

**WATER PERMIT NO. 6388-3**

Name of Applicant: Concrete Materials, div of Sweetman Construction Co.

Address: PO Box 84140, Sioux Falls SD Phone: 605 357-6000

Amount of Water Claimed: 2.22 cfs Total Acres: NA

Source of Water Supply: runoff - ponds

Water to be used for: commercial, industrial County: Minnehaha

Type of Waste Disposal System:

Location: 2 miles northeast of Brandon

PRIORITY Date Received: 2-3-03 Application/License Fee: \$200

Corrected Application Received: Period of Annual Use: January 1 – December 31

Remarks: Water from Split Rock Creek

Diversion Point:

Land to be Irrigated: NA

Depth of Well: NA

Well Driller: : NA

Remarks:

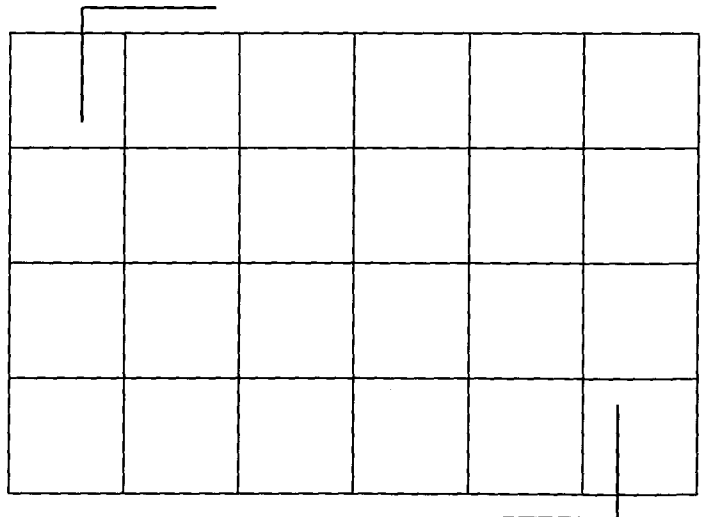
Type of Map: plat

Prepared by: Nathan Barton, PE

Reviewed and the Number Assigned on: 2-4-03

By: **Karen Schlaak**

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



**SOUTH DAKOTA**  
**WATER PERMIT NO. 6388-3**

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Date of first receipt of application February 3, 2003.

The Water Management Board approved Water Permit No. 6388-3 on May 7, 2003 for Concrete Materials, div of Sweetman Construction Company, c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140 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. 6388-3 appropriates 2.22 cubic feet of water per second from Split Rock Creek from a diversion point located in the S ½ NW ¼ of Section 24, T102N, R48W. Water will be used at the sand/aggregate washing facility. The Split Rock Creek diversion will be used to supplement and maintain water in the ponds specified in Permit No. 6387-3. Water will be diverted to the pond located in the SE ¼ NW ¼ Section 23 and circulated to other ponds as needed. Approximately 110 acre feet of water will be withdrawn from Split Rock Creek each year. In addition, water diverted from Split Rock Creek may also be diverted to the Brandon Material's ready mix plant located in the NW ¼ SW ¼ of Section 23, T102N, R48W. Brandon Material's Permit No. 6393-3 authorizes a well to supply water to the ready mix plant.
2. The water appropriated shall be used for the purpose of industrial/commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is February 3, 2003
5. One-fifth of the construction is to be completed on or before November 7, 2005.
6. All construction is to be completed on or before May 7, 2008.
7. Water is to be put to beneficial use on or before May 7, 2012.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. Water Permit No. 6387-3 and 6388-3, combined, authorize 10 storage dams or ponds with a total storage capacity of 65 acre feet of water. The dams or ponds may be filled one or more times per year.
2. Split Rock Creek low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

**WATER MANAGEMENT BOARD**

By: Garland Erbele

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

JUN 13 2003

date



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

RECEIVED

FEB - 3 2003

WATER RIGHTS  
PROGRAM

|                                                                                                                    |                                                                        |
|--------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Mail to:<br>Water Rights Program<br>Joe Foss Building<br>523 E. Capitol<br>Pierre, SD 57501-3181<br>(605) 773-3352 | No. <u>6388-3</u> (office use only)<br>Hydrologic Unit <u>10170203</u> |
|                                                                                                                    | Basin <u>Sioux River</u>                                               |
|                                                                                                                    | Newspaper <u>Argus Leader, Sioux Falls</u>                             |

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

### Check use(s) of water:

|                                                 |                                                |                                          |                                          |
|-------------------------------------------------|------------------------------------------------|------------------------------------------|------------------------------------------|
| <input type="checkbox"/> Municipal              | <input type="checkbox"/> Suburban Housing      | <input type="checkbox"/> Recreational    | <input type="checkbox"/> Institutional   |
| <input type="checkbox"/> Rural Water System     | <input checked="" type="checkbox"/> Commercial | <input type="checkbox"/> Fish & Wildlife | <input type="checkbox"/> Geothermal Heat |
| <input type="checkbox"/> Domestic (over 18 gpm) | <input checked="" type="checkbox"/> Industrial | <input type="checkbox"/> 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.) \_\_\_\_\_

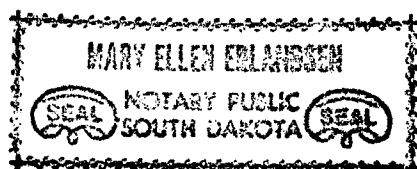
- Name of Applicant Concrete Materials, div of Sweetman Const. Co. Phone (605) 357-6000  
(check one) ☒ Owner ☐ Tenant/lessee  
Mailing Address PO Box 84140, Sioux Falls State SD 57118-4140  
(Street, RR. or Box) (Zip Code)
- Amount of water claimed 2.22 \*CFS or 1000/250<sup>1</sup> \*\*GPM est. 210<sup>2</sup> \*\*\*AF  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Ground water and surface water in sand deposits and drainage basin Split Rock Creek
- Location of point of diversion (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W) An intake on Split Rock Creek  
S 1/2 in SE 1/4 of NW 1/4 of Section 24, Brandon Township (T102N R48W, 5<sup>th</sup> P.M.), with alternate locations  
in the SW 1/4 of NW 1/4. (See map.) County Minnehaha
- County or counties where water will be used Minnehaha County
- Annual period during which water is to be used Year round, primarily in summer (construction season)  
Jan - 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).  
Pond will provide water for sand/aggregate washing plant and related activities, including water for maintenance, equipment cleanup, dust control and general incidental use on site. This will connect with system also to allow water to be drawn directly from ponds on the site (separate application).

STATE OF SOUTH DAKOTA)  
County of Minnehaha ) 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, Jon Mulloy, Aggregate Division Manager of Concrete Materials, 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 Jon Mulloy  
Subscribed and sworn to before me this 30th day of January 2003



Mary Ellen Erlandson  
Notary Public  
My commission expires 2-16-04

## Supplemental Information

(type or print in ink)

### 1. Well Information - Proposed Construction

- a) Drill Hole Diameter \_\_\_\_\_ Depth \_\_\_\_\_
- b) Casing Type \_\_\_\_\_ Diameter \_\_\_\_\_ Thickness \_\_\_\_\_
- c) Screen Type \_\_\_\_\_ Diameter \_\_\_\_\_ Thickness \_\_\_\_\_
- d) Gravel Pack \_\_\_\_\_ Length of Gravel Pack \_\_\_\_\_
- e) Depth to Top of Water Bearing Material Surface \_\_\_\_\_
- f) Depth to Water (ground surface to water level) \_\_\_\_\_
- g) Distance to nearest existing domestic well: \_\_\_\_\_
- On applicants property \_\_\_\_\_ On property owned by others \_\_\_\_\_

### 2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) None<sup>3</sup>
- b) System Capacity (gallons) \_\_\_\_\_ Year Constructed \_\_\_\_\_
- c) Connected to the City of \_\_\_\_\_ Sanitary System \_\_\_\_\_

### 3. Dugout Information

- a) Surface Dimensions See attached information, Table 3 Depth varies
- b) Depth to water (ground surface to water level) varies

### 4. Water Storage Dams

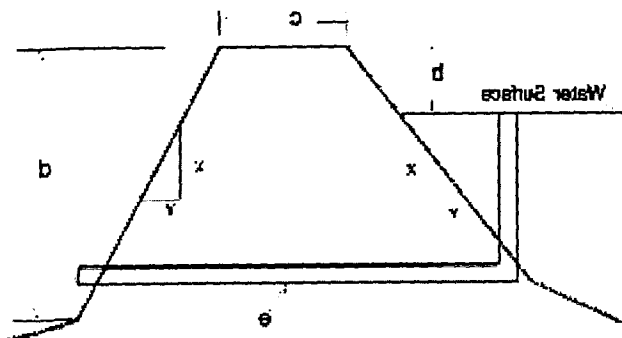
If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

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

Nathan A. Barton, PE, DEE, Wasteline, Inc.

PO Box 3471, Rapid City, SD 57709-3471

- b) Freeboard SEE
- c) Crest Width ATTACHED  
Crest Length INFORMATION
- d) Height (TABLE 3)
- e) Primary Outlet Capacity \_\_\_\_\_  
If pipe, diameter \_\_\_\_\_
- f) Secondary Spillway Capacity \_\_\_\_\_  
Spillway Width \_\_\_\_\_
- g) X & Y Slope \_\_\_\_\_  
Upstream \_\_\_\_\_  
Downstream \_\_\_\_\_
- h) Surface Area of Impoundment \_\_\_\_\_
- i) Storage \_\_\_\_\_ Acre Feet
- j) Drainage Area Above Dam \_\_\_\_\_ Acres



# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date February 4, 20 03

RECEIVED OF Concrete Materials, 1201 West Russell, PO Box 84140, Sioux Falls SD 57118

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

|                                                                                                                        |       |        |
|------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>6328-3</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. <u>6388-3</u>            | 50    | 00     |
| 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 | 200.00 |

No. **000636**

By Darland Erbele  
Chief Engineer gm

**THIS APPLICATION IS SUBMITTED IN TWO PARTS.**

The attached applications are submitted as part of the development of the new sand plant northeast of Corson, in Minnehaha County.

The plant will take sand mined on site and process it (screen and wash) as well as process (screen, crush, and wash) gravel separated from the sand. The sand will then be transported by rail or truck to its ultimate market, primarily in the Sioux Falls area.

In addition to process water, water will be used for ready mix concrete, equipment cleaning, dust control of mining and hauling on site, and other incidental uses. It is planned to recycle as much water as possible, although there will be losses due to evaporation and transport with the washed sand.

