

WATER PERMIT NO. 6778-3

Name of Applicant: City of Lennox

Address: PO Box 228, Lennox SD 57039

Phone: 605647-2286

Amount of Water Claimed: 129 acre-feet

Total Acres:

Source of Water Supply: groundwater

Water to be used for: municipal use

County: Lincoln

Type of Waste Disposal System:

Location: 4 miles southeast of Lennox

PRIORITY Date Received: 11-20-06

Application/License Fee: \$275

Corrected Application Received: 12-4-06

Period of Annual Use: Jan 1- Dec 31

Remarks: Withdrawing from Future Use Permit No. 5101-3

Diversion Points: NE 1/4 NE 1/4 Sec 24, W 1/2 SE 1/4

Sec 12 and NE 1/4 SE 1/4 Sec 14; all in T98N-R51W

Land to be Irrigated: NA

5	4	3	2	1	
8	9	10	11	12	
17	16	15	14	13	
20	21	22	23	24	

Depth of Well: 520 to 607 feet deep

Well Driller: LTP Enterprises, Inc.

Remarks:

Type of Map: aerial

Prepared by: Camden A Hofer, PE

Reviewed and the Number Assigned on: 12-4-06

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6778-3</u>	(office use only) Hydrologic Unit <u>16170102</u>
	Basin <u>Vermillion River</u>	
	Newspaper <u>Lennox Independent</u>	

RECEIVED
NOV 20 2006
WATER RIGHTS
PROGRAM

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

Check use(s) of water:

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

Type of Application: (check one)

- | | | |
|---|--|---|
| ☐ New | ☐ Vested Right (Use predates Mar 2, 1955) | ☐ Future Use Reservation |
| ☒ Place to Beneficial Use Water Reserved by Future Use Permit No. <u>5101-3</u> | | |
| ☐ 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 City of Lennox Phone (605) 647-2286
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address PO Box 228 Lennox State SD 57039
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.58 *CFS or 710 **GPM 129.00 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply 3 new wells
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County _____
Well "D" - NE 1/4, NE 1/4 Section 24, T98N, R51W; Well "E" - W 1/2, SE 1/4 Section 12, T98N, R51W;
Well "F" - NE 1/4, SE 1/4 Section 14, T98N, R51W.
- County or counties where water will be used Lincoln
- Annual period during which water is to be used 365
- 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)

3 wells are added to the City of Lennox's well field. The wells will work in conjunction with 3 existing wells such that the flow produced by all 6 wells will not exceed the total allotment for all 6 wells.

STATE OF SOUTH DAKOTA)

County of Lincoln) 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, Orville Wiebers, Mayor, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Orville Wiebers

Subscribed and sworn to before me this 13 day of Nov. 20 06

Judy J. Finnell
Notary Public signature

My Commission Expires July 5, 2010

**SOUTH DAKOTA
WATER PERMIT NO. 6778-3**

Date of first receipt of application November 20, 2006.

The Water Management Board approved Water Permit No. 6778-3 on July 11, 2007 for City of Lennox, PO Box 228, Lennox SD 57039 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. 6778-3 authorizes construction and placing to beneficial use the remaining 129 acre-feet of water authorized by Future Use Permit No. 5101-3. This permit appropriates 1.58 cubic feet of water per second from three wells to be completed into the Dakota Formation (approximately 520 to 607 feet deep) and located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 12 and NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14; all in T98N-R51W.
2. The water appropriated shall be used for the purpose of municipal 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 August 27, 1986 (established by Permit No. 5101-3).
5. One-fifth of the construction is to be completed on or before January 11, 2010.
6. All construction is to be completed on or before July 11, 2012.
7. Water is to be put to beneficial use on or before July 11, 2016.
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. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 6778-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Water Right Nos. 5326-3 and 5753-3 and Permit No. 6778-3, combined, authorize a maximum annual withdrawal of 517 acre feet of water annually from the Dakota Formation.
4. The city of Lennox shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota Formation.

WATER MANAGEMENT BOARD

By: Garland Erbele

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

OCT 19 2007

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 18" Depth 520-607'
- b) Casing Type Sch. 40 Steel Diameter 12" Thickness 0.365"
- c) Screen Type Stainless St Diameter 6" Thickness 0.3125"
- d) Gravel Pack 45-55 Length of Gravel Pack 80-160'
- e) Depth to Top of Water Bearing Material 378-402'
- f) Depth to Water (ground surface to water level) 150'-static, 330'dynamic
- g) Distance to nearest existing domestic well:
- On applicants property 3700'(Well B to E) On property owned by others 800'(Well E)

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

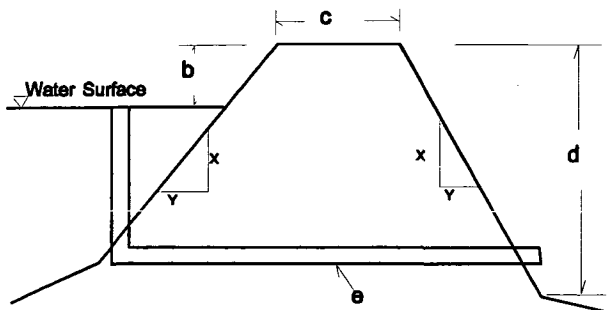
3. Dugout Information

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

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:



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

Lennox, SD

SD HWY 44

281 St

282 St / County Highway 128

468th Avenue

469th Avenue

470th Avenue

Interstate 29



New Well Sites

Existing Wells

Boundary of Water Rights

Permit No. 5101-3

Permit No. 5326-3

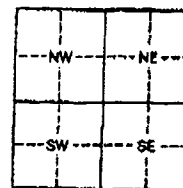
Add to 5101-3





FARGO, N.D.
HUTCHINSON, MN.

↑
N



Sec. 24 T 98 R 56

DRILLERS LOG

Drilled for City of Leavenworth By Fargo Office

Location of Test Hole NE Corner of NE 1/4 80' S of fence + 80' W of fence
(Fossum well site) Well "D" Test Hole No. 4 Well No. _____

Size of test hole 16 3/4 Date started 10-19-05 Date completed 10-25-05 Total Hours _____

FORMATIONS DRILLED

TYPE OF FORMATION	COLOR OF FORMATION	STARTED AT WHAT DEPTH	ENDED AT WHAT DEPTH	THICKNESS OF FORMATION
Top Soil	Black	GL.	3'	3'
Clay	Tan	3	17'	14'
Clay	Brown	17	31'	14'
Sandy Clay	Blue	31	190	159'
Shale	Grey	190	345	155
Sand stone	Grey	345	353	8
Shale	Grey	353	355	2
Sand stone	Grey	355	360	5
Sandy Shale	Grey	360	362	2
Sandy Shale w/ lenses of sandstone	Grey	362	378	16
Sand stone	Grey	378	386	8
Sandy Shale w/ lenses of sandstone	Grey	386	394	8
Sand stone (drilled good to water) (F)	Grey	394	458	64
Sand stone w/ small lenses of shale	Grey	458	464	6
Sand stone (lost water) (drilled good)	Grey	464	504	40
Rock		504	505.5	1.5'
Sandy shale	Grey	505.5	506	.5
Rock (Hard)		506	513	7'
Sandy Shale (very sandy) lost little water	Grey	513	521	8'
Hard Sandy Shale	Grey	521	540	19'
Quartzite		540	559	19'

Signed Chris Ba

Driller

Fossum North

11296-04
 Shop drawing

Owner City of Lennox

Location Well "D"

Date Started _____

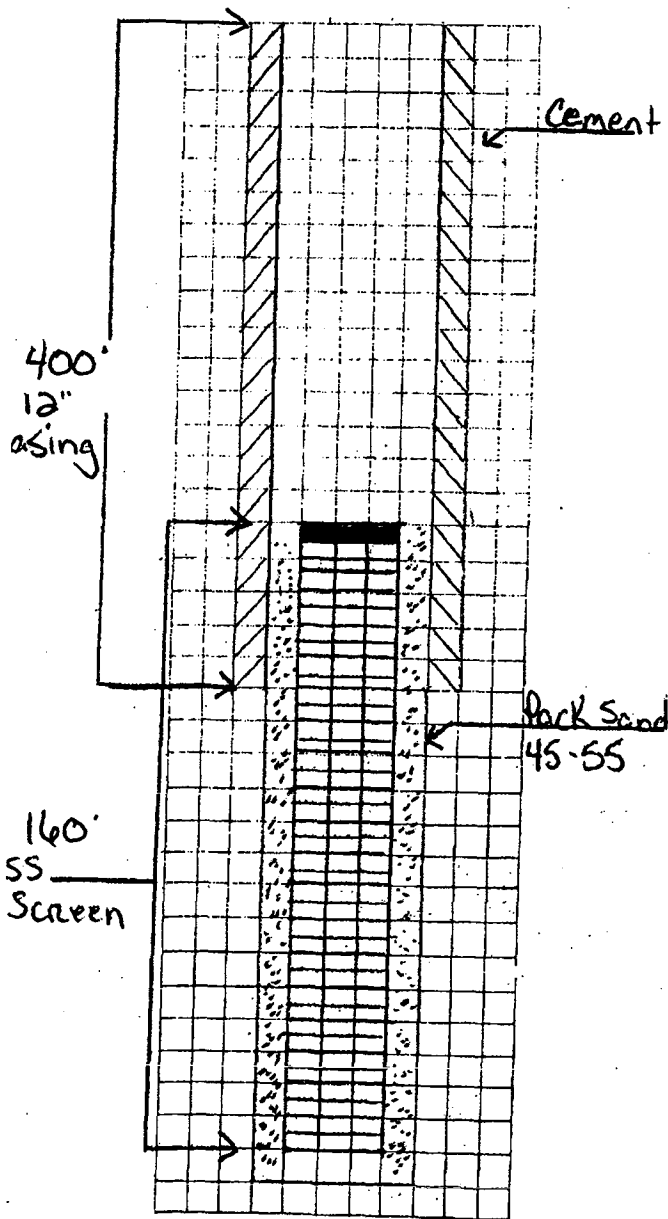
Date Completed _____

Type of Drilling Equipment _____

Static Water Level _____

Pumping Rate _____

Drawdown _____



Total Depth 520'

Total Casing 400'

Size of Casing or Casings 12"

Weight of Casing or Casings _____

Hole Size _____

O.D. of Casing 12.75"

Cement (No. of Bags) _____

Type of Screen SS

Length of Screen 120' O.D. 8.625" I.D. 8"

Slot opening of Screen .20

Length of Leader 40' O.D. 8.625" I.D. 8"

Type of Leader SS

Packer _____

Underream Size _____

Filter Pack Size 45-55

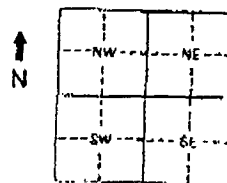
Cubic Ft. of Filter Pack _____

Development Method air + water

Remarks:



FARGO, N.D.
HUTCHINSON, MN.



