

**WATER PERMIT NO. 5881-3**

Name of Applicant: Heartland Grain Fuels, L.P.

Address: 38469 133rd St, Aberdeen SD 57401-8406

Phone: 605 225-0520

Amount of Water Claimed: 1.89 add'l cfs

Total Acres: NA

Source of Water Supply: groundwater (two wells)

Depth of Well: 190 feet deep

Water to be used for: industrial use

County: Brown

Type of Waste Disposal System: NA

Location: 1 mile west of Aberdeen

PRIORITY Date Received: 8-23-95

Fee: \$475.00

Corrected Application Received: 8-28-95

Period of Annual Use: January 1 - December 31

Remarks: Increase the diversion rate from an existing well (Permit No. 5641-3) and a proposed new well for a total diversion rate of 2.67 cfs.

Diversion Point: NW 1/4 NE 1/4

Sec 21-T123N-R64W

Land to be Irrigated: NA

|  |  |    |  |   |  |
|--|--|----|--|---|--|
|  |  |    |  | ⊗ |  |
|  |  |    |  |   |  |
|  |  | 21 |  |   |  |
|  |  |    |  |   |  |

Reviewed and the Number Assigned on: 8-28-95

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_

FORM 2: Application for uses other than irrigation  
(type or print)

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

No. 5881-3 Hydrologic Unit 10160003  
Basin James River  
Newspaper American News, PO Box 4430, Aberdeen  
(office use only)



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

Check use of water:

☐ Municipal ☐ Suburban Housing ☐ Recreational ☐ Institutional  
☐ Rural Water System ☐ Commercial ☐ Fish & Wildlife ☐ Geothermal Heat  
☐ Domestic ☒ Industrial ☐ Other \_\_\_\_\_  
(over 18 gpm)

Type of Application: ☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation  
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. \_\_\_\_\_  
☒ Amendment/Correction to Permit No. 5641-3

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)  
Additional appropriation of 1.89 cfs from the existing well and  
proposed new well for a total of 2.67 cfs.

- Name of Applicant Heartland Grain Fuels, L.P. Phone 605-225-0520  
(check one) ☒ Owner ☐ Tenant/lessee  
Mailing Address 38469 133rd Street Aberdeen State SD 57401-8406  
(Street, RR, or Box) (City) (Zip Code)  
Additional 1.89 CFS 850 GPM  
2. Amount of water claimed Total 2.67 CFS CFS or 1200 GPM \*\*GPM \*\*\*AF  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*Acre Feet - storage capacity of dam/dugout or annual use if applicable)  
3. Source of water supply Middle James - Columbia Aquifer  
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 2 wells (in place  
& new) located on Lot 17, Evelo Subdivision, NE1/4-Section 21-T123N-R64W.  
(CNW1/4 NE1/4) County Brown  
5. County or counties where water will be used Brown  
6. Annual period during which water is to be used Year Around Jan 1 - Dec 31  
7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Water will be used in the production of ethanol fuel.

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

STATE OF SOUTH DAKOTA)

County of Brown)<sup>SS</sup>

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

Signed Frank H. Moore, General Manager

Subscribed and sworn to before me this 22 day of August 19 95

Jeffrey J. Larson  
Notary Public

My Commission expires March 14, 2003

## Supplemental Information

(type or print in ink)

### 1. Well Information - Proposed Construction

- a) Drill Hole Diameter 20" Depth 190 feet
- b) Casing Type Plastic Diameter 10" Thickness unknown - Depth 150 feet
- c) Screen Type P.V.C./ .016 Diameter 10" Thickness unknown - Depth 40 feet
- d) Gravel Pack Thickness 4 1/2" Length of Gravel Pack 60'
- e) Depth to Top of Water Bearing Material 110 feet
- f) Depth to Water (ground surface to water level) 18 feet
- g) Distance to nearest existing domestic well:

On applicants property -- On property owned by others Unknown - area served by WEB Rural Water System

### 2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) Not Applicable
- b) System Capacity (gallons) --- c) Year Constructed ---
- d) Connected to the City of Aberdeen Sanitary System.

### 3. Dugout Information NOT APPLICABLE

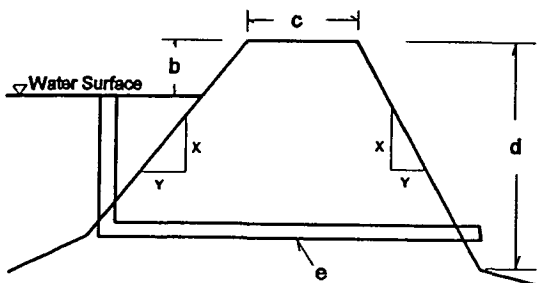
- a) Surface Dimensions                      Depth
- b) Depth to water (ground surface to water level)

### 4. Water Storage Dams NOT APPLICABLE

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

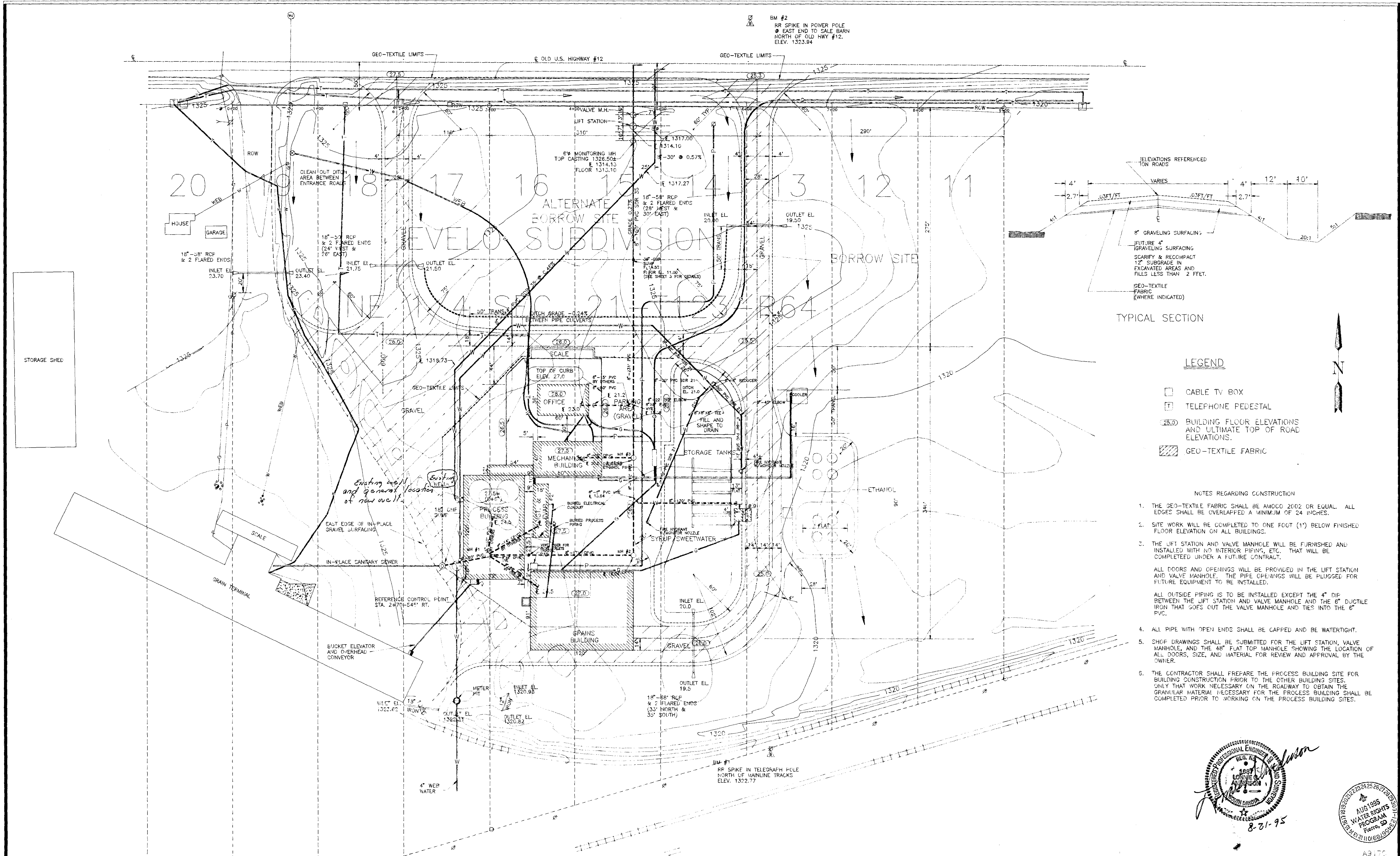
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

