

WATER PERMIT NO. 7131-3

Name of Applicant: **Charles Alverson**

Address: **46304 241st St, Chester SD 57016** Phone: **605 270-1324**

Amount of Water Claimed: **1.0 cfs** Total Acres: **68**

Source of Water Supply: **groundwater (one well)**

Water to be used for: **irrigation** County: **Lake**

Type of Waste Disposal System:

Location: **12 miles southeast of Madison**

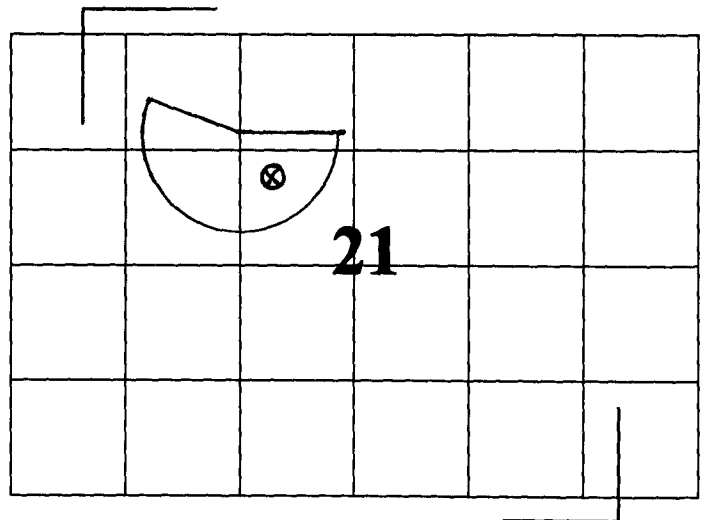
PRIORITY Date Received: **5-1-09** Application/License Fee: **\$275**

Corrected Application Received: Period of Annual Use: **May 1 – Sept 30**

Remarks:

Diversion Point: **SE ¼ NW ¼ Sec 21-T105N-R51W**

Land to be Irrigated: **NW ¼ Sec 21-T105N-R51W**



Depth of Well: **37 feet deep**

Well Driller: **Lacey Well Drilling**

Remarks:

Type of Map: **aerial**

Prepared by: **Retta Thrun, NRCS**

Reviewed and the Number Assigned on: **5-4-08**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>7131-3</u>	(office use only) Hydrologic Unit <u>10170203</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Daily Leader</u>	<u>PO Box 348</u>
	<u>605-256-6190</u>	<u>Madison 57042</u>

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MAY - 1 2009
WATER RIGHTS
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Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

- Name of Applicant Charles Alverson Phone 605-270-1324
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 46304 241st St. Chester State S.D. 57016
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.0 *CFS or 450 **GPM ***AF Total Acreage 68
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Ground Water 1 well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County _____
1 well in the NW 1/4 E9C. S306' W1011' #130A
SE 1/4 NW 1/4 Sec. 21-105-51
- County or counties where water will be used Lake
- Annual period during which water is to be used Growing Season May 1st thru Sept 30
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SW 1/4, NW 1/4 Section 21	26	all in T105N R51W	
SE 1/4, NW 1/4 Section 21	27		
NW 1/4, NW 1/4 Section 21	11		
NE 1/4, NW 1/4 Section 21	4		

- Give a description of the project. (Attach sheet if more space is needed)
Water will be used to Irrigate Corn, Soybeans, or Alfalfa.
Asprinkler imigation system will be used. Approximately 68 acres
will be irrigated.

STATE OF SOUTH DAKOTA) SS
County of Lake

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, Charles Alverson, 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 Charles Alverson

Subscribed and sworn to before me this 29 day of APRIL 20 09

Notary Public signature

EXP. 09/22/2013

**SOUTH DAKOTA
TEMPORARY USE
WATER PERMIT NO. 7131-3 FOR IRRIGATION**

Date of first receipt of application May 1, 2009.

The Water Management Board approved Temporary Use Water Permit No. 7131-3 on March 10, 2010 for Charles Alverson, 46304 241st St, Chester SD 57016 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. Temporary Use Water Permit No. 7131-3 appropriates 1.0 cubic feet of water per second from one well to be completed into the Big Sioux:Northern Skunk Creek Aquifer (approximately 37 feet deep) located in SE 1/4 NW 1/4 Section 21 to irrigate 68 acres located in the NW 1/4 Section 21; all in T105N-R51W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is May 1, 2009.
4. One-fifth of the construction is to be completed on or before September 10, 2012.
5. All construction is to be completed on or before March 10, 2015.
6. Water is to be put to beneficial use on or before March 10, 2019.
7. 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 city of Madison, Kingbrook Rural Water System and Big Sioux Community Water have priority right to this water under future use withdrawal permits. This permit is issued as a temporary use permit pursuant to SDCL 46-5-39 and is subject to these prior rights if or when the future use permit holders fully develop their reserve water supply. This permit may be subject to cancellation when the entire water reserved under these future use permits is put to beneficial use. The Chief Engineer must provide the permit holder six months notice prior to cancellation of this temporary use permit.
2. 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.
3. The wells authorized by TEMPORARY USE Permit No. 7131-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

(continued)

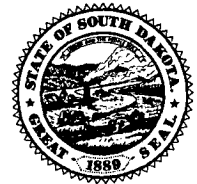
4. Pursuant to SDCL 46-5-6 which allows greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, TEMPORARY USE Permit No. 7131-3 authorizes a maximum diversion rate of 1.0 cfs for the irrigation of 68 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
5. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUN 10 2010

date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 14" Depth 37'
- b) Casing Type Steel Diameter 14" Thickness 3/8"
- c) Screen Type Plastic Diameter 6" Thickness 3/8"
- d) Gravel Pack Muscatine Length of Gravel Pack 15'
- e) Depth to Top of Water Bearing Material 22'
- f) Depth to Water (ground surface to water level) 22'
- g) Distance to nearest existing domestic well:
On applicants property _____ On property owned by others 3/8 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

