	1.00	RUN 1	3.00	RISE 2	1.00	RUN 2	3.00
RISE 3	1.00	RUN 3	3.00	RISE 4	1.00	RUN 4	3.00
1 & 2 ARE SLOPES FOR LENGTH				3 & 4 ARE SLOPES FOR WIDTH			
L. 0.5-FT. UP		393.00		W. 0.5-FT. UP		188.00	
L. @ MAX. EL.		471.00		W. @ MAX. EL.		266.00	
FLOOR AREA				72,150.00			
AREA 0.5 FOOT UP				73,884.00			
AREA @ MAXIMUM ELEVATION				125,286.00			
COMBINED AREA				392,256.00			
SUM OF 3 AREAS				591,426.00			
STORAGE VOLUME				1,281,442.71			

1,281,442.71 Ft³ > 1,274,952 Ft³. OK

DENR POND SIZING CALCULATIONS

THIS WORK SHEET WILL CALCULATE THE USEABLE STORAGE VOLUME
OF AN ANIMAL WASTE HOLDING POND OR LAGOON GIVEN THE
BOTTOM DIMENSIONS AND THE SIDE SLOPES OF THE POND OR LAGOON

Pearl Creek Colony (Paul Waldner) Project

January 23, 1995

Lagoon # 2

Calculations & Design Data

*Volume required for wastes = 297,360 ft³; *Volume required for washdown water = 59,472 ft³; *Volume required for flush water = 918,120 ft³; *Total volume required = 1,274,952 ft³; Bottom elevation = 73.3; Bottom = 382' x 77'; Top of dike elevation = 89.6; High water elevation = 87.0; 25-year precipitation on pond = 0.375-ft; Recommended freeboard = 1.0-ft; Design freeboard = 1.0-ft; ss = 3:1; Residual depth = 0.5-ft; Storage is between elevation 73.8 & 87.0;

FLOOR LENGTH		382.00		FLOOR WIDTH		077.00	
MAXIMUM DEPTH		13.70		USEABLE DEPTH		13.20	
RISE 1	1.00	RUN 1	3.00	RISE 2	1.00	RUN 2	3.00
RISE 3	1.00	RUN 3	3.00	RISE 4	1.00	RUN 4	3.00
1 & 2 ARE SLOPES FOR LENGTH				3 & 4 ARE SLOPES FOR WIDTH			
L. 0.5-FT. UP		385.00		W. 0.5-FT. UP		80.00	
L. @ MAX. EL.		464.20		W. @ MAX. EL.		159.20	
FLOOR AREA				29,414.00			
AREA 0.5 FOOT UP				30,800.00			
AREA @ MAXIMUM ELEVATION				73,900.64			
COMBINED AREA				203,128.64			
SUM OF 3 AREAS				307,829.28			
STORAGE VOLUME				677,224.42			

*ALL OF THESE VOLUMES ARE ALREADY CONTAINED IN THE FIRST LAGOON,
THEREFORE, VOLUME REQUIRED FOR THIS LAGOON = 000,000 Ft³.
677,224.42 Ft³ > 000,000 Ft³. OK

DENR 25-YEAR MARKER CORRECT ELEVATION DETERMINATIONS

THIS WORK SHEET WILL CALCULATE THE CORRECT ELEVATION FOR THE 25-YEAR MARKER FOR AN ANIMAL WASTE POND OR LAGOON GIVEN THE VOLUMES REQUIRED IN THE POND OR LAGOON, THE BOTTOM DIMENSIONS, AND THE SIDE SLOPES OF THE POND OR LAGOON

Pearl Creek Colony (Paul Waldner) Project

January 23, 1995

Lagoon Marker For Lagoon # 1

Calculations & Design Data

Volume required for wastes = 297,360 ft³; Volume required for washdown water = 59,472 ft³; Volume required for flush water = 918,120 ft³; Total volume required below marker = 1,274,952 ft³; Total volume required above marker = 0,000.00 ft³; Bottom = 390' x 185'; Bottom elevation = 81.0; Top of dike elevation = 96.0; High water elevation = 94.5; Minimum recommended freeboard = 1.0-ft; Designed freeboard = 1.0-ft; 25-year precipitation on pond = 0.375-ft; ss = 3:1; Try marker @ elevation = 94.5; Residual Depth = 0.5-ft;

