

WATER PERMIT NO. 6189-3

Name of Applicant: Bur-Oak Lodge

Address: RR 1 Box 76C, Waubay SD 57273

Phone: 605 947-4445

Amount of Water Claimed: 0.017 cfs (8 gpm)

Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Day

Type of Waste Disposal System: septic tank

Location: 6 miles north of Waubay – southwest corner of Enemy Swim Lake

PRIORITY Date Received: 4-16-1991

Fee: \$15

Corrected Application Received:: 3-22-2000

Period of Annual Use: January 1 – December 31

Remarks: Claimed priority date of 1953

Diversion Point: NE ¼ SE ¼

Sec 16-T123N-R53W

Land to be Irrigated: NA

Depth of Well: 80

Well Driller: : Falk Bros. Well Drilling

Remarks:

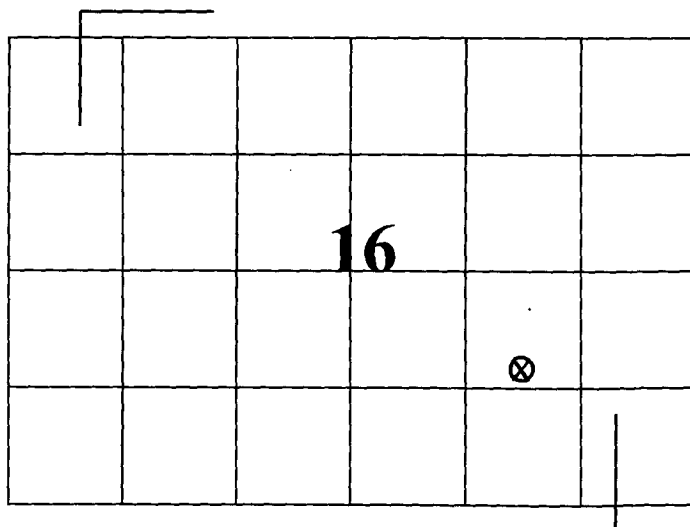
Type of Map: aerial

Prepared by: Thomas G Quinn, SCS

Reviewed and the Number Assigned on: 3-22-2000

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
VESTED WATER RIGHT NO. 6189-3

Date of receipt of claim April 16, 1991.

Date of receipt of corrected claim application March 22, 2000.

Date of Validation May 18, 2000.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 6189-3 for Bur-Oak Lodge, RR 1, Box 79C, Waubay SD 57273 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 6189-3 appropriates 0.017 cubic feet of water per second (8 gallons per minute) from one well (Coteau Lakes Aquifer) 80 feet deep located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16-T123N-R53W within the former boundaries of the Sisseton-Wahpeton Indian Reservation in Day County.
2. The appropriated water is used for supplying water for commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following annual period: January 1 – December 31.
4. The priority date of the Vested Water Right is January 1, 1953.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

JUN 05 2000

date



STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 6189-3

(1) Bur-Oak Lodge, RR 1 Box 79C, Waubay SD 57273 made Application No. 6189-3, for validation of a vested right claim to appropriate 0.017 cubic feet of water per second from groundwater (one well), Day County, South Dakota, for commercial purposes. Vested Water Right No. 6189-3 was validated May 18, 2000 with a priority date of January 1, 1953. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) It is certified that the vested right owner is entitled to divert 0.017 cubic feet of water per second for beneficial use. The location of the diversion point is: NE ¼ SE ¼ Section 16-T123N-R53W.

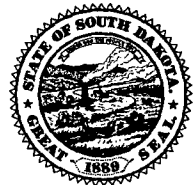
(3) Pursuant to Section 46-5-30.1 Bur-Oak Lodge, RR 1 Box 79C, Waubay SD 57273 the holder and/or owner of Vested Water Right No. 6189-3 is issued a license to appropriate 0.017 cubic feet of water per second from groundwater (one well) with a priority date of January 1, 1953 from the location specified in (2) of this license. The water is to be used for the purpose of commercial use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 6189-3 and subject to South Dakota State Law.