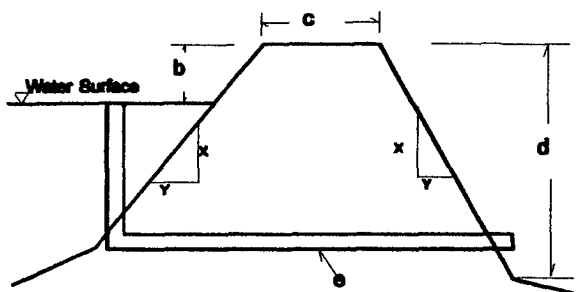
3. Dugout Information

- 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



United States Department of Agriculture
Farm Service Agency

21-105-51

November 14, 2003

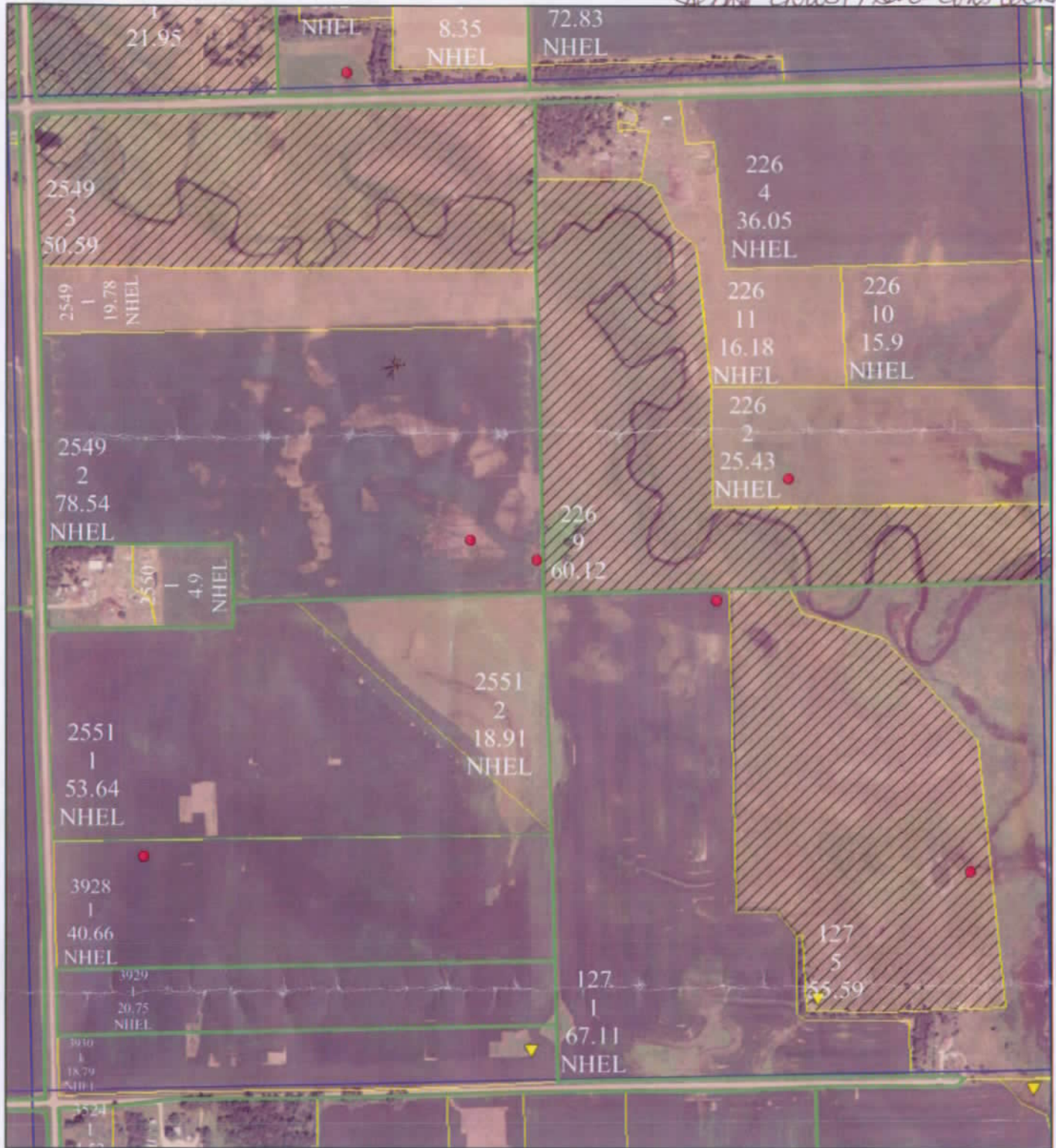
Lake County

1997 Digital Orthophotography - Not To Scale



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Let's Check / Soil Conservation



USDA - Farm Service Agency

Lake County, SD

21-105N-51W

April 17, 2009

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MAY - 1 2009

WATER RIGHTS PROGRAM

Legend

- Tract Boundaries
- Section-Township-Range
- Easements
- CRP
- Common Land Units
- Rangeland

Wetland Determination Identifiers

- Restricted Use
- ▼ Limited Restrictions
- Exempt from Conservation Compliance Provisions



USDA FSA maps are for FSA Program administration only. There is no guarantee or representation to the user as to the accuracy, currency, suitability or reliability. FSA MAPS DO NOT REPRESENT A LEGAL SURVEY. The user accepts the data 'as is' and assumes all risks associated with its use. Wetland points reflect records available with NRCS and may or may not constitute a full inventory of the property. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data. Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

Invoice

In Water Since 1946

LACEY WELL DRILLING, INC.

47582 - 240th St.
Dell Rapids, SD 57022
Telephone (605) 428-5979

846

10086

Sold To Charlie Alverson
46304 241st St.
Chester, S.Dak. 57016

DATE	4-23-09
CUSTOMER'S ORDER NO.	
SHIP TO	270-1324

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MOSE. RETD.	PAID OUT	
QUANTITY	DESCRIPTION					PRICE	AMOUNT
2	Test Holes 24-37 61'					5.00	305.00
	#1 60' East of Center	#2 South of #1 infield				Travel	20.00
	0-3 Black Topsoil	0-2 Topsoil					325.00
	3-16 Rusty Sand	2-14 Sand					6.50
	16-23 Gravel	14-22 Gravel					331.50
	23-24 Clay	22. Mud lens					
	17' SWL	22-37 Good Gravel					
		17' SWL					
RECEIVED MAY - 1 2009 WATER RIGHTS PROGRAM							

All claims and returned goods must be accompanied by this bill.

TERMS: Net Cash 30 Days — 1% Service Charge Per Month on Accounts 30 Days Past Due.

RECEIVED BY _____

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/1, 20 09

RECEIVED OF Charles Alverson 46304 241st St Chester SD 57016

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	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	275 00

No.

04128

By

Garland Echele
Chief Engineer

RECEIVED

November 17-2009

NOV 19 2009

WATER RIGHTS
PROGRAM

Dear Sir:

I am writing regarding Charles Alverson 46304 241st St. Chester, S.D. 57016. About a well he wants to put on his property that stands right next to our land to the north. I am afraid that if he gets this, it will run us out of water. The only source of water we have is a well. We have already had problems in the summer when they use the water around us.

We don't have any extra income to put in any other water services.

Joseph Engelbes
Beverly Engelbes
24150 462nd Ave
Chester, S.D. 57016



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 24, 2009

NOTICE

TO: Charles Alverson
46304 241st Street
Chester SD 57016

Joseph and Beverly Engelkes
24150 462nd Avenue
Chester SD 57016

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 7131-3, Charles Alverson

A petition concerning approval of Water Permit Application No. 7131-3 has been filed by Joseph and Beverly Engelkes. The petition was filed in response to the Notice of Application published in the Madison Daily Leader printed and published in Madison SD. This notice schedules a hearing on the application before the South Dakota Water Management Board.

Application No. 7131-3 proposes to appropriate 1.0 cubic feet of water per second from one well to be completed into the Big Sioux-Northern Skunk Creek Aquifer (approximately 37 feet deep) located in SE 1/4 NW 1/4 Section 21 to irrigate 68 acres located in the NW 1/4 Section 21; all in T105N-R51W.

The Water Management Board will conduct a hearing to consider Application No. 7131-3 at 10:30 AM on Wednesday, March 10, 2010 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice will be provided to all parties if there are changes to the hearing time. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7131-3 as a TEMPORARY USE PERMIT because 1) water is available to be appropriated as a temporary use permit until holders of future use permits develop water reserved from their future use permits, 2) the proposed diversion can be developed as a temporary use permit without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application based on the evidence presented at the public hearing.

The March 10, 2010, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any party of record opposing the application. The request for an automatic delay must be filed by February 26, 2010.

This hearing may be an adversarial proceeding. Any party of record and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of the report, recommendation and petition in the matter of Water Permit Application No. 7131-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules". You are encouraged to review these documents prior to the hearing.

The application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

c: Diane Best, Assistant Attorney General

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by February 26, 2010.

CERTIFICATION

I hereby certify that on November 24, 2009, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated November 24, 2009, regarding hearing for Water Right Permit Application No. 7131-3, as addressed below:

Charles Alverson
46304 241st Street
Chester SD 57016

Joseph and Beverly Engelkes
24150 462nd Avenue
Chester SD 57016

Diane Best, Assitant Attorney General
300 N. Dakota Avenue, Suite 403
Sioux Falls SD 57104



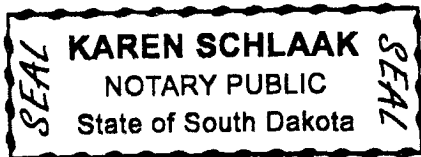
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of November, 2009.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



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FEB 26 2010

WATER RIGHTS
PROGRAM

Dear Mr. Ebele

I am waiting regarding
my application for permit No. 7131-3.

I know that the
Engelkes are concerned about
their domestic well if permit is
approved. Possibly this could
cause the problem, but I am not
on rural water and located by
many Iraq. or rural water wells +
I notice no difference during Iraq.
Season.

As of now I do not
plan on being at March 10th hearing
The decision is up to the Water
Board. If my request is denied
I would hope that there would be
no more permits for Iraq. or Rural
water approved in this area.
Thankyou for your consideration.

RETYPE BY WATER RIGHTS PROGRAM

RECEIVED FEBRUARY 26, 2010

Dear Mr. Erbele:

I am writing regarding my application for permit No. 7131-3.

I know that the Engelkes are concerned about there (sic) domestic well if permit is approved. Possibly this could cause the problem, but I am not on rural water and located by many Irrig. & rural water wells & I notice no difference during Irrig. season.

As of now I do not plan on being at March 10th hearing. The decision is up to the Water Board. If my request is denied I would hope that there would be no more permits for Irrig. or Rural water approved in this area.

Thank you for your consideration.

Charles Alverson



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

March 1, 2010

NOTICE

Joseph and Beverly Engelkes
24150 462nd Avenue
Chester SD 57016

Dear Mr. and Mrs. Engelkes:

Please find enclosed a letter from Charles Alverson regarding the upcoming hearing before the Water Management Board on Water Permit Application No. 7131-3. For ease of reading we replicated the letter in typed form. You previously filed a petition concerning approval of the application.

The Water Management Board will conduct a hearing to consider Application No. 7131-3 at 10:30 AM on Wednesday, March 10, 2010 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Applicable portion of the notice sent to parties on November 24, 2009 will still apply at the hearing.

If you have any question on the hearing process, please contact me.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

enclosure

c: Charles Alverson, 46304 241st Street, Chester SD 57016

CERTIFICATION

I hereby certify that on March 1, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 1, 2010 regarding a letter from Charles Alverson on a petition for 7131-3 addressed as stated below:

Joseph & Beverly Engelkes, 24150 462nd Ave., Chester SD 57016
Charles Alverson, 46304 241st St., Chester SD 57016

A copy of the above described Notice was sent to:

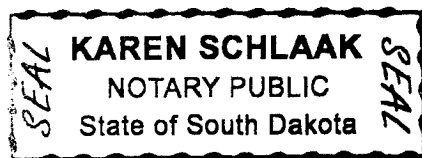
Diane Best, Assistant Attorney General, 300 N Dakota Ave., Suite 403, Sioux Falls SD 57104


Gail Jacobson
Secretary
Water Rights

[illegible]

Sworn to, before me, this 1st day of March, 2010.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Temporary Use Permit No. 7131-3, Charles Alverson

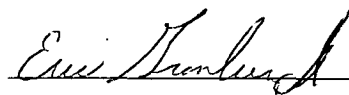
ADDRESS: 46304 241st Street, Chester SD 57016 COUNTY: Lake

DATE: March 16, 2010 TELEPHONE:

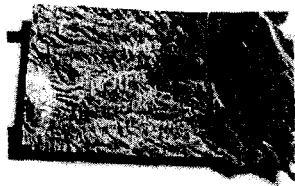
RE: Explanation of two reports and recommendation in administrative record

There is a report dated June 5, 2009 and recommendation dated July 27, 2009 in the administrative record for Application No. 7131-3. Prior to public notice of the application, the review of a future use permit application for Big Sioux Community Water raised questioned regarding the availability of water in aquifer. Based on this the report and recommendation were reviewed on October 5, 2009 and October 27, 2009, respectively. Based on this later review of the application, the application was public noticed and the Water Management Board approved the permit as a temporary use permit.

NAME:

_____

20100310_min



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

AGENDA WATER MANAGEMENT BOARD

**March 10, 2010
Floyd Matthew Training Center
Joe Foss Building
523 East Capitol Avenue, Pierre SD**

**Scheduled hearing times are Central Time
and are estimates that may be delayed
due to prior agenda items.**

- 8:30 AM** Call to Order
November 17, 2009 and December 9 - 10, 2009 Board Minutes
May 5 - 6, 2010 Meeting Location (Pierre suggested)
Status and Review of Water Rights Litigation – Jeff Hallem
Administer Oath to Department of Environment and Natural Resources Staff

Appointment of Rapid Valley Water Master – Mark Rath
- 9:00 AM** Water Permit Application Nos. 504A-2, 2138A-2, 2642-2 and 2643-2, City of Rapid City – Mark Rath
- 10:00 AM** Consider Violations for Failure to Submit Annual Irrigation Questionnaire – Genny McMath

Cancellation Consideration – Eric Gronlund

Future Use Review – Eric Gronlund
- 10:30 AM** Water Permit Application No. 7131-3, Charles Alverson – Jim Goodman
- LUNCH**
- 1:00 PM** Consider Findings of Fact, Conclusions of Law and Final Decisions
- Water Permit Application No. 1819-1, Black Hills Mining Company LLC
- Appeal of Chief Engineer's Decision in the matter of a Pond on Spring Creek
- Flood Control Application No. FC-5A and Water Permit Application No. 7088-3, Lake Poinsett Water Project District
- 2:00 PM** Water Permit Application No. 2641-2, Rapid Valley Sanitary District – Aaron Tieman
- 2:30 PM** Water Permit Application No. 7165-3, Paul Buckneberg – Ken Buhler
- Adjourn**

Note: The Board will recess for breaks at its discretion

withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

Well Construction Rule Qualification No. 1

The well(s) authorized by Permit No. _____ shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.

Well Construction Rule Qualification No. 2

The well(s) authorized by Permit No. _____ shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

Irrigation Water Use Questionnaire Qualification

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Low Flow Qualification

Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

WATER PERMIT APPLICATION NO. 7131-3, CHARLES ALVERSON: Ms. Best stated that the applicant submitted a letter stating that he did not intend to be present at the hearing. The interveners, Joseph and Beverly Engelkes were also not present at the hearing.

Ms. Best offered DENR Exhibit 1, the agency file, DENR Exhibit 2, Jim Goodman's curriculum vita, and DENR Exhibit 3, an area map. The exhibits were accepted into the record.

Ms. Best provided the board with a copy of the pertinent statutes.

Jim Goodman presented his report on the application.

Mr. Goodman explained that on Exhibit 3, the permits outlined in yellow belong to Alverson, 4360-3, outlined in green and 5695-3 outlined in pink, belong to other individuals. Application No. 7131-3 is located in the middle of the map in Section 21 and is shown in cross hatches.

The observation wells, indicated by a green dot, are also shown on Exhibit 3. Hydrographs for the two monitoring wells are included in Mr. Goodman's report.

Application No. 7131-3 proposes to appropriate 1.00 cfs (450 gpm) from a well approximately 37 feet deep to irrigate 68 acres in Lake County. The application is located about two miles east of Chester, SD.

The Big Sioux Northern Skunk Creek aquifer is a predominantly surficial outwash (sand and gravel) under water table conditions in this area. The aquifer underlies 48 square miles and

contains an estimated 196,000 acre-feet of water in storage in Lake and Moody Counties. The general direction of ground water movement is from northwest to southeast, but is also influenced by the proximity of area lakes and streams. The aquifer is also hydraulically connected to nearby Lakes Madison, Bryant, and Round and to Skunk Creek.

