

WATER PERMIT NO. 5956-3

Name of Applicant: Pearl Creek Colony

Address: Rt 2 Box 30, Iroquois SD 57353

Phone: 605 546-2298

Amount of Water Claimed: 0.156 cfs (70 gpm)

Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial

County: Beadle

Type of Waste Disposal System:

Location: 3 west and 3 south of Iroquois

PRIORITY Date Received: 9-25-96

Fee: \$150.00

Corrected Application Received:

Period of Annual Use: January 1 - December 31

Remarks: Increase the diversion rate authorized by Permit No. 5801-3 and to add well for standby use

Diversion Point: NE 1/4 NW 1/4 Sec 21-
T110N-R59W

Land to be Irrigated:

Depth of Standby Well: 70 feet

Well Driller: Pullman Well Drilling

Remarks:

Type of Map: topo

Prepared by: James S. Hodgens, P.E.

Reviewed and the Number Assigned on: 9-25-96

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	(office use only) No. <u>5956-3</u> Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>
	Newspaper <u>The Plainsman, Huron, SD</u>



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. _____

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

- Name of Applicant Pearl Creek Colony Phone (605) 546-2298
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address Route 2, Box 30, Iroquois State SD 57353
(Street, RR. or Box) (Zip Code)
- Amount of water claimed 0.156 *CFS or 76 **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 Floyd Pearl Creek Aquifer -- 2 wells
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
NE1/4NW1/4 section 21-T110N-R59W
County Beadle
- County or counties where water will be used Beadle
- Annual period during which water is to be used Jan 1 - Dec 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)

This application is to increase the diversion rate authorized by Water Permit No. 5801-3 from 0.10 cubic feet of water per second (45 gpm) to 115 gpm which is the actual pump capacity of the installed pump. Two wells are located at the site -- one well serves as the production well, the other well is for standby purposes.

STATE OF SOUTH DAKOTA)
County of Beadle 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, Pearl Creek Colony, 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 David Waldner

Subscribed and sworn to before me this 19 day of September 19 96

my Commission expires 4-25-97

Larry D. Jones
Notary Public

SOUTH DAKOTA
WATER PERMIT NO. 5956-3

Date of first receipt of application September 25, 1996.

The Water Management Board approved Water Permit Application No. 5956-3 on December 4, 1996 for Pearl Creek Colony, Rt 2, Box 30, Iroquois SD 57353 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5956-3 appropriates 0.156 cubic feet of water per second (cfs) (70 gallons per minute) by increasing the diversion rate authorized by Water Permit No. 5801-3. Water Permit No. 5801-3 appropriates 0.10 cfs (45 gallons per minute) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W. This permit increase the water appropriation from the well, from 0.10 cfs to 0.256 cfs (115 gallons per minute). This permit also authorizes an additional well (Floyd Pearl Creek Aquifer) 70 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W to be used for standby purposes.
2. The water appropriated shall be used for the purpose of commercial use and may not exceed the amount of water needed for beneficial use for a hog confinement facility.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date from which applicant may claim right is September 25, 1996.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is subject to compliance with the required ground water monitoring near the lagoon used to store waste from the hog confinement operation.
3. Operation of the disposal systems to dispose of waste and wastewater shall be in a manner that prevents runoff from the disposal sites and from entering the waters of the State. The diffused drainage of natural precipitation on agricultural land resulting from a "non-point source" is not subject to these conditions.
4. No wastewater may be released from the wastewater lagoon except through the disposal system, unless an extended period of above normal precipitation results in excess stored water and prevents operation of equipment to lower water levels due to field and weather conditions.

(continued)

5. Design, construction and management of the lagoons shall be sufficient to maintain seepage rate of less than 10^{-7} centimeters per second. Compaction of the soils within the wastewater lagoon must be at least ninety percent of the Standard Procter Density (ASTM D6980-70).
6. Permit No. 5956-3 is subject to compliance with the following then existing and applicable Water Management Rules:
 - a) Chapter 74:03:15 Ground Water Quality Standards,
 - b) Chapter 75:03:16 Ground Water Discharge Permit,
 - c) Chapter 74:03:02 Surface Water Quality Standards,
 - d) Chapter 74:03:04 Uses Assigned to Streams, and
 - e) Chapter 74:03:17 through 74:03:26 Surface Water Discharge Provisions.
7. Operation of the disposal system to dispose of waste and wastewater shall not be applied through the pivot located in the NW 1/4 Section 21-T110N-R59W.

WATER MANAGEMENT BOARD

By: _____

John Hatch, Chief Engineer

Water Rights Program

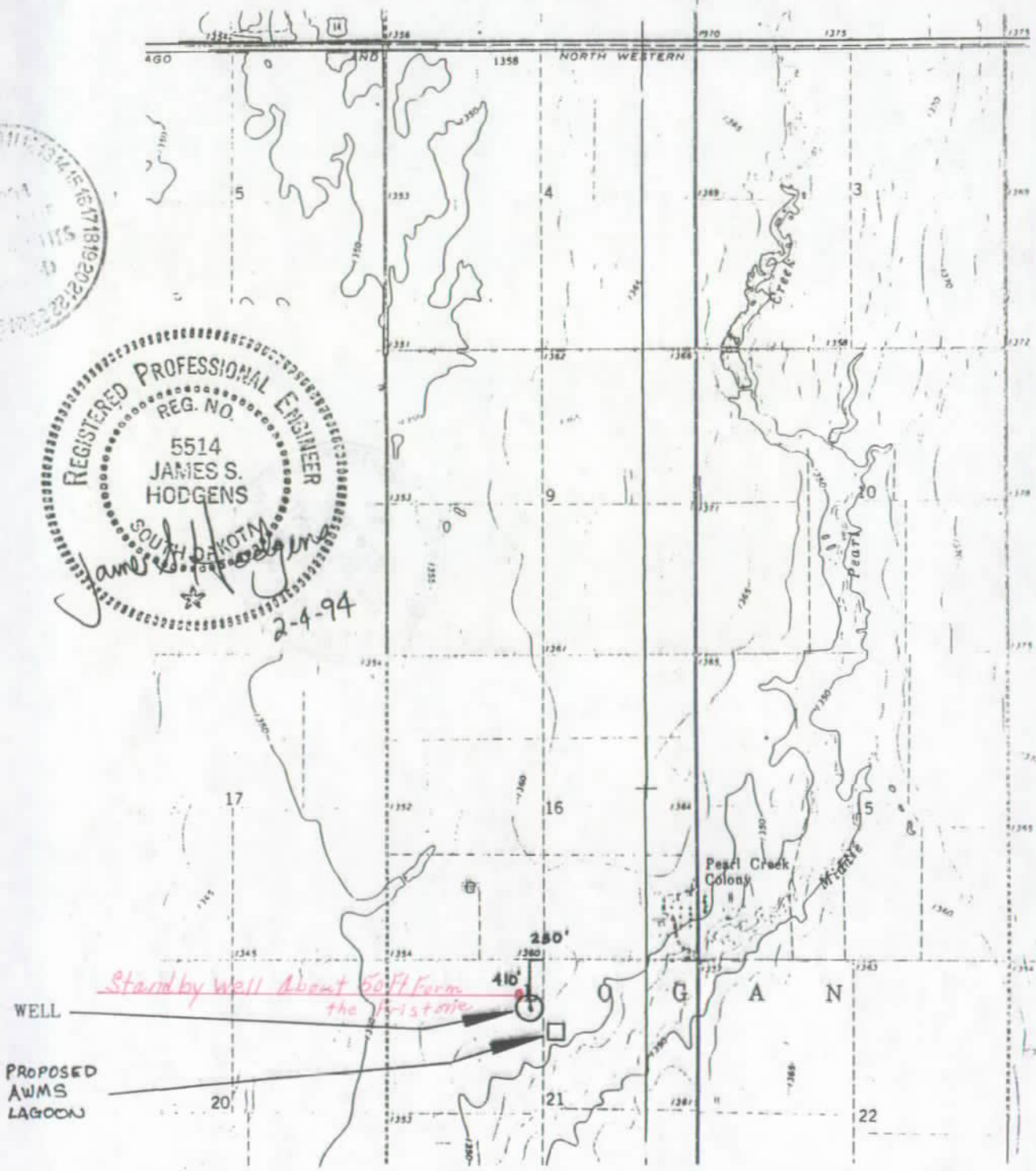
Department of Environment and Natural Resources

DEC 26 1996

date



6 MI. TO CAVOUR 3 MI. TO IROQUOIS



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



SCALE: 1" = 0.5 MILE

JOB NO. 9302A

DATE 2/3/94

DRAWN: DSS

CHECKED: JSH

REV	DATE	DESCRIPTION	BY	CHK

WELL LOCATION MAP

PEARL CREEK COLONY
WATER APPROPRIATION PERMIT
APPLICATION

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

5956-3

RECEIPT

415116

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ September 25, 19 96

RECEIVED OF Pearl Creek Hutterian Brethren, Inc., RR 2, Box 30, Oroquols, SD 57353

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

Fee for Application for Permit No. <u>5056-2</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	150 00

By

Chief Engineer

[Signature]

Goodman, Jim

From: Vomacka, Mark
To: Seefeldt, Rodger
Cc: Goodman, Jeanne; Goodman, Jim; Brandner, Tom
Subject: Pearl Creek Colony, Dave Waldner
Date: Wednesday, October 23, 1996 10:15AM
Priority: High

Rodger,

Jim inquired of me last Wednesday if Pearl Creek Colony was meeting their ground water monitoring requirements because they are set forth in the water rights permit for this facility. After much checking, the lab has sent over a copy of the two monitoring episodes of 7-25-95 and 11-21-95. Dave W. claims that a round of sampling had been conducted since then, but the lab has no indications of their receiving them.