Sec. _____ T _____ R _____

DRILLERS LOG

Drilled for CITY OF LEMMON SD By _____ Office _____

Location of Test Hole _____

Size of test hole 6 3/4 Date started 12-27-06 Date completed 1-4-07 Test Hole No. _____ Well No. 3
Total Hours _____

FORMATIONS DRILLED

TYPE OF FORMATION	COLOR OF FORMATION	STARTED AT WHAT DEPTH	ENDED AT WHAT DEPTH	THICKNESS OF FORMATION
Sand Stone drilled fair took little H ₂ O	GRAY	416	418	2 *
Sand Stone drilled better took little H ₂ O	GRAY	418	421	3 *
Sand Stone drilled fair took no H ₂ O	GRAY	421	424	3 *
Shale Hard	GRAY	424	425	1
Shale with Sand Stone lenses GRAY	DARK GRAY	425	438	13
Shale with Dark white chips Black chips GRAY	DARK GRAY	441	477	36
Shale with Sand Stone lenses GRAY	DARK GRAY	477	485	8 13
Shale Very hard GRAY	DARK GRAY	485	486	1
Sand Stone drilled good took some H ₂ O	GRAY	486	491	5 *
Sand Stone drilled good took some H ₂ O	GRAY	491	499	8 *
Shale Very hard GRAY	DARK GRAY	499	504	5
Sand Stone	GRAY	504	507	3 *
Shale with Sand lenses	GRAY	507	509	2
Rock ledge	DARK WHITE	509	510	1
Shale GRAY	DARK GRAY	510	513	3
Sand Stone	GRAY	513	516	3 *
Shale with Sand lenses	GRAY	516	520	4
Sand Stone	GRAY	520	523	3 *
Shale GRAY	DARK GRAY	523	531	8
Rock ledge hard	Reddish	531	532	1
Shale GRAY	DARK GRAY	532	535	3
Sand Stone	GRAY	535	539	4 *
Shale - decomposed GRAY	White like green	539	558	19

Signed Dave Walsh Driller

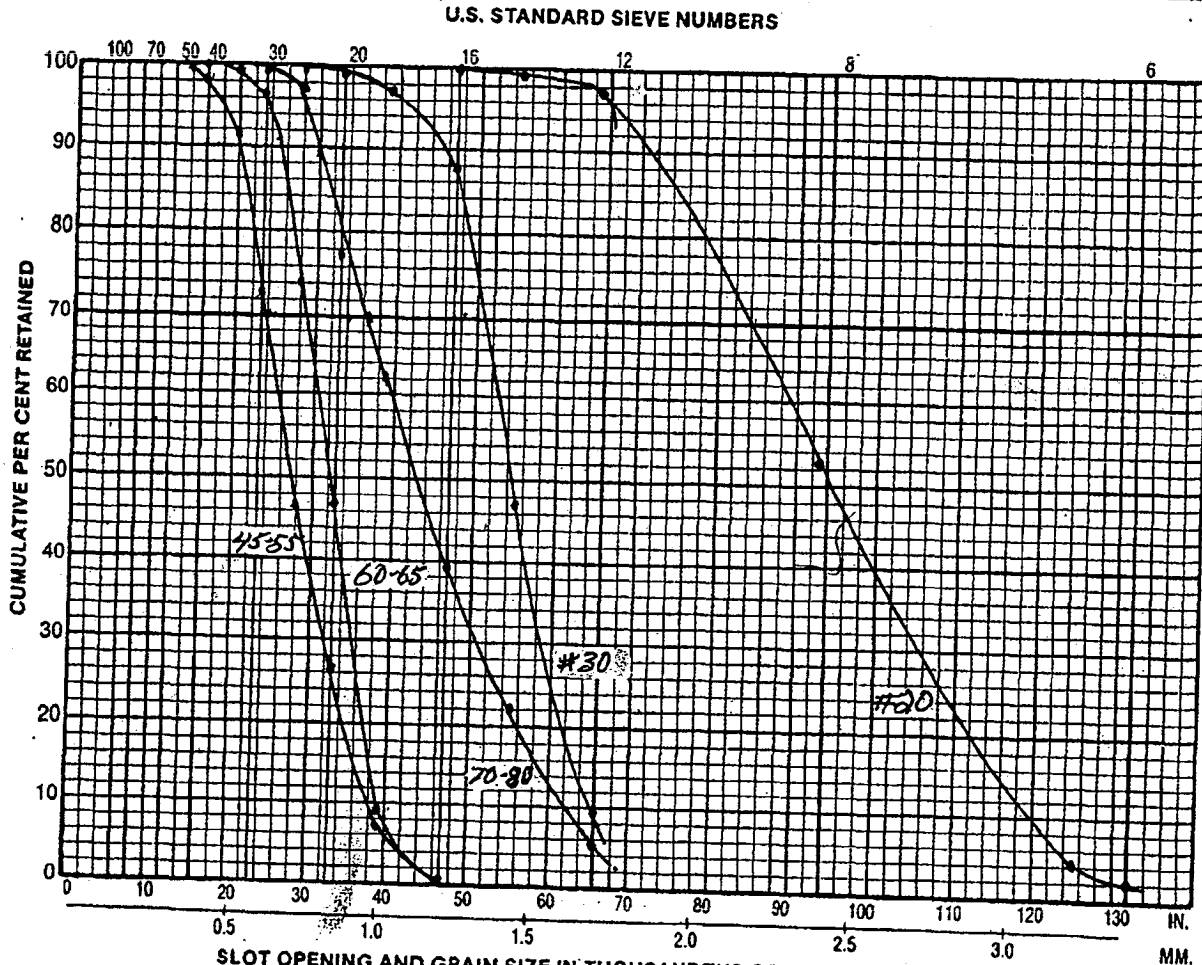
City of Lennox Well "D"



SAND ANALYSIS

BY:

Job Name American Materials Corp. Sand Date Oct, 16, 1991
 City Earl Claire Wisc. State Wisconsin Zip 54701
 Driller _____ Phone 715-835-2257
 Engineer _____ Phone _____
 Remarks _____



U.S. SIEVE NO.	SLOT OPENING		SAMPLE DEPTHS			
	IN.	MM	45-55	60-65	70-80	#20
6	.132	3.36				
	.125					
	.093					
	.065					
	.046					
	.039	0.6	0.1	39.5	87.8	99.6
	.030	7.1	9.3	62.1	97.0	
	.025	26.4	46.9	77.6	99.1	
	.020	46.5	74.3	97.6	100.0	
	.016	73.1	96.7	100.0		
	.012	91.9	99.8			
	.008	98.0	100.0			
	.006	99.5				
	.004	100.0				
	Pan					

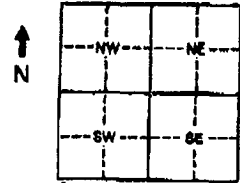
Comments used 45-55 around screen.

SCREEN RECOMMENDATIONS: DIAM. _____

SLOT	SETTING	LENGTH



FARGO, N.D.
HUTCHINSON, MN.



Sec _____ T _____ R _____

DRILLERS LOG

Drilled for City of Los Angeles By Fargo Office
Location of Test Hole 60 East at TH "7" Well "E"

Size of test hole 6 3/4 Date started _____ Date completed _____ Total Hours _____

FORMATIONS DRILLED

[illegible]

Signed _____ Driller

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date November 21, 20 06

RECEIVED OF City of Lemmon, PO Box 228, Lemmon SD 57039-0028

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

Fee for Application for Permit No. <u>6778-3</u> to Appropriate Water, to construct and to put water to beneficial use	225	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>6778-3</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	275.00

No.

02647

By

Darland Ebel
Chief Engineer gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6778-3, City of Lennox**

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. 6778-3, City of Lennox, c/o Mayor Orville Wiebers, PO Box 228, Lennox SD 57039.

The Chief Engineer is recommending APPROVAL of Application No. 6778-3 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. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 6778-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Water Right Nos. 5326-3 and 5753-3 and Permit No. 6778-3, combined, authorize a maximum annual withdrawal of 517 acre feet of water annually from the Dakota Formation.
3. The city of Lennox shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota Formation.

See report on application for additional information.

Garland Erbele, Chief Engineer
January 26, 2007

REPORT ON WATER PERMIT APPLICATION NO. 6778-3
For City of Lennox
January 18, 2007

Application No. 6778-3 proposes to construct and place to beneficial use the remaining 129 acre-feet of water authorized by Future Use Permit No. 5101-3. This application proposes to appropriate 1.58 cfs from three wells to be completed into the Dakota Formation approximately 520 to 607 feet deep and located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 24, W $\frac{1}{2}$ SE $\frac{1}{4}$ of section 12 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 14; all in T98N R51W in Lincoln County. This water is for municipal use by the City of Lennox.

AQUIFER – DAKOTA FORMATION (DKOT)

The Dakota Formation is a buried sand, sandstone and shale under confined or artesian conditions in this area. Typically the aquifer consists of interbedded sandstones and shales of random thicknesses. The aquifer underlies 484 square miles and contains an estimated 4.298 million acre-feet of recoverable water in storage in Lincoln County (Hedges, 1982). The aquifer extends laterally into Iowa to the east, into Union County to the south and into Clay and Turner Counties to the south and west. The aquifer is bounded on the north in the subsurface by the Sioux Quartzite and groundwater movement is southerly (Niehus, 1994). The aquifer is probably hydraulically connected to the Upper Vermillion Missouri aquifer to the west and to the Sioux Quartzite to the north.

Test well data for well “D” site (located in NE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 24) indicates sandstone from 378 to 386 feet, 394 to 458 feet, 464 to 504 feet, for a total thickness of 112 feet.

Test well data for well “E” site (located W $\frac{1}{2}$ SE $\frac{1}{4}$ of section 12) indicates that sandstone was encountered at 387 to 397 feet, 400 to 405 feet and 409 to 544 feet. This would be a total thickness of sandstone of about 150 feet.

Test well data for well “F” site (located NE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 14) indicates sandstone from 402 to 412 feet, 413 to 422 feet, 475 to 478 feet, 487 to 498 feet, with four additional one to three feet layers below for a total thickness of 44 feet.

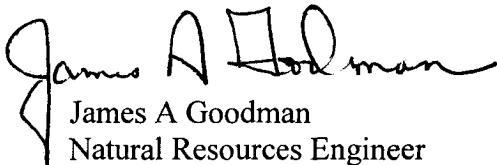
The Water Right Program monitors five observation wells completed into the Dakota Formation and located with a few miles of this application. Water levels for these wells all show the same characteristics. A brief period in the late 1970’s of predevelopment showing relatively stable water levels followed by periods of declining water levels then relatively stable water levels and then declining water levels all of this dependent upon the development history either of South Lincoln Rural Water System or the City of Lennox in the area near a particular observation well. Hydrographs for observation wells LN-77A, LN-77F, LN-79D, LN-80I and LN-92A are included with this report. In general the water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2007).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

The only other user in this immediate area other than the City of Lennox (three existing wells) is Water Permit No. 6449-3 (0.222 cfs, Dakota Formation). Water Permit No. 6449-3 is located over one mile to the northeast of Well site "E". The existing Lennox city wells will be about one-half mile apart at the closest point. Interference should not be a concern at this distance but also depends upon individual well pumping rates. This area has been controversial in the past with some complaints and concerns over domestic well supplies.

CONCLUSIONS

1. Water is available for this application. The water has already been appropriated by Future Use Water Permit No. 5101-3. This application is to put water to beneficial use.
2. This application places the remaining 129 acre-feet available under future use to beneficial use.
3. These three wells must be constructed in accordance with SD Well Construction Standards.
4. Approval of this application would allow a total diversion rate of 2.56 cfs with an annual volume withdrawal of 517 acre-feet for the Lennox well field (six wells) named "A" through "F".