Mr. Goodman said this report was prepared at approximately the same time as Ken Buhler's report for Water Permit No. 7136-3 for Big Sioux Community Water System Inc. Mr. Buhler refined an estimate for recharge to approach 3.82 inches per year (9,779 acre-feet per year) by using the observation well method. Also, a hydrologic budget was calculated based on average irrigation, complete use of municipal and rural water system use, and all other possible users. This budget revealed that the aquifer should be considered fully appropriated at 9,779 acre-feet per year. That report also indicates that potentially a use of about 10,000 acre feet annually could be anticipated if all permits were utilized to their fullest extent. This scenario is unlikely but must be taken into account. Also the Buhler report indicates the potential for some adjustments to these estimates as some permits/rights are cancelled because of nonuse.

There are two existing water rights and one future use permit located about one-half mile from this application. The two water rights are No. 4360-3 (1.44 cfs, 128 acres) and No. 5151-3 (1.04 cfs, 72 acres). Future Use Permit No. 6834-3 (600 acre-feet annually) for Big Sioux Community Water System is not developed at this time. Mr. Goodman noted that there is also some irrigation in this area. Drawdown will occur but this is not expected to be significant at the distance between wells nor cause any adverse effects.

The Water Rights Program monitors three observation wells completed into the Skunk Creek aquifer and located within two miles of this application. These are observation wells LK-79E, LK-79C and LK-79D. Water levels for these wells show good response to climatic conditions. Water levels rise during wet years and decline during dry years. The water level record indicates the aquifer is capable of sustaining additional withdrawals.

The water level record also indicates that there has been an impact to the water levels in the area of the Big Sioux Rural Water well field located in the NW ¼ of section 9, T105N R51W (about two miles north of this application). This record indicates about 5 feet of decline in water levels which should not be serious but at least should be considered before authorizing new permit applications in that immediate area. Hydrographs for these three observation wells are included with this report. Note that these observation wells do not indicate any impacts to the water levels from area pumping.

Mr. Goodman concluded that water is available from the Big Sioux Northern Skunk Creek aquifer, but approval of this application should be subject to existing rural water and municipal future use. Approval of this application should be a temporary use permit pursuant to SDCL 46-5-39.

At this site, the aquifer appears to be under water table conditions according to the test well logs provided with the application. Drawdown created by pumping is not expected to be significant at the requested rate and interference should not be a concern.

The well authorized by this application must be constructed in accordance with SD Well Construction Standards.

The aquifer in this area can be split into two zones. An upper zone of sand and gravel is separated from a lower zone by a clay layer. Two of the monitoring wells LK-79C and LK-79D are completed into these individual layers and located at the same site about one half mile north of this application. Even though both layers are considered the Big Sioux Northern Skunk Creek hydraulically there can be differences. The water level record reinforces this concept but also indicates the aquifer is capable of sustaining additional withdrawals.

The chief engineer recommended approval of Application No. 7131-3 as a temporary use permit with the Well Interference Qualification, Well Construction Rule Qualification No. 2, the Irrigation Water Use Questionnaire Qualification, and the following qualifications:

1. The city of Madison, Kingbrook Rural Water System, and Big Sioux Community Water have priority right to this water under future use permits. This permit is issued as a temporary use permit pursuant to SDCL 46-5-39 and is subject to these prior rights if or when the future use permit holders fully develop their reserve water supply. This permit may be subject to cancellation when the entire water reserved under these future use permits is put to beneficial use. The chief engineer must provide the permit holder six months notice prior to cancellation of this temporary use permit.
2. Pursuant to SDCL 46-5-6 which allows greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, temporary use Permit No. 7131-3 authorizes a maximum diversion rate of 1.0 cfs for the irrigation of 68 acres with an annual volume not to exceed two acre-feet of water per acre per year.

Responding to a question from Mr. Holzbauer, Mr. Goodman stated this temporary use permit will be binding on the future use permits of the Kingbrook and Big Sioux Rural Water Systems. Kingbrook RWS has another well field near Clark and Big Sioux RWS has a well field near Trent. They also have a well field that was built to supply the Wentworth ethanol plant.

Mr. Holzbauer asked if Mr. Alverson is aware that if the water is needed, his temporary use permit goes away. Mr. Goodman stated that he will be given notification at least six months in advance if that occurs.

Chairman Bjork asked what the department's experience has been with temporary use permits. Mr. Goodman stated that the department has never had to enforce a temporary use permit.

Chairman Bjork asked if Mr. Engelkes well is adequate. Mr. Goodman answered that he does not know anything about Mr. Engelkes well.

Mr. Holzbauer asked how many temporary use permits have been issued. Mr. Goodman stated that 10 to 12 temporary use permits have been approved.

Water Management Board
March 10, 2010, Meeting Minutes

In response to a question from Mr. Brink regarding the aquifer being fully appropriated, Mr. Goodman stated total appropriation is at about 10,000 acre-feet. Much of that appropriation is for future use and has never been used. Even though that amount is not being used at this time, the total amount includes the future use.

Responding to a question from Mr. Brink, Mr. Buhler stated that the actual amount being used is approximately 850 acre-feet per year for irrigation.

Mr. Goodman said what is being used is a sum of the rural water system use plus the irrigation use, which can change annually depending on the climate. When the irrigation use is calculated, the department determines an average based on the period of record.

Mr. Buhler stated that Chester Sanitary District, Kingbrook RWS, the city of Madison, and Big Sioux RWS are the big users. Their average pumping is approximately 2,500 acre-feet per year, so at this time about 2,500 acre-feet per year is being pumped.

Mr. Goodman noted that if the city of Madison gets hooked up to the Lewis and Clark RWS, there will be a large amount of future use water that the city will have no need for.

Ms. Loucks asked if when the rural water system is available, does the city have to use it? Mr. Goodman said the city is not required to use rural water. He noted that staff had already made the determination when the future use permits were issued that the water was available. They still have to make an application and come before the Water Management Board to put the water to use. The reason for that is the Water Rights Program wants to know where the wells are going to be located. The well locations need to be advertised in case someone wants to contest those locations. Mr. Goodman said the statute requires that they come back to the board with an application to put the water to use. The statute also says if they don't use all of the water, whatever they do not use reverts back to future use. They don't lose it unless they give it up. Future use is only for municipalities, rural water systems, and special entities.

Mr. Hoyt asked when the board considers an application for a future use permit, does the applicant have the burden to show a reasonable possibility that the water will be put to use within the foreseeable future. Mr. Goodman answered yes.

Mr. Hoyt said these future use permits are reviewed every seven years and rarely in the extensions does the board see a demonstration that the forecasted probability of use is confirmed or revised. In this case as those holders of future use permits appear before this board for an extension, should the board be asking them to demonstrate again the reasonable probability that they will use the amount of water reserved under their future use permit.

Mr. Goodman this occurs as part of the future use permit holder's documentation that is submitted prior to the seven-year review.

This concluded Mr. Goodman's presentation. Chairman Bjork requested board action.

Motion by Freeman, seconded by Hutmacher, to approve Temporary Use Water Permit Application No. 7131-3, Charles Alverson, subject to the qualifications set forth by the chief engineer. Motion carried.

Ms. Best stated that the applicant and interveners have waived Findings of Fact and Conclusions of Law in this matter pursuant to Water Management Board rule 74:02:01:12.02 and pursuant to SDCL 1-26-17.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION IN THE MATTER OF WATER PERMIT APPLICATION NO. 1819-1, BLACK HILLS MINING COMPANY LLC:
Mr. Hoyt recused himself from participating in this matter.

Ms. Best stated that Mr. McKinney called and advised that he would be present.

Chairman Bjork clarified that the board is making a decision on the Findings of Fact and Conclusions of Law. This is not the time for additional testimony or argument regarding the case.

Jeff Hallem reported that Ms. Best, on behalf of DENR, had submitted proposed Findings of Fact, Conclusions of Law, and the Final Decision. Mr. Hallem stated that he reviewed the proposal and the record and prepared Water Management Board's rulings on DENR's proposed Findings of Fact, Conclusions of Law and Final Decision. He recommended that the board accept the proposed Findings of Fact as proposed with the exception of No. 20 and 21.

Mr. Hallem recommended the board accept Finding of Fact No. 20 with the following modification: After "corporation" insert "or limited liability company." Mr. Hallem recommended the board accept Finding of Fact No. 21 with the following modification: In the second sentence, delete "he testified" and insert "Mr. Rath's report states."

Mr. Hallem recommended the board accept the proposed Conclusions of Law and the Final Decision as proposed.

Mr. Hallem stated that he prepared Findings of Fact, Conclusions of Law and Final Decision consistent with the board rulings.

Charles McKinney stated that the reason he needs the small amount of 5,000 gallons is to make sure the pits stay full enough so that when the water is being recirculated the mine can continue to operate. Mr. McKinney said 5,000 gallons is not a large amount of water.

Ms. Best objected to Mr. McKinney's comments as it appears to be a reopening of the hearing. She noted that two hearings have been held regarding this matter, the first in 2004 and the second in December 2009. Proper notice was given and neither Mr. McKinney or Mr. Wandler were present at either of those hearings, therefore, forfeiting their right to present evidence.

Chairman Bjork sustained Ms. Best's objection. He stated that today the board is here to make a ruling on the Findings of Fact, Conclusions of Law, and Final Decision.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7131-3, Charles Alverson**

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. 7131-3, Charles Alverson, 46304 241st Street, Chester SD 57016.

The Chief Engineer is recommending APPROVAL of Application No. 7131-3 as a TEMPORARY USE PERMIT because 1) water is available to be appropriated as a temporary use permit until holders of future use permits develop water reserved from their future use permits, 2) the proposed diversion can be developed as a temporary use permit 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 city of Madison, Kingbrook Rural Water System and Big Sioux Community Water have priority right to this water under future use withdrawal permits. This permit is issued as a temporary use permit pursuant to SDCL 46-5-39 and is subject to these prior rights if or when the future use permit holders fully develop their reserve water supply. This permit may be subject to cancellation when the entire water reserved under these future use permits is put to beneficial use. The Chief Engineer must provide the permit holder six months notice prior to cancellation of this temporary use permit.
2. 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.
3. The wells authorized by TEMPORARY USE Permit No. 7131-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. Pursuant to SDCL 46-5-6 which allows greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, TEMPORARY USE Permit No. 7131-3 authorizes a maximum diversion rate of 1.0 cfs for the irrigation of 68 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
5. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
October 27, 2009

REPORT ON WATER PERMIT APPLICATION NO. 7131-3 (REVISED)

For Charles Alverson

October 5, 2009

Application No. 7131-3 proposes to appropriate 1.00 cfs (450 gpm) from a well approximately 37 feet deep and located in the SE ¼ NW ¼ of section 21 to irrigate 68 acres located in the NW ¼ of section 21; all in T105N R51W in Lake County.

AQUIFER – BIG SIOUX NORTHERN SKUNK CREEK (BS-NSC)

The Big Sioux Northern Skunk Creek is a predominantly surficial outwash (sand and gravel) under water table conditions in this area. The aquifer underlies 48 square miles and contains an estimated 196,000 acre feet of water in storage in Lake and Moody Counties (Hansen, 1986). The general direction of ground water movement is from northwest to southeast but is also influenced by the proximity of area lakes and streams. The aquifer is also hydraulically connected to nearby Lakes Madison, Bryant, and Round and to Skunk Creek.

In a report for Water Permit No. 7136-3 for Big Sioux Community Water System Inc. (Buhler, 2009), Buhler refined an estimate for recharge to approach 3.82 inches per year (9,779 acre feet per year) by using the observation well method as described in Hedges (Hedges, 1982). Also a hydrologic budget was calculated based upon average irrigation, complete use of municipal and rural water system use and all other possible users. This budget revealed that the aquifer should be considered fully appropriated at 9,779 acre feet per year. That report also indicates that potentially a use of about 10,000 acre feet annually could be anticipated if all permits were utilized to their fullest extent. This scenario is unlikely but must be taken into account. Also the Buhler report indicates the potential for some adjustments to these estimates as some permits/rights are cancelled because of nonuse.

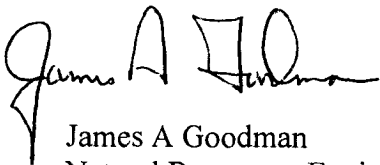
The Water Rights Program monitors three observation wells completed into the Skunk Creek aquifer and located within two miles of this application. These are observation wells LK-79E, LK-79C and LK-79D. Water levels for these wells show good response to climatic conditions. Water levels rise during wet years (recharge) and decline during dry years. The water level record indicates the aquifer is capable of sustaining additional withdrawals (Water Rights, 2009). However, the water level record also indicates that there has been an impact to the water levels in the area of the Big Sioux Rural Water well field located in the NW ¼ of section 9, T105N R51W (about two miles north of this application). This record indicates about 5 feet of decline in water levels which should not be serious but at least should be considered before authorizing new permit applications in that immediate area. Hydrographs for these three observation wells are included with this report. Note that these observation wells do not indicate any impacts to the water levels from area pumping.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are two existing water rights and one future use permit located about one-half mile from this application. The two water rights are No. 4360-3 (1.44 cfs, 128 acres) and No. 5151-3 (1.04 cfs, 72 acres). The Future Use Permit is No. 6834-3 (600 acre feet annually) for Big Sioux Community Water System and is not developed at this time. Drawdown will occur but this is not expected to be significant at the distance between wells nor cause any adverse effects. This is shown by the observation well hydrographs for this area.

CONCLUSIONS

1. Water is available from the Big Sioux Northern Skunk Creek aquifer but approval of this application should be subject to existing rural water and municipal future use. Approval of this application should be a temporary use permit pursuant to SDCL 46-5-39.
2. At this site the aquifer appears to be under water table conditions according to the test well logs were provided with the application. Drawdown created by pumping is not expected to be significant at the requested rate and interference should not be a concern.
3. The well authorized by this application must be constructed in accordance with SD Well Construction Standards.
4. The aquifer in this area can be split into two zones. An upper zone of sand and gravel is separated from a lower zone by a clay layer. Two of the monitoring wells LK-79C and LK-79D are completed into these individual layers and located at the same site about one half mile north of this application. Even though both layers are considered the Big Sioux Northern Skunk Creek hydraulically there can be differences. The water level record reinforces this concept but also indicates the aquifer is capable of sustaining additional withdrawals.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