The results of those quarters rec'd today, indicate Nitrates (25.5 ppm), TDS (1738 ppm) and Sulfates (710 ppm) for the 11-21-95 quarter; Nitrates (10.1 ppm), TDS (1500 ppm), Sulfates (595 ppm) and Fecal Coliform (5100/100ml) for the 11-21-95 quarter exceed state standards.

You may want to check with Jim to see if any A&SW conditions are placed on the permit too. I know that you had expressed concerns about their P&S when they first came in not being up to snuff. And from what you told me last they plan to expand their facility.

Jim,

Tom informed me, and maybe I misunderstood you before, but that Pearl Creek Colony are seeking another permit. Is this correct?

Dave Waldner can be reached at 546-2298.

REPORT ON WATER PERMIT APPLICATION NO. 5956-3
for Pearl Creek Colony
October 8, 1996

Application No. 5956-3 proposes to appropriate 0.156 cfs (70 gpm) by increasing the diversion rate authorized by Water Permit No 5801-3. Water Permit No. 5801-3 appropriates 0.10 cfs (45 gpm) from one well approximately 80 feet deep located in the NE 1/4 NW 1/4 of Section 21, T110N-R59W in Beadle County. This permit increases the water appropriation of the existing well, from 0.10 cfs to 0.256 cfs (115 gpm). This application also authorizes an additional well approximately 70 feet deep located in the NE 1/4 NW 1/4 of Section 21, T110N-R59W to be used for standby purposes. The water is for commercial use in a hog confinement facility.

AQUIFER - FLOYD PEARL CREEK (F-PC)

The Floyd Pearl Creek is a buried glacial outwash (sand and gravel) which is under confined or artesian conditions in the area of this application. However, over much of the area the aquifer is buried unconfined or surficial and even where confined there is little head pressure. The aquifer underlies about 11,000 acres and contains an estimated 45,000 acre feet of recoverable water in storage (Hedges, 1982). The Floyd Pearl Creek is a small management unit of the much larger Floyd East James aquifer. Even though the entire aquifer system appears to be hydraulically connected, the groundwater flow system for the Pearl Creek management unit justifies distinction from the rest of the aquifer.

Recharge to the aquifer has been estimated to range from 0.22 to 0.90 inches per year (Hedges, 1983) (200 to 825 acre feet per year) and a more recent study (Emmons, 1988) estimated a rate of approximately 2.5 inches per year (2290 acre feet per year). Water use for the aquifer totals 660 acre feet for 1994 and 470 acre feet for 1995. Previous years totals were reported in Water Permit Application Report 5801-3 (Goodman, 1994).

The Water Rights Program monitors four observation wells BD-77E, BD-76R, BD-77B and BD-77F which are completed into the Floyd Pearl Creek aquifer. Hydrographs for these wells are included with this report. Water level records for these wells show good response with climatic conditions, that is, rising water levels during wet years 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, 1996).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

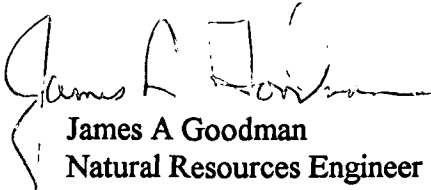
There are five irrigation wells all located within a one mile radius of this application. All these existing water rights are held by the applicant. Interference is not expected to be a concern. All these wells are either under unconfined or slightly confined conditions. Drawdown will occur but the additional diversion rate of 70 gallons per minute (now a total diversion rate of 115 gallons per minute) should not cause adverse effects.

CONCLUSIONS

1. Water is available from the Floyd Pearl Creek aquifer if the larger recharge rate of 2.5 inches per year is used for estimating total recharge. This estimate does seem reasonable especially considering the

observation well data. Even using the higher estimate for recharge the aquifer is near to being fully appropriated.

2. According to the applicant, the facility is not being enlarged but the rate increase is being requested to allow more efficient cleaning of the building and will accurately reflect what the facility is capable of diverting. The facility will still use an average rate of 45 gallons per minute (73 acre feet annually) but will need the peak rate of 115 gallons per minute.
3. Waste water will be reused by pumping through the existing irrigation systems.
4. Interference is not a concern. The wells in this area are all under unconfined or slightly confined conditions and drawdown created by pumping should not be significant. This is confirmed by the observation well hydrographs.
5. The additional well authorized by this application is already constructed and is completed in accordance with SD Well Construction Standards.
6. Plans and Specifications for this facility have been approved by the Division of Environmental Services. In the approval of the Plans the Department required the installation of monitoring wells and water quality sampling. The results of this sampling indicate that ground water at the site is contaminated. The Department can alter the monitoring plan or require a Ground-Water Discharge Plan for this facility.



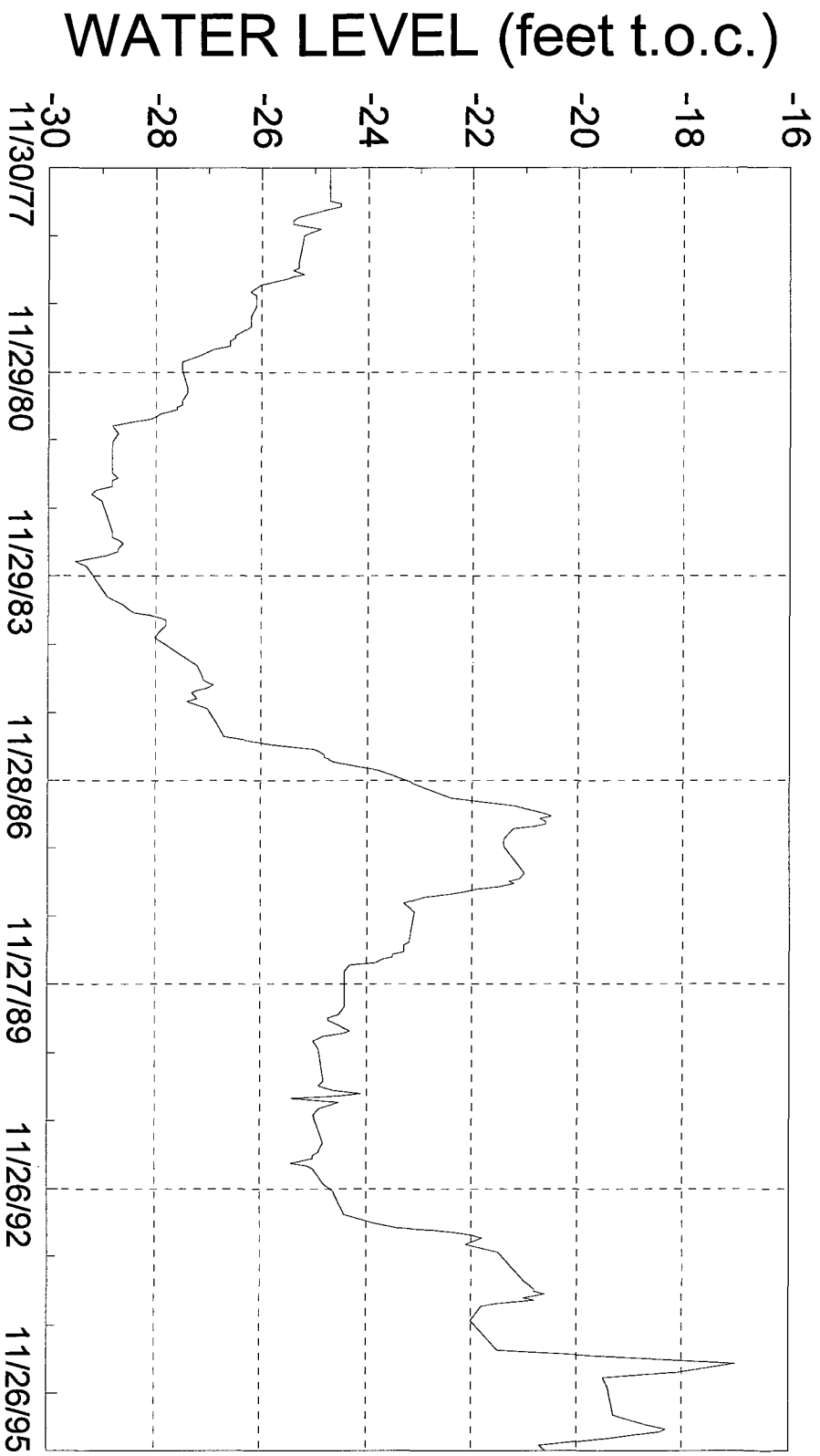
James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Emmons, P.J., 1988, A Digital Simulation of the Glacial-Aquifer System in Sanborn and Parts of Beadle, Miner, Hanson, Davison, and Jerauld Counties, SD, USGS WRI 87-4082, USGS, Huron, SD, 57350.
- Goodman, J.A., 1994, Report on Water Permit Application No. 5801-3 for Pearl Creek Colony, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.
- 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.
- Hedges, L.S., et al, 1983, Same, Task 7: Ground Water Recharge, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Water Rights, 1994, Unpublished Observation Well Data for Beadle County, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