James A Goodman
Natural Resources Engineer

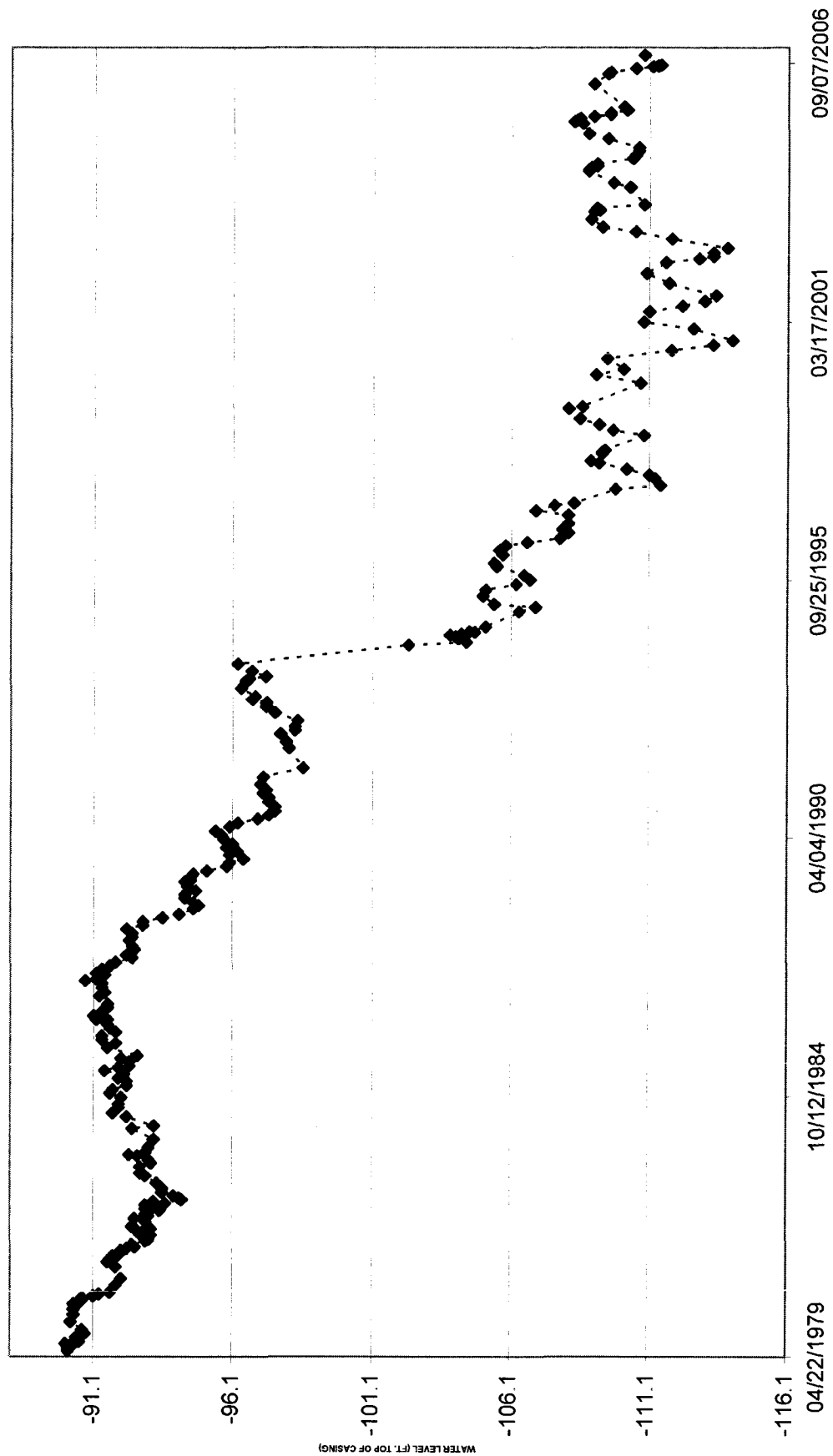
BIBLIOGRAPHY

Hedges, L.S., and others, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 58069.

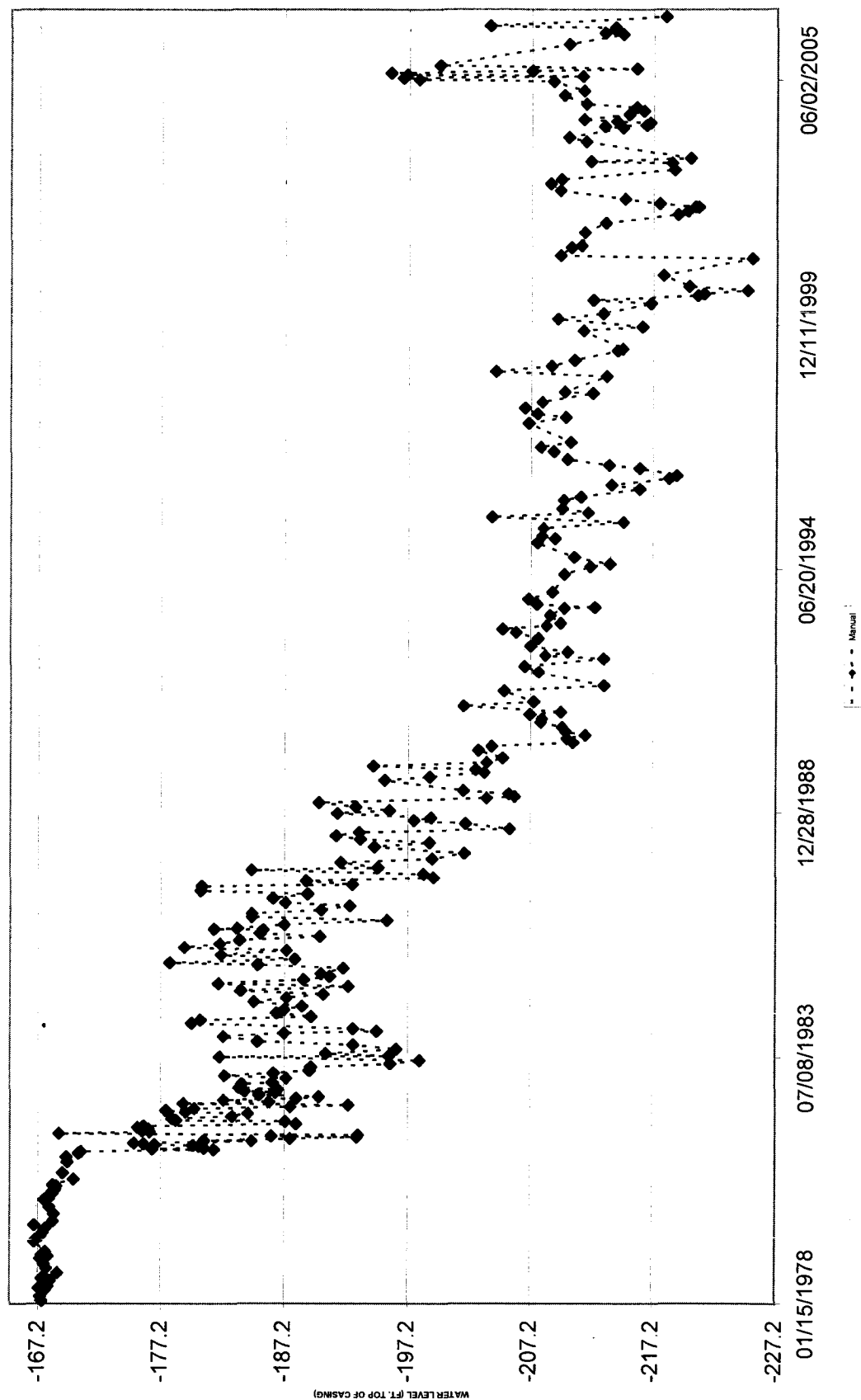
Niehus, C.A., 1994, Water Resources of Lincoln and Union Counties, South Dakota, Water-Resources Investigations Report 93-4195, USGS, Rapid City, SD, 57702.

Water Rights, 2007, Unpublished Observation Well Data for Lincoln County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

