

WATER PERMIT NO. 7178-3

Name of Applicant: Jo's Family Farms

Address: 1911 W 57th St, Sioux Falls SD Phone: 605338-4642

Amount of Water Claimed: 4.44 cfs Total Acres: 400

Source of Water Supply: groundwater (3 wells)

Water to be used for: irrigation County: Brookings and Moody

Type of Waste Disposal System:

Location: 20 miles southeast of Brookings

PRIORITY Date Received: 1-13-2010 Application/License Fee: \$1550.00

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

Remarks:

Diversion Point: S ½ Sec 34-T109N-R47W

Land to be Irrigated: S ½ Sec 34-T109N-R47W
and N ½, NW ¼ SE ¼ Sec 3-T108N-R47W

Depth of Well: 60 feet deep

Well Driller: Lacey Well Drilling

Remarks:

Type of Map: aerial

Prepared by: Craig Olson, Brookings NRCS &
Joel Curran, Moody NRCS

Reviewed and the Number Assigned on: XX

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>7178-3</u> (office use only)	Hydrologic Unit <u>10170203</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Brookings Register PO Box 177</u>	<u>605-692-6271</u>
	<u>Moody & Enterprise PO Box 71</u>	<u>57006</u>

RECEIVED
JAN 13 2010
WATER RIGHTS PROGRAM

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 Jo's Family Farms Phone 605 338-4642
(check one) ☒ Owner ☐ Tenant/lessee
- Mailing Address 1911 W 57th St Sioux Falls State SD 57108
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 4.4 *CFS or 2000 **GPM ***AF Total Acreage 400
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Wells
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Brookings
3 well in S 1/2 of Section 34 T109N R47W
- County or counties where water will be used Brookings and Moody
SW 1/4 own well center own well East center own well
- Annual period during which water is to be used May 1 - September 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
NW 1/4 of SW 1/4 Sec 34 109N 47W	30	NW 1/4 of NW 1/4 Sec 34 108N 47W	50
SW 1/4 of SW 1/4 Sec 34 109N 47W	50	NE 1/4 of NW 1/4 Sec 34 108N 47W	50
NE 1/4 of SW 1/4 Sec 34 109N 47W	50	SW 1/4 of NW 1/4 Sec 34 108N 47W	50
SE 1/4 of SW 1/4 Sec 34 109N 47W	50	SE 1/4 of NW 1/4 Sec 34 108N 47W	70

- Give a description of the project. (Attach sheet if more space is needed) see attached
Center pivot irrigation on 400 acres

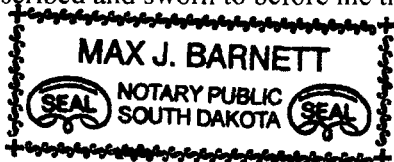
STATE OF SOUTH DAKOTA) SS
County of MINNEHADA

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, PAUL SANDSTAD, 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 Jo's Family Farms

Subscribed and sworn to before me this 11th day of JANUARY 2010



Max J Barnett

Notary Public signature

my commission expires Oct 5, 2015

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Application No. 7178-3, Jo's Family Farms

ADDRESS: 1911 W 57th Street, Sioux Falls

COUNTY: Brookings

DATE: January 14, 2010

TELEPHONE: 2

RE: Approximate acreage break-out for Application No. 7178-3

The determination of the acreage by quarter-quarter section is difficult for Application No. 7178-3. This is due to two sections that are split by the Brookings/Moody Cty border and the sections are also odd sized due to the SD/MN border.

For the purpose of the publication notice, the acreage can be described as the S ½ Section 34, T109N, R47W and the N ½ and NW ¼ SE ¼ SE ¼ Section 3, T108N, R47W.

For the purpose of logging on to the water rights database if the application is approved, I suggest the following acreage breakdown. This follows a breakdown based on the normal configuration of a section.

NW ¼ SW ¼ Section 34, T109N, R47W	27 acres
NE 1/4 SW ¼ Section 34, T109N, R47W	40 acres
SW ¼ SW ¼ Section 34, T109N, R47W	35 acres
SE ¼ SW ¼ Section 34, T109N, R47W	40 acres
NW ¼ SE ¼ Section 34, T109N, R47W	20 acres
SW ¼ SE ¼ Section 34, T109N, R47W	21 acres

NW ¼ NW ¼ Section 3, T108N, R47W	40 acres
NE 1/4 NW ¼ Section 3, T108N, R47W	40 acres
SW ¼ NW ¼ Section 3, T108N, R47W	19 acres
SE ¼ NW ¼ Section 3, T108N, R47W	19 acres
NW ¼ NE ¼ Section 3, T108N, R47W	40 acres
SW ¼ NE ¼ Section 3, T108N, R47W	19 acres
NW ¼ SE ¼ Section 3, T108N, R47W	40 acres

NAME: Eric Goodrich

SOUTH DAKOTA
WATER PERMIT NO. 7178-3 FOR IRRIGATION

Date of first receipt of application January 13, 2010.

The Water Management Board approved Water Permit No. 7178-3 on December 1, 2010 for Jo's Family Farms, c/o Phil Sonstegard, 1911 W 57th St, Sioux Falls SD 57108 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. 7178-3 appropriates 4.44 cubic feet of water per second from three wells to be completed into the Big Sioux: Aurora Aquifer (approximately 60 feet deep) located in the S ½ Section 34-T109N-R47W to irrigate 400 acres located in the S ½ Section 34-T109N-R47W (Brookings County) and the N ½, NW ¼ SE ¼ Section 3-T108N-R47W (Moody County).
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 January 13, 2010.
4. One-fifth of the construction is to be completed on or before June 1, 2013.
5. All construction is to be completed on or before December 1, 2015.
6. Water is to be put to beneficial use on or before December 1, 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

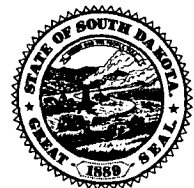
1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 7178-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
4. That Jo's Family Farm LLC, and any successor, assign, or transferee of this water permit, must install and maintain, at its own cost, a timing device on each of its irrigation wells which records each time the pumps on the irrigation wells are turned on and off, and further, that data be recorded by the timing devices be collected and provided to Lincoln Pipestone Rural Water on or before December 1st of each calendar year.

WATER MANAGEMENT BOARD

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

APR 26 2011

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 20" Depth 60'
- b) Casing Type STEEL Diameter 12" Thickness 5/16"
- c) Screen Type Johnson SS Diameter 12" Thickness 3/16"
- d) Gravel Pack Northern Length of Gravel Pack VARIES WITH SCREEN LENGTH
- 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 NONE

On property owned by others 3000' +

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

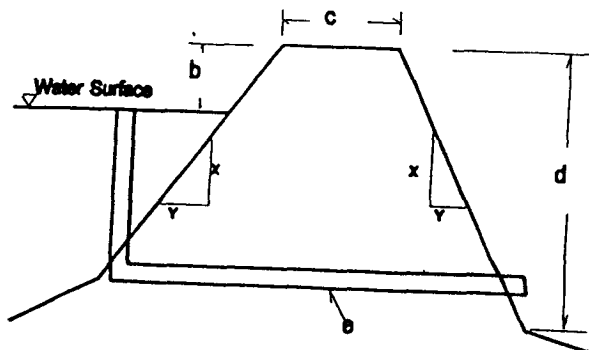
3. Dugout Information

- 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

Wells — Pumps
Dewatering Work
Test Drilling

In Water Since 1946
LACEY WELL DRILLING, INC.
47582 - 240th St.
Dell Rapids, South Dakota 57022
Telephone (605) 428-5979

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NOV 24 2009

WATER RIGHTS
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Down-Hole Camera
Water Specialists
Irrigation Supplies

11-23-09

To Jo's Family Farms
1911 W 57th St
SF SD 57108

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JAN 13 2010

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Test bore in South $\frac{1}{2}$ of SEC 34
T 109 N, R 47 W Brookings Co SD
0-2 sandy top soil 2-60 CLEAN
COARSE light brown gravel.
SWL 22'

Sincerely
Jim Lacey
SD # 111



USDA - Farm Service Agency
Brookings County, SD

34-109N-47W

1:7,732

August 25, 2008

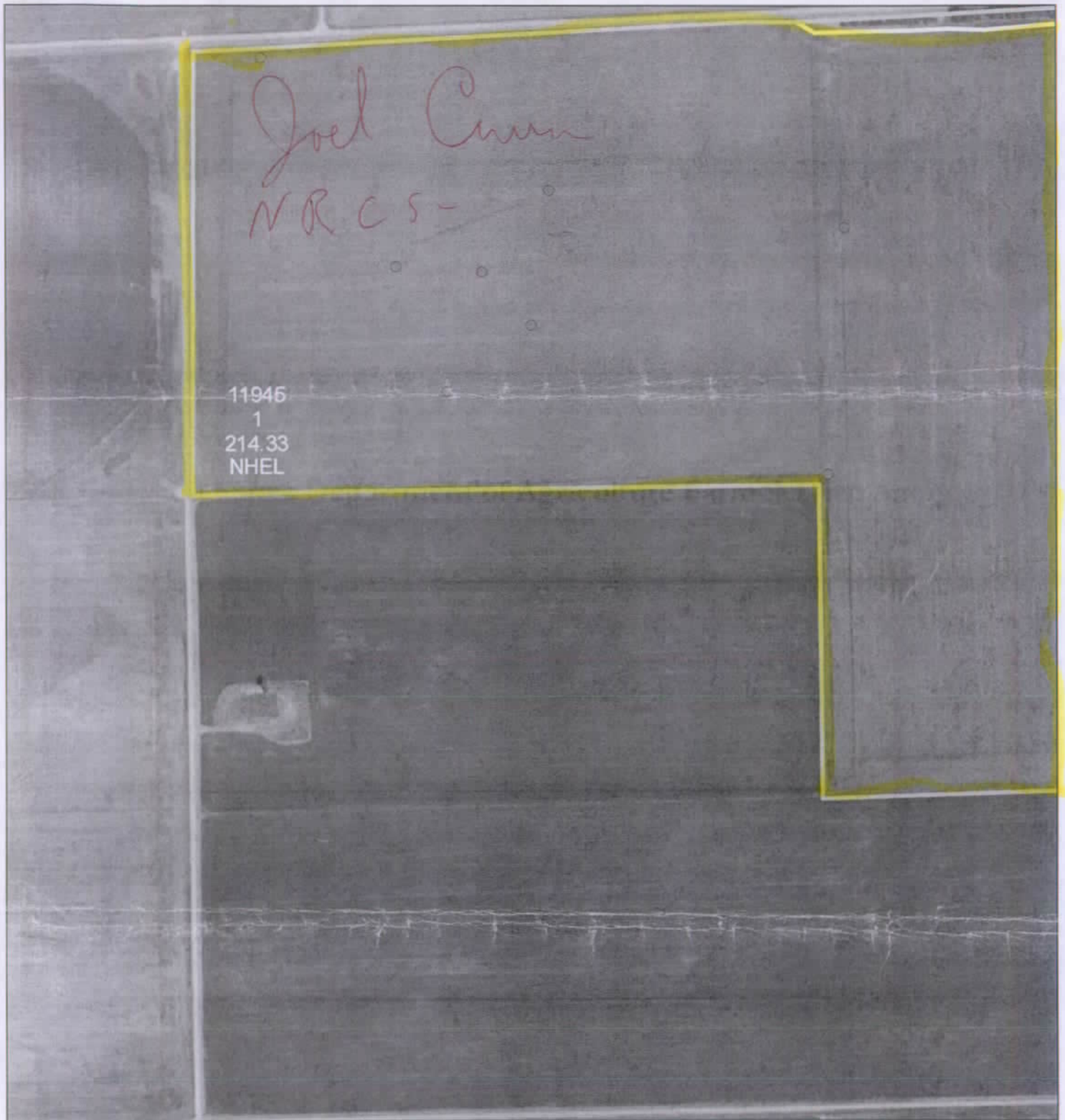
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JAN 13 2010
WATER RIGHTS
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USDA FSA maps are for FSA Program administration only. There is no guarantee or representation to the user as to the accuracy, currency, suitability or reliability. FSA MAPS 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.



United States Department of Agriculture Farm Service Agency



South Dakota
Moody County

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JAN 13 2010

WATER RIGHTS
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Farm Number

3267

Township-Range-Section

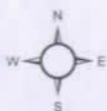
108N47W3

Legend

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

CLU Field Boundary

□ Tract Boundary



1:6,657

USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or the 2008 orthorectified imagery for South Dakota. The producer accepts the data 'as is' and assumes all risks associated with its use. 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 outside of FSA Programs. Wetland identifications 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 determination, or contact NRCS.

Apr 15, 2009

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/13, 20 10

RECEIVED OF Phil O Songstegard 707 E 41st St Sioux Falls SD 57105

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

Fee for Application for Permit No. <u>7178-3</u> to Appropriate Water, to construct and to put water to beneficial use	1250	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7178-3</u>	200	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	1550 00

No. 04300

By Julian J. Erbe
Chief Engineer

April 26, 2011

PAYMENT REQUEST FORM

PAYEE: Jo's Family Farms
Phil Sonstegard
1911 W 57TH St
Sioux Falls SD 57108

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Refund on Water Permit 7178-3

AMOUNT: \$100.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Barbara Cabel 4/24/11

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

REPORT ON WATER PERMIT APPLICATION NO. 7178-3

For Jo's Family Farms

February 10, 2010

Application No. 7178-3 proposes to appropriate 4.44 cfs (2000 gpm) from three wells approximately 60 feet deep located in the S $\frac{1}{2}$ of section 34, T109N R47W to irrigate 400 acres located in the S $\frac{1}{2}$ of section 34, T109N R47W in Brookings County and the N $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of section 3, T108N R47W in Moody County.

AQUIFER – BIG SIOUX – AURORA (BS-A)

The Big Sioux Aurora is a predominantly surficial outwash (sand and gravel) that is under water table conditions in this area. The aquifer underlies 39,300 acres and contains an estimated 165,060 acre-feet of recoverable water in storage in Brookings County (Hedges, 1982). Because of the location of this application (southeastern Brookings County) about 4,500 acres of Brookings County and 6,400 acres of Moody County are available to supply water to the Big Sioux Aurora aquifer for this application. An unknown area of the Big Sioux Aurora aquifer extends into Minnesota to the east which could also be counted on to recharge this area. The aquifer is probably hydraulically connected to Spring Creek in this area. The direction of ground water movement is from northeast to southwest in the area of this application (Hamilton, 1989). Recharge to the aquifer has been estimated to be about 6.57 inches per year for the water table portions of the Big Sioux aquifer in Brookings County (Koch, 1980). The portion of the aquifer in Brookings and Moody counties alone would supply about 6,000 acre-feet of water annually from recharge estimates. Just the portion in Brookings County would supply about 2,500 acre-feet annually from recharge. The water use in Brookings County was 730 acre-feet and in Moody County was 310 acre-feet in 2008 from this portion of the aquifer. Approval of this application would add a use of less than 400 acre-feet annually. The total use approximately 1,440 acre-feet would be less than the average estimated recharge just considering Brookings County alone.

There is a test well completion report available for this site. The test well indicates sandy topsoil from 0 – 2 feet, clean coarse light brown gravel from 2 to 60 feet and a static water level of 22 feet below land surface. No production test information is available for this site.

The Water Rights Program monitors an observation well BG-78H located about one-half mile to the west of these proposed well sites. A hydrograph for this well is included with this report. In general the water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2009).

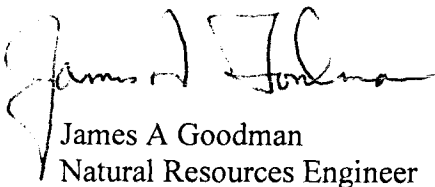
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are three existing water rights with wells within one mile from the wells for this application. These are Water Right No. 3185-3 (1.41 cfs, 99 acres, from one well located about one mile northwest), Water Right No. 4763-3 (2.44 cfs, 234 acres, two wells

located about one mile north) and Water Right No. 5804-3 (1.78 cfs, 177 acres, one well located about one mile southwest) all from this application. Interference is not expected to be a concern. These wells are all under water table conditions and are far enough apart to minimize any potential impacts. The nearest production well to this application appears to be for Lincoln Pipestone Rural Water System located about one half mile to the northeast and just into Minnesota. This area has been controversial in the past concerning irrigation permits that were issued in South Dakota but located three to four miles to the north and completed into a different aquifer (Rutland). This application site should be unrelated to those issues.

CONCLUSIONS

1. Water is available from the Big Sioux Aurora aquifer.
2. The aquifer is under water table conditions at this site. Drawdown is not expected to be significant at the distance between existing wells. Interference is not a concern.
3. These wells must be constructed in accordance with SD Well Construction Standards.
4. Lincoln Pipestone Rural Water System in Minnesota should be notified of this application.

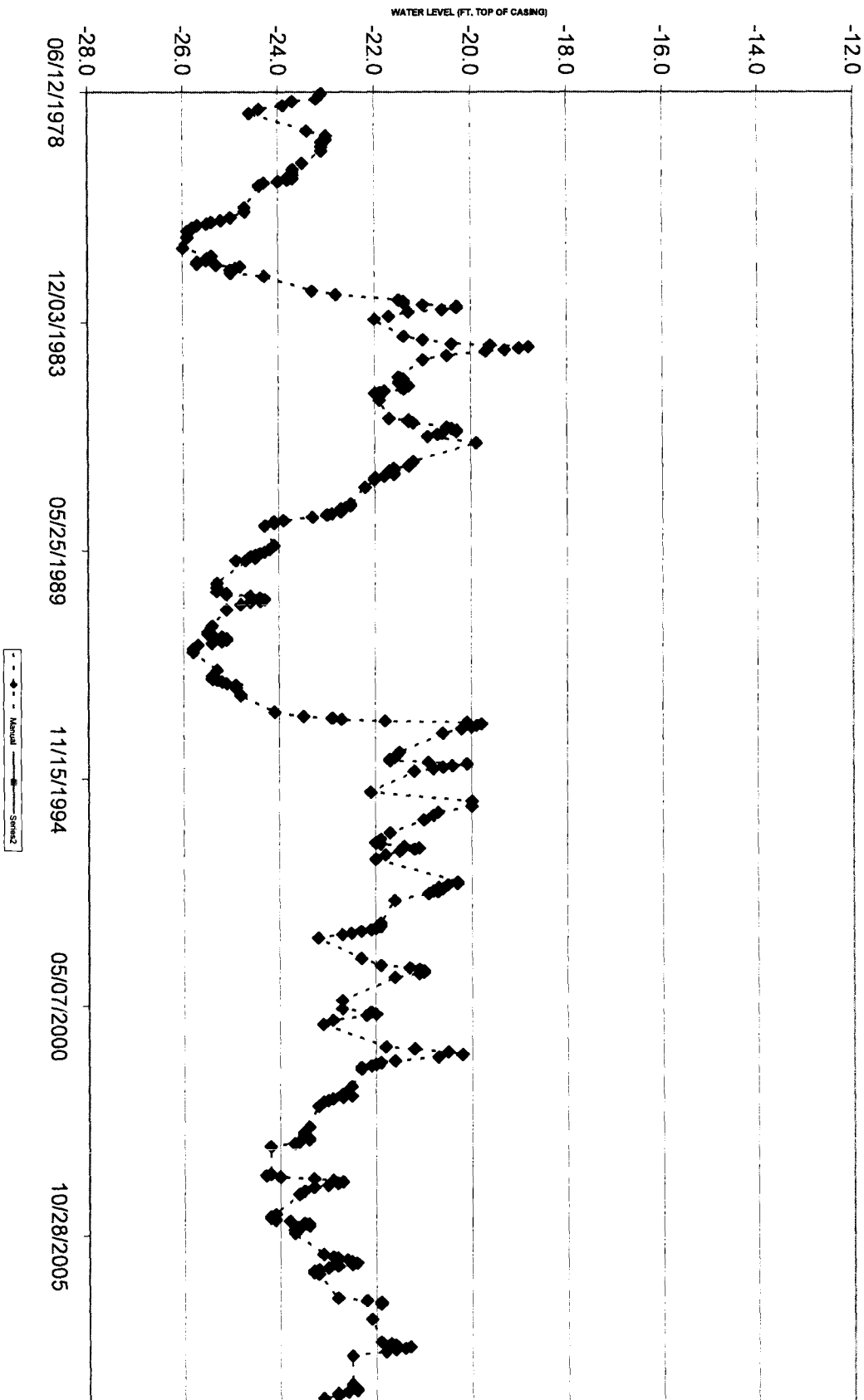


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hamilton, L.J., 1989, Water Resources of Brookings and Kingsbury Counties, South Dakota, Water-Resources Investigations Report 88-4185, USGS, Huron, SD, 57350.
- Hedges, L.S., and others, 1982, Evaluation of Ground-Water Resources of Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Koch, N.C., 1980, Appraisal of the Water Resources of the Big Sioux Aquifer, Brookings, Deuel, and Hamlin Counties, South Dakota, Water-Resources Investigations Report 80-100, USGS, Huron, SD, 57350.
- Water Rights, 2009, Unpublished Observation Well Data for Brookings County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

**WATER RIGHTS' OBSERVATION WELL
BG-78H**





**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. 7178-3, Jo's Family Farm**

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. 7178-3, Jo's Family Farm, c/o Phil Sonstegard, 1911 W 57th Street, Sioux Falls SD 57108.

The Chief Engineer is recommending APPROVAL of Application No. 7178-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 7178-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 16, 2010

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MAR - 5 2010

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

) SS

County of Moody)

I, Angela Nibbelink

certify that the attached printed Notice was
taken

from the Moody County
Enterprise

printed and published in Flandreau

County of Moody and

state of South Dakota. The notice was
published

in the newspaper on the following two dates:

Feb. 24, 2010

March 3, 2010

Cost of Printing \$44.19

Angela Nibbelink
(Signature)

Office Manager
(Title)

3-3-2010
(Date Signed)

NOTICE OF APPLICATION NO.

7178-3 to Appropriate Water

Notice is given that Jo's Family Farm, c/o Phil Sonstegard, 1811 W 57th St., Sioux Falls, SD 57108 has filed an application for a water permit to appropriate 4.44 cubic feet of water per second from three wells to be completed into the Big Sioux: Aurora Aquifer (approximately 60 feet deep) located in S 1/2 Section 34-T108N-R47W to irrigate 400 acres located in the S 1/2 Section 34-T109N-R47W (Brookings County) and the N 1/2, NW 1/4 SE 1/4 Section 3-T108N-R47W (Moody County).

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7178-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on 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 of contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 15, 2010.

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 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

(Feb. 24 & March 3, 2010)

Published twice at the total approximate cost of \$45.

State of South Dakota

SS

County of Brookings

RECEIVED

Exhibit "A"

MAR - 8 2010

WATER RIGHTS
PROGRAM

Katy VanMaanen of said county, first duly sworn, on says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

Leg#579 Appropriate Water

a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit said newspaper for _____ 2 times, to-wit:

February 24, 2010

March 3, 2010

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Fourty dollars and eighty-four cents \$40.84



Subscribed and sworn to before me this

3rd

day of

March

2010

Notary Public in and for the County of Brookings, South Dakota.

My Commission expires July 14, 2015

Legal 579, 2c, 324, 34
NOTICE OF APPLICA-
TION NO. 7178-3 to

Appropriate Water
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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7178-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on 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 the Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 15, 2010.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pimer, Secretary, Department of Environment and Natural Resources. Published twice at the total approximate cost of \$40.84.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 17, 2010

Brookings Register
PO Box 177
Brookings SD 57006

ATTENTION: Legal Public Notice

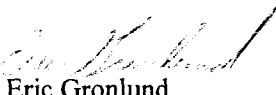
Enclosed is a Notice on Application No. 7178-3 to Appropriate Water to be published twice. Please publish the first notice on February 24, 2010 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Jo's Family Farms, c/o Phil Sonstegard, 1911 W 57th St., Sioux Falls SD 57108 (Ph # 605-338-4642).

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. 7178-3

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

Date _____

We are in receipt of your letter of February 17, 2010 enclosing Notice to Appropriate Water by Application No. 7178-3 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

February 17, 2010

Moody County Enterprise
PO Box 71
Flandreau SD 57028

ATTENTION: Legal Public Notice

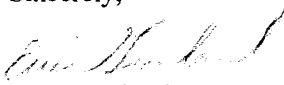
Enclosed is a Notice on Application No. 7178-3 to Appropriate Water to be published twice. Please publish the first notice on February 24, 2010 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Jo's Family Farms, c/o Phil Sonstegard, 1911 W 57th St., Sioux Falls SD 57108 (Ph # 605-338-4642).

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.

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Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 7178-3

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

Date _____

We are in receipt of your letter of February 17, 2010 enclosing Notice to Appropriate Water by Application No. 7178-3 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 NEWSPAPERS RIGHT AWAY.

February 17, 2010

Jo's Family Farms
c/o Phil Sonstegard
1911 W 57th St
Sioux Falls SD 57108

Dear Mr. Sonstegard:

Water Permit Application No. 7178-3 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 Publishers of the Brookings Register printed at Brookings SD (Ph # 605-692-6271) and the Moody County Enterprise printed at Flandreau SD. (Ph # 605-997-3725) You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization, the publishers have been instructed to publish your notice once each week for two consecutive weeks. The newspapers have 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
eric.gronlund@state.sd.us

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 February 24, 2010 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. 7178-3 to Appropriate Water

Notice is given that Jo's Family Farm, c/o Phil Sonstegard, 1911 W 57th St, Sioux Falls SD 57108 has filed an application for a water permit to appropriate 4.44 cubic feet of water per second from three wells to be completed into the Big Sioux:Aurora Aquifer (approximately 60 feet deep) located in S ½ Section 34-T109N-R47W to irrigate 400 acres located in the S ½ Section 34-T109N-R47W (Brookings County) and the N ½, NW ¼ SE ¼ Section 3-T108N-R47W (Moody County).

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7178-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on 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 March 15, 2010.

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

February 17, 2010

Dave Gullickson
Farmers Implement & Irrigation
3023 US Hwy 14 Bypass
Brookings SD 57006

Dear Mr. Gullickson:

As per your request, please find enclosed a copy of the report, recommendation, public notice and letter to the applicant in the matter of Water Permit Application No. 7178-3, Jo's Family Farms.

If you have any questions, please feel free to contact me.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 17, 2010

Dennis Healy, CEO
Lincoln Pipestone Rural Water
415 East Benton Street
Lake Benton MN 56149

Dear Mr. Healy:

Enclosed is a copy of the report, recommendation and public notice for South Dakota Water Permit Application No. 7178-3 filed by Jo's Family Farms. The application proposes to irrigate 400 acres from groundwater along the SD/MN boundary. The public notice is scheduled to be published February 24 and March 3, 2010 in the Brooking Register and Moody County Enterprise. Petitions to intervene to cause a hearing before the South Dakota Board of Water Management must be submitted by March 15, 2010.

If you have any questions regarding DENR's review of the application please contact Jim Goodman or myself at (605) 773-3352.

Sincerely,

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

enclosures

Lincoln Pipestone Rural Water

East Highway 14, Box 188
Lake Benton, Minnesota 56149-0188
(507) 368-4248 or (800) 462-0309
FAX: (507) 368-4573
MINNESOTA RELAY: 771 or 1-800-627-3529
Email: lpw@itctel.com

RECEIVED

MAR - 3 2010

WATER RIGHTS
PROGRAM

February 26, 2010

DENR, Water Rights Program
Attn: Eric Gronlund
Foss Building
523 East Capitol
Pierre, SD 57501

Jo's Family Farm
c/o Phil Sonstegard
1911 West 57th Street
Sioux Falls, SD 57108

RE: Petition in Opposition Application No. 7178-3 to Appropriate Water

Dear Mr. Gronlund and Mr. Sonstegard:

This is Lincoln Pipestone Rural Water's formal Petition objecting to Jo's Family Farm c/o Phil Sonstegard application to appropriate 4.44 cubic feet of water per second from 3 wells. The application number is 7178-3.

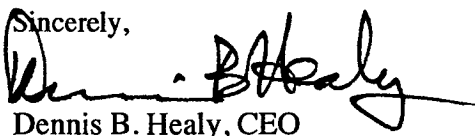
Lincoln Pipestone Rural Water (LPRW) is a public water supplier serving a large area in southwest Minnesota. Our Verdi well field is located in the NE1/4 of Section 36-T109N-R47W immediately adjacent to the proposed irrigation project. Our Verdi well field has been in continuous operation serving area farms and communities for over 30 years, and our experience shows that this water source is very susceptible to drought conditions. We believe the irrigation project proposed in Application No. 7178-3 endangers the water supply for the 1,153 farms and rural residences, and 10 communities served from the Verdi well field.

To avoid future issues and problems resulting from the Application we respectfully request that a hearing be held before the South Dakota Board of Water Management to ensure that the Verdi well field is protected from the effects of irrigation withdrawals contemplated by this Application.

We are in the process of hiring a hydrologist to study this application and determine the adverse consequences to LPRW if the application is granted. It may take several weeks for the hydrologist to complete their report. I am assuming the Water Management Board will want to review the hydrologist report before making a decision on the application. Therefore, we request that the hearing in front of the Water Management Board be delayed until the report is completed.

Thank you for your consideration of this request.

Sincerely,



Dennis B. Healy, CEO



Minnesota Department of Natural Resources

261 Highway 15 South, New Ulm MN 56073

(507) 359-6053

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MAR 15 2010

WATER RIGHTS
PROGRAM

March 11, 2010

Mr. Eric Gronlund
South Dakota Department of Environment & Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Dear Mr. Gronlund:

Re: South Dakota Water Permit Application No. 7178-3, Jo's Family Farms,

The Minnesota Department of Natural Resources (DNR), Division of Waters has received information regarding the application submitted by Phil Sonstegaard of Jo's Family Farms for 4.44 cubic feet per second (2000 gallons per minute) of water to be appropriated from 3 wells to be located in Section 34, T109N R47W in Brookings SD and Section 3, T108N R47W in Moody County SD. The source aquifer for this appropriation extends to the northeast into Minnesota where it is utilized to provide a major water supply system which provides domestic water supplies for 10 communities and over 1,100 rural users over a 3 county area. The gradient of ground water movement is from northeast to southwest, roughly along a line between Lincoln Pipestone Rural Water (LPRW) Verdi Well field and the 3 wells in the application.

Given the importance of this ground water resource to the citizens of Minnesota, we request the South Dakota Department of Environment & Natural Resources (DENR) ensure the long-term sustainability of this surficial aquifer is protected. To accomplish this, we recommend that the DENR require the installation of an observation well approximately 500 feet from the applicant's eastern-most production well in the direction of the LPRW Verdi well field (the closest LPRW well in the Verdi well field is in NE¼ Section 36, T109N R47W. Ideally, static water level readings should be taken at this observation well via a data logger set to record water level readings every 15 minutes during the irrigation season and daily during the non-irrigation season with monthly hand readings for verification and calibration purposes. If the DENR decides not to require a data logger be installed in the observation well, we recommend that weekly hand readings be taken during the irrigation season and monthly hand readings be taken during the non-irrigation season.

Mr. Eric Gronlund
South Dakota Department of Environment & Natural Resources
March 11, 2010
Page 2

We recommend the data collected from the applicant's observation well be submitted quarterly to DENR, and shared annually with the DNR Marshall Area Hydrologist, Lucas Youngsma (Lucas.Youngsma@state.mn.us) and the DNR Ground Water Level Coordinator (gwlevelcoor.dnr.@state.mn.us) prior to the annual interagency meeting with LPRW that occurs each February.

Thank you for your assistance in ensuring the long-term sustainability of our irreplaceable water resources.

Sincerely,

DNR Waters

A handwritten signature in black ink, appearing to read "Skip Wright", with a stylized flourish at the end.

Skip Wright
Regional Hydrologist

cc: Lucas Youngsma, DNR Area Hydrologist
Jim Sehl, DNR Regional Groundwater Specialist
Jay Frischman, DNR Hydrogeologist
Michael MacDonald, DNR Groundwater Level Coordinator



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 2010

NOTICE

TO: Phil Sonstegard
Jo's Family Farm
1911 West 57th Street
Sioux Falls SD 57108

Dennis B. Healy, CEO
Lincoln Pipestone Rural Water
Box 188
Lake Benton MN 56149-0188

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 7178-3, Jo's Family Farm

Petitions to the approval of Water Permit Application No. 7178-3 have been filed by Lincoln Pipestone Rural Water and Minnesota Department of Natural Resources. The petitions were filed in response to the Notice of Application published in the Brookings Register and Moody Co. Enterprise. This notice schedules a hearing on the application before the South Dakota Water Management Board.

Application No. 7178-3 proposes to appropriate 4.44 cubic feet of water per second from three wells to be completed into the Big Sioux:Aurora Aquifer (approximately 60 feet deep) located in S 1/2 Section 34-T109N-R47W to irrigate 400 acres located in the S 1/2 Section 34-T109N-R47W (Brookings County) and the N 1/2, NW 1/4 SE 1/4 Section 3-T108N-R47W (Moody County).

The Water Management Board will conduct a hearing to consider Application No. 7178-3 at 10:30 AM on Wednesday, May 5, 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. 7178-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 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 May 5, 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 April 23, 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, affidavit of publication and petitions in the matter of Water Permit Application No. 7178-3. 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
Dave Gullickson, Farmers Implement and Irrigation, 3023 US Hwy 14 Bypass, Brookings SD 57006

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 April 23, 2010.

CERTIFICATION

I hereby certify that on March 15, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 15, 2010, regarding hearing for Water Right Permit Application No. 7178-3, as addressed below:

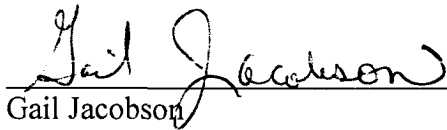
Phil Sonstegard
Jo's Family Farm
1911 West 57th Street
Sioux Falls SD 57108

Dennis B. Healy, CEO
Lincoln Pipestone Rural Water
Box 188
Lake Benton MN 56149-0188

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

Dave Gullickson
Farmer Implement and Irrigation
3023 US Hwy 14 Bypass
Brookings SD 57006

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073



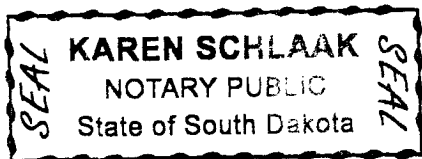
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 15th day of March, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Lincoln Pipestone Rural Water

East Highway 14, Box 188
Lake Benton, Minnesota 56149-0188
(507) 368-4248 or (800) 462-0309
FAX: (507) 368-4573
MINNESOTA RELAY: 771 or 1-800-627-3529
Email: lprw@itctel.com

RECEIVED

APR - 1 2010

WATER RIGHTS
PROGRAM

March 30, 2010

DENR, Water Rights Program
Attn: Garland Erbele, Chief Engineer
Foss Building
523 East Capitol
Pierre, SD 57501

Jo's Family Farm
c/o Phil Sonstegard
1911 West 57th Street
Sioux Falls, SD 57108

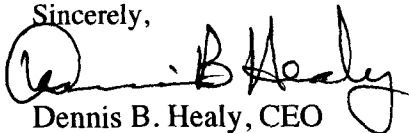
RE: Request for Automatic Delay of Hearing on Water Permit Application No. 7178-3

Dear Mr. Erbele and Mr. Sonstegard:

Per the instructions provided in the DNER NOTICE dated March 15, 2010, Lincoln Pipestone Rural Water hereby requests an "Automatic Delay" in the hearing scheduled for May 5, 2010 in the matter of Water Permit Application No. 7178-3.

Thank you for your consideration of this request.