Therefore, we are submitting one application for water to be taken from the various ponds, starting with the sand pit ponds; and a second application for water to be taken from Split Rock Creek. While the maximum amount of water is listed in both applications, we would limit our combined withdrawal to that total, NOT to the sum of the two applications. We have included the calculations for the water consumption on an annual basis. The maximum amount of water (210 acre-feet per year) includes evaporation and transport losses as well as other consumptive uses. The attachment details these amounts.

The water use of 210 acre-feet per year includes 102 acre-feet per year of runoff and interflow from the drainage areas controlled by the pit and other ponds, and which if not used directly from the ponds will instead discharge into Split Rock Creek. Therefore, the actual withdrawal from Split Rock Creek, either directly or indirectly, would equal only 108 acre-feet per year. Please note that this are peak water requirements, based on full capacity of the plant; initial use will amount to only about 40% (including evaporation losses), or approximately 84 acre-feet per year, less than the runoff and interflow from the basins owned and controlled by Sweetman.

The various ponds and basins are constructed either by the mining of sand or for the purposes of controlling storm water runoff (and associated silt) and recycling of sand wash water. Therefore, the ponds are both incised and from the original ground surface and constructed with embankments. It is our plan to draw as much water as possible from these ponds, which of course intercept surface water in the basins, and in the case of the sand pit ponds in particular, intercept ground water. However, additional water may be required to replace transport and evaporation losses, and it is proposed that water be taken from Split Rock Creek.

We have investigated the feasibility of using ground water wells, but feel cost and water supply requirements are best met by using the surface water, rather than ground water wells.

A third application for water (either from well or from Split Rock Creek) for the planned ready mix plant (shown on the map) is being submitted separately. It is likely that the two systems may be connected in some way to reduce pumping and piping costs.

Please note that there are a number of impoundments on the property (see map) which are agricultural in nature and which are not part of the mining or this operation, but will remain on site. These are not labeled or listed in the enclosures.

If there are any questions, please contact our permitting and design engineer, Nathan A. Barton, in Rapid City, at 605-348-0244 or 605-390-7255.

Sincerely,

Jon Malloy  
Aggregates Manager, Concrete Materials  
Sweetman Const. Co.

The water system will use precipitation collected from four drainage basins, all on land owned by Sweetman Const. Co.

| Basin                        | Water Basin Area | Mean Annual Runoff/Surface flow           | Mean Annual Interflow                     | Remarks                                               |
|------------------------------|------------------|-------------------------------------------|-------------------------------------------|-------------------------------------------------------|
| West Sec 24                  | 35.04 A          | 4.38 Ac-ft                                | 23.337 Ac-ft                              | Existing (2000-2001) pit                              |
| West Sec 24 (future)         | 71.28 A          | 8.91 Ac-ft                                | 47.472 Ac-ft                              | Future limits of pit                                  |
| NE Sec 23 (current)          | 41.6 A           | 5.20 Ac-ft                                | 0                                         | No excavations                                        |
| NE Sec 23 (future)           | 41.6 A           | 5.20 Ac-ft                                | 27.706 Ac-ft                              | Pit intercepting ground water                         |
| Water/sediment ponds         | 59.04 A          | 7.38 Ac-ft                                | 0                                         | Not into ground water                                 |
| Sand plant area              | 20.99 A          | 2.62 Ac-ft                                | 0                                         | Not into ground water                                 |
|                              |                  | 19.58 Ac-ft initial<br>24.11 Ac-ft future | 23.34 Ac-ft initial<br>75.18 Ac-ft future | TOTAL 42.92 Ac-ft initial<br>TOTAL 99.29 Ac-ft future |
| Needed from Split Rock Creek |                  | 108.82 Ac-ft                              | NA                                        | Above that provided by land via runoff and interflow  |
| Total                        |                  |                                           | 208.11 Ac-ft                              |                                                       |

Annual mean runoff calculated at 1.5 inches/acre, data from National Weather Service for State of South Dakota.

**TABLE 2. ANNUAL WATER CONSUMPTIVE USE (WORST CASE)**

| Use/Facility              | Volume<br>(ac-ft) | Area (SF)<br>(max) | Initial Use<br>(ac-ft) | Maximum<br>Use (ac-ft) | Remarks                        |
|---------------------------|-------------------|--------------------|------------------------|------------------------|--------------------------------|
| Basin/Pond Evaporation    |                   |                    |                        |                        |                                |
| East Pit Pond #1          | 21.7              | 189,307            | 14.49                  | 14.49                  | Existing                       |
| West Pit Pond #2          | 6.82              | 59,436             | 0                      | 4.55                   | To be added in future          |
| Main Sediment Ponds       | 22.55             | 90,900             | 5.92                   | 6.96                   | Future increase planned        |
| Water Pond #1             | 3.03              | 39,218             | 3.00                   | 3.00                   | New construction               |
| Water Pond #2-#3          | 9.5               | 77,200             | 4.98                   | 4.98                   | New construction               |
| Sandpile Sediment Pond    | 1.04              | 17,023             | 1.30                   | 1.30                   | New construction               |
| Ready-mix Sediment Basins | 5.27              | 76,517             |                        | 5.86                   | To be added in future          |
| Basin/Pond Evaporation    |                   |                    | 29.69                  | 41.14                  | Future Planned                 |
| Sand washing              |                   |                    | 34.53                  | 118.40                 | Evaporation from use/recycling |
| Dust control              |                   |                    | 14.40                  | 14.40                  |                                |
| Ship with product         |                   |                    | 9.97                   | 34.17                  |                                |
| TOTAL                     | 69.91             | 549,601            | 88.59                  | 208.11                 |                                |

MAXIMUM: 1,200,000 tons/year, 34.168 acre-feet/year.

[illegible]

## GENERAL DESCRIPTION OF WATER FLOW ON-SITE:

Water from Split Rock Creek and/or Pit Ponds will be pumped to fill all water ponds and sediment ponds at the beginning of the operating season, and then as necessary to make up evaporation losses.

While the sand plant is operating, water will be drawn from Water Pond #3 via turbine pumps and a 20" water pipeline to the plant. Used water and sediment from the plant will flow to the main sediment ponds via a 24" sewer, and after fines are settled out, the water will flow into Water Pond #2 and then into Water Pond #3. Make-up water for sediment ponds (and Ponds #2 and #3) will come initially from Water Pond #1, then from Sandpile Sediment Pond and from the creek or pit ponds.

Once sand is washed in the plant, it will be stockpiled in the Sandpile and allowed to drain. Water draining will be collected in the Sandpile Sediment Pond and then either allowed to flow to Split Rock Creek at the diversion point to recharge the creek, or pumped to Water Pond #2 to reenter the system.

The ready mix plant will draw water and use for making of concrete and equipment washing; washout from equipment (slurries of ready-mixed concrete) will be discharged into ready mix sediment basins to settle, harden, and evaporate. These basins are designed to fully contain 100-year, 24-hour storm events and provide for total retention of water during the year, either to be recycled or discharged after testing to ensure that water quality standards are met for ready mix and use in washing of sand. Therefore, the drainage area of these basins is NOT included in the total recharge available for the site.

### END NOTES FOR APPLICATION

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<sup>1</sup> Peak demand is estimated at 1000 gpm, average when actually pumping water from the well is 250 gpm.

<sup>2</sup> Annual use, as explained above (in General Calculations).

<sup>3</sup> Separate water will be provided for domestic water (drinking, washing, toilets) and separate sanitary system (septic tank, holding tank, or similar) will be used.

<sup>4</sup> Peak demand is estimated at 1000 gpm, average when actually pumping water from the well is 250 gpm.

<sup>5</sup> Annual use, as explained above (in General Calculations).

<sup>6</sup> Separate water will be provided for domestic water (drinking, washing, toilets) and separate sanitary system (septic tank, holding tank, or similar) will be used.

<sup>7</sup> Existing agricultural impoundments and dugouts are not listed in this table.

<sup>8</sup> There is no crest width or length for some ponds, because these are incised ponds: constructed by mining out sand.

<sup>9</sup> The sediment ponds B, C, and D have no separate catchment area, and are included in the catchment area for Pond A.

<sup>10</sup> Actual location may vary somewhat based on mining and other work: portable pumps and surface-laid lines will be used.

## MAP SHOWING LOCATIONS IN SECTIONS 23 & 24, T102N, R48W

Distances to point of diversion for application and planning purposes:<sup>10</sup>

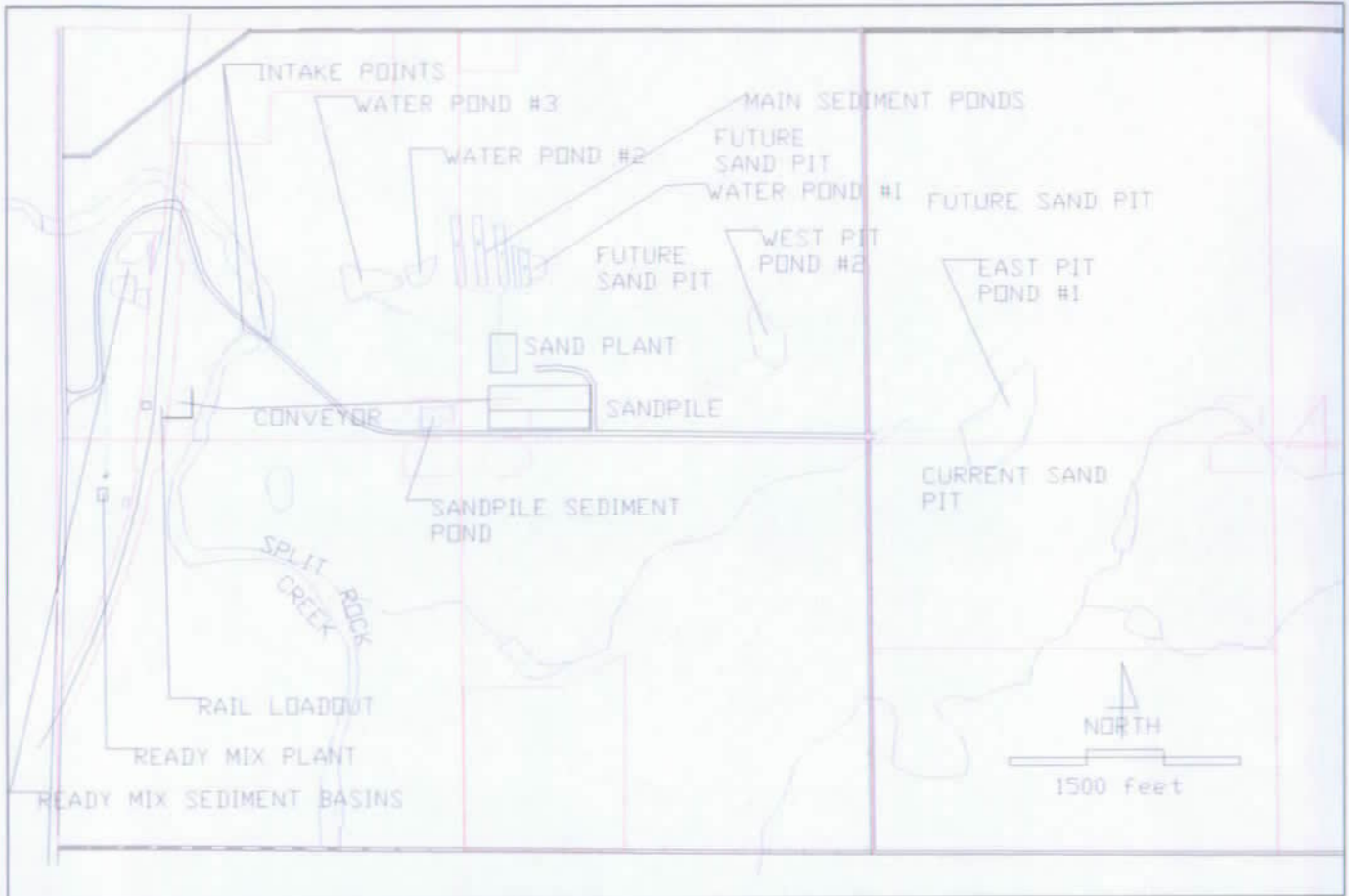
from Split Rock Creek (east): 1408 feet East and 660 feet North of W  $\frac{1}{4}$ -Corner of Section 23.