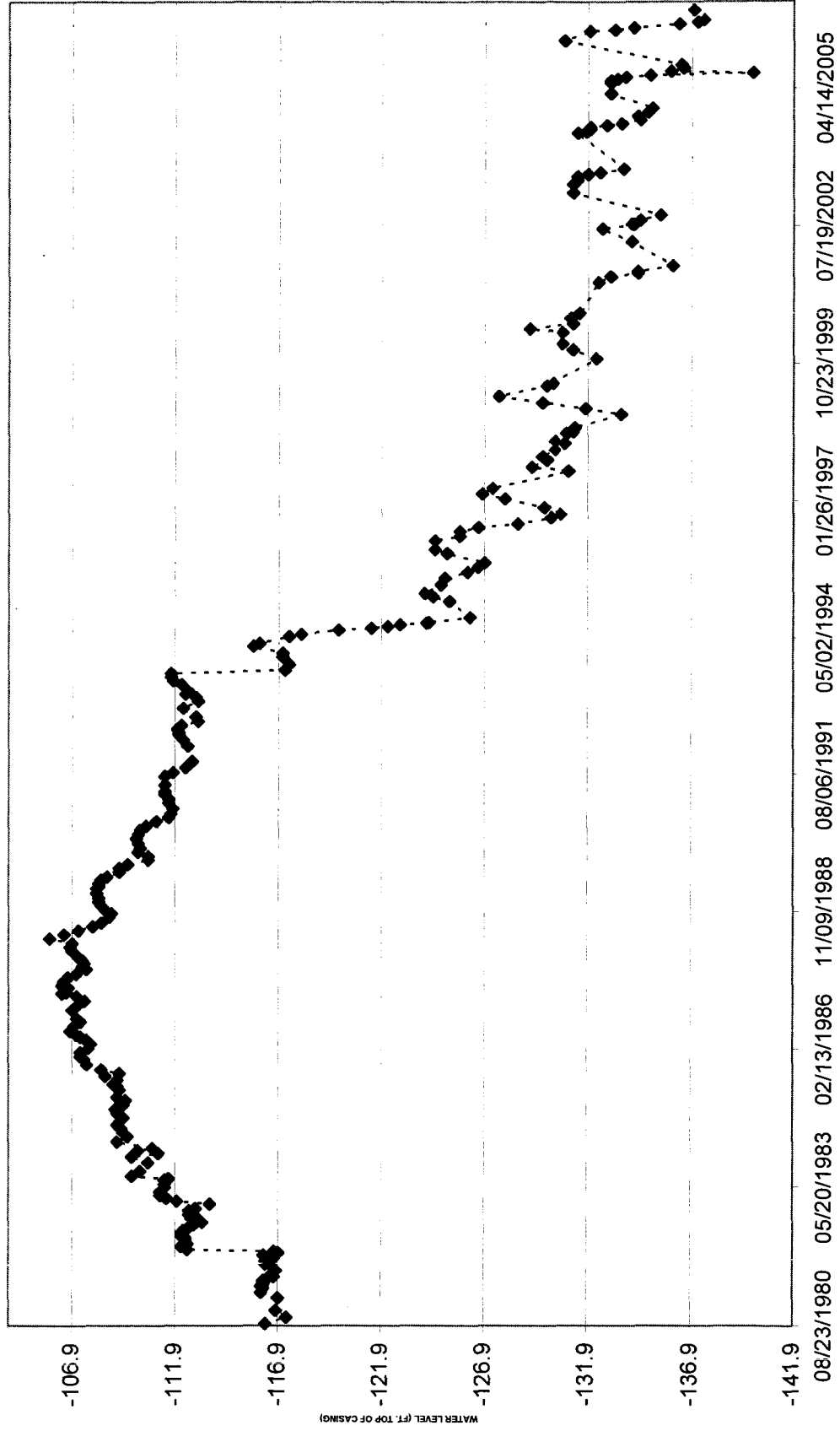
WATER RIGHTS' OBSERVATION WELL
LN-77F



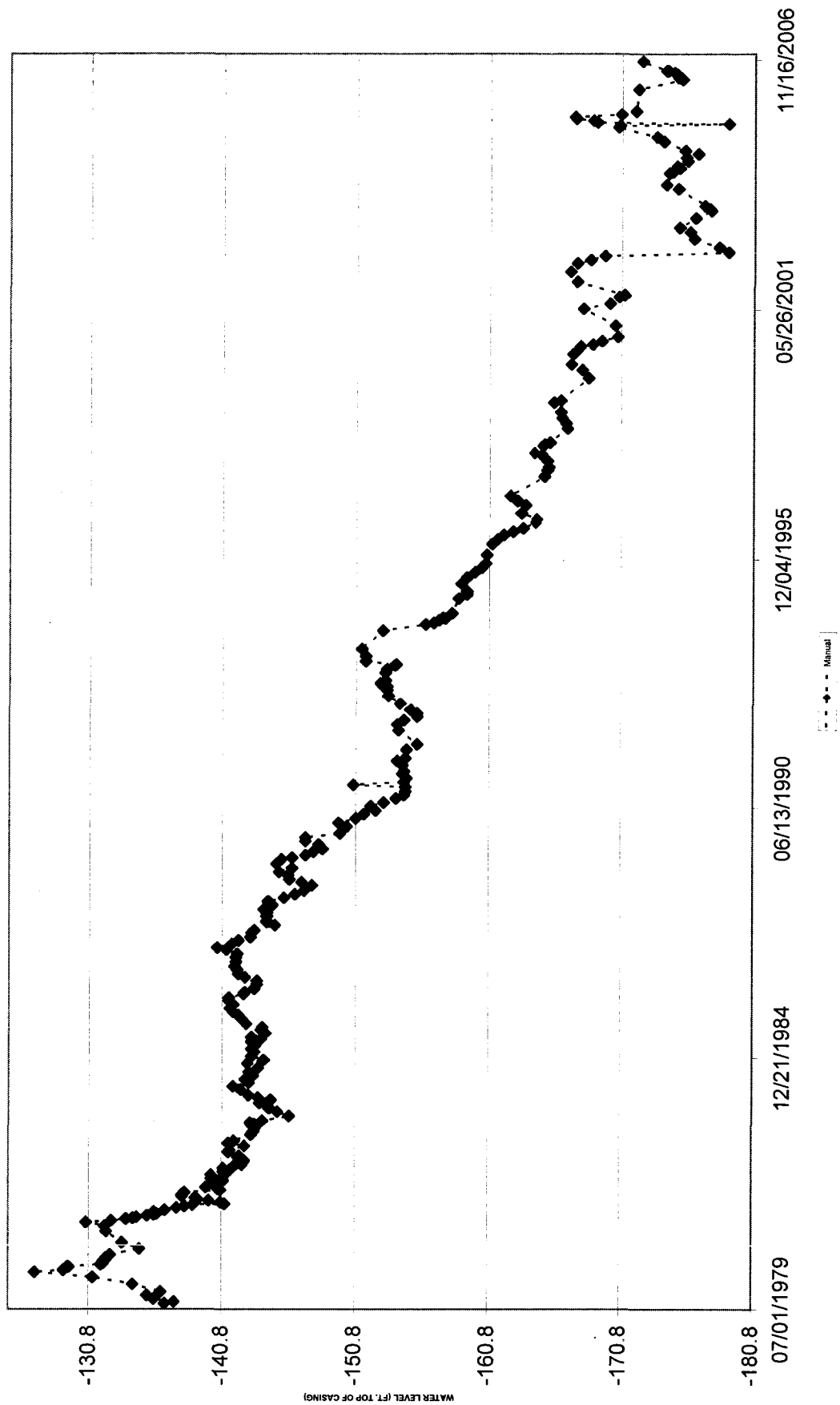
WATER RIGHTS' OBSERVATION WELL
LN-77A



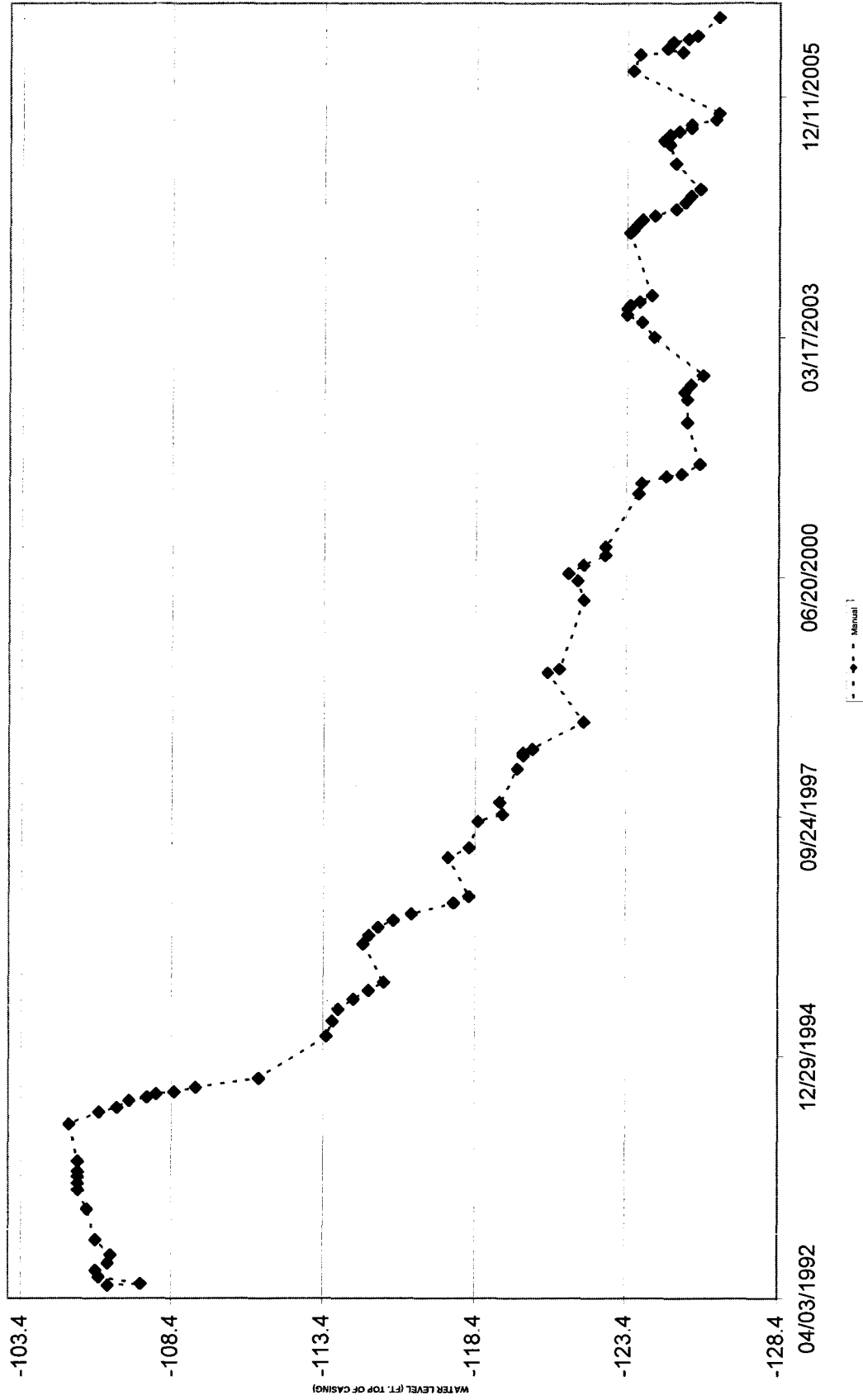
WATER RIGHTS' OBSERVATION WELL
LN-80I



WATER RIGHTS' OBSERVATION WELL
LN-79D



WATER RIGHTS' OBSERVATION WELL
LN-92A



RECEIVED

FEB 23 2007

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Lincoln) SSI, Rebbie Schmidtcertify that the attached printed Notice was
takenfrom the Linnox Independentprinted and published in LinnoxCounty of Lincoln andstate of South Dakota. The notice was
published

in the newspaper on the following two dates:

Feb 8, 2007Feb 15, 2007Cost of Printing 81.90Arthur Schmidt
(Signature)Editor/Publisher
(Title)2-15-07
(Date Signed)NOTICE OF HEARING on APPLICATION
NOS. 5 10 1 A-3 and 6778-3 to amend
a Future Use Area
and Construct and Place Water To
Beneficial UseNotice is given that the City of Lennox,
c/o Orville Wiebars, Mayor, PO Box 228,
Lennox SD 57039 has filed the following
applications, for a water permit.Application No. 5 10 1 A-3 proposes
to amend Future Use Permit No. 5101-3
by expanding the area reserved for future
use. Permit No. 5101-3 reserves 129 acre-
feet annually from the Dakota Formation
located in the S 1/2 Sections 13 and 14;
SE 1/4 Section 15; E 1/2 Section 22; Sec-
tions 23 and 24; all in T98N-R51 W. This
application requests including the SE 1/4
Section 12-T9 8N-R51 W to the future use
area with no increase in the amount of water
reserved for future use by No. 5101-3.
The water is reserved for future municipal
use by the City of Lennox.Application No. 6778-3 proposes to
construct and place to beneficial use the
remaining 129 acre-feet of water author-
ized by Future Use Permit No. 5101-3.
The application proposes to appropriate
1.58 cubic feet of water per second from
three wells to be completed into the Dakota
Formation (approximately 520 to 607 feet
deep) and located in the NE 1/4 NE 1/4
Section 24, W 1/2 SE 1/4 Section 12 and
the NE 1/4 SE 1/4 Section 14; all in T98N-
R51W. The water is for municipal use by
the City of Lennox.Pursuant to SDCL 46-2A-2, the Chief
Engineer recommends APPROVAL of
Application Nos. 5 10 1 A-3 and 6778-3
because 1) water has been appropriated
and reserved by Permit No. 5101-3, 2) ex-
isting rights will not be unlawfully impaired,
3) it is a beneficial use of water, and 4) it is
in the public interest. IAny 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 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
February 26, 2007. 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 1:15 PM
on March 7, 2007, in the Floyd Matthew
Training Center, Joe Foss Building, 523
E. Capitol Avenue, Pierre SD. The Chief
Engineer's recommendation is not final
or binding upon the Board. The Board is
authorized to 1) approve, 2) approve with
qualifications, 3) defer, or 4) deny either
application based on the facts presented
at the public hearing. The March 7, 2007
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 appli-
cations. The request for an automatic delay
must be filed by February 26, 2007.Any hearing will be an adversary
proceeding. Any person filing a petition
and/or the applicant have the right to be
represented by a lawyer and may present
evidence or cross-examine witnesses ac-
cording 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 Su-
preme Court as provided by law. Contact
Eric Gronlund by February 26, 2007, 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.Since these applications do not in-
volve a monetary controversy in excess
of \$2,500.00 or termination of a property
right in accordance with SDCL 1-26-18.3,
the Chief Engineer has determined this
contested case may not be referred to
the Office of Hearing Examiners. If any
party disagrees with this determination,
the Chief Engineer shall be notified by
February 26, 2007.These applications is made pursuant
to SDCL 46-1 -1 thru 46-1-9, 46-1-12 thru
46-1-16, 46-2-3.1, 46-2-9, 46-2-11, 46-2-
13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-
2A-12, 46-2A-14, 46-2A-15, 46-2A-20,
46-2A-21; 46-5-1 thru 46-5-11, 46-5-13
thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2,
46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-
6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26;
46-5-38 thru 46-5-40; and Board Rules
ARSD 74:02:01.01 thru 74:02:01:15 and
74:02:01:24 thru 74:02:01:25 Steven M.
Pirner, Secretary, Department of Environ-
ment and Natural Resources.

(2-8, 15)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 29, 2007

Lennox Independent
PO Box 76
Lennox SD 57039-0076

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 5101A-3 and 6778-3 to Appropriate Water to be published twice. Please publish the first notice on February 8, 2007 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.

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 City of Lennox, c/o Mayor Orville Wiebers, PO Box 228, Lennox SD (Ph # 647-2286).