Sincerely,



Dennis B. Healy, CEO



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 6, 2010

NOTICE

TO: Phil Sonstegard
Jo's Family Farms
1911 West 57th Street
Sioux Falls SD 57108

Dennis B. Healy, CEO
Lincoln Pipestone Rural Water
Box 188
Lake Benton MN 56149-0188

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Automatic Delay of Hearing for Water Permit Application No. 7178-3, Jo's Family Farms

Lincoln Pipestone Rural Water submitted a letter in response to the notice of hearing dated March 15, 2010 requesting an automatic delay of the May 5, 2010 hearing on Water Permit Application No. 7178-3. Therefore, the hearing on Application No. 7178-3 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on May 5, 2010.

The hearing to consider Application Nos. 7178-3 will now be scheduled for the July 7 - 8, 2010 Water Management Board meeting tentatively to be held in Pierre. Future notice of the time and place of the hearing for Application No. 7178-3 will be provided to all parties of record.

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

c: Diane Best, Assistant Attorney General
Dave Gullickson, Farmers Implement and Irrigation, 3023 US Hwy 14 Bypass, Brookings SD 57006

CERTIFICATION

I hereby certify that on April 6, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 6, 2010, regarding automatic delay of hearing on Water Right Permit Application No. 7178-3, as addressed below:

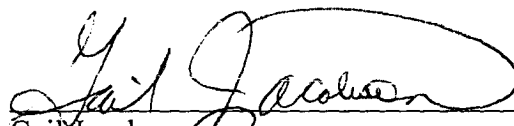
Phil Sonstegard
Jo's Family Farms
1911 West 57th Street
Sioux Falls SD 57108

Dennis B. Healy, CEO
Lincoln Pipestone Rural Water
Box 188
Lake Benton MN 56149-0188

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

Dave Gullickson
Farmer Implement and Irrigation
3023 US Hwy 14 Bypass
Brookings SD 57006

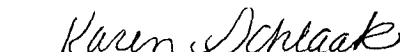
Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073



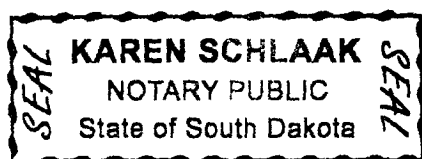
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of April, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





RECEIVED

APR 28 2010

WATER RIGHTS
PROGRAM

April 26, 2010

J. Vincent Jones
Vince.Jones@woodsfuller.com
Extension 615

Mr. Garland Erbele
Water Rights Program
DENR
PMB 2020
523 E. Capitol
Pierre, SD 57501-3182

Re: Water Permit Application No. 7178-3 - Jo's Family Farms

Dear Mr. Erbele:

Please be advised that our firm has been retained to represent Jo's Family Farms in this matter. Please direct all future correspondence regarding this matter to our office.

Do not hesitate to contact me if you wish to discuss this matter. Thank you.

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink, appearing to read 'J. Vincent Jones', written in a cursive style.

J. Vincent Jones

cc: Skip Wright
Dennis Healy
Diane Best
Dave Gullickson
William Taylor

00643487.1



C O P Y

May 20, 2010

William Taylor
Bill.Taylor@woodsfuller.com
Extension 647

Mr. Dennis B. Healy
Lincoln Pipestone Rural Water
Box 188
Lake Benton, MN 56149-0188

RECEIVED

MAY 21 2010

WATER RIGHTS
PROGRAM

Re: Jo's Family Farms
South Dakota Water Permit Application No. 7178-3

Dear Mr. Healy:

I represent Jo's Family Farms with respect to the application it has made for an irrigation water permit in Brookings County.

On February 26 you wrote to the South Dakota Water Rights Program and said that you were in the process of hiring a hydrologist to study the application "and determine the adverse consequences to LPRW if the application was granted." Has your hydrologist completed a report? If so, I would appreciate you promptly forwarding a copy for my review and consideration. If you are unwilling to send a copy of the report, please so advise and I'll make a formal discovery request.

If LPRW is represented by counsel and you would prefer that I deal with your lawyer, also so advise.

Thank you for your attention to this matter.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

William Taylor

cc: Ms. Diane Best
Mr. Eric Gronlund

LAWYERS • EST. 1887

Street Address: 300 S. Phillips Avenue, Suite 300, Sioux Falls, SD 57104-6322

Mailing Address: P.O. Box 5027, Sioux Falls, SD 57117-5027

Phone: (605) 336-3890 • Fax: (605) 339-3357

www.woodsfuller.com



C O P Y

May 20, 2010

William Taylor
Bill.Taylor@woodsfuller.com
Extension 647

Mr. Dave Gullickson
Farmers Implement and Irrigation
3023 US Hwy 14 Bypass
Brookings, SD 57006

Re: Jo's Family Farms
South Dakota Water Permit Application No. 7178-3

Dear Mr. Gullickson:

I represent Jo's Family Farms with respect to its application for an irrigation water permit in Brookings County. You requested to be included in the mailing list.

Is it your intention to appear and/or offer any testimony or reports in support or in opposition of the Jo's Family Farms' application?

Please advise.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

William Taylor

cc: Ms. Diane Best
Mr. Eric Gronlund

LAWYERS • EST. 1887

Street Address: 300 S. Phillips Avenue, Suite 300, Sioux Falls, SD 57104-6322

Mailing Address: P.O. Box 5027, Sioux Falls, SD 57117-5027

Phone: (605) 336-3890 • Fax: (605) 339-3357

www.woodsfuller.com



C O P Y

May 20, 2010

William Taylor
Bill.Taylor@woodsfuller.com
Extension 647

Mr. Skip Wright
Minnesota Department of Natural Resources
261 Hwy 15 South
New Ulm, MN 56073

Re: Jo's Family Farms
South Dakota Water Permit Application No. 7178-3

Dear Mr. Wright:

I represent Jo's Family Farms with respect to its application for an irrigation water permit in Brookings County.

On March 11, you wrote to Eric Gronlund of the South Dakota Department of Environment and Natural Resources regarding the permit application.

Is it your intention or the intention of anyone on behalf of the State of Minnesota to appear at the hearing on this matter, to submit written testimony or reports, or otherwise to take any affirmative action with respect to the case?

Please advise.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

William Taylor

cc: Ms. Diane Best
Mr. Eric Gronlund



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 25, 2010

NOTICE

TO: William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

Dennis B. Healy, CEO
Lincoln Pipestone Rural Water
Box 188
Lake Benton MN 56149-0188

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing for Water Permit Application No. 7178-3, Jo's Family Farms

Petitions were submitted to Water Permit Application No. 7178-3 filed by Jo's Family Farms. The petitions were filed in response to the Notice of Application published February 24 and March 3, 2010 in the Brookings Register and Moody County Enterprise. Subsequently, a notice of hearing was sent to parties on March 15, 2010 scheduling a May 5, 2010 hearing before the Water Management Board. The May 5th hearing was then postponed pursuant to SDCL 46-2A-5 based on the request by Lincoln Pipestone Rural Water. This notice schedules a hearing before the Water Management Board to consider Application No. 7178-3.

Application No. 7178-3 proposes to appropriate 4.44 cubic feet of water per second from three wells to be completed into the Big Sioux:Aurora Aquifer (approximately 60 feet deep) located in S 1/2 Section 34-T109N-R47W to irrigate 400 acres located in the S 1/2 Section 34-T109N-R47W (Brookings County) and the N 1/2, NW 1/4 SE 1/4 Section 3-T108N-R47W (Moody County).

The Water Management Board will conduct a hearing to consider Application No. 7178-3 at 9:00 AM (Central Time) on Wednesday, July 7, 2010 at 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.

Applicable provisions of the Notice of Hearing dated March 15, 2010, still apply.

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

c: Diane Best, Assistant Attorney General

CERTIFICATION

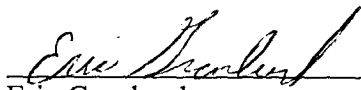
I hereby certify that on May 25, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 25, 2010, regarding scheduling of hearing on Water Right Permit Application No. 7178-3, as addressed below:

William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

Dennis B. Healy, CEO
Lincoln Pipestone Rural Water
Box 188
Lake Benton MN 56149-0188

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

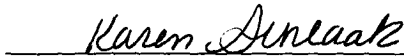
Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073



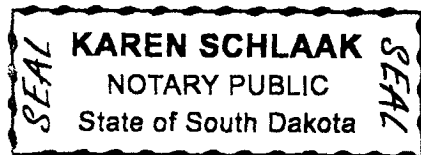
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of May, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





RECEIVED

MAY 27 2010

WATER RIGHTS
PROGRAM

May 25, 2010

J. Vincent Jones
Vince.Jones@woodsfuller.com
Extension 615

Mr. Garland Erbele
Water Rights Program
DENR
PMB 2020
523 E. Capitol
Pierre, SD 57501-3182

Re: Water Permit Application No. 7178-3 - Jo's Family Farms

Dear Mr. Erbele:

Enclosed please find our Notice of Appearance in the above-reference matter.

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink, appearing to be 'J. Vincent Jones', written over the printed name.

J. Vincent Jones

Enclosure

cc: Mr. Skip Wright
Mr. Dave Gullickson
Mr. Dennis Healy
Ms. Diane Best

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0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0

By:

William G. Taylor
J. Vincent Jones
300 South Phillips Avenue, Suite 300
P. O. Box 5027
Sioux Falls, South Dakota 57117-5027
(605)336-3890
Attorneys for Jo's Family Farm

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2010, I caused to be served by United States first-class mail, postage prepaid, a true and correct copy of the foregoing Notice of Appearance upon the following:

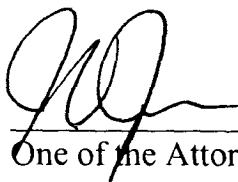
Mr. Skip Wright
Minnesota Dept. of Natural Resources
261 Hwy 15 South
New Ulm, MN 56073

Mr. Garland Erbele
Water Rights Program
DENR
PMB 2020
523 E. Capitol
Pierre, SD 57501-3182

Mr. Dave Gullickson
Farmers Implement and Irrigation
3023 US Hwy 14 Bypass
Brookings, SD 57006

Mr. Dennis B. Healy
Lincoln Pipestone Rural Water
Box 188
Lake Benton, MN 56149-0188

Ms. Diane Best
Office of the Attorney General
1302 E Hwy 14
Suite 1
Pierre SD 57501-8501



One of the Attorneys for Jo's Family Farm



C O P Y

May 25, 2010

J. Vincent Jones
Vince.Jones@woodsfuller.com
Extension 615

Mr. Dennis B. Healy
Lincoln Pipestone Rural Water
Box 188
Lake Benton, MN 56149-0188

Re: Jo's Family Farms
South Dakota Water Permit Application No. 7178-3

Dear Mr. Healy:

Enclosed and intended as service upon you please find Petitioner's Interrogatories and Request for Production of Documents to Intervenor (First Set).

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

J. Vincent Jones

Enclosure

cc: Mr. Skip Wright
Mr. Garland Erbele
Mr. Dave Gullickson
Ms. Diane Best

0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0

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You are requested to answer the following written Interrogatories of Jo's Family Farm ("Petitioner"):

1. Identify each person who you expect to call as an expert witness in front of the Water Management Board and state as to each such expert:

- (a) The expert's identity, giving name, profession or occupation, title, address, area of specialization, if any, and professional relationship to Lincoln Pipestone Rural Water;
- (b) The subject matter on which such expert is expected to testify;
- (c) The substance of the facts and opinions to which such expert is expected to testify or is believed to have knowledge;
- (d) A summary of the grounds for each such opinion;
- (e) The manner in which such expert became familiar with the facts of this case; and
- (f) The expert's education and experience as to the subject matter on which he or she will be testifying.

2. Identify each person you have retained as an expert witness with regard to the subject of Jo's Family Farm's Water Permit Application No. 7178-3, and state as to each such expert:

- (a) The expert's identity, giving name, profession or occupation, title, address, area of specialization, if any, and professional relationship to Lincoln Pipestone Rural Water;
- (b) The subject matter on which such expert's opinion was sought by Lincoln Pipestone Rural Water;
- (c) The substance of the facts and opinions to which such expert is believed to have knowledge;
- (d) A summary of the grounds for each such opinion;
- (e) The manner in which such expert became familiar with the facts of this case; and
- (f) The expert's education and experience as to the subject matter of Jo's Family Farm's Water Permit Application No. 7178-3.

REQUEST FOR PRODUCTION OF DOCUMENTS

Petitioner requests that Intervenor, Lincoln Pipestone Rural Water, pursuant to SDCL § 15-6-34(a), produce and permit inspection of the following:

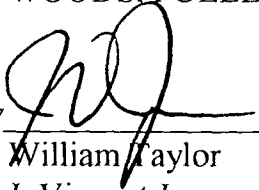
1. All photographs, videotapes, compact disks, websites, and any other electronic or digital media, cassette tapes, charts, reports, diagrams or drawings you or any witness, any person acting on your behalf, or any retained expert, have obtained, taken or made relative to the issues in this proceeding.

2. Any and all reports, diagrams, drawings, charts, models or photographs prepared by or on behalf of experts you have retained in connection with this proceeding.

3. A copy of each and every document and exhibit which you plan to offer in support of your claims in front of the Water Management Board.

Dated this 25th day of May, 2010.

WOODS, FULLER, SHULTZ & SMITH P.C.

By 

William Taylor

J. Vincent Jones

Post Office Box 5027

Sioux Falls, South Dakota 57117-5027

(605) 336-3890

Attorneys for Jo's Family Farm

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2010, I caused to be served by United States first-class mail, postage prepaid, a true and correct copy of the foregoing Petitioner's Interrogatories and Requests for Production of Documents to Intervenor (First Set) upon the following:

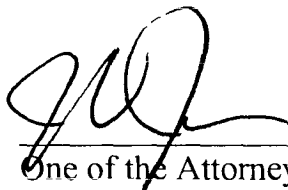
Mr. Skip Wright
Minnesota Dept. of Natural Resources
261 Hwy 15 South
New Ulm, MN 56073

Mr. Garland Erbele
Water Rights Program
DENR
PMB 2020
523 E. Capitol
Pierre, SD 57501-3182

Mr. Dave Gullickson
Farmers Implement and Irrigation
3023 US Hwy 14 Bypass
Brookings, SD 57006

Mr. Dennis B. Healy
Lincoln Pipestone Rural Water
Box 188
Lake Benton, MN 56149-0188

Ms. Diane Best
Office of the Attorney General
1302 E Hwy 14
Suite 1
Pierre SD 57501-8501



One of the Attorneys for Jo's Family Farm



RECEIVED

JUN 10 2010

WATER RIGHTS
PROGRAM

June 9, 2010

William Taylor
Bill.Taylor@woodsfuller.com
Extension 647

Mr. Garland Erbele
Water Rights Program, DENR
PMB 2020
523 E. Capitol
Pierre, SD 57501-3182

Re: In the Matter of Jo's Family Farms Water Permit Application No. 7178-3

Dear Mr. Erbele:

The subject water permit application is scheduled for hearing before the Water Management Board on July 7, 2010. We learned today that Lincoln Pipestone Rural Water, an intervenor, expects to receive a hydrology report relevant to the permit application. We have formally and informally requested copies of the hydrology report on behalf of our client.

Given that the hearing is less than a month away, under the circumstances we think it is appropriate the matter be deferred to the fall Water Management Board meeting. Accordingly, on behalf of my client, I respectfully request the matter be taken off the July 7 agenda and moved to a later date, preferably September or October.

Please advise if that is acceptable.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink that reads 'Wm Taylor'.

William Taylor

cc: Mr. Eric Gronlund
Mr. Skip Wright
Mr. Dave Gullickson
Mr. Dennis Healy
Ms. Diane Best
Mr. Ron Schramel

Gronlund, Eric

From: Dennis Healy [lprw@itctel.com]
Sent: Friday, June 11, 2010 7:48 AM
To: Gronlund, Eric
Cc: Jim de Lambert; Ron Schramel
Subject: Re: Request for delay of July 7th hearing on Water Permit Application No. 7178-3, Jo's Family Farms
Mr. Gronlund:

LPRW concurs with continuing the hearing to the board's October meeting. Thank you.

Dennis B. Healy, CEO
Lincoln Pipestone Rural Water
East Highway 14
P.O. Box 188
Lake Benton, MN 56149-0188
(507)368-4248 or (800)462-0309
Fax (507)368-4573
Email lprw@itctel.com

Mr. Healy:

DENR received a request to take Water Permit Application No. 7178-3 filed by Jo's Family Farms off the July 7th, agenda for hearing before the Water Management Board and reschedule for a later date. Does Lincoln Pipestone Rural Water concur with continuing this matter until the next board meeting? The next regularly scheduled board meeting is October 6 - 7, 2010.

Eric Gronlund
Water Rights Program, DENR
Phone: (605) 773-3352
Fax: (605) 773-4068
Email: eric.gronlund@state.sd.us
Web: www.denr.sd.gov

Law Office of
McDonald and Schramel, P.L.L.P.

906 Fourth Avenue - P.O. Box 505
Windom, Minnesota 56101
(507) 831-1301
Fax (507) 831-4200
email: mcdonaldschramelatty@windomnet.com

Daniel M. McDonald
Ronald J. Schramel

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JUN 14 2010

**WATER RIGHTS
PROGRAM**

June 10, 2010

MR. GARLAND ERBELE
WATER RIGHTS PROGRAM, DENR
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SD 57501-3182

RE: In the Matter of Jo's Family Farms Water Permit Application No. 7178-3

Dear Mr. Erbele:

I represent Lincoln Pipestone Rural Water System, who is opposing Water Application No. 7178-3.

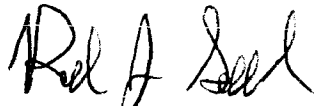
The attorney for Jo's Family Farms (William Taylor) sent you a letter dated June 9, 2010, requesting that the hearing be taken off the July 7, 2010 agenda and moved to a later date.

I am writing to state that I do not oppose Mr. Taylor's request. However, please note I will be unavailable on the following dates:

September 22 through September 27
October 25 and October 26

If you have any questions, please do not hesitate to contact me.

Sincerely yours,



Ronald J. Schramel
Attorney at Law

cc: Mr. Eric Gronlund
Mr. Skip Wright
Mr. Dave Gullickson
Mr. Dennis Healy
Ms. Diane Best
Mr. William Taylor



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 15, 2010

NOTICE

TO: William Taylor and J. Vince Jones Ronald J. Schramel
Woods Fuller Law Firm McDonald and Schramel P.L.L.P.
PO Box 5027 PO Box 505
Sioux Falls SD 57104-6322 Windom MN 56101

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Delay of Hearing for Water Permit Application No. 7178-3, Jo's Family Farms

Counsel for the Applicant filed a request that the hearing in the matter of Water Permit Application No. 7178-3 be taken off the July 7th agenda and moved to a later date. Counsel for petitioner, Lincoln Pipestone Rural Water System, subsequently filed a letter reflecting that they do not object to delay of the hearing. Therefore, the hearing on Application No. 7178-3 is continued and will not be held on July 7, 2010.

The hearing to consider Application Nos. 7178-3 will now be scheduled for the October 6 - 7, 2010 Water Management Board meeting tentatively to be held in Pierre. Future notice of the time and place of the hearing for Application No. 7178-3 will be provided to all parties of record.

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

c: Diane Best, Assistant Attorney General

CERTIFICATION

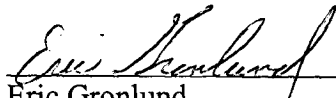
I hereby certify that on June 15, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 15, 2010, regarding continuance of the hearing on Water Right Permit Application No. 7178-3, as addressed below:

William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

Ronald J. Schramel
McDonald and Schramel P.L.L.P.
PO Box 505
Windom MN 56101

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

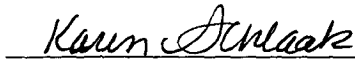
Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073



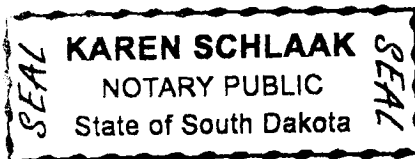
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of June, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Law Office of

McDonald and Schramel, P.L.L.P.

906 Fourth Avenue - P.O. Box 505

Windom, Minnesota 56101

(507) 831-1301

Fax (507) 831-4200

email: mcdonaldschramelatty@windomnet.com

RECEIVED

JUL - 6 2010

**WATER RIGHTS
PROGRAM**

Daniel M. McDonald

Ronald J. Schramel

July 1, 2010

William Taylor
J. Vincent Jones
Attorneys at Law
Woods, Fuller, Shultz & Smith, P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

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

Skip Wright
Minnesota Dept. of Natural Resources
261 Hwy 15 South
New Ulm, MN 56073

Garland Erbele
Dept. of Environment and Natural Resources
PMB 2020
523 E. Capitol
Pierre, SD 57501

RE: Jo's Family Farm Water Application No. 7178-3

Dear Mr. Taylor, Mr. Jones, Ms. Best, Mr. Wright and Mr. Erbele:

Enclosed please find the following documents regarding the above-noted matter:

1. Notice of Appearance (signed copy);
2. Order Admitting Ronald J. Schramel to practice Law in South Dakota Pro Hac Vice

July 1, 2010

If you have any questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Ron J. Schramel", written in a cursive style.

Ronald J. Schramel
Attorney at Law

RJS/mm

Enc.

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

RECEIVED

JUL - 6 2010

WATER RIGHTS
PROGRAM

IN THE MATTER OF JO'S FAMILY FARM'S
WATER PERMIT APPLICATION NO. 7178-3

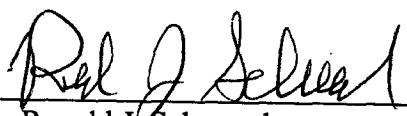
NOTICE OF APPEARANCE

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that attorney Ronald J. Schramel and attorney Craig E. Smith, will be appearing on behalf of Lincoln Pipestone Rural Water System in the above-captioned matter:

Dated: July 1, 2010

McDonald and Schramel, P.L.L.P.

By: 

Ronald J. Schramel
Atty Reg. No. 254757
906 Fourth Avenue
PO Box 505
Windom, Minnesota 56101
P: (507) 831-1301
F: (507) 831-4200
Attorney for LPRW

RECEIVED

JUL - 6 2010

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

In Re the Matter of
Jo's Family Farm's
Water Permit Application No. 7178-3

ORDER ADMITTING
ATTORNEY PRO HAC VICE

This matter is before the Court on the Motion/Application of Attorney Ronald J. Schramel to be admitted to practice law in the State of South Dakota pro hac vice. Ronald J. Schramel has represented to the Court that:

- (1) he is a member in good standing of the Bar of Minnesota;
- (2) he has read and is familiar with the Rules of the State of South Dakota governing the conduct of members of the State Bar of South Dakota; and
- (3) he will at all times abide by and comply with the same so long as such trial or hearing is pending and has not withdrawn as counsel.

Craig E. Smith, who is a member of the Bar of South Dakota, has moved for Ronald J. Schramel's admission pro hac vice.

IT IS ORDERED that the Motion/Application of Ronald J. Schramel is granted and Ronald J. Schramel is hereby admitted to practice before the South Dakota Water Management Board and the Courts of the State of South Dakota in the above matter.

Date

6/21/10

Judge



STATE OF SOUTH DAKOTA
CIRCUIT COURT, HUGHES CO.

FILED

JUN 21 2010

Judy L. Laddeman Clerk
By _____ Deputy

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

300 N. Dakota Avenue, Suite 403
Sioux Falls, South Dakota 57104-6032
Phone (605) 367-5880
FAX (605) 367-5888
www.state.sd.us/atg

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY

July 16, 2010

Ron Schramel
Attorney at Law
P.O. Box 505
Windom, MN 56101

Re: *In the Matter of Water Permit Application No. 7178-3,
Jo's Family Farm*

Dear Mr. Schramel,

When you respond to Mr. Taylor's discovery request,
please send me a copy as well. Please note my Sioux
Falls address. Thank you in advance.

Sincerely,

A handwritten signature in cursive script that reads "Diane Best".

Diane Best
Assistant Attorney General

cc

William Taylor
J. Vincent Jones
P.O. Box 5027
Sioux Falls, SD 57117-5027.

Law Office of

McDonald and Schramel, P.L.L.P.

906 Fourth Avenue - P.O. Box 505

Windom, Minnesota 56101

(507) 831-1301

Fax (507) 831-4200

email: mcdonaldschramelatty@windomnet.com

Daniel M. McDonald

Ronald J. Schramel

RECEIVED

AUG 23 2010

**WATER RIGHTS
PROGRAM**

August 20, 2010

Garland Erbele

Dept. of Environment and Natural Resources

PMB 2020

523 E. Capitol

Pierre, SD 57501

RE: Jo's Family Farm Water Application No. 7178-3

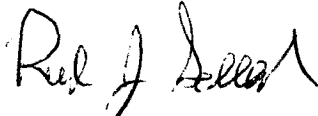
Dear Mr. Erbele:

Enclosed please find a hydrology report dated August 20, 2010, which was prepared by James de Lambert. This report was prepared for Lincoln Pipestone Rural Water.

Please note I emailed a copy of this report to both Diane Best and William Taylor (who is Phil Sonstegard's attorney) today.

If you have any questions, please do not hesitate to contact me.

Sincerely yours,



Ronald J. Schramel

Attorney at Law

RJS/mm

Enc.

RECEIVED

AUG 23 2010

WATER RIGHTS
PROGRAM

CONFIDENTIAL

This document has been prepared in anticipation of litigation and in conjunction with advice sought from counsel. It is protected from discovery by the attorney-client privilege and/or the work product doctrine.

Lincoln Pipestone Rural Water Verdi Well Field

Summary Report

Prepared for:

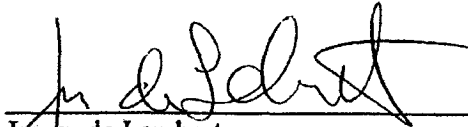
**Lincoln Pipestone Rural Water
East Highway 14
Lake Benton, MN 56149**

Prepared By:

**Liesch Associates, Inc.
13400 15th Avenue North
Plymouth, MN 55441**

Project Number: 11086.00

I hereby certify that this plan, document, or report was Prepared by me or under my direct supervision and that I am a duly Licensed Professional Geologist under the laws of the State of Minnesota.


James de Lambert
August 20, 2010

License Number: 30107

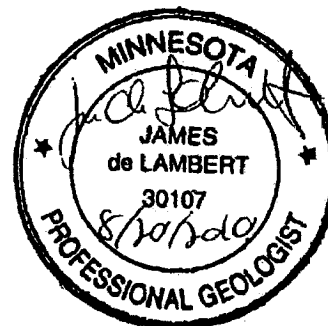


TABLE OF CONTENTS

INTRODUCTION	1
HYDROGEOLOGIC SETTING.....	2
PROPOSED IRRIGATION PUMPING	3
CONCLUSIONS	3

FIGURES (following text)

Figure 1 – Verdi Wellhead Protection Area

Figure 2 – Verdi Well Field Area

Figure 3 – Well Construction and Hydrologic Characteristics

TABLES (following figures)

Table 1 – Verdi Well Field Drawdown

INTRODUCTION

This report has been prepared in response to a request from Lincoln Pipestone Rural Water (LPRW) to conduct an investigation concerning hydrogeologic conditions in the vicinity of the Verdi Well Field (Public Water Supply No. 1410007) and an area proposed for agricultural irrigation pumping. The area proposed for irrigation lies immediately southwest of LPRW's well field and portions lie within the Well Head Protection Area for the public water supply. LPRW constructed the wells in 1978 and has operated the Verdi Well Field since that time. Experience has shown that the Verdi Well Field is an excellent water source; however, the supply is limited during periods of reduced precipitation and recharge to the aquifer. LPRW is concerned that additional development of high capacity wells in the area will further limit use of the aquifer and force LPRW to restrict water use and implement emergency measures during certain periods.

As part of our investigation of hydrogeologic conditions in the area of the Verdi Well Field, information was collected from the University of Minnesota (U of M), Minnesota Department of Natural Resources (DNR), Minnesota Department of Health (MDH), United States Environmental Protection Agency (US EPA), United States Department of Agriculture Natural Resources Conservation Service (NRCS), United States Geological Survey (USGS), Minnesota Geological Survey (MGS), LPRW and various documents and reports prepared in association with the proposed irrigation pumping. Liesch has been involved with development of the Verdi Well Field since the initial testing in 1975 and has completed additional work in the area including aquifer modeling and Wellhead Protection Area delineation as part of the US EPA Minnesota Department Health Source Water Protection Program for public water supplies.

The Verdi Well Field, shown on **Figure 1**, lies along the Minnesota – South Dakota border approximately 8 miles southwest of Lake Benton, MN. The well field consists of four 12-inch wells each capable of pumping approximately 450 gallons per minute (gpm). A fifth well, Well 5, is located ¼ mile to the north of the other wells is not routinely used due to poor water quality and maintenance difficulties. Several observation wells are maintained and monitored by LPRW and the Minnesota Department of Natural Resources (DNR) in the vicinity of the well field.

The wells are currently permitted by the Minnesota Department of Natural Resources for an annual withdrawal of 683 million gallons per year (mgy) and the 10-year average withdrawal has been 394 mgy. Withdrawals have increased in recent years and LPRW projects withdrawals of approximately 420 mgy for the next several years.

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The Wellhead Protection Area shown on Figure 1 represents the recharge area for the Verdi Well Field and is based on the occurrence of sandy outwash deposits, the drainage area for Spring Creek and on aquifer modeling conducted in the vicinity of the wells. The outwash deposits extend from near the land surface to depths of approximately 50 to 70 feet near the well field. In Minnesota these outwash deposits extend a relatively short distance to the northeast along Spring Creek as shown on Figure 1. Moving into South Dakota these deposits eventually converge with a larger area of surficial outwash referred to as the Aurora unit of the Big Sioux Aquifer. Groundwater flow in this portion of the aquifer is from northeast to southwest and groundwater recharge also occurs to the northeast of the LPRW well field and the proposed irrigation wells. In this vicinity it is believed that aquifer extends only a short distance to the south. Therefore a relatively limited area is available to recharge the LPRW wells and the proposed irrigation wells.

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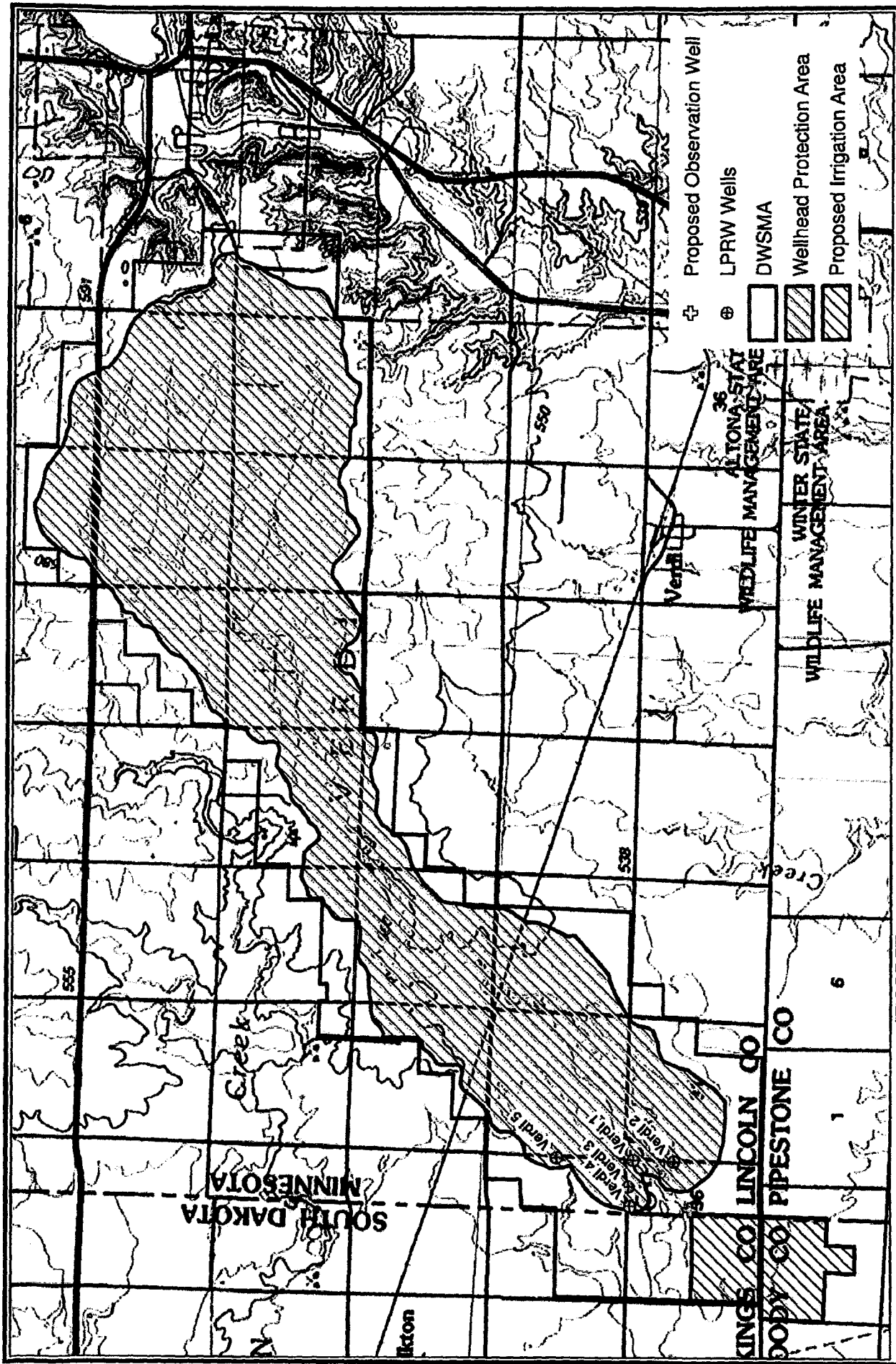
CONCLUSIONS

- 1) The Verdi Well Field is a critical part of LPRW's water supply system. The Verdi Well Field supplies roughly 30% of all LPRW's water and is the only water source that does not require treatment prior to distribution.
- 2) The Verdi Well Field is not replaceable. LPRW has invested considerable resources to develop the existing well field and alternative water sources are not known to exist in the

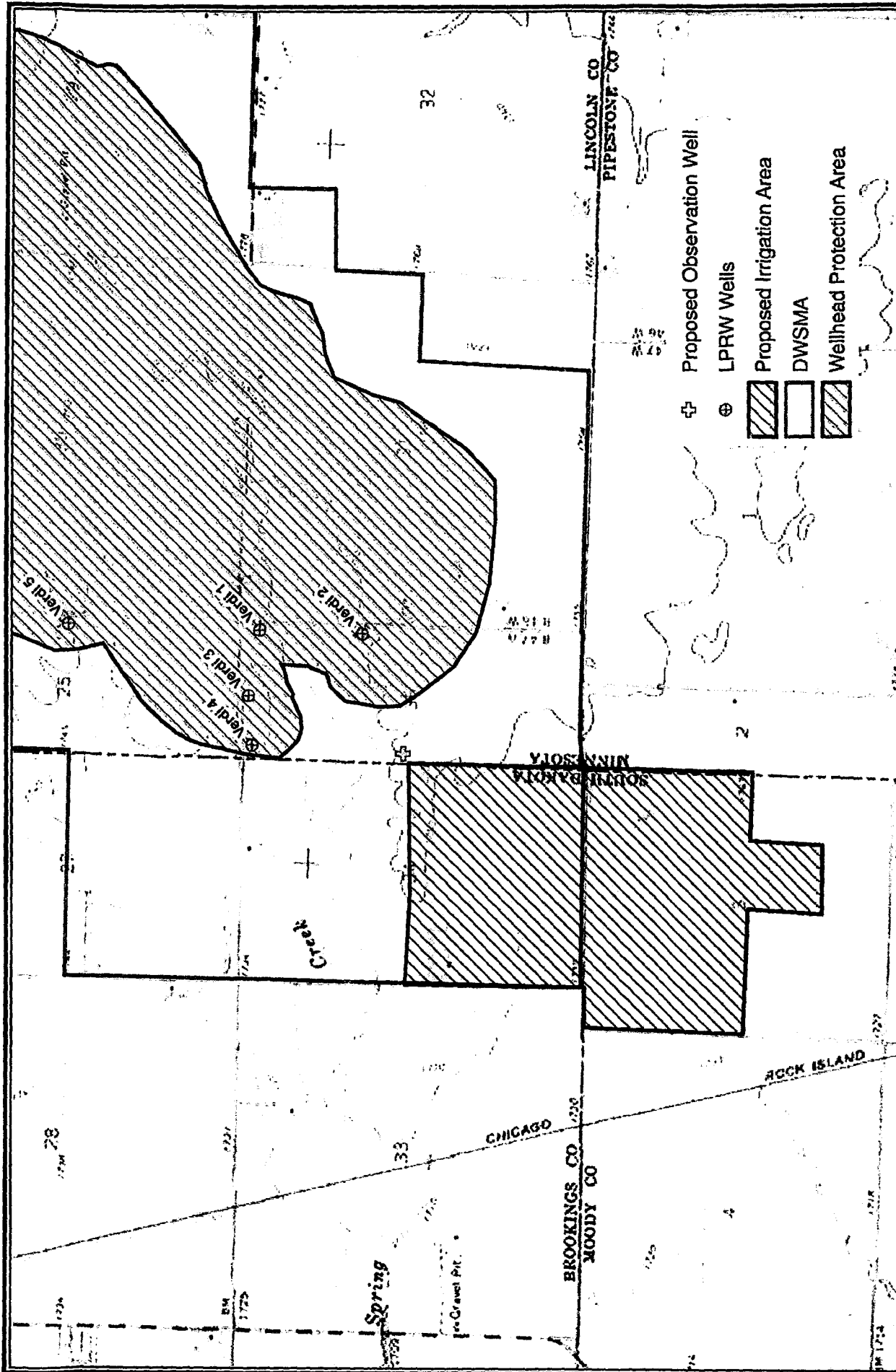
area. Locations for additional wells to increase or supplement production at the well field are also not known to exist.