from Split Rock Creek (west) (alternate point): 1245 feet East and 687 feet North of W  $\frac{1}{4}$ -Corner of Section 23.

from East Pit Pond #1: 653 feet East and 79 feet North of W  $\frac{1}{4}$ -Corner of Section 24.

from West Pit Pond #2: 1923 feet East and 543 feet North of Center of Section 23.

Hatched area shows property belonging to Sweetman Const. Company.



MAP PREPARED BY NATHAN A. BARTON, PE, DEE *Nathan A. Barton*

**WATER PERMIT APPLICATION No. 6388-3**  
**Concrete Materials**  
**Sweetman Construction Co.**  
**PO Box 84140**  
**Sioux Falls, SD 57118-4140**  
**(605)357-6000**

Water Permit Application No. 6388-3 proposes to appropriate 2.22 cubic feet per second (cfs) of Split Creek water for use in sand-gravel processing and ready mix concrete plants to be developed near Corson, Minnehaha County, SD. Water appropriations from Split Rock Creek will be used as required to augment on-site ponded water use covered under a separate application. The water appropriation of the two surface water applications, No. 6387-3 for ponded water and No. 6388-3 for Split Rock Creek water, will be limited to the combined total of 2.22 cfs. The various ponds, sand-gravel washing operation, and ready mix plant are or will be located in portions of Sections 23 and 24, T102N R48W (Attachment 1). Although the sand and gravel processing plant will not operate during the winter months, a year round period of use is requested.

**Review of Proposed Project**

Concrete Materials and Brandon Materials, Divisions of Sweetman Construction Company, plan on respectively developing a sand-gravel processing plant and a concrete ready mix plant near Corson, SD. Other than the agriculture ponds, water from the various ponds located on the property and as required, Split Rock Creek, will be used in the operation of both plants. (Attachment 1) Total volumetric water storage of the ponds that will be used at both plants is approximately 65 acre-feet.

At the start of the sand and gravel processing season, water from the No. 1 East Pit and the No. 2 West Pit ponds and as required, Split Rock Creek, would be used to fill all the water and sediment ponds (Attachment 1). The plan is for water to be pumped from Water Pond No. 3 to the sand-gravel processing plant and after use to the main sediment ponds. From the main sediment ponds, the water would then be pumped back to Water Pond Nos. 2 and 3. Losses would initially be augmented with water from Water Pond No. 1, then from the Sandpile Sediment Pond if required. A site water interflow schematic is presented in Attachment 2. Additional water from the No. 1 and No. 2 Pit ponds, and Split Rock Creek, would be used as necessary during the sand and gravel processing season to make up for evaporation and other consumptive losses such as dust control and equipment cleaning.

An engineering analysis completed for the applicant estimates the peak demand when both plants are operational would average 1000 gallons per minute (gpm) (2.22 cfs) when the well for the Brandon Materials plant (Water Permit Application 6393-3) is in place and pumping at 250 gpm. This engineering analysis also shows the total maximum use to be 208 acre-feet per year, with 109 acre-feet needed from Split Rock Creek and 99 acre-feet from ponded water.

Slurries from the Brandon Materials plant will be discharged into the sediment ponds located near the plant and allowed to evaporate and harden. The ready mix sediment ponds are designed to fully contain 100-year, 24-hour storm events and provide for total retention of water during

the year. After testing to ensure water quality standards are met, this water will either be recycled or discharged.

**Water Source and Existing Water Rights**

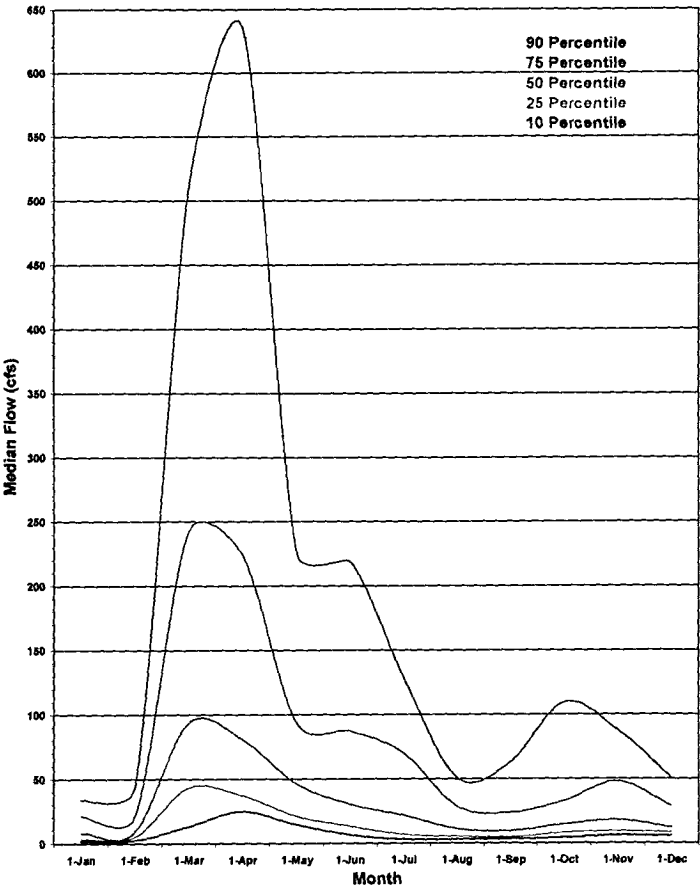
Since the water and pit ponds used to store water for the proposed project inhibit runoff into Split Rock Creek and the use of water from both sources is inter-related, both are addressed in this application.

The engineering analysis completed for the applicant shows the average annual interflow and surface runoff to be 99 acre-feet for the area of the ponds to be used in the sand-gravel processing.

From 1965 to 1989 the U.S. Geological Survey (USGS) maintained a stream flow gaging station on Split Rock Creek at Corson, SD about one-half mile downstream of the proposed diversion points from the stream. Historical data from this gage indicates there is a 50-percent probability monthly median flows could range from 10 to 94-cfs or greater for any given year. There is a 75-percent probability monthly median flows at this same location could be in the 5 to 44-cfs range or greater for any given year. (Hydrograph 1 & Table 1)

**Hydrograph 1**

Split Rock Creek  
Corson, SD  
1965-1989



**Table 1. Split Rock Creek Monthly Median Flow (cfs)**

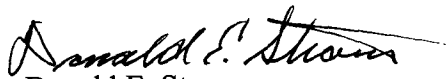
| Percentile | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 10         | 2   | 3   | 13  | 25  | 15  | 7   | 3   | 3   | 3   | 4   | 6   | 6   |
| 25         | 4   | 6   | 44  | 38  | 22  | 14  | 7   | 6   | 5   | 9   | 10  | 9   |
| 50         | 8   | 10  | 94  | 81  | 47  | 31  | 22  | 12  | 10  | 15  | 18  | 13  |
| 75         | 22  | 22  | 243 | 225 | 94  | 88  | 70  | 29  | 24  | 33  | 48  | 29  |
| 90         | 35  | 45  | 509 | 635 | 226 | 220 | 129 | 51  | 64  | 110 | 89  | 51  |

There are three (3) irrigation Water Rights with total diversions of 1.3 cfs of water from Split Rock Creek between the applicant's proposed diversion points and the stream's confluence with the Big Sioux River.

The engineering analysis completed for the applicant and the USGS historical data indicates there is water available for the proposed project except for extended periods of diminished precipitation. The applicant's diversion of 2.22 cfs of water should not adversely impact present Water Rights or domestic water use along this reach of Split Rock Creek under normal and 25-percent below normal conditions.

#### **Conclusions**

1. Water Permit Application No. 6388-3 proposes to appropriate 2.22 cubic feet per second (cfs) of Split Rock Creek water for use in sand-gravel processing and ready mix concrete plants.
2. An engineering analysis completed for the proposed project and historical USGS stream flow data indicate there is non-appropriated water available for the project except for extended periods of diminished precipitation.
3. This project should not adversely impact present Water Rights or domestic water use along the reach of Split Rock Creek from the project's diversion points to the Big Sioux River confluence under normal and 25-percent below normal conditions.