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. 5101A-3 & 6778-3

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

Date _____

We are in receipt of your letter of January 29, 2007 enclosing Notice to Appropriate Water by Applications No. 5101A-3 & 6778-3 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

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

January 29, 2007

Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Honorable Mayor Wiebers:

Water Permit Application Nos. 5101A-3 and 6778-3 for municipal use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Lennox Independent printed at Lennox SD (Ph # 647-2284). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and a report on the 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 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. 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

c: Camden Hofer, SPN Consulting Engineers, 620 N Lawlor Street, Mitchell SD 57301

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 February 8, 2007 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on APPLICATION NOS. 5101A-3 and 6778-3 to amend a Future Use Area and Construct and Place Water To Beneficial Use

Notice is given that the City of Lennox, c/o Orville Wiebers, Mayor, PO Box 228, Lennox SD 57039 has filed the following applications for a water permit.

Application No. 5101A-3 proposes to amend Future Use Permit No. 5101-3 by expanding the area reserved for future use. Permit No. 5101-3 reserves 129 acre-feet annually from the Dakota Formation located in the S $\frac{1}{2}$ Sections 13 and 14; SE $\frac{1}{4}$ Section 15; E $\frac{1}{2}$ Section 22; Sections 23 and 24; all in T98N-R51W. This application requests including the SE $\frac{1}{4}$ Section 12-T98N-R51W to the future use area with no increase in the amount of water reserved for future use by No. 5101-3. The water is reserved for future municipal use by the City of Lennox.

Application No. 6778-3 proposes to construct and place to beneficial use the remaining 129 acre-feet of water authorized by Future Use Permit No. 5101-3. The application proposes to appropriate 1.58 cubic feet of water per second from three wells to be completed into the Dakota Formation (approximately 520 to 607 feet deep) and located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 12 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14; all in T98N-R51W. The water is for municipal use by the City of Lennox.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 5101A-3 and 6778-3 because 1) water has been appropriated and reserved by Permit No. 5101-3, 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 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 February 26, 2007. 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 1:15 PM on March 7, 2007, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny either application based on the facts presented at the public hearing. The March 7, 2007 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 February 26, 2007.

(continued)

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by February 26, 2007, 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.

Since these applications do not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by February 26, 2007.

These applications is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3. 1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; 46-5-38 thru 46-5-40; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:24 thru 74:02:01:25 Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 29, 2007

Brian Abbas
46965 281st
Worthing SD 57077

Dear Mr. Abbas:

The cit of Lennox has applied to amend the future use area of Future Use Permit No. 5101-3 and filed for a water permit to construct and place to beneficial use water reserved by their future use permit. Enclosed is a copy of the report, recommendation and public notice prepared on each application.

The notice is scheduled to be published in the Lennox Independent on February 8 and 15, 2007. This notice schedules a hearing before the Water Management Board on March 7, 2007 in Pierre. Anyone wanting to intervene in the hearing process must file a petition by February 26, 2007.

In a previous phone conversation you requested to be informed when Lennox's applications are public noticed. If you have any questions, please feel free to contact me.

Sincerely,

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

enclosures

2-19-07

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

I am hereby filing a petition of opposition to application No. 6778-3. This application proposes to appropriate 1.58 cubic feet of water per second from three wells to be completed into the Dakota Formation (approximately 520 to 607 feet deep) and located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ section 24, W $\frac{1}{2}$ SE $\frac{1}{4}$ section 12 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ section 14; all in T 98N R 51W.

My interest in this application stems from the fact I have a Domestic well on my Farmstead in the NE $\frac{1}{4}$ section 13 T 98N - R 51W.

I am opposing this application because one of the wells is across the road from my Farmstead and only 800 $\pm$ feet from my well. There has been indication of how they are placing their wells adequate distance from other wells to prevent any adverse effect on existing wells. Well the adverse effect has already started from their previous wells. The water level in my well has dropped 25-30 feet ~~at~~ which is down it down nearly to the bottom of my pipes now. Now they are putting in 3 more wells anywhere from 800 $\pm$ ft. up to about a mile from my well. This bring it to six wells all from 800 $\pm$ ft up to slightly over a mile away from my well. This does not seem to me like they are

concerned at all about the effect it will have on my well.

I think for them to just ask for 1.58 cu. ft. of water per second from the three wells is pretty vague. The information I have is that one is only capable of around 100 gal per min. and the other is not even done yet (the first drilling on it showed not very good sand making it questionable) this leave a very large amount of the 1.58 cu ft per sec on the well by me which really raises my concern. How could I even know the effect of heavy pumping until it is too late.

In review I believe they are concentrating their wells too close. I believe they are not following proper procedure by putting in everything from wells to pump houses and even the water transmission line before asking for approval, and I believe they are not being specific enough about their pumping intentions.

I hope the board will reject this application for pumping or at the very least put some more limited pumping restrictions on the wells especially the one next to my place.

Very Concerned

Brian Abbas

Feb. 19, 2007

RECEIVED

FEB 23 2007

WATER RIGHTS
PROGRAM

Clifford Brian Abbas
4696S 281st Street
Worthing SD 57077

I am submitting this written request to the Chief Engineer. Garland Erbele for an automatic delay to the hearing scheduled at 1:15 PM on March 7, 2007 for the consideration of applications 5101A-3 and 6778-3 filed by the city of Kennox. Due to the short time period until the hearing and the need for me to gather more information and ect I feel I need this extension.

Thank you

C Brian Abbas



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

February 23, 2007

NOTICE

TO: Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Automatic Delay of Hearing on Water Permit Application Nos. 5101A-3 and 6778-3,
City of Lennox

In response to the notice of hearing published in the Lennox Independent on February 8 and 15, 2007, Mr. Clifford Brian Abbas filed a petition to intervene opposing Application Nos. 5101A-3 and 6778-3. A letter accompanied the petitions requesting an automatic delay of the March 7th hearing before the Water Management Board. A copy of Mr. Abbas' petitions and request of an automatic delay is enclosed. Therefore, the hearing on Application Nos. 5101A-3 and 6778-3 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on March 7, 2007.

The hearing to consider Application Nos. 5101A-3 and 6778-3 will be scheduled for the Water Management Board meeting tentatively set for May 9 - 10, 2007. Future notice will be provided to all parties of record of the time, date and location of the meeting.

Please contact Eric Gronlund, Water Rights Program at (605) 773-3352, if you have any questions.

Enclosure

c: Diane Best, Assistant Attorney General
Camden Hofer, SPN Consulting Engineers, 620 N Lawlor Street, Mitchell SD 57301

CERTIFICATION

I hereby certify that on February 23, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 23, 2007, regarding postponement of the hearing for Water Right Permit Application Nos. 5101A-3 and 6778-3, City of Lennox, addressed as stated below :

Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

Camden Hofer
SPN Consulting Engineers
620 N Lawlor Street
Mitchell SD 57301

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



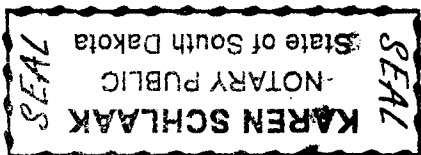
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of February, 2007.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 28, 2007

NOTICE

TO: Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application Nos. 5101A-3 and 6778-3, City of Lennox

The Water Management Board will consider Application Nos. 5101A-3 and 6778-3 filed by the city of Lennox on May 9, 2007, at 10:30 AM (CDT), in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Agenda time is an estimate and may be delayed due to prior agenda items. Notice will be provided to parties if there is a change in the hearing time.

Applicable provisions of the public notice published February 8 and 15, 2007 in the Lennox Independent will still apply at the May 9th hearing. This hearing may be an adversarial proceeding. Any party of record has the right to be present and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

I am enclosing a copy of the report, recommendation and petition in the matter of Water Permit Application Nos. 5101A-3 and 6778-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The enclosed material is the same information being sent to the Board members in advance of the hearing.

Please contact Eric Gronlund, Water Rights Program at (605) 773-3352, if you have any questions.

Enclosure

c: Diane Best, Assistant Attorney General
Camden Hofer, SPN Consulting Engineers, 620 N Lawlor Street, Mitchell SD 57301

CERTIFICATION

I hereby certify that on March 28, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 28, 2007, regarding scheduling of the hearing for Water Right Permit Application Nos. 5101A-3 and 6778-3, City of Lennox, addressed as stated below :

Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

Camden Hofer
SPN Consulting Engineers
620 N Lawlor Street
Mitchell SD 57301

A copy of the above described Notice was sent Inter-office to:

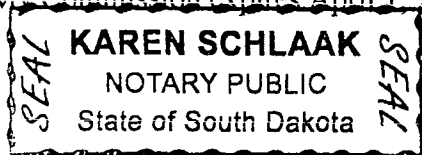
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501


Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 28th day of March, 2007.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

May 14, 2007

NOTICE

TO: Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed Tom Frieberg, Lennox city attorney, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of Water Permit Application Nos. 5101A-3 and 6778-3 filed by the city of Lennox. The Board will consider adoption of Findings, Conclusions and Final Decision at 8:30 AM, on July 11, 2007, in the Community Room, Milbank Visitors Center, 1001 East 4th Avenue, Milbank SD.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by June 8, 2007. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) by June 29, 2007

At the Board's discretion, oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on July 11, 2007. The public hearing was completed on May 9, 2007. No additional testimony will be received.

If you have questions about the findings process, please contact Eric Gronlund at (605) 773-3352.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General
Thomas Frieberg, PO Box 511, Beresford SD 57004
Harlan Quenzer, SPN Consulting Engineers, 620 N Lawlor Street, Mitchell SD 57301

CERTIFICATION

I hereby certify that on May 14, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 14, 2007, regarding preparation of findings of fact, conclusions of law and final decision Water Right Permit Application Nos. 5101A-3 and 6778-3, City of Lennox, addressed as stated below :

Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

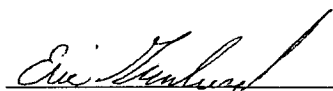
Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

Harlan Quenzer
SPN Consulting Engineers
620 N Lawlor Street
Mitchell SD 57301

Thomas Frieberg
PO Box 511
Beresford SD 57004

A copy of the above described Notice was sent Inter-office to:

Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



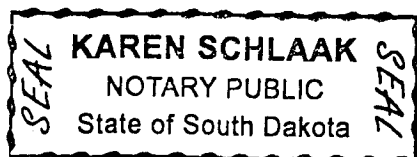
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of May, 2007.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



FRIEBERG, NELSON & ASK, L.L.P.

ATTORNEYS AT LAW
115 NORTH THIRD STREET
P.O. Box 511

AUGUST FRIEBERG (1863-1932)
ROSCOE A. FRIEBERG (1903-1982)
BLAINE O. RUDOLPH (Retired)

ROBERT B. FRIEBERG
THOMAS H. FRIEBERG
LARRY A. NELSON
BRENDA M. ASK (SD & IA)

BERESFORD, SOUTH DAKOTA 57004-0511
TELEPHONE: (605) 763-2107
TELECOPIER: (605) 763-2106

RECEIVED

JUN - 7 2007

**WATER RIGHTS
PROGRAM**

OFFICES ALSO LOCATED AT:

206 E. 5TH STREET
CANTON, SD 57013
(605) 987-2686

208 SOUTH MAIN
LENNOX, SD 57039
(605) 647-5152

June 4, 2007

COPY

Jeffrey P. Hallem
Attorney General's Office
1302 E. Highway 14, #1
Pierre, SD 57501

Diane Best
Attorney General's Office
1302 E. Highway 14, #1
Pierre, SD 57501

Clifford Brian Abbas
46965 281st Street
Worthing, SD 57077

Re: Water Permit Applications No. 5101A-3 and 6778-3

Dear Counsel and Mr. Abbas:

Enclosed herewith and served upon you please find the proposed Findings of Fact and Conclusions of Law for the City of Lennox with regard to the above referenced water permit applications. It is my understanding that the proposed Findings and Conclusions and Final Decision will be considered by the Board at its July 11, 2007, meeting. Further, it is my understanding that any response to the proposed Findings of Fact, Conclusions of Law and Final Decision as prepared by the City of Lennox will be due on or before June 29, 2007.