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

JUNE 05 2000

date

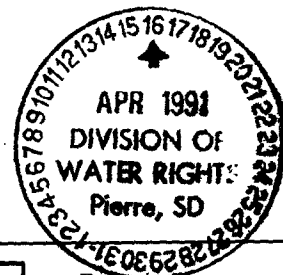


No. <u>6189-3</u>	Hydrologic Unit <u>10160010</u>
Map No. _____	Basin <u>TAMES RIVER</u>
Newspaper <u>WAUBAY CLIPPER, WAUBAY, SD</u>	

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

Check use of water: Industrial ☐ Commercial ☒ Municipal ☐ Other Common Distribution System ☐
Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐
Domestic ☒ (above 18gpm) Other ☒

Type of Application: Check one or more of the following



New ☐ Vested Right ☒ Future Use ☐ Change Use ☐

☐ Amend Permit No. _____ with old priority date retained

Change diversion point(s) ☐ Add diversion point(s) ☐ Other ☐

☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____

☐ Construction to use water reserved by Future Use Permit No. _____

1. Name of Applicant Bur-Oak Lodge Phone No. 947-4445

Post Office Address Box 79C RRI Waubay SD State SD Zip Code 57273
(Street, RR or Box) (City)

2. Amount of water claimed (c.f.s.) 8 gpm 0.017 cfs

3. Source of water supply groundwater

4. Location of point of diversion NE 1/4 SE 1/4 Sec 11 - T123N - R53W

County Day

5. Counties where water will be used Day

6. Annual period during which water is to be used Jan 1 - Dec 31

7. Give a brief description of proposed 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)

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA
County of Day ss

I, Raymond Foster, Bur-Oak Lodge 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 Raymond Foster Bur-Oak Lodge

Subscribed and sworn to before me this 15th day of April 19 91

Helen Helms
HELEN HELMS
Notary Public, Day County, S. Dak.
Notary Commission Expires Feb. 21, 1999

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) Bur Oak LodgePost Office Address RR 1 Box 79C Wadway So Oak 57273
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of recording _____ Recording date _____
Where Book PageB. Date of start of construction of water supply system 1953C. Date that water was first applied to beneficial use 1953D. Name of owner of original water supply system Dexsee's Resort

E. Amount of water originally applied to beneficial use _____

F. Present Use of Water - Amount of water now being used 86 P.M.Date that this water was first used 1953

G. Chronological History of Water Use

Well was originally Drilled 1953

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota)

County of Day) ss

I, Raymond Foster the applicant, certify that I have read the foregoing
(print or type)
and that the matters therein stated are true.

Signed Helen HelmsSubscribed and sworn to before me July 12, 19 91

HELEN HELMS

Notary Public, Day County, S. D.

My Commission Expires Feb. 21, 1999

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

Raymond Foster 19 91
(Print name)
Raymond Foster 19 _____
(Print name)

NOT TO SCALE



T 3104

T 318

38.0
H&L

Lot 1

Lot 2

16

1-170C

USGS
B.M.

The well site is located approximately 710 ft. southwest of the USGS benchmark. From the southeast corner of Section 16-123-53, the well is located 630 ft. west and 1500 ft. north.

123-53 703 T 2955
1989
CRP

40.0

62.1

Thomas G. Quinn
District Conservationist
Soil Conservation Service
S.E. corner
Sec. 16-123-53

6189-3

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

№ 416437

Pierre, _____ March 22, 2000

RECEIVED OF Bur Oak Lodge, Inc., RR 1, Box 79C, Waubay, SD 57273
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>16188-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	15	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	15 00

By Harold E. L. L. L.
Chief Engineer



DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 18, 1991

Bur-Oak Lodge
Raymond Foster
RR 1, Box 79C
Waubay SD 57273

Dear Mr. Foster:

In regard to your water permit application received on April 16, 1991, the following information needs to be submitted and/or clarified in order to process your application.

1. On Item No. 2 of the application, please include the maximum diversion rate in gallons per minute from the well.
2. From looking at the aerial photo submitted with the application, it would appear that the location of the point of diversion, Item No. 4, would be the NE 1/4 SE 1/4 Section 16-T123N-R53N. Would this be correct?
3. On the application, you indicated the type of application as a Vested Right. South Dakota Codified Law 46-1-9 states the water must have been applied to beneficial use by March 2, 1955 in order to qualify for a vested right. The affidavit submitted with the application states the well was drilled in 1958, therefore, the application does not meet the criteria for a vested right.
4. The application fee, if the maximum diversion is less than 45 gallons per minute, is \$50.00. Please remit this amount.