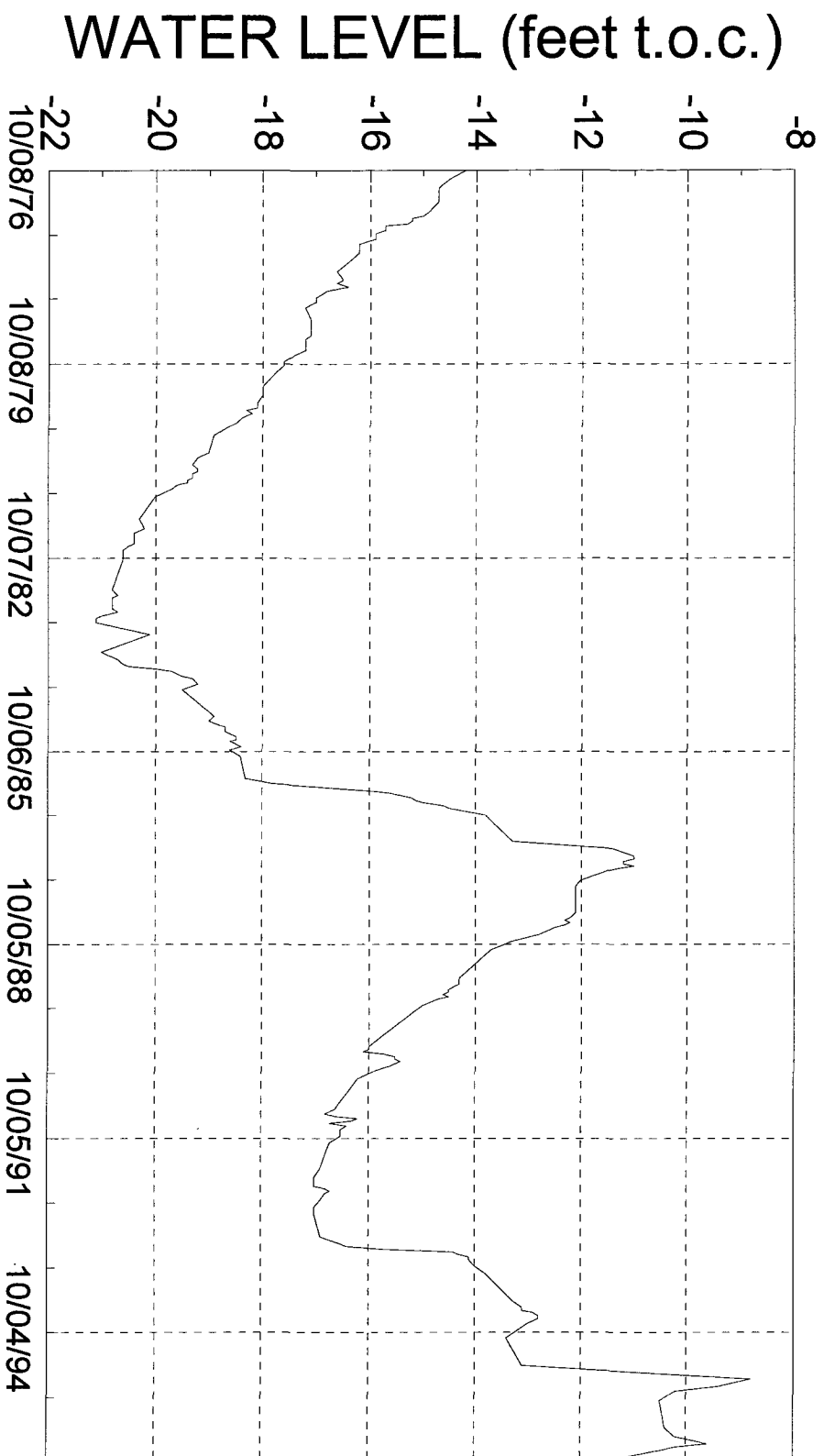
WATER RIGHTS OBSERVATION WELL

BD-77B



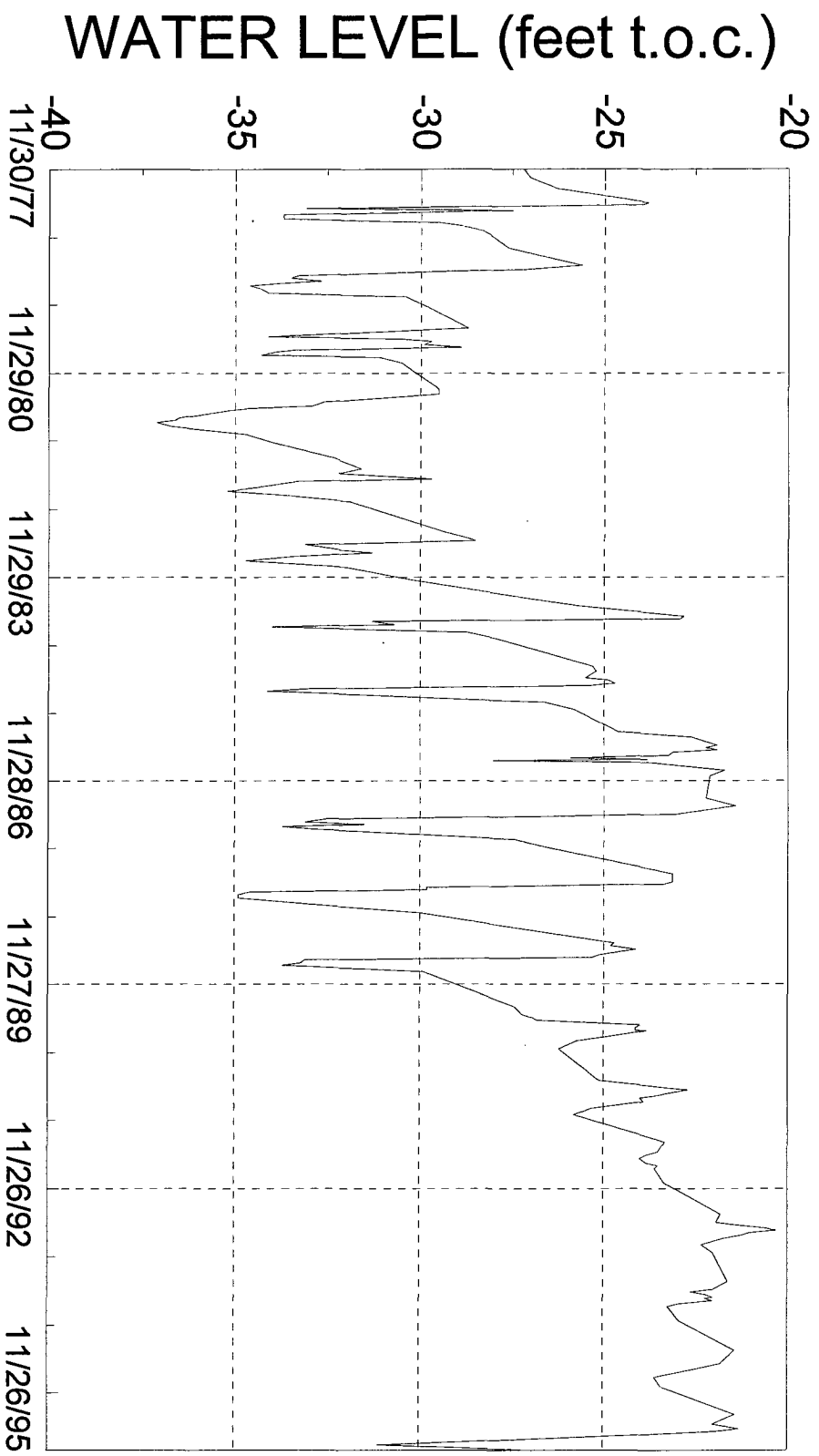
WATER RIGHTS OBSERVATION WELL

BD-76R



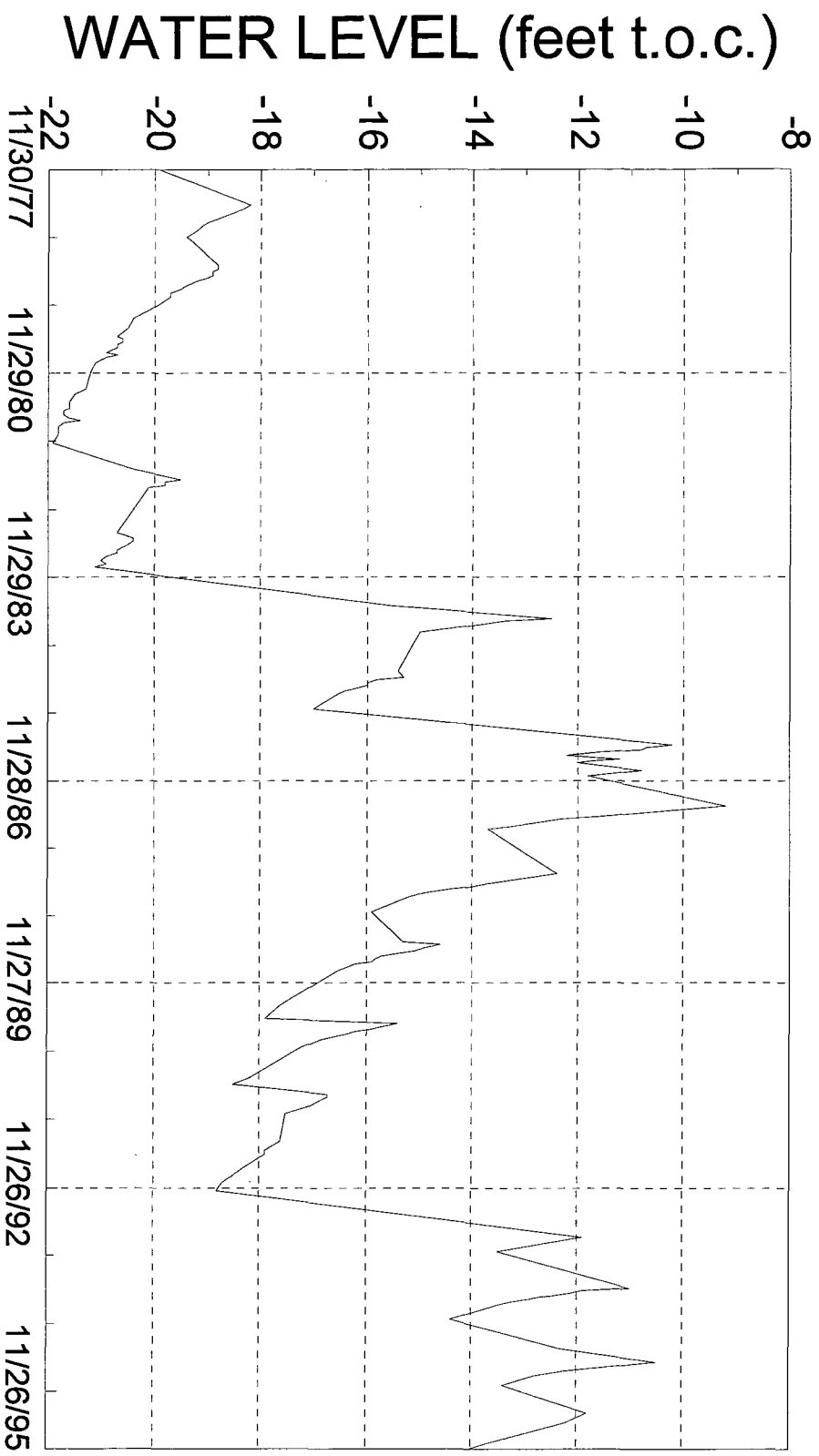
WATER RIGHTS OBSERVATION WELL

BD-77F



WATER RIGHTS OBSERVATION WELL

BD-77E

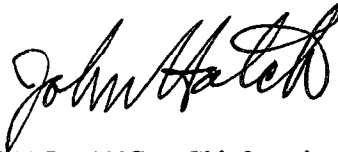


**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT APPLICATION
NO. 5956-3, Pearl Creek Colony**

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. 5956-3, Pearl Creek Colony, Rt 2, Box 30, Iroquois SD 57353.

The Chief Engineer is recommending DEFERRAL of Application No. 5956-3 to allow time to determine compliance with qualifications to existing Water Permit No. 5801-3.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch". The signature is fluid and cursive, with the first and last names being clearly legible.

JOHN HATCH, Chief Engineer
November 11, 1996



**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.

November 1, 1996

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

Dear Mr. Waldner:

Water Permit Application No. 5956-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Plainsman printed at Huron, SD (Ph # (605) 352-1278). 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 /KS

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

November 1, 1996

The Plainsman
P.O. Box 1278
Huron, SD 57350-1278

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5956-3 to be published twice. Please publish the first notice on November 8, 1996, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Pearl Creek Colony, %David Waldner, Rt 2, Box 30, Iroquois, SD 57353 (Ph # (605) 546-2298).

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 _____



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 4, 1996

Jerry Culver
Rt. 2, Box 56
Iroquois, SD 57353

Dear Mr. Culver:

Please find enclosed a copy of the notice of hearing, report and recommendation for Water Permit Application No. 5956-3, Pearl Creek Colony. This information is being sent to you since you petitioned to intervene in the Colony's original water permit for their hog confinement facility.

The Chief Engineer is currently recommended deferral of the application to allow time to determine compliance with qualifications to existing Water Permit No. 5801-3. If you wish to participate in the hearing on the application you will need to file a petition by November 25, 1996.

Please feel free to contact me if you have any questions.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

Instruction to Newspaper - Publish first Notice on November 8, 1996, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5956-3 to Appropriate Water
and Amend Water Permit No. 5801-3

Notice is given that Pearl Creek Colony, Rt 2, Box 30, Iroquois, SD 57353 has filed an application for a water permit to appropriate 0.156 cubic feet of water per second (cfs) (70 gallons per minute) by increasing the diversion rate authorized by Water Permit No. 5801-3. Water Permit No. 5801-3 appropriates 0.10 cfs (45 gallons per minute) from one well (Floyd Pearl Creek Aquifer) 80 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W. This permit increases the water appropriation from the well, from 0.10 cfs to 0.256 cfs (115 gallons per minute). This application also authorizes an additional well (Floyd Pearl Creek Aquifer) 70 feet deep located in the NE 1/4 NW 1/4 Section 21-T110N-R59W to be used for standby purposes. The water is for commercial use in a hog confinement facility.