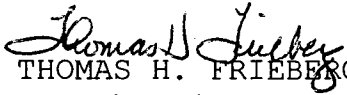
If the board would like to have an electronic version of the documents for purposes of edification before final approval, please let me know and I will be happy to forward the same to you in that format. If we are required to forward these directly to the board members, please let me know. I will need their names and addresses for mailing purposes. Also, if there are other parties who are not

Jeffrey P. Hallem
Diane Best
Clifford Brian Abbas
June 4, 2007
Page 2

provided with a copy of these documents either as an addressee or as noted has having been copied, please advise so I can forward the same to them.

Thank you for your attention to this matter.

Yours very truly,


THOMAS H. FRIEBERG
For the Firm

THF/lb

Enc.

pc: James Goodman
Garland Erbele
Eric Gronlund
Harlan Quenzer
Justin Weiland

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE	)	
APPLICATION OF THE CITY	)	FINDINGS OF FACT,
OF LENNOX FOR WATER USE	)	CONCLUSIONS OF LAW,
PERMIT NO. 6778-3	)	AND FINAL DECISION

The City of Lennox made application for appropriation of the water capacity of 129 acre feet reserved under Future Water Use Permit No. 5101-3, as amended

Clifford Brian Abbas of 46965 281st Street, Worthing, South Dakota, 57077, contested the application and appeared at the hearing.

A hearing was held on the 9th day of May, 2007, at 10:30 a.m. in the Floyd Matthew Training Center, Joe Floss Building, 523 East Capitol Avenue, Pierre, South Dakota, at which time the City of Lennox appeared by and through its attorney, Thomas H. Frieberg of Frieberg, Nelson & Ask, L.L.P., along with Harlan Quenzer of Schmucker, Paul, Nohr & Associates engineering firm of Mitchell, South Dakota, and Clifford Brian Abbas also appearing. A quorum of the board was present.

James A. Goodman, Natural Resources Engineer, made presentation to the board regarding his report on the water permit application. The chief engineer recommended approval of the application.

The applicant having presented testimony and exhibits and the contestant having presented testimony, and the board having

made inquiry of the parties and being fully apprised of the premises, hereby makes the following:

FINDINGS OF FACT

1. Proper publication of water permit application 6778-3 was timely made, as required by statute in the Lennox Independent, on February 8 and February 15, 2007. Said publication indicated a hearing to be held on March 7, 2007. Based upon the objection of Clifford Brian Abbas, the hearing was continued to May 9, 2007.

2. Attached hereto, incorporated herein, and marked as Exhibit A is the report on water permit application 6778-3 dated January 18, 2007, prepared by James A. Goodman, Natural Resources Engineer. The findings set forth in the report are adopted by the board through this reference.

3. The chief engineer, pursuant to SDCL 46-2A-2, recommended approval of the application with three listed qualifications. A copy of the chief engineer's recommendation is attached hereto, incorporated herein, and marked as Exhibit B for reference.

4. The application proposes to put to beneficial use the 129 acre feet of water reserved in future use permits 5101-3 and 5101A-3, as amended, and permit application 6778-3.

5. The City of Lennox has experienced growth which requires providing of additional water.

6. The City of Lennox is a member of the Lewis and Clark Rural Water System and is not expected to receive water from the system until 2015.

7. The allocation from Lewis and Clark Rural Water System to the City of Lennox will not be capable of providing all of the water needs for the City of Lennox.

8. The City of Lennox's current wells have reached maximum output and with any growth, will not be able to provide an adequate water supply to the City of Lennox.

9. Clifford Brian Abbas has a well located at a residence approximately 800 feet from one of the well sites being proposed by the City of Lennox. The draw down on Mr. Abbas' residential and agricultural well would be minimal.

10. Mr. Abbas currently does not use his well for domestic purposes and uses it only for minimal agricultural purposes. Mr. Abbas does not currently have livestock.

11. The City of Lennox will have six well sites from which to draw water and the expansion from three to six well sites will allow the wells to recover more adequately when they are rotated on a cyclical schedule.

12. The City of Lennox installed a production well rather than a test well in the expanded area contained in the amendment to water permit application 5101A-3. The cost of the test well was deemed by the City to be too expensive and a production well

was put in place in order to save costs in the event of approval of the application. Said well will be used as part of the City of Lennox's system to utilize the 129 acre feet of water reserved, but not yet put to beneficial use.

13. The City of Lennox has not begun production from the additional well contained in the expanded use area of application 5101A-3.

Based upon the foregoing Findings of Fact, the board hereby makes the following:

CONCLUSIONS OF LAW

1. The board has jurisdiction of this matter.
2. This application is not a request for an appropriation of additional water but seeks to apply water previously reserved and put it to beneficial use.
3. There is a reasonable probability that there is unappropriated water available for applicant's proposed use.
4. The proposed use is for a water distribution system for the City of Lennox and is a beneficial use.
5. The beneficial effect of supplying high quality water to the City of Lennox supports the finding that the granting of this permit is in the public interest with the qualifications as set forth in the final order.
6. The proposed diversion can be developed without unlawful impairment of existing rights.

7. No substantial detriment shall be incurred by others, including Clifford Brian Abbas, by the granting of the permit as requested by the City of Lennox.

8. The City of Lennox has demonstrated a reasonable need for the water reserved.

9. The proposed use of the water is a beneficial use as defined by statute.

10. It is in the public interest to grant the City of Lennox's application 6778-3 under the terms and conditions established by the chief engineer.

FINAL DECISION

Water permit application 6778-3 is approved subject to the following qualifications:

1. The wells approved under permit 6778-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The City of Lennox shall control its withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The wells constructed under this permit 6778-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION

the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. This permit 6778-3 combined with Water Rights Nos. 5326-3 and 5753-3 combine to authorize a maximum annual withdrawal of 517 acre feet of water annually from the Dakota Formation.

4. The City of Lennox shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota Formation.

Dated this _____ day of July, 2007.

BY THE BOARD:

Chair

June 25, 2007

RECEIVED

JUN 27 2007

WATER RIGHTS
PROGRAM

Written Opposition

Sent to: list on attached sheet

From: Clifford Brian Abbas
4696S 281st Street
Worthing SD 57077

Subject: Objections to Findings of Fact
Conclusions of law and Final
Decision; In the Matter of the
Application of The City of Kennox
For Water Use Permit NO. 6778-3

I am writing to object to parts of the Findings of Fact and Conclusions of law and Final Decision in hopes of changing the Boards vote to approve.

First I want to address Findings of Fact No. 2 the Natural Resource Engineers Report Exhibit A. I have stated that I question the true amount of water available in this part of the aquifer based on the amount of water the first 3 wells are able to pump and the number of test holes they drilled that were not acceptable for wells.

Secondly in Findings of Fact No. 9 it is stated the drawdown on my well would be minimal. This is not fact because there is already ± 29 feet of drawdown from the

first three wells at $\frac{1}{2}$ to 1 mile away and the well in this area is only 800 ft away. Mr. Goodman admitted they have done no projection on what the draw-down would be but he guessed it might be minimal. They know there would be a greater drawdown when pumping.

Third in NO. 10 I object to the statement that I only use my well for minimal Ag purposes, because during spring - summer while spraying fields and other outside of household uses the water used would be 1000's of gallons. When I come to these times I should not have to worry that the levels have been pumped down so I can't get enough water. I have said at this time I don't have livestock water use but I was running a 100 sow Farrow to Finish operation and should I resume this operation I would count on my well again for much more water.

Next referring to No 12. yes Kennox did probably save money by putting in a production well verses a test well but they went far beyond just a production well by putting in a fully operational pump house and spending a large amount on nearly $\frac{3}{4}$ of a mile of transmission line before any application for expansion was submitted to the board for approval.

Now I would like to go to conclusions of law NO. 6 I don't believe it will not impair my lawful right to pump adequate water from my well. Also under NO. 7 I would not agree that no substantial detriment will be incurred by me. By this I mean the drawdown of water levels and ability to pump water from my well and the expense it will cost me to redo my well or the expense to replace the water from other sources.

In The Final Decision base on the fact I believe the expended area under Permit 5101A-3 should not be approved. I think this permit 6778-3 based on the two remaining new wells should be reviewed and probably be denied as it stands.

Thank you
Brian Abbas



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

July 19, 2007

NOTICE

TO: Orville Wiebers, Mayor
City of Lennox
PO Box 228
Lennox SD 57039

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and Final Decision

This is to notify you that the Board's rulings and the Final Decisions, including Findings of Fact and Conclusions of Law, were adopted July 11, 2007, by the Water Management Board approving Water Permit Application Nos. 5101A-3 and 6778-3 filed by the city of Lennox. A copy of the Board rulings and signed Findings of Fact, Conclusions of Law and Final Decisions are enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosures

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General
Thomas Frieberg, PO Box 511, Beresford SD 57004
Harlan Quenzer, SPN Consulting Engineers, 620 N Lawlor Street, Mitchell SD 57301

CERTIFICATION

I hereby certify that on July 23, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 19, 2007 regarding the Water Management Board's ruling and adoption of findings of fact, conclusions of law and final decisions in the matter of Water Right Permit Nos. 5101A-3 and 6778-3, City of Lennox, addressed as stated below:

Orville Wiebers
City of Lennox
Po Box 228
Lennox SD 57039

Clifford Brian Abbas
46965 281st Street
Worthing SD 57077

Harlan Quenzer
SPN Consulting Engineers
620 N Lawlor Street
Mitchell SD 57301

Thomas Frieberg
PO Box 511
Beresford SD 57004

A copy of the above described Notice was sent Inter-office to:

Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501

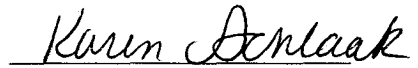

Gail Jacobson
Secretary
Water Rights

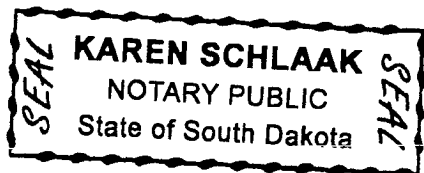
STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES

Sworn to, before me, this 23rd day of July, 20 07.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013



STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF PERMIT	)	WATER MANAGEMENT
APPLICATION NO. 6778-3,	)	BOARD'S RULINGS
CITY OF LENNOX,	)	ON APPLICANT'S
	)	PROPOSED
	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW
	)	AND FINAL DECISION;
	)	INTERVENOR'S OBJECTIONS
	)	TO FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW
	)	AND FINAL DECISION

Pursuant to directions of the Water Management Board, Counsel for Applicant, City of Lennox, submitted Proposed Findings of Fact, Conclusions of Law, and Final Decision; subsequently, Intervenor, Clifford Brian Abbas, submitted Objections to Applicant's Proposed Findings of Fact, Conclusions of Law and Final Decision. The Board, upon review of the submissions and the administrative record, and having orally entered its decision hereby enters the following rulings:

A. Applicant's Proposed Findings of Fact Nos. 1, 2, 5, 6, 7, 8, 10, 11, 12, and 13, are hereby accepted by the Board.

B. Proposed Finding of Fact No. 3 is accepted by the Board as modified to more accurately reflect the administrative

record by deleting "three" in the first sentence and inserting "four."

C. Applicant's Proposed Finding of Fact No. 4 is accepted by the Board as modified to more accurately reflect the administrative record by deleting ", and permit application 6778-3."

D. Applicant's Proposed Finding of Fact No. 9 is accepted by the Board as modified below to more fully reflect that administrative record.