- 3) The aquifer utilized at the Verdi Well Field is very limited in horizontal and vertical extent. Recharge to the aquifer is derived primarily from precipitation within the drainage basin of Spring Creek as shown on Figure 1. Groundwater storage is also limited in this area due to limited aquifer thickness, or extent, in areas northeast of the well field. The proposed irrigation project will likely utilize water from the same aquifer and obtain recharge from the same source.
- 4) Under the current operating conditions LPRW is able to meet demands on the well field during periods of normal, or near normal, precipitation. During periods of more limited precipitation LPRW must adjust operations by throttling back pumps to maintain safe operating conditions, due to declining static water levels. Under these conditions it can be difficult to meet demands and water use restrictions are necessary.
- 5) Water level monitoring in the aquifer shows long term fluctuations on the order of 10 feet in the aquifer.
- 6) The proposed irrigation project has the potential to impact water levels at the Verdi Well Field as the result of direct interference drawdown and as a result of the cumulative effects of significant groundwater withdrawals in a limited portion of the aquifer.
- 7) LPRW has had difficulty maintaining yields and meeting demands from the Verdi Well Field during periods of reduced precipitation. Additional withdrawals from the aquifer at the proposed irrigation project will exacerbate this problem and could potentially cause LPRW to reduce pumping and implement emergency procedures.
- 8) If the proposed irrigation project moves forward, a pumping test should be conducted to assess the impact of pumping on the LPRW Well Field. LPRW is planning to install an observation well at the approximate location shown on Figures 1 & 2. This well will be monitored by LPRW after installation and could be used during the test to measure actual impacts. Depending on the results of the test, the well could also serve as threshold monitoring location to prevent adverse impacts to LPRW's wells.

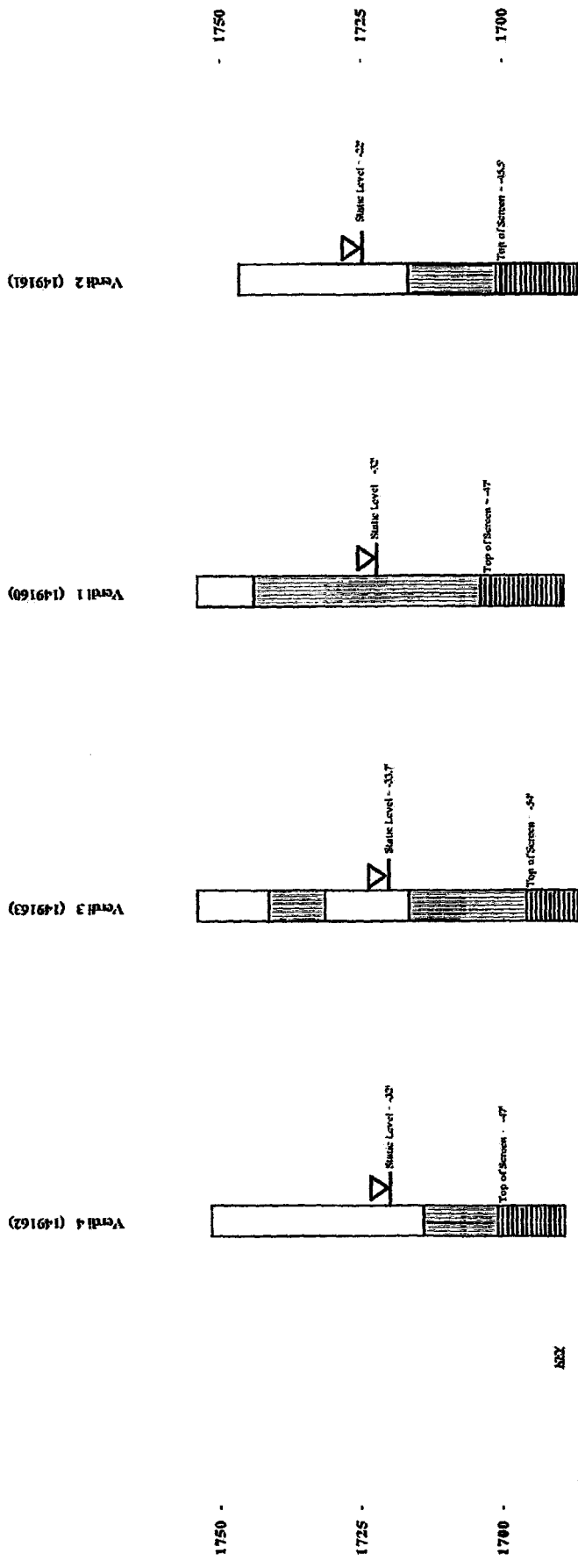
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LPRW - Verdi Wellfield		Aug10
Verdi Wellhead Protection Area		Figure 1
LIESCH Hydrogeologists • Engineers • Environmental Scientists Minneapolis • Chicago • Los Angeles • Madison • Milwaukee • Phoenix		
www.liesch.com		
Source: USGS 100K Topographic Quad Projection: NAD83 MN State Plane South		
1:50,000 1 Inch = 5,000 Feet		
0 5,000 10,000 Feet		



 Hydrogeologists • Engineers • Environmental Scientists Minneapolis • Chicago • Los Angeles • Madison • Milwaukee • Phoenix		www.liesch.com	Aug10
Source: USGS 24K Topographic Quad Projection: NAD83 MN State Plane South		0 1,500 3,000 Feet 1:24,000 1 inch = 2,000 Feet	LPRW - Verdi Wellfield
Verdi Wellfield Area		Figure 2	



1750 -

1725 -

1700 -

SSX

Static Water Level

Sand & Gravel

Clay

Screen

 www.liesch.com Hydrogeology • Logging • Environmental Services Memphis • Chicago • Los Angeles • Houston • Milwaukee • Phoenix		LPRW - Verdi Wellfield	Aug 10
Well Construction and Hydrologic Characteristics			Figure 3

Table 1 - Lincoln Pipestone Rural Water Verdi Well Field Drawdown

Well Number	Verdi 1	Verdi 2	Verdi 3	Verdi 4
Well Elevation	1751	1743	1751	1749
Specific Capacity	35	23	23	25
Static Water Level	30	20	25	25
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	14	19.5	27	19
Current Pumping Level	42	39.5	45	40
Additional Drawdown	2	0	7	4
Approximate Pumping Rate	425	450	450	375
Static Water Level	35	25	30	30
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	9	14.5	22	14
Current Pumping Level	44	39.5	50	44
Additional Drawdown	0	0	2	0
Approximate Pumping Rate	319	335	450	350
Static Water Level	40	30	35	35
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	4	9.5	17	9
Current Pumping Level	44	39.5	52	44
Additional Drawdown	0	0	0	0
Approximate Pumping Rate	142	219	383	225

Current Condition

Five Foot Decline
in Static Level

10 Foot Decline
in Static Level

All measurements in feet except pumping rate is given in gpm and specific capacity given in gpm/ft.

Law Office of

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Daniel M. McDonald

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September 8, 2010

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PO Box 5027
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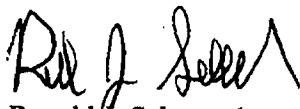
RE: In the Matter of Jo's Family Farm Water Permit Application

Dear Bill and Diane:

Enclosed please find a report prepared by Dennis Healy concerning the Verdi Well Area. I thought you may want to read this report in preparation of Dennis Healy's deposition, which is scheduled to occur on September 22, 2010.

Please let me know if you have any questions.

Sincerely yours,



Ronald J. Schramel
Attorney at Law

RJS/mm

Enc.

Lincoln Pipestone Rural Water System

Verdi Service Area

Lincoln Pipestone Rural Water System

HISTORY: The Lincoln Pipestone Rural Water System (LPRW) was created in 1979 after several years of organization, planning and exploration. People in Lincoln, Pipestone and surrounding counties were experiencing severe water quality and quantity problems that they could not solve with their own resources. Water quality issues included high nitrates as well as high sulfates, iron, manganese and hardness, and many people simply could not find enough water to sustain their farm operations. Many people relied on rainwater cisterns and hauling water from nearby towns for domestic use. In 1978 the LPRW organizing Committee conducted test pumping at 3 locations in the region, but only the Verdi water source proved usable for a public water supply. After 30+ years of exploration by LPRW and others in a 9-county region, the Verdi water source remains by far the best quality public water source found although its shallow formation makes it susceptible to potential pollutants and drought conditions. The Verdi water source does not require treatment to meet all public water supply regulations, and it is relatively soft with low iron, manganese and sulfate content.

The Verdi Well Field met all of the needs of the LPRW System until the early 1990's when growth and expansion led to the development of the Holland Well Field (1990) and the Burr Well Field (1995). Both of the new sources had poor water quality that required extensive treatment to meet water quality standards. The search for water continues today. In the south part of the System extensive, long-term exploration has yielded no potential water sources leading LPRW and others to become members of the Lewis & Clark Regional Water System, and LPRW also entered into agreement to purchase water from the Osceola County Rural Water System in Iowa. In the north part of the System extensive exploration is underway in hopes of identifying a water source with enough quantity to support future water needs in the north and east parts of the System.

Despite 30+ years of growth and development of additional water resources, the Verdi Well Field remains a critical resource in the LPRW System. The Verdi Well Field continues to serve rural customers and towns in 4 counties with high quality water, and Verdi also functions as a backup water source to both the Holland and Burr water sources as portions of each service area can be served by both water sources.

Summary of Water Appropriations And Use

INTRODUCTION: The following information summarizes FY2009 water appropriations and use data along with data back to 2000. The statistical data presented focuses on the Verdi Well Field but other System data is presented for background. The LPRW System serves a large area of southwest Minnesota in all or parts of 9 counties, and a current expansion project will extend service into a tenth county while adding users in the southeast and northeast parts of the System. Figure 1 shows the area served by the LPRW System, and the 3 water source service areas within the System.

Water Appropriations: Figure II summarizes 2000-2009 water appropriations at the 3 LPRW water sources. Total system-wide appropriations decreased from 1,463.391 MGY (Million Gallons per Year) in 2008 to 1,448.536 MGY in 2009 (-1.02%) due to weather conditions and a depressed livestock market resulting in generally lower water consumption across the System. However, the 10-year trend in water appropriations has been generally upward. Appropriations at the Verdi Well Field decreased from 415.044 MGY in 2008 to 386.915 MGY in 2009 (-6.78%), and the 10-year trend has been slightly downward. The Verdi Well Field remains very valuable for its water quality, and its location as a transfer point to move water between service areas.

Water Use: Figure III summarizes 2000-2009 water uses in the 3 LPRW Service Areas. Total water sales decreased from 1,256.764 MGY in 2008 to 1,223.744 MGY in 2009 (-2.63%), while unsold water increased from 206.627 MGY (14.12% of appropriations) in 2008 to 224.792 MGY (15.52% of appropriations) in 2009. The 10-year water sales trend is upward while the unsold water trend is basically flat. Despite decreased water sales the total number of users increased from 3,721 at the end of 2008 to 3,749 at the end of 2009, and the average number of users increased from 3,692 to 3,734. The 2009 year-end users include 31 wholesale/public system users, 211 large rural users (over 1 MGY) and 3,507 rural users. LPRW has been a high growth System since its founding in 1979. Total numbers of users have increased from 833 in 1979 to 3,749 in 2009, and current and future expansion plans could increase the number of users served by another 50% or more.

As shown in Figure IV, Verdi water sales trended downward over the last 10 years, and they decreased from 335.946 MGY in 2008 to 319.578 MGY in 2009 (-4.87%). Water losses have been relatively stable over the last 10 years, but they increased from 51.471 MGY (12.38% of appropriations) in 2008 to 51.988 MGY (13.21% of appropriations) in 2009. Transfers out to the Burr Service Area increased from 41.500 MGY (9.98% of appropriations) in 2008 to 51.000 MGY (12.96% of appropriations) in 2009, but transfers in from the Holland Service Area increased from 13.000 MGY (3.13% of appropriations) in 2008 to 29.000 MGY (7.37% of appropriations) in 2009. The year-end total/average number of connections increased from 1,151/1,146 in 2008 to 1,161/1,156 in 2009. The 2009 Verdi Service Area users include 10 wholesale/public system users, 33 large rural users (over 1 MGY) and 1,118/1,113 rural users. The important role of the Verdi Well Field as a tool to help manage the 3 LPRW water sources was demonstrated by the movement into and out of the Burr and Holland Service Areas in 2009, and the superior water quality is the standard LPRW seeks to maintain across the System. The ten community water supplies, serving about 4,509 people, provided from the Verdi Well Field include the Cities of Arco, Florence, Ivanhoe, Hendricks, Lake Benton, Tyler, Verdi, Russel and Jasper, plus a supplemental supply to Red Rock Rural Water System. The 33 large rural users are all large livestock operations, and the 1,161 rural hookups serve an estimated population of 2,902 people.

Future Needs

LPRW has grown steadily over the past 30+ years as illustrated in Figures V and VI, and current and planned expansion projects suggest that significant growth will continue for at least another 10 years. The Verdi Service Area, as the original part of the System, is not expected to grow at the same rate as the remainder of the System because most of the people in the area already have rural water service. However, some new users are added each year as new homes are built and livestock facilities are added. In any case LPRW is the only water source available to 9 of the 10 communities served, and most of the rural users no longer have backup wells available. None of the Verdi Service Area water users have any source of water available with the quality or quantity available from Verdi. For the thousands of people served from the Verdi Water Source, rural water is as vital as it was when the System was founded in 1979.

*Lincoln-Pipestone Rural Water
Distribution System*



415 East Benton St.
Lake Benton, MN 56149
(507)388-4248

FIGURE I

0 3 6 12 18 24 Miles

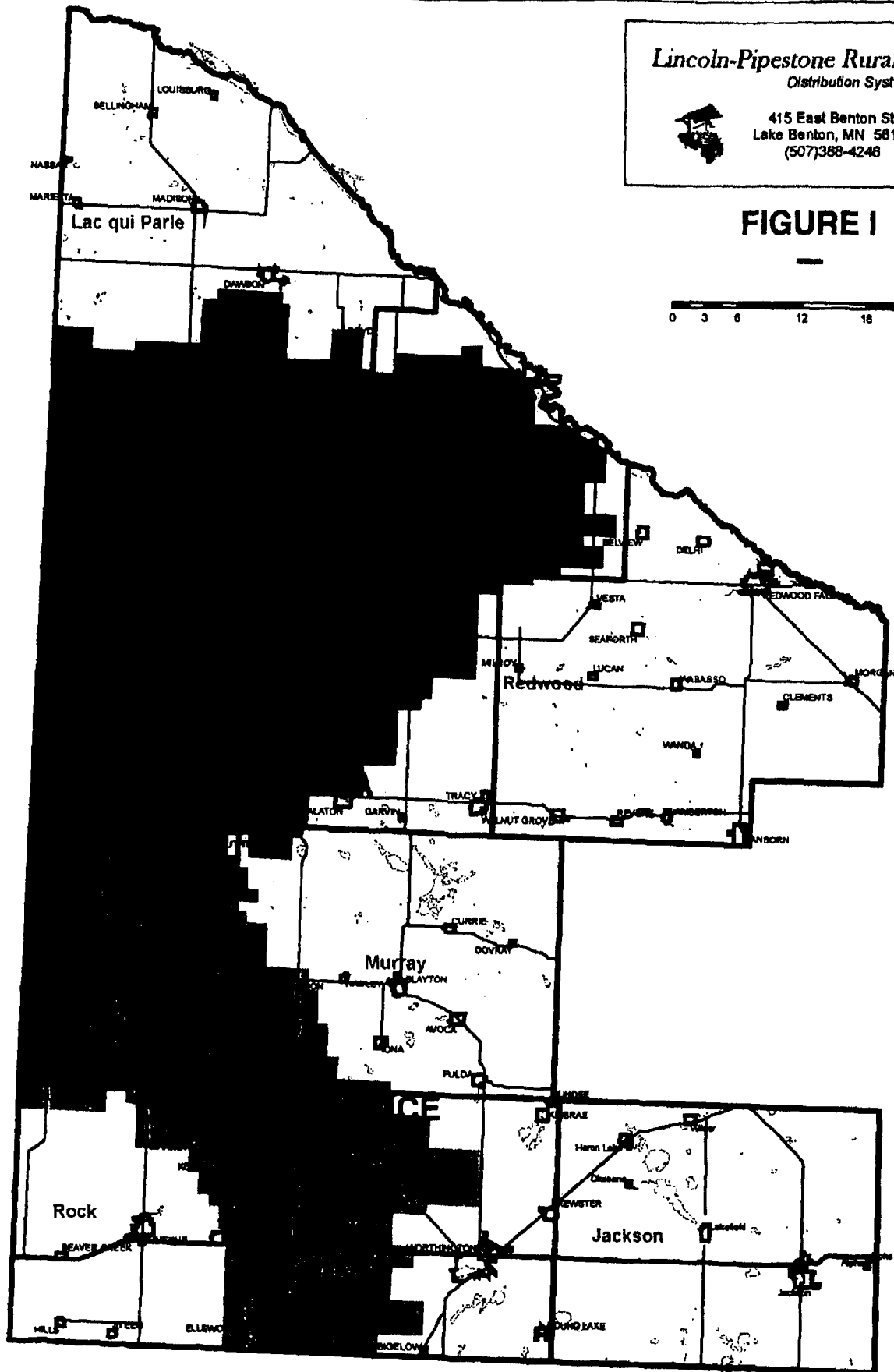


FIGURE II: 2000-2009 WATER APPROPRIATIONS

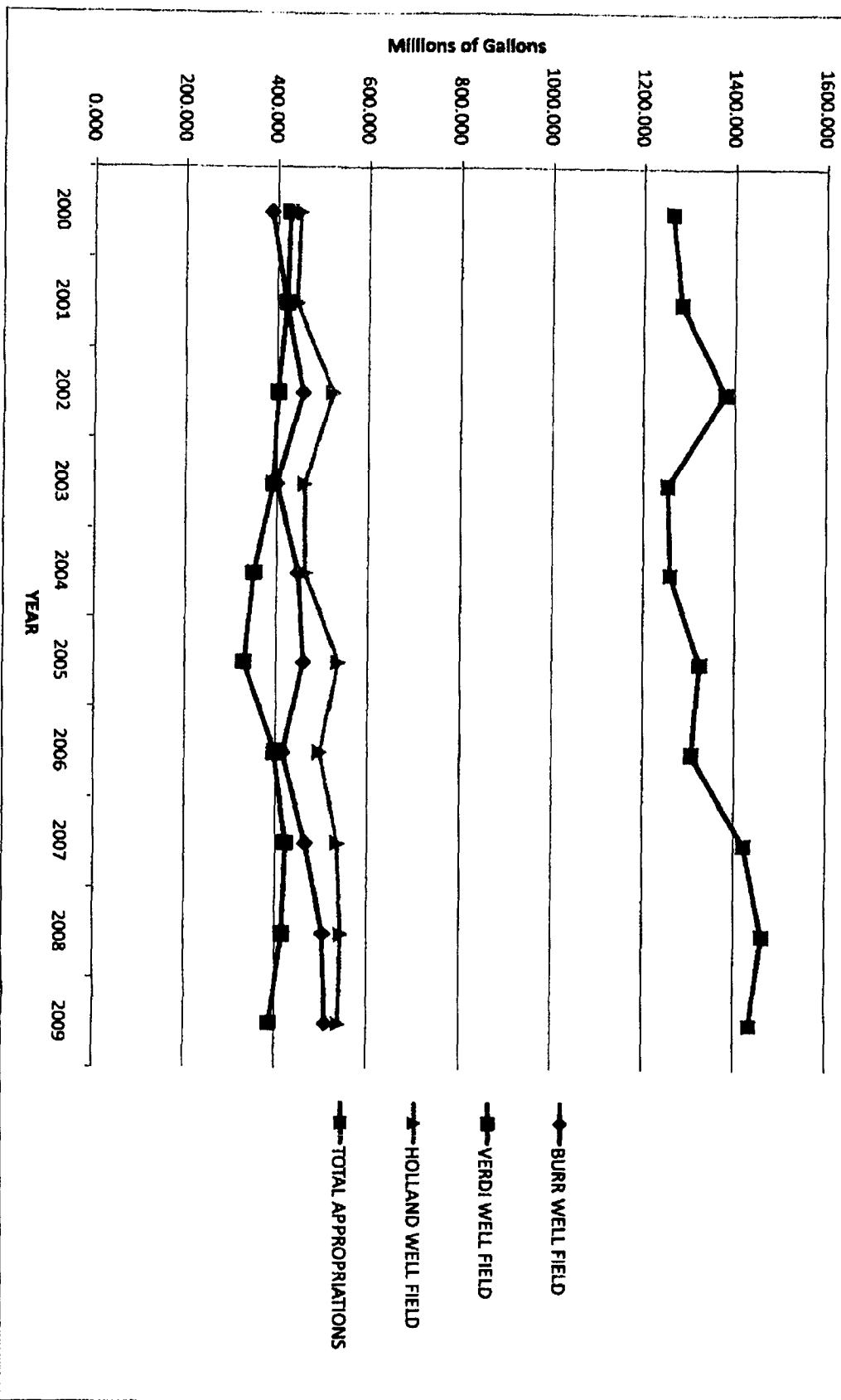


FIGURE III: TOTAL LPRW WATER USE

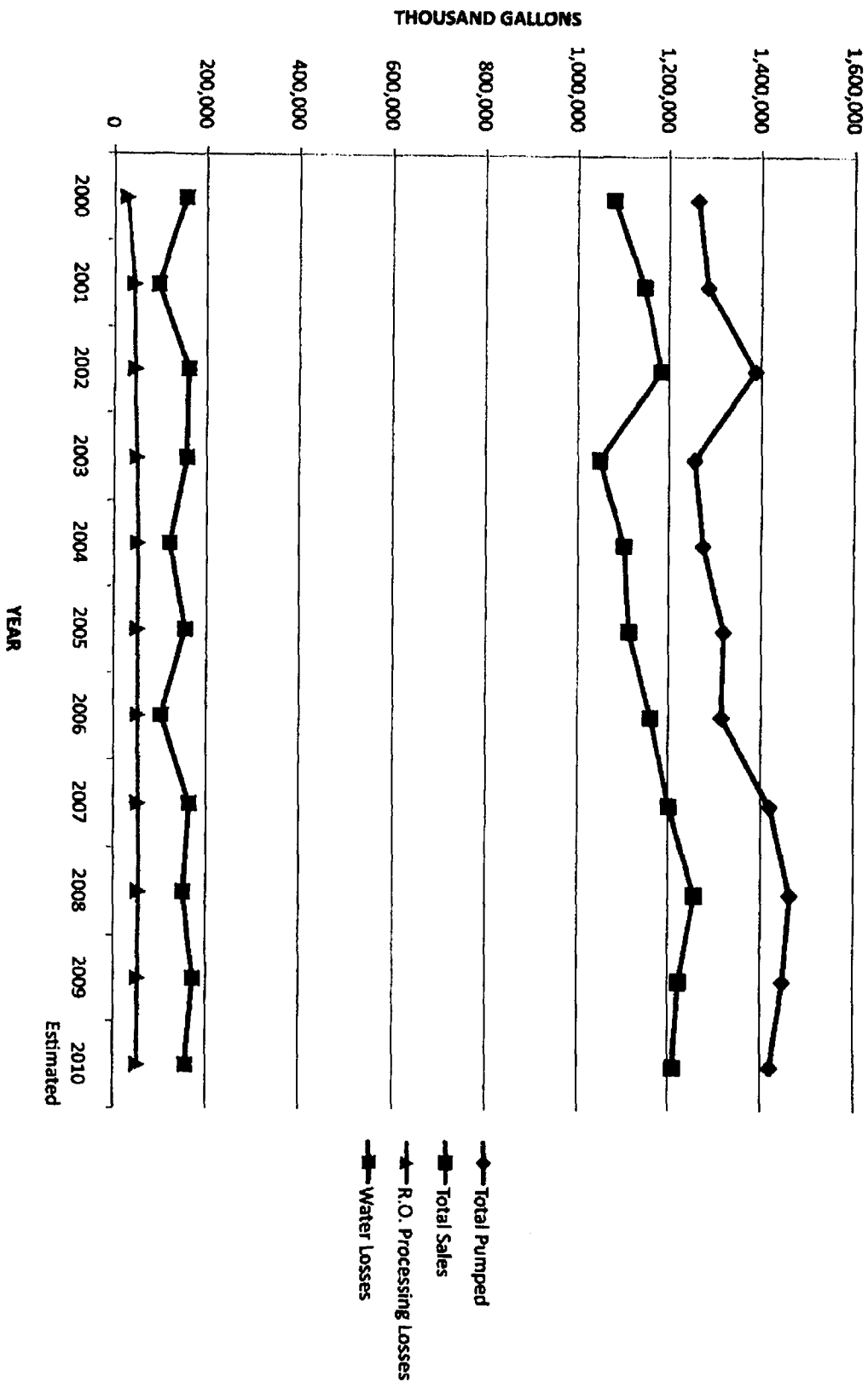


FIGURE IV: VERDI SERVICE AREA WATER USE

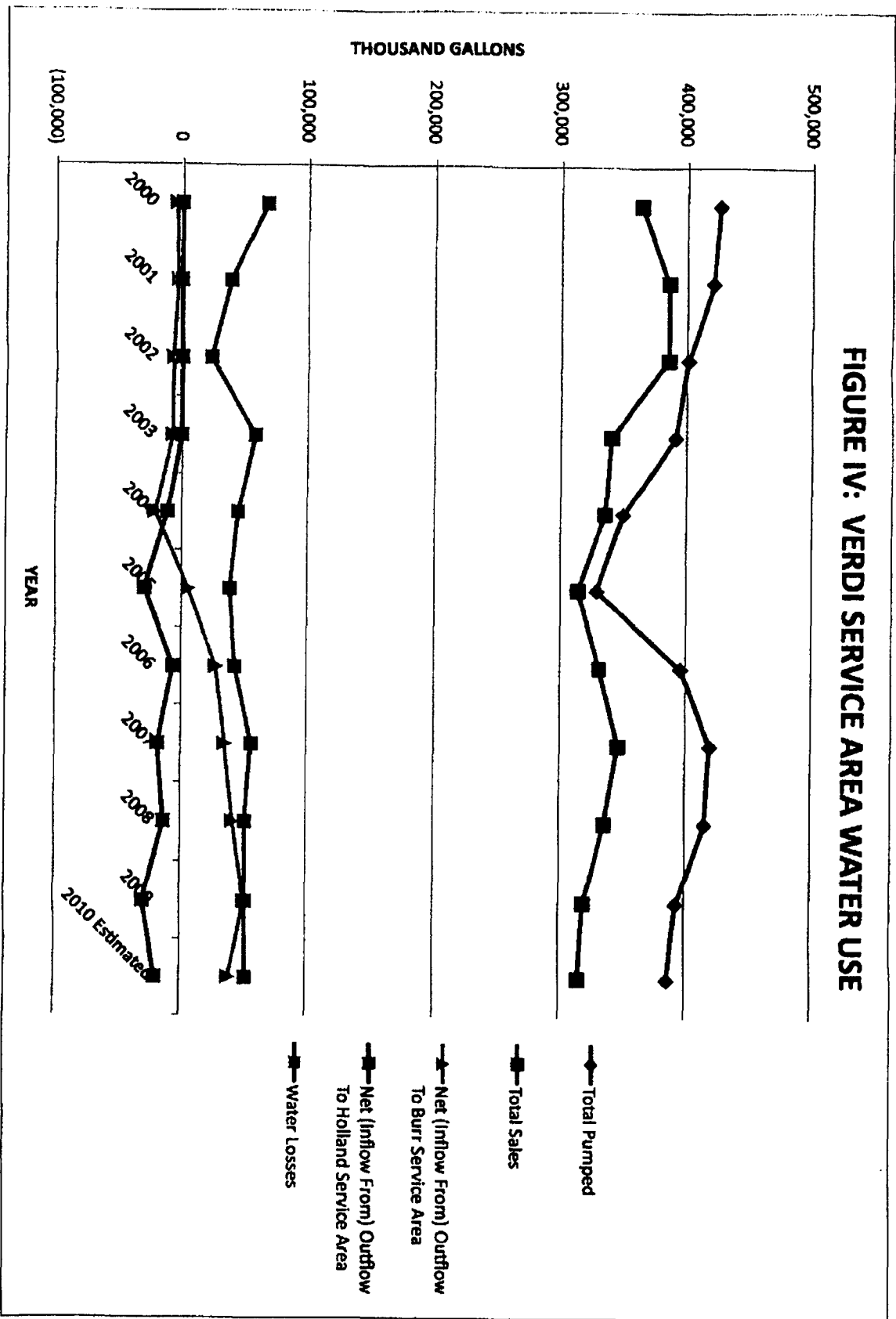


FIGURE V: LPRW WATER USERS

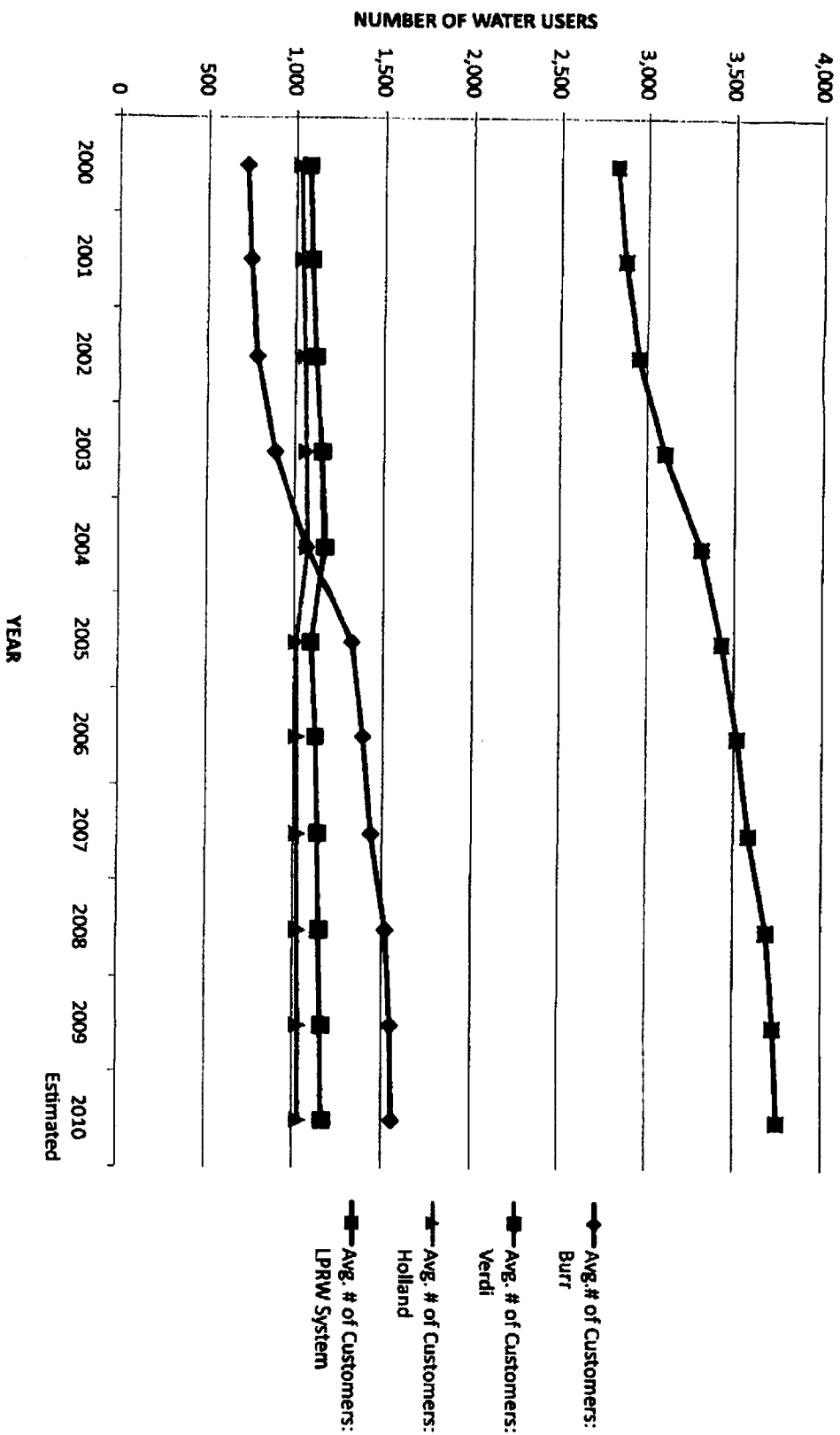
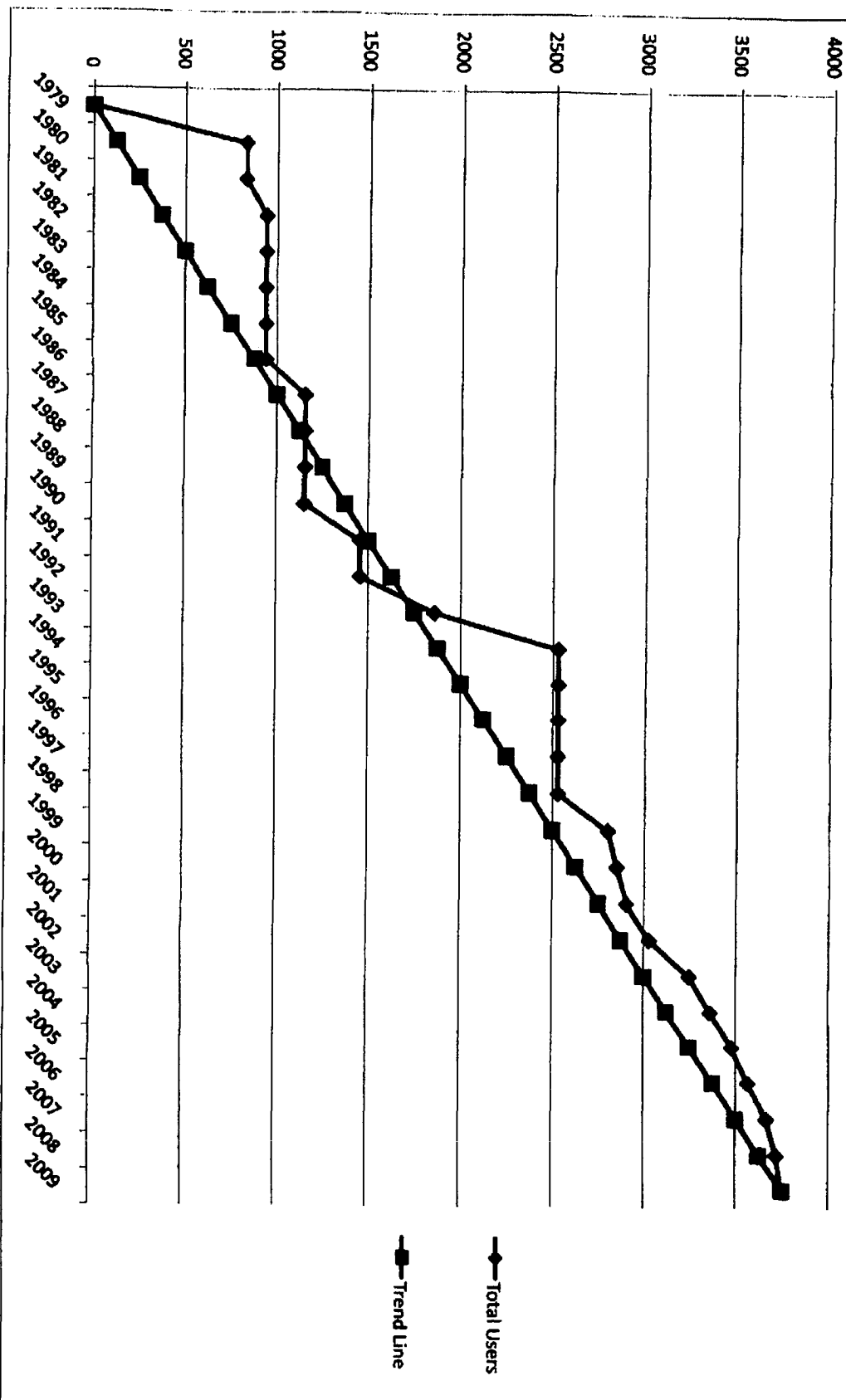


FIGURE VI: LPRW GROWTH 1979-2009



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PROGRAM

CONFIDENTIAL

This document has been prepared in anticipation of litigation and in conjunction with advice sought from counsel. It is protected from discovery by the attorney-client privilege and/or the work product doctrine.