FLOOR LENGTH		390.00		FLOOR WIDTH		185.00	
MARKER DEPTH		13.50		MARKER ELEV.		94.50	
MAXIMUM DEPTH		14.00		MAX. ELEVATION		95.00	
USE. DEPTH #1		13.00		USE. DEPTH #2		0.50	
RISE 1	1.00	RUN 1	3.00	RISE 2	1.00	RUN 2	3.00
RISE 3	1.00	RUN 3	3.00	RISE 4	1.00	RUN 4	3.00
1 & 2 ARE SLOPES FOR LENGTH				3 & 4 ARE SLOPES FOR WIDTH			
LENG. 0.5' UP		393.00		WIDT. 0.5' UP		188.00	
L. @ MARK. EL.		471.00		W. @ MARK. EL.		266.00	
L. @ MAX. EL.		474.00		W. @ MAX. EL.		269.00	
FLOOR AREA				72,150.00			
A. 0.5 FOOT UP		73,884.00		A. @ MARK. EL.		125,286.00	
A. @ MARK. EL.		125,286.00		A. @ MAX. EL.		127,506.00	
COMB. AREA		392,256.00		COMB. AREA		505,575.00	
SUM OF 3 AREAS		591,426.00		SUM OF 3 AREAS		758,367.00	
STOR. VOL. #1		1,281,442.71		STOR. VOL. #2		63,171.97	

1,281,442.71 Ft³ > 1,274,952 Ft³. OK for volume below marker.
63,191.67 Ft³ > 0,000.00 Ft³ OK for volume above marker.
Marker Elevation 94.5 is OK.

DENR 25-YEAR MARKER CORRECT ELEVATION DETERMINATIONS

THIS WORK SHEET WILL CALCULATE THE CORRECT ELEVATION FOR THE 25-YEAR MARKER FOR AN ANIMAL WASTE POND OR LAGOON GIVEN THE VOLUMES REQUIRED IN THE POND OR LAGOON, THE BOTTOM DIMENSIONS, AND THE SIDE SLOPES OF THE POND OR LAGOON

Pearl Creek Colony (Paul Waldner) Project

January 23, 1995

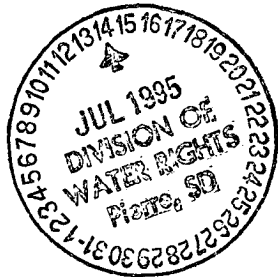
Lagoon Marker For Lagoon # 2

Calculations & Design Data

*Volume required for wastes = 297,360 ft³; *Volume required for washdown water = 59,472 ft³; *Volume required for flush water = 918,120 ft³; *Total volume required below marker = 1,274,952 ft³; Total volume required above marker = 0,000.00 ft³; Bottom = 382' x 77'; Bottom elevation = 73.3; Top of dike elevation = 89.6; High water elevation = 87.0; Minimum recommended freeboard = 1.0-ft; Designed freeboard = 1.0-ft; 25-year precipitation on pond = 0.375-ft; ss = 3:1; Try marker @ elevation = 87.0; Residual Depth = 0.5-ft;

FLOOR LENGTH		382.00		FLOOR WIDTH		077.00	
MARKER DEPTH		13.70		MARKER ELEV.		87.00	
MAXIMUM DEPTH		14.20		MAX. ELEVATION		87.50	
USE. DEPTH #1		13.20		USE. DEPTH #2		0.50	
RISE 1	1.00	RUN 1	3.00	RISE 2	1.00	RUN 2	3.00
RISE 3	1.00	RUN 3	3.00	RISE 4	1.00	RUN 4	3.00
1 & 2 ARE SLOPES FOR LENGTH				3 & 4 ARE SLOPES FOR WIDTH			
LENG. 0.5' UP		385.00		WIDT. 0.5' UP		80.00	
L. @ MARK. EL.		464.20		W. @ MARK. EL.		159.20	
L. @ MAX. EL.		467.20		W. @ MAX. EL.		162.20	
FLOOR AREA				29,414.00			
A. 0.5 FOOT UP		30,800.00		A. @ MARK. EL.		73,900.64	
A. @ MARK. EL.		73,900.64		A. @ MAX. EL.		75,779.84	
COMB. AREA		203,128.64		COMB. AREA		299,351.96	
SUM OF 3 AREAS		307,829.28		SUM OF 3 AREAS		449,032.44	
STOR. VOL. #1		677,224.42		STOR. VOL. #2		37,404.40	

*ALL OF THESE VOLUMES ARE ALREADY CONTAINED IN THE FIRST LAGOON, THEREFORE, VOLUME REQUIRED BELOW THE MARKER FOR THIS LAGOON = 0. 677,224.42 Ft³ > 000,000 Ft³. OK for volume below marker. 37,404.40 Ft³ > 0,000.00 Ft³ OK for volume above marker. Marker Elevation 87.0 is OK.