9. Intervenor Clifford Brian Abbas has a domestic well located approximately 800 feet from one of the well sites being proposed by the City of Lennox. Intervenor stated that the cylinder pump for the well is located at approximately 177 feet which is not within the Dakota formation to qualify as an "adversely impacted domestic well." Any drawdown at Intervenor's well resulting from Applicant's proposed wells would be due to the fluxuation of artesian wellhead pressure that could be rectified by Intervenor lowering his pump.

F. Applicant's Proposed Conclusions of Law 2, 3, 4, 5, 6, 7, 8, 9, and 10 *are accepted*.

G. Petitioner's Proposed Conclusion of Law No. 1 is adopted as modified below to set forth the standard of review for this Application.

1. The Board has jurisdiction of this matter. Under SDCL 46-2A-9, the Board may grant a permit to

appropriate water where there is a reasonable probability there is unappropriated water available for Applicant's use; the proposed diversion can be developed without unlawful impairment of existing rights; and the proposed use is a beneficial use and in the public interest.

H. Applicant's Proposed Final Decision is hereby accepted by the Board.

I. Intervenor Abbas's objection to Applicant's Proposed Findings of Fact No. 2 is refused on the ground it is inconsistent with the record and the Board's oral decision. The record establishes the availability of unappropriated water in amounts requested under the application.

J. Intervenor's objection to Finding of Fact No. 9 is refused on the ground it is inconsistent with the administrative record and Board's oral decision to the extent that the objection is not satisfied by the Board's modification of this Finding of Fact. There is nothing in the record to support a finding that any potential drawdown caused by the operation of Applicant's new wells will illegally interfere with Intervenor's domestic well. Any potential drawdown at Intervenor's well that may occur will be due to a reduction in artesian wellhead pressure which is not protected. If Intervenor has an adequate well with a pump properly located, the record establishes that

there should be no interference from the operation of Applicant new wells.

K. Intervenor's objection to Applicant's Proposed Finding of Fact No. 10 is refused on the ground it is inconsistent with the administrative record and the Board's oral decision. The proposed finding accurately reflects the administrative record and Intervenor has provided no legitimate basis to challenge it.

L. Intervenor's objection to Applicant's Proposed Finding of Fact No. 12 is refused on the grounds it is inconsistent with the administrative record and Board's oral decision. The proposed finding accurately reflects the administrative record. Further, there is no evidence in the record that the city of Lennox has begun production from that well thereby putting the water to beneficial use

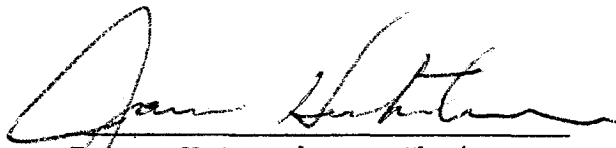
M. Intervenor's objections to Applicant's Proposed Conclusions of Law Nos. 6 and 7 to the extent not satisfied by the Board's modification of No. 7 are refused on the grounds the objections are inconsistent with the administrative record, the Board's oral decision and State law. There is nothing in the record that establishes that the issuance of the water permit will cause an unlawful impairment of Intervenor's existing

rights, or from a legal standpoint, cause a substantial detriment. South Dakota law does not protect artesian wellhead pressure. Based upon the record, any drawdown at Intervenor's domestic well resulting from the operation of Applicant's new wells will be due to a reduction in artesian wellhead pressure. Further, any detriment that Intervenor may experience is due to the fact that his pump was not placed in the Dakota Formation but rather at a much higher elevation where there the water available for pumping is due to artesian wellhead pressure.

N. Intervenor's objection to Applicant's Proposed Final Decision is refused on the ground the objection is inconsistent with the administrative record, the Board's oral decision and State law.

Dated this 11 day of July, 2007.

SOUTH DAKOTA WATER MANAGEMENT BOARD



James Hutmacher, Chairman

pld JPH 06 28 07 Permit No 6778-3 kak

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF PERMIT	)	FINDINGS OF FACT,
APPLICATION NO. 6778-3	)	CONCLUSIONS OF LAW,
CITY OF LENNOX	)	AND FINAL DECISION

The City of Lennox made application for appropriation of the water capacity of 129 acre feet reserved under Future Water Use Permit No. 5101-3, as amended

Clifford Brian Abbas of 46965 281st Street, Worthing, South Dakota, 57077, contested the application and appeared at the hearing.

A hearing was held on the 9th day of May, 2007, at 10:30 a.m. in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, at which time the City of Lennox appeared by and through its attorney, Thomas H. Frieberg of Frieberg, Nelson & Ask, L.L.P., along with Harlan Quenzer of Schmucker, Paul, Nohr & Associates engineering firm of Mitchell, South Dakota, and Clifford Brian Abbas also appearing. A quorum of the board was present.

James A. Goodman, Natural Resources Engineer, made presentation to the board regarding his report on the water permit application. The chief engineer recommended approval of the application.

The applicant having presented testimony and exhibits and

the contestant having presented testimony, and the board having made inquiry of the parties and being fully apprised of the premises, hereby makes the following:

FINDINGS OF FACT

1. Proper publication of water permit application 6778-3 was timely made, as required by statute in the Lennox Independent, on February 8 and February 15, 2007. Said publication indicated a hearing to be held on March 7, 2007. Based upon the objection of Clifford Brian Abbas, the hearing was continued to May 9, 2007.

2. Attached hereto, incorporated herein, and marked as Exhibit A is the report on water permit application 6778-3 dated January 18, 2007, prepared by James A. Goodman, Natural Resources Engineer. The findings set forth in the report are adopted by the board through this reference.

3. The chief engineer, pursuant to SDCL 46-2A-2, recommended approval of the application with four listed qualifications. A copy of the chief engineer's recommendation is attached hereto, incorporated herein, and marked as Exhibit B for reference.

4. The application proposes to put to beneficial use the 129 acre feet of water reserved in future use permits 5101-3 and 5101A-3, as amended.

5. The City of Lennox has experienced growth which requires providing of additional water.

6. The City of Lennox is a member of the Lewis and Clark

Rural Water System and is not expected to receive water from the system until 2015.

7. The allocation from Lewis and Clark Rural Water System to the City of Lennox will not be capable of providing all of the water needs for the City of Lennox.

8. The City of Lennox's current wells have reached maximum output and with any growth, will not be able to provide an adequate water supply to the City of Lennox.

9. Intervenor Clifford Brian Clifford Abbas has a domestic well located approximately 800 Feet from one of the well sites being proposed by the City of Lennox. Intervenor stated that the cylinder pump for the well is located at approximately 177 feet which is not within the Dakota Formation to qualify as an "adversely impacted domestic well." Any drawdown at Intervenor's well resulting from Applicant's proposed wells would be due to the fluxuation of artesian wellhead pressure that could be rectified by Intervenor lowering his pump.

10. Mr. Abbas currently does not use his well for domestic purposes and uses it only for minimal agricultural purposes. Mr. Abbas does not currently have livestock.

11. The City of Lennox will have six well sites from which to draw water and the expansion from three to six well sites will allow the wells to recover more adequately when they are rotated on a cyclical schedule.

12. The City of Lennox installed a production well rather than a test well in the expanded area contained in the amendment to water permit application 5101A-3. The cost of the test well was deemed by the City to be too expensive and a production well was put in place in order to save costs in the event of approval of the application. Said well will be used as part of the City of Lennox's system to utilize the 129 acre feet of water reserved, but not yet put to beneficial use.

13. The City of Lennox has not begun production from the additional well contained in the expanded use area of application S101A-3.

Based upon the foregoing Findings of Fact, the board hereby makes the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter. Under SDCL 46-2A-9, the Board may grant a permit to appropriate water where there is a reasonable probability there is unappropriated water available for Applicant's use; the proposed diversion can be developed without unlawful impairment of existing rights; and the proposed use is a beneficial use and in the public interest.

2. This application is not a request for an appropriation of additional water but seeks to apply water previously reserved and put it to beneficial use.

3. There is a reasonable probability that there is

unappropriated water available for applicant's proposed use.

4. The proposed use is for a water distribution system for the City of Lennox and is a beneficial use.

5. The beneficial effect of supplying high quality water to the City of Lennox supports the finding that the granting of this permit is in the public interest with the qualifications as set forth in the final order.

6. The proposed diversion can be developed without unlawful impairment of existing rights.

7. No substantial detriment shall be incurred by others, including Clifford Brian Abbas, by the granting of the permit as requested by the City of Lennox.

8. The City of Lennox has demonstrated a reasonable need for the water reserved.

9. The proposed use of the water is a beneficial use as defined by statute.

10. It is in the public interest to grant the City of Lennox's application 6778-3 under the terms and conditions established by the chief engineer.

FINAL DECISION

Water permit application 6778-3 is approved subject to the following qualifications:

1. The wells approved under permit 6778-3 will be located near domestic wells and other wells which may obtain water from

the same aquifer. The City of Lennox shall control its withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

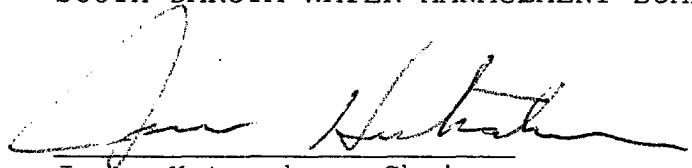
2. The wells constructed under this permit 6778-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. This permit 6778-3 combined with Water Rights Nos. 5326-3 and 5753-3 combine to authorize a maximum annual withdrawal of 517 acre feet of water annually from the Dakota Formation.

4. The City of Lennox shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota Formation.

Dated this 11 day of July, 2007.

SOUTH DAKOTA WATER MANAGEMENT BOARD



James Hutmacher, Chair



OCT 19 2007

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

City of Lennox
Orville Wiebers, Mayor
PO Box 228
Lennox SD 57039

Dear Mayor Wiebers:

Enclosed is Future Use Permit No. 5101A-3 and Water Permit No. 6778-3 as approved by the Water Management Board. Future Use Permit No. 5101A-3 expanded the area reserved for future use as authorized by No. 5101-3. Water Permit No. 6778-3 authorized construction and placing to beneficial use the remaining 129 acre-feet of water authorized by Future Use Permit Nos. 5101-3 and 5101A-3 leaving zero in future use.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed for Water Permit No. 6778-3. 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.

Sincerely,

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

enclosures

Permit No. 6778-3
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, October 15, 2013, made a thorough examination of the water use system constructed by City of Lennox of PO Box 228, Lennox, SD 57039 holder of Permit No. 6778-3, bearing the priority of August 27, 1986 authorizing the diversion of 1.58 cu. ft. per second, placing to beneficial use the remaining 129 acre-feet authorized by Future Use Permit No. 5101-3, of the waters of Dakota Formation for municipal use purposes, in Lincoln County.

Inspection contact & relationship to permit holder, if applicable: **Greg Stack, Public Works Director 602.448.6514 or 605.647.2286**

A. Works used to divert the water:

Well Information: Well D

Well Drilling Firm: LTP Enterprises, Inc.
Depth(s) 526 feet
Well log is available yes
Comment: completed 2-1-2006

Casing:

Diameter 12 inches
Length 400 feet
Type steel

Screen:

Type stainless steel
Length 120 feet
Static water level 151 feet

Pump:

Make submersible Gould
Model
Size
Capacity 95 GPM

Motor:

Make Franklin
Model No.
Horsepower rating 40 hp

Well Information: Well E

Well Drilling Firm: LTP Enterprises, Inc.
Depth(s) 560 feet
Well log is available yes
Comment: completed 1-2-2007

Casing:

Diameter 12 inches
Length 406 feet
Type steel

Screen:

Type stainless steel
Length 135 feet
Static water level 174 feet

Pump:

Make submersible Gould
Model
Size
Capacity 350 GPM

Motor:

Make Franklin
Model No.
Horsepower rating 75 hp

Well Information: Well F

Well Drilling Firm: LTP Enterprises, Inc.