Lincoln Pipestone Rural Water Verdi Well Field

Summary Report

Prepared for:

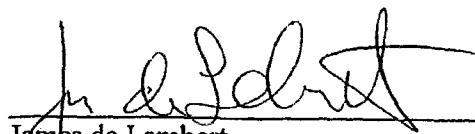
Lincoln Pipestone Rural Water
East Highway 14
Lake Benton, MN 56149

Prepared By:

Liesch Associates, Inc.
13400 15th Avenue North
Plymouth, MN 55441

Project Number: 11086.00

I hereby certify that this plan, document, or report was Prepared by me or under my direct supervision and that I am a duly Licensed Professional Geologist under the laws of the State of Minnesota.



James de Lambert
August 20, 2010

License Number: 30107

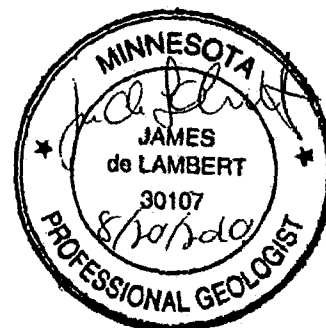


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PROPOSED IRRIGATION PUMPING	3
CONCLUSIONS	3

FIGURES (following text)

Figure 1 – Verdi Wellhead Protection Area

Figure 2 – Verdi Well Field Area

Figure 3 – Well Construction and Hydrologic Characteristics

TABLES (following figures)

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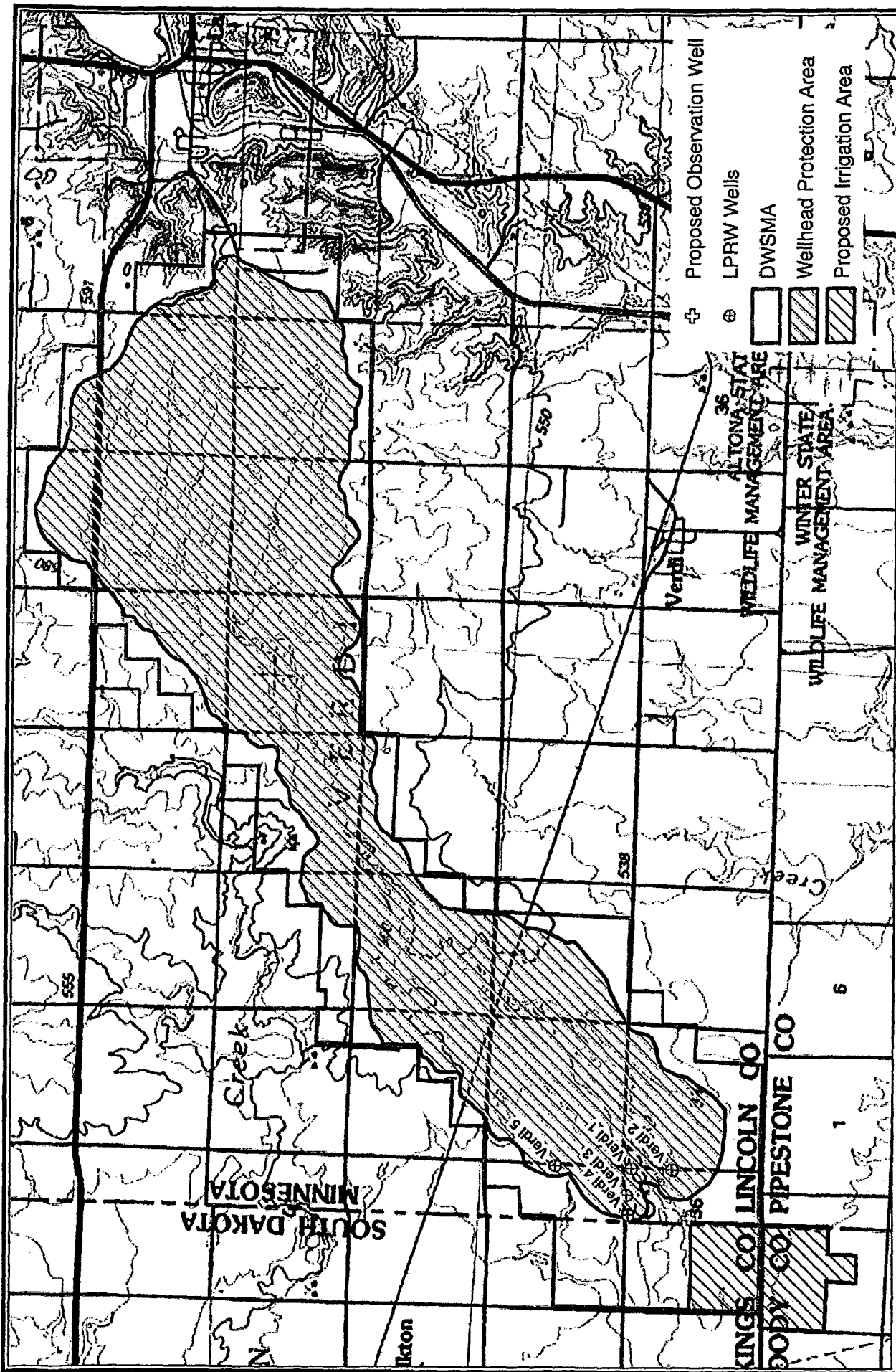
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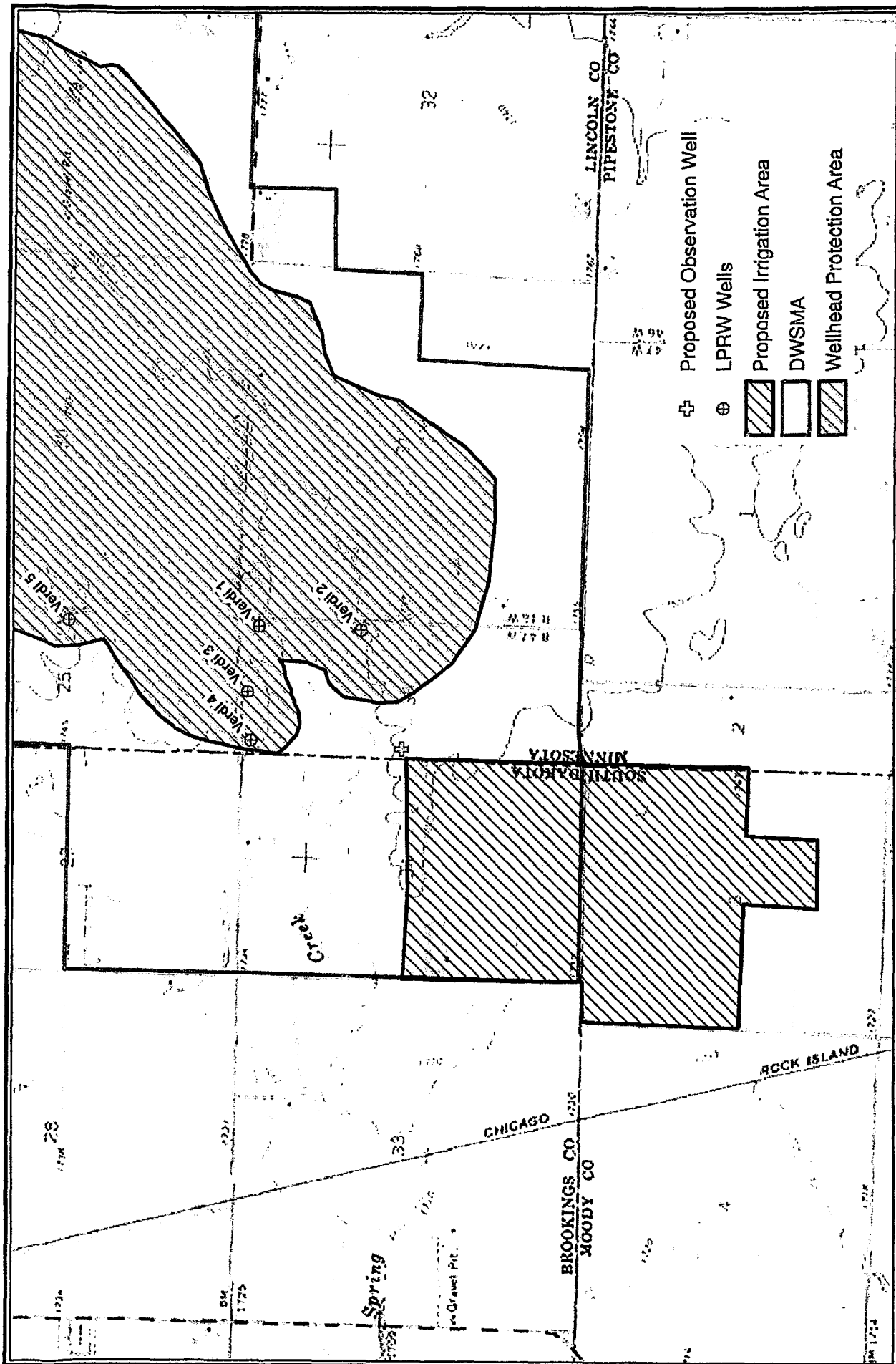
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- 3) The aquifer utilized at the Verdi Well Field is very limited in horizontal and vertical extent. Recharge to the aquifer is derived primarily from precipitation within the drainage basin of Spring Creek as shown on Figure 1. Groundwater storage is also limited in this area due to limited aquifer thickness, or extent, in areas northeast of the well field. The proposed irrigation project will likely utilize water from the same aquifer and obtain recharge from the same source.
- 4) Under the current operating conditions LPRW is able to meet demands on the well field during periods of normal, or near normal, precipitation. During periods of more limited precipitation LPRW must adjust operations by throttling back pumps to maintain safe operating conditions, due to declining static water levels. Under these conditions it can be difficult to meet demands and water use restrictions are necessary.
- 5) Water level monitoring in the aquifer shows long term fluctuations on the order of 10 feet in the aquifer.
- 6) The proposed irrigation project has the potential to impact water levels at the Verdi Well Field as the result of direct interference drawdown and as a result of the cumulative effects of significant groundwater withdrawals in a limited portion of the aquifer.
- 7) LPRW has had difficulty maintaining yields and meeting demands from the Verdi Well Field during periods of reduced precipitation. Additional withdrawals from the aquifer at the proposed irrigation project will exacerbate this problem and could potentially cause LPRW to reduce pumping and implement emergency procedures.
- 8) If the proposed irrigation project moves forward, a pumping test should be conducted to assess the impact of pumping on the LPRW Well Field. LPRW is planning to install an observation well at the approximate location shown on Figures 1 & 2. This well will be monitored by LPRW after installation and could be used during the test to measure actual impacts. Depending on the results of the test, the well could also serve as threshold monitoring location to prevent adverse impacts to LPRW's wells.

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 Hydrogeologists • Engineers • Environmental Scientists Minneapolis • Chicago • Los Angeles • Madison • Milwaukee • Phoenix		www.liesch.com	
Source: USGS 100K Topographic Quad Projection: NAD83 MN State Plane South		LPRW - Verdi Wellfield	
		Aug10	
		Figure 1	



 Hydrogeologists • Engineers • Environmental Scientists Minneapolis • Chicago • Los Angeles • Madison • Milwaukee • Phoenix		www.liesch.com	LPRW - Verdi Wellfield	Aug10
Source: USGS 24K Topographic Quad Projection: NAD83 MN State Plane South 0 1,500 3,000 Feet 1:24,000 1 Inch = 2,000 Feet			Verdi Wellfield Area Figure 2	

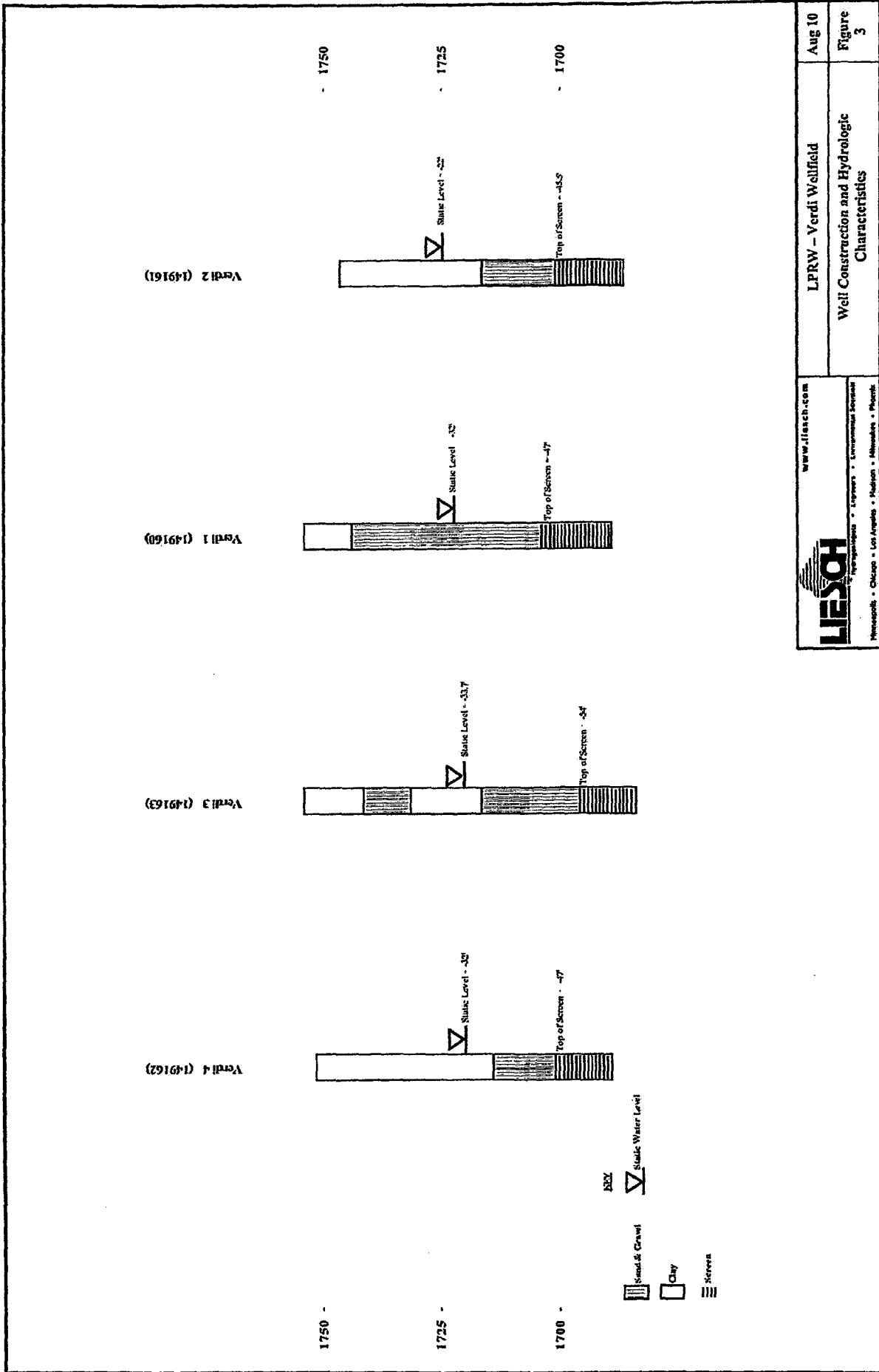


Table 1 - Lincoln Pipestone Rural Water Verdi Well Field Drawdown

Well Number	Verdi 1	Verdi 2	Verdi 3	Verdi 4
Well Elevation	1751	1743	1751	1749
Specific Capacity	35	23	23	25
Static Water Level	30	20	25	25
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	14	19.5	27	19
Current Pumping Level	42	39.5	45	40
Additional Drawdown	2	0	7	4
Approximate Pumping Rate	425	450	450	375
Static Water Level	35	25	30	30
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	9	14.5	22	14
Current Pumping Level	44	39.5	50	44
Additional Drawdown	0	0	2	0
Approximate Pumping Rate	319	335	450	350
Static Water Level	40	30	35	35
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	4	9.5	17	9
Current Pumping Level	44	39.5	52	44
Additional Drawdown	0	0	0	0
Approximate Pumping Rate	142	219	383	225

Current Condition

Five Foot Decline
in Static Level

10 Foot Decline
in Static Level

All measurements in feet except pumping rate is given in gpm and specific capacity given in gpm/ft.

Lincoln Pipestone Rural Water System

Verdi Service Area

Lincoln Pipestone Rural Water System

HISTORY: The Lincoln Pipestone Rural Water System (LPRW) was created in 1979 after several years of organization, planning and exploration. People in Lincoln, Pipestone and surrounding counties were experiencing severe water quality and quantity problems that they could not solve with their own resources. Water quality issues included high nitrates as well as high sulfates, iron, manganese and hardness, and many people simply could not find enough water to sustain their farm operations. Many people relied on rainwater cisterns and hauling water from nearby towns for domestic use. In 1978 the LPRW organizing Committee conducted test pumping at 3 locations in the region, but only the Verdi water source proved usable for a public water supply. After 30+ years of exploration by LPRW and others in a 9-county region, the Verdi water source remains by far the best quality public water source found although its shallow formation makes it susceptible to potential pollutants and drought conditions. The Verdi water source does not require treatment to meet all public water supply regulations, and it is relatively soft with low iron, manganese and sulfate content.

The Verdi Well Field met all of the needs of the LPRW System until the early 1990's when growth and expansion led to the development of the Holland Well Field (1990) and the Burr Well Field (1995). Both of the new sources had poor water quality that required extensive treatment to meet water quality standards. The search for water continues today. In the south part of the System extensive, long-term exploration has yielded no potential water sources leading LPRW and others to become members of the Lewis & Clark Regional Water System, and LPRW also entered into agreement to purchase water from the Osceola County Rural Water System in Iowa. In the north part of the System extensive exploration is underway in hopes of identifying a water source with enough quantity to support future water needs in the north and east parts of the System.

Despite 30+ years of growth and development of additional water resources, the Verdi Well Field remains a critical resource in the LPRW System. The Verdi Well Field continues to serve rural customers and towns in 4 counties with high quality water, and Verdi also functions as a backup water source to both the Holland and Burr water sources as portions of each service area can be served by both water sources.

Summary of Water Appropriations And Use

INTRODUCTION: The following information summarizes FY2009 water appropriations and use data along with data back to 2000. The statistical data presented focuses on the Verdi Well Field but other System data is presented for background. The LPRW System serves a large area of southwest Minnesota in all or parts of 9 counties, and a current expansion project will extend service into a tenth county while adding users in the southeast and northeast parts of the System. Figure 1 shows the area served by the LPRW System, and the 3 water source service areas within the System.

Water Appropriations: Figure II summarizes 2000-2009 water appropriations at the 3 LPRW water sources. Total system-wide appropriations decreased from 1,463.391 MGY (Million Gallons per Year) in 2008 to 1,448.536 MGY in 2009 (-1.02%) due to weather conditions and a depressed livestock market resulting in generally lower water consumption across the System. However, the 10-year trend in water appropriations has been generally upward. Appropriations at the Verdi Well Field decreased from 415.044 MGY in 2008 to 386.915 MGY in 2009 (-6.78%), and the 10-year trend has been slightly downward. The Verdi Well Field remains very valuable for its water quality, and its location as a transfer point to move water between service areas.

Water Use: Figure III summarizes 2000-2009 water uses in the 3 LPRW Service Areas. Total water sales decreased from 1,256.764 MGY in 2008 to 1,223.744 MGY in 2009 (-2.63%), while unsold water increased from 206.627 MGY (14.12% of appropriations) in 2008 to 224.792 MGY (15.52% of appropriations) in 2009. The 10-year water sales trend is upward while the unsold water trend is basically flat. Despite decreased water sales the total number of users increased from 3,721 at the end of 2008 to 3,749 at the end of 2009, and the average number of users increased from 3,692 to 3,734. The 2009 year-end users include 31 wholesale/public system users, 211 large rural users (over 1 MGY) and 3,507 rural users. LPRW has been a high growth System since its founding in 1979. Total numbers of users have increased from 833 in 1979 to 3,749 in 2009, and current and future expansion plans could increase the number of users served by another 50% or more.

As shown in Figure IV, Verdi water sales trended downward over the last 10 years, and they decreased from 335.946 MGY in 2008 to 319.578 MGY in 2009 (-4.87%). Water losses have been relatively stable over the last 10 years, but they increased from 51.471 MGY (12.38% of appropriations) in 2008 to 51.988 MGY (13.21% of appropriations) in 2009. Transfers out to the Burr Service Area increased from 41.500 MGY (9.98% of appropriations) in 2008 to 51.000 MGY (12.96% of appropriations) in 2009, but transfers in from the Holland Service Area increased from 13.000 MGY (3.13% of appropriations) in 2008 to 29.000 MGY (7.37% of appropriations) in 2009. The year-end total/average number of connections increased from 1,151/1,146 in 2008 to 1,161/1,156 in 2009. The 2009 Verdi Service Area users include 10 wholesale/public system users, 33 large rural users (over 1 MGY) and 1,118/1,113 rural users. The important role of the Verdi Well Field as a tool to help manage the 3 LPRW water sources was demonstrated by the movement into and out of the Burr and Holland Service Areas in 2009, and the superior water quality is the standard LPRW seeks to maintain across the System. The ten community water supplies, serving about 4,509 people, provided from the Verdi Well Field include the Cities of Arco, Florence, Ivanhoe, Hendricks, Lake Benton, Tyler, Verdi, Russel and Jasper, plus a supplemental supply to Red Rock Rural Water System. The 33 large rural users are all large livestock operations, and the 1,161 rural hookups serve an estimated population of 2,902 people.

Future Needs

LPRW has grown steadily over the past 30+ years as illustrated in Figures V and VI, and current and planned expansion projects suggest that significant growth will continue for at least another 10 years. The Verdi Service Area, as the original part of the System, is not expected to grow at the same rate as the remainder of the System because most of the people in the area already have rural water service. However, some new users are added each year as new homes are built and livestock facilities are added. In any case LPRW is the only water source available to 9 of the 10 communities served, and most of the rural users no longer have backup wells available. None of the Verdi Service Area water users have any source of water available with the quality or quantity available from Verdi. For the thousands of people served from the Verdi Water Source, rural water is as vital as it was when the System was founded in 1979.

