

WATER PERMIT NO. 5490A-3

Name of Applicant: Brown Day Marshall RWS

Address: PO Box 49, Britton SD 57430

Phone: 605 448-5417

Amount of Water Claimed: no add'l

Total Acres: NA

Source of Water Supply:

Water to be used for: rural water system use

County: Marshall

Type of Waste Disposal System:

Location: 5 miles northeast of Britton

PRIORITY

Date Received: 12-9-02

Application/License Fee: \$500

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks: Expand future use area authorized by Water Right No. 5490-3

Expanded area to include: NE ¼ SE ¼ Sec 3-

T127N-R57W

Land to be Irrigated: NA

Depth of Well: NA

Well Driller: : NA

Remarks:

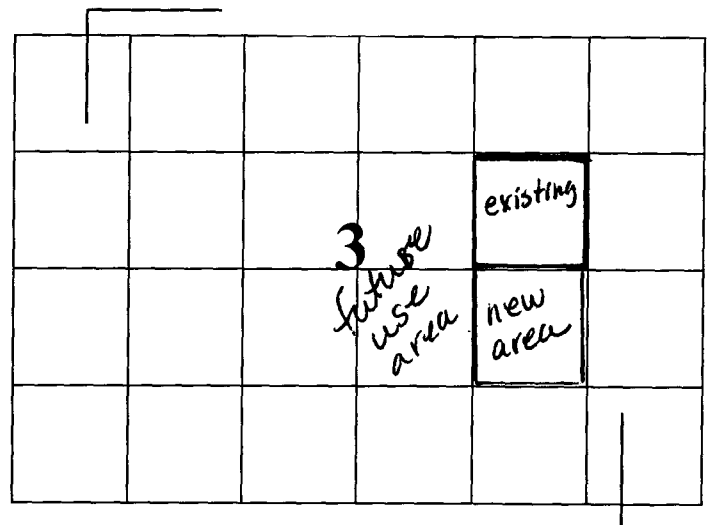
Type of Map: plat

Prepared by: Roger C Larson, PE

Reviewed and the Number Assigned on: 12-9-02

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>5940A-3</u> (office use only) Hydrologic Unit <u>09020105</u>
	Basin <u>Red Rainy</u>
	Newspaper _____

RECEIVED
DEC 09 2002
WATER RIGHTS
PROGRAM

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

Check use(s) of water:

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

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. 5940-3

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

Expand future use area.

- Name of Applicant Brown Day Marshall RWS, Inc. Phone 605-448-5417
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address P.O. Box 49, Britton State SD 57430
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed no add'l *CFS or _____ **GPM _____ ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply ground water
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
Expand area to include NE1/4 SE1/4 of Section 3, T127N, R57W
County Marshall
- County or counties where water will be used Brown, Day, Marshall & Roberts
- Annual period during which water is to be used January 1 - December 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)
Map attached. Rural water system wells.

STATE OF SOUTH DAKOTA)
County of Marshall SS

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)

I, David Wade, Gen Mgr, 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.

Applicant's signature David C. Wade, Gen Mgr

Subscribed and sworn to before me this 6th day of December 20 02

Juan Warner
Notary Public signature

**SOUTH DAKOTA
FUTURE USE PERMIT NO. 5940A-3**

Date of first receipt of application December 9, 2002.

The Chief Engineer, on behalf of the Water Management Board, issues Future Use Permit No. 5940A-3 to Brown Day Marshall Rural Water System, Inc., c/o David Wade, PO Box 49, Britton SD 57430 subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5940A-3 amends Future Use Permit No. 5940-3 to expand the future use area. Future Use Permit No. 5940-3 reserves 1,300 acre-feet of water annually from groundwater (Middle James:Columbia Aquifer). The area reserved for future use is located in the SE ¼ NE ¼ Section 3-T127N-R57W. This permit expands the future use area to include the NE ¼ SE ¼ Section 3-T127N-R57W.
2. The water appropriated shall be used for the purpose of supplying water for rural water system use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 5940A-3 is February 17, 2003.
5. The date from which applicant may claim right is August 1, 1996 (established by No. 5940-3).
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Future Use Permit No. 5940-3 and 5940A-3, combined, are approved for a total of 1,300 acre feet of water with the stipulation that the Permits are subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.
2. At such time as definite plans are made to construct works and put the water reserved by these permits to beneficial use, specific application for all or any part of the reserved water must be submitted prior to construction of facilities in accordance with SDCL 46-5-38.1.
3. Permit Nos. 5940-3 and 5940A-3 are approved for ground water from the Middle James:Columbia Aquifer.

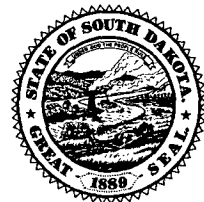
WATER MANAGEMENT BOARD

By: Garland Erbele

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

APR 17 2003

date



RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date December 10, 20 01

RECEIVED OF Edm Rural Water System Inc., PO Box 49, Britton SD 57430

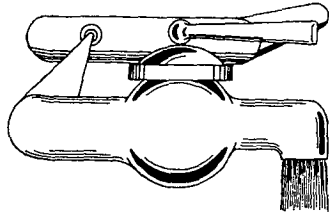
The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2070113</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 _____		
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.

By

Chief Engineer



**BROWN
DAY
MARSHALL**

P.O. Box 49
705 7th Street
Britton, South Dakota 57430
Phone 605-448-5417

Rural Water System, Inc.



December 6, 2002

Eric Gronlund
Water Rights Program
DENR-Joe Foss Building
Pierre, SD 57501

RECEIVED

DEC 09 2002

WATER RIGHTS
PROGRAM

Dear Eric:

Here are the water rights applications we discussed on the phone Thursday. If our calculation of the fees is incorrect, please advise and we'll send a new check. If you have any other corrections that should be made to the forms, please contact me as well. Thank-you.

Sincerely,

Susan M. Wismer, CPA
BDM Rural Water System, Inc.

REPORT ON WATER PERMIT APPLICATION NOS. 5940A-3 AND 6371-3
For Brown Day Marshall RWS, Inc.
December 20, 2002

Application No. 5490A-3 proposes to amend Future Use Permit No. 5490-3 to expand the future use area. Future Use Permit No. 5490-3 reserves 1,300 acre-feet of water annually from ground water. The area reserved for future use is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 3, T127N R57W. This permit expands the future use area to include the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 3, T127N R57W all in Marshall County.

Application No. 6371-3 proposes to construct and place to beneficial use 2.89 cfs (1,300 gpm) from two wells approximately 256 feet and 283 feet deep located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 3, T127N R57W. This water was appropriated and reserved by future use Permit No. 5940-3. The water will be used to supply the Brown Day Marshall Rural Water System.

AQUIFER – MIDDLE JAMES COLUMBIA (MJ-C)

The Middle James Columbia is a buried outwash (sand and gravel) that is under confined or artesian conditions in this area. The aquifer underlies 93,400 acres and contains an estimated 715,500 acre-feet of recoverable water in storage in Marshall County (Hedges, 1982). The aquifer extends into Brown County to the west, into North Dakota to the north and into Day County to the south. Ground water movement is predominantly from west to east with a component to the north (Koch, 1975).

The Water Rights Program monitors three observation wells within a one-mile radius of this site. These are observation wells, ML-82B, ML-82C and ML-70H. Water levels records (hydrographs) for these three wells are included with this report. The water level record indicates seasonal fluctuation does occur because of pumping. Water levels can change ten to twenty feet annually, depending upon the distance from the production wells. The record also indicates that the aquifer does recharge and that overall the water levels in the aquifer respond closely to precipitation, that is, rising during wet years (recharge) and gradually declining during dry years. The water level record clearly shows that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2002).

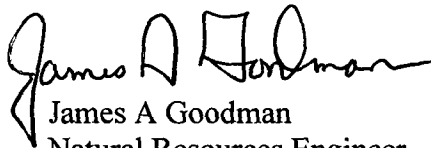
REVIEW OF EXISTING WATER PERMITS/RIGHTS

The only other water permits/rights within three miles of this area belong to the rural water system. Interference will occur, that is, drawdown created by pumping will extend from one production well to the other. However, this can be managed by the rural water system and should not cause significant impacts. The rural water system will now be authorized for four wells that will be 600 to 700 feet apart. Test pumping of well #3 indicates production at 680 gpm with a drawdown of about 68.86 feet after 24 hours of pumping (results in a specific capacity of 9.88 gpm/ft of drawdown. Test pumping of well #4 indicates a production 680 gpm with a drawdown of 50 feet after seven hours of

pumping (results in a specific capacity of 13.6 gpm/ft of drawdown). The test results indicate the wells are capable of producing the requested 1,300 gpm.

CONCLUSIONS

1. Water is available from the Middle James Columbia aquifer.
2. The aquifer is confined and under artesian conditions at this site. Pumping does create drawdown. This is shown by the observation well water level record and the production pumping records for well #3 and #4. Interference will occur at the well site but the rural water system can manage the drawdown and should not have trouble maintaining a water supply.
3. The wells authorized by this permit have been constructed and are completed in accordance with SD Well Construction Standards.
4. Approval of permit application 5490A-3 allows the expansion of the future use area to the south of the existing facility. This does not pose any problems and can be authorized.
5. Approval of application 6371-3 potentially could use up all the water remaining in future use permit No. 5940-3. Any water not used will simply revert back to the future use permit to potentially be used under another application.


James A Goodman
Natural Resources Engineer

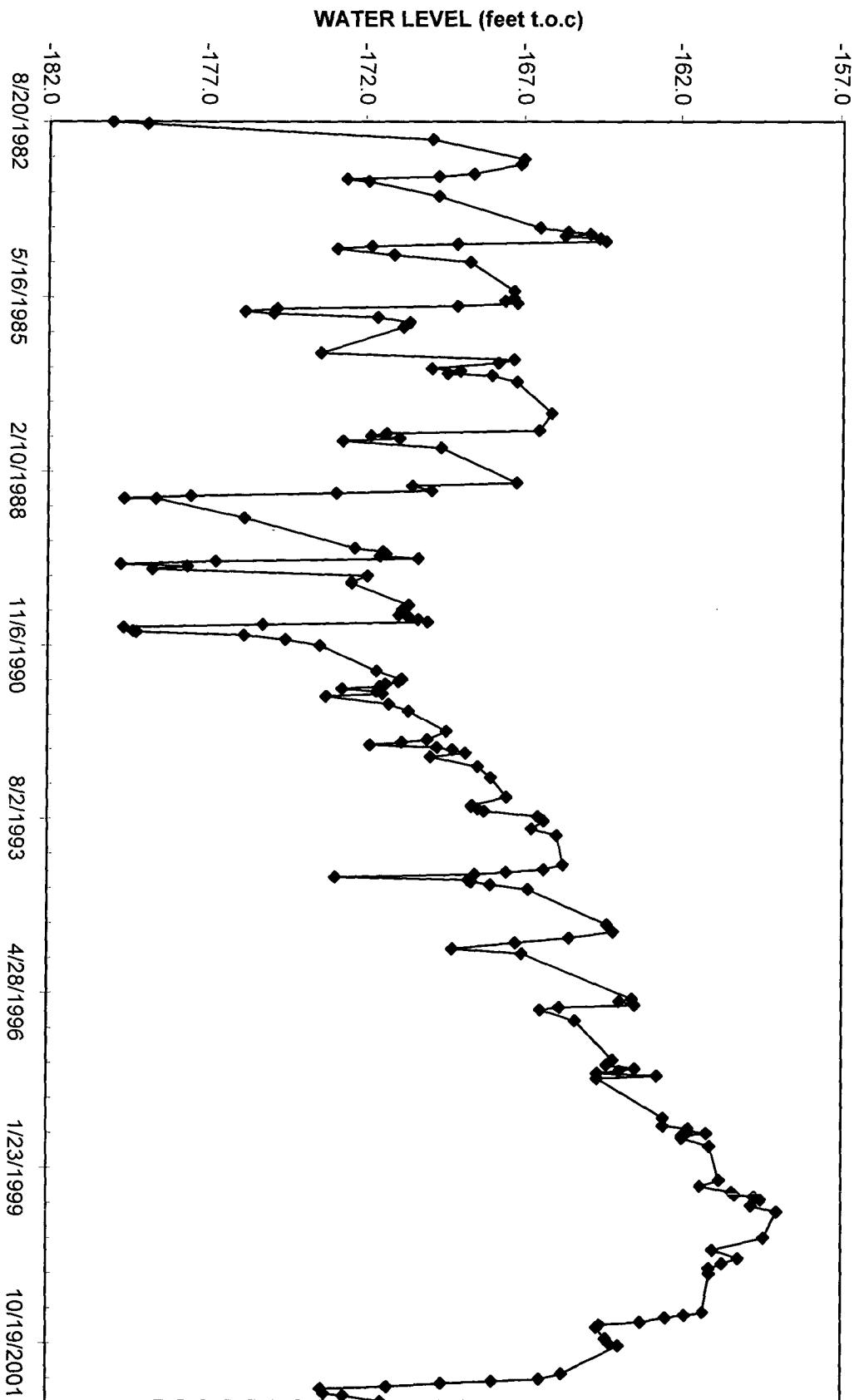
BIBLIOGRAPHY

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

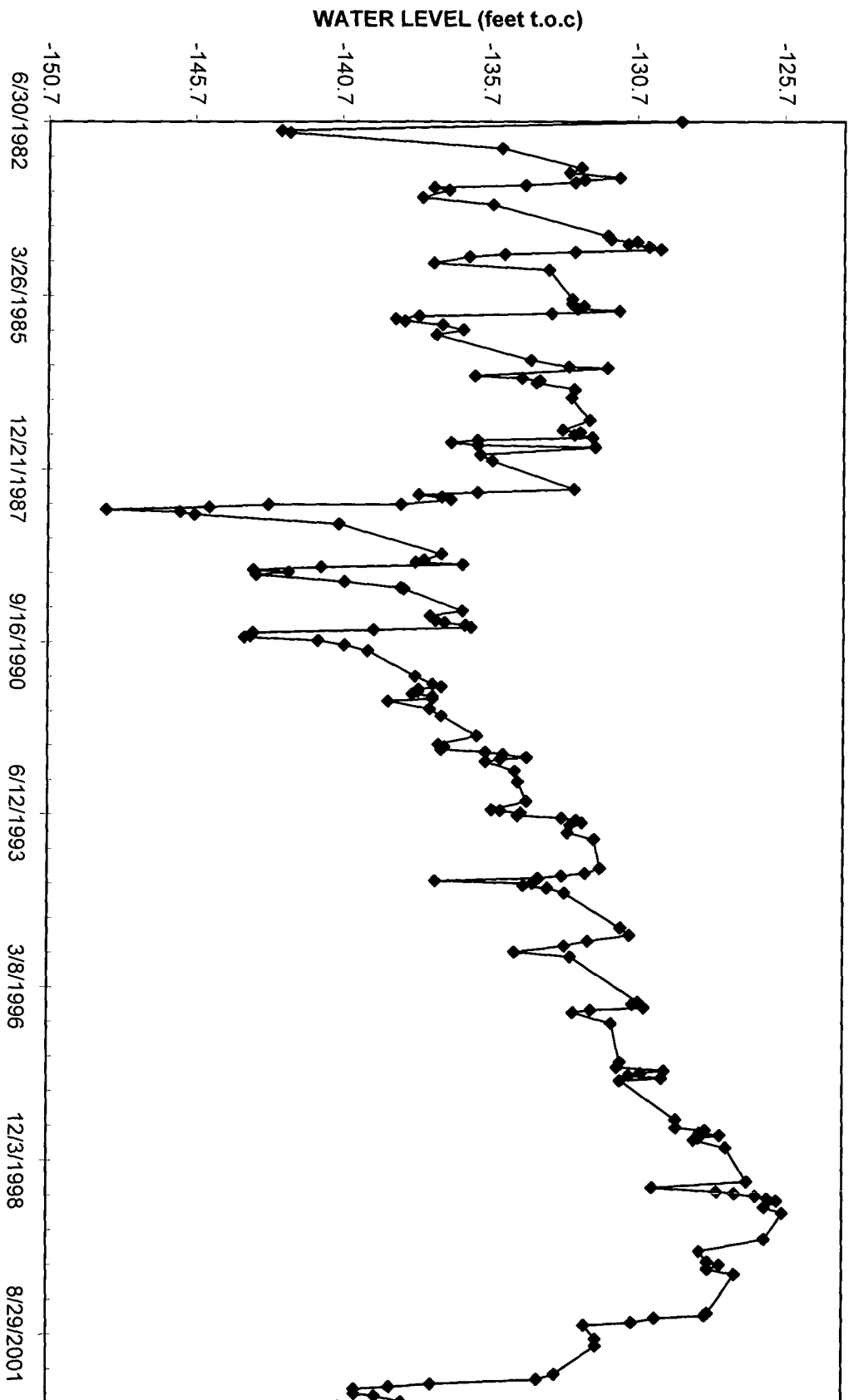
Koch, N.C., 1975, Geology and Water Resources of Marshall County, South Dakota, Part I: Geology and Water Resources, Bulletin 23, SDGS, Vermillion, SD, 57069.

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

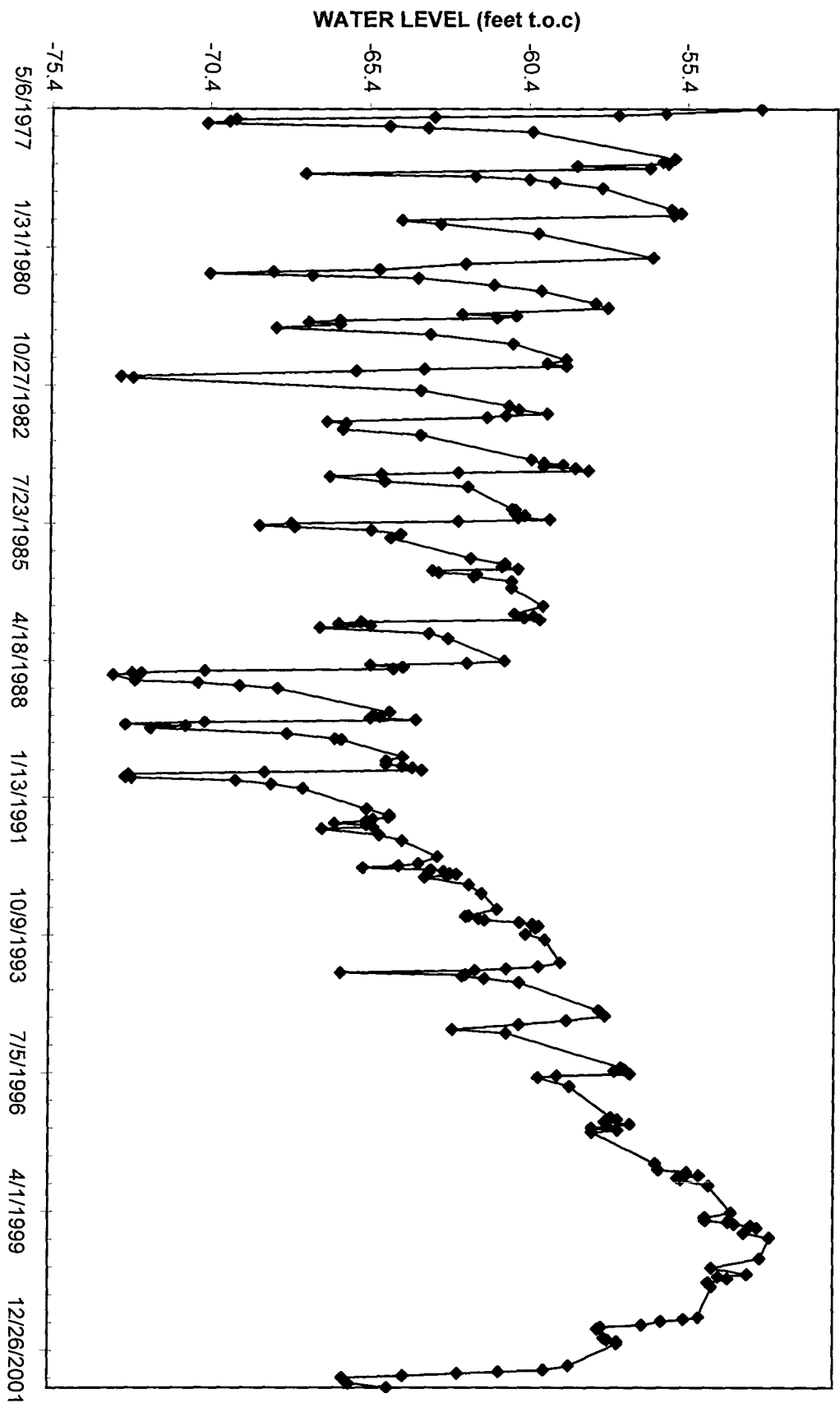
WATER RIGHTS' OBSERVATION WELL
ML-82C



WATER RIGHTS' OBSERVATION WELL
ML-82B



WATER RIGHTS' OBSERVATION WELL
ML-70H





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR FUTURE USE WATER PERMIT
APPLICATION NO. 5940A-3, Brown Day Marshall Rural Water System**

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. 5940A-3, Brown Day Marshall Rural Water System, c/o David Wade, PO Box 49, Britton SD 57430.

The Chief Engineer is recommending APPROVAL of Application No. 5940A-3 to expand the future use area because 1) the future use area can be expanded without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. Future Use Permit No. 5940-3 and 5940A-3, combined, are approved for a total of 1,300 acre feet of water with the stipulation that the Permits are subject to review by the Water Management Board as to accomplishment thereunder upon expiration of seven (7) years.
2. At such time as definite plans are made to construct works and put the water reserved by these permits to beneficial use, specific application for all or any part of the reserved water must be submitted prior to construction of facilities in accordance with SDCL 46-5-38.1.
3. Permit Nos. 5940-3 and 5940A-3 are approved for ground water from the Middle James Columbia Aquifer.

See report on application for additional information.

for Eric Brundage
Garland Erbele, Chief Engineer
January 15, 2003

NOTE: Pending Application No. 6371-3, if approved, will authorize the entire 1,300 acre feet of water reserved by the rural water system's future use to be constructed and placed to beneficial use.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

January 16, 2003

Brown Day Marshall RWS Inc
Attn: David Wade General Manager
PO Box 49
Britton SD 57430

Dear Mr. Wade:

Water Permit Application Nos. 5940A-3 and 6371-3 for rural water system use have 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), the Reporter & Farmer printed at Webster, SD (Ph #605-345-3356), the Britton Journal printed at Britton, SD (Ph #605-448-2281) and the Sisseton Courier printed at Sisseton, SD (Ph # 605-698-7642). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and a report on the applications 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 newspapers to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 applications.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2003

American News
PO Box 4430
Aberdeen SD 57402-4430

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 5940A-3 and 6371-3 to Appropriate Water to be published twice. Please publish the first notice on January 27, 2003 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 Brown Day Marshall RWS, Inc., Attn: David Wade, General Manager, PO Box 49, Britton SD 57430 (Ph # 605-448-5417).

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

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Nos. 5940A-3 & 6371-3

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

Date _____

We are in receipt of your letter of January 16, 2003 enclosing Notice of Hearing to Appropriate Water by Application Nos 5940A-3 & 6371-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2003

Reporter & Farmer
PO Box 30
Webster SD 57274-0030

ATTENTION: Legal Public Notice

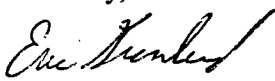
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Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Nos. 5940A-3 & 6371-3

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

Date _____

We are in receipt of your letter of January 16, 2003 enclosing Notice of Hearing to Appropriate Water by Application Nos 5940A-3 & 6371-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2003

Sisseton Courier
PO Box 169
Sisseton SD 57262-0169

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 5940A-3 and 6371-3 to Appropriate Water to be published twice. Please publish the first notice on January 28, 2003 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 Brown Day Marshall RWS, Inc., Attn: David Wade, General Manager, PO Box 49, Britton SD 57430 (Ph # 605-448-5417).

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

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Nos. 5940A-3 & 6371-3

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

Date _____

We are in receipt of your letter of January 16, 2003 enclosing Notice of Hearing to Appropriate Water by Application Nos 5940A-3 & 6371-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2003

Britton Journal
PO Box 69
Britton SD 57430-0069

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 5940A-3 and 6371-3 to Appropriate Water to be published twice. Please publish the first notice on January 29, 2003 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 Brown Day Marshall RWS, Inc., Attn: David Wade, General Manager, PO Box 49, Britton SD 57430 (Ph # 605-448-5417).

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Nos. 5940A-3 & 6371-3

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

Date _____

We are in receipt of your letter of January 16, 2003 enclosing Notice of Hearing to Appropriate Water by Application Nos 5940A-3 & 6371-3 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 January 27, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NOS. 5940A-3 and 6371-3 to Appropriate Water

Notice is given that Brown Day Marshall Rural Water System, Inc., PO Box 49, Britton SD 57430 has filed the following applications.

Application No. 5940A-3 proposes to amend Future Use Permit No. 5940-3 to expand the future use area. Future Use Permit No. 5940-3 reserves 1,300 acre-feet of water annually from groundwater (Middle James:Columbia Aquifer). The area reserved for future use is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3-T127N-R57W. This permit expands the future use area to include the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3-T127N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5940A-3 because 1) the future use area can be expanded without unlawful impairment of existing rights, 2) the proposed use is a beneficial use of water, and 3) it is in the public interest.

Application No. 6371-3 proposes to construct and place to beneficial use 2.89 cubic feet of water per second (1,300 acre-feet annually) from two wells (Middle James:Columbia Aquifer) 256 feet and 283 feet deep located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3-T127N-R57W. This water was appropriated and reserved by future use Permit No. 5940-3. The water will be used to supply the Brown Day Marshall Rural Water System.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6371-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

In accordance with SDCL 46-2A-23, the Chief Engineer will act on the applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. 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 February 17, 2003.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, 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 these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

AFFIDAVIT OF PUBLICATION

County of Day }
State of South Dakota, } ss.

John Suhr, of said county and state being duly sworn on oath, says: That the Reporter & Farmer is a legal weekly newspaper of general circulation, and an official newspaper as required by Session Laws of 1893, printed and published in Webster, in said county and state, by the Day County Printing Company and has been such newspaper during the time hereinafter mentioned, that I, John Suhr, the undersigned, am publisher of said newspaper, and have personal knowledge of all facts stated in this affidavit and that the advertisement headed Notice to Appropriate Water, DENR, a printed copy of which is hereunto attached, was printed and published in the said newspaper two successive and complete issues as follows:

First Publication	Jan. 27, 2003;
Second Publication	Feb. 3, 2003;
Third Publication	;
Fourth Publication	;
Fifth Publication	;

That the full amount of fees for publication of the annexed notice is \$55.51 and inures solely to the Reporter & Farmer, published by The Day County Printing company, that no arrangement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid any person whomsoever.

Subscribed and sworn to before me this third day of February, 2003.

LeAnn M. Suhr
Day County, South Dakota
My Commission Expires May 15, 2005

Notary Public, Day County, South Dakota

Notice of Application Nos.

5940A-3 AND 6371-3 TO APPROPRIATE WATER

Notice is given that Brown Day Marshall Rural Water System, Inc., PO Box 49, Britton, SD 57430 has filed the following applications.

Application No. 5940A-3 proposes to amend Future Use Permit No. 5940-3 to expand the future use area. Future Use Permit No. 5940-3 reserves 1,300 acre-feet of water annually from groundwater (Middle James: Columbia Aquifer). The area reserved for future use is located in the SE 1/4 NE 1/4 Section 3-T127N-R57W. This permit expands the future use area to include the NE 1/4 SE 1/4 Section 3-T127N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5940A-3 because 1) the future use area can be expanded without unlawful impairment of existing rights, 2) the proposed use is a beneficial use of water, and 3) it is in the public interest.

Application No. 6371-3 proposes to construct and place to beneficial use 2.89 cubic feet of water per second (1,300 acre-feet annually) from two wells (Middle James: Columbia Aquifer) 256 feet and 283 feet deep located in the NE 1/4 SE 1/4 Section 3-T127N-R57W. This water was appropriated and reserved by future use Permit No. 5940-3. The water will be used to supply the Brown Day Marshall Rural Water System.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6371-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application.

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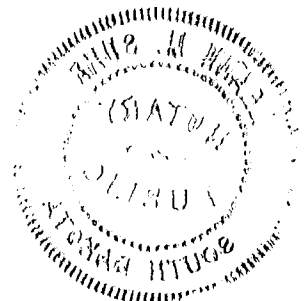
application

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Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. 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 Feb. 17, 2003.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, 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 Right Program address to request copies of information pertaining to these applications.

Steven M. Pirner, Secretary
Department of Environment and
Natural Resources
(Last Feb. 3)



Affidavit of Publication

STATE OF SOUTH DAKOTA }
County of Roberts } ss.

Harley E. Deutsch of said county, being first duly sworn, on oath says, that he is publisher of THE SISSETON COURIER, a weekly newspaper printed and published in Sisseton, in said county of Roberts, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bonafide circulation of at least two hundred copies weekly, and has been published within said county for 52 successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the Notice of Notice of Application, a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this affidavit, was published in said newspaper at least once in each week for 2 successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

Jan 28, 2003; _____;
Feb 4, 2003; _____;
_____, _____;
_____, _____;
_____, _____;

that the full amount of the fee is charged for publication of said Notice insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division there has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever and that the fees charged for the publication there of are \$ 48.53

Harley E Deutsch

Subscribed and sworn to before me this 4th day of

February, A.D., 2003

Stephen D. Burton

Notary Public, Roberts County, South Dakota
My commission expires February 3, 2004

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WATER RIGHTS
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(Jan. 28-Feb. 4--2 wks)

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Marshall) SSI, Kim Buhl

certify that the attached printed Notice was taken

from the Britton Journalprinted and published in BrittonCounty of Marshall and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

JANUARY 29, 2003Cost of Printing \$48.47

Kim Buhl
(Signature)

Office Manager
(Title)

1/30/03
(Date Signed)

2T(Jan. 29-Feb. 5)

NOTICE OF APPLICATION
NOS. 5940A-3 and 6371-3
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Steven M. Pirner, Secretary,
Department of Environment and Natural Resources.

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WATER RIGHTS
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AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA}

§

COUNTY OF BROWN}

Alice Rents being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed:

Notice of Application

Legal # 899676

(No. 899676 - Jan. 27, Feb. 3 - 2T)
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5940A-3 and 6371-3 to
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Pursuant to SDCL 46-2A-2, the

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each

Week for 2 successive Weeks
The first publication being made on the 27 day of Jan
The second publication being made on the 3 day of Feb
The third publication being made on the _____ day of _____
The fourth publication being made on the _____ day of _____
The fifth publication being made on the _____ day of _____
The sixth publication being made on the _____ day of _____

That said newspaper is a legal newspaper published five days or more each week.

with a bona fide circulation of more than two hundred copies daily; English language within the said county of Brown for more than one first publication of said notice; and printed in whole in an office place of publication of said newspaper; That the whole amount of

publication of the annexed notice is \$ 97.20, with the benefit of said publisher; That no agreement or understanding thereof had been made with any other person; and That no part agreed to be paid to any person whomsoever.

Alice Rents

Chief Engineer recommends APPROVAL of Application No. 6371-3 because 1) existing rights will not be unlawfully impaired, 2) it is beneficial use of water, and 3) it is in the public interest.

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Steven M. Pirmer, Secretary, Department of Environment and Natural Resources.

Subscribed and sworn to before me this 3 day of Feb, 2003.

Daily Circulation 18,000

Doni Salfrank

Notary Public, Brown County, SD.

My commission expires March 20, 2007



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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 17 2003

Brown Day Marshall Rural Water System, Inc.
David Wade, General Manager
PO Box 49
Britton SD 57430

Dear Mr. Wade:

Enclosed is Permit No. 5940A-3, as approved by the Water Management Board. This permit amends Future Use Permit No. 5940-3 to expand the future use area.

When plans for facilities are prepared to put any portion of the water granted in the future use permits to beneficial use, an application covering such facilities and water use should be submitted to this office before construction is initiated.

Sincerely,

A handwritten signature in cursive script that reads 'Garland Erbele'.

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

enclosure