

WATER PERMIT NO. 7057A-3

Name of Applicant: Mill Valley LLC

Address: 15161 476th Ave, Milbank SD 57252 Phone: 605 949-1574

Amount of Water Claimed: 0.11 cfs Total Acres: na

Source of Water Supply: groundwater (2 wells)

Water to be used for: commercial County: Grant

Type of Waste Disposal System:

Location: 2 miles southwest of Twin Brooks

PRIORITY Date Received: 2-14-14 Application/License Fee: \$100

Corrected Application Received: Period of Annual Use: Jan 1 – Dec 31

Remarks: Reinstatement of Water Permit No. 7057-3

Diversion Point: NE 1/4 SE 1/4 Sec 22-T120N-
R49W

Land to be Irrigated: NA

Depth of Well: 357 feet deep

Well Driller: Lee Well Drilling, Inc.

Remarks:

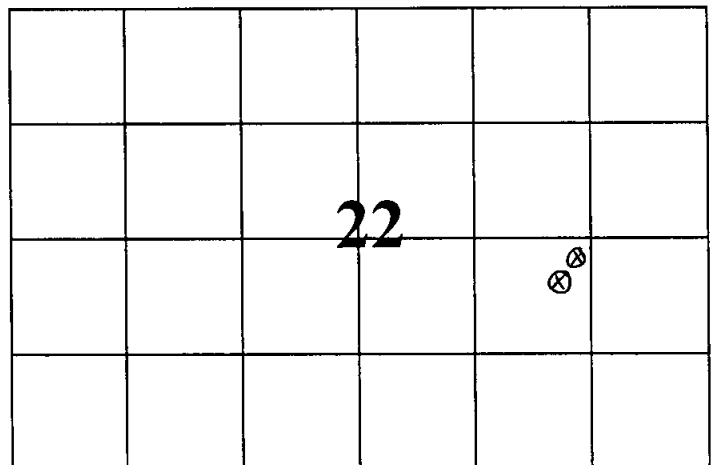
Type of Map: plat

Prepared by:

Reviewed and the Number Assigned on: 2-18-14

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



SD FORM 2 - 1992-17
FORM 2: Application for uses other than irrigation
(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only) No. <u>7057A-3</u> Hydrologic Unit <u>07020001</u>		RECEIVED FEB 14 2014 WATER RIGHTS PROGRAM
	Basin <u>Minnesota Whetstone</u>	<u>605-432-4516</u>	
	Newspaper <u>Grant Co. Review Box 390 Millbank 57252</u>	<u>605-886-6901</u>	
	<u>Public Opinion Box 10 Watertown 57201</u>		

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

Check use(s) of water:

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

Type of Application: (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.)

Re-instatement of Water Permit No. 7057-3

1. Name to Appear on Water Permit Mill Valley LLC

(check one) ☐ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 15161 476th Ave Milbank SD 57252
(Address) (City) (State) (Zip Code)

Home Phone 605-949-1574 Cell _____ Email _____

2. Amount of water claimed 0.11 *CFS or 25 each **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 2 wells in NE 1/4 SE 1/4 Section 22 -T120N-R49W

4. Location of point of diversion SE 1/4 Section 22 -T120N-R49W County Grant

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☐ No

If "Yes," where will water be used? _____

(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used _____

6. Annual period during which water is to be used January 1 - December 31 (year around)

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)

I, [Signature], the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

**SOUTH DAKOTA
WATER PERMIT NO. 7057A-3**

Date of first receipt of application February 14, 2014.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7057A-3 to Mill Valley LLC, c/o Lynn Boadwine, 15161 476th Ave, Milbank SD 57252 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. 7057A-3 reinstates Permit No. 7057-3. Permit No. 7057-3 appropriates 0.11 cubic feet of water per second from two wells to be completed into the Greenhorn Formation (357 feet deep) located in the NE 1/4 SE 1/4 Section 22-T120N-R49W for commercial use in a dairy operation. This permit was approved November 17, 2008, and the project was to be completed November 17, 2013, with water being put to beneficial use by November 17, 2017. Permit No. 7057A-3 reinstates Water Permit No. 7057-3 since the project has not been completed.
2. The water appropriated shall be used for the purpose of commercial use and may not exceed the amount of water needed for beneficial use.
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. 7057A-3 is May 12, 2014.
5. The date from which applicant may claim right is February 14, 2014.
6. One-fifth of the construction is to be completed on or before November 12, 2016.
7. All construction is to be completed on or before May 12, 2019.
8. Water is to be put to beneficial use on or before May 12, 2023.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

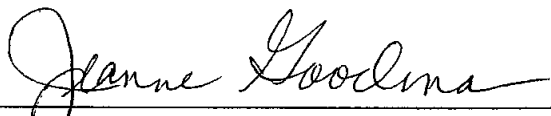
QUALIFICATIONS

1. The 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. Permit No. 7057A-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.

(continued)

3. Permit No. 7057A-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
4. Water Permit No. 7057A-3 cancels Water Permit No. 7057-3.

WATER MANAGEMENT BOARD

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

MAY 30 2014

date



Supplemental Information

(type or print)

1. Well Information

(check one or both as applicable)

☐ Drilling new well(s)

☐ Using existing well(s)

a) If new wells, how many 2 Have test holes been drilled ☐ Yes ☐ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____

c) Well Depth 357 Depth to Top of Water Bearing Material 340 Depth to Water from Surface _____

d) Distance to nearest existing domestic well:

On applicant's property 175 ft.

On property owned by others _____

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 (e.g. 3 to 1 is a typical slope)

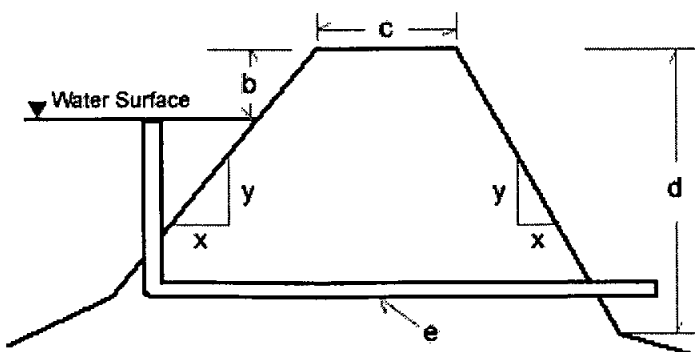
Upstream _____

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

RECEIVED OF Mill Valley LLC, 15161 476 Ave, Milbank SD 57252 2-14 2-14, 20 14

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	100	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for <u>Restatement</u> of Water Permit No. 7057-3		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____	100	00
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	100.00

No. **06751**

By Janne Nordman
Chief Engineer

(RS)



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



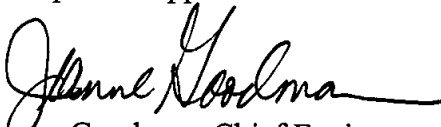
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7057A-3, Mill Valley LLC**

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. 7057A-3, Mill Valley LLC, c/o Lynn Boadwine, 15161 476th Avenue, Milbank SD 57252.

The Chief Engineer is recommending REINSTATEMENT of Application No. 7057A-3 because there is reasonable probability that there is unappropriated water available for the applicant's proposed use 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. Permit No. 7057A-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. 7057A-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
4. Water Permit No. 7057A-3 cancels Water Permit No. 7057-3.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
April 14, 2014

REPORT TO THE CHIEF ENGINEER

WATER PERMIT APPLICATION NO. 7057A-3

Mill Valley, LLC

April 7, 2014

Water Permit Application No. 7057A-3 proposes to reinstate Water Permit No. 7057-3. Water Permit No. 7057-3 appropriated water at a maximum diversion rate of 0.11 cubic feet of water per second (cfs) from two wells completed into the Greenhorn aquifer for commercial use for a dairy operation. The wells are 357 feet deep and are located in the NE¼ SE¼ of Section 22, T120N-R49W in Grant County. The permit was approved November 17, 2008, and the project was to be completed November 17, 2013, with water being put to beneficial use by November 17, 2017. Water Permit Application No. 7057A-3 proposes to reinstate Water Permit No. 7057-3 because the project has not been completed. Approval of Water Permit Application No. 7057A-3 will cancel Water Permit No. 7057-3.

AQUIFER: Greenhorn aquifer (GRNR)

South Dakota Codified Law (SDCL) 46-2A-8.1

Water Permit Application No. 7057A-3 to reinstate Water Permit No. 7057-3 is made pursuant to SDCL 46-2A-8.1, which allows for reinstatement with a new priority date if unappropriated water is available and construction necessary to put water to beneficial use was not completed within five years of approval of the permit. This report will address availability of unappropriated water from the aquifer related to this application.

HYDROGEOLOGY

The Greenhorn Formation was first described by Gilbert (1896) as alternating limestones and shales located stratigraphically below the Carlile shale and above the Graneros shale. The Greenhorn Formation consists of white to gray limestone and gray shale that can locally contain sandstone (Hamilton and Howells, 1996; Leap, 1988). The Greenhorn Formation underlies much of the Great Plains, including most of South Dakota (Fox, 1954; Petsch, 1953). Because the Greenhorn is easily identifiable on the resistivity log, the formation serves as an excellent marker bed (Leap, 1988).

The Greenhorn Formation is laterally extensive, underlying all of South Dakota with the exception of portions of the Black Hills Uplift, the Canadian Shield and Sioux Quartzite Ridge regional structures (Schoon, 1971). The Greenhorn Formation is generally not considered an aquifer in South Dakota. In most areas of South Dakota there are several groundwater sources available, including many glacial aquifers in addition to several bedrock aquifers that are better alternatives to the Greenhorn aquifer. However, in the relatively low lying Minnesota Valley, glacial aquifers become limited and many bedrock aquifers do not exist in this region due in part to the Precambrian Sioux quartzite high. While the Greenhorn aquifer has poor water quality and low capacity wells according to Hedges and others (1985), the Greenhorn is often the only groundwater source in this area, and its development becomes necessary.

A well log on file with Water Permit No. 7057-3 recorded the Greenhorn Formation from 328 to 358 feet below ground surface. The static water level was 10 feet below ground surface in 2008, and the well reportedly produced 35 gallons per minute when developed with air (Water Rights, 2014b). A South Dakota Water Well Completion Report on file with the DENR-Water Rights Program for a second well for this project identifies the Greenhorn Formation, from 340 to 357 feet below grade. The static water level was two feet below grade in 2006 and the well reportedly produced 20 gallons per minute when developed with air (Water Rights, 2014c). This depth and thickness agrees with other data (Beissel and Gilbertson, 1987; Leap, 1988; Petsch, 1953; SD Geological Survey, 2014; Water Rights, 2014c).

WATER AVAILABILITY

The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires it is probable according to the best information reasonably available the quantity of water withdrawn annually from a groundwater source will not exceed the quantity of average estimated annual recharge of water to the groundwater source. If the source of the groundwater is older or lower than the Greenhorn Formation and will be used for a public water system, recharge and withdrawal does not need to be considered. Here, a public water system is not involved and the aquifer is the Greenhorn Formation. So, recharge and withdrawal must be considered.

Recently, courts have ruled that if average annual recharge is considered, average annual withdrawals should also be considered to determine if unappropriated water is available. Also, data must be presented to show it is probable the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered (Memorandum Decision, April 29, 2005; Memorandum Decision, April 11, 2012).

The source of recharge to the Greenhorn aquifer is unknown and the amount of annual recharge has not been quantified. The Greenhorn aquifer discharges through groundwater outflow, leakage to other aquifers and well withdrawals. Well withdrawals are primarily for domestic use, and a number of wells on file with the DENR-Water Rights Program appear to be completed into the Greenhorn aquifer in this area (Water Rights, 2014c). In addition to domestic use, there are three water rights and one water permit appropriating water from the Greenhorn aquifer in South Dakota. Appropriations from the aquifer are all located in eastern Grant County or southeast Roberts County within 15 miles of this site (Water Rights, 2014b). The expected annual withdrawal including this water permit application is **164 ac-ft/yr**, itemized below.

- Water Right No. 6658-3 is authorized for irrigation use. It has an average withdrawal of **5.62 acre-feet per year (ac-ft/yr)** over the period of record, 2005 to 2013 (Water Rights, 1980-2014).
- Water Right Nos. 5693-3 and 6857-3 and Water Permit No. 6849-3 are authorized for commercial use. These have not reported annual use. Commercial use water rights/permits often withdraw an annual volume of water that does not exceed what equates to pumping at maximum authorized diversion rate 60 percent of the time. So, at a total maximum diversion rate of 0.252 cfs, the expected commercial withdrawal totals **110 ac-ft/yr** (Water Rights, 2014b).

- Most domestic wells are not expected to still be in use since rural water systems have been introduced in the area, providing reliable quality water. Considering this and the relatively small withdrawal of a domestic well, domestic use is **not significant** to the hydrologic budget.
- Water Permit Application No. 7057A-3 proposes to appropriate water at a maximum diversion rate of 0.11 cfs, equating to **48.3 ac-ft/yr** when applying the previous 60% pumpage assumption.

The DENR-Water Rights Program does not monitor any observation wells completed into the Greenhorn aquifer. However, from 1976-1981, the USGS made annual measurements of a domestic well located approximately two and one-half miles northeast of the wells this application proposes to use as a water supply. The data provided for this domestic well indicates it was completed into a “Cretaceous sandstone undifferentiated”, with water produced from an interval of 316-326 feet below grade (849-839 feet above mean sea level (fmsl)). The Greenhorn Formation was identified in the completion reports of the wells Water Permit Application No. 7057A-3 proposes to use at approximately 845-823 fmsl and 857-827 fmsl, respectively. Therefore, the domestic well monitored by the USGS was likely completed into the Greenhorn aquifer. Although there are problems inherent to monitoring domestic wells instead of dedicated observation wells, the data provides insight into the aquifer. A hydrograph of the USGS data is shown in Figure 1.

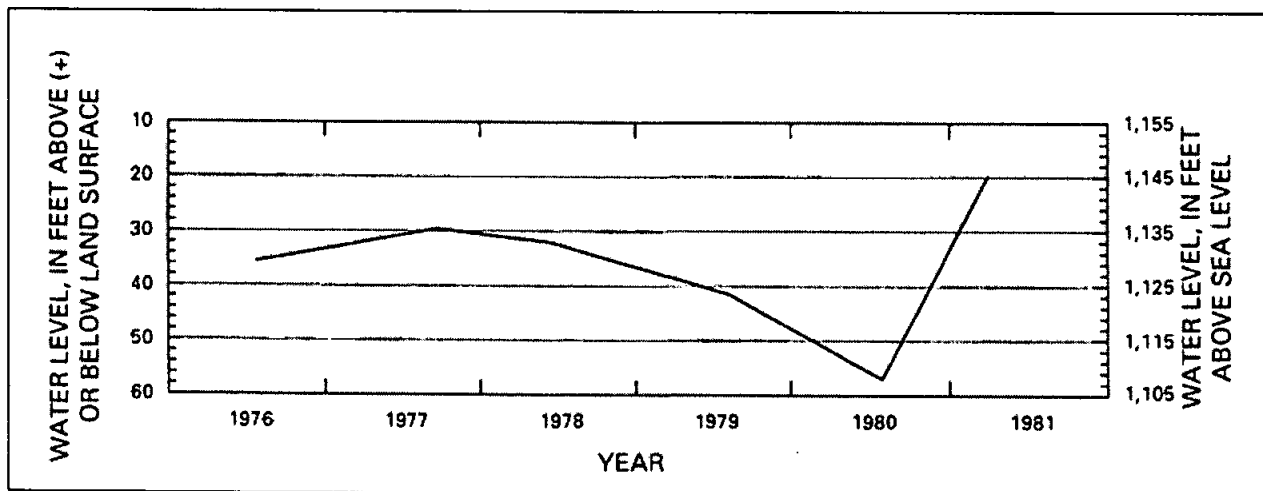


Figure 1. Hydrograph of a domestic well completed into the Greenhorn aquifer (Winter, 1994)

The static water levels of the two wells Application No. 7057A-3 proposes to utilize (approximately 1183 and 1175 fmsl) as compared to the water level elevation reported by the USGS, (1,109-1,145 fmsl) indicate there was more water in storage in the Greenhorn aquifer when the wells for Application No. 7057A-3 were completed, 2006 and 2008 respectively, than there was when the USGS was monitoring the aquifer. The higher potentiometric surface in the mid 2000's as compared to the late 1970's is likely indicative of climatic conditions, consequently showing the aquifer is readily recharged.

The historic water levels of the Greenhorn aquifer in this area suggest that climatic conditions and/or natural discharge such as groundwater outflow from the aquifer, dominate the hydrologic budget for the aquifer in this area, and the withdrawals made by wells are not significant. Well withdrawals, including the appropriation proposed by this application (approximately 48 acre-feet annually) are/ will be accommodated by capturing water that otherwise would be naturally discharged from the aquifer. Therefore, approval of this application will not result in withdrawals from the Greenhorn aquifer to exceed recharge to the aquifer.

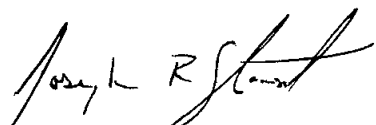
EXISTING WATER RIGHTS

While SDCL 46-2A-8.1 does not require addressing if the proposed diversion can be developed without unlawful impairment of existing rights, this water permit, if approved, will be given a new priority date that will be junior to other water rights. **Withdrawals should be controlled** so there is not a reduction of needed water supplies in adequate wells with senior rights.

There is approximately 300 feet of artesian head pressure in the aquifer (Water Rights, 2014c). Pumping from the proposed diversion is expected to result in some drawdown of water levels; the precise drawdown can only be determined by aquifer testing. The Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. So, nearby **adequate wells defined by ARSD 74:02:20(7) are not expected to be adversely impaired** due to the proposed diversion.

CONCLUSIONS

1. Water Permit Application No. 7057A-3 proposes to reinstate Water Permit No. 7057-3 pursuant to SDCL 46-2A-8.1, which allows reinstatement if unappropriated water is available.
2. Water Permit No. 7057-3 appropriated water at a maximum diversion rate of 0.11 cfs from two wells completed into the Greenhorn aquifer for commercial use.
3. Water Permit No. 7057-3 was approved in 2008, after a determination that unappropriated water was available. There have not been any new appropriations made from the Greenhorn since 2008, and this application simply proposes to reinstate the permit.
4. Water use from the Greenhorn is insignificant with respect to the amount of water in storage in the aquifer.
5. There is a reasonable probability that unappropriated water is available from the Greenhorn aquifer to supply the proposed appropriation.
6. This proposed diversion is not expected to adversely impair existing adequate wells.


Joseph R. Stonesifer
SD DENR-Water Rights Program


Ken Buhler
SD DENR-Water Rights Program

REFERENCES

- Beissel, R.B. and Gilbertson, J.P. Geology and Water Resources of Deuel and Hamlin Counties, South Dakota. Bulletin No. 27. S.D. Geological Survey, Vermillion, SD.
- Fox, S.K., Jr. 1954. Cretaceous Foraminifera from the Greenhorn, Carlile and Cody Formations South Dakota, Wyoming. U.S. Geological Survey Professional Paper 254-E. Washington, D.C.
- Gilbert, G. K., 1896, The underground water of the Arkansas valley in eastern Colorado: U. S. Geological Survey, 17th Annual Report pt 2.
- Hamilton, L.J. and Howells, L.W. 1996. Water Resources of Spink County, South Dakota. U.S. Geological Survey Water-Resources Investigations Report: 96-4056. Huron, SD.
- Hedges, L.S., Allen, J., and Holly, D.E. 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 7: Ground Water Recharge. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- In the Matter of Water Permit Application No. 7239-3, by Hanson County Dairy v. Robert Bender and Stace Nelson, South Dakota First Judicial Court Civ. No. 11-54 (Memorandum Decision, April 11, 2012)
- In the Matter of Water Permit Application No. 6431-3, by Phillip W. Hines v. SD Department of Environment and Natural Resources, South Dakota Sixth Judicial Court Civ. No. HU04-37 (Memorandum Decision, April 11, 2012)
- Leap, D.I. 1988. Geology and Hydrology of Day County, South Dakota. Bulletin No. 24. SD Geological Survey, Vermillion, SD.
- Petsch, B.C. 1953. Structure Map of South Dakota, Greenhorn Datum. S.D. Geological Survey, Vermillion, SD.
- SD Geological Survey. 2014. Lithologic Logs Database, South Dakota Department of Environment & Natural Resources Geological Survey, Vermillion, SD.
- Schoon, R.A. 1971, Geology and Hydrology of the Dakota Formation in South Dakota: Report of Investigations 104. SD DENR-Geological Survey Program. Figure 11
- Water Rights. 1980-2014. "Annual Irrigation Summary by Aquifer": SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2014a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Water Rights. 2014b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Water Rights. 2014c. Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Winter, D.R., 1994, Water Levels Through 1989 in Bedrock Aquifers in South Dakota: U.S. Geological Survey Open-File Report 94-320, Pg. 51

Printer's Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF GRANT

} ss.

Ann Tuchscherer

RECEIVED

APR 25 2014

WATER RIGHTS
PROGRAM

of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, Bookkeeper of said newspaper, in charge of the accounts receivable department thereof, have personal knowledge of all the facts stated in this affidavit; that the advertisement headed Notice of Application NO. 7057A-3 to Reinstate Water Permit No. 7057-3 a printed copy of which, taken from the paper in which the same was published, is attached to this sheet and is made a part of this Affidavit, was published in said newspaper at least once each week for one successive weeks, on the day of each week on which the said newspaper was regularly published, to-wit:

<u>April 23</u> 20 <u>14</u>	_____ 20 _____
_____ 20 _____	_____ 20 _____
_____ 20 _____	_____ 20 _____

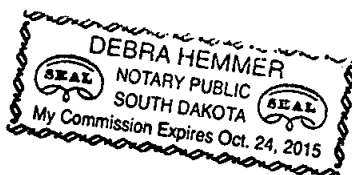
That \$ 28.04, being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Ann Tuchscherer

Subscribed and sworn to before me this 23rd day of April 2014

Debra Hemmer

Notary Public, Grant County, South Dakota



Publication Fee \$ 28.04

NOTICE OF APPLICATION NO. 7057A-3 to Reinstate Water Permit No. 7057-3

Notice is given that Mill Valley LLC, 15161 476th Ave., Milbank, SD, 57252, has filed an application for a water permit to reinstate Permit No. 7057-3. Permit No. 7057-3 appropriates 0.11 cubic feet of water per second from two wells to be completed into the Greenhorn Formation (357 feet deep) located in the NE 1/4 SE 1/4 Section 22-T120N-R49W for commercial use in a dairy operation. This permit was approved November 17, 2008, and the project was to be completed November 17, 2013, with water being put to beneficial use by November 17, 2017. Application No. 7057A-3 proposes to reinstate Water Permit No. 7057-3 since the project has not been completed.

Application No. 7057A-3 to reinstate Permit No. 7057-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction, necessary to put water to beneficial use, is not completed within five years of approval of this permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7057A-3 because unappropriated water is available. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition if filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD, 57501 (605-773-3352); and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 12, 2014.

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

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

Published once at an approximate cost of \$28.04.

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MAY - 2 2014

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Codington) SS

I, Monica K. Saathoff

certify that the attached printed Notice was
taken

from the Watertown Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was
published

in the newspaper on the following date:

April 30th, 2014

Cost of Printing \$66.01

Monica K. Saathoff
(Signature)

Bookkeeper

(Title)

April 30th, 2014

(Date Signed)

DENR

Notice is given that Mill Valley LLC, 15161 476th Ave, Milbank SD 57252 has filed an application for a water permit to reinstate Permit No. 7057-3. Permit No. 7057-3 appropriates 0.11 cubic feet of water per second from two wells to be completed into the Greenhorn Formation (357 feet deep) located in the NE 1/4 SE 1/4 Section 22-T120N-R49W for commercial use in a dairy operation. This permit was approved November 17, 2008, and the project was to be completed November 17, 2013, with water being put to beneficial use by November 17, 2017. Application No. 7057A-3 proposes to reinstate Water Permit No. 7057-3 since the project has not been completed.

Application No. 7057A-3 to reinstate Permit No. 7057-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction, necessary to put water to beneficial use, is not completed within five years of approval of this permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7057A-3 because unappropriated water is available. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 12, 2014.

The petition may be informal, but must include a statement describing the petitioner's interest in the

application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$61.00. (April 30, 2014)

All legal notices in the Public Opinion and other South Dakota newspapers can be found at
www.sdpublicnotices.com



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



April 17, 2014

Grant County Review
PO Box 390
Milbank SD 57252

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7057A-3 to Appropriate Water. Please publish the notice once on April 30, 2014. 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 and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Mill Valley LLC, c/o Lynn Boadwine, 15161 476th Ave, Milbank SD 57252 (Ph # 605-949-1574).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

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

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, April 24, 2014 9:48 AM
To: 'debhemmer'
Subject: RE: Notice of Application No. 7057A-3

That will be okay. There is a time sensitive date within the notice, but it was based on the notice being published on April 30th. So this works. Please send the affidavit ASAP, so we can proof for errors.

Thanks
Karen

From: debhemmer [<mailto:gcreview@itcmilbank.com>]
Sent: Thursday, April 24, 2014 9:42 AM
To: Schlaak, Karen
Subject: Re: Notice of Application No. 7057A-3

We received the notice, but it ran in our April 23 issue by mistake. Should we rerun in for April 30?
Thank you, Debbie
GC Review
On Apr 24, 2014, at 9:33 AM, Schlaak, Karen wrote:

Attached is a copy of the Notice of Application No. 7057A-3. You should have received a letter regarding this. The Notice is to be published on April 30, 2014. The applicant is Mill Valley LLC, c/o Lynn Boadwine, 15161 476th Ave, Milbank SD 57252 (605 949-1574). They have be notified to contact you to authorize publication and arrange for payment.

If you have questions, please contact this office.

Karen Schlaak
Water Rights Program
Phone: 605 773-3352
Fax: 605 773-4068

<7057-A-3public.short.docx>



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



April 17, 2014

Public Opinion
PO Box 10
Watertown SD 57201

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7057A-3 to Appropriate Water. Please publish the notice once on April 30, 2014. 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 and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Mill Valley LLC, c/o Lynn Boadwine, 15161 476th Ave, Milbank SD 57252 (Ph # 605-949-1574).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

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



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



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

April 17, 2014

Mill Valley LLC
Lynn Boadwine
15161 476th Ave
Milbank SD 57252

Dear Mr. Boadwine:

Water Permit Application No. 7057A-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 Grant County Review printed at Milbank SD (Ph # 605-432-4516) and the Public Opinion printed at Watertown SD (Ph # 605-886-6901). You will need to contact the newspaper(s) 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 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
enclosures

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

Instruction to Newspaper - Publish the Notice on April 30, 2014. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 7057A-3 to Reinstate Water Permit No. 7057-3

Notice is given that Mill Valley LLC, 15161 476th Ave, Milbank SD 57252 has filed an application for a water permit to reinstate Permit No. 7057-3. Permit No. 7057-3 appropriates 0.11 cubic feet of water per second from two wells to be completed into the Greenhorn Formation (357 feet deep) located in the NE 1/4 SE 1/4 Section 22-T120N-R49W for commercial use in a dairy operation. This permit was approved November 17, 2008, and the project was to be completed November 17, 2013, with water being put to beneficial use by November 17, 2017. Application No. 7057A-3 proposes to reinstate Water Permit No. 7057-3 since the project has not been completed.

Application No. 7057A-3 to reinstate Permit No. 7057-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction, necessary to put water to beneficial use, is not completed within five years of approval of this permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7057A-3 because unappropriated water is available. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 12, 2014.

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

Published once at the total approximate cost of _____.



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



MAY 30 2014

Mill Valley LLC
Lynn Boadwine
15161 476th Ave
Milbank SD 57252

Dear Mr. Boadwine:

Enclosed is Water Permit No. 7057A-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

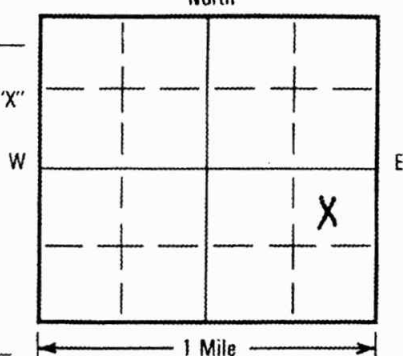
enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NE 1/4 SE 1/4 Sec 22 Twp 120N Rg 49W
County Grant

Please mark well location with an "X"

Grant Center
Township

Well-Completion Date

6/6/08

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 150 ft. from sewer (identify source).

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Forward RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>SDR-47</u> LB/FT	<u>5</u> IN	<u>0</u> FT	<u>334</u> FT	<u>8</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Neat Cement</u>	_____	<u>15</u> lb./gal	<u>0</u> ft	<u>30</u> ft
<u> Bentonite</u>	_____	_____ lb./gal	<u>30</u> ft	<u>320</u> ft

Describe grouting procedure Pressure Grout w/temic pipeSCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 4" gal. IN Length 24 FEETMaterial Stainless SteelSlot Size 25 Set From 334 Feet to 358 FeetOther information plug on bottomWAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Chlorine☐ NO, Why Not? solutioncirculated in borehole

Laboratory sent to for water quality analysis

DHIA-Sank CentreWell Owner: Gerhardt ter DengeBusiness Name: Mill-Valley DairyAddress: 15169 476th Ave.Milbank SD 57552

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>topsoil</u> <u>Black</u>	<u>0</u>	<u>2</u>
<u>clay</u> <u>yellow</u>	<u>2</u>	<u>28</u>
<u>clay</u> <u>Grey</u>	<u>28</u>	<u>75</u>
<u>shale</u> <u>dark</u>	<u>75</u>	<u>320</u>
<u>shale</u> <u>Brown</u>	<u>320</u>	<u>328</u>
<u>Sandrock - Greenhorn - light</u>	<u>328</u>	<u>358</u>
<u>shale</u> <u>Brown</u>	<u>358</u>	<u>365</u>
<u>shale</u> <u>Grey</u>	<u>365</u>	

STATIC WATER LEVEL 10 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ PumpedDescribe: Air Compressor☐ Bailed☐ Other

Pumping Level Below Land Surface

150 ft. After 3 Hrs. pumped 35 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate 24 GPMREMARKS 4- Hard
0.5- Fe
No H₂S

RECEIVED
JUN 11 2008
WATER RIGHTS
PROGRAM

This well was drilled under license # 63

And this report is true and accurate.