\_\_\_\_\_  
\_\_\_\_\_



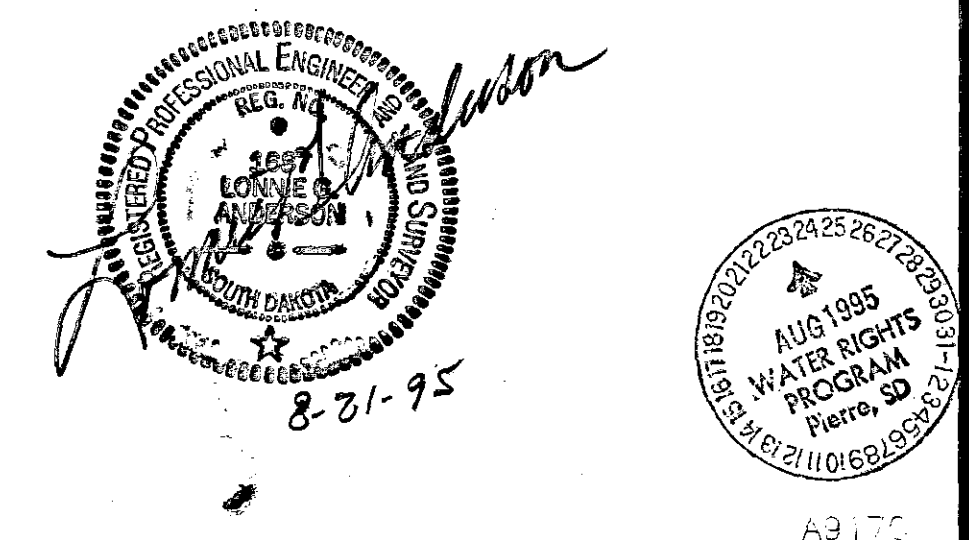
- b) Freeboard
- c) Crest Width                       
Crest Length
- d) Height
- e) Primary Outlet Capacity                       
If pipe, diameter
- f) Secondary Spillway Capacity                       
Spillway Width
- g) X & Y Slope  
Upstream                       
Downstream
- h) Surface Area of Impoundment
- i) Storage                      Acre Feet
- j) Drainage Area Above Dam                      Acres





**CLARK** ENGINEERING CORPORATION  
CONSULTING ENGINEERING & LAND SURVEYORS  
ABERDEEN / RAPID CITY, SOUTH DAKOTA

|                  |                    |                        |                  |                                                             |                                   |                  |                 |
|------------------|--------------------|------------------------|------------------|-------------------------------------------------------------|-----------------------------------|------------------|-----------------|
| DRAWN BY:<br>KJR | CHECKED BY:<br>LGA | REVISIONS:<br>AS BUILT | SCALE:<br>1"=50' | PROJECT:<br>SOUTH DAKOTA GRAIN FUELS L.P.<br>ABERDEEN, S.D. | SHEET DESCRIPTION:<br>SITE LAYOUT | DATE:<br>8-15-91 | SHEET<br>1 OF 3 |
|------------------|--------------------|------------------------|------------------|-------------------------------------------------------------|-----------------------------------|------------------|-----------------|



**SOUTH DAKOTA  
WATER PERMIT NO. 5881-3**

---

Date of first receipt of application August 23, 1995.

Date of return to applicant for corrections, amendments or changes August 23, 1995.

Date of receipt of corrected application August 28, 1995.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5881-3 to Heartland Grain Fuels, L.P., 38469 133rd St., Aberdeen SD 57401-8406 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. 5881-3 appropriates 1.89 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 5641-3. Water Permit No. 5641-3 appropriates 0.77 cfs (during the annual period from May through September) from one well (Middle James-Columbia Aquifer) 190 feet deep located in the NW 1/4 NE 1/4 Section 21-T123N-R64W. This permit authorizes an additional well to be located in the same area and approximately the same depth as the authorized by Water Permit No. 5641-3. This permit will increase the water appropriation from the two wells, which will be interconnected, from 0.77 cfs to 2.67 cfs. This permit also authorizes year round water use from the two wells
2. The water appropriated shall be used for the purpose of supplying water used in the production of ethanol fuel and may not exceed the amount of water needed for beneficial use for industrial use purposes.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date of approval of Permit No. 5881-3 is October 30, 1995.
5. The date from which applicant may claim right is August 23, 1995.
6. One-fifth of the construction is to be completed on or before April 30, 1998.
7. All construction is to be completed on or before October 30, 2000.
8. Water is to be put to beneficial use on or before October 30, 2004.
9. 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 wells 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.

(continued)

2. The well authorized by Permit No. 5881-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.

**WATER MANAGEMENT BOARD**

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

NOV 1 1995

date



## HEARTLAND GRAIN FUELS, L.P.

3601 Brown County 12W

• Aberdeen, SD 57401-8855

• (605) 225-0520

• Fax (605) 229-5744



Water Rights Division  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501-3181  
605/773-3352

22 August 1995

Dear Ms. Schlaak:

Please find enclosed an application to amend our Permit to Appropriate Water in the State of South Dakota. Please find in this packet:

1. The notarized application.
2. The South Dakota Water Well Completion Report for our existing well, dated December 1992.
3. A hydrology map of the area aquifers.
4. A site map of Heartland Grain Fuels, L.P. showing the present and proposed well locations.

Thank for outlining the permit application/approval process during our telephone conversation 22 August 1995. Please do not hesitate to contact me or Frank Moore, the General Manager of this facility if further information is required.