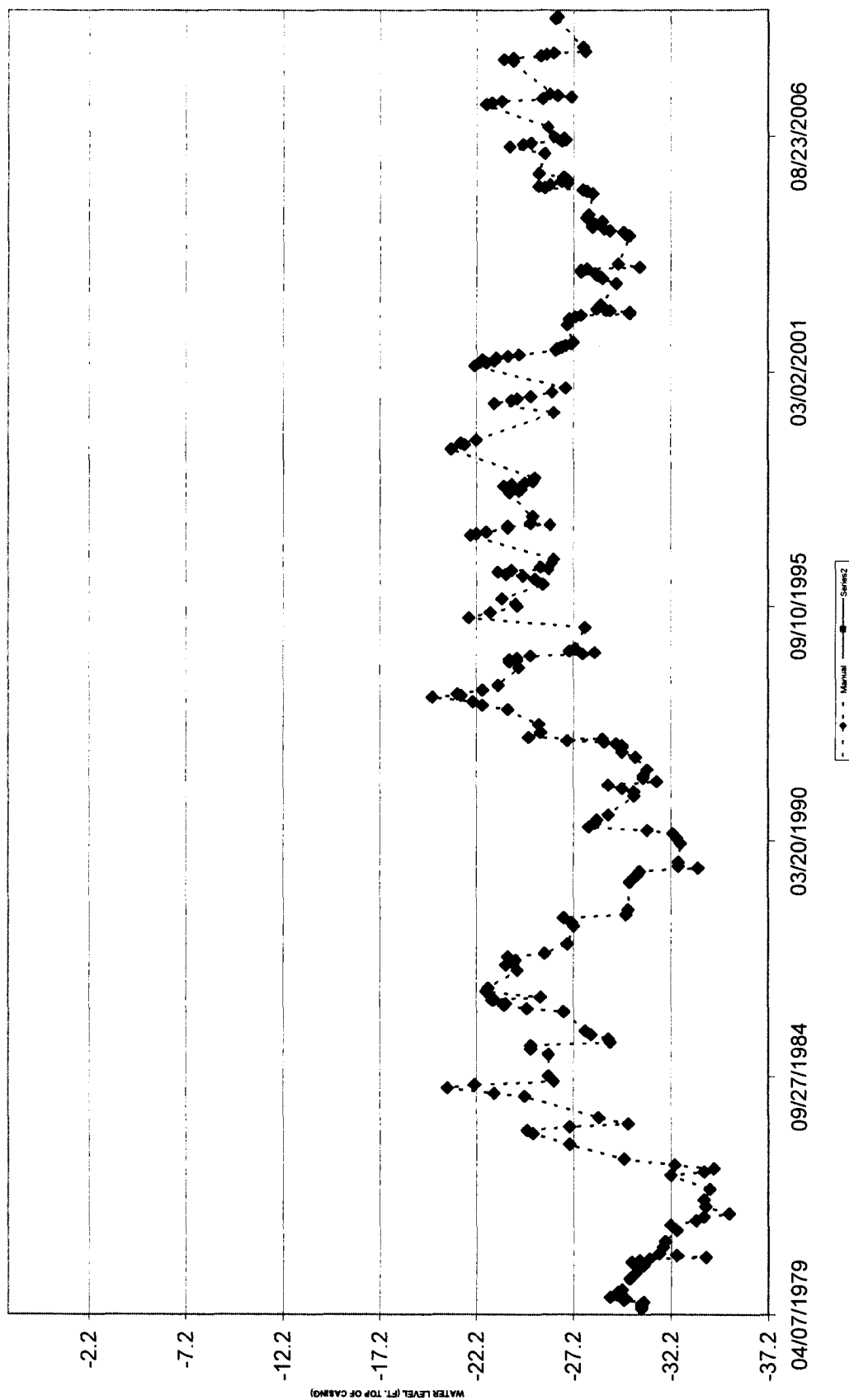
Buhler, K., 2009, Future Use Permit Application No. 7136-3, Big Sioux Community Water System, Inc., SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

Hansen, D.S., 1986, Water Resources of Lake and Moody Counties, South Dakota, Water Resources Investigations Report 84-4209, USGS, Huron, SD, 57350.

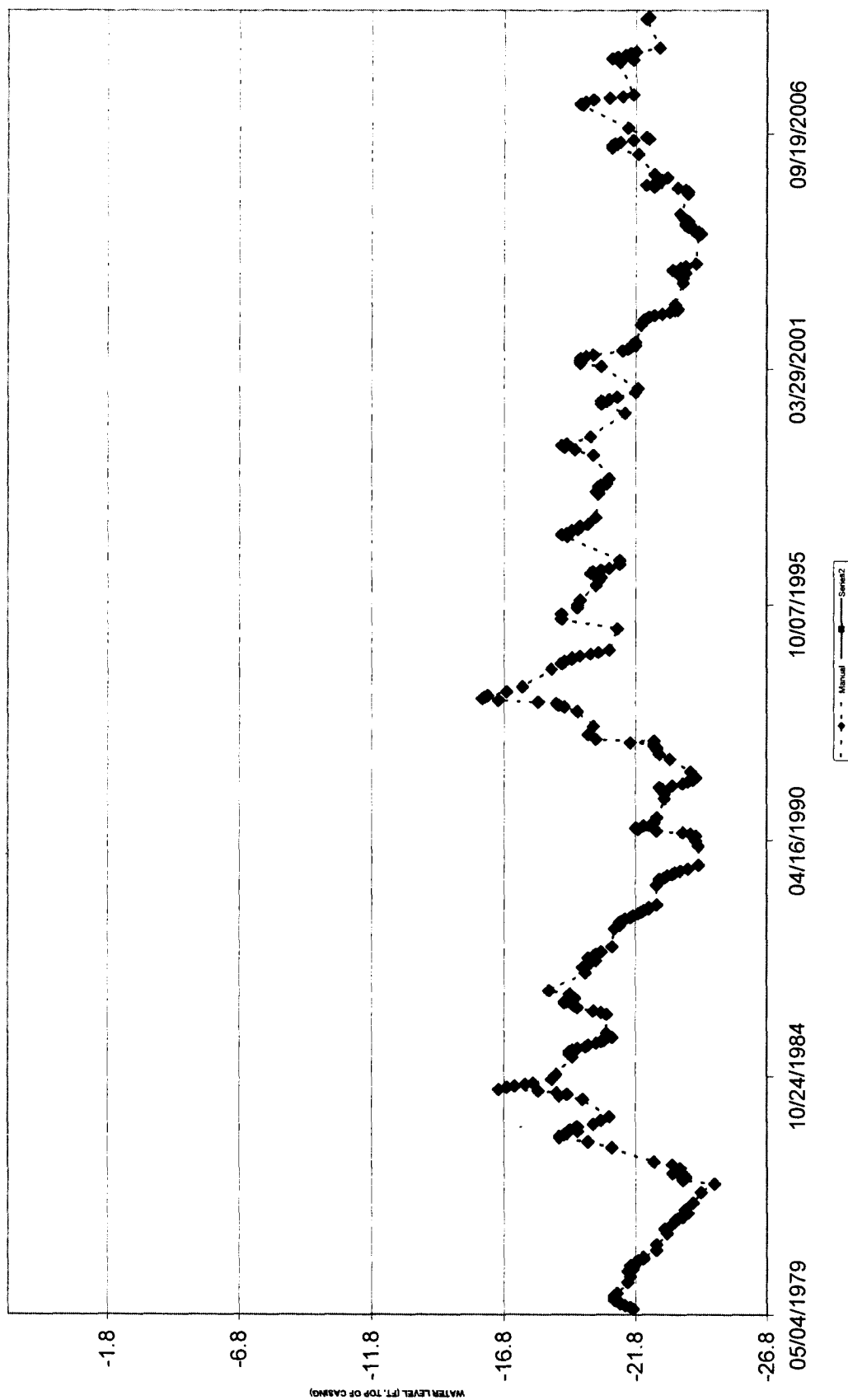
Hedges, L.S., and others, 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

Water Rights, 2009, Unpublished Observation Well Data for Lake County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