You will notice that several additions have been made on the application. Please review these additions, and contact us if you concur with them. Upon receipt of the above information, further processing of your application will continue.

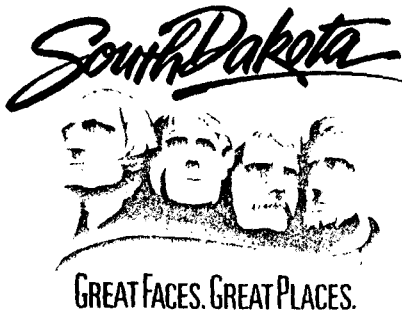
If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 27, 1991

Bur-Oak Lodge
Raymond Foster
RR 1, Box 79C
Waubay SD 57273

Dear Mr. Foster:

On April 16, 1991, you submitted an application (copy enclosed) for a permit to appropriate water for commercial use at the lodge. You were notified on April 18, 1991 (copy enclosed) that the application was incomplete and were instructed what additional information was necessary in order to complete the application. To date, we have not received a response from you.

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

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosures

Water Rights Division - DWNR
Conversation File Documentation

NAME OF PERSON OR FILE: Bur-Oak Lodge Raymond Foster

ADDRESS:

COUNTY:

DATE: 6/28/91

TELEPHONE:

RE: Water Permit/ Vested Right Application

COMMENTS:

Mr. Foster called regarding the letter Karen sent him on his incomplete application. Issues discussed.

1. The diversion rate is 8 gpm.
2. The point of diversion is the NE1/4 SE1/4 Section 16, T123N, R53W.
3. The question came up whether this was a vested right or not. His initial affidavit of water use stated the water was first used in 1958 which Karen's letter stated would not be a vested right. Mr. Foster explained that this is when this well was drilled, however, this was just a replacement well for well which began being used for the lodge in 1953. The well drilled in 1958 was drilled only 50 feet away from the original well. I stated this would be vested right and that we would send another affidavit of water use to reflect the 1953 date to him. I also stated that the filing fee for a vested right was only \$15.

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

NAME: Eric Montbened



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

July 1, 1991

Bur-Oak Lodge
Raymond Foster
RR 1, Box 79C
Waubay SD 57273

Dear Mr. Foster:

In regard to your phone conversation with Eric Gronlund on June 28, 1991, enclosed is the Form 2B Affidavit of Water Use which you submitted with your water permit application. It is my understanding that correct date the original well was drilled and water put to beneficial use should be 1953. Blank Form 2B's are enclosed for you to complete with the correct dates.

The filing fee for a vested right application will be \$15.00.

If you have any questions, please contact this office.

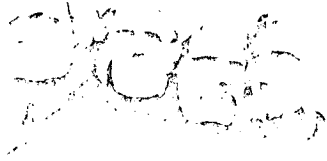
Sincerely,

A handwritten signature in cursive script that reads "Karen Schlaak".

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

South Dakota



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 16, 1991

Bur-Oak Lodge
Raymond Foster
RR 1, Box 79C
Waubay SD 57273

Dear Mr. Foster:

We have received the Form 2B Affidavit of Water Use. As stated in my letter dated July 1, 1991, the filing fee for a vested right application will be \$15.00.

Upon receipt of the application fee, further processing of your application will proceed. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 29, 1993

Bur-Oak Lodge
Raymond Foster
RR 1, Box 79C
Waubay SD 57273

Dear Mr. Foster:

On April 16, 1991, you submitted a vested right application (copy enclosed) for a permit to appropriate water for commercial use. A review of the application indicates that in order to process this pending application a \$15.00 filing fee is required. To date, we have not received a response this fee.

Obtaining a water permit ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right. If you no longer use water from a private water supply or no longer own the Lodge, please inform us.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

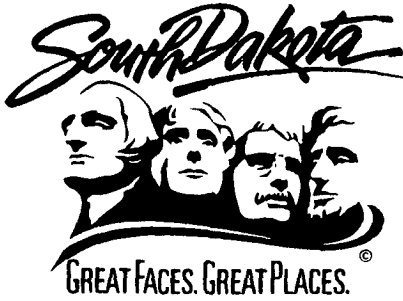
If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosure



October 13, 1994

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Bur-Oak Lodge
Raymond Foster
RR 1, Box 79C
Waubay SD 57273

Dear Mr. Foster:

On April 16, 1991 you submitted an vested water right application to appropriate water for commercial use of water at the Bur-Oak Lodge. Over the past years, you have been contacted numerous times that in order to process the application a \$15.00 filing fee is required.