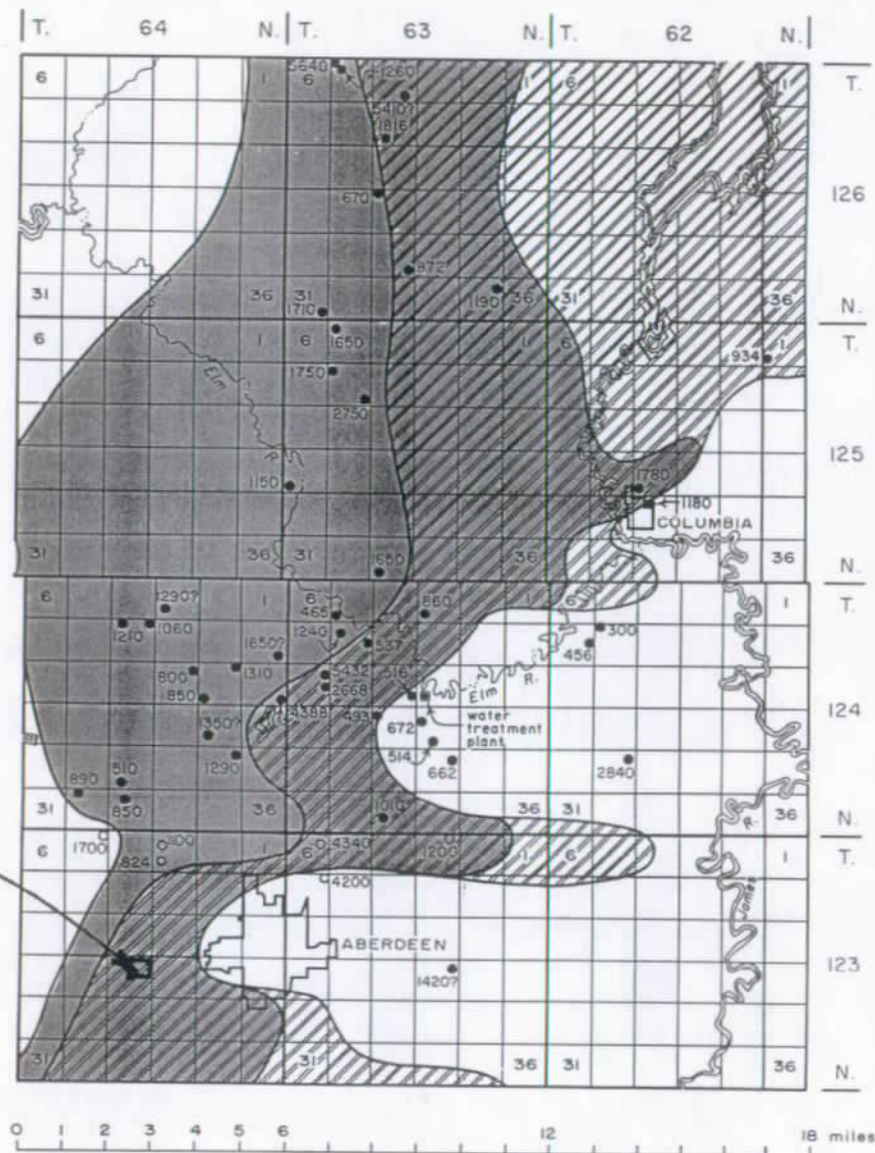
Thank you for your attention to this permit modification.

Sincerely,

Robert L. Sedlacek  
Business Manager



SITE



Elm aquifer



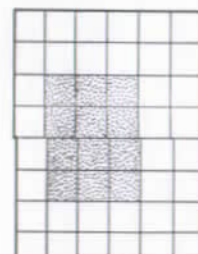
Middle James aquifer



Area where the Elm and Middle James aquifers overlap

800 • Total dissolved solids

1700 ° Specific conductance



Index map — Brown Co.

Figure 3. Shallow ground water supplies in the Aberdeen area showing Total Dissolved Solids and Specific Conductance of water samples from the Elm and Middle James aquifers (modified from Koch, et al, 1973).

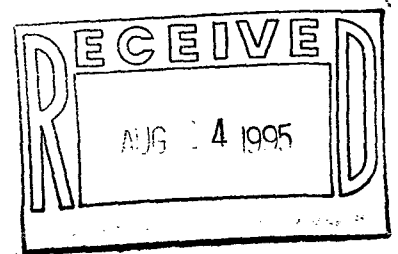


August 23, 1995



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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



Robert L. Sedlacek, Business Manager  
Heartland Grain Fuels, L.P.  
38469 133rd St  
Aberdeen SD 57401-8406

Dear Mr. Sedlacek:

We received the water permit application for Heartland Grain Fuels, L.P. The filing fee for this application based on the additional 1.89 cubic feet of water per second requested will be \$475.00.

If you have any questions, please contact me.

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Environmental Scientist  
Water Rights Program  
605 773-3352

# RECEIPT

4146 J1

## Division of Water Rights

### South Dakota Department of Environment and Natural Resources

Pierre, \_\_\_\_\_ August 28, 19 95

RECEIVED OF Heartland Grain Fuels, L.P., 3601 Brown County 12W, Aberdeen, SD 57401-8855

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

|                                                                                                                              |       |        |
|------------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>5881-3</u> to Appropriate Water, to construct and to put water to beneficial use _____ | 475   | 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 | 475 00 |

By John W. Hatch

**REPORT ON WATER PERMIT APPLICATION NO. 5881-3**  
**for Heartland Grain Fuels, LP**  
**September 21, 1995**

Application No. 5881-3 proposes to appropriate 1.89 cfs (850 gpm) by increasing the diversion rate authorized by Water Permit No. 5641-3 and for one additional well. Water Permit No. 5641-3 appropriates 0.77 cfs from one well approximately 190 feet deep located in the NW 1/4 NE 1/4 of section 21, T123N R64W. This application requests an additional well to be located in the same area and approximately the same depth as the well authorized by Water Permit No. 5641-3.

This application proposes to increase the water appropriation from the two wells, which will be interconnected, from 0.77 cfs to 2.67 cfs. Also the water use of 0.77 cfs under Water Permit No. 5641-3 will occur all year instead of May through September. The water will be used for industrial purposes.

#### **AQUIFER - MIDDLE JAMES COLUMBIA (MJ-C)**

The Middle James Columbia is a buried glacial outwash (sand and gravel) which is under confined or artesian conditions at this site. The aquifer is a complex system of sand, gravel and clay which is in hydraulic connection with the overlying Elm aquifer in some areas (Koch, 1976). The driller's log filed by Pullman Drilling indicates the aquifer top was at 110 feet and extended to a depth of 190 feet. The well had a static water of 18 feet below land surface and was capable of producing 450 gpm with a pumping level of 96 feet below land surface. This results in a specific capacity of 5.8 gpm/ft of drawdown. The Middle James Columbia underlies 118,800 acres and contains an estimated 356,000 acre feet of recoverable water in storage in Brown County (Hedges, 1982). The aquifer is areally extensive into Spink County to the south and into North Dakota.

The Water Rights Program does monitor an observation well (BN-82C) completed into the Middle James Columbia aquifer and located about 2 miles south of this application. Water levels for this well show response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. In general, the water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1995).

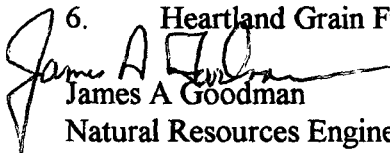
#### **REVIEW OF EXISTING WATER PERMITS/RIGHTS**

There is an existing Water Permit No. 5641-3 for Heartland Grain Fuels located on the site. The application indicates an additional well will be drilled in the immediate area. Interference will occur. Drawdown will result from pumping. The thickness of the aquifer should allow for the close placement of an additional production well but the aquifer should be tested in this area to determine the best possible spacing of wells to minimize potential interference. The only other water permit in the area from the Middle James Columbia is Water Permit No. 5485-3 which is located about 1 1/2 miles south of this application. Interference should not be a problem with this diversion. The observation well hydrograph verifies this.