7-13-95

Dear Sir

We have this well for our hog system
site description N-E $\frac{1}{4}$ of N-W $\frac{1}{4}$ Section 21,
T-110-N R-59-W Permit No. 5801-2

We would like to drill a bystand
well, only to pump when there's something
wrong with the first one, no additional
use of water is planned as of now, but we
have to have water at the hog system
all the time, so we need a bystand well
within about 50 feet from the first one.

Pearl Creek Colony
David J. Waldner
R.R. 2 Box 20
Tropuair S. Dak 57353



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 19, 1995

David Waldner
Pearl Creek Colony
RR 2, Box 30
Iroquois, SD 57353

Re: Additional point of diversion for Water Permit No. 5801-3, Pearl Creek Colony

Dear Mr. Waldner:

I am writing in regard to your request for an additional point of diversion for Water Permit No. 5801-3. Water Permit No. 5801-3 appropriates 0.10 cubic feet of water per second from one well (Floyd Pearl Creek Aquifer) located in the NE1/4 NW1/4 Section 21, T110N, R59W for use in a hog confinement facility. The additional point of diversion is to be located approximately 50 feet for the existing well and will be used as a standby well in the event the existing well is out of service. This request is for no additional appropriation of water.

Upon review of the request and pursuant to SDCL 46-5-13.1, I have made a finding that the additional diversion point will not increase the potential for interference with existing diversions. In making the finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference. Pearl Creek Colony is authorized an additional diversion point without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. The same qualifications listed on Water Permit No. 5801-3 apply to the additional diversion point. No additional appropriation of water is authorized and the additional diversion point must be constructed into the Floyd Pearl Creek Aquifer.

If you have any questions, please contact Eric Gronlund at (605) 773-3352.

Very truly yours,

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

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM

July 19, 1995

RE: REQUEST FOR AN ADDITIONAL POINT OF DIVERSION FOR WATER PERMIT
No. 5801-3, PEARL CREEK COLONY

Pearl Creek Colony submitted a letter requesting authorization for an additional point of diversion for Water Permit No. 5801-3. SDCL 46-5-13.1 provides that a point of diversion may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Water Permit No. 5801-3 appropriates 0.10 cubic feet of water per second from one well (Floyd Pearl Creek Aquifer) located in the NE1/4 NW1/4 Section 21, T110N, R59W for use in a hog confinement facility. The additional point of diversion is to be located approximately 50 feet from the existing well and will be used as a standby well in the event the existing well is out of service. This request is for no additional appropriation of water.

The original report prepared for Water Permit No. 5801-3 found five irrigation wells located within a 1 mile radius of the proposed well. The report concluded that interference is not expected to be a concern. The permits for the nearby wells are all held by Pearl Creek Colony.

This request can be approved with the same qualifications listed on Water Permit No. 5801-3. As far as interference potential, this additional diversion point should not cause adverse effect on any other existing user. This well will only be used in the event the original well is out of service.



Eric Gronlund
Natural Resources Engineer
Water Rights Program



September 10, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

David Waldner
Pearl Creek Colony
Route 2, Box 30
Iroquois SD 57353

Dear Mr. Waldner:

This letter is in response to our phone conversation on September 6, 1996, concerning the pump capacity of the well(s) covered by Water Permit No. 5801-3. We were advised by Jerry Culver that Pullman Well Drilling installed a pump capable of producing 200 gallons of water per minute in the well used to supply your swine operation.

As we discussed, your existing water permit (5801-3) authorizes a diversion rate of 0.10 cubic feet of water per second (45 gallons per minute.) Any pump rate in excess of 45 gpm needs to be covered by an additional permit. Therefore; on the enclosed partially-completed application, please list the increase in the pump rate (Actual pump rate minus 45 gpm equals pump rate to be placed on application.) The only portions of the application which need to be completed are highlighted in red and the application also needs to be signed in the presence of a notary public.

On July 19, 1995, you were granted permission to construct a second well for standby purposes in the event your first well quit working. Please advise whether the second well was constructed and submit a well completion report (form completed by the well driller) if the standby well is constructed. I have also enclosed a copy of the map filed with Water Permit No. 5801-3. When you return your application, please indicate whether the well(s) were constructed in the location identified on the map.

Finally, the amount of the application fee depends on the amount of water applied for on the application. The fee structure is included on the enclosed instruction sheet. Please contact me at (605) 773-3352 if you have questions completing the application. I will try to assist you in any way possible.

Sincerely,

Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosures

5801-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

MAY 22 2019

5801-3
5956-3

Matt Waldner
Pearl Creek Colony
21085 415th Ave
Iroquois SD 57353

Dear Mr. Waldner:

Enclosed is Water License No. 5956-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, 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,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Note: Upon licensing, the applicable portions of Water Permit No. 5801-3 were incorporated into Water License No. 5956-3.