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 5956-3 to allow time to determine compliance with qualifications to existing Water Permit No. 5801-3.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights 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 November 25, 1996. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 2:00 p.m., December 4, 1996, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The December 4, 1996, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 25, 1996.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 25, 1996, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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

PRINTER'S AFFIDAVIT

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss.



I, Leslie Fraser
being duly sworn on oath, say that THE PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date; that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I

am bookkeeper.....
..... of said newspaper
and know the facts herein state. The annexed notice headed

Notice of Hearing on Application No. 5956-3 to
Appropriate Water and Amend Water Permit No. 5801-3
Pearl Creek Colony

was published for..... two weeks
the same day each week, in said newspaper, and not in any supplement

of the said newspaper, the first publication on the..... 8th day of
November 96 15th
....., 19....., and the last publication on the.....

November 96 That the full amount of the fee
charged for publishing the same, to-wit:

one hundred twenty and 50/100 Dollars
inures to the benefit of the publisher of said newspaper; that no
agreement or understanding for the division thereof has been made
with any other person, and that no part thereof has been agreed to be
paid to any person whomsoever.

Leslie Fraser

Subscribed and sworn to before me this..... 20th day of November,
1996

May B. Wilz
Notary Public, South Dakota

My term expires..... 6/1/2000

F.P. 11-8-96 L.P. 11-15-96

NOTICE OF HEARING
on Application No. 5956-3 to
Appropriate Water and Amend
Water Permit No. 5801-3

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Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights 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 November 25, 1996. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reason for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 2:00 p.m., December 4, 1996, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The December 4, 1996, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 25, 1996.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 25, 1996, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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

No. 453 (adv.)
12 1/2 x 20 x 4 1/2 = 40.50

BLUE, HAEDER & GASS

Law Offices

HURON OFFICE

239 Wisconsin Avenue SW #204
Post Office Box 1414
Huron, South Dakota 57350-1414
Telephone 605/352-6783
In-State Toll Free 800/858-6783
Fax 605/352-6855

Robert V. Haeder, Gary D. Blue, Gregg A. Gass

George Blue - Of Counsel

REPLY TO: Huron Office

DE SMET OFFICE

202 Calumet Avenue
Post Office Box 35
De Smet, South Dakota 57231-0035
Telephone 605/854-3224

November 25, 1996

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

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

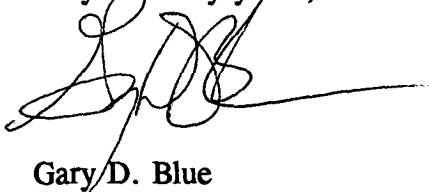
Re: Petition

Gentlemen:

Enclosed please find a Petition in Reference to Pearl Creek Colony Permits 5801-3 and 5956-3.
This is intended as Service upon you by mail.