#### **CONCLUSIONS**

1. Water is available from the Middle James Columbia aquifer.
2. The aquifer is confined and under artesian conditions. Drawdown will result from pumping. Interference is a concern especially with the location of the new well in close proximity to the old well. The aquifer is thick about 70 feet in this area which will allow close spacing but testing should be conducted to determine spacing requirements. Interference with other permits is not a concern.
3. The well authorized by this application must be constructed in accordance with SD Well Construction Standards.
4. Approval of this application will allow the diversion of 2.67 cfs (1200 gpm) from the combination of 2 wells all year around. The original permit No. 5641-3 only specified a diversion of 0.77 cfs from May through September.
5. The water will be used for the production of ethanol fuel.

6. Heartland Grain Fuels has a discharge permit for disposal of cooling water.

  
James A Goodman  
Natural Resources Engineer

#### BIBLIOGRAPHY

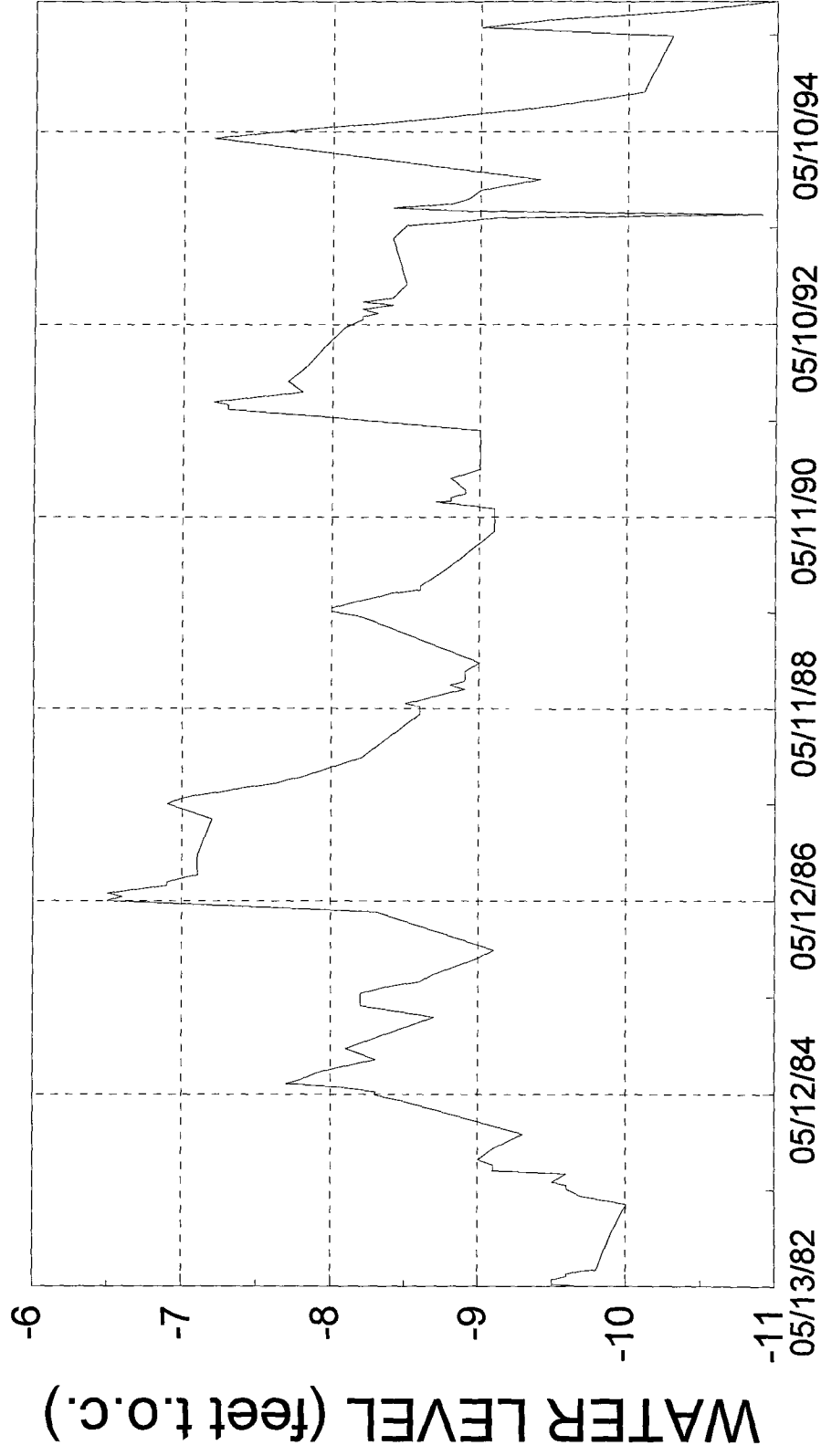
Hedges, L.S., et al., 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

Koch, N.C., 1976, Geology and Water Resources of Brown County, South Dakota, SDGS Bulletin 26, SD DENR, SDGS, Vermillion, SD, 57069.

Water Rights, 1995, Unpublished Observation Well Data for Brown County, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

# WATER RIGHTS OBSERVATION WELL

BN-82C



**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 5881-3, Heartland Grain Fuels, L.P.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 5881-3, Heartland Grain Fuels, L.P., %Frank H. Moore, 38469 133rd Street, Aberdeen, SD 57401-8406.

The Chief Engineer is recommending APPROVAL of Application No. 5881-3 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. The well authorized by Permit No. 5881-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.

See report on application for additional information.

  
JOHN HATCH, Chief Engineer  
September 29, 1995



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

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

October 5, 1995

Frank H. Moore, General Manager  
Heartland Grain Fuels, L.P.  
38469 133rd Street  
Aberdeen, SD 57401-8406

Dear Mr. Moore:

Water Permit Application No. 5881-3 for industrial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the American News printed at Aberdeen, SD (Ph # 605-225-4100). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

October 5, 1995

American News  
P.O. Box 4430  
Aberdeen, SD 57402-4430

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5881-3 to be published twice. Please publish the first notice on October 13, 1995, 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 Heartland Grain Fuels, L.P., %Frank H. Moore, General Manager, 38469 133rd Street, Aberdeen, SD 57401-8406 (Ph # 605-225-4100).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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 / KS*

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund  
Water Rights Program  
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 October 13, 1995, with the second publication 7 days later. The applicant is responsible for payment.

---

NOTICE OF APPLICATION NO. 5881-3 to Appropriate Water  
and Amend Water Permit No. 5641-3

Notice is given that Heartland Grain Fuels, L.P., 38469 133rd Street, Aberdeen, SD 57401-8406 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 5641-3 and for one additional well. Water Permit No. 5641-3 appropriates 0.77 cfs (during the annual period from May through September) from one well (Middle James-Columbia Aquifer) 190 feet deep located in the NW 1/4 NE 1/4 Section 21-T123N-R64W. This application requests an additional well to be located in the same area and approximately the same depth as well authorized by Water Permit No. 5641-3. This application proposes to increase the water appropriation from the two wells, which will be interconnected, from 0.77 cfs to 2.67 cfs. This application also proposes to authorize year around water use from the two wells. The water will be used for industrial purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5881-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 30, 1995.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Form 8

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
 County of Brown ) SS

1. Liberta Dempsey

certify that the attached printed Notice was

taken from the Aberdeen  
American News

printed and published in Aberdeen

County of Brown and State of

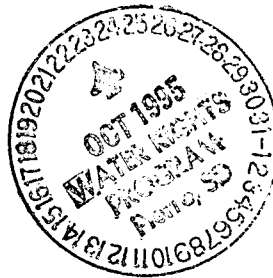
South Dakota. The notice was published in  
 the newspaper on the following two dates:

Oct 13, 1995

Oct 20, 1995

Cost of Printing: 62.66

(13 inches @ 4.82 per inch)



around water use from the two wells. The water will be used for industrial purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5881-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 30, 1995.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

(No. 870 - Oct. 13, 20 - 27)  
**NOTICE OF APPLICATION NO. 5881-3**  
 to Appropriate Water and  
 Amend Water Permit No. 5641-3

Notice is given that Heartland Grain Fuels, L.P., 38469 133rd Street, Aberdeen, SD 57401-8406 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second (cfs) by increasing the diversion rate authorized by Water Permit No. 5641-3 and for one additional well. Water Permit No. 5641-3 appropriates 0.77 cfs (during the annual period from May through September) from one well (Middle James-Columbia Aquifer) 190 feet deep located in the NW 1/4 NE 1/4 Section 21-T123N-R64W. This application requests an additional well to be located in the same area and approximately the same depth as well authorized by Water Permit No. 5641-3. This application proposes to increase the water appropriation from the two wells, which will be interconnected, from 0.77 cfs to 2.67 cfs. This application also proposes to authorize year

Liberta Dempsey  
 (Signature)

Receptionist  
 (Title)

10-20-95

(Date Signed)



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

NOV 1 1995

Frank H. Moore, General Manager  
Heartland Grain Fuels, L.P.  
38469 133rd St  
Aberdeen, SD 57401-8406

Dear Mr. Moore:

Enclosed is Water Permit No. 5881-3 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 Program  
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.



# NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date 3-10-99

TO: Water Rights Division, DENR  
523 E. Capitol  
Pierre, SD 57501-3181

FROM: Hartland Grain Fields 38469 133<sup>rd</sup> Street  
(name) (address)  
Aberdeen SD 57401 605-225-0520  
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5881-3.

Water Permit No. 5881-3 states that the diversion system is to be constructed by 10-30-2000, and that the water is put to beneficial use by 10-30-2004.  
(date) (date)

The diversion system was completed on 10-1-98.  
(date)

Applying the water to beneficial use was completed on 10-1-98.  
(date)

You may schedule an inspection so that the Water License may be issued.

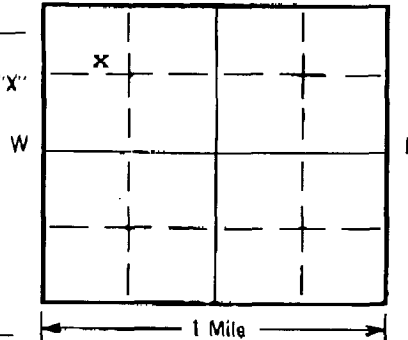
L. F. Williams  
(signature)

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  Sec 21 Twp 123 Rg 64  
County Brown

Please mark well location with an "X"



Well Completion Date

7-21-98

## LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 250 ft. from septic (identify source).

## PROPOSED USE:

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

## METHOD OF DRILLING:

rotaryCASING DATA: ☒ Steel ☐ Plastic ☐ Other

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

| PIPEWEIGHT         | DIAMETER     | FROM          | TO            | HOLE DIAMETER |
|--------------------|--------------|---------------|---------------|---------------|
| <u>750 LB/FT</u>   | <u>14 IN</u> | <u>0 FT</u>   | <u>167 FT</u> | <u>20 IN</u>  |
| <u>304SS LB/FT</u> | <u>14 IN</u> | <u>167 FT</u> | <u>187 FT</u> | <u>20 IN</u>  |
| _____ LB/FT        | _____ IN     | _____ FT      | _____ FT      | _____ IN      |

## GROUTING DATA

| Grout Type      | No. of Sacks | Grout Weight  | From     | To            |
|-----------------|--------------|---------------|----------|---------------|
| <u>Portland</u> | <u>140</u>   | _____ lb./gal | _____ ft | <u>140</u> ft |
| _____           | _____        | _____ lb./gal | _____ ft | _____ ft      |

Describe grouting procedure Trimie PipeSCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 14 IN Length 20 FEETMaterial 304 stainless steelSlot Size 40 Set From 167 Feet to 187 FeetOther information gravel packedWAS A PACKER OR SEAL USED? ☒ YES ☐ NOIf so, what material? bentoniteDescribe packer(s) and location? 140-150'

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: HTH

Laboratory sent to for water quality analysis \_\_\_\_\_ NO, Why Not? \_\_\_\_\_

Pierre SDWell Owner: Heartland Grain FuelsBusiness Name: Heartland Grain FuelsAddress: 38469 133rd ST  
Aberdeen SD 57401

## WELL LOG:

| FORMATION         | DEPTH |     |
|-------------------|-------|-----|
|                   | FROM  | TO  |
| top soil          | 0     | 5   |
| sandy yellow clay | 5     | 20  |
| blue clay         | 20    | 77  |
| gravel            | 77    | 80  |
| blue clay         | 80    | 85  |
| sand              | 85    | 95  |
| sand streaks      | 95    | 100 |
| sand coal streaks | 100   | 135 |
| sand              | 135   | 180 |

STATIC WATER LEVEL 70 Feet

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

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

Controlled by ☐ Valve ☐ Reducers ☐ Other \_\_\_\_\_

Reduced Flowrate \_\_\_\_\_ GPM

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

## WELL TEST DATA:

☒ Pumped Describe: Compressed air☐ Bailed \_\_\_\_\_☐ Other \_\_\_\_\_

Pumping Level Below Land Surface

135 ft. After 12 Hrs. pumped 400 GPM

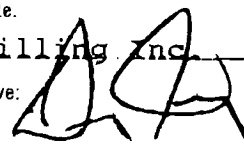
\_\_\_\_\_ ft. After \_\_\_\_\_ Hrs. pumped \_\_\_\_\_ GPM

If pump installed, pump rate \_\_\_\_\_ GPM

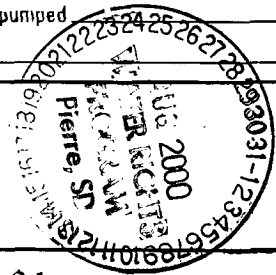
## REMARKS

This well was drilled under license # 94

And this report is true and accurate.

Drilling firm Huron Drilling Inc.Signature of License Representative: 

Signature of Well Owner or Equitable Property Holder: \_\_\_\_\_

Date: 8-30-00



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

November 16, 2000

5881-3

Heartland Grain Fuels, L.P.  
38469 133<sup>rd</sup> St  
Aberdeen SD 57401

Dear Sir:

On August 8, 2000 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit Nos. 5641-3 and 5881-3, was completed by Stacy Johnson, a staff engineer with our program. Your final water right document, the water license, can now be issued.

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

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

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

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Water Rights Program

# RECEIPT

## Water Rights Program

South Dakota Department of Environment and Natural Resources

**N2 416692**

Pierre, November 21, 2000

Heartland Grain Fuels, L.P., PO Box 1460, Aberdeen SD 57402-1460

RECEIVED OF \_\_\_\_\_  
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. \_\_\_\_\_ to Appropriate Water, to construct  
and to put water to beneficial use \_\_\_\_\_

Fee for Application for Permit No. \_\_\_\_\_ to Appropriate Water, for Future  
Use \_\_\_\_\_

Fee to retain Future Use Permit No. \_\_\_\_\_ after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water  
License No. 5881-3

Fee for Filing Transfer Form \_\_\_\_\_

Fee for Filing Extension Request \_\_\_\_\_

Fee for \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Any Other Work Provided by Law)

**Total**

50 00

By

*Garland E. Beale*

Chief Engineer

125

**Permit No. 5641-3 & 5881-3**

**James River** - Water District

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

Contact Person & Address: Rob Mc Keown, 38469 133<sup>rd</sup> Street, Aberdeen, SD 57401-8838

**Report Of Examination Of Works**

On, August 8, 2000, I made a thorough examination of the water use system constructed by Heartland Grain Fuels of 38469 133<sup>rd</sup> Street, Aberdeen, SD 57401-8838 holder of Permit No. 5641-3 bearing the priority of March 18, 1992, authorizing the diversion of 0.78 cu. ft. per second and Permit No. 5881-3 bearing the priority of August 23, 1995, authorizing the diversion of 1.89 cu. ft. per second of the waters for industrial purposes, in Brown County.