Pursuant to South Dakota Codified Law 46-1-15 and 46-5-10, a permit is required for a business to use water. Without a water permit, you do not have a legal right to use the water and the Chief Engineer can issue a shut off order if the illegal use of water continues.

Upon receipt of the filing fee, a report and recommendation will be prepared and a notice of the application will be published in one local county newspaper for 2 weeks. You will be responsible for the cost of this publication.

Also please specify the type of wastewater disposal system utilized (such as septic tank, drainfield). If you have questions, please contact this office.

Sincerely,

Karen Schlaak
Environmental Scientist
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 3, 2000

Bur-Oak Lodge Inc.
Raymond Foster
RR 1 Box 79C
Waubay SD 57273

Dear Mr. Foster:

I am writing in regard to a well driller's report filed by Falk Bros. Well Drilling. The report shows a new well was completed for Bur-Oak Lodge, Inc. on December 2, 1999.

A review of our files, indicates that a vested right application was submitted for Bur-Oak Lodge on April 16, 1991. The application requested 8 gallons per minute of water from a 64 foot deep well for commercial use claiming a 1953 priority date. The application is incomplete because the \$15 vested right application was never submitted. Several letters have been written to you requesting the fee.

Is the new well a replacement well or an additional well? Enclosed is a copy of the vested right application submitted in 1991. If the information on the application still correct, we can proceed with processing the vested right application upon receipt of the \$15 fee. You should be aware that you will be responsible for the cost of publication of the public notice in a local county newspaper.

If you have questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosures

*Karen -
New well is Replacement well on orders from
DENR. Present well too close to septic tank.
New well is 40' from old well.*

REPORT ON WATER PERMIT APPLICATION NO. 6189-3
for Bur-Oak Lodge
April 10, 2000

Application No. 6189-3 proposes to validate a vested right claim to appropriate 0.017 cfs (8 gpm) from one well approximately 65 feet deep located in the NE 1/4 SE 1/4 of Section 16, T123N-R53W within the former boundaries of the Sisseton-Wahpeton Indian Reservation in Day County. The water is for commercial use and claims a priority date of 1953.

AQUIFER - COTEAU LAKES (COL)

The Coteau Lakes is a predominantly surficial outwash (sand and gravel) which is under water table conditions at the site of this application. The Coteau Lakes underlies 58,200 acres and contains an estimated 130,910 acre feet of recoverable water in storage in Day County (Hedges, 1982). The aquifer extends into Marshall County to the north into Roberts County to the east, Grant County to the east and south and is hydraulically connected to some area lakes. In this instance, this well is located along the southwest side of Enemy Swim Lake and is hydraulically connected to the lake.

The well completion report filed with the application indicates sands (probably interbedded with silts or clay) from near the surface to a depth of 80 feet. The well was completed to a depth of 65 feet and had a static water level of 18 feet below land surface. This well is completed in accordance with SD Well Construction Standards.

The nearest Water Rights observation well completed into the Coteau Lakes aquifer is RB-81C which is located about three miles east of this application. Water levels for this well show good response to climatic conditions, that is, rising water levels during wet years and gradually declining water levels during dry years. A hydrograph for observation well RB-81C is included with this report. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2000).

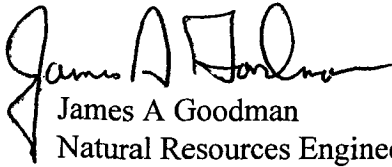
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are existing water permits/rights within a one-half mile radius of this application, however, because of the small pumping rate and the distance between wells, interference is not a concern. Drawdown created by pumping at these rates will not be significant.

CONCLUSIONS

1. Water is available from the Coteau Lakes aquifer.
2. The aquifer is under water table conditions in this area and drawdown created by pumping will not be significant. Interference is not a concern.
3. This well has been completed in accordance with SD Well construction Standards.

4. The applicant has filed an affidavit which claims the original well for this resort was drilled in 1953. Subsequently, the first well was replaced in 1958 and finally the present well was completed in 1999. The filing indicates that water has been used continuously since 1953 for the resort beginning as Doxsee's Resort and finally as Bur Oak Lodge, Inc.
5. This application can be validated as a Vested Right.