*Lincoln-Pipestone Rural Water
Distribution System*



415 East Benton St.
Lake Benton, MN 56149
(507)388-4248

FIGURE I

0 3 6 12 18 24 Miles

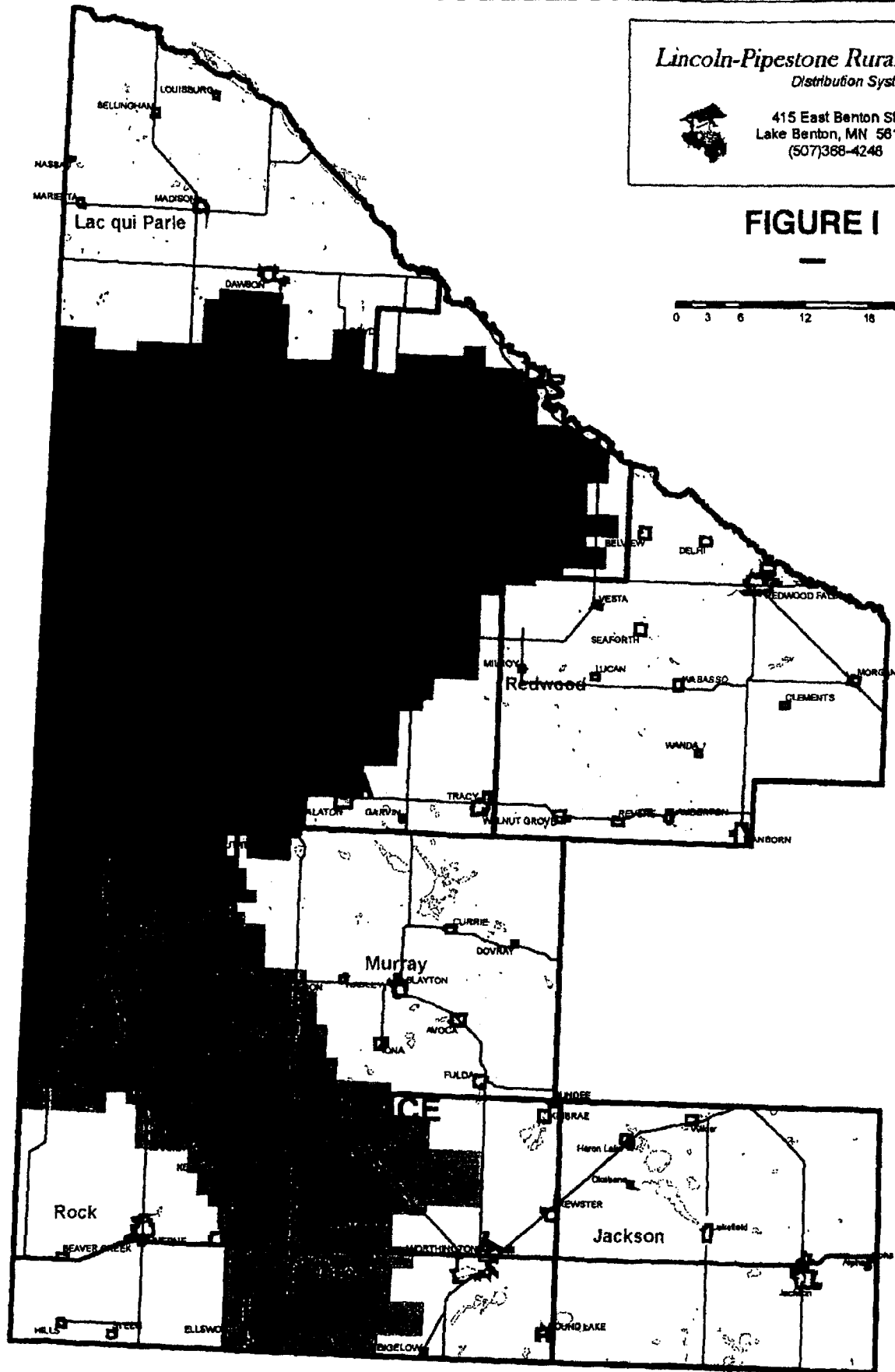


FIGURE II: 2000-2009 WATER APPROPRIATIONS

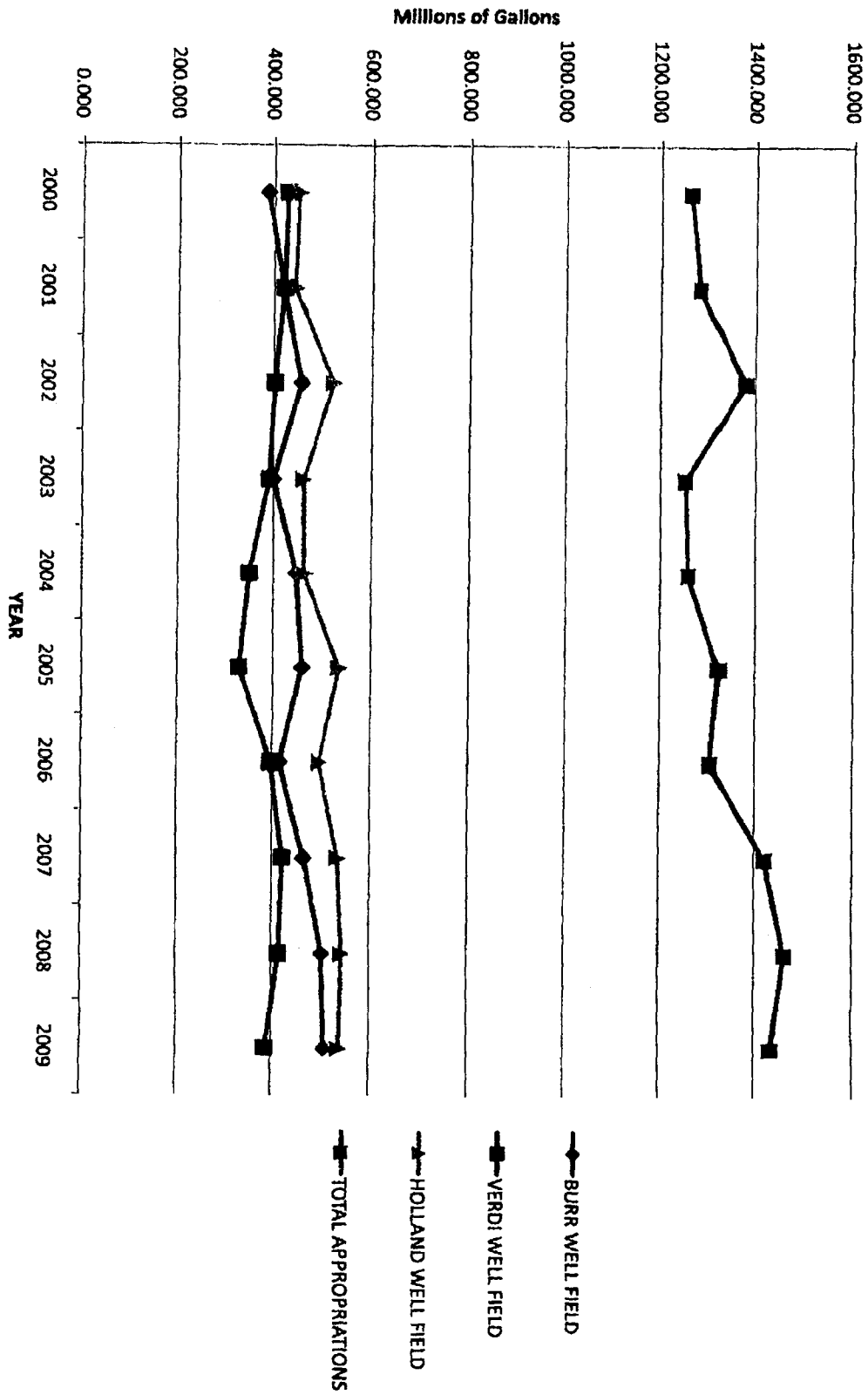


FIGURE III: TOTAL LPRW WATER USE

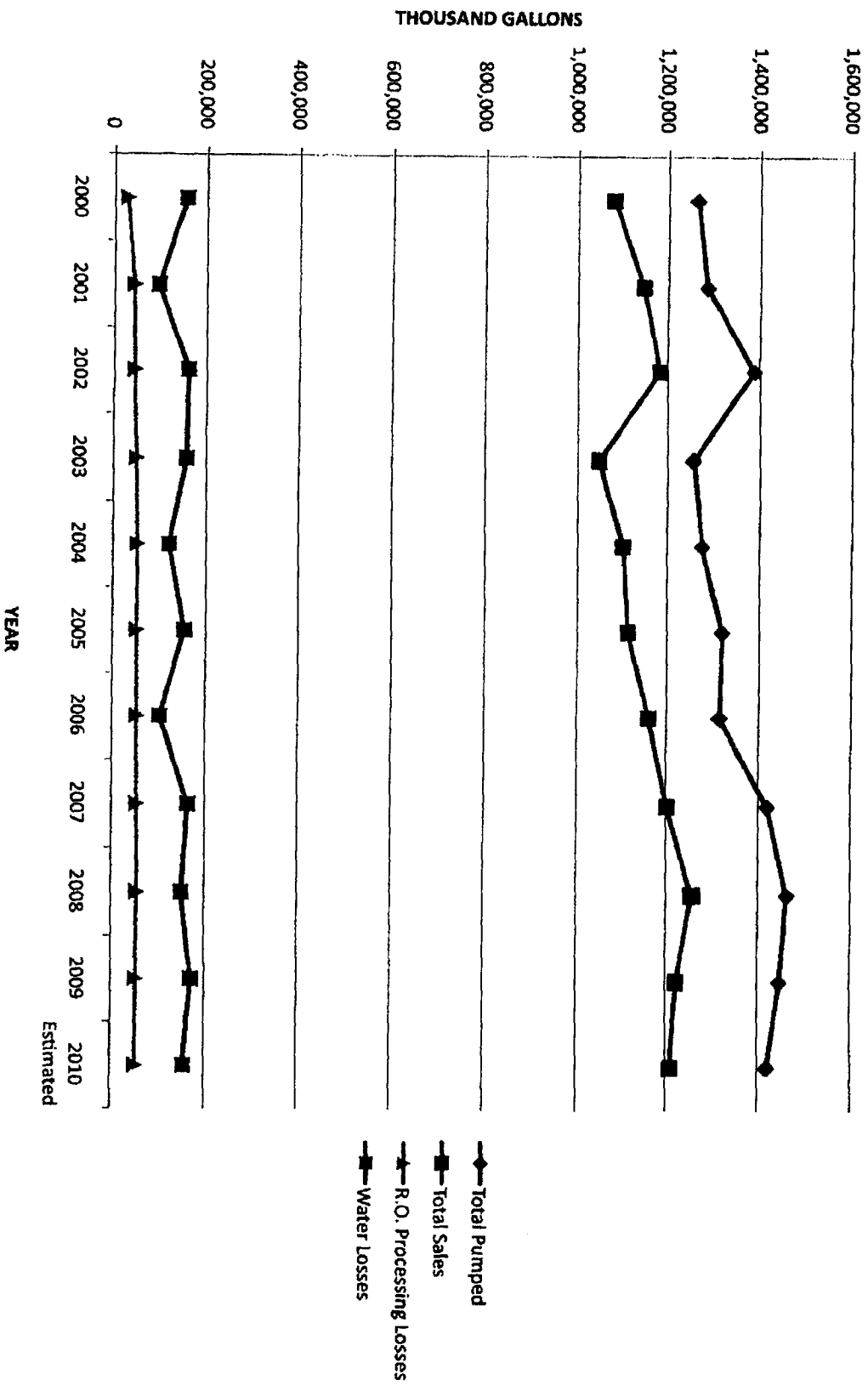


FIGURE IV: VERDI SERVICE AREA WATER USE

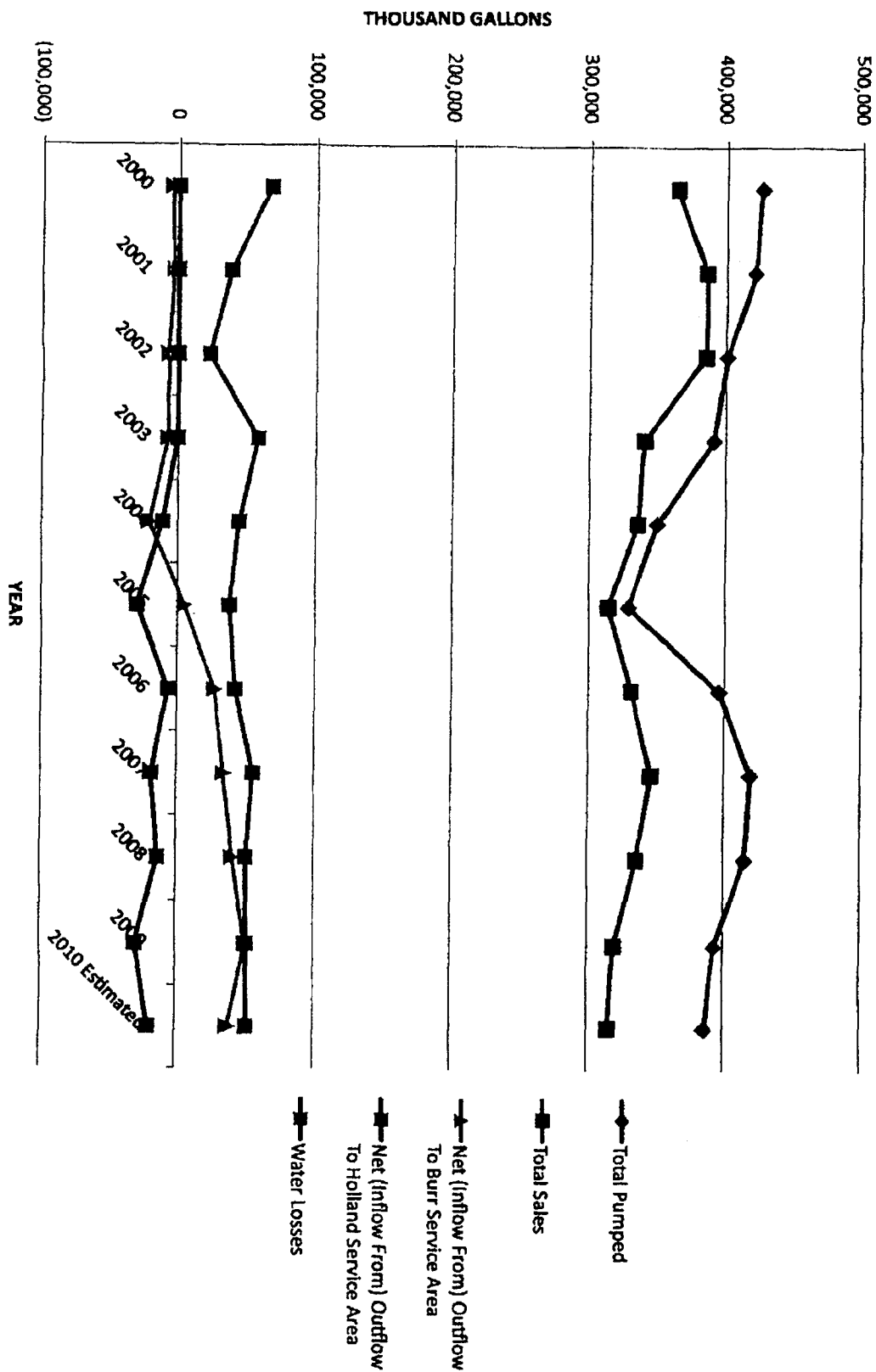


FIGURE V: LPRW WATER USERS

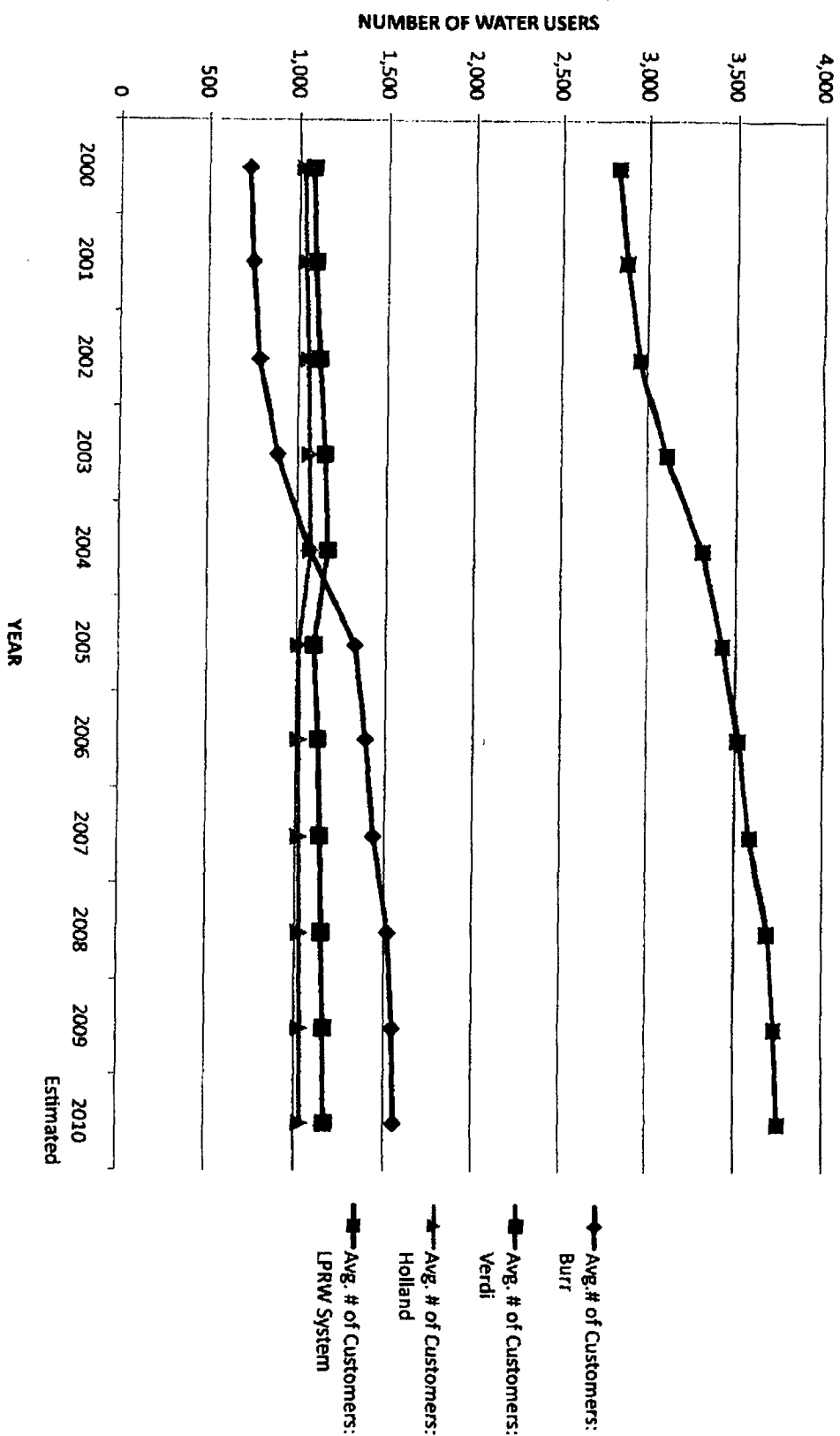
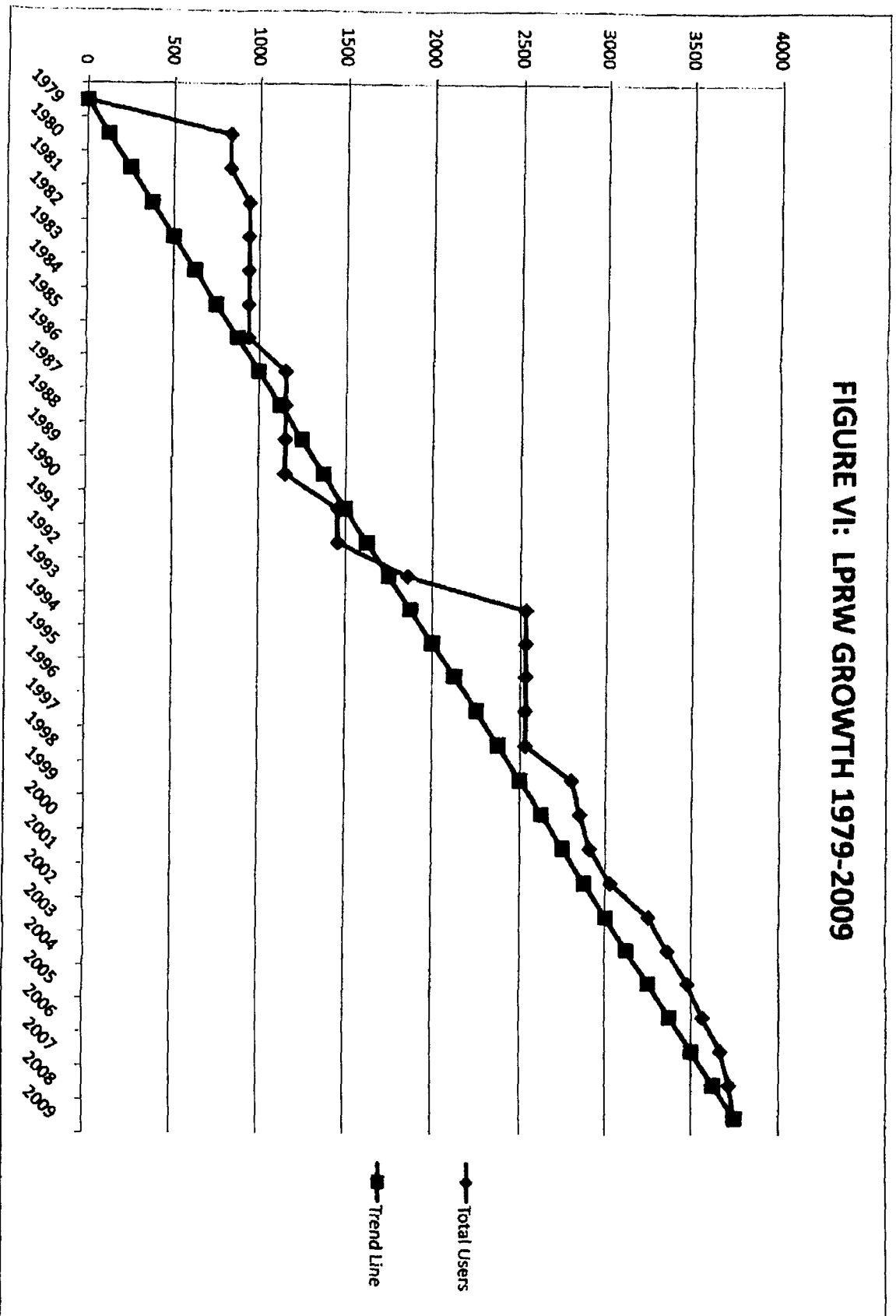


FIGURE VI: LPRW GROWTH 1979-2009





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 8, 2010

NOTICE

TO: William Taylor and J. Vince Jones Ronald J Schramel
Woods Fuller Law Firm McDonald and Schramel, PLLP
PO Box 5027 PO Box 505
Sioux Falls SD 57104-6322 Windom MN 56101

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing for Water Permit Application No. 7178-3, Jo's Family Farms

Application No. 7178-3 proposes to appropriate 4.44 cubic feet of water per second from three wells to be completed into the Big Sioux:Aurora Aquifer (approximately 60 feet deep) located in S 1/2 Section 34-T109N-R47W to irrigate 400 acres located in the S 1/2 Section 34-T109N-R47W (Brookings County) and the N 1/2, NW 1/4 SE 1/4 Section 3-T108N-R47W (Moody County). Petitions to the published notice of application were submitted by Lincoln Pipestone Rural Water System and Minnesota Department of Natural Resources.

The Water Management Board will conduct a hearing to consider Application No. 7178-3 at 8:30 AM (Central Time) on Wednesday, October 6, 2010 at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The entire day is allotted to considering this application. Future notice will be provided to all parties if there are changes to the hearing time.

Applicable provisions of the Notice of Hearing dated March 15, 2010, still apply. The March 15th notice to parties included copies of the staff report, recommendation, affidavit of publication and petition in this matter. This is the same information that will be sent to Board members in advance of the hearing. In addition, please find attached the hydrology report prepared by Lincoln Pipestone Rural Water System's consultant. This document will also be provided to the Board in advance of the hearing.

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

Enclosure

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on September 8, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 8, 2010, regarding scheduling of hearing on Water Right Permit Application No. 7178-3, as addressed below:

William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

Ronald J Schramel
McDonald and Schramel, PLLP
PO Box 505
Windom MN 56101

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

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073



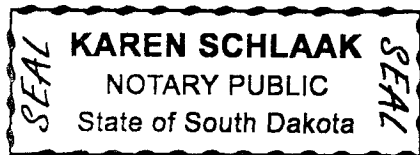
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of September, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 29, 2010

NOTICE

TO: William Taylor and J. Vince Jones Ronald J Schramel
Woods Fuller Law Firm McDonald and Schramel, PLLP
PO Box 5027 PO Box 505
Sioux Falls SD 57104-6322 Windom MN 56101

Skip Wright, Regional Hydrologist
Minnesota Dept of Natural Resources
261 Highway 15 South
New Ulm MN 56073

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Change of Hearing Time for Water Permit Application No. 7178-3, Jo's Family
Farms

To accommodate unexpected changes in the Water Management Board's agenda the hearing time for Water Permit Application No. 7178-3 is being moved to 10:00 AM on October 6, 2010.

The Water Management Board will conduct a hearing to consider Application No. 7178-3 at **10:00 AM (Central Time)** on Wednesday, October 6, 2010 at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.

Applicable provisions of the Notice of Hearing dated March 15, 2010, still apply.

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

c: Diane Best, Assistant Attorney General

CERTIFICATION

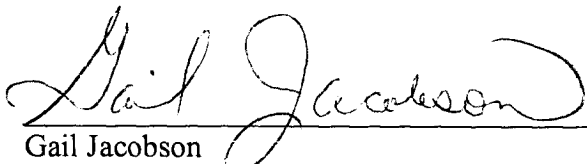
I hereby certify that on September 29, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 29, 2010, regarding scheduling of hearing on Water Right Permit Application No. 7178-3, as addressed below:

William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

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McDonald and Schramel, PLLP
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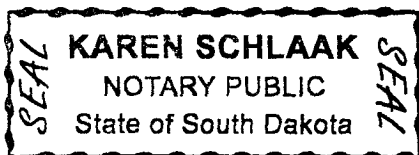
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 29th day of September, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Healy Depo Exhibits



WATER APPROPRIATION PERMIT

500 Lafayette Road
St. Paul, MN 55155-4032

Amended

PERMIT
79-4114

COUNTY
Lincoln (41)

THIS AMENDED PERMIT SUPERSEDES THE ORIGINAL PERMIT AND ALL PREVIOUS AMENDMENTS.
IN THE MATTER OF THE APPLICATION FOR APPROPRIATION OF WATERS OF THE STATE, PERMISSION IS HEREBY GRANTED TO:

PERMITTEE Lincoln Pipestone Rural Water District		Authorized Agent Don Evers, Manager	EXHIBIT 1 PAS 9-22-10 PENGAD 800-631-6889
Address East Highway 14, PO Box 188; Lake Benton, MN 56149; Phone (507) 368-4248			
To appropriate from: Well #1, 12" dia., 62' deep, 520 gpm, Unique No. 149160, [REDACTED] Well #2, 12" dia., 57' deep, 500 gpm, Unique No. 149161, [REDACTED] Well #3, 12" dia., 67' deep, 500 gpm, Unique No. 149163, [REDACTED] Well #4, 12" dia., 60' deep, 510 gpm, Unique No. 149162, [REDACTED] Well #5, 12" dia., 53' deep, 650 gpm, Unique No. 232460, [REDACTED]			
Purpose: Public water supply for rural customers and municipal water systems located in Lincoln and Pipestone Counties (As described in Attachment B). Use Code (17)			
Property described as: [REDACTED] Well Field located in [REDACTED] Big Sioux River (Pipestone) Watershed (82)			RECEIVED SEP 30 2010 WATER RIGHTS PROGRAM
Authorized Signature John Linc Stine <i>John Linc Stine</i>	Title Administrator Permits and Land Use Section	Date 11/3/95	

This permit is granted subject to the following **CONDITIONS**:

1. QUANTITY:

The Permittee is authorized to appropriate water at a rate not to exceed 1800 gallons per minute. The total amount of water appropriated shall not exceed xxx acre feet or 683 million gallons per year.

2. LIMITATIONS:

(a) Any violation of the terms and provisions of this permit and any appropriation of the waters of the state in excess of that authorized hereon shall constitute a violation of Minnesota Statutes, Chapter 103.

(b) This permit shall not be construed as establishing any priority of appropriation of waters of the state.

(c) This permit is permissive only. No liability shall be imposed upon or incurred by the State of Minnesota or any of its employees, on account of the granting hereof or on account of any damage to any person or property resulting from any act or omission of the Permittee relating to any matter hereunder. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person other than the state against the Permittee, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the state against the Permittee, for violation of or failure to comply with the provisions of the permit or applicable provisions of law.

(d) In all cases where the doing by the Permittee of anything authorized by this permit shall involve the taking, using, or damaging of any property, rights or interests of any other person or persons, or of any publicly owned lands or improvements thereon or interests therein, the Permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all property, rights, and interests necessary therefore.

(e) This permit shall not release the Permittee from any other permit requirements or liability or obligation imposed by Minnesota Statutes, Federal or local ordinances relating thereto and shall remain in force subject to all conditions and limitations now or hereafter imposed by law.

(f) Unless explicitly specified, this permit does not authorize any alterations of the beds or banks of any public (protected) waters or wetlands. A separate permit must be obtained from the Department of Natural Resources prior to any such alteration.

(over, please)

3. PERMITTEE'S RESPONSIBILITIES:

(a) MONITORING.

The Permittee shall equip each installation for appropriating or using water with a device or employ a method to measure the quantity of water appropriated to within ten (10) percent of actual amount withdrawn unless otherwise specified by special provision.

(b) REPORTS.

Monthly records of the amount of water appropriated or used shall be recorded for each installation. Such readings and the total amount of water appropriated or used shall be reported annually to the Director of the Division of Waters, on or before February 15 of the following year, upon forms supplied by the Division. Any processing fee required by law or rule shall be submitted with the records whether or not any water was appropriated during the year. Failure to report shall be sufficient cause for terminating the permit 30 days following written notice.

(c) TRANSFER OR ASSIGNMENT.

Any transfer or assignment of rights, or sale of property involved hereunder shall be reported within 90 days thereafter to the Director of the Division of Waters. Such notice shall be made by the transferee (i.e., new owner) and shall state the intention to continue the appropriation as stated in the permit. This permit shall not be transferred or assigned except with the written consent of the Commissioner.

(d) MODIFICATION.

The Permittee must notify the Commissioner in writing of any proposed changes to the existing permit. This permit shall not be modified without first obtaining the written permission from the Commissioner.

4. COMMISSIONER'S AUTHORITY:

(a) The Commissioner may inspect any installation utilized for the appropriation or use of water. The Permittee shall grant access to the site at all reasonable times and shall supply such information concerning such installation as the Commissioner may require.

(b) The Commissioner may, as he/she deems necessary, require the Permittee to install gages and/or observation wells to monitor the impact of the Permittee's appropriation on the water resource and require the Permittee to pay necessary costs of installation and maintenance.

(c) The Commissioner may restrict, suspend, amend, or cancel this permit in accordance with applicable laws and rules for any cause for the protection of public interests, or for violation of the provisions of this permit.

5. PUBLIC RECORD:

All data, facts, plans, maps, applications, annual water use reports, and any additional information submitted as part of this permit, and this permit itself are part of the public record and are available for public inspection at the offices of the Division of Waters. The information contained therein may be used by the Division as it deems necessary. The submission of false data, statements, reports or any such additional information, at any time shall be deemed as just grounds for revocation of this permit.

6. WETLAND CONSERVATION ACT:

Where the work authorized by this permit involves the draining or filling of wetlands not subject to DNR jurisdiction, the permittee shall not initiate any appropriation under this permit until the permittee has obtained official approval from the responsible governmental unit as required by the Minnesota Wetland Conservation Act of 1991.

7. WELL ABANDONMENT:

The permittee shall notify the Minnesota Department of Health prior to abandoning, removing, covering, plugging or filling the well(s) from which the appropriated appropriation was made. The well(s) must be abandoned by a licensed well driller and in accordance with the procedures required under the Minnesota Department of Health Water Well Code (4725.2500 - 4725.2900).

8. WELL INTERFERENCE:

If notified by the Division of Waters that well interference is suspected and probable, based on confirmation of a formal well interference complaint, all appropriation authorized by this permit must cease immediately until the interference is resolved.

9. CONSERVATION:

The permittee shall, whenever practical and feasible, employ water conservation methods and practices that promote sound water management, including but not limited to the reuse and recycling of water, water saving devices, water scheduling, and public education.

10. EMERGENCY AND CONSERVATION PLANS:

The permittee must submit an emergency and water conservation plan to the Department for approval by January 1, 1996. Plans must address water supply and demand reduction measures, allocation priorities, and identify alternative sources of water for use in an emergency. Plans must be updated once every ten years. Water emergency and conservation plans must include utility information and conservation measures for each town or community water system supplied by Lincoln Pipestone. Plans must identify all customer connections and service areas supplied by each well field.

11. DEMAND REDUCTION:

Public water suppliers serving more than 1,000 people must employ water use demand reduction measures before requesting approval from the Minnesota Department of Health to construct new public water supply wells, or requesting an increase in the authorized appropriation volume from the Department of Natural Resources. Demand reduction measures must include evaluation of conservation rate structures and a public education program that may include a toilet and showerhead retrofit program.

12. PERMIT AMENDMENTS REQUIRED:

Permit amendments must be requested and approved in accordance with Minnesota Rules 6115.0750, Subpart 5, before adding new service areas, municipal water suppliers, industrial users, commercial livestock operations or other water users that will increase water demands on the system more than 10,000 gallons per day or one million gallons per year.

13. WATER USE RECORDS:

Minnesota Statutes require public water suppliers serving more than 1,000 people to submit records that indicate the number of connections and amount of water use by customer categories. The annual report must include information on customer categories within each community water system supplied by Lincoln Pipestone and rural service connections that use more than one million gallons per year.

Additional Conditions:

See Attachment A

ATTACHMENT A TO PERMIT 79-4114

Additional Conditions

1. The permittee must maintain monthly records of water appropriations authorized by this permit that are diverted to areas outside the basin of origin (Mississippi of Missouri Water sheds) as defined by M.S. 103G.005, Subdivision 6. Records of water volumes supplied to areas outside the basin of origin must be submitted with the annual report of water use by February 15th of the following year or upon request by the Department.
2. Once each month the permittee shall measure and record the water level in all production wells or adjacent observation wells and the observation well in the Verdi Well Field. Water level records for the production and observation wells must be submitted to the Observation Well Program Manager at DNR - Division of Waters, 500 Lafayette Road, St. Paul, MN 55155-4032, on a quarterly basis (January 1, April 1, July 1, and October 1, each year) or upon request by the Department.

11/3/95
Date

John Linc Stine
John Linc Stine, Administrator
Permits and Land Use Section

ATTACHMENT B TO PERMIT 79-4114

This attachment is based on information and service area maps provided DeWild Grant Reckert & Associates. The permittee shall update this attachment and submit new service area maps when the maps are updated or when there are changes in the service areas supplied by each well field.

Service Area	Primary	City Population	City Permit Number	Serves As Backup For
Verdi Well Field Permit 79-4114	934 Rural Connections			Rural Burr - 187 Rural Holland - 972
	Arco	106	none	Hardwick
	Florence	53	none	Hatfield
	Hendricks	684	79-4351	Holland
	Ivanhoe	751	79-4329	Ihlen
	Lake Benton	693	none	Kenneth
	Russell	392	94-4262	Leota
	Tyler	1,258	70-0367	Trosky
	Verdi	na	none	Woodstock
	Jasper	599	85-4037	
Holland Well Field Permit 90-4140	864 Rural			Rural Verdi - 28
	Hardwick	229	85-4037	Jasper
	Hatfield	61	none	
	Holland	213	none	
	Ihlen	95	84-4129	
	Kenneth	80	none	
	Leota	na	84-4168	
	Trosky	121		
	Woodstock	155		
Burr Well Field Permit 91-4159	660 Rural Connections			Rural Verdi - 187 Rural Canby - 161
Altamont Backup Permit 95-4171	Ghent	312	79-2229	Ivanhoe
	Green Valley	na	none	St. Leo
	Minneota	1,428	75-4219	
	Porter	212	84-4131	
	Taunton	174	84-4244	
City of Canby Permit 84-4157	161 Rural Connections			
	St. Leo	111	75-4172	
Edgerton Well Field Permit 79-4195			(Emergency Backup Only)	
Total System Connections	Rural - 2,619			
	City - 23			



500 Lafayette Road
St. Paul, MN 55155-4032

PERMIT
79-4114

COUNTY
Lincoln (41)

THIS AMENDED PERMIT SUPERSEDES THE ORIGINAL PERMIT AND ALL PREVIOUS AMENDMENTS.
IN THE MATTER OF THE APPLICATION FOR APPROPRIATION OF WATERS OF THE STATE, PERMISSION IS HEREBY GRANTED TO:

PERMITTEE Lincoln Pipestone Rural Water District	Authorized Agent Don Evers, Manager	EXHIBIT 2 PAS 9-22-10
Address East Highway 14, PO Box 188; Lake Benton, MN 56149; Phone (507) 368-4248		
To appropriate from: Well #1, 12" dia., 62' deep, 475 gpm, Unique No. 149160, [REDACTED] Well #2, 12" dia., 57' deep, 400 gpm, Unique No. 149161, [REDACTED] Well #3, 12" dia., 67' deep, 600 gpm, Unique No. 149163, [REDACTED] Well #4, 12" dia., 60' deep, 400 gpm, Unique No. 149162, [REDACTED] Well #5, 12" dia., 53' deep, 75 gpm, Unique No. 232460, [REDACTED]		
Purpose: Public water supply for 934 rural customers and 9 municipal connection located in Lincoln and Pipestone Counties (See Attachment B). Use Code (11)		
Property described as: Verdi Well Field [REDACTED] g Sioux River (Pipestone) Watershed (82)		
Authorized Signature John Linc Stine <i>John Linc Stine</i>	Title Administrator Permits and Land Use Section	Date 7/11/95

This permit is granted subject to the following **CONDITIONS**:

1. **QUANTITY:**

The Permittee is authorized to appropriate water at a rate not to exceed 1300 gallons per minute. The total amount of water appropriated shall not exceed xxx acre feet or 600 million gallons per year.

2. **LIMITATIONS:**

(a) Any violation of the terms and provisions of this permit and any appropriation of the waters of the state in excess of that authorized hereon shall constitute a violation of Minnesota Statutes, Chapter 103.

(b) This permit shall not be construed as establishing any priority of appropriation of waters of the state.

(c) This permit is permissive only. No liability shall be imposed upon or incurred by the State of Minnesota or any of its employees, on account of the granting hereof or on account of any damage to any person or property resulting from any act or omission of the Permittee relating to any matter hereunder. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person other than the state against the Permittee, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the state against the Permittee, for violation of or failure to comply with the provisions of the permit or applicable provisions of law.

(d) In all cases where the doing by the Permittee of anything authorized by this permit shall involve the taking, using, or damaging of any property, rights or interests of any other person or persons, or of any publicly owned lands or improvements thereon or interests therein, the Permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all property, rights, and interests necessary therefore.

(e) This permit shall not release the Permittee from any other permit requirements or liability or obligation imposed by Minnesota Statutes, Federal Law, or local ordinances relating thereto and shall remain in force subject to all conditions and limitations now or hereafter imposed by law.

(f) Unless explicitly specified, this permit does not authorize any alterations of the beds or banks of any public (protected) waters or wetlands. A separate permit must be obtained from the Department of Natural Resources prior to any such alteration.

(over, please)

The Permittee shall equip each installation for appropriating or using water with a device or employ a method to measure the quantity of water appropriated to within ten (10) percent of actual amount withdrawn unless otherwise specified by special provision.

(b) **REPORTS.**

Monthly records of the amount of water appropriated or used shall be recorded for each installation. Such readings and the total amount of water appropriated or used shall be reported annually to the Director of the Division of Waters, on or before February 15 of the following year, upon forms supplied by the Division. Any processing fee required by law or rule shall be submitted with the records whether or not any water was appropriated during the year. Failure to report shall be sufficient cause for terminating the permit 30 days following written notice.

(c) **TRANSFER OR ASSIGNMENT.**

Any transfer or assignment of rights, or sale of property involved hereunder shall be reported within 90 days thereafter to the Director of the Division of Waters. Such notice shall be made by the transferee (i.e., new owner) and shall state the intention to continue the appropriation as stated in the permit. This permit shall not be transferred or assigned except with the written consent of the Commissioner.

(d) **MODIFICATION.**

The Permittee must notify the Commissioner in writing of any proposed changes to the existing permit. This permit shall not be modified without first obtaining the written permission from the Commissioner.

4. COMMISSIONER'S AUTHORITY:

(a) The Commissioner may inspect any installation utilized for the appropriation or use of water. The Permittee shall grant access to the site at all reasonable times and shall supply such information concerning such installation as the Commissioner may require.

(b) The Commissioner may, as he/she deems necessary, require the Permittee to install gages and/or observation wells to monitor the impact of the Permittee's appropriation on the water resource and require the Permittee to pay necessary costs of installation and maintenance.

(c) The Commissioner may restrict, suspend, amend, or cancel this permit in accordance with applicable laws and rules for any cause for the protection of public interests, or for violation of the provisions of this permit.

5. PUBLIC RECORD:

All data, facts, plans, maps, applications, annual water use reports, and any additional information submitted as part of this permit, and this permit itself are part of the public record and are available for public inspection at the offices of the Division of Waters. The information contained therein may be used by the Division as it deems necessary. The submission of false data, statements, reports, or any such additional information, at any time shall be deemed as just grounds for revocation of this permit.

6. WETLAND CONSERVATION ACT:

Where the work authorized by this permit involves the draining or filling of wetlands not subject to DNR jurisdiction, the permittee shall not initiate any appropriation under this permit until the permittee has obtained official approval from the responsible governmental unit as required by the Minnesota Wetland Conservation Act of 1991.

7. WELL ABANDONMENT:

The permittee shall notify the Minnesota Department of Health prior to abandoning, removing, covering, plugging or filling the well(s) from which the authorized appropriation was made. The well(s) must be abandoned by a licensed well driller and in accordance with the procedures required under the Minnesota Department of Health Water Well Code (4725.2500 - 4725.2900).

WELL INTERFERENCE:

If notified by the Division of Waters that well interference is suspected and probable, based on confirmation of a formal well interference complaint, all appropriation authorized by this permit must cease immediately until the interference is resolved.

9. CONSERVATION:

The permittee shall, whenever practical and feasible, employ water conservation methods and practices that promote sound water management, including but not limited to the reuse and recycling of water, water saving devices, water scheduling, and public education.

10. EMERGENCY AND CONSERVATION PLANS:

The permittee must submit an emergency and water conservation plan to the Department for approval by January 1, 1996. Plans must address water supply and demand reduction measures, allocation priorities, and identify alternative sources of water for use in an emergency. Plans must be updated once every ten years. Water emergency and conservation plans must include utility information and conservation measures for each town or community water system supplied by Lincoln Pipestone. Plans must identify all customer connections and service areas supplied by each well field.

11. DEMAND REDUCTION:

Public water suppliers serving more than 1,000 people must employ water use demand reduction measures before requesting approval from the Minnesota Department of Health to construct new public water supply wells, or requesting an increase in the authorized appropriation volume from the Department of Natural Resources. Demand reduction measures must include evaluation of conservation rate structures and a public education program that may include a toilet and showerhead retrofit program.

12. PERMIT AMENDMENTS REQUIRED:

Permit amendments must be requested and approved in accordance with Minnesota Rules 6115.0750, Subpart 5, before adding new service areas, municipal water suppliers, industrial users, commercial livestock operations or other water users that will increase water demands on the system more than 10,000 gallons per day or one million gallons per year.

13. WATER USE RECORDS:

Minnesota Statutes require public water suppliers serving more than 1,000 people to submit records that indicate the number of connections and amount of water use by customer categories. The annual report must include information on customer categories within each community water system served by Lincoln Pipestone and rural service connections that use more than one million gallons per year.

Additional Conditions:

See Attachment A

ATTACHMENT A TO PERMIT 79-4114

Additional Conditions

1. The permittee must maintain monthly records of water appropriations authorized by this permit that are diverted to areas outside the basin of origin (Mississippi of Missouri Water sheds) as defined by M.S. 103G.005, Subdivision 6. Records of water volumes supplied to areas outside the basin of origin must be submitted with the annual report of water use by February 15th of the following year or upon request by the Department.
2. Once every other week the permittee shall measure and record the water level in all production wells or adjacent observation wells and the observation well in the Verdi Well Field. Water level records for the production and observation wells must be submitted to the Observation Well Program Manager at DNR - Division of Waters, 500 Lafayette Road, St. Paul, MN 55155-4032, on a quarterly basis (January 1, April 1, July 1, and October 1, each year) or upon request by the Department.

7/11/95
Date

John Linc Stine
John Linc Stine, Administrator
Permits and Land Use Section

ATTACHMENT B TO PERMIT 79-4114

This information is based on DeWild Grant Reckert & Associates service area maps that were submitted in December 1994. The permittee shall update this attachment and submit new service area maps each year or when there are changes in service areas supplied by each well field.