Depth(s) 558 feet

Well log is available yes

Comment: completed 4-4-2007

Casing:

Diameter 12 inches

Length 397 feet

Type steel

Screen:

Type stainless steel

Length 141 feet

Static water level 169 feet

Pump:

Make submersible Gould

Model

Size

Capacity 90 GPM

Motor:

Make Franklin

Model No.

Horsepower rating 30 hp

B. Works used to transport water to place of use: Pipe line from the municipal wells to Lennox.

- 1) Type pvc
- 2) Size 8" inches

C. Works used to apply water to beneficial use:

90,000 gallon water tank and municipal water plant.

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 points of diversion located as follows: Well D is 113' W and 113' S of the NE corner Section 24 (43.30104268, -96.80681834); Well E is 1510' W and 110' N of the SE corner Section 12 (43.31615399, -96.81208605); Well F is 120' W and 2490' N of the SE corner Section 14 (43.30815547, -96.82673289); all in T98N-R51W. The works are capable of diverting and conveying to the place of use 1.11 cu. ft. per second of water which is to be used for municipal water supply.

The license should be issued for 1.11 cfs and 129 acre-feet annually.

All structures, wells and lands on map yes

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

The pipeline limits the combined pumping from Wells D, E, and F to 500 gpm or 1.11-cfs.

City of Lennox permits:

FU 5101-3 and FU 5101A-3 have zero acre-feet remaining for appropriation.

Licensed VR 489-3 is for well #3 at 0.22-cfs and VR 492-3 is for well #1 and #2 at 0.22-cfs.

LC 5080-3 is a stand-by well

LC 5326-3 is for Well B and C at 0.62-cfs for 232 ac-ft annually.

LC 5753-3 is for Well A at 0.36-cfs for 156 ac-ft annually.

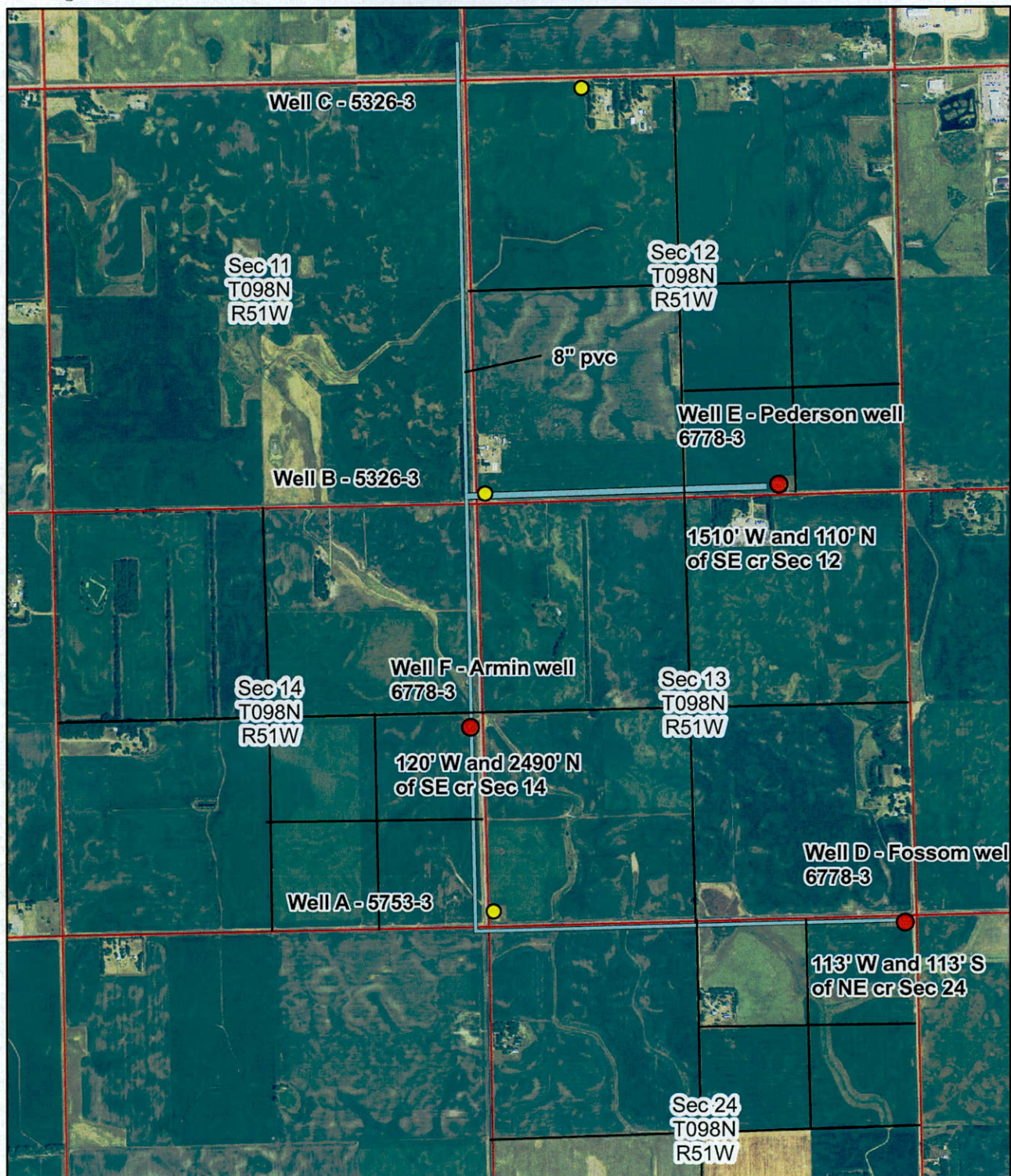
A handwritten signature in cursive script, reading "Lynn Beck", is written over a horizontal line.

Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program

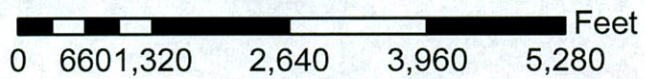
Date report completed: **December 6, 2013**



WATER LICENSE NO. 6778-3
CITY OF LENNOX
December 6, 2013



SCALE



Lynn Beck
Lynn Beck
Natural Resources Engineer III
SD DENR - Water Rights Program



South Dakota
Department of Environment
& Natural Resources
Protecting SD's Tomorrow... Today



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



APR 25 2014

6778-3

Greg Stack, Public Works Director
City of Lennox
PO Box 228
Lennox SD 57029 0228

Dear Mr. Stack:

Enclosed is Water License No. 6778-3. This is the final water right document completing the process of obtaining a Water Right. Included with the license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right No. 6778-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as the city uses 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,

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

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6778-3

(1) The City of Lennox, PO Box 228, Lennox SD 57039-0228 made Application No. 6778-3, November 20, 2006 for a water permit to divert 1.58 cubic feet of water per second from ground water (three wells – Dakota Formation), Lincoln County, South Dakota for municipal purposes. Permit No. 6778-3, with a priority date of August 27, 1986 (established under Future Use Permit No. 5101-3) was approved July 11, 2007 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 11, 2012 and for the application to beneficial use of said water on or before July 11, 2016.

Water Permit No. 6778-3 authorized construction and placing to beneficial use the remaining 129 acre feet of water authorized by Future Use Permit No. 5101-3.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.11 cubic feet of water per second for beneficial use.

The location of the diversion points are:

- Well D: 113 feet west and 113 feet south of the NE corner of Section 24, T98N, R51W (NE $\frac{1}{4}$ NE $\frac{1}{4}$);
- Well E: 1,510 feet west and 110 feet north of the SE corner of Section 12, T98N, R51W (SW $\frac{1}{4}$ SE $\frac{1}{4}$);
- Well F: 120 feet west and 2,490 feet north of the SE corner of Section 14, T98N, R51W (NE $\frac{1}{4}$ SE $\frac{1}{4}$).

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

(4) Pursuant to South Dakota Water Law 46-5-30.1 the City of Lennox, PO Box 228, Lennox SD 57039-022 the holder and/or owner of Water Right No. 6778-3 is issued a license to appropriate water, the right to use 1.11 cubic feet of water per second (129 acre feet annually) from ground water (three wells – Dakota Formation) with a priority date of August 27, 1986 from the locations specified in (2) of this license for municipal purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6778-3 and subject to the following qualifications:

- The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The wells authorized by Permit No. 6788-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
- Water Right No. 5326-3, 5753-3 and 6778-3 combined, authorize a maximum annual withdrawal of 517 acre feet of water annually from the Dakota Formation.

continued

Page 2

Water License No. 6778-3

City of Lennox

- The city of Lennox shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota Formation.



Jeanne Goodman, Chief Engineer
Water Rights Program

Department of Environment and Natural Resources

APR 25 2014

date



Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 6778-3Date: July 24, 2018

I/We request that Water Right/Permit No. 6778-3 formerly owned by:
City of Lennox be transferred to:

New Owner Name: South Lincoln Rural Water System, Inc
Address: 28647 472nd Avenue
City, State, Zip Beresford SD 57004 Telephone No. 605-777-9905

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

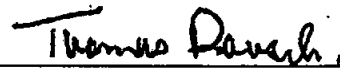
The North 208.75 Feet of the East 208.75 Feet of the Southeast Quarter (SE1/4) of Section 14,
Township 98, Range 51, Lincoln County, South Dakota.

☒ I understand that the validity of Water Right/Permit No. 6778-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, South Lincoln RW, By Thomas Rausch, GM, 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.

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 6778-3Date: July 24, 2018I/We request that Water Right/Permit No. 6778-3 formerly owned by:City of Lennox be transferred to:New Owner Name: South Lincoln Rural Water System, IncAddress: 28647 472nd AvenueCity, State, Zip Beresford SD 57004 Telephone No. 605-777-9905

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

The North 150 feet of the East 429 Feet of the Northeast Quarter (NE1/4) of Section Twenty-four (24), Township 98N, Range 51W, West of the 5th P.M., Lincoln County South Dakota.

- ☒ I understand that the validity of Water Right/Permit No. 6778-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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be transferred to:

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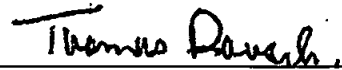
The East 208.75 Feet of the South 208.75 Feet of the West Half of the Southeast Quarter (W1/2 SE1/4) of Section Twelve (12), Township Ninety-eight (98) North, Range Fifty-one (51) West of the Fifth Principal Meridian, Lincoln County, South Dakota, according to the Government survey thereof.

☒ I understand that the validity of Water Right/Permit No. 6778-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date **August 10**

20 **18**

RECEIVED OF **South Lincoln Rural Water System 28647 472nd Avenue Beresford SD 57004**

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form 6778-3		
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. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No. **08740**

By

Jeanne Goodman
Chief Engineer

2711



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

August 10, 2018

South Lincoln Rural Water System Inc.
c/o Thomas Rausch, Manager
28647 472nd Ave
Beresford SD 57004

Dear Mr. Rausch:

We have received the Transfer of Ownership forms for Water Right Nos. 5326-2, 5753-3 and 6778-3. The transfers have been completed and the water rights formerly listed in the name of the City of Lennox are now listed in the name of South Lincoln Rural Water System Inc. Enclosed are the receipts in the amount of \$50 each for filing the transfers.

As stated in your phone conversation with Eric Gronlund, enclosed are three applications to change the use from municipal to rural water system for each of the above listed water rights.

Please review each application for accuracy, sign and return. The application filing fee for each application will be \$100. You originally submitted a check for \$300. Each transfer required a \$50 fee (\$150 total for the three permits). The remainder (\$150) will be applied to the change of use applications. Please submit an additional \$150.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures