

WATER PERMIT NO. 6851-3

Name of Applicant: Todd Cowan

Address: 9094th St SE, Highmore SD 57345

Phone: 605 852-2073

Amount of Water Claimed: 0.15 cfs

Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: commercial

County: Hyde

Type of Waste Disposal System:

Location: 2 miles south of Highmore

PRIORITY

Date Received: 4-25-07

Application/License Fee: \$200

Corrected Application Received:

Period of Annual Use: January 1 – December 30

Remarks: beef cattle feedlot operation

Diversion Point: N ½ NW ¼ Sec 25-T112N-R7²W

Land to be Irrigated: NA

Depth of Well: 2,450 feet deep

Well Driller:

Remarks:

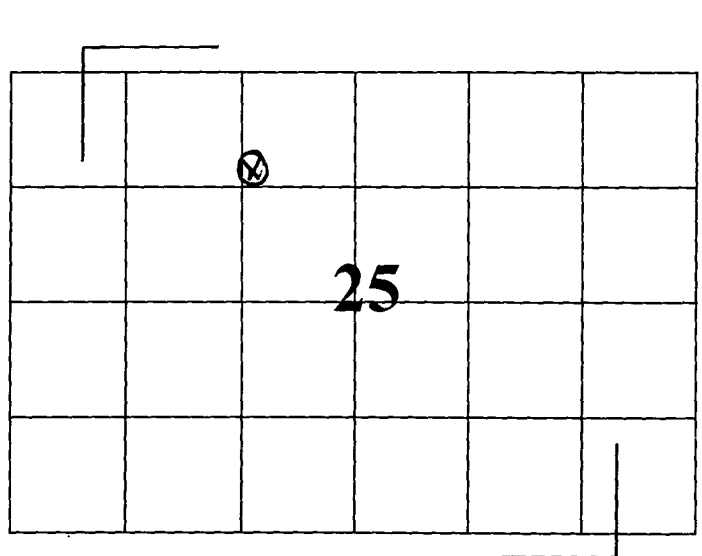
Type of Map: aerial

Prepared by: Camden A Hofer, PE

Reviewed and the Number Assigned on: 4-27-07

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



RECEIVED

APR 25 2007

WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6851-3</u> (office use only)
	Hydrologic Unit <u>10160009</u>
	Basin <u>James River</u>
	Newspaper <u>Highmore Herald P O Box 435</u> <u>605-852-2927 (Thursday) 57345</u>

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

Check use(s) of water:

- | | | | |
|---|---|---|--|
| ☐ Municipal | ☐ Suburban Housing | ☐ Recreational | ☐ Institutional |
| ☐ Rural Water System | ☐ Commercial | ☐ Fish & Wildlife | ☐ Geothermal Heat |
| ☐ Domestic (over 18 gpm) | ☐ Industrial | ☒ Other <u>Beef Feedlot</u> | |

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. _____
☐ Amendment/Correction to Permit No. _____

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

1. Name of Applicant Todd Cowan Phone (605) 852-2073
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 909 Fourth St. SE Highmore State SD 57345
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 0.15 *CFS or 66 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Groundwater
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Hyde
One well located at NW 1/4 Section 25, T112N, R7W
N 1/2 2
5. County or counties where water will be used Hyde
6. Annual period during which water is to be used 365 days Jan 1 - Dec 31
7. 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)

4,750-head (maximum) beef cattle feedlot operation

STATE OF SOUTH DAKOTA)
County of Hyde) 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, Todd Cowan, 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 Todd Cowan

Subscribed and sworn to before me this 24th day of April 2007

Sydney DeKane 5-8-2011
Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 6851-3

Date of first receipt of application April 25, 2007.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6851-3 to Todd Cowan, 909 4th St SE, Highmore SD 57345 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. 6851-3 appropriates 0.15 cubic feet of water per second from one well to be completed into the Inyan Kara Aquifer (approximately 2,450 feet deep) located in N ½ NW ¼ Section 25-T112N-R72W.
2. The water appropriated shall be used for the purpose of commercial use in a cattle feedlot operation and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 6851-3 is July 16, 2007.
5. The date from which applicant may claim right is April 25, 2007.
6. One-fifth of the construction is to be completed on or before January 16, 2010.
7. All construction is to be completed on or before July 16, 2012.
8. Water is to be put to beneficial use on or before July 16, 2016.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

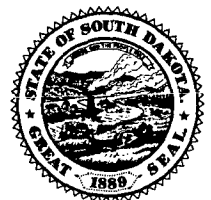
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Permit No. 6851-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
3. Permit No. 6851-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

WATER MANAGEMENT BOARD

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

AUG 01 2007

date



Supplemental Information

(Complete applicable portions only)

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter NA Depth 2,450
- b) Casing Type NA Diameter NA Thickness NA
- c) Screen Type NA Diameter NA Thickness NA
- d) Gravel Pack NA Length of Gravel Pack NA
- e) Depth to Top of Water Bearing Material NA
- f) Depth to Water (ground surface to water level) NA
- g) Distance to nearest existing domestic well:

On applicants property NAOn property owned by others 1/2 mile**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

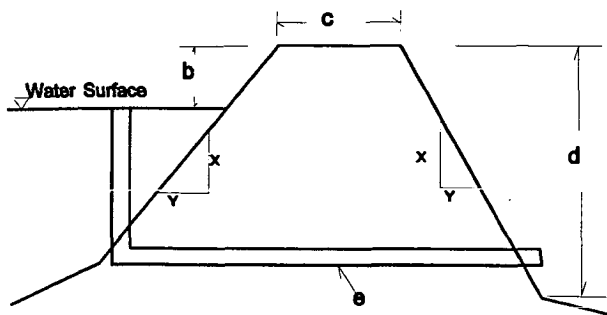
3. Dugout Information

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

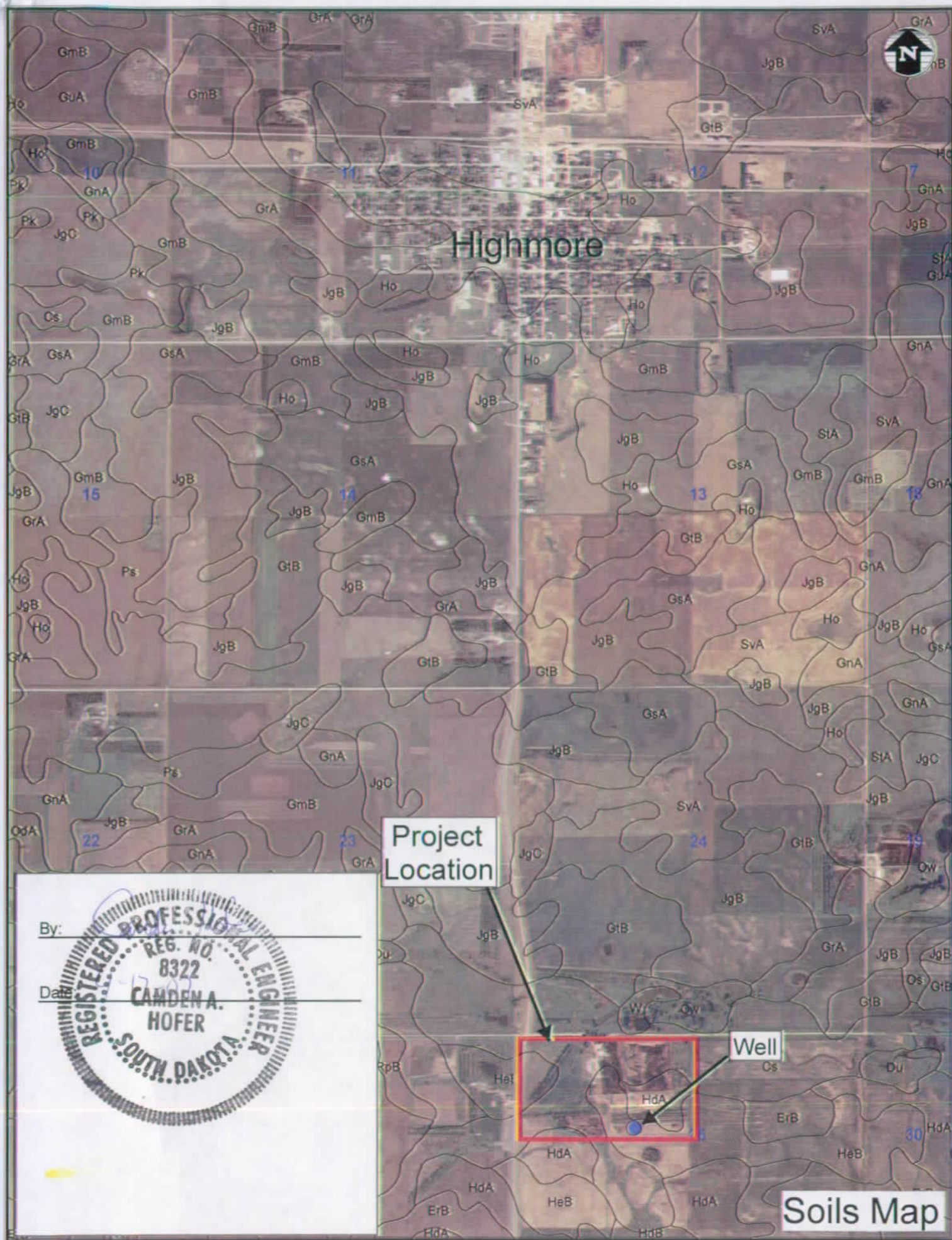
4. Water Storage Dams

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



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 4/25, 20 07

RECEIVED OF COWAN RANCH PO BOX 455 HIGHMORE SD 57345

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	150	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	200 00

No.

03039

By

Chief Engineer



**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. 6851-3, Todd Cowan**

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. 6851-3, Todd Cowan, 909 4th Street SE, Highmore SD 57345.

The Chief Engineer is recommending APPROVAL of Application No. 6851-3 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 well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Permit No. 6851-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
3. Permit No. 6851-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

See report on application for additional information.

Garland Erbele, Chief Engineer
June 20, 2007

REPORT ON WATER PERMIT APPLICATION NO. 6851-3

For Todd Cowan

June 1, 2007

Application No. 6851-3 proposes to appropriate 0.15 cfs (66 gpm) from one well approximately 2,450 feet deep located in the N $\frac{1}{2}$ NW $\frac{1}{4}$ of section 25, T112N R72W for commercial use in a cattle feedlot operation.

AQUIFER – INYAN KARA (INKR)

The Inyan Kara aquifer is buried sand, sandstone and shale that is under artesian conditions at this site. The aquifer underlies 866 square miles and contains an estimated 6.235 million acre-feet of recoverable water in storage in Hyde County (Hedges, 1982). The aquifer underlies all of the surrounding counties and pinches out in the subsurface to the east and south. The direction of ground water movement is from west to east across this area of Hyde County (Koch, 1980). This well should be a free flowing well and should have a shut in pressure of over 200 psi. This estimate is calculated using the Koch report and information published in USGS Open-File Report 87-684 (Neitzert, 1987). Both the Koch and Neitzert reports called this aquifer the Minnelusa aquifer or a combination of Minnelusa, Fall River and Sundance aquifers. For purposes of this report the aquifer is identified as the Inyan Kara aquifer which I believe more accurately describes the bedrock formations in this area. This nomenclature problem is really not significant in the overall scheme of things.

No information on the well construction is included with this application. The well is mentioned in the Open File Report 87-684 and a depth of 2005 feet is given with a completion date of 1973. This depth differs from the applicant estimate. More than likely this is a "slim hole" well. That is, it is probably constructed in accordance with ARSD 74:02:04:36 which technically would not conform with rules now required for a facility needing a water permit.

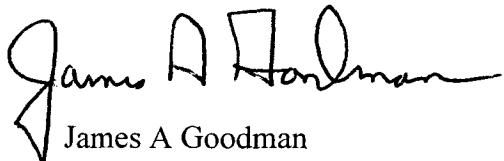
The Water Rights Program does not monitor any observation wells completed into the Inyan Kara aquifer in this area. What little water level information that is available is published in the Koch report. That report indicates that water levels have declined in the Fall River – Sundance – Minnelusa aquifer system. All this is probably measuring is that these wells are free-flowing wells and have been allowed to flow continuously thus the declining water levels. The only observation well that Water Rights Program monitors that is completed into the Inyan Kara is located in Edmunds County 76 miles to the northeast. Water levels at this observation well site are relatively stable (Water Rights, 2007).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other nearby water permits/right from this aquifer in this area. There does appear to be another domestic well from this source located just to the south. These wells have been in existence for many years with no apparent problems. These wells are under considerable pressure at the land surface and therefore interference is not expected to be a concern.

CONCLUSIONS

1. Water is available from the Inyan Kara aquifer.
2. The aquifer is under artesian conditions at this site. In fact, this well should be a free flowing well. This well must be valved and controlled to prevent the waste of water.
3. The condition of the well or how the well was built is not known. The amount of water requested is probably not sufficient to water 4,750 cattle.
4. Interference is not a concern. This well has been used for many years with no apparent problem. There is a domestic well in the area that also obtains water from this formation.
5. Plans and specifications for this facility have been submitted to and approved by department.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Koch, N.C., 1980, Geology and Water Resources of Hand and Hyde Counties, South Dakota, Part II Water Resources, Bulletin 28, SDGS, Vermillion, SD, 57069.
- Neitzert, K.M., N.C. Koch, 1987, Records of Wells and Chemical Analysis of Ground Water in Hand and Hyde Counties, South Dakota, USGS, Open-File Report 87-684, USGS, Huron, SD, 57350.
- Water Rights, 2007, Unpublished Observation Well Records for the Inyan Kara Aquifer, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

RECEIVED

JUL 11 2007

WATER RIGHTS
PROGRAM**PROOF OF PUBLICATION**STATE OF SOUTH DAKOTA)
County of Hyde) SSI, Mary Ann Morfordcertify that the attached printed Notice was
takenfrom the Highmore Heraldprinted and published in HighmoreCounty of Hyde andstate of South Dakota. The notice was
published

in the newspaper on the following two dates:

June 28, 2007July 5, 2007Cost of Printing \$47.94Mary Ann Morford
(Signature)Publisher
(Title)7-9-07
(Date Signed)**NOTICE OF APPLICATION
NOS. 6851-3 AND 6852-3 TO
APPROPRIATE WATER**

Notice is given that Todd Cowan, 909 Fourth Street SE, Highmore, South Dakota 57345 has filed the following applications for a water permit.

Application No. 6851-3 proposes to appropriate 0.15 cubic feet of water per second (cfs) from one well to be completed into the Inyan Kara Aquifer (approximately 2,450 feet deep) located in N 1/2 NW 1/4 Section 25-T112N-R72W for commercial use in a cattle

feedlot operation.

Application No. 6852-3 proposes to appropriate 0.044 cfs from one well to be completed into the Highmore Blunt Aquifer (approximately 100 feet deep) located in the E 1/2 Section 24-T112N-R72W for commercial use in a cattle feedlot operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6851-3 and 6852-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, South Dakota 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 July 16, 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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications.

Steven M. Pirner

Secretary

Department of Environment
and Natural Resources

FPNO 44

LPNO 45



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 21, 2007

Highmore Herald
PO Box 435
Highmore SD 57345

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 6851-3 & 6852-3 to Appropriate Water to be published twice. Please publish the first notice on June 28, 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 Todd Cowan, 909 4th St SE, Highmore SD 57345 (Ph # 605-852-2073).