Drilling firm Lee Well Drilling Inc

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: 6/9/08

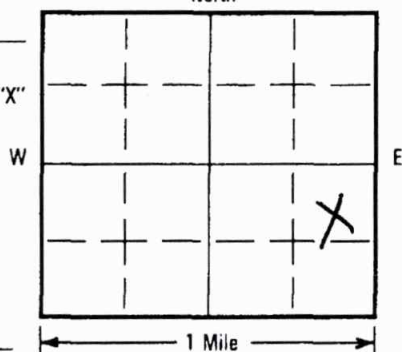
6-11-08

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NE 1/4 SE 1/4 Sec 22 Twp 120-N Rg 49-W
County Grant

Please mark well location with an "X"



Well Completion Date

12/29/06

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 75 ft. from Barn - parlor (identify source).

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Forward RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>SPR-17</u> LB/FT	<u>5</u> IN	<u>0</u> FT	<u>340</u> FT	<u>9</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Neat Cement</u>	_____	<u>15</u> lb./gal	<u>0</u> ft	<u>50</u> ft
<u>Bentonite</u>	_____	<u>9.4</u> lb./gal	<u>50</u> ft	<u>300</u> ft

Describe grouting procedure Stem pipe - pressure grout

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 4" P.S. IN Length 17 FEET

Material _____

Slot Size 25 Set From 340 Feet to 357 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Chlorine solution☐ NO, Why Not? _____

Laboratory sent to for water quality analysis

L.B. Water testingWell Owner: Gerhard & Anna ter DengeBusiness Name: Mill Valley DairyAddress: 15169 476th Avenue
Milbank S.D. 57252

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>topsoil</u>	<u>0</u>	<u>2</u>
<u>clay yellow</u>	<u>2</u>	<u>35</u>
<u>clay Grey</u>	<u>35</u>	<u>320</u>
<u>clay Brown</u>	<u>320</u>	<u>340</u>
<u>Sandrock</u>	<u>340</u>	<u>357</u>

STATIC WATER LEVEL 2 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: Air compressor
☐ Bailed _____
☐ Other _____

Pumping Level Below Land Surface

172 ft. After 40 Hrs. pumped 20 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate 20 GPMREMARKS 4-Hard
0-FeRECEIVED
JAN - 8 2007WATER RIGHTS
PROGRAMThis well was drilled under license # 63

And this report is true and accurate.

Drilling firm Lee Well Drilling Inc.Signature of License Representative: [Signature]

Signature of Well Owner or Equitable Property Holder: _____

Date: _____



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 29, 2024

7057A-3
8551-3

Mill Valley LLC
c/o Lynn Boadwine
4009 W 49th St, Ste 308
Sioux Falls SD 57106

Dear Mr. Boadwine:

I am writing in regard to Water Permit Nos. 7057A-3 & 8551-3 authorizing the combined diversion of 0.28 cubic feet of water per second (125 GPM) from 3 wells located in the NE ¼ SE ¼ Section 22, T120N, R49W, Grant County, for commercial use in a dairy operation.

On July 30, 2024, a staff engineer from the Water Rights Program made a site visit to conduct an inspection of the water use systems authorized under Permit Nos. 7057A-3 & 8551-3, for the purpose of incorporating the permits and licensing system.

With the inspections having been conducted and the reports completed, we are ready to proceed with the licensing of your water use system. However, as stated in Permit No. 8551-3, you have until December 20, 2026, to complete the construction of your water use system and until December 20, 2030, to put that water to beneficial use.

If you have finished the construction and are satisfied with your water use system, please complete the highlighted portions of the enclosed "Notice of Completion of Works" form and return it in the postage paid envelope. Once we have the completed form back from you, we will proceed with the licensing of your system.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

NOTE: The inspection found that all three wells are only capable of producing 25 GPM, collectively. Please contact me immediately if you believe that to be incorrect.

enclosures