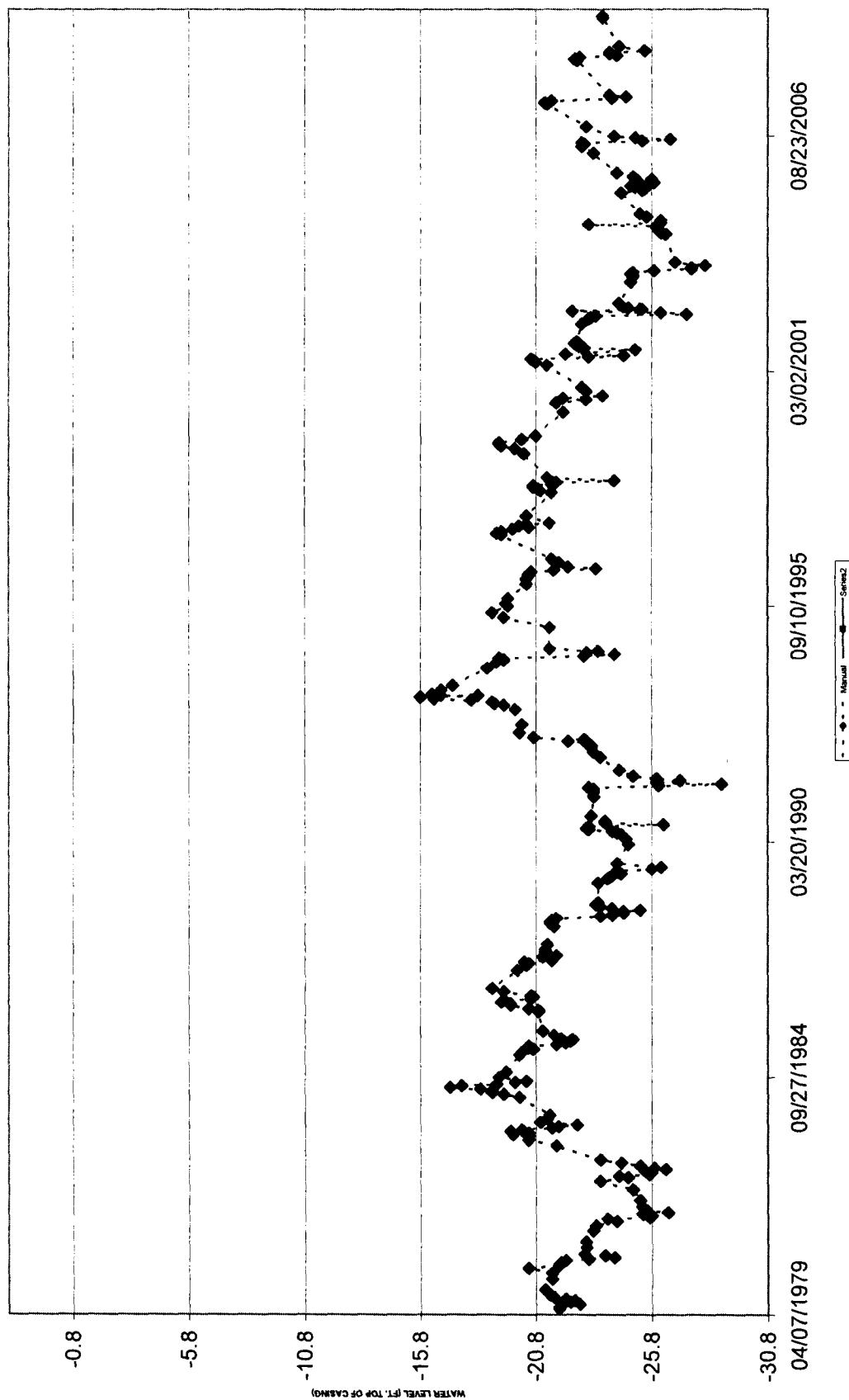
**WATER RIGHTS' OBSERVATION WELL
LK-79E**



WATER RIGHTS' OBSERVATION WELL
LK-79D



**WATER RIGHTS' OBSERVATION WELL
LK-79C**



AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
County of Lake } ss.

RECEIVED

NOV 16 2009

WATER RIGHTS

PROGRAM

Sue Anne Artko of the City of Madison, County of Lake, State of South Dakota, being first duly sworn on oath, deposes and says:

The Madison Daily Leader is a daily legal newspaper of general circulation, printed and published in the City of Madison, in said County of Lake, by Hunter Publishing, Inc., Jon M. Hunter, publisher, and has been such legal newspaper during the times hereinafter mentioned; that the said Madison Daily Leader has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said time had, and how has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Secretary of the said newspaper, in charge of the advertising department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed

Charles Alverson

Notice of Application to Appropriate Water

printed copy of which hereunto attached, was printed and published in the said newspaper for Two successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

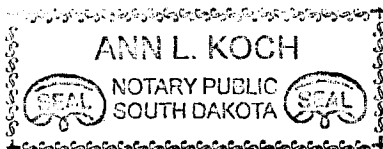
On Wednesday, the 4th day of November, 2009;
On Wednesday, the 11th day of November, 2009;
On _____, the _____ day of _____, 20____;
On _____, the _____ day of _____, 20____;
On _____, the _____ day of _____, 20____;
On _____, the _____ day of _____, 20____;
On _____, the _____ day of _____, 20____;
On _____, the _____ day of _____, 20____;

That \$ 49.97 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Sue Anne Artko

Subscribed and sworn to before me this 12th day of November, 2009

Ann L Koch
Notary Public, Lake County, South Dakota



Wednesday, Nov. 4 & 11

NOTICE OF APPLICATION
NO. 7131-3

TO APPROPRIATE WATER

Notice is given that Charles Alverson, 46304 241st St, Chester SD 57016 has filed an application for a water permit to appropriate 1.0 cubic feet of water per second from one well to be completed into the Big Sioux: Northern Skunk Creek Aquifer (approximately 37 feet deep) located in SE 1/4 NW 1/4 Section 21 to irrigate 68 acres located in the NW 1/4 Section 21; all in T105N-R51W

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7131-3 as a TEMPORARY USE PERMIT because 1) water is available to be appropriated as a temporary permit until the holders of future use permits develop water reserved from their future use permits, 2) the proposed diversion can be developed as a temporary permit without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. 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 November 23, 2009.

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.

Py 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 twice at the total approximate cost of \$49.97

Re



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

October 27, 2009

Daily Leader
PO Box 348
Madison SD 57042

ATTENTION: Legal Public Notice

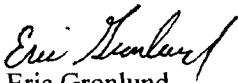
Enclosed is a Notice on Application No. 7131-3 to Appropriate Water to be published twice. Please publish the first notice on November 4, 2009 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Charles Alverson, 46304 241st St., Chester SD 57016 (Ph # 605-270-1324).

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. 7131-3

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

Date _____

We are in receipt of your letter of October 27, 2009 enclosing Notice to Appropriate Water by Application No. 7131-3 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
denr.sd.gov

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

October 27, 2009

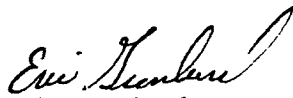
Charles Alverson
46304 241st St
Chester SD 57016

Dear Mr. Alverson:

Water Permit Application No. 7131-3 for irrigation 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 Daily Leader printed at Madison SD (Ph # 605-256-6190). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notices 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 November 4, 2009 with the second publication 7 days later. 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. 7131-3 to Appropriate Water

Notice is given that Charles Alverson, 46304 241st St, Chester SD 57016 has filed an application for a water permit to appropriate 1.0 cubic feet of water per second from one well to be completed into the Big Sioux:Northern Skunk Creek Aquifer (approximately 37 feet deep) located in SE ¼ NW ¼ Section 21 to irrigate 68 acres located in the NW ¼ Section 21; all in T105N-R51W

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7131-3 as a TEMPORARY USE PERMIT because 1) water is available to be appropriated as a temporary permit until the holders of future use permits develop water reserved from their future use permits, 2) the proposed diversion can be developed as a temporary permit without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest. 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 November 23, 2009.

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 twice at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

JUN 1 0 2010

Charles Alverson
46304 241st St
Chester SD 57016

Dear Mr. Alverson:

Enclosed is Water Permit No. 7131-3 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,

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

enclosures



7131-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2015

NOTICE

TO: CHARLES V ALVERSON, 46304 241ST ST, CHESTER, SD 57016
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaires

Our records indicate your 2014 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1328-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 4133A-3, 5151-3 & 7131-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **10:00 am, March 4, 2015** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 4133A-3, 5151-3 & 7131-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1328-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

The hearing is an adversary proceeding. The permit owner 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 the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182

January 26, 2015

1328-3
4133A-3
5151-3
7131-3

Charles V Alverson
46304 241st St
Chester SD 57016

Dear Mr. Alverson:

I am writing to acknowledge receipt of your 2014 irrigation questionnaires.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for Water Permit or Right Nos. 1328-3, 4133A-3, 5151-3 and 7131-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

2019 Water Management Board Irrigation Questionnaire 7131-3

Please fill out and return before December 2, 2019

REMEMBER! Return of this questionnaire is required whether or not you irrigated this year.

Return the completed form(s) to the Water Rights Program at 523 E Capitol, Pierre, SD 57501 3181 ph. (605) 773 3352 or submit your form(s) electronically over the internet at <https://denr.sd.gov/iq> Your temporary password is **NTZLQE**

Permit No. 7131-3

CHARLES V ALVERSON
46304 241ST ST
CHESTER SD 57016

Any address/ownership corrections?

Shawn or Jill MARTIN
24106 461 Ave Chester S.D. 57016
Email martinsj@iqtel.com
Phone 605-270-1431

1. Did you irrigate in 2019? *yes ☐ **no ☒

*If yes, number of acres irrigated? _____

**If no, check reason(s) for not irrigating acres covered by Permit No. 7131-3

sufficient moisture ☐ no water available ☐

system not constructed ☒ use abandoned ☐

enrolled in CRP ☐, through what year? _____

other ☐, please explain in the Comment Box:

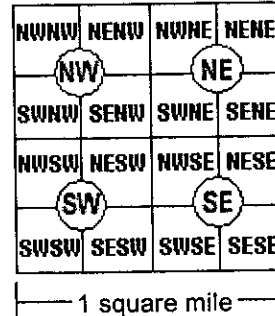
Comment Box

2. If your answer to question No. 1 is "no," you are done! If you answered "yes," please complete Nos. 3, 4 & 5.

3. Did you apply chemicals or fertilizer through the system in 2019? yes ☐ no ☐

4. If more than one water source is listed below, circle each source used. A. GROUNDWATER

5. Provide your water use on the back of this form.



Office use only

RECEIVED

NOV 14 2019

WATER RIGHTS PROGRAM

Acreage permitted for irrigation under No. 7131-3

(see above section map for help reading legal descriptions)

sec 21-T105N-R51W, SW1/4NW1/4 - 26.00 acres
sec 21-T105N-R51W, SE1/4NW1/4 - 27.00 acres
sec 21-T105N-R51W, NW1/4NW1/4 - 11.00 acres
sec 21-T105N-R51W, NE1/4NW1/4 - 4.00 acres

Please provide your 2019 water use to irrigate the above acreage on the REVERSE side of this form.

For an example of a completed questionnaire, please refer to the reverse side of your cover letter.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 14, 2019

Shawn or Jill Martin
24106 461st Ave
Chester SD 57016

Re: Water Right Nos. 1328-3, 4133A-3, 5151-3 & Temporary Use Permit No. 7131-3

Dear Mr. & Mrs. Martin:

I am writing in follow-up to our phone conversation concerning the ownership changes needed for the water rights held by Charles Alverson.

Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing an ownership change on Water Right Nos. 1328-3, 4133A-3 and 5151-3. Please review and complete as needed. Upon completion, please sign and return the forms to our office with a required filing fee of \$50 each (total of \$150). The check or money order for the fee can be made payable to the Water Rights Program.

Temporary Use Water Permit No. 7131-3 held by Charles Alverson is for 68 acres located in the NW ¼ Section 21, T105N, R51W. You confirmed during our conversation the project had not been constructed due to the inability to find water. The time limit for completion of works for No. 7131-3 was March 10, 2015. Since the project was not developed, the permit becomes subject to cancellation.

You will be notified of the time, date and place of the hearing once it is scheduled. The next meeting for which the cancellation consideration could be scheduled is March 2020. As long as you agree with the cancellation, you do not need to do anything but let this take its course.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Shawn or Jill Martin, 24106 461st Ave, Chester SD 57016

DATE: August 26, 2020

RE: Temporary Use Water Permit No. 7131-3

COMMENTS:

Temporary Use Water Permit No. 7131-3 is listed in the name of Charles Alverson. The permit authorizes diversion of ground water from one well to be completed into the Big Sioux Northern Skunk Creek Aquifer for irrigation of 68 acres located in the NW ¼ Section 21, T105N, R51W in Lake County.

No. 7131-3 was issued as a "temporary use" permit in March 2010 because of its location within the future use area of a rural water system.

Since the permit was issued, ownership of the land has changed. The new owners (Shawn or Jill Martin) have indicated the authorized project has not been constructed due to the inability to find water. They did not wish to maintain the permit by transferring it to their names since they did not anticipate the ability to find enough water.

A review of the statute regarding cancellation of a temporary use water permit found such permits can not be cancelled except as provided by SDCL 46-5-40.

- SDCL 46-5-40. Temporary use permits - Cancellation. The chief engineer may not cancel a temporary use permit with less than six months' notice to the permit holder. In no case may a temporary use permit be cancelled prior to the time at which facilities are constructed and water may be put to beneficial use by an entity described in § 46-5-38 holding a permit under the provisions of § 46-5-38.1. No person may acquire any right under a temporary permit to the use of water beyond the time of cancellation of the temporary use permit.

The statute specifically does not allow cancellation for any reason other than the water reserved for future use being placed to beneficial use.

Temporary Use Water Permit 7131-3 will be kept on record but not transferred or cancelled. Additionally, an irrigation questionnaire for reporting annual water use will no longer be necessary since the system is not developed.



Ron Duvall
Water Rights Permitting Administrator

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7131-3

I have this day, **June 10, 2024**, made an examination of Permit No. **7131-3** by **Charles Alverson, 46304 241st St, Chester, SD 57016** of, bearing the priority of **May 1, 2009** authorizing the diversion of **1.0** cu. ft. per second of the waters of the **Big Sioux:Northern Skunk Creek Aquifer** for **irrigation** purposes, in **Lake** County.

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

According to the Irrigation Questionnaires (IQ) on file in the DANR data base for the years 2009 to 2019, no irrigation system had been constructed on the property referenced in the Water Permit Application. Also, no irrigation development is evident when viewing a photo from the DataHound data base.

I talked to Mr. Shawn Martin, who filed the most recent IQ, at phone number (605/270-1431) this morning and learned they could not find water on the property.

A GOOGLE search showed that Mr. Alverson died a few years ago. So, Mr. Martin is the current contact person. It is my understanding that he is Mr. Alverson's son-in-law.

I told Mr. Martin that he should expect a contact from the DANR in the near future regarding this Permit. His address is 24106 461st Ave, Chester, SD 57016.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: **June 10, 2024**



File No. 7131-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Shawn Martin, 24106 461st Ave, Chester SD 57016

DATE: 06/12/2024

TELEPHONE: 605.270.1431

RE: Cancellation

COMMENTS:

After reviewing Darrell's inspection report for Permit No. 7131-3, I called Mr. Martin to discuss cancellation of the Permit.

Permit No. 7131-3 was issued to Charles Alverson in 2009. Mr. Alverson has since passed away. All of Alverson's properties are now being overseen by his daughter and son-in-law (Shawn Martin).

Mr. Martin confirmed that they had not been able to locate water on the property and was agreeable to the cancellation. He did not think that they would have interest in pursuing this project in the future, but never the less, I invited him to call me with any questions surrounding the application process.

Amanda Dewell
Water Rights Program