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. 6851-3 & 6852-3

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

Date _____

We are in receipt of your letter of June 21, 2007 enclosing Notice to Appropriate Water by Application Nos. 6851-3 & 6852-3 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.

June 21, 2007

Todd Cowan
909 4th St SE
Highmore SD 57345

Dear Mr. Cowan:

Water Permit Application Nos. 6851-3 and 6852-3 for commercial use has 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 Highmore Herald printed at Highmore SD (Ph # 605-852-2927). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application is 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 applications.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish first Notice on June 28, 2007 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NOS. 6851-3 and 6852-3 to Appropriate Water

Notice is given that Todd Cowan, 909 4th St SE, Highmore SD 57345 has filed the following applications for a water permit.

Application No. 6851-3 proposes to appropriate 0.15 cubic feet of water per second (cfs) from one well to be completed into the Inyan Kara Aquifer (approximately 2,450 feet deep) located in N ½ NW ¼ Section 25-T112N-R72W for commercial use in a cattle feedlot operation.

Application No. 6852-3 proposes to appropriate 0.044 cfs from one well to be completed into the Highmore: Blunt Aquifer (approximately 100 feet deep) located in the E ½ Section 24-T112N-R72W for commercial use in a cattle feedlot operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 6851-3 and 6852-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by July 16, 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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 01 2007

Todd Cowan
909 4th St SE
Highmore SD 57345

Dear Mr. Cowan:

Enclosed are Water Permit Nos. 6851-2 and 6852-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

Water Rights Program – DENR

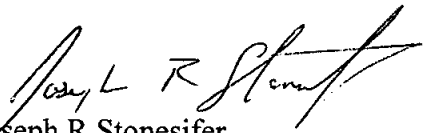
Conversation or File Documentation

Name: Todd Cowen
File No.: 6851-3
Address: 909 4th St SE, Highmore
County: Hyde
Date: June 6, 2014
Telephone: 605.852.2073
RE: Cancellation of permit

Comments:

On July 18, 2013, I inspected a number of Todd Cowen's water permits for licensing. Upon inspection I found that no well had been constructed for Water Permit No. 6851-3. This well was to be located in the N½ NW¼ Section 25, T112N-R72W and completed into the Inyan Kara aquifer. The permit was for commercial use in a cattle feedlot operation. He stated that he had indeed not constructed the well. He was having difficulty finding groundwater.

I am recommending this permit for cancellation due to nonconstruction.



Joseph R Stonesifer
Natural Resources Engineer I
SD DENR – Water Rights Program



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



June 5, 2014

NOTICE OF CANCELLATION

TO: Todd Cowan, PO Box 455, Highmore SD 57345

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit Nos. 6851-3 and 6852-3

Water Permit Nos. 6851-3 and 6852-3 authorize diversion of ground water for use in a cattle feedlot operation. On July 18, 2013, Joe Stonesifer with our program visited with you about the extent of development. You indicated at that time that the wells authorized under the permits had not been drilled. The time limit for completion of works, as specified in both permits, expired July 16, 2012. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit Nos. 6851-3 and 6852-3 due to non-construction.

The Water Management Board will consider cancellation of Water Permit Nos. 6851-3 and 6852-3 at 10:00 a.m., July 10, 2014 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate and the actual time of hearing may be later*).

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit Nos. 6851-3 and 6852-3 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permits. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by July 1, 2014. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

This hearing is an adversarial proceeding. Any party has the right to be present or 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.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by July 1, 2014.

Prior to July 1, 2014, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by June 16, 2014.