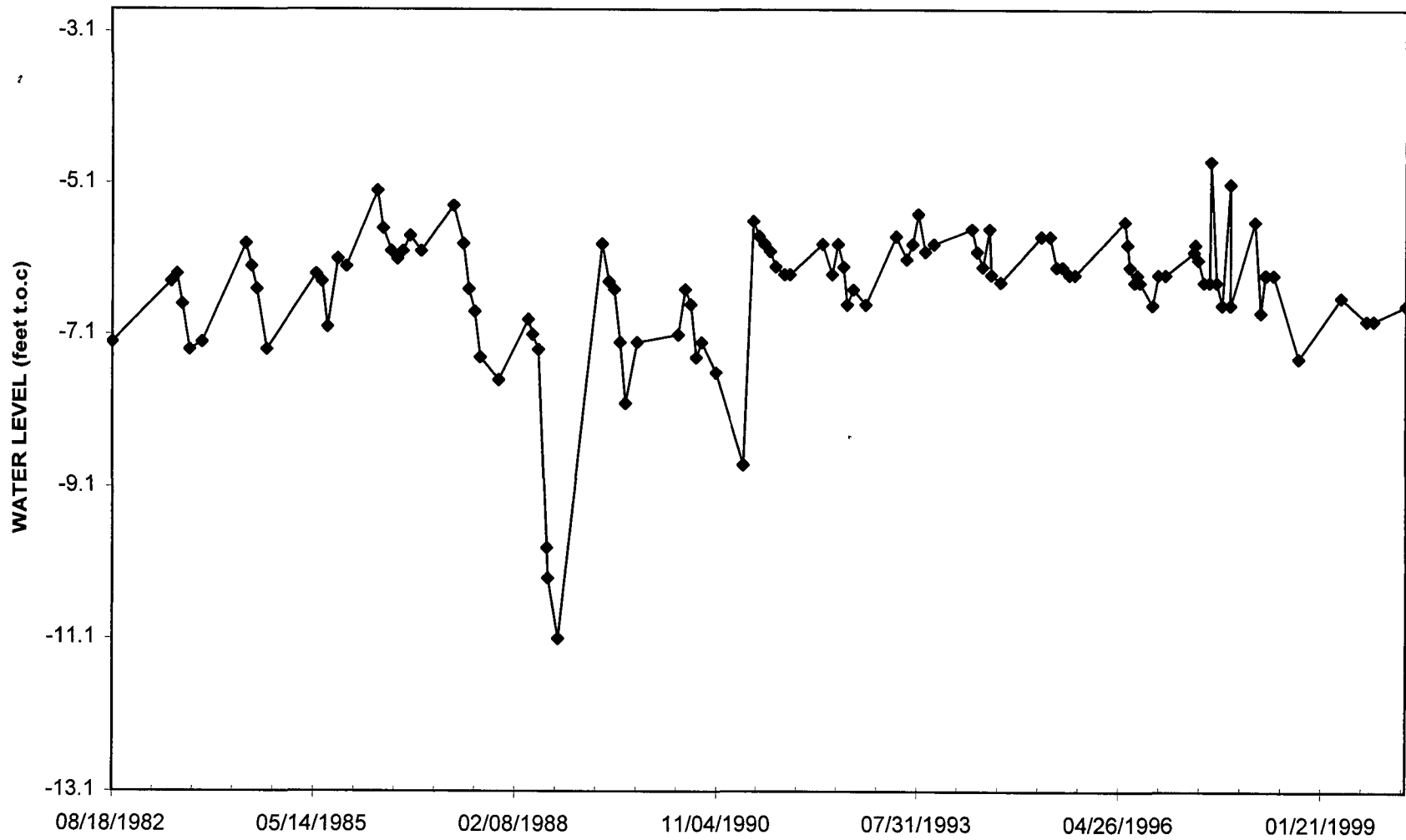

James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

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

Water Rights, 2000, Unpublished Observation Well Data for the Coteau Lakes Aquifer, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

**WATER RIGHTS' OBSERVATION WELL
RB-81C**

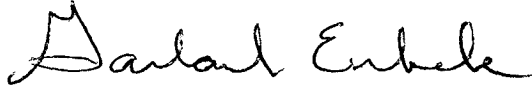


**RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED
WATER RIGHT APPLICATION NO. 6189-3, Bur-Oak Lodge**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Validation of Vested Water Right Application No. 6189-3, Bur-Oak Lodge, c/o Raymond Foster, RR 1, Box 79C, Waubay, SD 57273.