<u>Service Area</u>	<u>• Existing</u>	<u>Municipal</u>
Burr	660	5
Canby	161	1
Holland	864	8
Verdi	934	9
Edgerton (emergency backup)	0	0
Total	2619	23

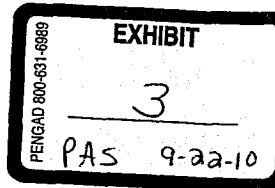
	<u>CITY</u>	<u>POPULATION</u>	<u>CITY PERMIT #</u>
Permit 91-4159 Burr Well Field:	Ghent	312	79-2229
	Green Valley	na	none
	Minneota	1428	75-4219
	Porter	212	84-4131
	Taunton	174	85-4244
Permit 90-4140 Holland Well Field:	Hardwick	229	85-4037
	Hatfield	61	none
	Holland	213	none
	Ihlen	95	84-4129
	Kenneth	80	none
	Leota	na	84-4168
	Trosky	121	
	Woodstock	155	
Permit 79-4195 Edgerton Well Field:	None	0 (emergency backup only)	
Permit 79-4114 Verdi Well Field:	Arco	106	none
	Florence	53	none
	Hendricks	684	79-4351
	Ivanhoe	751	79-4329
	Jasper	599	85-4073
	Lake Berton	693	none
	Russell	392	94-4262
	Tyler	1258	70-0367
	Verdi	na	none
Permit 84-4157 Canby Well Field:	St. Leo	111	75-4172

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATERS
Centennial Office Building, St. Paul, Minnesota 55155

P.A. No. 79-4114

IN THE MATTER OF THE APPLICATION OF LINCOLN-PIPESTONE RURAL WATER SYSTEM,
for a PERMIT TO APPROPRIATE GROUND WATER.

PERMIT



Pursuant to Minnesota Statutes, Chapter 105, and on the basis of statements and information contained in the permit application, letters, maps, and plans submitted by the applicant, and other supporting data, all of which are made a part hereof by reference,

PERMISSION IS HEREBY GRANTED to Lincoln-Pipestone Rural Water System, Inc. Attn: Mr. Etler Jensen, Chairman, whose address for the purpose of notices and other communications pertaining to this permit is Tyler, Minnesota 56178

subject to change by written notice from the permittee, to appropriate ground water by means of five wells as follows: Verdi #1-12" dia. x 62' deep; Verdi #2-12" dia. x 57' deep; Verdi #3-12" dia. x 67' deep; Verdi #4-12" dia. x 60' deep; Verdi #5-12" dia. x 53' deep. located on property described as

[REDACTED] as further described in the application and made a part hereof by reference. LINCOLN COUNTY for the purpose of domestic water supply for rural and urban farms and homes in Lincoln and Pipestone Counties, including water for livestock, on a continuous basis.

This permit is granted subject to the following GENERAL and SPECIAL PROVISIONS:

GENERAL PROVISIONS

1. This permit shall not release the permittee from any liability or obligation imposed by Minnesota Statutes or local ordinances relating thereto and shall remain in force subject to all conditions and limitations now or hereafter imposed by law.
2. This permit is not assignable except with the written consent of the Commissioner of Department of Natural Resources.
3. The Director of the Division of Waters shall be notified at least five days in advance of the commencement of the work authorized hereunder.
4. No change shall be made, without written permission previously obtained from the Commissioner of DNR, in the hydraulic dimensions, capacity or location of any items of work authorized hereunder.
5. The permittee shall grant access to the site at all reasonable times during and after construction to authorized representatives of the Commissioner of DNR for inspection of the operation authorized hereunder.
6. This permit may be terminated by the Commissioner of DNR, without notice, at any time he deems it necessary for the conservation of the water resources of the state, or in the interest of public health and welfare, or for violation of any of the provisions of this permit, unless otherwise provided in the Special Provisions.
7. In all cases where the doing by the permittee of anything authorized by this permit shall involve the taking, using, or damaging of any property, rights or interests of any other person or persons, or of any publicly owned lands or improvements thereon or interests therein, the permittee, before proceeding therewith, shall obtain the written consent of all persons, agencies, or authorities concerned, and shall acquire all property, rights and interests necessary therefor.
8. This permit is permissive only. No liability shall be imposed upon or incurred by the State of Minnesota or any of its officers, agents or employees, officially or personally, on account of the granting hereof or on account of any damage to any person or property resulting from any act or omission of the permittee or any of its agents, employees, or contractors relating to any matter hereunder. This permit shall not be construed as estopping or limiting any legal claims or right of action of any person other than the state against the permittee, its agents, employees, or contractors, for any damage or injury resulting from any such act or omission, or as estopping or limiting any legal claim or right of action of the state against the permittee, its agents, employees, or contractors for violation of or failure to comply with the provisions of the permit or applicable provisions of law.
9. The permittee may appropriate ground water at a rate of 1300 gallons per minute, except that during an emergency the rate may be increased to the capacity of the installed equipment. The total amount of water appropriated shall not exceed XXX acre feet or 683 million gallons per year.
10. Acceptance of the permit by the permittee shall constitute an agreement to all the provisions hereof and shall constitute consent to the Commissioner of DNR and his authorized representatives to inspect, measure, and collect hydrologic or geologic data. Permittee at reasonable designated times shall pump his well or wells at a constant rate for the purpose of measuring and collecting hydrologic and hydraulic data regarding the water-bearing formation and the well.
11. The permittee shall have available for inspection and use of the Commissioner of DNR or his agents at all times a continuous record of pumping operations entered on forms supplied by the Division of Waters, setting forth the dates, number of hours, and rates of pumping. On or before January 15 of each year, a notarized copy of such record for the preceding year shall be mailed to the Division of Waters, Minnesota Department of Natural Resources, St. Paul Minnesota, 55101.
12. The well shall be constructed with a circular opening at least two inches in diameter located at or near the top of the casing to permit water level measurements to be made. Construction of the circular opening shall be in conformance with the sanitary standards approved by the State Board of Health.
13. The permittee shall be jointly responsible with the contract well driller for compliance with the requirements for submission of well logs and test data to the Division of Waters, under Minnesota Statutes, Section 105.51, and shall inform the Director, Division of Waters, of the name and address of the contractor five days before commencement of construction of the well.

SPECIAL PROVISIONS

1. The Commissioner of Natural Resources may review this permit from time to time as additional hydrologic data relating thereto become available. If at any time the Commissioner shall determine that the appropriation and use of water by the permittee hereunder is detrimental to the public interest, he may amend the same as he shall deem necessary in the public interest, giving the permittee reasonable time to alter the system to comply therewith.
2. The permittee shall equip each pump with a device, or shall employ a method for each pump, to keep a continuous record of the amount of water pumped under this permit to within 10 percent of actual flow. Monthly totals and the total amount appropriated per year shall be reported to the Director of the Division of Waters on forms supplied on or before February 15 of the following calendar year.
3. Any transfer of rights, or sale of property involved hereunder should be reported within 30 days thereafter to the Director of the Division of Waters, Department of Natural Resources, 444 Lafayette Road, St. Paul, Minnesota 55101.
4. The permittee shall comply with all rules, regulations, requirements and standards of the Minnesota Pollution Control Agency and all other applicable state or federal rules, regulations, requirements or standards.
5. This permit shall not become effective until the water supply and sanitation system has been approved by the Minnesota Department of Health.

The well or wells, by means of which the water appropriation herein authorized is made possible, shall not be abandoned, removed, covered, filled, plugged, discontinued or have their pump settings changed without first notifying the Commissioner of Natural Resources and complying with his recommendations in carrying out the modification.

ADDITIONAL SPECIAL PROVISIONS ON ATTACHED SHEET

CC: Region 4 Administrator
Attn: Ray Nyberg
: Lincoln County SWCD
: Pipestone County SWCD
: MN Dept. of Health
: DeWild Grant Reckert & Assoc. Co.
Attn: David Holman
315 First Avenue
Rock Rapids, IA 51246
David Leuthe
Box 111
Marshall, MN 56258

APPROVED:

DATED AT ST. PAUL, MINNESOTA, THIS 19 DAY OF

January 19 79

Sarah P. L. [Signature]
DIRECTOR, DIVISION OF WATERS

Commissioner of Department of Natural Resources

BY _____
Deputy Commissioner

purposes. Water level measurements shall be taken from these two wells at two week intervals throughout the year and sent to the Division of Waters, Department of Natural Resources by February 15th of the following calendar year.

(specify which--
attach copy of all
land use agreements)

NOTE: If the property in question is wholly or partially within a platted area, substitute the appropriate lot, block and subdivision description where the fractional section or government lot description is required. Refer to your tax statement for proper format if not known.

SECTION B - DETAILED PROJECT DATA - TO BE COMPLETED BY ALL APPLICANTS (EXCEPT FOR AGRICULTURAL IRRIGATION)

MAP REQUIREMENT: Attach a properly labeled copy of a map or aerial photo which shows the lands owned, lands leased, land rented, the point(s) of taking, the area(s) of use and the point(s) of discharge.

Well Field Site Plan

ENGINEERING DATA: Means of appropriation - ☒ permanent pump, ☐ portable pump, ☐ gravity
(include engineering plans of gravity systems)

Rate of appropriation 1300 gpm average 2000 gpm maximum

Estimate of annual use in millions of gallons per year - 683 average; 1051 maximum

Schedule of appropriation - (attach separate schedule of appropriation if monthly use is variable--
municipal and domestic water supply systems are normally exempt from this requirement)

Life expectancy of project - 40 years minimum

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Date Received _____

(for department use only)

APPLICATION FOR PERMIT TO APPROPRIATE OR USE WATERS
OF THE STATE OF MINNESOTA

SECTION A - GENERAL PROJECT DATA - TO BE COMPLETED BY ALL APPLICANTS - (Print or type all information provided)

Pipestone Rural Water, Inc. applies pursuant to Minnesota Statutes Chapter 105 and all other applicable statutes for a permit to appropriate or use water as hereinafter set forth or as disclosed by supporting data attached.

SOURCE OF WATER:
(check and complete)

- ☐ a single well _____ inches in diameter and _____ feet deep
- ☒ 5 wells manifolded together (attach engineering plans of well system showing relative location, diameter and depth of the well system)
- ☐ stream, ditch or river known as _____ (state name of stream)
- ☐ natural lake or impoundment known as _____ (state name of lake or impoundment)
- ☐ other source - _____
(includes artificial pits, tile system sumps, private impoundments, etc.--briefly describe source as best as possible stating size, depth and dimensions where appropriate.)

OCT 25 1978

D.N.R. New Ulm

IMPORTANT: If the source of water is a lake or stream, please carefully read Section E of the attached instructions which explains certain additional items that must be included as part of your application before it can be considered complete.

LEGAL DESCRIPTION OF POINT OF TAKING: _____ of _____ of _____ of Section _____, Township No. _____, Range _____, in the County of Lincoln. See purchase options and specific site plan.

NOTE: If point of taking is within a platted area attach a properly labeled copy of the plat.

SPECIFIC USE OF WATER:
(check and complete)

- ☒ domestic water supply for over 25 persons
- ☐ municipal water supply for population of _____ people
- ☐ agricultural irrigation of _____ acres of ☐ wild rice, ☐ upland crops
- ☐ commercial water supply for _____ (state specific uses)
- ☐ industrial water supply for _____ (state specific uses)
- ☐ irrigation of _____ acres of ☐ golf course, ☐ lawn
- ☐ other (specify) _____

STATEMENT OF ENVIRONMENTAL IMPACT
AND PROJECT JUSTIFICATION:

(Carefully read Section A of the attached instructions which outlines basic environmental impact and project justification concerns. Your application is not complete unless you prepare and attach a separate statement in accordance with Section A of the instructions.)

LAND DESCRIPTION: Lands owned
(fill out as applicable--attach additional sheets if necessary.)

Fractional Section(s) or Gov. Lot(s), Section, Township No., Range

Lands leased or rented
(specify which--attach copy of all land use agreements)

NOTE: If the property in question is wholly or partially within a platted area, substitute the appropriate lot, block and subdivision description where the fractional section or government lot description is required. Refer to your tax statement for proper format if not known.

SECTION B - DETAILED PROJECT DATA - TO BE COMPLETED BY ALL APPLICANTS (EXCEPT FOR AGRICULTURAL IRRIGATION)

MAP REQUIREMENT: Attach a properly labeled copy of a map or aerial photo which shows the lands owned, lands leased, land rented, the point(s) of taking, the area(s) of use and the point(s) of discharge.
Well Field Site Plan

ENGINEERING DATA: Means of appropriation - ☒ permanent pump, ☐ portable pump, ☐ gravity
(include engineering plans of gravity systems)

Rate of appropriation 1300 gpm average 2000 gpm maximumEstimate of annual use in millions of gallons per year - 683 average; 1051 maximum

Schedule of appropriation - (attach separate schedule of appropriation if monthly use is variable--municipal and domestic water supply systems are normally exempt from this requirement)

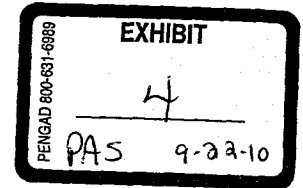
Life expectancy of project - 40 years minimumMethod of measuring appropriation - ☒ flow meter, ☐ hour meter, ☐ other (describe)

Flow or circulation diagram - (attach separate diagram showing the various uses of the water--municipal and domestic water supply systems are normally exempt from this requirement)

(continued on reverse side)

Lincoln Pipestone Rural Water System

Verdi Service Area



Lincoln Pipestone Rural Water System

HISTORY: The Lincoln Pipestone Rural Water System (LPRW) was created in 1979 after several years of organization, planning and exploration. People in Lincoln, Pipestone and surrounding counties were experiencing severe water quality and quantity problems that they could not solve with their own resources. Water quality issues included high nitrates as well as high sulfates, iron, manganese and hardness, and many people simply could not find enough water to sustain their farm operations. Many people relied on rainwater cisterns and hauling water from nearby towns for domestic use. In 1978 the LPRW organizing Committee conducted test pumping at 3 locations in the region, but only the Verdi water source proved usable for a public water supply. After 30+ years of exploration by LPRW and others in a 9-county region, the Verdi water source remains by far the best quality public water source found although its shallow formation makes it susceptible to potential pollutants and drought conditions. The Verdi water source does not require treatment to meet all public water supply regulations, and it is relatively soft with low iron, manganese and sulfate content.

The Verdi Well Field met all of the needs of the LPRW System until the early 1990's when growth and expansion led to the development of the Holland Well Field (1990) and the Burr Well Field (1995). Both of the new sources had poor water quality that required extensive treatment to meet water quality standards. The search for water continues today. In the south part of the System extensive, long-term exploration has yielded no potential water sources leading LPRW and others to become members of the Lewis & Clark Regional Water System, and LPRW also entered into agreement to purchase water from the Osceola County Rural Water System in Iowa. In the north part of the System extensive exploration is underway in hopes of identifying a water source with enough quantity to support future water needs in the north and east parts of the System.

Despite 30+ years of growth and development of additional water resources, the Verdi Well Field remains a critical resource in the LPRW System. The Verdi Well Field continues to serve rural customers and towns in 4 counties with high quality water, and Verdi also functions as a backup water source to both the Holland and Burr water sources as portions of each service area can be served by both water sources.

Summary of Water Appropriations And Use

INTRODUCTION: The following information summarizes FY2009 water appropriations and use data along with data back to 2000. The statistical data presented focuses on the Verdi Well Field but other System data is presented for background. The LPRW System serves a large area of southwest Minnesota in all or parts of 9 counties, and a current expansion project will extend service into a tenth county while adding users in the southeast and northeast parts of the System. Figure 1 shows the area served by the LPRW System, and the 3 water source service areas within the System.

Water Appropriations: Figure II summarizes 2000-2009 water appropriations at the 3 LPRW water sources. Total system-wide appropriations decreased from 1,463.391 MGY (Million Gallons per Year) in 2008 to 1,448.536 MGY in 2009 (-1.02%) due to weather conditions and a depressed livestock market resulting in generally lower water consumption across the System. However, the 10-year trend in water appropriations has been generally upward. Appropriations at the Verdi Well Field decreased from 415.044 MGY in 2008 to 386.915 MGY in 2009 (-6.78%), and the 10-year trend has been slightly downward. The Verdi Well Field remains very valuable for its water quality, and its location as a transfer point to move water between service areas.

Water Use: Figure III summarizes 2000-2009 water uses in the 3 LPRW Service Areas. Total water sales decreased from 1,256.764 MGY in 2008 to 1,223.744 MGY in 2009 (-2.63%), while unsold water increased from 206.627 MGY (14.12% of appropriations) in 2008 to 224.792 MGY (15.52% of appropriations) in 2009. The 10-year water sales trend is upward while the unsold water trend is basically flat. Despite decreased water sales the total number of users increased from 3,721 at the end of 2008 to 3,749 at the end of 2009, and the average number of users increased from 3,692 to 3,734. The 2009 year-end users include 31 wholesale/public system users, 211 large rural users (over 1 MGY) and 3,507 rural users. LPRW has been a high growth System since its founding in 1979. Total numbers of users have increased from 833 in 1979 to 3,749 in 2009, and current and future expansion plans could increase the number of users served by another 50% or more.

As shown in Figure IV, Verdi water sales trended downward over the last 10 years, and they decreased from 335.946 MGY in 2008 to 319.578 MGY in 2009 (-4.87%). Water losses have been relatively stable over the last 10 years, but they increased from 51.471 MGY (12.38% of appropriations) in 2008 to 51.988 MGY (13.21% of appropriations) in 2009. Transfers out to the Burr Service Area increased from 41.500 MGY (9.98% of appropriations) in 2008 to 51.000 MGY (12.96% of appropriations) in 2009, but transfers in from the Holland Service Area increased from 13.000 MGY (3.13% of appropriations) in 2008 to 29.000 MGY (7.37% of appropriations) in 2009. The year-end total/average number of connections increased from 1,151/1,146 in 2008 to 1,161/1,156 in 2009. The 2009 Verdi Service Area users include 10 wholesale/public system users, 33 large rural users (over 1 MGY) and 1,118/1,113 rural users. The important role of the Verdi Well Field as a tool to help manage the 3 LPRW water sources was demonstrated by the movement into and out of the Burr and Holland Service Areas in 2009, and the superior water quality is the standard LPRW seeks to maintain across the System. The ten community water supplies, serving about 4,509 people, provided from the Verdi Well Field include the Cities of Arco, Florence, Ivanhoe, Hendricks, Lake Benton, Tyler, Verdi, Russel and Jasper, plus a supplemental supply to Red Rock Rural Water System. The 33 large rural users are all large livestock operations, and the 1,161 rural hookups serve an estimated population of 2,902 people.

Future Needs

LPRW has grown steadily over the past 30+ years as illustrated in Figures V and VI, and current and planned expansion projects suggest that significant growth will continue for at least another 10 years. The Verdi Service Area, as the original part of the System, is not expected to grow at the same rate as the remainder of the System because most of the people in the area already have rural water service. However, some new users are added each year as new homes are built and livestock facilities are added. In any case LPRW is the only water source available to 9 of the 10 communities served, and most of the rural users no longer have backup wells available. None of the Verdi Service Area water users have any source of water available with the quality or quantity available from Verdi. For the thousands of people served from the Verdi Water Source, rural water is as vital as it was when the System was founded in 1979.

*Lincoln-Pipestone Rural Water
Distribution System*



415 East Benton St.
Lake Benton, MN 56149
(507)368-4248

FIGURE I

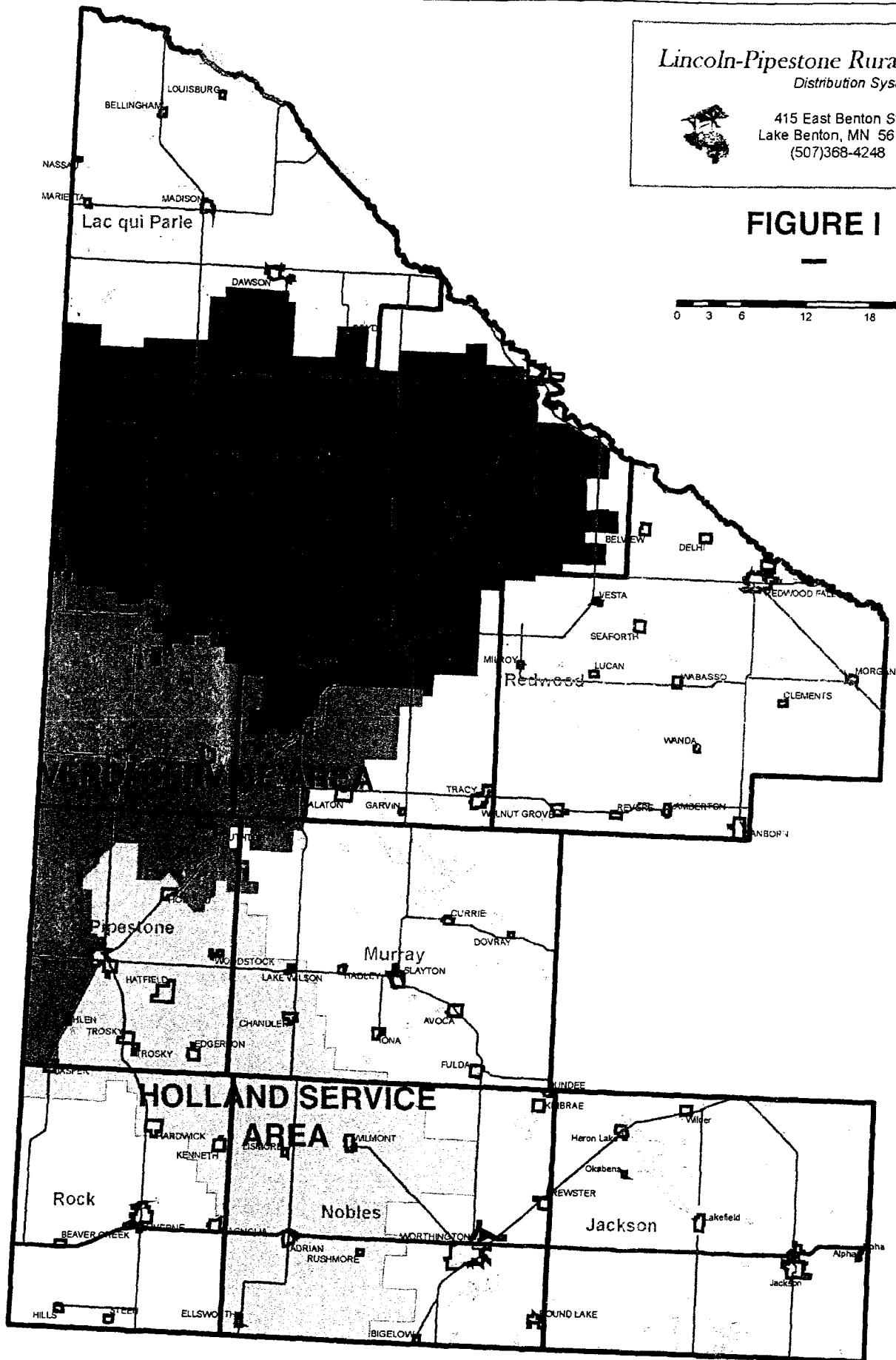
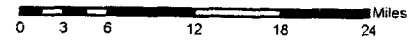