I hereby certify that on June 5, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated June 5, 2014 regarding cancellations addressed as stated below:

Jerry Weber, Boulder Canyon Country Club, PO Box 305, Sturgis SD 57785

Cheryle Van Zee, Mgr, South Central Water Development District, PO Box 43, Armour SD 57313

Floyd Simunek, 13052 Fall River Rd, PO Box 339, Hot Springs SD 57747

Arthur Anderson, 11746 Giorgio Dr, Skiatook OK 74070
Darrell Neilson, 110 W 3rd, Mission Hill SD 57046

Rita M Barnett, 3933 34th Ave., Brookings SD 57006

Gary K Fisher, 895 NE Dixie Hwy Ste 101, Jensen Beach FL 34957 6188

Rex H Binger, 17843 377th Ave., Redfield SD 57469

Catherine Fischer, PO Box 573, Eureka SD 57437

Richard Boomsma, 19749 Ponderosa Ln, Hitchcock SD 57348
Reed Bixler, Bixler Farms, 39477 184th St., Hitchcock SD 57348

Nathan Stencil, Stencil Construction Inc., PO Box 89624, Sioux Falls SD 57109
KARBCO LLC, 27276 Kenworth Place., Harrisburg SD 57032

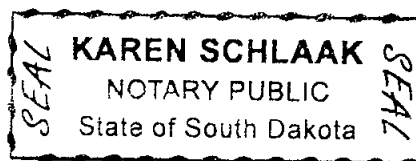
Todd Cowan, PO Box 455, Highmore SD 57345-0455

Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 5th day of June, 2014.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2019





**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NOS. 6851-3 and 6852-3, TODD COWAN

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Nos. 6851-3 and 6852-3.

The Chief Engineer is recommending cancellation of the above water permits due to non-construction. On July 18, 2013, the permit holder was contacted and confirmed the wells authorized under both of the permits had not been constructed.

RON DUVALL, Natural Resources Engineer
for Jeanné Goodman, Chief Engineer
June 5, 2014

Note:

Cancellation of the water permits does not prohibit new applications for these projects in the future.

File No. 6851-3
6852-3
6950-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Todd Cowan, Highmore SD

DATE: July, 2014

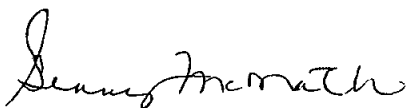
RE: Cancellation considerations for Water Permit Nos. 6851-3, 6852-3 and 6950-3

COMMENTS:

Joe Stonesifer, a staff engineer with Water Rights inspected systems described in Water Permit Nos. 6851-3, 6852-3 and 6950-3 in July, 2013. Based on his inspection and the information he obtained from Mr. Cowan, Joe wrote up the permits for cancellation consideration.

Two of the three permits were scheduled for cancellation at the July, 2014 WMB meeting. Mr. Cowan called the office and inquired as to why the permits were being scheduled since he did have wells in place and in use.

Due to the discrepancies, the cancellation considerations were pulled from the July, 2014 meeting. Mr. Cowan was telephoned and told they would not be heard before the Board at this time. The systems authorized under these permits will need to be inspected again when staff can get to the area.



Genny McMath
Water Rights Program

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 6851-3

I have this day, March 30, 2015, made a thorough examination of the water use system constructed by Todd Cowan, 909 4th Str. SE, Highmore SD 57345 of Permit No. 6851-3, bearing the priority of April 25, 2007 authorizing the diversion of 0.15 cu. ft. per second of the waters of the Inyan Kara Aquifer for commercial purposes, in Hyde County.

Inspection contact & relationship to permit holder, if applicable: **Todd Cowan**

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Uncertain
- 2) No. of Wells 1
- 3) Depth(s) believed about 2,450 feet

- 4) Well log is available No

Comments: **The report written for Application No. 6851-3 indicated that no log was available.**

Pump (flowing well):

- 1) Capacity 0.15 cfs

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

Comments: **Pipeline distribution system to supply livestock feedlot area (4,750 head capacity) and 1,900 feet of 1.25 inch line running to dugout used for watering livestock.**

C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes. Also, contacted Feedlot Program regarding compliance with CAFO regulations. There are no pending issues affecting issuance of the water license.
- 2) Exceptions to compliance are: None

D. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: Well: 1,655 feet south and 1,900 feet E from NW corner section 25-T112N-R72W (SE1/4 NW1/4 located at coordinates longitude -99.43428, latitude 44.47956).
2. The works are capable of diverting and conveying to the place of use 0.15 cu. ft. per second of water which is to be used for commercial use. Water has been put to beneficial use to the maximum extent and the license should be issued for 0.15 cfs.
3. All structures, wells and lands on map Yes

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

The well was in existence at the time the original permit was issued but the legal description is incorrect. It was described as being the in the N1/2 NW1/4 but is actually in the SE1/4 NW1/4 of section 25-T112N-R72W. Please refer to the attached "Change in Diversion Point Location" document which is used to correct the legal description of the well.