With my best wishes, I remain,

Very sincerely yours,



Gary D. Blue

GDB/dh

Enclosure



WATER MANAGEMENT BOARD

APPLICATION NO. 5956-3
(To appropriate water and amend
Water Permit #5801-3)

PETITION

Pearl Creek Colony, Applicant

TO THE WATER MANAGEMENT BOARD:

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

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

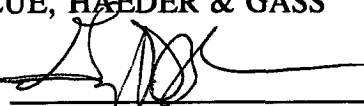
That Jerry Culver is opposed to Application for Permit #5956-3 and asks the Board to deny the same for the following reasons:

- 1.) The Board has denied other applications for irrigations out of the aquifer for the reason that the aquifer is being fully appropriated.
- 2.) There has not been sufficient time to determine that the applicant has complied with the qualification of the existing Permit #5901-3.

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

Dated this 25th day of November, 1996, at Huron, South Dakota.

BLUE, HAEDER & GASS

By 

Gary D. Blue

Attorney for Petitioner

239 Wisconsin, SW/Suite 204

PO Box 1414

Huron, SD 57350

(605)352-6783/(605)352-6855 -fax

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF BEADLE)

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

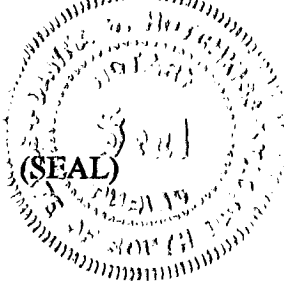


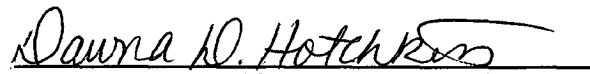
Gary D. Blue

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF BEADLE)

On this 25th day of November, 1996, before me, the undersigned officer, personally appeared Gary D. Blue, known to be or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

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

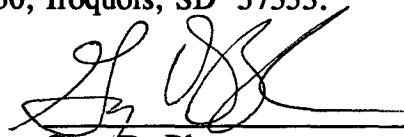




Dawna D. Hotchkiss - Notary Public
My Commission Expires: 11/15/01

CERTIFICATE OF MAILING

The undersigned hereby certifies that, on the 25th day of November, 1996, a true and correct copy of the foregoing Petition was sent by United States mail, with first-class postage thereon fully prepaid, to the following persons at their last known post office addresses: Chief Engineer Water Rights Division, Foss Building, 523 East Capitol, Pierre, SD 57501; and Pearl Creek Colony, % David Waldner, Rt. 2, Box 30, Iroquois, SD 57353.



Gary D. Blue



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 26, 1996

David Waldner
Pearl Creek Colony
Iroquois, SD

Dear Mr. Waldner:

This letter is in regard to the required ground water monitoring near your lagoon used to store waste from a hog confinement operation. Pearl Creek Colony was notified in the February 1, 1995, approval letter for the lagoon plans and specifications that ground water monitoring was required near the lagoon because it overlies the Floyd aquifer and any leakage from the lagoon would discharge to the aquifer. The discharge can degrade the water quality in the aquifer to a point that it could not be used for drinking water.

You were required to sample the ground water quarterly for several parameters. We have results from two sampling events since July 1995. According to the information we have, at least one of the wells has never been sampled because there was not a sufficient quantity of water to take a sample. The samples that were analyzed by the laboratory indicated concentrations of nitrate, sulfate, fecal coliform, chloride, and total dissolved solids exceeded the South Dakota Ground Water Quality Standards at least once. These data indicate there may be degradation of the ground water from the lagoon or other areas of the livestock operations.

It appears that the monitoring wells installed near the lagoon are not deep enough, since two of the three monitoring wells have not had enough water to collect for the laboratory analysis. To determine the impact of the hog lagoon, deeper monitoring wells must be constructed. You must also conduct ground water sampling from the new wells and have the samples analyzed for nitrate, ammonia, sulfates, chlorides, total dissolved solids, and fecal coliform. The wells should be sampled a minimum of four times in six months, with no two samples collected in the same month. After these initial samples, sampling can be done quarterly for another year. Depending on the results of the sampling the frequency may be changed after that.

The water levels in the monitoring wells must be measured every time you collect a sample; the level should be measured before you take the sample. Well logs, sampling results, and water levels must be submitted to this office after you receive them.

Thank you for your cooperation in protecting the state's natural resources. Please call me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeanne Goodman". The signature is written in dark ink and is positioned above the printed name.

Jeanne Goodman, P.E.
Ground Water Quality Program
Phone: (605) 773-3296

cy: ✓ John Hatch



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 9, 1996

Gary Blue
Blue, Haeder & Gass Law Offices
PO Box 1414
Huron, SD 57350-1414

Dear Mr. Blue:

I am writing to inform you of the Water Management Board's action regarding Pearl Creek Colony's Water Permit Application No. 5956-3. The Board approved the Colony's application for an additional appropriation of water and additional standby well. Attached is a copy of the qualifications placed on the water permit.

A copy of the petition you submitted on behalf of Jerry Culver was given to the Board at the time of the hearing.

Please let me know if you have any questions regarding the Board's action.

Sincerely,

Eric Gronlund
Water Rights Program
605 773-3352

attachment



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 26 1996

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

Dear Mr. Waldner:

Enclosed is Water Permit No. 5956-3 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

1122 21st Street, SW
P.O. Box 636
Huron, South Dakota 57350
605-352-5610 Fax 605-352-0951
800-888-0423

Dakota Environmental Consultants, Inc.

January 14, 1997

Mr. Jim Goodman
SD DENR Water Quality Section
523 East Capitol
Pierre, SD 57501-3181

RE: Pearl Creek Colony Monitoring Wells
DEC Project No. 96126



Dear Mr. Goodman,

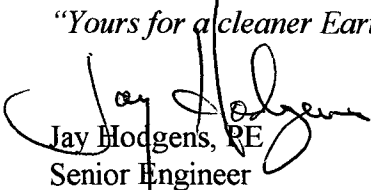
Enclosed please find a summary of the recent sampling at the referenced facility.

A total of four sampling episodes have been scheduled for the next six months.

At the time of the next sample collection, MW3 will be cleaned of sediment using air and water. IF necessary, this will also be done to MW2.

Due to weather constraints, the elevation of the new well was not surveyed. It too will be recorded at the time of the next sampling.

"Yours for a cleaner Earth."


Jay Hodgins, RE
Senior Engineer

encl.: map, bore log, summary results
cc w/ encl: David Waldner, Pearl Creek

"Yours for a Cleaner Earth"



MONITORING WELL SAMPLING SUMMARY

Dakota Environmental Inc. P.O. Box 636 Huron, SD 57350 (605) 352-5610

Project Pearl Creek Colony Job No. 96126
Location of Project NE 1/4 of NW 1/4 of S21, T110N, R59W
Description of Soil Sand with fines Method ASTM D4448
Sampler James White Reviewed by jsh
Weather Conditions 0 degrees, cloudy Depths measured from top of casing

12/31/96

MW4	Well Lock Intact	yes/no	yes
	Well Total Depth	feet	51
	Depth to Water	feet	31.27
	pH	su	7.4
	Specific Conductance	$\mu\text{S/cm}$	2800
	Temperature	deg. C	-
	Dissolved Solids	mg/l	1900
	Chloride	mg/l	40
	Ammonia Nitrogen	mg/l	0.406
	Nitrate Nitrogen	mg/l	22.4
	Nitrite Nitrogen	mg/l	<.050
	Sulfate	mg/l	938
MW2	Well Lock Intact	yes/no	yes
	Well Total Depth	feet	*
	Depth to Water	feet	10.24
	pH	su	8
	Specific Conductance	$\mu\text{S/cm}$	1300
	Temperature	deg. C	-
	Dissolved Solids	mg/l	900
	Chloride	mg/l	56
	Ammonia Nitrogen	mg/l	0.05
	Nitrate Nitrogen	mg/l	15.3
	Nitrite Nitrogen	mg/l	0.058
	Sulfate	mg/l	331
MW3	Well Lock Intact	yes/no	yes
	Well Total Depth	feet	*
	Depth to Water	feet	11.41
	pH	su	8
	Specific Conductance	$\mu\text{S/cm}$	1200
	Temperature	deg. C	-
	Dissolved Solids	mg/l	1300
	Chloride	mg/l	25
	Ammonia Nitrogen	mg/l	<.050
	Nitrate Nitrogen	mg/l	<.050
	Nitrite Nitrogen	mg/l	<.050
	Sulfate	mg/l	688

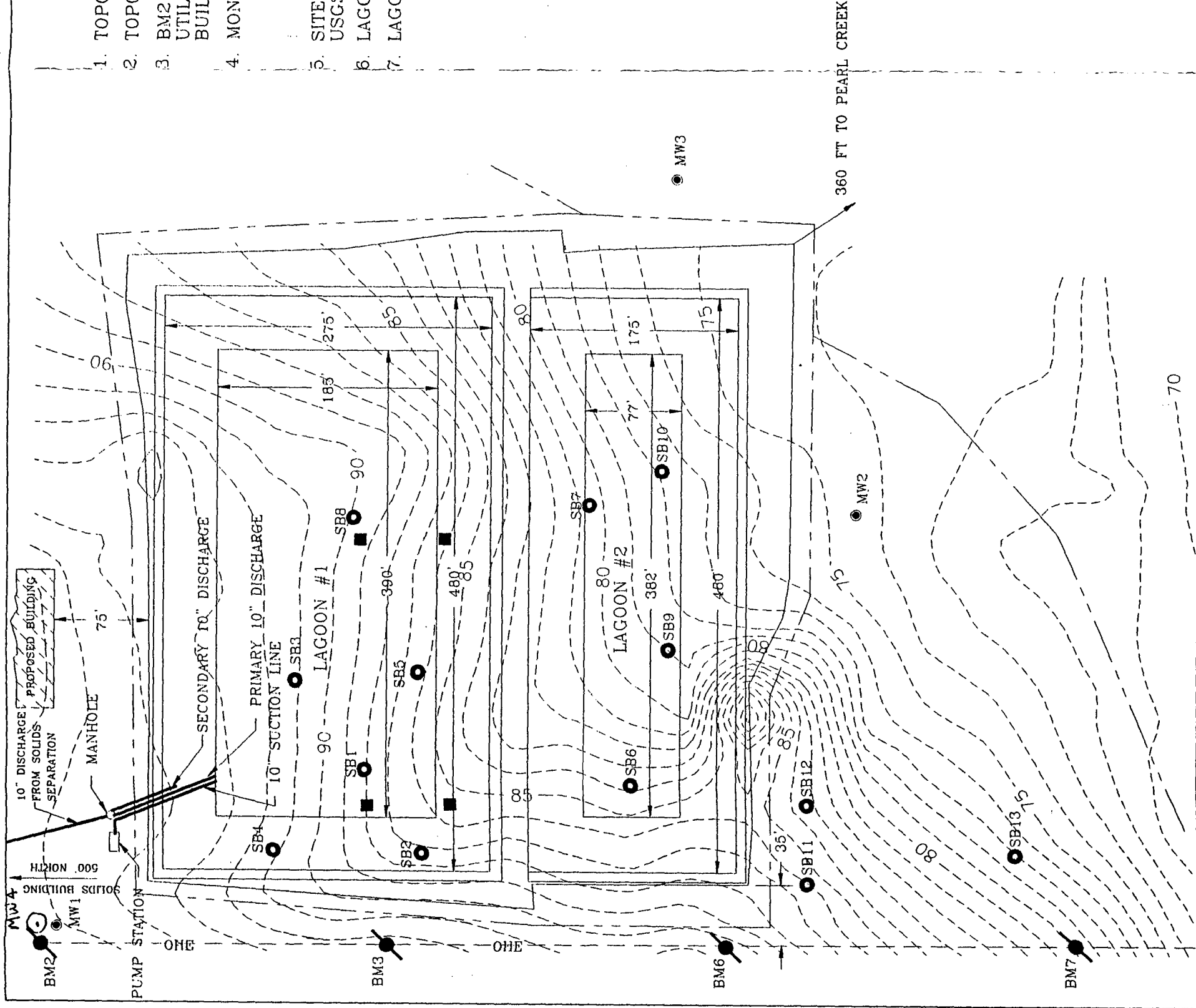
Comments:

12-31-91 Due to extreme temperatures, water temperature readings not taken. Well depths indeterminate due to extreme silt accumulation in bottoms.

 SOIL BORING LOG Dakota Environmental Consultants, Inc. P.O. Box 636 Huron, SD 57350 (605) 352-5610					Boring #		
					MW4		
Soil Description	WL	Depth	Elevation	Sample ID	USCS		
Topsoil		0.0	0.0		OL		
		0.5	-0.5				
		1.0	-1.0				
Sandy clay, dark brown		1.5	-1.5		CL		
		2.0	-2.0				
		2.5	-2.5				
		3.0	-3.0				
		3.5	-3.5				
		4.0	-4.0				
		4.5	-4.5				
		5.0	-5.0				
		5.5	-5.5				
		6.0	-6.0				
		6.5	-6.5				
		7.0	-7.0				
		7.5	-7.5				
		8.0	-8.0				
		8.5	-8.5				
		9.0	-9.0				
	9.5	-9.5					
	10.0	-10.0					
	10.5	-10.5					
	11.0	-11.0					
	11.5	-11.5					
	12.0	-12.0					
	12.5	-12.5					
	13.0	-13.0					
	13.5	-13.5					
Sandy clay, dark brown, wet		14.0	-14.0		CL		
		14.5	-14.5				
		15.0	-15.0				
		15.5	-15.5				
		16.0	-16.0				
	16.5	-16.5					
Gravelly clay w/ sand, dark brown, wet		17.0	-17.0		CL		
		17.5	-17.5				
		18.0	-18.0				
		18.5	-18.5				
		19.0	-19.0				
		19.5	-19.5				
		20.0	-20.0				
		20.5	-20.5				
		21.0	-21.0				
		21.5	-21.5				
	22.0	-22.0					
	22.5	-22.5					
Sand w/ fines, wet		23.0	-23.0		SP		
		23.5	-23.5				
		24.0	-24.0				
		24.5	-24.5				
		25.0	-25.0				
	25.5	-25.5					
REMARKS: 1. Samples recorded from the auger cuttings. 2. Water level at time of boring: 37.5' 3. MW4 was drilled to 55' below ground level, but due to the caving of sand the well could only be constructed to 48' below ground level. 4. Located 15' north of MW1. 5. Replaces MW1, due to dry hole.		Water Level: 31.27' @ 24 hrs		DEC #		Date of Boring: 12/30/96	
		Method: 3.5 HAS		96124		Page: 1 of 3	
		Driller: D. Duvall		Chkd by: JSH 1-13-97		Elevation: 0	
		Sampler: J. White		Project: Pearl Creek			
		Recorded By: J. White					
		Entered By/Date: JBW 1/13/96					

 SOIL BORING LOG Dakota Environmental Consultants, Inc. P.O. Box 636 Huron, SD 57350 (605) 352-5610				Boring #	
				MW4, cont	
Soil Description	WL	Depth	Elevation	Sample ID	USCS
		26.0	-26.0		
		26.5	-26.5		
		27.0	-27.0		
		27.5	-27.5		
		28.0	-28.0		
		28.5	-28.5		
		29.0	-29.0		
		29.5	-29.5		
		30.0	-30.0		
		30.5	-30.5		
		31.0	-31.0		
		31.5	-31.5		
		32.0	-32.0		
		32.5	-32.5		
		33.0	-33.0		
		33.5	-33.5		
		34.0	-34.0		
		34.5	-34.5		
		35.0	-35.0		
		35.5	-35.5		
		36.0	-36.0		
		36.5	-36.5		
		37.0	-37.0		
		37.5	-37.5		
		38.0	-38.0		
		38.5	-38.5		
		39.0	-39.0		
		39.5	-39.5		
		40.0	-40.0		
		40.5	-40.5		
		41.0	-41.0		
		41.5	-41.5		
		42.0	-42.0		
		42.5	-42.5		
		43.0	-43.0		
		43.5	-43.5		
		44.0	-44.0		
		44.5	-44.5		
		45.0	-45.0		
		45.5	-45.5		
		46.0	-46.0		
		46.5	-46.5		
		47.0	-47.0		
		47.5	-47.5		
		48.0	-48.0		
		48.5	-48.5		
		49.0	-49.0		
		49.5	-49.5		
		50.0	-50.0		
		50.5	-50.5		
		51.0	-51.0		
		51.5	-51.5		
REMARKS: 1. Samples every recorded from the auger cuttings. 2. Water level at time of boring: 37.5'	Water Level:	31.27' @ 24 hrs	DEC #	Date of Boring:	12/30/96
	Method:	3.5 HAS	96124	Page:	2 of 3
	Driller:	D. Duvall	Chkd by:	Elevation:	0
	Sampler:	J. White	Project:	Pearl Creek	
	Recorded By:	J. White			
	Entered By/Date:	JBW 1/13/96			

 SOIL BORING LOG Dakota Environmental Consultants, Inc. P.O. Box 636 Huron, SD 57350 (605) 352-5610				Boring #	
				MW4, cont	
Soil Description	WL	Depth	Elevation	Sample ID	USCS
Sand w/ fines, wet		52.0	-52.0		SP
		52.5	-52.5		
		53.0	-53.0		
		53.5	-53.5		
		54.0	-54.0		
		54.5	-54.5		
End of Boring		55.0	-55.0		
		55.5	-55.5		
		56.0	-56.0		
		56.5	-56.5		
		57.0	-57.0		
		57.5	-57.5		
		58.0	-58.0		
		58.5	-58.5		
		59.0	-59.0		
		59.5	-59.5		
		60.0	-60.0		
		60.5	-60.5		
		61.0	-61.0		
		61.5	-61.5		
		62.0	-62.0		
		62.5	-62.5		
		63.0	-63.0		
		63.5	-63.5		
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		66.5	-66.5		
		67.0	-67.0		
		67.5	-67.5		
	68.0	-68.0			
	68.5	-68.5			
	69.0	-69.0			
	69.5	-69.5			
	70.0	-70.0			
	70.5	-70.5			
	71.0	-71.0			
	71.5	-71.5			
	72.0	-72.0			
	72.5	-72.5			
	73.0	-73.0			
	73.5	-73.5			
	74.0	-74.0			
	74.5	-74.5			
	75.0	-75.0			
	75.5	-75.5			
	76.0	-76.0			
	76.5	-76.5			
	77.0	-77.0			
	77.5	-77.5			
REMARKS: 1. Samples every recorded from the auger cuttings. 2. Water level at time of boring: 37.5'	Water Level: 31.27' @ 24 hrs		DEC #	Date of Boring: 12/30/96	
	Method: 3.5 HAS		96124	Page: 3 of 3	
	Driller: D. Duvall			Elevation: 0	
	Sampler: J. White		Project: Pearl Creek		
	Recorded By: J. White				
	Entered By/Date: JBW 1/13/96				



NOTES

1. TOPOGRAPHIC DATA FROM FIELD SURVEY PERFORMED BY DEC ON 7/6/93 AND 5/4/94.
2. TOPOGRAPHIC DATA WAS EXTRAPOLATED 100 FEET EAST OF EXISTING SURVEY DATA.
3. BM2 ASSUMED ELEVATION 97.86 FT CONSISTING OF TWO NAILS AT BASE OF UTILITY POLE APPROXIMATELY 200 FEET WEST OF SOUTHWEST SWINE FINISHER BUILDING CORNER.
4. MONITORING WELL ELEVATIONS TO TOP OF CASING:
MW1 = 97.94
MW2 = 76.43
MW3 = 78.40
5. SITE DESCRIBED AS NE 1/4 OF NW 1/4 OF SECTION 21 T-110-N, R-59-W TAKEN FROM USGS PEARL CREEK COLONY QUADRANGLE.
6. LAGOON #1 CONSTRUCTED WITH 12" COMPACTED CLAY LINER PER SPECIFICATIONS.
7. LAGOON #2 CONSTRUCTED WITH 18" COMPACTED CLAY LINER PER SPECIFICATIONS.

LEGEND

- POWER POLE
- SBx - SOIL BORING LOCATIONS
- SOIL SAMPLE LOCATIONS
- DEPTH MARKER LOCATION
- MWx - MONITORING WELL LOCATION
- FENCE
- OVERHEAD ELECTRIC UTILITY
- EXISTING CONTOUR

SCALE 1 inch = 100 feet



1 inch = 100 Feet		DWG NO. 1	AS-BUILT SITE MAP	
JOB NO. 9303		DATE: 12/28/94		
DRAWN: SDM		CHECKED: JSH		
REV	DATE	DESCRIPTION	BY	CHK
1	6/13/95	ADDED MONITORING WELLS	SDM	JSH
2	1-14-97	ADDED MW 4	JW	JSH
DAKOTA ENVIRONMENTAL INC. P.O. BOX 636 HURON, SD 57350 605-352-5610				

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 5801-3 and Permit No. 5956-3

I have this day, December 4, 2018, made a thorough examination of the water use systems constructed by Pearl Creek Colony, 21085 415TH Ave, Iroquois, SD 57353 of Permit No. 5801-3, bearing the priority of February 8, 1994 authorizing the diversion of 0.10 cu. ft. per second (45 gallons per minute) and of Permit No. 5956-3, bearing the priority of September 25, 1996 authorizing the diversion of 0.156 cu. ft. per second (70 gallons per minute), both from the waters of ground water (Floyd Pearl Creek Aquifer) for use in a hog confinement facility, in Beadle County.

Inspection contact: Conrad Waldner, Pearl Creek Colony, and another individual who was in charge of the hog and turkey confinement barns.

A. Works used to divert the water:

Well Information:

Well for Water Right No. 5801-3

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 1
- 3) Depth 80 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 8 inches from 0 to 75 ft.
- 2) Type PVC

Screen:

- 1) Type PVC
- 2) Length 20 feet
- 3) Static water level 30 feet

Pump: (Submersible)

- 1) Make Unknown
- 2) Model Unknown
- 3) Capacity 240 gpm (see comment section)

Motor: (Submersible)

- 1) Make Franklin
- 2) Model No. Unknown
- 3) Horsepower rating 10 hp

Well for Water Right No. 5956-3

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 1
- 3) Depth 75 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 8 inches from 0 to 58 ft.
- 2) Type PVC

Screen:

- 1) Type PVC
- 2) Length 12 feet
- 3) Static water level 25 feet

Pump: (Submersible)

- 1) Make Unknown
- 2) Model Unknown
- 3) Capacity 140 gpm (see comment section)

Motor: (Submersible)

- 1) Make Franklin
- 2) Model No. Unknown
- 3) Horsepower rating 10 hp

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

- 1) Main Line: Type PVC 2) Size 4 inches 3) Length 360 feet
- 2) Backup Line: Type PVC 2) Size 3 inches 3) Length 450 feet

Each well has an individual 3" diameter PVC discharge pipe going to a common valve pit just south of the well for Water Right No. 5801-3. From there the original 3" PVC pipe and a new 4" PVC pipe that was added when the well for Water Right No. 5956-3 was installed, run over to the hog confinement building. The 4" pipe is normally in use and the 3" pipe is available as a backup pipe. Only one well is used at a time.

C. Works used to apply water to beneficial use: Unknown pipe sizes in the hog barns.

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by? yes.
- 2) Exceptions to compliance are: none.

E. Condition and Location:

- 1. The system is in good condition with the point of diversion located as follows: Water Right No. 5801-3 Well: 2,390 feet east and 440 feet south of the northwest corner of Section 21-T110N-R59W (Latitude 44.32399, Longitude -97.92484).

Water Right No. 5956-3 Well: 2,340 feet east and 380 feet south of the northwest corner of Section 21-T110N-R59W (Latitude 44.32414, Longitude -97.92499).

- 2. The works are capable of diverting and conveying to the place of use: (see comment section) 0.256 cfs or 115 gpm of water which is to be used for a hog confinement facility. Water has been put to beneficial use to the maximum extent as follows for the hog confinement facility in the NW1/4 of the NE1/4 of Sec 21, T110N, R59W. The licenses should be modified or combined and reissued for the appropriate flow and condition of using one well at a time.

- 3. All structures, wells and lands on map Yes

F. Comments or other permit(s) associated with the project: Water Permit No. 5956-3 increased the water appropriation for Water Permit No. 5801-3 from 0.10 cfs to 0.256 cfs. Water Permit No. 5956-3 also added a standby well for the hog confinement facility. Both wells are available for service however only one well is used at a time for the facility.

**Report of Examination of Works
Permit Nos. 5801-3 and 5956-3**

The water from these wells is used in the hog confinement facility. The waste from the facility is then treated and stored in lagoons south of the facility. The treated water is then blended with water from existing irrigation wells associated with Water Right Nos. 2727-3, 3607-3 and 4114-3, and is used to irrigate the land in those permits.

A qualification to Water Permit No. 5801-3 required approval of plans and specifications for the wastewater lagoon. DENR approval was granted February 1, 1995 (see letter in administrative record for No. 5801-3).