Donald E. Stroup  
Natural Resources Project Engineer  
DENR Water Rights Program

Reviewed by:



Lynn Beck

Natural Resources Engineering Specialist  
DENR Water Rights Program

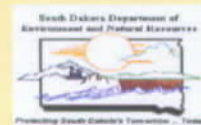
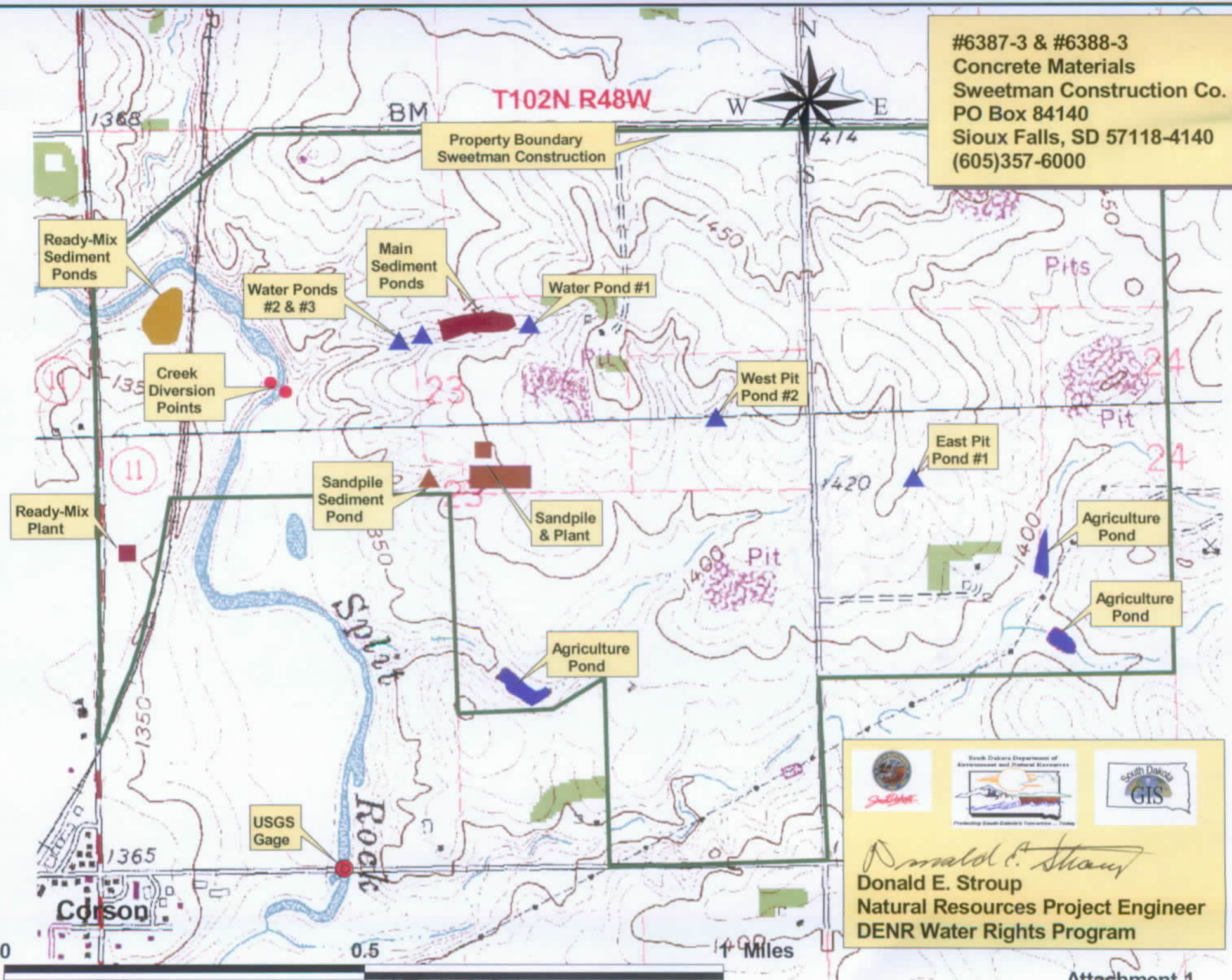
**References**

South Dakota Department of Environment and Natural Resources, Water Rights Program Records

USGS National NWISWeb Water Information System, Historical Stream Flow for South Dakota

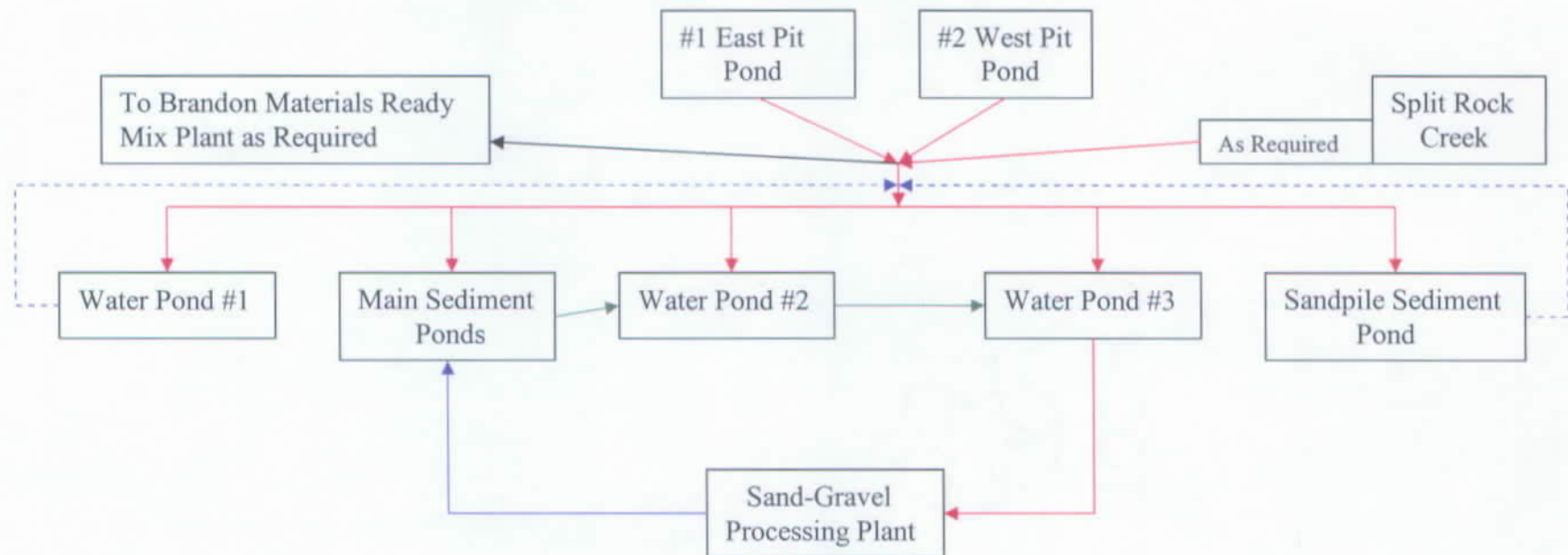
Engineering Analysis Submitted with Application

#6387-3 & #6388-3  
Concrete Materials  
Sweetman Construction Co.  
PO Box 84140  
Sioux Falls, SD 57118-4140  
(605)357-6000



*Donald E. Stroup*  
Donald E. Stroup  
Natural Resources Project Engineer  
DENR Water Rights Program

## Site Water Interflow Schematic



At Start of Processing Season Water from #1 & #2 Pit Ponds and as Required, Split Rock Creek, used to Fill All Water & Sediment Ponds. Water Pumped from Water Pond #3 to Processing Plant.

After Processing Plant Use, Water Pumped to Main Sediment Pond then to Water Ponds #2 & #3.

Augment Water will come from Water Pond #1 and Sandpile Sediment Pond, then from Primary Sources as Required.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 6388-3, Concrete Materials**

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. 6388-3, Concrete Materials, c/o Jon Mulloy, Aggregate Division Manager, PO Box 84140, Sioux Falls SD 57118-4140.

The Chief Engineer is recommending APPROVAL of Application No. 6388-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Water Permit No. 6387-3 and 6388-3, combined, authorize 10 storage dams or ponds with a total storage capacity of 65 acre feet of water. The dams or ponds may be filled one or more times per year.
2. Split Rock Creek low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

*Garland Erbele*

Garland Erbele, Chief Engineer  
March 31, 2003

## Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

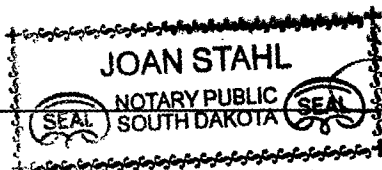
Vicki Kiel being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Wednesday, the 9 day of April 2003 ,  
Wednesday, the 16 day of April 2003 ,  
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2003 ,  
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2003 ,  
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2003 ,  
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2003 ,  
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2003 ,  
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2003 ,

and that \$184.84 was charged for publishing the same including A \$5.00 affidavit fee.

*Vicki Kiel*

Subscribed and sworn to before 4/16/2003 .



*Joan Stahl*  
Notary Public, South Dakota

My Commission expires June 30th, 2005

### State Notices

#### NOTICE OF APPLICATION NOS. 6387-3 and 6388-3 to Appropriate Water

Notice is given Concrete Materials, c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140 has filed two applications for water permits to provide water for a sand/aggregate washing plant.

Water Permit Application No. 6387-3 proposes to appropriate 2.22 cubic feet of water per second (cfs) from sand pit ponds located in the N 1/2 Section 23 and the SW 1/4 NW 1/4 and NW 1/4 SW 1/4 of Section 24, all in T102N, R48W. The ponds receive natural runoff from the drainage area. The storage capacity of the ten various ponds used throughout the wash facility is approximately .65 acre feet of water. Water will be exchanged among the ponds as necessary to meet the industrial/commercial needs at the plant. Water appropriation from Split Rock Creek covered under Application No. 6388-3 (see below) will be used to augment the ponds.

Water Permit Application No. 6388-3 proposes to appropriate 2.22 cfs from Split Rock Creek from a diversion point located in the S 1/2 NW 1/4 of Section 24, T102N, R48W. Water will be used at the sand/aggregate washing facility. The Split Rock Creek diversion will be used to supplement and maintain water in the ponds specified in Application No. 6387-3. Water will be diverted to the pond located in the SE 1/4 NW 1/4 Section 23 and circulated to other ponds as needed. Approximately 110 acre feet of water will be withdrawn from Split Rock Creek each year. In addition, water diverted from Split Rock Creek may also be diverted to the Brandon Material's ready mix plant located in the NW 1/4 SW 1/4 of Section 23, T102N, R48W. Brandon Material's has applied for a water permit (No. 6393-3) for a well to supply water to the ready mix plant.

Water from both facilities will be recycled and reused to the extent possible. The annual consumptive use of water (transport and evaporation losses) at the facility from the ponds and Split Rock Creek totals 240 acre feet of water annually.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6387-3 and 6388-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting these applications 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 recommendations. The Chief Engineer's address is Water Rights Program, Foss Building, 523 E Capitol, Pierre

SD 57501 (605 773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 28, 2003. The petition may be informal, but must include a statement describing the petitioner's interest in the applications; the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel. If legal counsel is obtained.

The Water Management Board will consider these applications at 10:30 A.M. May 7, 2003 in the Matthew Training Center, Foss Building, 523 E Capitol, Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications, based on the facts presented at the public hearing. The May 7, 2003 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 applications. The request for an automatic delay must be filed by April 28, 2003.