Ron Duvall
Water Rights Permitting Administrator
DENR, Water Rights Program

Date report completed: **May 18, 2015**

Scale: 1 inch = 500 feet

700

Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights

Completed by:

Ron Duvall
Ron Duvall, WR Permitting Administrator
Water Rights Program

Diversion point(s) located using a Garmin eTrex 10 GPS

Date: May 18, 2015

Water Right No. 6851-3

Approval of Diversion Point Location Change

NAME: Todd Cowan

ADDRESS: 909 4th Str SE, Highmore SD 57345

DATE: May 18, 2015

COUNTY: Hyde

TELEPHONE: (605) 852-2073

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The well was already in existence when the Application No. 6851-3 was approved. The location was incorrect on the application map and the application was modified to specify a smaller area (N1/2 NW1/4) to reflect the location shown on the map. The correct location is the SE1/4 NW1/4 section 25-T112N-R72W approximately 335 feet from the area described on the water permit. No additional water is being appropriated and the source remains unchanged from the original permit.

- **If irrigation, no new land is irrigated**

Not applicable.

- **Review of Existing Diversions**

A review of the surrounding sections found a domestic well located to the south in section 36-T112N-R72W owned by Clifford and Charles Volek. This is likely the same well mentioned in the report prepared for Application No. 6851-3. As noted in the report, there has been no reported interference and none is expected given the amount of head pressure available from this aquifer.

RECOMMENDED ACTION

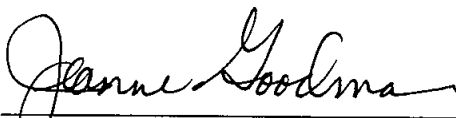
Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.



Ron Duvall, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Jeanne Goodman, Chief Engineer
Water Rights Program

6851-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAY 28 2015

6851-3
6852-3

Todd Cowan
PO Box 455
Highmore SD 57345 0455

Dear Mr. Cowan:

Enclosed are Water License Nos. 6851-3 and 6852-3. They are the final water right documents completing your process of obtaining Water Rights. Included with each 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 Nos. 6851-3 and 6852-3, 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 you use the water beneficially, as stated in the Water Licenses, 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. 6851-3**

(1) Todd Cowan, PO Box 455, Highmore SD 57345 made Application No. 6851-3, April 25, 2007 for a water permit to divert 0.15 cubic feet of water per second from ground water (one well – Inyan Kara Aquifer), Hyde County, South Dakota for commercial purposes. Permit No. 6851-3, with a priority date of April 25, 2007 was approved July 16, 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 16, 2012 and for the application to beneficial use of said water on or before July 16, 2016.

An inspection of the water use system found the well was constructed outside of the permitted area. Pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01, the Chief Engineer made a finding that the change in location of the diversion point did not increase the potential for adverse effects to existing diversions.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.15 cubic feet of water per second for beneficial use.

The location of the diversion point is 1,655 feet south and 1,900 feet east of the NW corner of Section 25, T112N, R72W (SE ¼ NW ¼).

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

(4) Pursuant to South Dakota Water Law 46-5-30.1 Todd Cowan, PO Box 455, Highmore SD 57345 the holder and/or owner of Water Right No. 6851-3 is issued a license to appropriate water, the right to use 0.15 cubic feet of water per second from ground water (one well – Inyan Kara Aquifer) with a priority date of April 25, 2007 from the location specified in (2) of this license for commercial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6851-3 and subject to the following qualifications:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- Permit No. 6851-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
- Permit No. 6851-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions



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

MAY 28 2015

date