The Chief Engineer is recommending VALIDATION of Application No. 6189-3 for 0.017 cfs (8 gpm) because 1) water has been appropriated as described for irrigation use with a priority date of January 1, 1953, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.

A handwritten signature in cursive script, reading "Garland Erbele".

Garland Erbele, Chief Engineer
April 18, 2000



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

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

April 19, 2000

Bur-Oak Lodge
%Raymond Foster
RR 1, Box 76C
Waubay, SD 57273

Dear Mr. Foster:

Vested Water Right Application No. 6189-3 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 Waubay Clipper printed at Waubay, SD (Ph # (605) 947-4501). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 19, 2000

Waubay Clipper
P.O. Box 47
Waubay, SD 57273-0047

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Vested Water Right Application No. 6189-3 to Appropriate Water to be published twice. Please publish the first notice on May 1, 2000, 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 Bur-Oak Lodge, %Raymond Foster, RR 1, Box 76C, Waubay, SD 57273 (Ph # (605) 947-4445).

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

-----CU T HERE-----

No. VR 6189-3

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

Date _____

We are in receipt of your letter of April 19, 2000, enclosing Notice of Hearing to Appropriate Water by Application No. VR 6189-3 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 May 1, 2000, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION to Validate
Vested Water Right Application No. 6189-3 to Appropriate Water

Notice is given that Bur-Oak Lodge, Inc., c/o Raymond Foster, RR 1 Box 79C, Waubay SD 57273 has filed an application to validate a vested water right claim to appropriate 0.017 cubic feet of water per second (8 gallons per minute) from one well (Coteau Lakes Aquifer) 80 feet deep located in the NE ¼ SE ¼ Section 16-T123N-R53W within the former boundaries of the Sisseton-Wahpeton Indian Reservation in Day County. The water is for commercial use and claims a priority date of January 1, 1953.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 6189-3 because 1) water has been appropriated as described for commercial use with a priority date of January 1, 1953, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 18, 2000.

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

Form 8



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Day) SS

I Linda M. Walters

certify that the attached printed Notice was taken

from the Waubay Clipper

printed and published in Waubay

County of Day and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

May 1, 2000

May 8, 2000

Cost of Printing 94 lines 11 picas
\$49.07

Linda M. Walters
(Signature)

Editor
(Title)

May 16, 2000
(Date Signed)



**Notice of
Application
to Validate
Vested Water Right
Application No. 6189-3**

to Appropriate Water

Notice is given that Bur-Oak Lodge, Inc., c/o Raymond Foster, Rt. 1, Box 79C, Waubay, SD. 57273 has filed an application to validate a vested water right claim to appropriate 0.017 cubic feet of water per second (8 gallons per minute) from one well (Coteau Lakes Aquifer) 80 feet deep located in the

NE1/4SE1/4 Section 16-T123N-R53W within the former boundaries of the Sisseton-Wahpeton Indian Reservation in Day County. The water is for commercial use and claims a priority date of January 1, 1953.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 6189-3 because:

1. water has been appropriated as described for commercial use with a priority date of January 1, 1953;

2. the use has been developed without unlawful impairment of existing rights;

3. it is a beneficial use of water; and

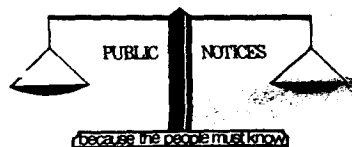
4. it is in the public interest.

In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed,

then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation.

(Continued on Page 9)



(Continued from Page 8)

tion. 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 May 18, 2000.

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

NETTIE H. MYERS,

**SECRETARY
DEPARTMENT OF
ENVIRONMENT AND
NATURAL RESOURCES**
(Publish May 1 & May 8, 2000)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 05 2000

VR 6189-3

Bur-Oak Lodge
%Raymond Foster
RR 1, Box 79C
Waubay, SD 57273

Dear Mr. Foster:

Enclosed are your Validated Vested Water Right and Water License No. 6189-3. 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.

Sincerely,

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

enclosures