The system is in the following condition good. The point of diversion is located Well #1: from the NE corner of Section 21 T123N-R64W 300 feet south and 1967 feet west with a longitude of -98.544247 and a latitude of 45.458662. The point of diversion is located Well #2: from the NE corner of Section 21 T123N-R64W 220 feet south and 2064 feet west with a longitude of -98.544525 and a latitude of 45.459148. The works are capable of diverting and conveying to the place of use 1.00 cu. ft. per second of to be used for industrial purposes. Water has been put to beneficial use and license should be issued for 1.00.

**Review of Permit Qualifications And Regulations:**

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes

**Report On the Specifics of the System**

**Diversion Point Information: Well #1 (Permit 5641-3)**

- |                                                |                                     |
|------------------------------------------------|-------------------------------------|
| 1) Well Drilling Firm: <u>Pullman Drilling</u> | 2) No. of Wells <u>1</u>            |
| 3) Depth(s) <u>190</u> feet                    | 4) Well log is available <u>yes</u> |

**Casing:**

- |                              |                           |
|------------------------------|---------------------------|
| 1) Diameter <u>10</u> inches | 2) Length <u>150</u> feet |
| 3) Type <u>PVC</u>           |                           |

**Screen:**

- 1) Type PVC
- 2) Length 40 feet
- 3) Static water level 18 feet

**Pump\ Motor:**

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1) Pump Make <u>Submersible</u> | 2) Pump Model <u>Grundfoss</u> |
|---------------------------------|--------------------------------|

- 3) Capacity 250 GPM  
5) Motor Model No.
- 4) Motor Make Hitachi  
6) Horsepower rating 30 hp

**Distribution System:**

- 1) Type CPVC 2) Size 6 inches 3) Length 15 feet

**Diversion Point Information: Well #2 (Permit 5881-3)**

- 1) Well Drilling Firm: Huron Drilling 2) No. of Wells 1  
3) Depth(s) 187 feet 4) Well log is available yes

**Casing:**

- 1) Diameter 14 inches 2) Length 187 feet  
3) Type Steel

**Screen:**

- 1) Type 304 Stainless steel  
2) Length 20 feet  
3) Static water level 70 feet

**Pump\ Motor:**

- 1) Pump Make Submersible 2) Pump Model Grundfoss  
3) Capacity 200 GPM 4) Motor Make Hitachi  
5) Motor Model No. 6) Horsepower rating 20 hp

**Distribution System:**

- 1) Type CPVC 2) Size 6 inches 3) Length 300 feet

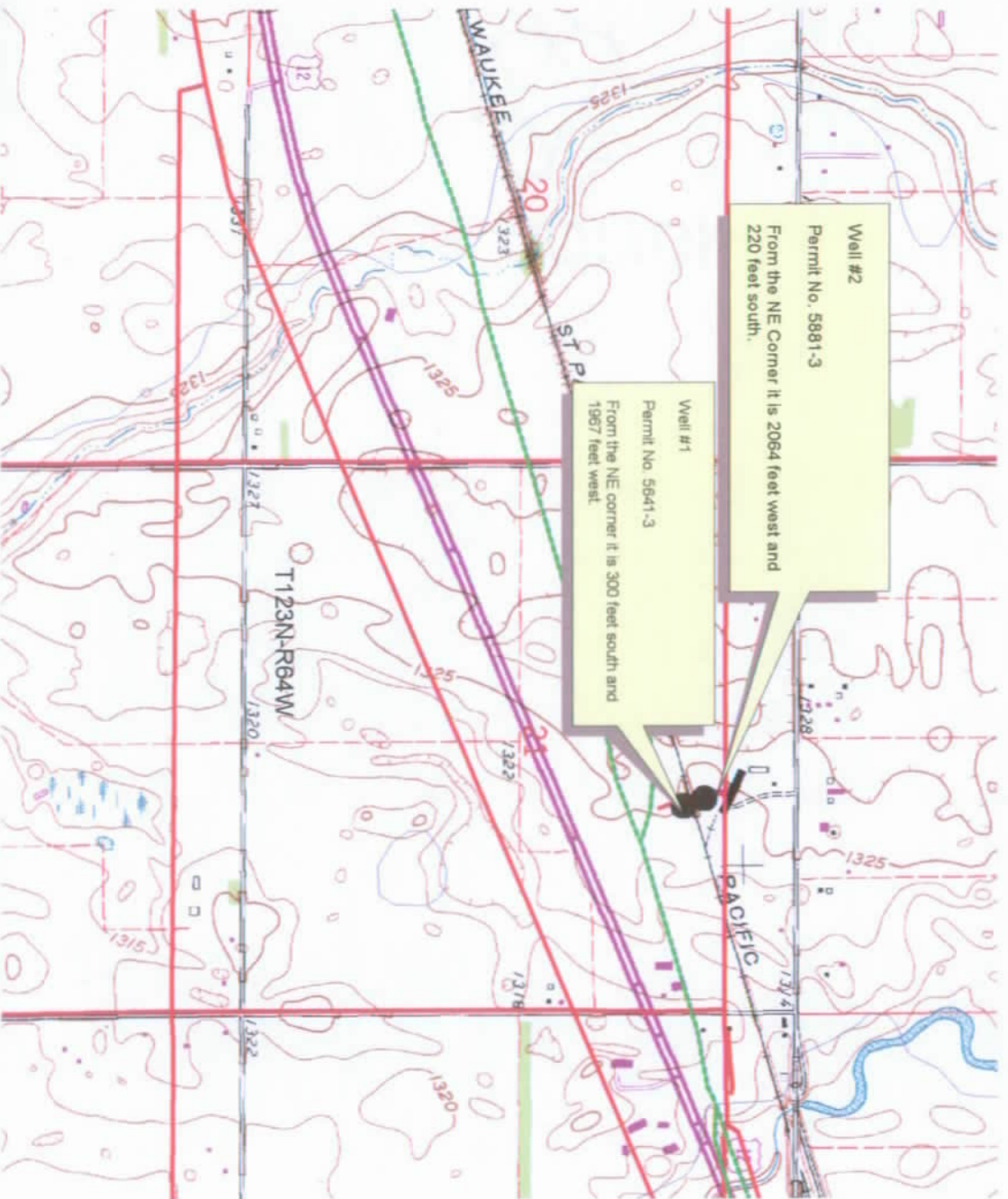
Stacy J. Johnson  
Stacy J. Johnson  
Natural Resources Engineer  
DENR, Water Rights Program

10-16-00  
Date



Well #2  
Permit No. 5881-3  
From the NE Corner it is 2064 feet west and  
220 feet south.

Well #1  
Permit No. 5641-3  
From the NE corner it is 300 feet south and  
1967 feet west.