FIGURE II: 2000-2009 WATER APPROPRIATIONS

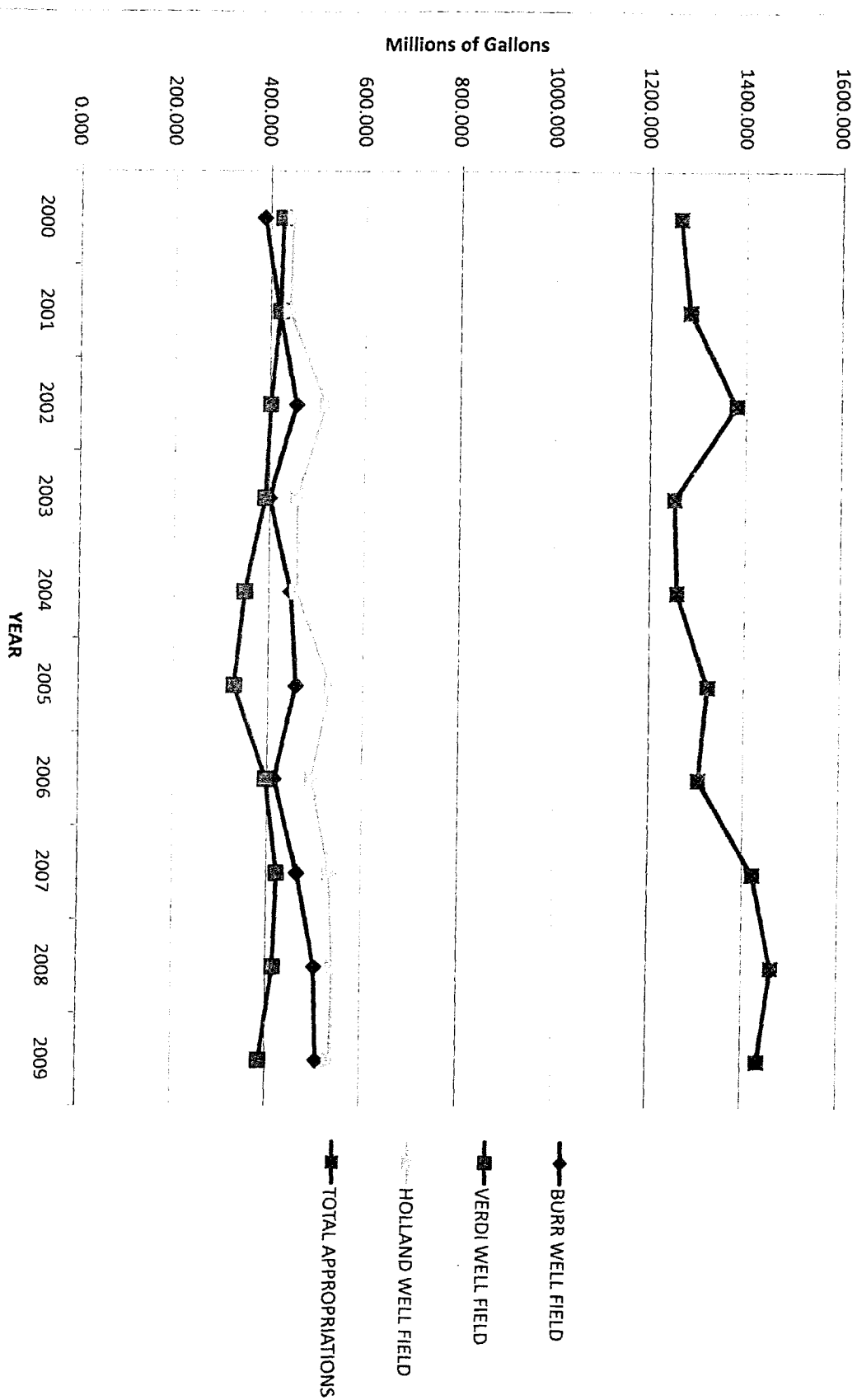


FIGURE III: TOTAL LPRW WATER USE

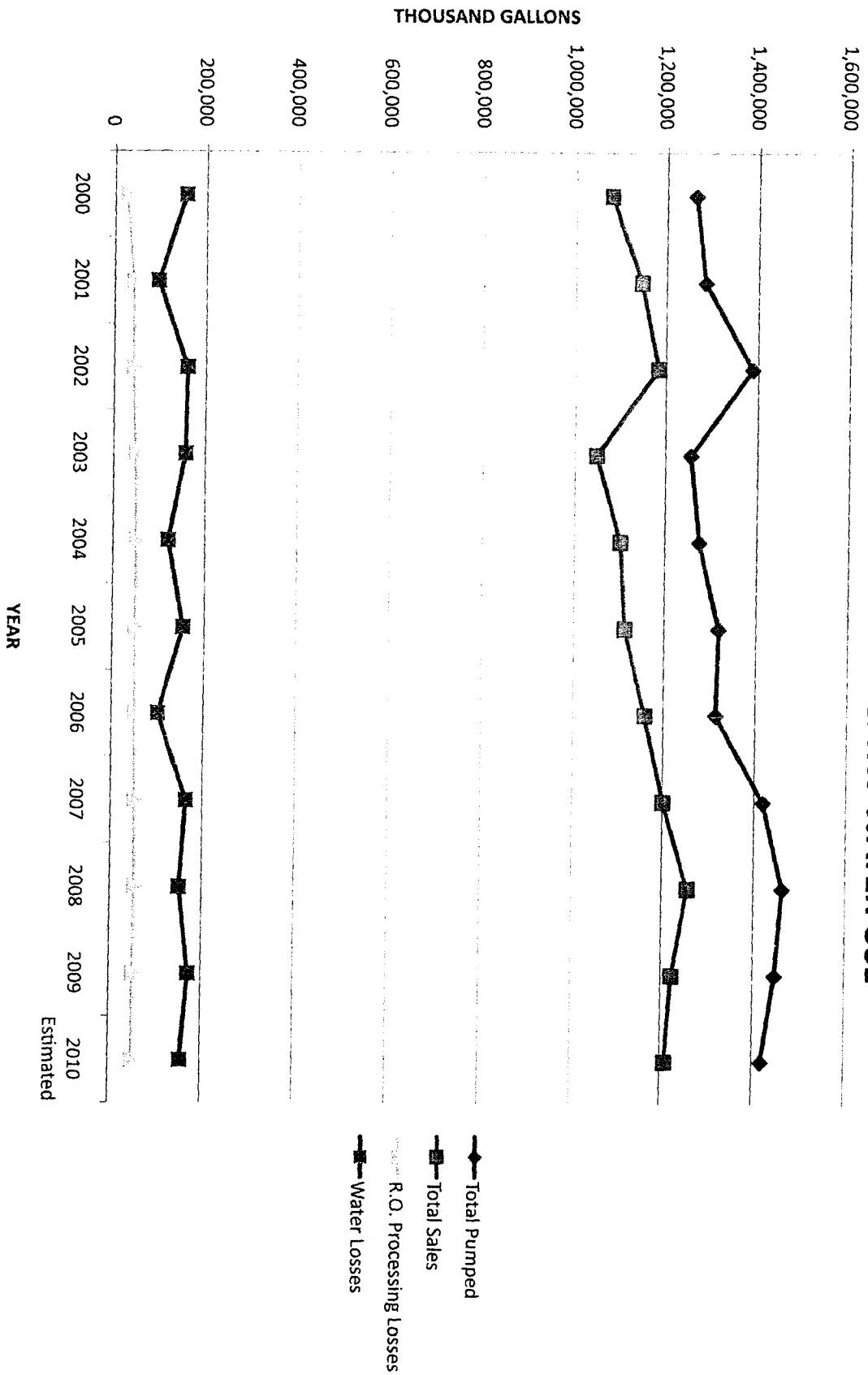


FIGURE IV: VERDI SERVICE AREA WATER USE

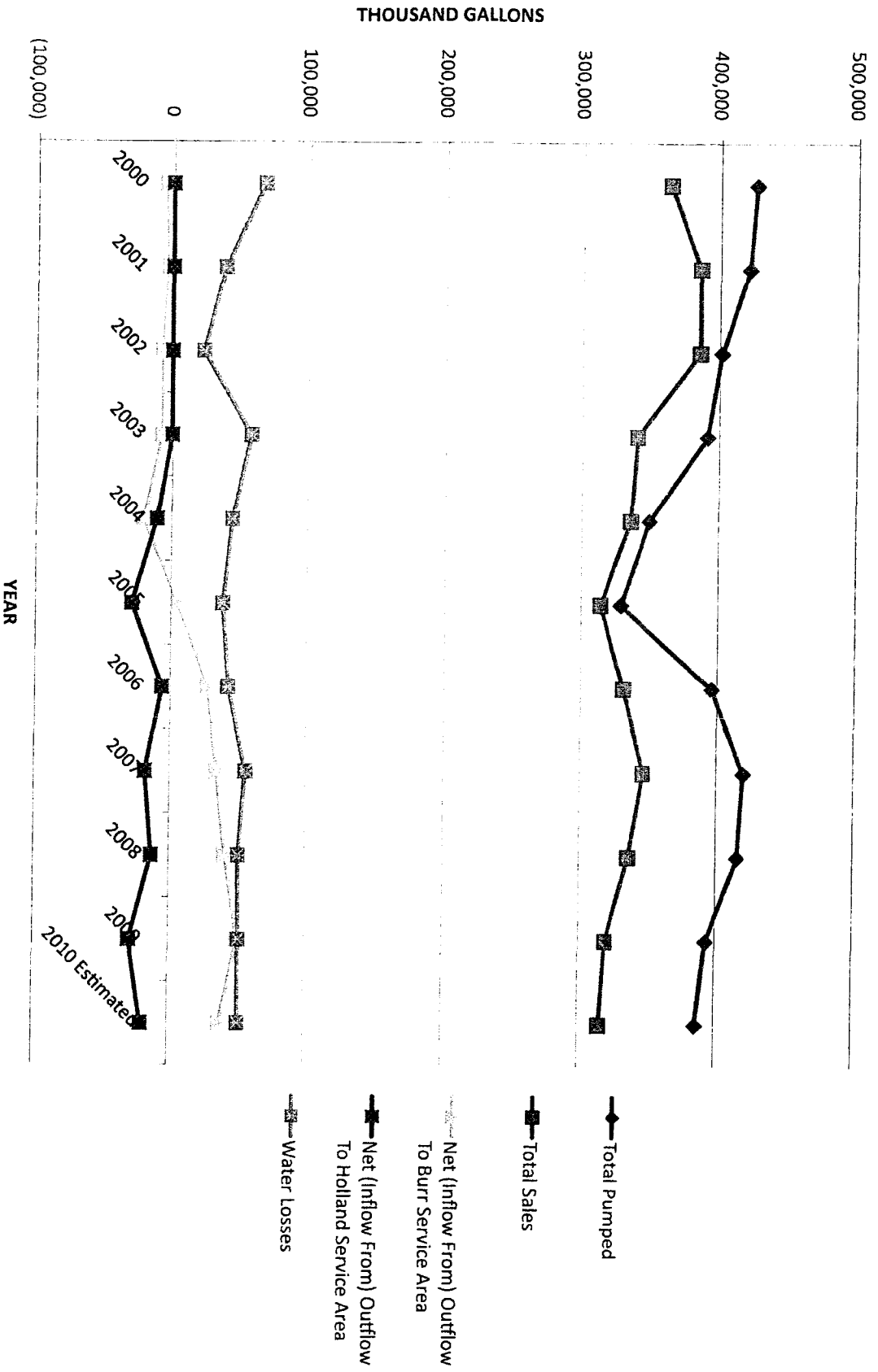


FIGURE V: LPRW WATER USERS

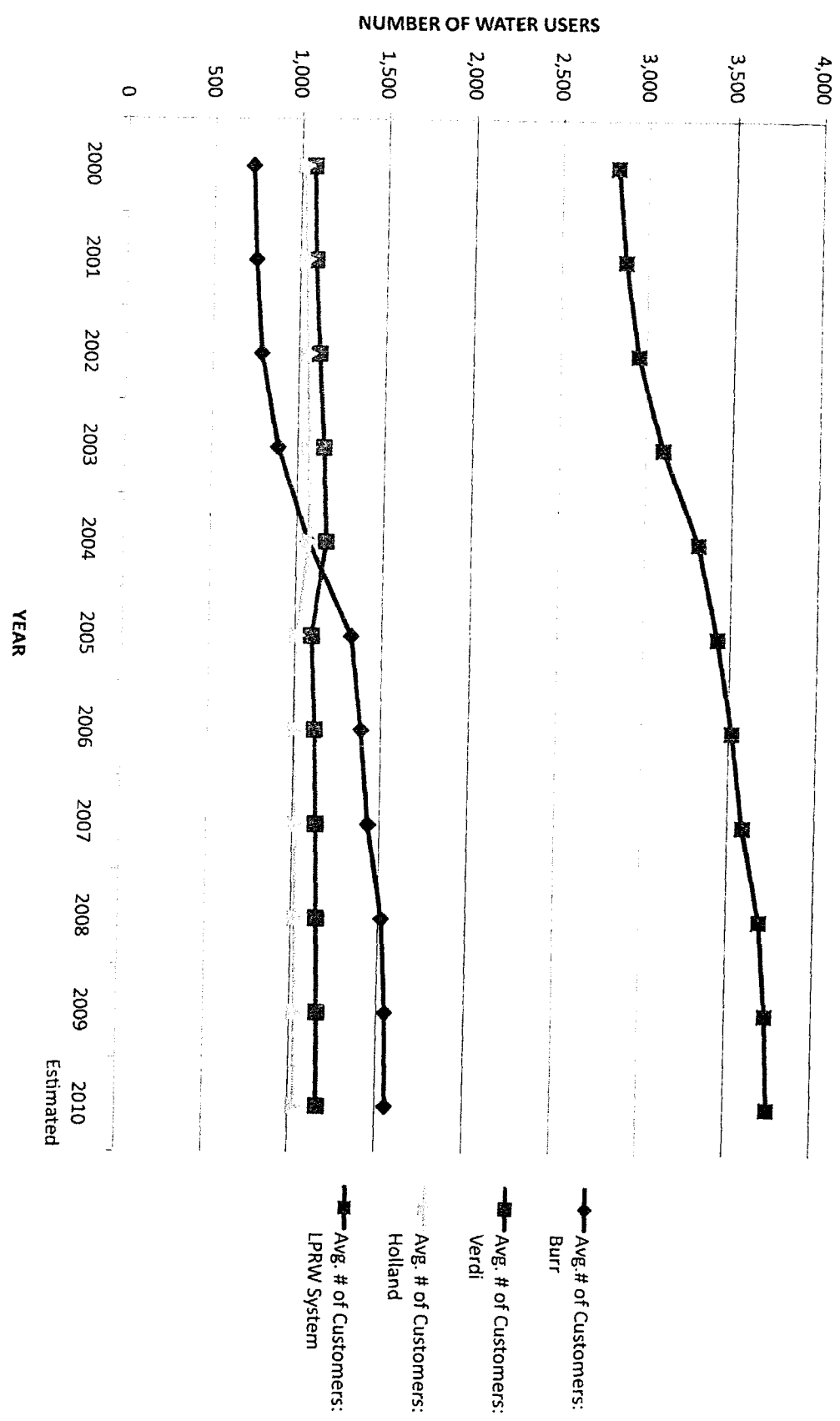
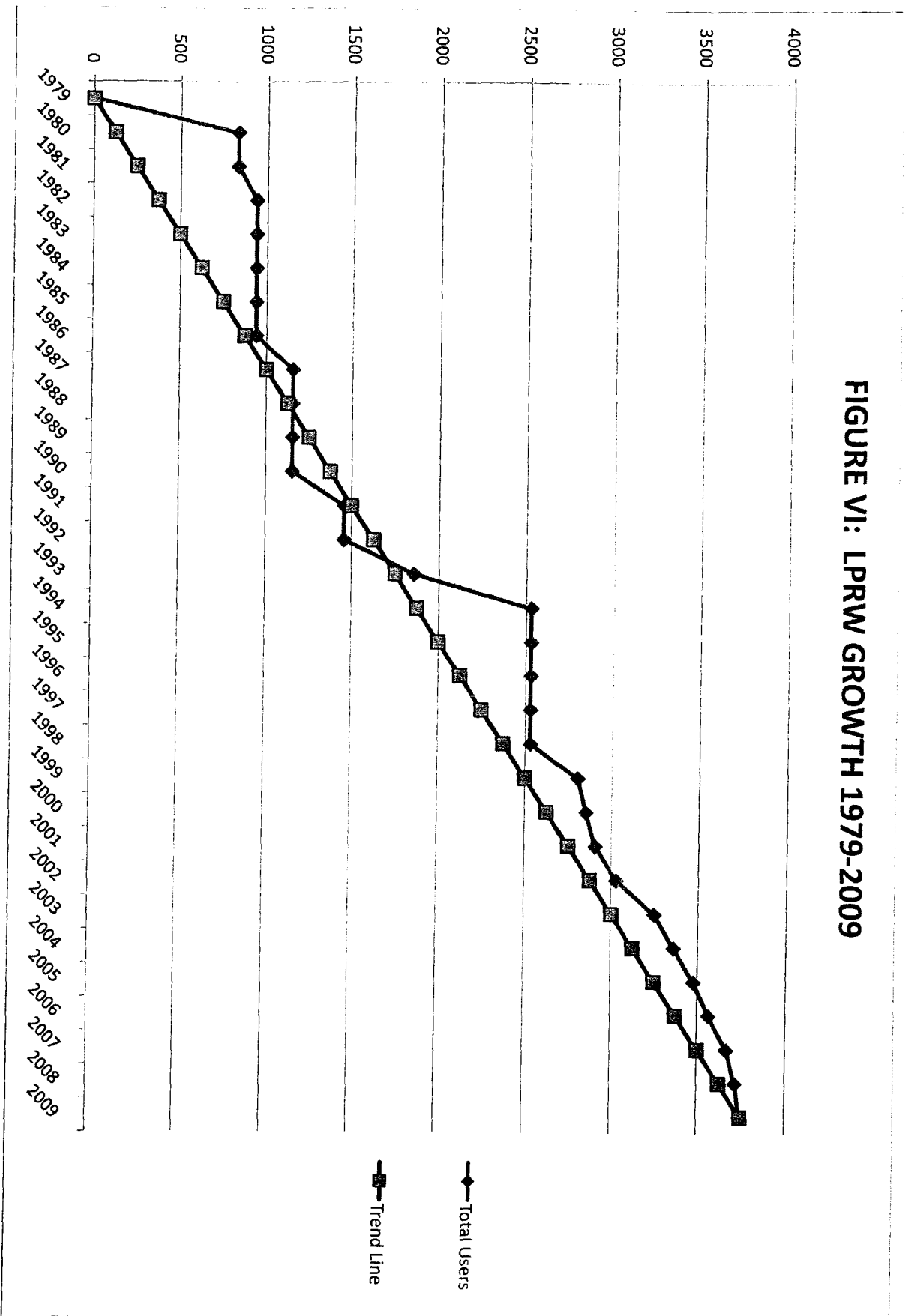
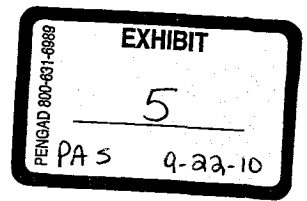


FIGURE VI: LPRW GROWTH 1979-2009





CONFIDENTIAL

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Lincoln Pipestone Rural Water Verdi Well Field

Summary Report

Prepared for:

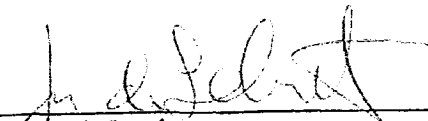
Lincoln Pipestone Rural Water
East Highway 14
Lake Benton, MN 56149

Prepared By:

Liesch Associates, Inc.
13400 15th Avenue North
Plymouth, MN 55441

Project Number: 11086.00

I hereby certify that this plan, document, or report was Prepared by me or under my direct supervision and that I am a duly Licensed Professional Geologist under the laws of the State of Minnesota.


James de Lambert
August 20, 2010

License Number: 30107

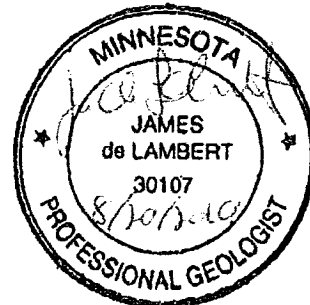


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- Figure 1 – Verdi Wellhead Protection Area
- Figure 2 – Verdi Well Field Area
- Figure 3 – Well Construction and Hydrologic Characteristics

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- Table 1 – Verdi Well Field Drawdown

INTRODUCTION

This report has been prepared in response to a request from Lincoln Pipestone Rural Water (LPRW) to conduct an investigation concerning hydrogeologic conditions in the vicinity of the Verdi Well Field (Public Water Supply No. 1410007) and an area proposed for agricultural irrigation pumping. The area proposed for irrigation lies immediately southwest of LPRW's well field and portions lie within the Well Head Protection Area for the public water supply. LPRW constructed the wells in 1978 and has operated the Verdi Well Field since that time. Experience has shown that the Verdi Well Field is an excellent water source; however, the supply is limited during periods of reduced precipitation and recharge to the aquifer. LPRW is concerned that additional development of high capacity wells in the area will further limit use of the aquifer and force LPRW to restrict water use and implement emergency measures during certain periods.

As part of our investigation of hydrogeologic conditions in the area of the Verdi Well Field, information was collected from the University of Minnesota (U of M), Minnesota Department of Natural Resources (DNR), Minnesota Department of Health (MDH), United States Environmental Protection Agency (US EPA), United States Department of Agriculture Natural Resources Conservation Service (NRCS), United States Geological Survey (USGS), Minnesota Geological Survey (MGS), LPRW and various documents and reports prepared in association with the proposed irrigation pumping. Liesch has been involved with development of the Verdi Well Field since the initial testing in 1975 and has completed additional work in the area including aquifer modeling and Wellhead Protection Area delineation as part of the US EPA Minnesota Department Health Source Water Protection Program for public water supplies.

The Verdi Well Field, shown on Figure 1, lies along the Minnesota – South Dakota border approximately 8 miles southwest of Lake Benton, MN. The well field consists of four 12-inch wells each capable of pumping approximately 450 gallons per minute (gpm). A fifth well, Well 5, is located ¼ mile to the north of the other wells is not routinely used due to poor water quality and maintenance difficulties. Several observation wells are maintained and monitored by LPRW and the Minnesota Department of Natural Resources (DNR) in the vicinity of the well field.

The wells are currently permitted by the Minnesota Department of Natural Resources for an annual withdrawal of 683 million gallons per year (mgy) and the 10-year average withdrawal has been 394 mgy. Withdrawals have increased in recent years and LPRW projects withdrawals of approximately 420 mgy for the next several years.

HYDROGEOLOGIC SETTING

The Wellhead Protection Area shown on Figure 1 represents the recharge area for the Verdi Well Field and is based on the occurrence of sandy outwash deposits, the drainage area for Spring Creek and on aquifer modeling conducted in the vicinity of the wells. The outwash deposits extend from near the land surface to depths of approximately 50 to 70 feet near the well field. In Minnesota these outwash deposits extend a relatively short distance to the northeast along Spring Creek as shown on Figure 1. Moving into South Dakota these deposits eventually converge with a larger area of surficial outwash referred to as the Aurora unit of the Big Sioux Aquifer. Groundwater flow in this portion of the aquifer is from northeast to southwest and groundwater recharge also occurs to the northeast of the LPRW well field and the proposed irrigation wells. In this vicinity it is believed that aquifer extends only a short distance to the south. Therefore a relatively limited area is available to recharge the LPRW wells and the proposed irrigation wells.

WELL HYDRAULICS

A considerable number of test holes were drilled to identify suitable locations for the Verdi wells. This work has shown that there is a very limited area that is suitable for municipal wells and additional production well locations are not known to exist in the vicinity. Well 5 was the last well drilled in 1984 and due to poor water quality the well has never been used for routine production. The remaining wells have all been constructed to take advantage of the full thickness of the aquifer with 13 to 15 feet of well screen placed at the bottom of the sand and gravel aquifer. In order to maximize potential production from the wells the pumps have been set with the intakes inside the well screen. This situation is less than ideal due to potential bio-fouling and maintenance problems associated with cascading water inside the screen. LPRW attempts to maintain pumping water levels three feet above the top of the screen in each well to minimize these problems.

Table 1 has been prepared to illustrate the current drawdown conditions at the production wells. Typical numbers for static level, pumping level and pumping rate have been used to calculate specific capacity and then to estimate the effect of declines in static water level at the production wells. These numbers are based on measurements taken by LPRW personnel at the well field. Available drawdown is based on the distance between the static level and maximum pumping level for each well. Under current operating conditions the wells are utilizing the majority of the available drawdown. On average, two feet of additional drawdown is available at Well 1 with seven and four feet at Wells 3 and 4 respectively. Well 2 is not used for routine production due

to maintenance issues, however, at an operating rate of 450 gpm there is no additional drawdown available.

The second portion of the table illustrates the effect of a five foot decline in the static level on the yield at each well. Under this scenario all wells except Well 3 would need to be throttled back to maintain pumping levels that are safely above the well screens. Under this scenario LPRW would have difficulties meeting typical demands. In fact, LPRW has had to deal with this situation a number of times over the years as water level fluctuations on the order of six to eight feet are common at the well field.

The third portion of the table illustrates the effects of a 10 foot decline in static water levels. At this point all wells would need to be throttled back to maintain safe pumping levels, water supply production would be severely limited and LPRW would be in an emergency operating mode. Note that a 10 foot decline in aquifer water levels would also have the effect of reducing aquifer thickness which would further reduce well yields. This fact has not been taken into account on Table 1.

PROPOSED IRRIGATION PUMPING

The groundwater flow model used for the MDH Wellhead Protection project has been used to assess the potential effects of the proposed agricultural pumping. This model suggests that two to three feet or more of interference drawdown could be expected at the existing LPRW wells. Since it is not known where the irrigation wells will be installed, or where they can be installed, precise drawdown estimates are not possible. More detailed information concerning aquifer characteristics, based on high capacity pumping tests, would be necessary to detail potential effects. Nonetheless, the proposed irrigation project would allow for pumping up to 2000 gpm, or roughly double LPRWs pumping, for a total withdrawal on the order of 3200 gpm from this limited portion of the aquifer. Additional irrigation pumping also occurs to the northwest of the Verdi Well Field which could add to the cumulative effects of groundwater withdrawal.

CONCLUSIONS

- 1) The Verdi Well Field is a critical part of LPRW's water supply system. The Verdi Well Field supplies roughly 30% of all LPRW's water and is the only water source that does not require treatment prior to distribution.
- 2) The Verdi Well Field is not replaceable. LPRW has invested considerable resources to develop the existing well field and alternative water sources are not known to exist in the

area. Locations for additional wells to increase or supplement production at the well field are also not known to exist.

- 3) The aquifer utilized at the Verdi Well Field is very limited in horizontal and vertical extent. Recharge to the aquifer is derived primarily from precipitation within the drainage basin of Spring Creek as shown on Figure 1. Groundwater storage is also limited in this area due to limited aquifer thickness, or extent, in areas northeast of the well field. The proposed irrigation project will likely utilize water from the same aquifer and obtain recharge from the same source.
- 4) Under the current operating conditions LPRW is able to meet demands on the well field during periods of normal, or near normal, precipitation. During periods of more limited precipitation LPRW must adjust operations by throttling back pumps to maintain safe operating conditions, due to declining static water levels. Under these conditions it can be difficult to meet demands and water use restrictions are necessary.
- 5) Water level monitoring in the aquifer shows long term fluctuations on the order of 10 feet in the aquifer.
- 6) The proposed irrigation project has the potential to impact water levels at the Verdi Well Field as the result of direct interference drawdown and as a result of the cumulative effects of significant groundwater withdrawals in a limited portion of the aquifer.
- 7) LPRW has had difficulty maintaining yields and meeting demands from the Verdi Well Field during periods of reduced precipitation. Additional withdrawals from the aquifer at the proposed irrigation project will exacerbate this problem and could potentially cause LPRW to reduce pumping and implement emergency procedures.
- 8) If the proposed irrigation project moves forward, a pumping test should be conducted to assess the impact of pumping on the LPRW Well Field. LPRW is planning to install an observation well at the approximate location shown on Figures 1 & 2. This well will be monitored by LPRW after installation and could be used during the test to measure actual impacts. Depending on the results of the test, the well could also serve as threshold monitoring location to prevent adverse impacts to LPRW's wells.

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0 1,500 3,000 Feet
1:24,000
1 Inch = 2,000 Feet

Source: USGS 24K Topographic Quad
Projection: NAD83 MN State Plane South

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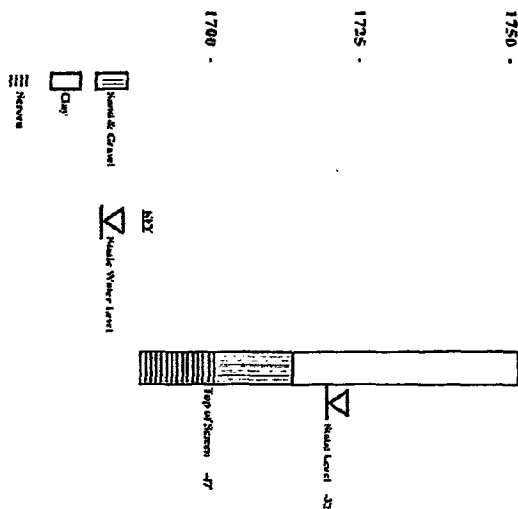
Minneapolis • Chicago • Los Angeles • Madison • Milwaukee • Phoenix

Aug10

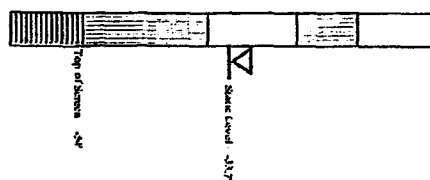
LPRW - Verdi Wellfield

Figure 2

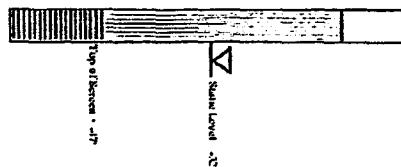
Verdi Wellfield Area



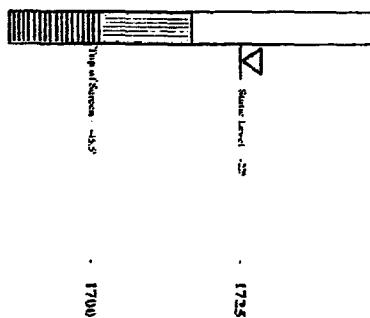
Verdil 4 (149162)



Verdil 3 (149163)



Verdil 1 (149160)



Verdil 2 (149161)

Table 1 - Lincoln Pipestone Rural Water Verdi Well Field Drawdown

Well Number	Verdi 1	Verdi 2	Verdi 3	Verdi 4
Well Elevation	1751	1743	1751	1749
Specific Capacity	35	23	23	25
Static Water Level	30	20	25	25
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	14	19.5	27	19
Current Pumping Level	42	39.5	45	40
Additional Drawdown	2	0	7	4
Approximate Pumping Rate	425	450	450	375
Static Water Level	35	25	30	30
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	9	14.5	22	14
Current Pumping Level	44	39.5	50	44
Additional Drawdown	0	0	2	0
Approximate Pumping Rate	319	335	450	350
Static Water Level	40	30	35	35
Top of Screen	47	42.5	55	47
Maximum Pumping Level	44	39.5	52	44
Available Drawdown	4	9.5	17	9
Current Pumping Level	44	39.5	52	44
Additional Drawdown	0	0	0	0
Approximate Pumping Rate	142	219	383	225

Current Condition

Five Foot Decline
in Static Level

10 Foot Decline
in Static Level

All measurements in feet except pumping rate is given in gpm and specific capacity given in gpm/ft.



Aug10	LPRW - Verdi Wellfield	www.liesch.com
Figure 2	Verdi Wellfield Area	LIESCH Hydrogeologists • Engineers • Environmental Scientists Minneapolis • Chicago • Los Angeles • Madison • Milwaukee • Phoenix

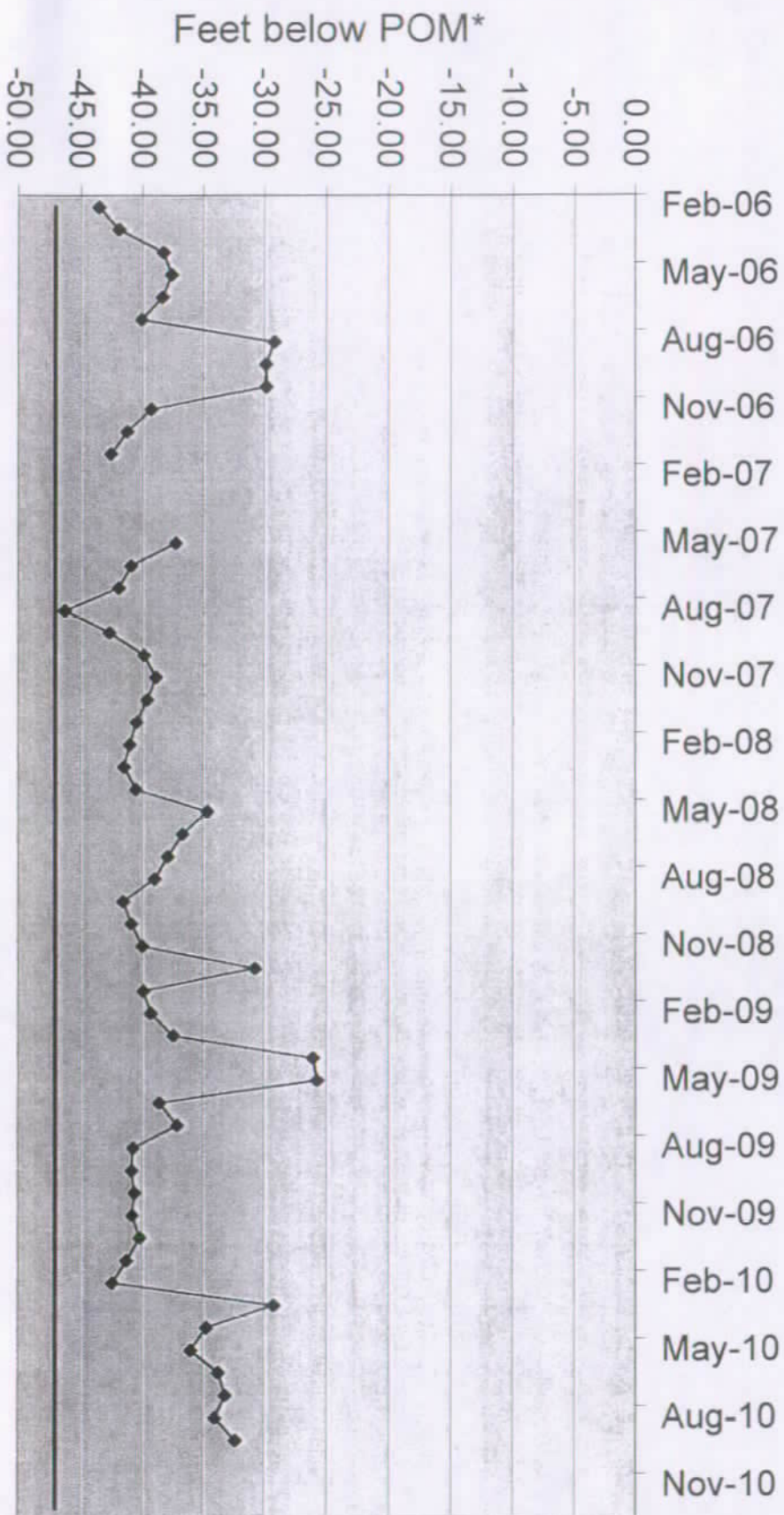
Source: USGS 24K Topographic Quad
Projection: NAD83 MN State Plane South

Items requested during Healy depo

Verdi PW-1

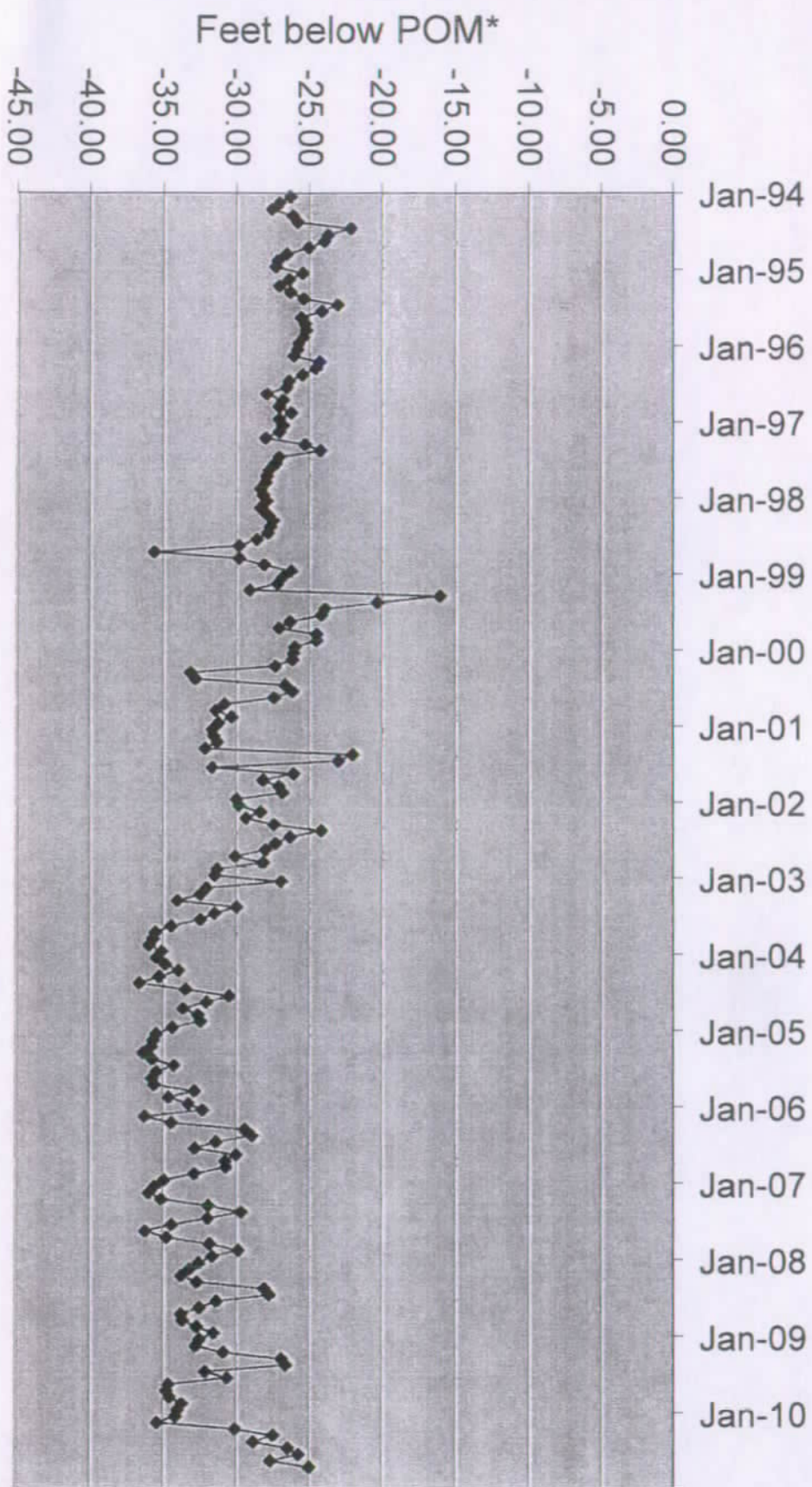
Well Readings, 2006-Present

(Screen Depth = 47 ft.)



Verdi Ob Well V1

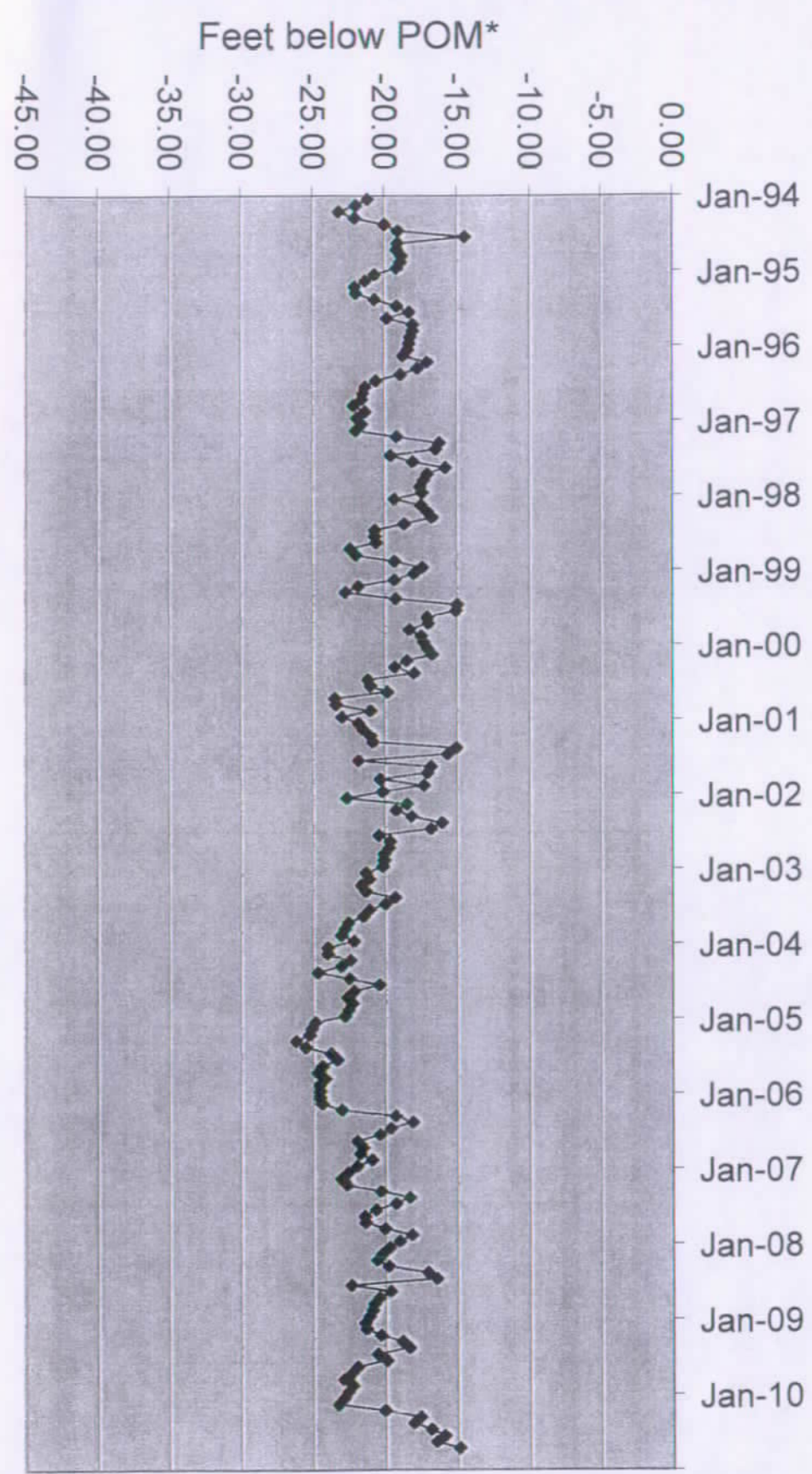
Well Readings, 1994-2010



*POM: Point of Measurement

Verdi Ob Well V2

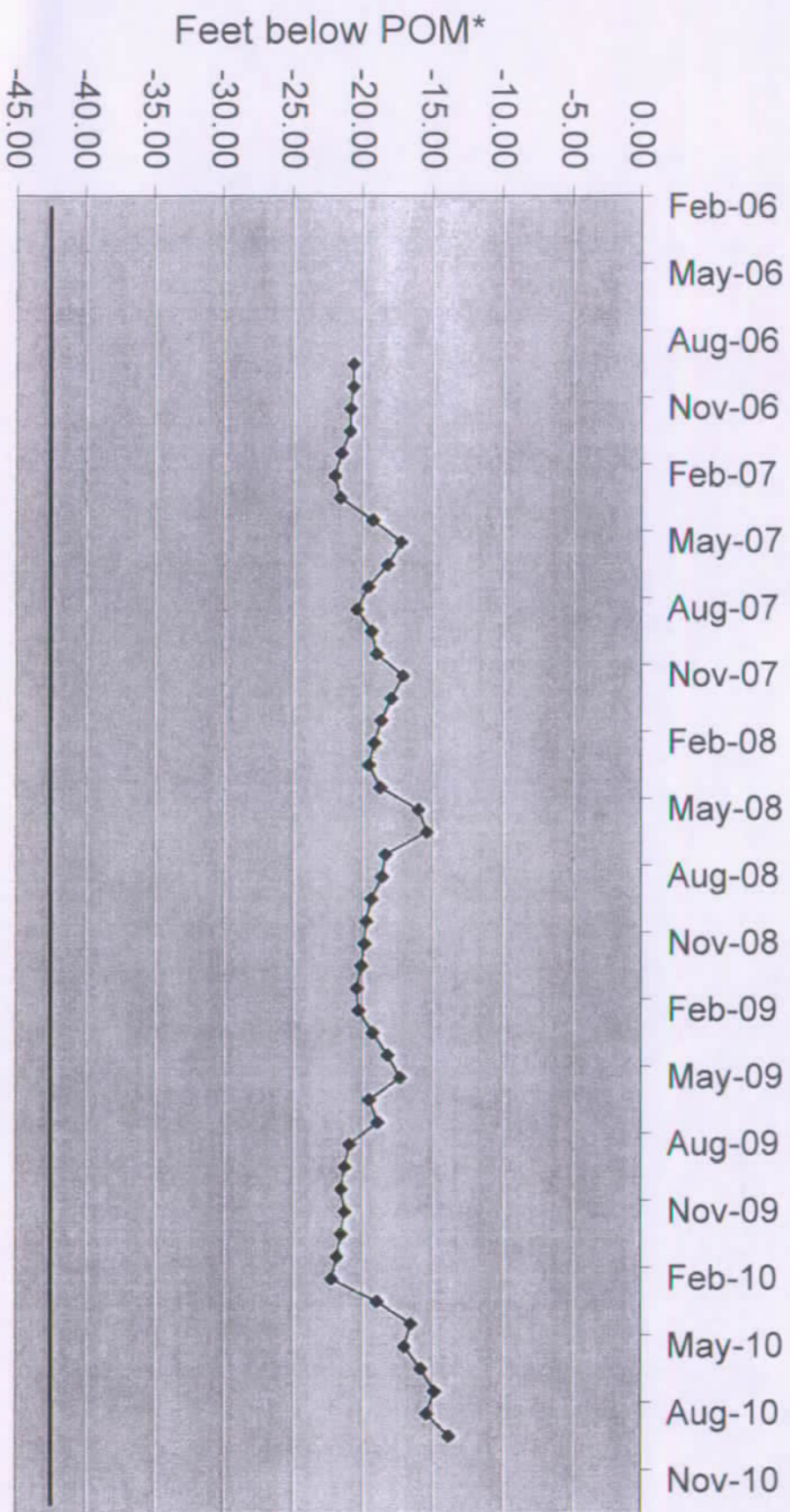
Well Readings, 1994-2010



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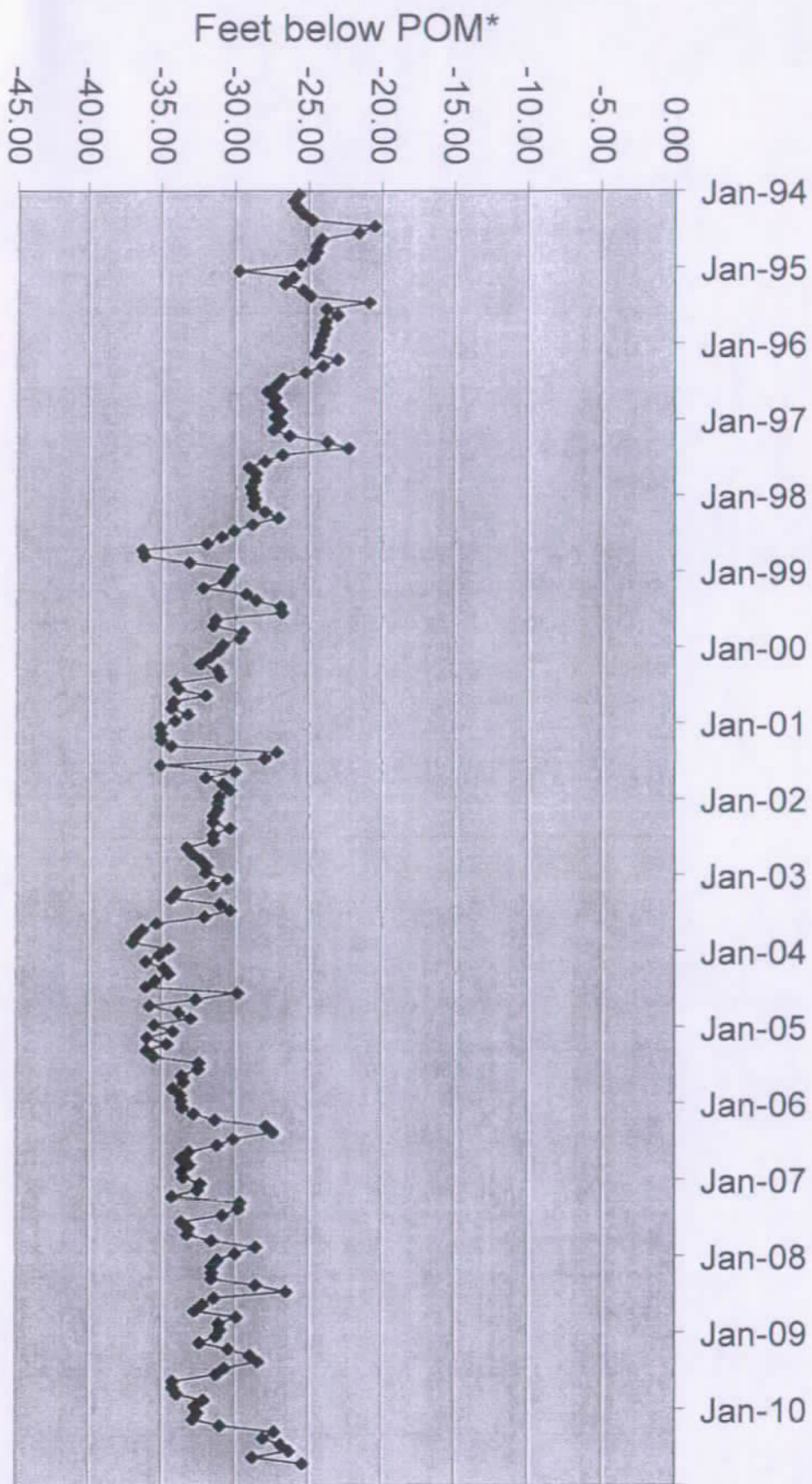
Verdi PW-2

Well Readings, 2006-Present
(Screen Depth = 42.5 ft.)