Any hearing may be an adversarial 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 April 28, 2003, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing, by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are 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. Steven M. Pimer, Secretary, Department of Environment and Natural Resources.

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WATER RIGHTS  
PROG



DEPARTMENT of ENVIRONMENT  
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[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 1, 2003

Argus Leader  
PO Box 5034  
Sioux Falls SD 57117-5034

ATTENTION: Legal Public Notice

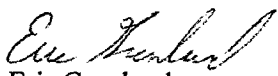
Enclosed is a Notice of Hearing on Application Nos. 6387-3 and 6388-3 to Appropriate Water to be published twice. Please publish the first notice on April 9, 2003 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Concrete Materials, %Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140 (Ph # 605-357-6000).

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

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

Sincerely,

  
Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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

No. 6387-3 & 6388-3

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

Date \_\_\_\_\_

We are in receipt of your letter of April 1, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 6387-3 & 6388-3 which was first published in our issue of \_\_\_\_\_. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Newspaper



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

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

April 1, 2003

Concrete Materials  
% Jon Mulloy  
PO Box 84140  
Sioux Falls SD 57118-4140

Dear Mr. Mulloy:

Water Permit Application Nos. 6387-3 & 6388-3 for commercial/industrial use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Argus Leader printed at Sioux Falls, SD (Ph # 605-331-2200). You will need to contact the newspaper and authorize publication of this notice. 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. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish first Notice on April 9, 2003 with the second publication 7 days later. The applicant is responsible for payment.

---

## NOTICE OF APPLICATION NOS. 6387-3 and 6388-3 to Appropriate Water

Notice is given Concrete Materials, c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140 has filed two applications for water permits to provide water for a sand/aggregate washing plant.

Water Permit Application No. 6387-3 proposes to appropriate 2.22 cubic feet of water per second (cfs) from sand pit ponds located in the N  $\frac{1}{2}$  Section 23 and the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  and NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 24, all in T102N, R48W. The ponds receive natural runoff from the drainage area. The storage capacity of the ten various ponds used throughout the wash facility is approximately 65 acre feet of water. Water will be exchanged among the ponds as necessary to meet the industrial/commercial needs at that plant. Water appropriation from Split Rock Creek covered under Application No. 6388-3 (see below) will be used to augment the ponds.

Water Permit Application No. 6388-3 proposes to appropriate 2.22 cfs from Split Rock Creek from a diversion point located in the S  $\frac{1}{2}$  NW  $\frac{1}{4}$  of Section 24, T102N, R48W. Water will be used at the sand/aggregate washing facility. The Split Rock Creek diversion will be used to supplement and maintain water in the ponds specified in Application No. 6387-3. Water will be diverted to the pond located in the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  Section 23 and circulated to other ponds as needed. Approximately 110 acre feet of water will be withdrawn from Split Rock Creek each year. In addition, water diverted from Split Rock Creek may also be diverted to the Brandon Material's ready mix plant located in the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 23, T102N, R48W. Brandon Material's has applied for a water permit (No. 6393-3) for a well to supply water to the ready mix plant.

Water throughout the facility will be recycled and reused to the extent possible. The annual consumptive use of water (transport and evaporation losses) at the facility from the ponds and Split Rock Creek totals 210 acre feet of water annually.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6387-3 and 6388-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting these applications 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 recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 28, 2003. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider these applications at 10:30 A.M. May 7, 2003 in the Matthew Training Center, Foss Building, 523 E Capitol, Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The May 7, 2003 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 applications. The request for an automatic delay must be filed by April 28, 2003.

Any hearing may be an adversarial 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 April 28, 2003, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are 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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 1, 2003

Leslie Petersen  
Dept. of Game, Fish and Parks  
523 E. Capitol Ave.  
Pierre SD 57501

Dear Leslie:

Enclosed is a copy of the recommendation, report and notice of hearing for applications filed by Concrete Materials. The notice is to be published in the Sioux Falls Argus Leader on April 9 and 16, 2003. The notice schedules a May 7<sup>th</sup> hearing before the Water Management Board and petitions to intervene must be submitted by April 28, 2003.

This information is being sent to you as the one of the applications involves a diversion from Split Rock Creek.

Sincerely,

Eric Gronlund  
Water Rights Program, DENR  
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 1, 2003

Nathan Barton  
Wasteline, Inc.  
PO Box 3471  
Rapid City SD 57709-3471

Dear Mr. Barton:

Enclosed is a copy of the recommendation, report and notice of hearing for water right permit applications filed by Concrete Materials and Brandon Materials. The notices are to be published in the Sioux Falls Argus Leader on April 9 and 16, 2003. The notice for Concrete Material's two applications schedule a May 7<sup>th</sup> hearing before the Water Management Board. The Brandon Material notice is to be published in a manner that if no one petitions to intervene, it will be approved based on the Chief Engineer's recommendation.

This information is being sent to you as the engineering consultant on these applications.

Sincerely,

Eric Gronlund  
Water Rights Program, DENR  
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

**JUN 13 2003**

Concrete Materials  
Div of Sweetman Construction Company  
% Jon Mulloy  
PO Box 84140  
Sioux Falls SD 57118-4140

Dear Mr. Mulloy:

Enclosed are Water Permit Nos. 6387-3 and 6388-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

# CONCRETE MATERIALS

A DIVISION OF SWEETMAN CONST. CO.

1201 WEST RUSSELL  
POST OFFICE BOX 84140  
SIOUX FALLS, SOUTH DAKOTA 57118-4140

April 20, 2004

Mr. Garland Erbele, Chief Engineer  
Water Rights Program  
PMB 2020  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501-3182

RECEIVED

APR 23 2004

WATER RIGHTS  
PROGRAM

RE: Water Rights Permits 6387-3 and 6388-3

Dear Mr. Erbele:

Enclosed are two Notices of Completion of Works and Application of Water to Beneficial Use forms for our water permits in Section 24, T102N, R48W, near Corson, SD. Please contact me if you have any further questions.

Sincerely,



Jon Mulloy  
Aggregate Division Manager

Enclosures: 2

cc: file, Barton

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

Date 4-20-2004

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

**RECEIVED**

**APR 23 2004**

**WATER RIGHTS  
PROGRAM**

FROM: Concrete Materials Co. Div.  
Sweetman Const. Co.

(name)

PO Box 84140

(address)

Sioux Falls SD 57118

(city, state, zip)

(605) 357-6000

(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 6388-3 states that the water use system is to be constructed by

5-7-2008

(date)

, and water is to be put to beneficial use by 5-7-2012

(date)

The water use system was completed on April 1, 2004

(date)

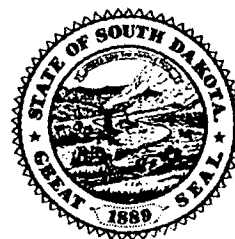
Applying the water to beneficial use was completed on April 20, 2004

(date)

You may schedule an investigation so that the water license may be issued.

Concrete Materials Div.  
Sweetman Const. Co.

Jon Mulloy  
(signature)



6388-3

RECEIVED  
FEB 09 2006  
WATER RIGHTS  
PROGRAM



A DIVISION OF SWEETMAN CONST. CO.

1201 WEST RUSSELL  
POST OFFICE BOX 84140  
SIOUX FALLS, SOUTH DAKOTA 57118-4140

February 7, 2006

Mr. Mark Rath  
Water Rights Program  
DENR  
523 East Capitol  
Pierre, SD 57501-3181

RE: Water Rights Permit No. 6388-3

Dear Mr. Rath:

We hereby request a change in the legal description of the diversion point for Water Rights Permit No. 6388-3. We request that the legal description be changed to the S  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 23 T102N R48W from S  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 24 T102N R48W.

The original application we submitted contained a typographical error in the legal description which this modification will correct. I have included a topographic map that indicates the diversion point. Please call me at 605-336-5771 if you have any questions.

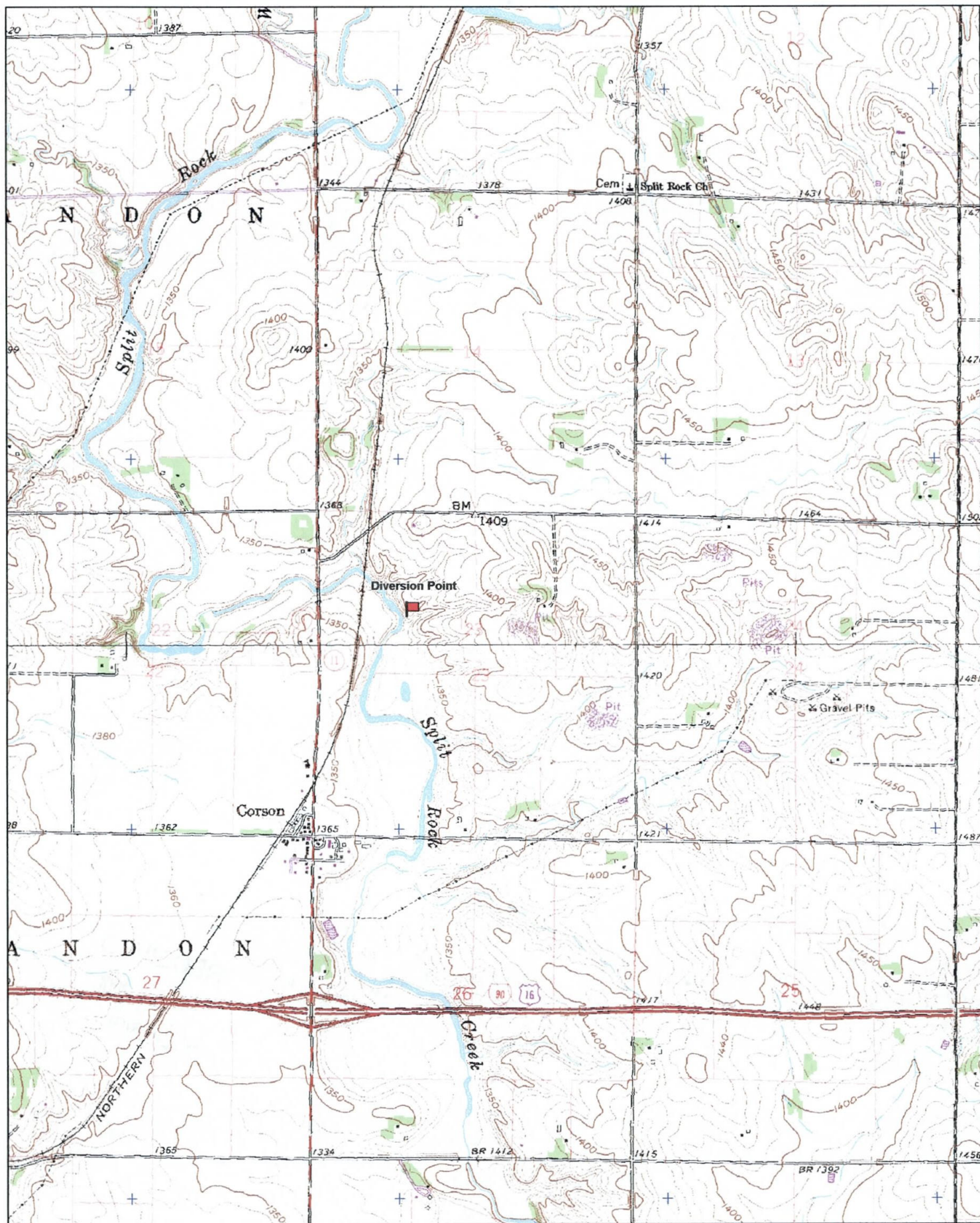
Sincerely,

A handwritten signature in black ink, appearing to read "Jon Mulloy".

Jon Mulloy  
Aggregate Division Manager

Enclosures:

cc:



**Water Rights Program - DENR**

**File Documentation**

**File No.** 6388-~~7~~3

**County:** Minehaha

**Name of Person:** Jon Mulloy

**Address:** PO Box 84140

**Date:** Feb 10, 2006    **Telephone:** 605-336-5771

**RE:** *Incorrect Diversion Point Location*

**Comments:**

*I called Jon Mulloy with Concrete Materials concerning his letter requesting a correction of the diversion point location for No. 6388-3. I told him I reviewed the file and found that we had made the correction of the legal location from Split Rock on the application but that it did not follow through to the advertisement nor on the permit that was issued. I told him we would have to readvertise the legal notice to make the correction and that we would cover the cost since it was our error.*



Mark D Rath

Natural Resources Engineering Specialist

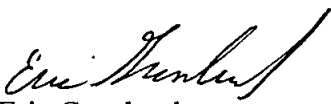
REPORT ON WATER PERMIT NO. 6388-3  
CONCRETE MATERIAL  
February 14, 2006

Water Permit No. 6388-3 appropriates 2.22 cubic feet of water per second from Split Rock Creek for use at a sand/aggregate washing facility. Readvertisement of this permit is necessary to correct the published legal description of the diversion point from the creek. The legal description was incorrectly advertised in the Argus Leader on April 9 and 16, 2003 as being located in S  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 24-T102N-R48W. The correct legal description of the Split Rock Creek diversion point is the S  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 23-T102N-R48W. This readvertisement does not authorize any increase in the diversion rate.

Conclusions

1. This is a readvertisement of Notice of Application No. 6388-3 to appropriate water.
2. This readvertisement is necessary to correct the legal description of the diversion point location. The correct legal description was identified on the map and permit application.
3. The correct legal description of the Split Rock Creek diversion point is the S  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 23-T102N-R48W.
4. The remainder of the original notice published April 9 and 16, 2003 was correct.

  
Karen Schaak  
Environmental Scientist

  
Eric Gronlund  
Water Resources Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

**RECOMMENDATION OF CHIEF ENGINEER FOR READVERTISED  
WATER PERMIT APPLICATION NO. 6388-3, Concrete Materials**

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 readvertised Water Permit Application No. 6388-3, Concrete Materials, Division of Sweetman Construction Company, c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140.

The Chief Engineer is recommending APPROVAL of Application No. 6388-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest subject to the following qualifications.

1. Water Permit Nos. 6387-3 and 6388-3, combined; authorize 10 storage dams or ponds with a total storage capacity of 65 acre feet of water. The dams or ponds may be filled one or more times per year.
2. Split Rock Creek low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

Garland Erbele, Chief Engineer  
February 14, 2006



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

February 15, 2006

Argus Leader  
PO Box 5034  
Sioux Falls SD 57117-5034

Dear Sir:

Enclosed is a notice of Application No. 6388-3 to be published twice. Please publish the first notice on February 22, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at 605 773-3352.

Bill the cost of publication to the Water Rights Program, 523 E Capitol, Pierre SD 57501-3182.

**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.** Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

  
Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

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

Date \_\_\_\_\_

TO: Water Rights Program  
Joe Foss Building  
523 E Capitol  
Pierre SD 57501-3181

We are in receipt of your letter of Febraury 15, 2006 enclosing the Readvertisement of Notice of Application No. 6388-3 which was first published in our issue of \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Newspaper



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

Jon Mulloy  
Concrete Material  
PO Box 84110  
Sioux Falls SD 57118-4140

Dear Mr. Mulloy:

Enclosed is the Readvertisement of Notice of Application No. 6388-3. As you are aware, the original notice for this water permit was published with an error in the legal description of the Split Rock Creek diversion point. The notice is being readvertised to identify the correct location of the diversion point as being located in the S ½ NW ¼ Section 23-T102N-R48W.

The notice has been sent to the publisher of the Argus Leader for publication. For your information, also enclosed are the recommendation of the Chief Engineer and a report on the readvertisement. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Water Rights Program. Please contact us if you have any questions.

Sincerely,

  
Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

Instruction to Newspaper - Publish first Notice on February 22, 2006 with the second publication 7 days later.

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## READVERTISEMENT OF NOTICE OF APPLICATION NO. 6388-3 to Appropriate Water

Notice is given of readvertisement of Water Permit No. 6388-3 held by Concrete Materials, division of Sweetman Construction Company, c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140. Water Permit No. 6388-3 appropriates 2.22 cubic feet of water per second from Split Rock Creek for use at a sand/aggregate washing facility. Readvertisement of this permit is necessary to correct the published legal description of the diversion point from the creek. The legal description was incorrectly advertised on April 9 and 16, 2003 as being located in S  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 24-T102N-R48W. The correct legal description of the Split Rock Creek diversion point is the S  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 23-T102N-R48W. This readvertisement does not authorize any increase in the diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of readvertised Application No. 6388-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 13, 2006.

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

**AFFIDAVIT OF PUBLICATION-**

Customer Number: **078340**

Invoice Number: **915372**

Water Rights Program

**State Notices**

READVERTISEMENT OF  
NOTICE OF APPLICATION  
NO. 6388-3

to Appropriate Water  
Notice is given of  
readvertisement of Water Per-  
mit No. 6388-3 held by Con-  
crete Materials, division of  
Sweetman Construction Com-  
pany, c/o Jon Mulloy, PO Box  
84140, Sioux Falls SD 57118-  
4140. Water Permit No. 6388-  
3 appropriates 2.22 cubic feet  
of water per second from Split  
Rock Creek for use at a  
sand/aggregate washing facili-  
ty. Readvertisement of this  
permit is necessary to correct  
the published legal descrip-  
tion of the diversion point from  
the creek. The legal descrip-  
tion was incorrectly advertised  
on April 9 and 16, 2003 as be-  
ing located in S. NW Sec-  
tion 24-T102N-R48W. The  
correct legal description of the  
Split Rock Creek diversion  
point is the S. NW Section  
23-T102N-R48W. This  
readvertisement does not au-  
thorize any increase in the di-  
version rate.

Pursuant to SDCL 46-2A-2,  
the Chief Engineer recom-  
mends APPROVAL of  
readvertised Application No.  
6388-3 because 1) unappro-  
priated water is available, 2)  
existing rights will not be un-  
lawfully impaired, 3) it is a  
beneficial use of water, and 4)  
it is in the public interest. In  
accordance with SDCL 46-2A-  
23, the Chief Engineer will act  
on the application, as recom-  
mended, unless a petition is  
filed opposing the application  
or the applicant files a petition  
contesting the Chief Engi-  
neer's recommendation. If a  
petition opposing the applica-  
tion or contesting the recom-  
mendation 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 op-  
posing or supporting this ap-  
plication 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 recommen-  
dation. The Chief Engineer's  
address is "Water Rights Pro-  
gram, Foss Building, 523 E  
Capitol, Pierre SD 57501 (605  
773-3352)" and the appli-  
cant's mailing address is giv-  
en above. A petition filed by  
either an interested person or  
the applicant must be filed by  
March 13, 2006.

The petition may be informal,  
but must include a statement  
describing the petitioner's in-  
terest in the application, the  
petitioner's reasons for oppos-  
ing or supporting the applica-  
tion, and the signature and  
mailing address of the peti-  
tioner or the petitioner's legal  
counsel, if legal counsel is ob-  
tained. Contact Eric Gronlund  
at the above Water Rights  
Program address to request  
copies of information pertain-  
ing to this application. Steven  
M. Pirner, Secretary, Depart-  
ment of Environment and Nat-  
ural Resources.

S 1/2 NW 1/4  
S 1/2 NW 1/4

**Argus Leader**  
**AFFIDAVIT OF PUBLICATION**

**STATE OF SOUTH DAKOTA**

**COUNTY OF MINNEHAHA } ss**

Betty Jones being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Wednesday, the 22 day of February 2006 ,

Wednesday, the 1 day of March 2006 ,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,

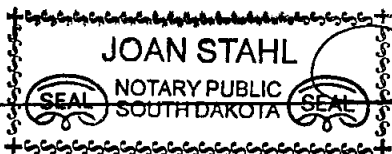
\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,

\_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,

and that \$113.11 was charged for publishing the same

*Betty Jones*  
Subscribed and sworn to before me 3/1/2006 .



*Joan Stahl*  
Notary Public, South Dakota

My Commission expires June 30, 2011

RECEIVED  
MAR - 6 2006  
WATER RIGHTS  
PROGRAM

Feb. 22  
915372 & Mar. 1, 2006

**AFFIDAVIT OF PUBLICATION-**

Customer Number: **078340**  
 Invoice Number: **919210**

**Water Rights Program**

**Argus Leader**  
**AFFIDAVIT OF PUBLICATION**

**STATE OF SOUTH DAKOTA**

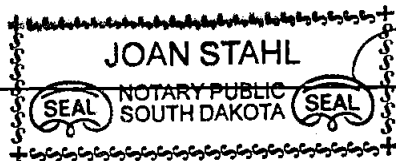
**COUNTY OF MINNEHAHA } ss**

Betty Jones being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Wednesday, the 8 day of March 2006 ,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,  
 \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 2006 ,

and that \$0.00 was charged for publishing the same

*Betty Jones*  
 Subscribed and sworn to before me 3/8/2006



*Joan Stahl*  
 Notary Public, South Dakota

My Commission expires June 30, 2011

**State Notices**

READVERTISEMENT OF  
 NOTICE OF APPLICATION  
 NO. 6388-3

to Appropriate Water  
 Notice is given of readvertisement of Water Permit No. 6388-3 held by Concrete Materials, division of Sweetman Construction Company, c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140. Water Permit No. 6388-3 appropriates 2.22 cubic feet of water per second from Split Rock Creek for use at a sand/aggregate washing facility. Readvertisement of this permit is necessary to correct the published legal description of the diversion point from the creek. The legal description was incorrectly advertised on April 9 and 16, 2003 as being located in S 1/2 NW 1/4 Section 24-T102N-R48W. The correct legal description of the Split Rock Creek diversion point is the S 1/2 NW 1/4 Section 23-T102N-R48W. This readvertisement does not authorize any increase in the diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of readvised Application No. 6388-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 13, 2006.

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. Steven M. Pimer, Secretary, Department of Environment and Natural Resources.  
 919210 Mar. 8, 2006

**RECEIVED**  
**MAR 13 2006**  
**WATER RIGHTS**  
**PROGRAM**

PAYMENT REQUEST FORM

PAYEE: Argus Leader  
PO Box 5034  
Sioux Falls, SD 57117-5034

FROM: Water Rights Program  
523 E. Capitol  
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Readvertisement of Notice of Application No. 6388-3

AMOUNT: \$113.11

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

*Darrel Ehl* 3/13/04

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

**REISSUED SOUTH DAKOTA  
WATER PERMIT NO. 6388-3**

Date of first receipt of application February 3, 2003.

The Water Management Board approved Water Permit No. 6388-3 on May 7, 2003 for Concrete Materials, div of Sweetman Construction Company, c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

Water Permit No. 6388-3 was readvertised on March 1 and 8, 2006 to correct an error in the published legal description of the diversion point from Split Rock Creek.

1. Water Permit No. 6388-3 appropriates 2.22 cubic feet of water per second from Split Rock Creek from a diversion point located in the S ½ NW ¼ of Section 23, T102N, R48W. Water will be used at the sand/aggregate washing facility. The Split Rock Creek diversion will be used to supplement and maintain water in the ponds specified in Permit No. 6387-3. Water will be diverted to the pond located in the SE ¼ NW ¼ Section 23 and circulated to other ponds as needed. Approximately 110 acre feet of water will be withdrawn from Split Rock Creek each year. In addition, water diverted from Split Rock Creek may also be diverted to the Brandon Material's ready mix plant located in the NW ¼ SW ¼ of Section 23, T102N, R48W. Brandon Material's Permit No. 6393-3 authorizes a well to supply water to the ready mix plant.
2. The water appropriated shall be used for the purpose of industrial/commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is February 3, 2003.
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. Water Permit No. 6387-3 and 6388-3, combined, authorize 10 storage dams or ponds with a total storage capacity of 65 acre feet of water. The dams or ponds may be filled one or more times per year.
2. Split Rock Creek low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

**WATER MANAGEMENT BOARD**

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

APR 07 2006

date





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

APR 07 2006

Jon Mulloy  
Concrete Material  
PO Box 84110  
Sioux Falls SD 57118-4140

Dear Mr. Mulloy:

Enclosed is Reissued Water Permit No. 6388-3. The water permit was readvertised on March 1 and 8, 2006 to correct an error in the published legal description of the diversion point from Split Rock Creek. The Split Rock Creek diversion point is located in the S ½ NW ¼ Section 23-T102N-R48W.

If you have any questions, please contact this office.

Sincerely,

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

enclosure

**Permit No. 6388-3**  
**Big Sioux River - Water District**

**Report of Examination of Works and/or Application of Water to Beneficial Use**

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, June 28, 2006, made a thorough examination of the water use system constructed by Concrete Materials, Div of Sweetman Construction Company, % Jon Mulloy of PO Box 84140, Sioux Falls SD 57118-4140 holder of Permit No. 6388-3, bearing the priority of February 3, 2003 authorizing the diversion of 2.22 cu. ft. per second, 110 ac.ft. per year, and/or the storage of 65 acre-feet of the waters of Split Rock Creek for industrial/commercial purposes, in Minnehaha County.

Inspection contact & relationship to permit holder, if applicable: **Jon Mulloy – Division Manager**  
**Keith Jones – Plant Manager**

**A. Works used to divert the water:**

|                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Pump: at Split Rock Creek</b></p> <ol style="list-style-type: none"> <li>1. Make <u>Berkeley</u></li> <li>2. Model <u>B6JPBM</u></li> <li>3. Size <u>6"</u></li> <li>4. Capacity <u>1,000</u> GPM</li> </ol> <p><b>Motor:</b></p> <ol style="list-style-type: none"> <li>1. Make <u>Century</u></li> <li>2. Model No. <u>SC 405 UY-FCA</u></li> <li>3. Horsepower rating <u>75</u> hp</li> </ol> | <p><b>3 - Pumps at Pond #3: run two at a time</b></p> <ol style="list-style-type: none"> <li>1. Make <u>A-Line</u></li> <li>2. Model</li> <li>3. Size <u>12"</u></li> <li>4. Capacity <u>3,500</u> GPM each</li> </ol> <p><b>Motor:</b></p> <ol style="list-style-type: none"> <li>1. Make <u>GE</u></li> <li>2. Model No.</li> <li>3. Horsepower rating <u>300</u> hp</li> </ol> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Pond Information:**

- 1) Combined Approx. storage 65 ac-ft

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

- |                             |                              |                            |
|-----------------------------|------------------------------|----------------------------|
| 1) Type <u>aluminum</u>     | 2) Size <u>8</u> inches      | 3) Length <u>525</u> feet  |
| 1) Type <u>pvc</u>          | 2) Size <u>20</u> inches     | 3) Length <u>1060</u> feet |
| 1) Type <u>pvc</u>          | 2) Size <u>24</u> inches     | 3) Length <u>560</u> feet  |
| 1) Type <u>open channel</u> | 2) Size <u>      </u> inches | 3) Length <u>450</u> feet  |

**C. Works used to apply water to beneficial use:**

**Sand and gravel washing operation**

**D. Compliance with Permit Requirements:**

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

The system is in good condition with the point(s) of diversion located as follows: 1408' E and 1895' S at the creek and 1990' E and 1740' S at pond #3 all from the NW corner Section 23 -T102N-R48W (43.625764/-96.56633; 43.626229/-96.564179). The works are capable of diverting and conveying to the place of use 2.22 cu. ft. per second of water and/or storing 65 acre-feet of water which is to be used for commercial, industrial use. Water has been put to beneficial use to the maximum extent as follows:

**Water is pumped from Split Rock Creek to fill ponds and for evaporative loses and then in turn is pumped to the sand washing operation. Excess water is then re-circulated by gravity feed back to ponds. The sand and gravel washing operation is located in the N½ of Section 23 and the SW¼ NW¼ and NW¼ SW¼ Section 24, all in T102N-R48W.**

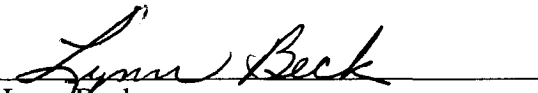
The license should be issued for 2.22 cfs from Split Rock Creek (approx. 110 ac. ft. annually). Diversion from pond #3 to the Sand Washing Plant and other ponds is at a greater rate, 15.56 cfs, in order to accommodate the sand/gravel washing process.

All structures, wells and lands on map yes

Comments or other permit(s) associated with the project:

**Diversion from pond #3 to the wash plant is at a greater rate than diversion from Split Rock Creek in order to accommodate sand and gravel washing operations.**

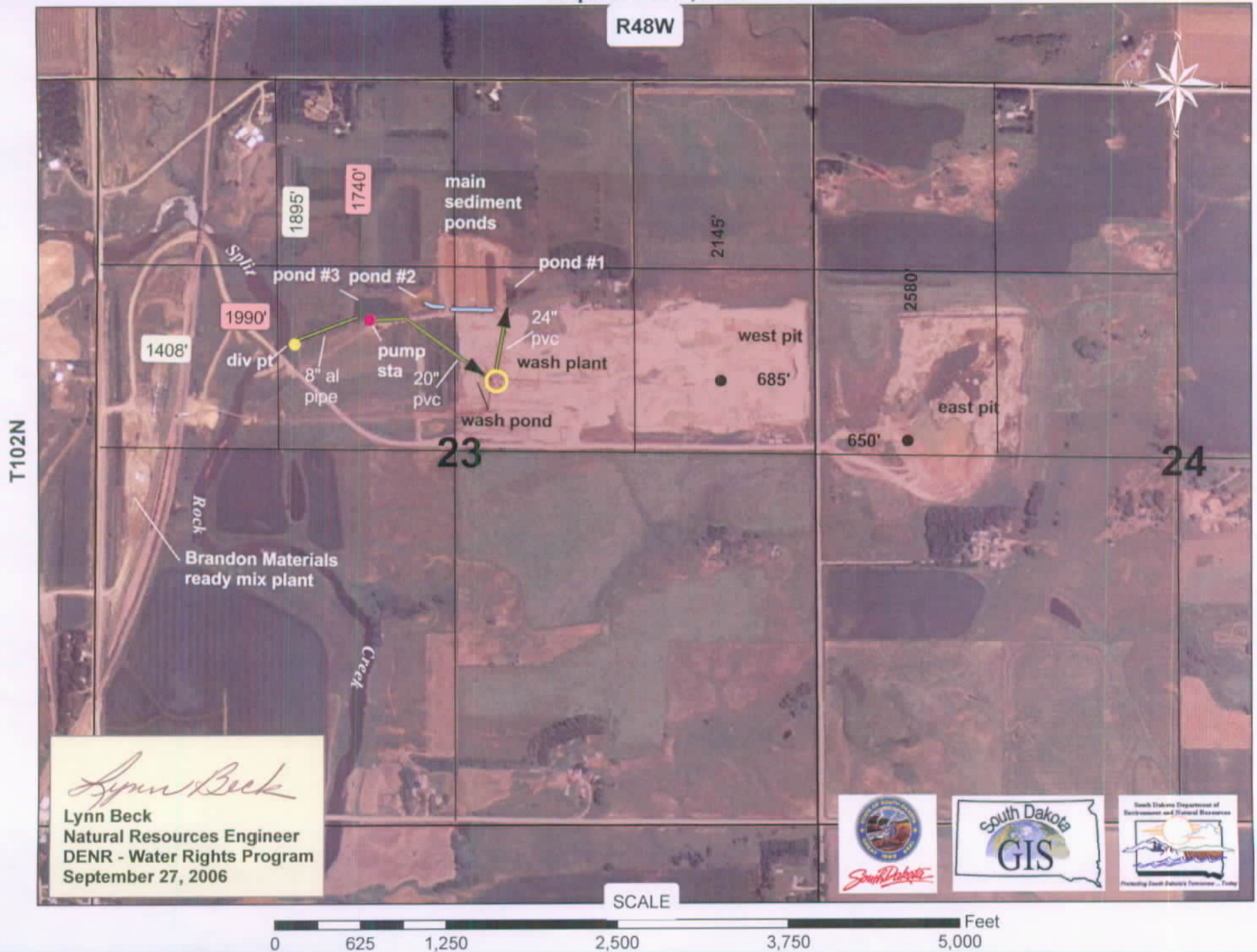
**6387-3 is for diversion from the sand/gravel pit ponds and storage in various ponds related to the Sand Washing Plant.**