*Stacy J. Johnson 8-16-00*  
Stacy J. Johnson  
Natural Resources Engineer  
SD DENR Water Rights Program

0.7 0 0.7 1.4 Miles

5881-3

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5881-3

(1) Heartland Grain Fuels, L.P., 38469 133<sup>rd</sup> St, Aberdeen SD 57401 made Application No. 5881-3, August 23, 1995 for a water permit to divert 1.89 cubic feet of water per second (cfs) from groundwater (one well), Brown County, South Dakota for industrial purposes. Permit No. 5881-3, with a priority date of August 23, 1995 was approved October 30, 1995 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 30, 2000 and for the application to beneficial use of said water on or before October 30, 2004.

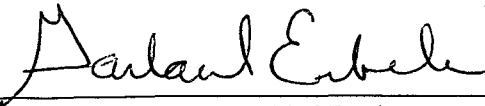
The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on March 17, 1999. The *Notice* stated the diversion system was completed on October 1, 1998 and the water placed to beneficial use on October 1, 1998.

Water Permit No. 5641-3, with a priority date of March 18, 1992, authorizes 0.78 cfs from one well. The applicable portions of No. 5641-3 are incorporated into No. 5881-3.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.00 cubic feet of water per second for beneficial use. The location of the diversion points are Well # 1 - 300 feet south and 1,967 feet west and Well # 2 - 220 feet south and 2,064 feet west; both from the northeast corner of **Section 21-T123N-R64W** **(NW ¼ NE ¼)**

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

(4) Pursuant to South Dakota Water Law 46-5-30.1 Heartland Grain Fuels, L.P., 38469 133<sup>rd</sup> St, Aberdeen SD 57401 the holder and/or owner of Incorporated Water Right No. 5881-3 is issued a license to appropriate water, the right to use 1.00 cubic feet of water per second from groundwater (two wells) with priority dates of March 18, 1992 (0.55 cfs) and August 23, 1995 (0.45 cfs) from the locations specified in (2) of this license for industrial purposes. This license is subject to any limitations or qualifications listed in Incorporated Water Right No. 5881-3 and subject to South Dakota State Law.

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

MAR 13 2001

date





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**MAR 13 2001**

5881-3

Heartland Grain Fuels, L.P.  
38469 133<sup>rd</sup> St.  
Aberdeen, SD 57401

Dear Sir:

Enclosed is Water License No. 5881-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416692 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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

Sincerely,

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

enclosures

Note: The applicable portions of Water Permit No. 5641-3 were incorporated into Water License No. 5881-3



August 31, 2009

**RECEIVED**  
**SEP - 1 2009**  
**WATER RIGHTS**  
**PROGRAM**

Department of Environmental and Natural Resources  
Water Rights Program  
523 East Capitol  
Pierre, SD 57501-3181

**BY CERTIFIED MAIL**

RE: WATER RIGHTS LICENSE 5881-3; PERMIT NO. 5641-3

To Whom It May Concern:

By this letter, Heartland Grain Fuels, L.P. of Aberdeen, SD 57401, holder of the above-referenced license and permit, is providing notice that Heartland Grain Fuels, L.P. is undertaking a two-part restructuring consisting of the following steps. First, Heartland Grain Fuels, L.P. will convert from a limited partnership into a limited liability company, Heartland Grain Fuels, LLC. Second, ownership in Heartland Grain Fuels, LLC will be transferred from Dakota Fuels, Inc. (the current general partner of Heartland Grain Fuels, L.P.) and ABE Heartland, LLC (the current limited partner of Heartland Grain Fuels, L.P.) to HGF Ethanol Holdings, LLC. The conversion to an LLC will take place as early as mid September and will be primarily an administrative change; the ownership transfer will take place on or about September 30, 2009.

This restructure will not result in any change in the operation of the regulated facility. The business personnel remain the same. The name on the license and permit should be changed to Heartland Grain Fuels, LLC. Attached is the form SD EForm-0495 requesting a name change. The requisite fee of \$50 for processing is enclosed.

Please feel free to contact me if you require any additional information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bill Paulsen", is written over a horizontal line.

Bill Paulsen  
Vice President  
Dakota Fuels, Inc., General Partner

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/1, 2009

RECEIVED OF Heartland Grain Fuels LP 38469 133rd St Aberdeen SD 57401

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

|                                                                                                                |       |       |
|----------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50    | 00    |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   |       |       |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         |       |       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____            |       |       |
| Fee for Filing Transfer Form <u>5881-3</u>                                                                     |       |       |
| Fee for _____                                                                                                  |       |       |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |       |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |       |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |       |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |       |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 50 00 |

No. 04205

By

Lauren Erbe  
Chief Engineer

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

Water Right/Permit No. 5881-3Date: 8/31/2009

I/We request that Water Right/Permit No. 5881-3 formerly owned by:  
Heartland Grain Fuels, L.P. be transferred to:

New Owner Name: Heartland Grain Fuels, LLCAddress: 38469 133rd StreetCity, State, Zip Aberdeen SD 57401 Telephone No. (605) 225-0520

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

As of mid September, 2009, the name change restructure will be official, making the former Limited Partnership (LP) into a Limited Liability Corporation. The corporation will be wholly owned by HGF Ethanol Holdings, LLC. No operations will change, and the management and staff will remain the same through this transition.

☒ I understand that the validity of Water Right/Permit No. 5881-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Heartland Grain Fuels, LLC, by Bill Paulsen, the new owner, certify that the above information is true and correct.

  
(Signed by new owner)

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

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



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

September 9, 2009

5881-3

Bill Paulsen  
Heartland Grain Fuels LLC  
38469 133<sup>rd</sup> St  
Aberdeen SD 57401

Dear Mr. Paulsen:

Thank you for sending in the "Notice of Transfer of Ownership" form and filing fee for changing the name on Water Right No. 5881-3. The transfer has been completed. The water right formerly listed in the name of Heartland Grain Fuels LP is now listed in the name of Heartland Grain Fuels LLC.

Enclosed is your Receipt No. 04205 in the amount of \$50.00. You may keep this for your records.

If you have any questions, please contact me.

Sincerely,

Genny McMath  
Environmental Scientist  
Water Rights Program  
(605) 773-3352  
email: [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us)

enclosure

RECEIVED  
JUL 20 2010  
WATER RIGHTS  
PROGRAM

ADVANCED  
BIOENERGY

ABE South Dakota, LLC  
38469 133<sup>rd</sup> Street  
Aberdeen, SD 57401-8406  
P: 605.225.0520  
F: 605.229.5744  
TF: 800.774.6537

July 12, 2010

Chief Engineer  
Water Rights Program, DENR  
523 East Capitol  
Pierre, SD 57501-3181

RE: Water Rights License 5881-3; Permit No. 5641-3

To the Chief Engineer:

By this letter, Advanced BioEnergy, LLC is providing notice that Heartland Grain Fuels, L.P. has undergone an organizational restructuring. Heartland Grain Fuels, L.P. has converted from a limited partnership into a limited liability company, ABE South Dakota, LLC. Ownership and control has not changed; Advanced BioEnergy, LLC is still the parent company and retains 100% ownership. Officers and board members of ABE South Dakota, LLC are listed below:

John Lovegrove, Chairman  
Richard Peterson, President and CEO (sole officer)

Either may be contacted through the corporate office at 763-226-2701 (Minneapolis, MN).

This restructuring will not result in any change in the operation of the regulated facilities. The business and operations personnel remain the same.

Enclosed please find the E-Form 0495 and a check for \$50 for permit processing.