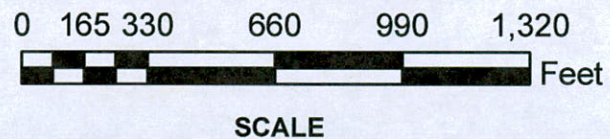
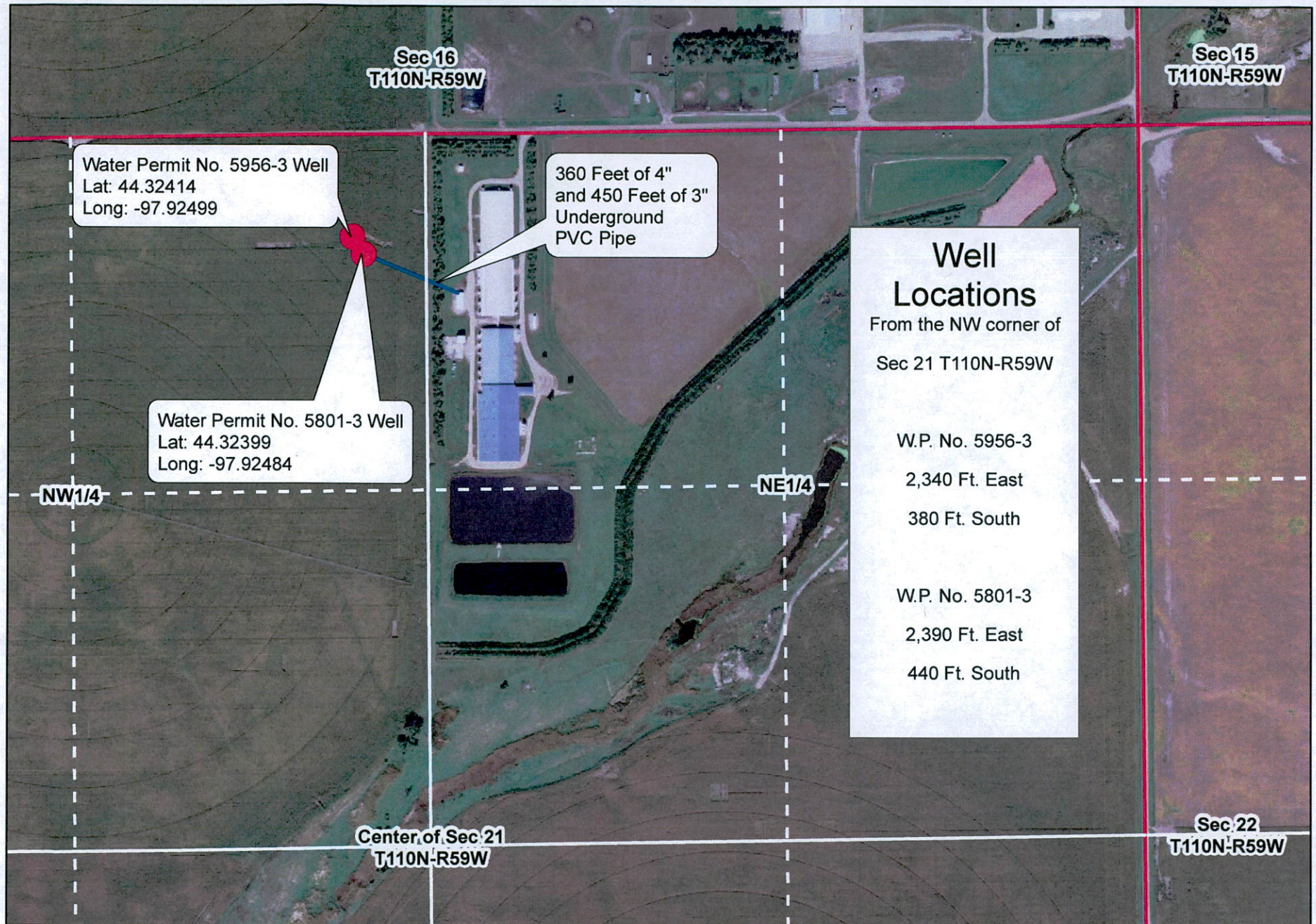
Information on pump capacities: See follow-up file documentation by Timothy Magstadt, staff engineer dated January 11, 2019 concerning his conversation with Pullman Well Drilling on pumps installed for the Colony wells. Both wells have the exact same pumps. Based on the pump curves published by the manufacturers, the wells are not capable of more than 115 gpm.



Keith DeJong
Water Rights Inspector
DENR, Water Rights Program

Date report completed: **December 11, 2018**

Water Permit Nos. 5801-3 and 5956-3



Keith DeJong
Keith DeJong, PE
Staff Engineer
December 11, 2018

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Permit No. 5801-3 and Permit No. 5956-3, Pearl Creek Colony

ADDRESS: Rt 2, Box 30, Iroquois SD 57353

DATE: January 11, 2019 TELEPHONE: 605 546-2452

RE: conversation with Pullman Well Drilling on pumps installed for Pearl Creek Colony

I contacted Pullman Well Drilling to find out what pumps were installed for the wells authorized for Permit No. 5801-3 and Permit No. 5956-3. After calling they did not have the information on hand and said they would email the information when and if they were able to find it. Later the same day I received the following email contents:

“Both wells the same exact pumps Grundfos 80S 5hp Franklin 5HP 230V 3Ph Motors 60Ft set 3" Certa-Loc Sch 80PVC”

Based on the pump curves published by the manufacturers for the pumps indicated in the email and based on the static water depths of the wells reported in Permit No. 5801-3 and Permit No. 5956-3 the expected capacity ranges from 80-115 gallons per minute.

NAME: Timothy Magstadt

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 20, 2019

RECEIVED OF Pearl Creek Hutterian Brethren, Inc. 21085 415th Ave Iroquois SD 57353-

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>5956-3</u>		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **09151**

By Jeanne Goodman
Chief Engineer Zm



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.gov

May 7, 2019

5956-3

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

Dear Mr. Waldner:

On December 4, 2018 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit Nos. 5801-3 and 5956-3 was completed by a staff engineer with our program. Your final water right document, the water license, can now be issued. The two permits, authorizing diversion of water from two wells (Floyd Pearl Creek Aquifer), will be incorporated together resulting in one water license covering both wells for the hog confinement facility.

The permits were approved prior to the time licensing fees were assessed with the applications. Therefore a fee is still required for completing the licensing process. State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements. If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5956-3

(1) Pearl Creek Colony, 21085 Iroquois SD 57353 made Application No. 5956-3, September 25, 1996 for a water permit to divert 0.156 cubic feet of water per second (cfs) from ground water, one existing well (Floyd Pearl Creek Aquifer), Beadle County, South Dakota for commercial purposes. No. 5956-3 also authorized an additional well into the same aquifer to be used as a backup source. Permit No. 5956-3, with a priority date of September 25, 1996 was approved December 4, 1996 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

Water Permit No. 5801-3, with a priority date of February 8, 1994, authorized diversion of 0.10 cfs (45 gpm) from one well. No. 5956-3 increased the diversion from the existing well by 0.156 cfs (70 gpm) for a total of 0.256 cfs (115 gpm). Approval of No. 5956-3 included authorization for a standby well with no additional water appropriation.

The applicable portions of Water Permit No. 5801-3 are incorporated into Water License No. 5956-3. A priority date of February 8, 1994 is retained for 0.10 cfs. The additional 0.156 cfs retains a priority date of September 25, 1996.

(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 0.256 cubic feet of water per second for beneficial use. The location of the diversion points are:

* (No. 5801-3) Well: 2,390' E & 440' S of the NW corner of Section 21, T110N, R59W (NE ¼ NW ¼)
Latitude 44.32399, Longitude -97.92484

* (No. 5956-3) Well: 2,340' E & 380' S of the NW corner of Section 21 T110N, R59W (NE ¼ NW ¼)
Latitude 44.32414, Longitude -97.92499

**Use is limited to one well at a time for the facility.*

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use in a hog confinement facility located in the NW ¼ NE ¼ Section 21, T110N, R59W. The waste from the facility is then treated and stored in lagoons south of the facility. The treated water is blended with water from existing irrigation wells associated with Water Right Nos. 2727-3, 3607-3 and 4114-3 and is used to irrigate the land described in those permits.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Pearl Creek Colony, 21085 Iroquois SD 57353 the holder and/or owner of Incorporated Water Right No. 5956-3 is issued a license to appropriate water, the right to use 0.256 cubic feet of water per second from ground water, two wells (Floyd Pearl Creek Aquifer) with priority dates of February 8, 1994 (0.10 cfs) and September 25, 1996 (0.156 cfs) from the locations specified in (2) of this license for commercial purposes.

continued

This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Right No. 5956-3 and subject to the following qualifications:

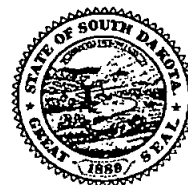
- The wells approved under this Water Right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this water right shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- This Water Right is subject to compliance with the required ground water monitoring near the lagoon used to store waste from the hog confinement operation.
- Operation of the disposal systems to dispose of waste and wastewater shall be in a manner that prevents runoff from the disposal sites and from entering the waters of the State. The diffused drainage of natural precipitation on agricultural land resulting from a "non-point source" is not subject to these conditions.
- No wastewater may be released from the wastewater lagoon except through the disposal system, unless an extended period of above normal precipitation results in excess stored water and prevents operation of equipment to lower water levels due to field and weather conditions.
- Design, construction and management of the lagoons shall be sufficient to maintain seepage rate of less than 10⁻⁷ centimeters per second. Compaction of the soils within the wastewater lagoon must be at least ninety percent of the Standard Procter Density (ASTM D6980-70).
- Water Right No. 5956-3 is subject to compliance with the following then existing and applicable Water Management Rules (*original Chapters cited were in 74:03; they have been replaced with Chapters 74:51, 74:52 and 74:54*):
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 75:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:03 Uses Assigned to Streams, and
 - e) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
- Operation of the disposal system to dispose of waste and wastewater shall not be applied through the pivot located in the NW 1/4 Section 21-T1 10N-R59W.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAY 22 2019

date



5956-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAY 22 2019

5801-3
5956-3

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

Dear Mr. Waldner:

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

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

A handwritten signature in black ink, reading "Jeanne Goodman". The signature is written in a cursive, flowing style.

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

enclosures

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