  
Lynn Beck

Natural Resources Engineer Specialist  
DENR, Water Rights Program

Date report completed: September 28, 2006

WATER RIGHT NO. 6387-3 & 6388-3  
Concrete Materials, Div. of Sweetman Construction Co.  
September 27, 2006



# STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 6388-3

(1) Concrete Materials, Div of Sweetman Construction Co., c/o Jon Mulloy, PO Box 84140, Sioux Falls SD 57118-4140 made Application No. 6388-3, February 3, 2003 for a water permit to divert 2.22 cubic feet of water per second (cfs) [110 acre-feet annually] from Split Rock Creek, Minnehaha County, South Dakota for industrial and commercial purposes. Permit No. 6388-3, with a priority date of February 3, 2003 was approved May 7, 2003 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 7, 2008 and for the application to beneficial use of water on or before May 7, 2012.

The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on April 23, 2004. The *Notice* stated the diversion system was completed on April 1, 2004 and the water placed to beneficial use on April 20, 2004.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 6388-3 is issued a license, bearing a priority date of February 3, 2003 to appropriate 2.22 cfs [110 acre-feet annually] from Split Rock Creek for industrial and commercial purposes at a sand and gravel washing operation.

The diversion points are located: Split Rock Creek – 1,408 feet east and 1,895 feet south and Pond #3 – 1,990 feet east and 1,740 feet south; all from the northwest corner of Section 23-T102N-R48W (both in SE ¼ NW ¼).

*Water Right No. 6388-3 authorizes diversions from Split Rock Creek for this sand and gravel operation. Water Right No. 6387-3 serves as a supplemental water supply, if needed. The sand and gravel operation is located in the N ½ Section 23 and the SW ¼ NW ¼ and NW ¼ SW ¼ Section 24; all in T102N-R48W.*

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6388-3 including the following now applicable qualification:

- Water Permit Nos. 6387-3 and 6388-3, combined, authorize 10 storage dams or ponds with a total storage capacity of 65 acre-feet of water. The dams or ponds may be filled one or more times per year.
- Split Rock Creek low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.



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

APR 30 2007

date





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

APR 30 2007

6387-3  
6388-3

CONCRETE MATERIALS  
DIV OF SWEETMAN CONST  
JON MULLOY  
PO BOX 84140  
SIOUX FALLS SD 57118

Dear Mr. Mulloy:

Enclosed is Water License Nos. 6387-3 and 6388-3. This is the final water right document completing your process of obtaining a Water Right.

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,

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

enclosures.



1500 N. Sweetman Place  
Sioux Falls, SD 57107

RECEIVED

APR 04 2022

WATER RIGHTS  
PROGRAM

6388-3  
RECEIVED

APR 04 2022

DRINKING WATER PROGRAM

March 29, 2022

South Dakota Dept of Agriculture and Natural Resources  
Joe Foss Building  
ATTN: Water Rights, Eric Gronlund  
523 E Capitol  
Pierre, SD 57501

Dear Mr. Gronlund,

As of April 1, 2022, Concrete Materials Company will be doing business as Knife River. This name change reflects the purchase of Sweetman Const. Co. by Knife River Corporation in October 2018. The purpose of this letter is to inform you that the following permits issued by SDDANR will be subject to this change.

| Facility                  | Permit Type                                               | Permit# |
|---------------------------|-----------------------------------------------------------|---------|
| Rice Street Operations    | Water Diversion System and Beneficial Use of Water Permit | 1618-3  |
| Rice Street Operations    | Water Diversion System and Beneficial Use of Water Permit | 5133-3  |
| Brandon/Corson Operations | Water Diversion System and Beneficial Use of Water Permit | 6388-3  |
| Brandon/Corson Operations | Water Diversion System and Beneficial Use of Water Permit | 6387-3  |
| Yankton Ready Mix         | Water Diversion System and Beneficial Use of Water Permit | 6170-3  |
| Yankton Gravel-Vellek Pit | Water Diversion System and Beneficial Use of Water Permit | 8283-3  |

If there is further information or notification required, please let me know. If you should have any questions, please contact me at (712)279-7570.

Sincerely,

Brooke Muhlack  
Environmental Manager

# STATE OF SOUTH DAKOTA

## Doing Business As (DBA) Fictitious Business Name Registration

Knife River  
ID: UB223693

The address where the main office of the above listed business is to be maintained:

Physical Address:  
**1500 N. SWEETMAN PLACE  
SIOUX FALLS, SD 57107**

Mailing Address:  
**ATTN: LEGAL DEPARTMENT  
1200 WEST CENTURY AVENUE  
BISMARCK, ND 58503**

The owner of the above listed business is:

| Name                | Address                                                                                                                 |
|---------------------|-------------------------------------------------------------------------------------------------------------------------|
| SWEETMAN CONST. CO. | Physical: 1500 N. SWEETMAN PLACE, SIOUX FALLS, SD 57107, USA<br>Mailing: 1150 West Century Ave, Bismarck, ND 58503, USA |

The DBA/Fictitious Business Name registered above has a filing date of March 29, 2022, and is effective for a term of 5 years and will expire on March 29, 2027.

*Steve Barnett*  
SD Secretary of State



6388-3



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

April 7, 2022

Brooke Muhlack, Env Mgr  
Knife River Corporation  
1500 N Sweetman Pl  
Sioux Falls SD 57107

RE: Water Permit or Right Nos. 8479-3, 8458-3, 8412-3, 6388-3, 6387-3, 6170-3, 5133-3,  
4556-3 and 1618-3

Dear Ms. Muhlack:

In follow-up to your letter and our phone conversation, enclosed are nine partially completed "Notice of Transfer of Ownership" forms for all permits and licenses listed under Concrete Materials.

Please review to ensure accuracy and complete as needed. Upon completion, please sign and return the forms to our office with a required filing fee of \$50 each (total of \$450). The check or money order for the fee can be made payable to the Water Rights Program.

If I can answer any questions for you or if I have missed anything on the forms, please let me know.

Sincerely,

Genny McMath  
Water Rights Program  
605 773-3352  
Genny.mcmath@state.sd.us

enclosures

PAID

MAY 12 2022

Ck# 42009089

Rec't#

NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED

MAY 12 2022

WATER RIGHTS  
PROGRAM

No. 6388-3

Date:

I/We request that Water Right No. 6388-3

formerly owned by: Concrete Materials

be transferred to: (name & address) Knife River

1500 N Sweetman Pl

Sioux Falls, SD 57107

Telephone No. 605 336 5716

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

Sand and gravel operation - N 1/2 Section 23 and SW 1/4 NW 1/4, NW 1/4 SW Section 24, T102N, R48W

Diversion from Split Rock Creek

I/We understand that the validity of Water Right No. 6388-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

**A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Knife River, the new owner, certify that the above information is true and correct.



(Signed by new owner)

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

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

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date May 12, 2022

RECEIVED OF Knife River 1500 N Sweetman Pl., Sioux Falls SD 57107

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

|                                                                                                                |                |
|----------------------------------------------------------------------------------------------------------------|----------------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | \$ _____       |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   | \$ _____       |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         | \$ _____       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____            | \$ _____       |
| Fee for Filing Transfer Form <u>6388-3</u>                                                                     | <u>\$50.00</u> |
| Fee for _____                                                                                                  | \$ _____       |
| Fee for Issuing New Well Driller's License No. _____                                                           | \$ _____       |
| Fee for Renewal of Well Driller's License No. _____                                                            | \$ _____       |
| Fee for Issuing Well Pump Installer's License No. _____                                                        | \$ _____       |
| Fee for Renewal of Well Pump Installer's License No. _____                                                     | \$ _____       |
| (Any Other Work Provided by Law)                                                                               |                |
| TOTAL                                                                                                          | <u>\$50.00</u> |

By Eric Gronlund  
Chief Engineer  
*EG*

6388-3



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

May 17, 2022

Brooke Muhlack  
Knife River  
1500 N Sweetman Pl  
Sioux Falls SD 57107

RE: 8479-3, 8458-3, 8412-3, 6388-3, 6387-3, 6170-3, 5133-3, 4556-3, 1618-3

Dear Ms. Muhlack:

Thank you for following up on the ownership changes for the above listed water permits and water rights.

The ownership changes have been completed. Nos. 8479-3, 8458-3, 8412-3, 6388-3, 6387-3, 6170-3, 5133-3, 4556-3, 1618-3 formerly held by Concrete Materials are now listed under Knife River.

Enclosed are receipts for the filing fees paid. If I can answer any questions for you, please let me know.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

April 23, 2026

Dear Split Rock Creek Water Right Holder:

I am writing to the water right holders and operators who use water from Split Rock Creek regarding below normal streamflow for this time of year.

South Dakota law gives the highest priority to domestic use, including livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critically low levels, water use may begin to interfere with domestic use and senior water rights. If water levels become critically low, the Department may be forced to issue shutoff orders to protect domestic use, including livestock watering, and those water rights that are most senior.

**This not a shutoff order.** We are only speculating that shutoff orders may become necessary, if severe drought conditions persist. This letter is intended to give you advanced notice shutoff orders may be necessary this year. If shutoff orders are issued, you will receive another letter from the Department. In the meantime, water right holders can help by closely monitoring water usage to minimize use when possible and avoid any waste of water.

If you are interested, the US Geological Survey has an Internet site showing current flows at stream gauging stations across the state, including a station on Split Rock Creek near Corson, SD. To view the latest real-time stream flow, go to:

<https://waterdata.usgs.gov/state/south-dakota/>

Thank you for your cooperation. If you have any questions, please contact either Whitney Kilts, Adam Mathiowetz, or Amanda Dewell, with the Water Rights Program, at (605) 773-3352.

Sincerely,

Adam Mathiowetz, Acting Chief Engineer  
Water Rights Program