Sincerely,



Jim Lane  
Regulatory Compliance Manager  
Advanced BioEnergy, LLC

Enclosures

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

Water Right/Permit No. 5881-3Date: 7/12/2010I/We request that Water Right/Permit No. 5881-3 formerly owned by:Heartland Grain Fuels, LLC, 38469 133rd Street, Aberdeen, SD 57401

be transferred to:

New Owner Name: ABE South Dakota, LLCAddress: 38469 133rd StreetCity, State, Zip Aberdeen SD 57401 Telephone No. (605) 225-0520

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

This is a change of name only, due to a company restructuring. All ownership and control remains unchanged. Please contact Jim Lane or Jim Friedt at the number above for any questions or clarifications.

☒ I understand that the validity of Water Right/Permit No. 5881-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, ABE South Dakota, LLC by Jim Lane, the new owner, certify that the above information is true and correct.

 for ABE South Dakota, LLC  
(Signed by new owner)

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

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

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/20, 2010

RECEIVED OF ABE South Dakota LLC 38469 133rd St Aberdeen SD 57401

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

|                                                                                                                |       |       |
|----------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50    | 00    |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   |       |       |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         |       |       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____            |       |       |
| Fee for Filing Transfer Form <u>5881-3</u>                                                                     |       |       |
| Fee for _____                                                                                                  |       |       |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |       |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |       |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |       |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |       |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 50 00 |

No. 04591

By Landl Erbe  
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

July 26, 2010

5881-3

Jim Lane  
ABE South Dakota LLC  
38469 133<sup>rd</sup> St  
Aberdeen SD 57401

Dear Mr. Lane:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing the name on Water Right No. 5881-3. The transfer has been completed. The water right formerly listed in the name of Heartland Grain Fuels LLC is now held by ABE South Dakota LLC.

Enclosed for your records is Receipt No. 04591 in the amount of \$50.00.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Genny McMath'.

Genny McMath  
Environmental Scientist  
Water Rights Program  
(605) 773-3352  
email: [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us)

enclosure

**Water Rights Program  
File Documentation**

Permit/Right No. and Owner: Water Right No. 5881-3, ABE South Dakota LLC

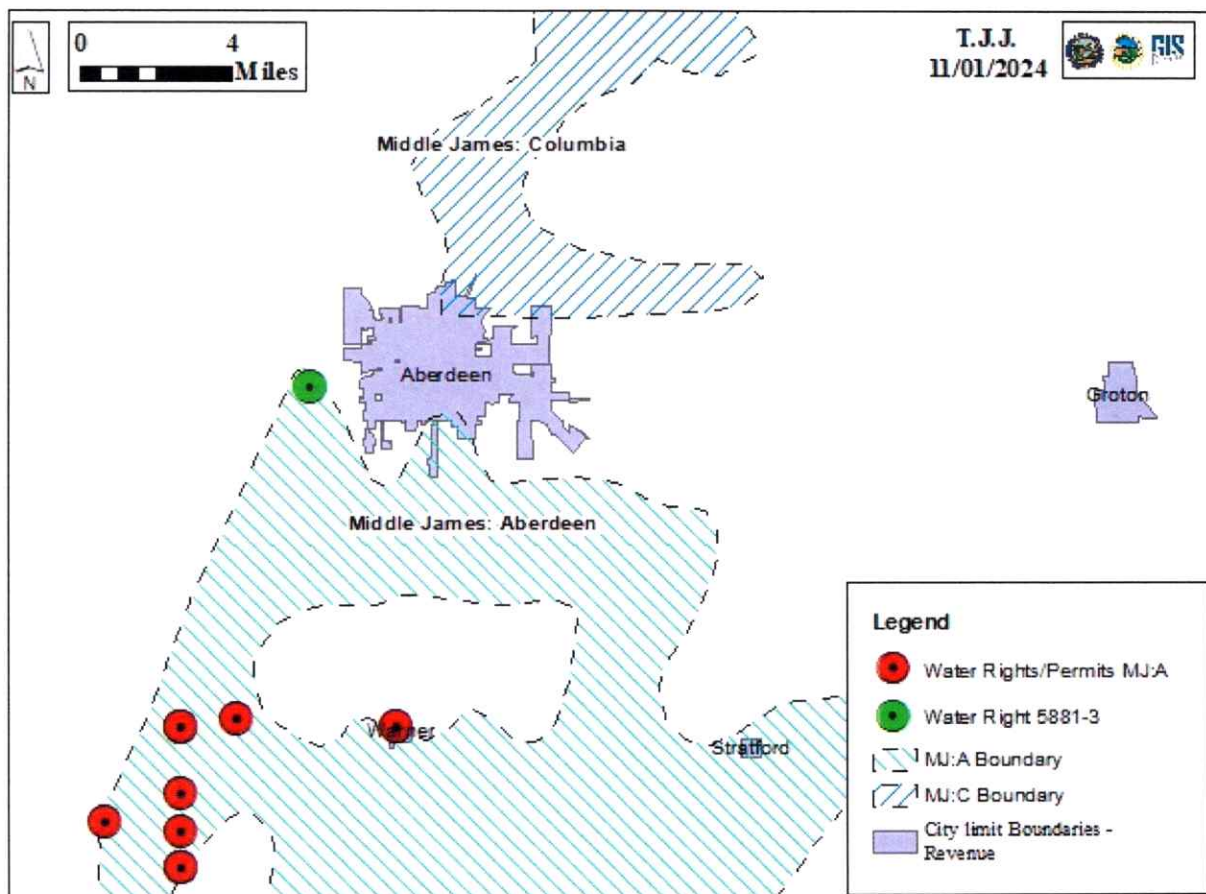
Date: November 1, 2024, County: Brown

RE: aquifer designation

**COMMENTS:**

Jensen (2024) as part of a review of the Aberdeen management unit of the Middle James aquifer (MJ:A) determined that Water Right No. 5881-3, previously assigned an aquifer designation of the Columbia management unit of the Middle James aquifer (MJ:C) should be reassigned. In reviewing the best information currently available for aquifer and management unit naming conventions, the best aquifer designation for Water Right No. 5881-3 is the Aberdeen management unit of the Middle James aquifer as shown in Figure 1.

In reviewing the file for Water Right No. 5881-3, the public notice and permit listed the water source as the Columbia management unit of the Middle James aquifer but the license for Water Right No. 5881-3 list the water source only as groundwater. This change of aquifer designation, to the Aberdeen management unit of the Middle James aquifer, does not represent a physical change in the water source. It is an update to the name of the aquifer materials to reflect the currently best available information for aquifer extents. This update to the aquifer name does not authorize any increase in the amount of water appropriated by Water Right No. 5881-3, relocation of existing wells, or completion of additional wells into the aquifer. Going forward, issuance of any pertinent documents will reflect the updated aquifer designation.



**Figure 1.** Map of the approximate Middle James: Aberdeen and Middle James: Columbia aquifer boundary (modified from Hedges et al, 1982), Water Rights/Permits for Middle James: Aberdeen aquifer, and Water Right No. 5881-3.

*Tyler Jensen*  
 Tyler Jensen  
 Natural Resources Engineer I

*Eric Gronlund*  
 Eric Gronlund  
 Chief Engineer

Jensen, T. 2024. Report to the Chief Engineer on Water Permit Application No. 8900-3. SD DANR-Water Rights Program. Joe Foss Building, Pierre, South Dakota.

Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3 Ground-Water Storage, Task 4: Computerized Data Base. United States Army Corps of Engineers Contract DACW 45-80-C-0185.