Verdi Ob Well V4

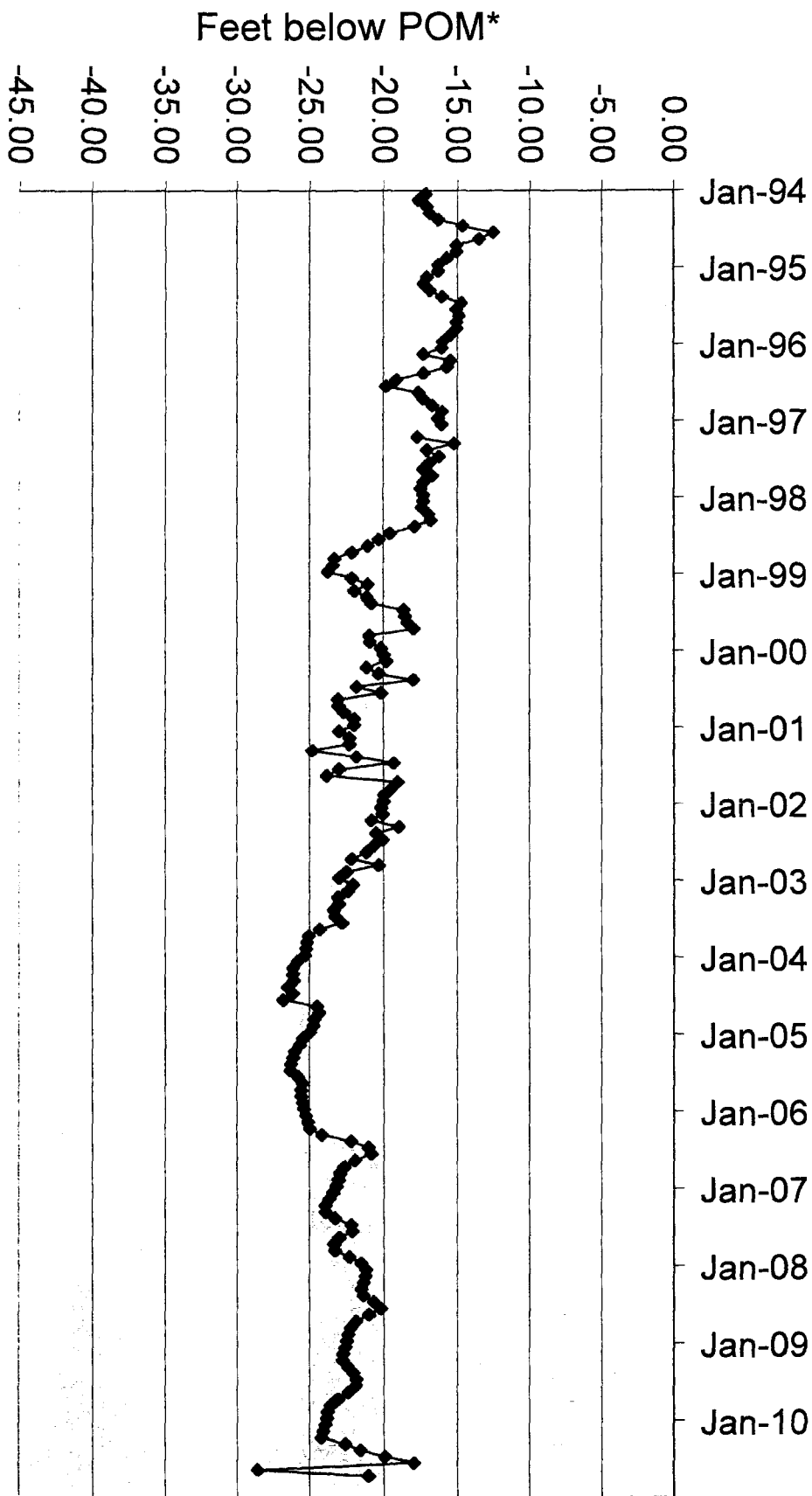
Well Readings, 1994-2010



*POM: Point of Measurement

Verdi Ob Well V5

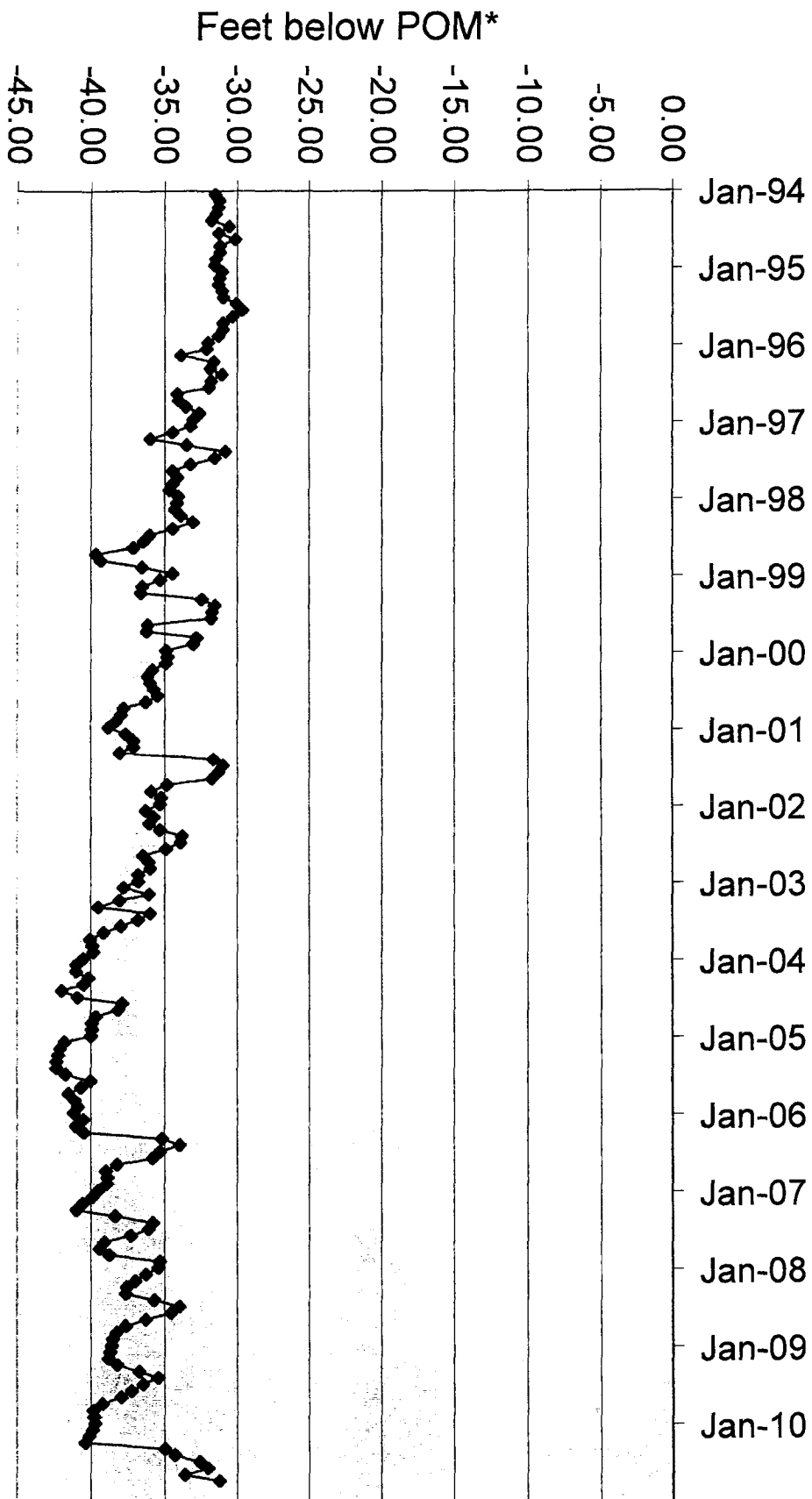
Well Readings, 1994-2010



*POM: Point of Measurement

Verdi Ob Well V-DNR

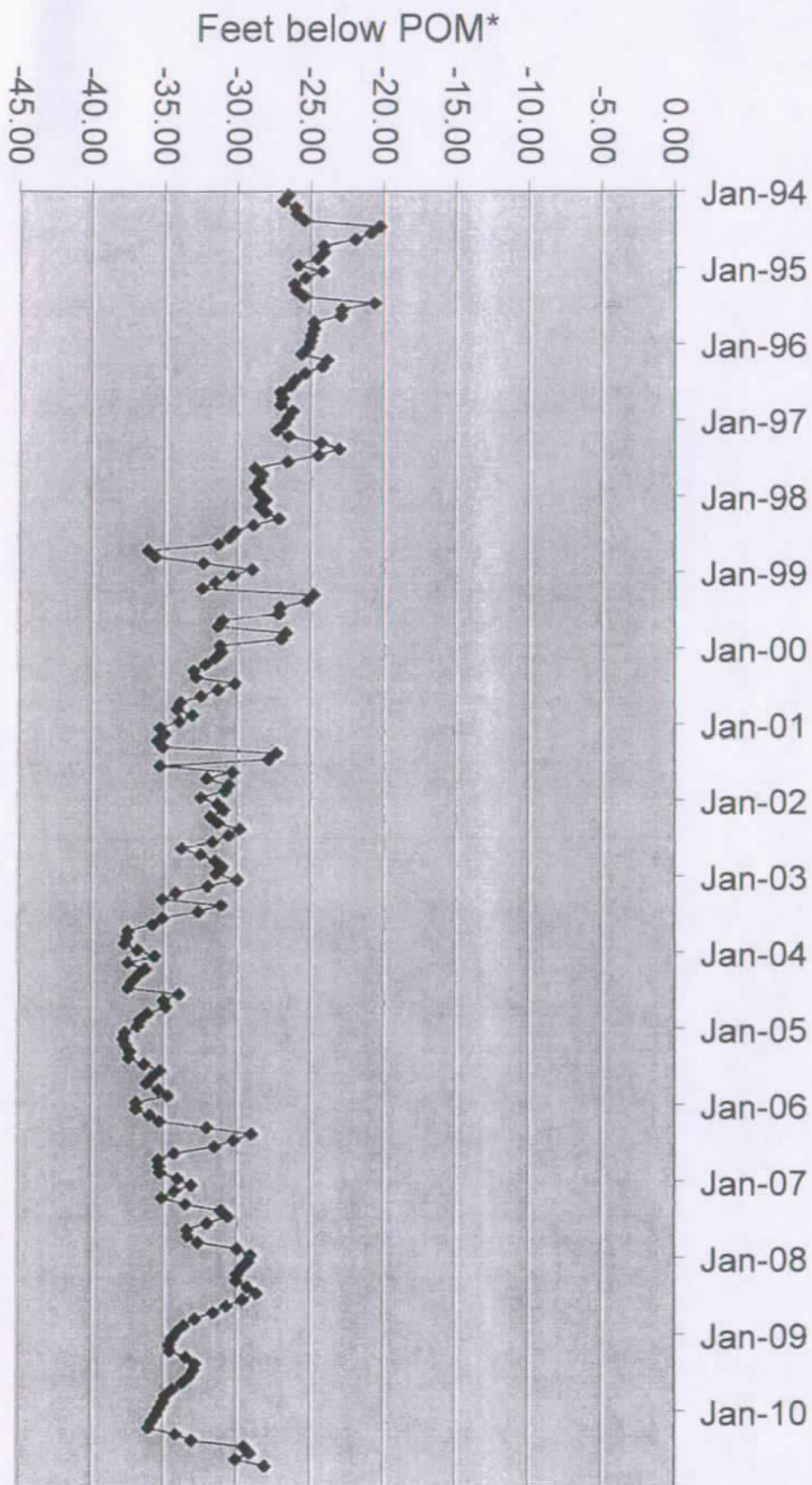
Well Readings, 1994-2010



*POM: Point of Measurement

Verdi Ob Well V3

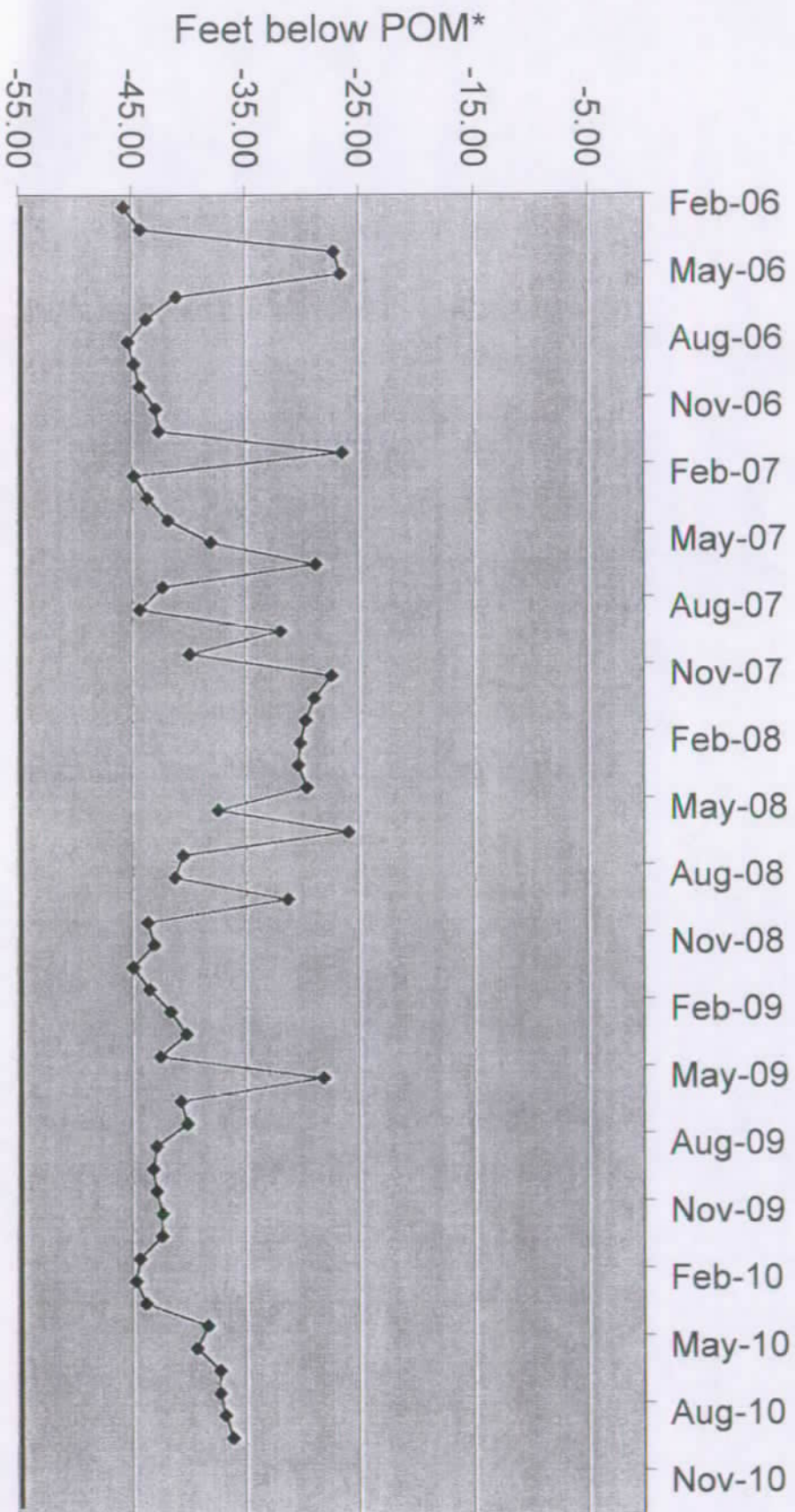
Well Readings, 1994-2010



*POM: Point of Measurement

Verdi PW-3

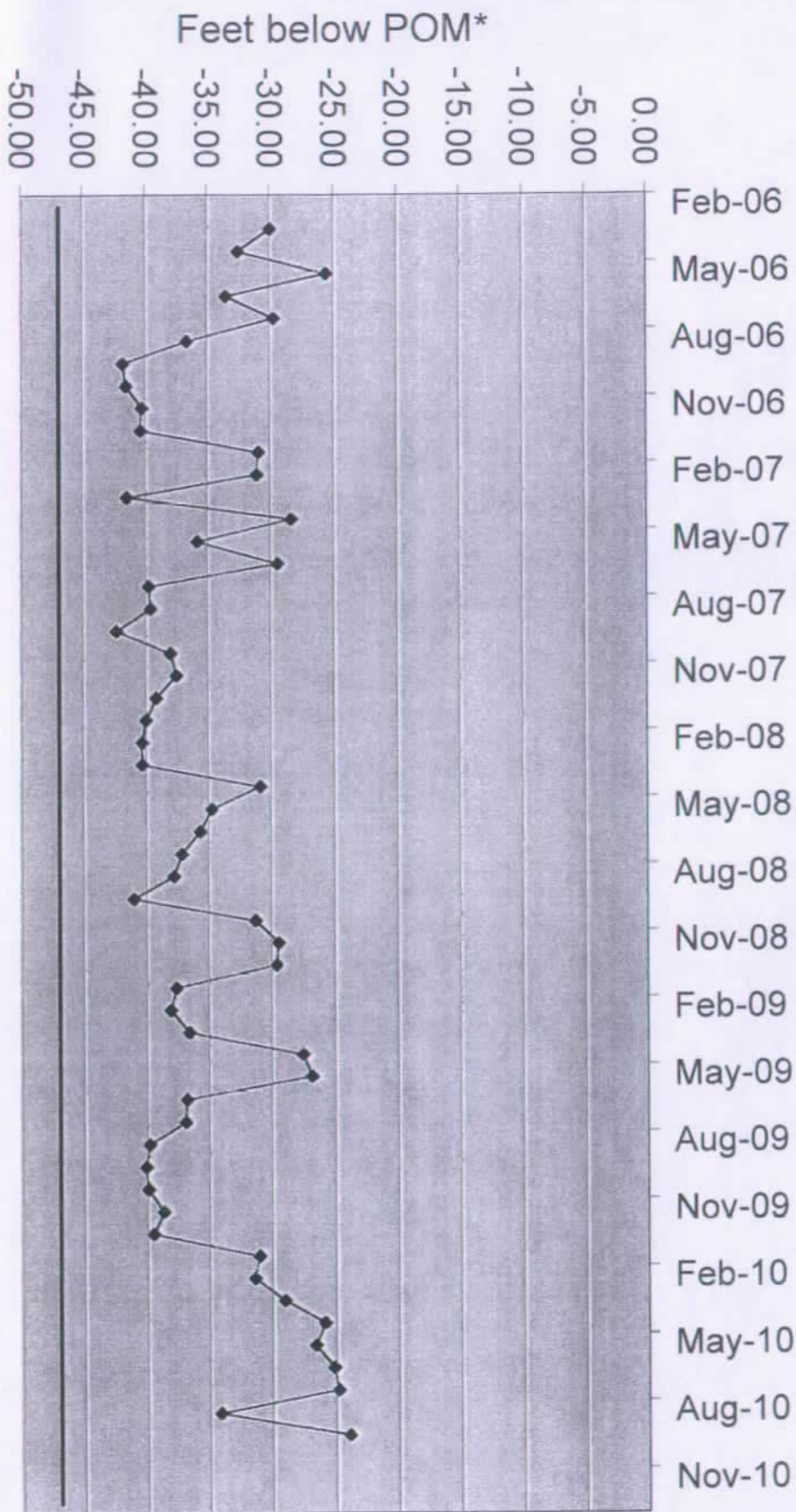
Well Readings, 2006-Present
(Screen Depth = 54.8 ft.)



Verdi PW-4

Well Readings, 2006-Present

(Screen Depth = 47 ft.)



Lincoln Pipestone Rural Water - 2005 Projected Water Withdrawals at the Verdi Water Well Field

Permitted Combined Maximum Withdrawals = 683 MG
Monthly Pumping in MG (million gallons)

Table: B-2

FY	Use/Source	Well Number	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2005										Actual	Actual				
1	ESTIMATED 2005 USE (MG)		38.000	38.000	39.000	42.000	46.000	46.000	46.000	45.000	44.000	40.000	38.000	38.000	500.000
2	VERDI PRODUCTION WELLS (MG)														
4	VERDI WELL #1	#149160	10.545	9.288	9.780	10.561	10.166	13.916	12.562	13.975	13.649	10.200	11.928	11.195	137.765
5	VERDI WELL #2	#149161	0.000	0.000	0.000	0.947	0.000	0.228	0.682	0.264	0.084	1.749	0.505	0.120	4.579
3	VERDI WELL #3	#149163	14.662	12.298	13.938	7.210	12.683	10.120	9.931	10.519	9.973	1.602	9.402	13.367	125.706
14	VERDI WELL #4	#149162	4.673	3.334	2.700	8.665	2.646	3.190	4.199	4.583	3.424	11.803	8.781	4.562	62.560
15	VERDI WELL #5	#149182	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
16	Permit Limit = 683 MG	Total Verdi	29.880	24.920	26.418	27.383	25.495	27.454	27.374	29.341	27.129	25.355	30.617	29.244	330.610
18	Total to Date		54.800	81.218	108.601	134.096	161.550	188.924	218.265	245.394	270.749	301.366	330.610		

Lincoln Pipestone Rural Water - 2006 Water Withdrawals at the Verdi Water Well Field

Permitted Combined Maximum Withdrawals = 683 MGY

Monthly Pumping in MG (million gallons)

Table: B-2

FY 2006	Use/Source	Well Number	Jan Actual	Feb Actual	Mar Actual	Apr Actual	May Actual	June Actual	July Actual	Aug Actual	Sep Actual	Oct Actual	Nov Actual	Dec Actual	Total
1	ESTIMATED 2006 USE (MG)		30.000	30.000	30.000	30.000	30.000	35.000	35.000	35.000	35.000	35.000	35.000	35.000	400.000
2	VERDI PRODUCTION WELLS (MG)														
4	VERDI WELL #1	#149160	11.593	15.889	17.803	13.120	15.524	14.020	8.234	3.837	4.042	5.733	6.194	13.077	129.066
5	VERDI WELL #2	#149161	1.551	0.000	0.000	0.000	0.000	0.474	6.912	3.466	0.003	0.000	0.000	0.032	12.439
3	VERDI WELL #3	#149163	11.839	11.122	12.540	4.363	6.830	9.484	14.609	15.057	14.873	16.050	13.240	5.507	135.513
14	VERDI WELL #4	#149162	5.720	0.090	0.331	11.563	13.935	13.082	13.151	12.682	11.984	13.584	12.694	11.038	119.854
15	VERDI WELL #5	#149182	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
16	Permit Limit = 683 MGY	Total Verdi	30.703	27.101	30.674	29.046	36.289	37.060	42.906	35.042	30.902	35.367	32.128	29.654	396.872
18	Total to Date		57.804	88.478	117.524	153.813	190.873	233.779	268.821	299.723	335.090	367.218	396.872		

Lincoln Pipestone Rural Water - 2007 Water Withdrawals at the Verdi Water Well Field

Permitted Combined Maximum Withdrawals = 683 MGY

Monthly Pumping in MGS (million gallons)

Table: A-2

FY	Use/Source	Well Number	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2007			Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	
1	ESTIMATED 2007 USE (MG)		30.000	30.000	30.000	30.000	35.000	35.000	35.000	35.000	35.000	35.000	35.000	35.000	400.000
2	VERDI PRODUCTION WELLS (MG)														
					Wells Est.	Wells Est.									
4	VERDI WELL #1	#149160	17.150	14.190	18.000	14.000	16.649	19.166	17.883	18.483	15.834	19.144	17.981	18.700	207.180
5	VERDI WELL #2	#149161	0.071	0.245	0.500	2.580	0.000	1.169	1.657	0.068	0.059	0.012	0.000	0.025	6.386
3	VERDI WELL #3	#149163	11.297	12.592	13.000	6.000	7.090	10.250	12.316	7.903	7.070	4.306	2.562	2.429	96.815
14	VERDI WELL #4	#149162	5.376	4.352	0.722	12.000	14.900	10.583	10.513	10.934	9.828	11.303	10.146	10.341	110.998
15	VERDI WELL #5	#149182	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.010	0.000	0.000	0.000	0.010
16	Permit Limit = 683 MGY	Total Verdi	33.894	31.379	32.222	34.580	38.639	41.168	42.369	37.388	32.801	34.765	30.689	31.495	421.389
18	Total to Date		65.273	97.495	132.075	170.714	211.882	254.251	291.639	324.440	359.205	389.894	421.389		

Lincoln Pipestone Rural Water - 2008 Water Withdrawals at the Verdi Water Well Field

Permitted Combined Maximum Withdrawals - 683 MGY

Monthly Pumping in MG (million gallons)

Table: A-2

FY	Use/Source	Well Number	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2008			Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	
1	ESTIMATED 2008 USE (MG)		32.000	32.000	32.000	35.000	39.000	42.000	43.000	38.000	35.000	35.000	32.000	30.000	425.000
2	VERDI PRODUCTION WELLS (MG)														
4	VERDI WELL #1	#149160	19.708	19.012	17.392	18.129	19.450	16.582	16.723	18.010	12.846	12.622	11.150	9.468	191.112
5	VERDI WELL #2	#149161	0.000	0.000	0.000	0.001	0.021	1.060	1.993	0.354	0.031	0.001	0.000	0.000	3.461
3	VERDI WELL #3	#149163	3.171	2.025	1.471	4.163	7.870	9.368	9.569	9.348	9.786	17.878	22.839	20.036	117.524
14	VERDI WELL #4	#149162	11.775	11.427	10.421	11.500	13.035	10.953	11.370	11.371	9.322	0.487	0.178	1.097	102.936
15	VERDI WELL #5	#149182	0.000	0.000	0.000	0.000	0.000	0.000	0.011	0.000	0.000	0.000	0.000	0.000	0.011
16	Permit Limit - 683 MGY	Total Verdi	34.654	32.464	29.284	33.793	40.376	37.963	39.666	39.083	31.985	30.988	34.167	30.621	415.044
18	Total to Date		67.118	96.402	130.195	170.571	208.534	248.200	287.283	319.268	350.256	384.423	415.044		

Lincoln Pipestone Rural Water - 2009 Water Withdrawals at the Verdi Water Well Field

Permitted Combined Maximum Withdrawals - 683 MGY

Monthly Pumping in MG (million gallons)

Table: A-2

FY	Use/Source	Well Number	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2009			Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	
1	ESTIMATED 2009 USE (MG)		34.000	32.000	30.000	34.000	40.000	40.000	40.000	40.000	32.000	31.000	34.000	31.000	418.000
2	VERDI PRODUCTION WELLS (MG)														
4	VERDI WELL #1	#149160	8.830	7.671	9.032	11.550	11.637	12.301	14.552	13.214	11.580	10.000	5.182	2.310	117.860
5	VERDI WELL #2	#149161	0.000	0.000	0.000	0.000	0.150	2.812	2.107	1.818	0.406	0.000	0.000	0.000	7.293
3	VERDI WELL #3	#149163	15.147	17.196	18.636	20.144	17.567	16.174	19.155	13.640	16.657	17.905	16.988	19.326	208.535
14	VERDI WELL #4	#149162	5.850	2.496	3.628	3.721	4.824	6.097	7.287	5.006	5.320	3.837	2.811	2.335	53.212
15	VERDI WELL #5	#149182	0.000	0.000	0.000	0.000	0.000	0.000	0.016	0.000	0.000	0.000	0.000	0.000	0.016
16	Permit Limit = 683 MGY	Total Verdi	23.827	27.363	31.296	35.416	34.178	37.384	43.117	33.678	33.963	31.742	24.981	23.971	386.915
18	Total to Date		57.190	88.486	123.902	158.080	195.463	238.580	272.258	306.221	337.963	362.944	386.915		

Lincoln Pipestone Rural Water - 2010 Water Withdrawals at the Verdi Water Well Field

Permitted Combined Maximum Withdrawals - 683 MG

Monthly Pumping in MG (million gallons)

Table: A-2

FY	Use/Source	Well Number	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2010			Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	
1	ESTIMATED 2010 USE (MG)		34.000	32.000	30.000	34.000	40.000	40.000	42.000	40.000	32.000	31.000	34.000	31.000	420.000
2	VERDI PRODUCTION WELLS (MG)														
4	VERDI WELL #1	#149160	9.985	8.859	9.825	11.827	13.542	10.258	15.211	13.214	11.580	10.000	5.182	2.310	121.793
5	VERDI WELL #2	#149161	0.000	0.229	0.000	0.073	1.104	0.624	1.001	1.818	0.406	0.000	0.000	0.000	5.255
3	VERDI WELL #3	#149163	19.601	17.576	19.188	18.708	19.426	15.734	19.846	13.640	16.657	17.905	16.988	19.326	214.595
14	VERDI WELL #4	#149162	3.254	2.137	1.727	1.747	5.951	3.910	8.015	5.006	5.320	3.837	2.811	2.335	46.050
15	VERDI WELL #5	#149182	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
16	Permit Limit = 683 MG	Total Verdi	32.840	28.801	30.740	32.355	40.023	30.526	44.073	33.678	33.963	31.742	24.981	23.971	387.693
18	Total to Date		61.641	92.381	124.736	164.759	195.285	239.358	273.036	306.999	338.741	363.722	387.693		

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STATE OF SOUTH DAKOTA

WATER RIGHTS
PROGRAM

BEFORE THE WATER MANAGEMENT BOARD

In the Matter of:

Jo's Family Farm's Water Permit Application, No. 7178-3.

DEPOSITION OF: DENNIS B. HEALY

The above-entitled matter came on for deposition on September 22, 2010, at the Lincoln-Pipestone Rural Water Office, 415 East Benton Street, Lake Benton, Minnesota 56149.

That Jo's Family Farm was represented by Mr. William G. Taylor and Mr. J. Vincent Jones, Attorneys at Law, P. O. Box 5027, Sioux Falls, South Dakota 57117-5027. That the State of South Dakota appeared through Ms. Diane Best, Assistant Attorney General, 300 N. Dakota Avenue, Suite 403, Sioux Falls, South Dakota 57104-6032. That Lincoln-Pipestone Rural Water was represented by Mr. Ronald J. Schramel, Attorney at Law, 906 4th Avenue, Windom, Minnesota 56101. Also present from the SD DENR Water Division was Geologist/Hydrologist Goodman.

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Dennis B. Healy, duly sworn - Page 3

Examination by Mr. Taylor - Page 3

Examination by Ms. Best - Page 83

Examination by Mr. Taylor - Page 92

Errata Sheet - Page 94

Court Reporter's Certificate - Page 95

Exhibits 1 - 9 Marked - Page 3

Exhibits In Evidence:

Exhibit 1 - Water Permit - Verdi

Exhibit 2 - Water Permit - Verdi

Exhibit 3 - Water Permit - Verdi

Exhibit 4 - LPRWS/Verdi Service Area Report

Exhibit 5 - Hydrologist Report of August 20, 2010

Exhibit 8 - Liesch Diagram of Verdi Wellfield Area

1 (WHEREUPON, the following proceedings were duly
2 commenced at 9:06 a.m.)

3 (WHEREUPON, Exhibits 1 - 9 were marked for
4 identification by the Court Reporter.)

5 MR. TAYLOR: I propose a stipulation that this
6 deposition shall be taken and conducted under, pursuant
7 to, and in accordance with the South Dakota Rules of Civil
8 Procedure, to be used for all purposes and in the manner
9 provided for under South Dakota law, and all objections
10 except as to the form of the question are reserved.

11 Does that work for you?

12 MR. SCHRAMEL: So stipulated.

13 MS. BEST: So stipulated.

14 MR. TAYLOR: Thank you.

15 Dennis B. Healy,
16 called to be deposed, being first duly sworn, was examined
17 and testified on his oath as follows:

18 EXAMINATION BY MR. TAYLOR:

19 Q Would you state your name and address for the record,
20 please.

21 A Dennis B. Healy. I live in Ivanhoe, Minnesota.

22 Q Where is Ivanhoe from here?

23 A Fourteen miles north.

24 Q What's your occupation, Mr. Healy?

25 A I am the CEO of Lincoln-Pipestone Rural Water System.

1 Q How old are you?

2 A Sixty-two. Three. Too old.

3 Q Close enough.

4 A Two. No. Wait a second. Whatever.

5 Q And tell me about your educational background.

6 A I have got a Bachelor's Degree from South Dakota State
7 University and a Master's Degree from the University of
8 Wisconsin-Madison.

9 Q And what disciplines are your Undergrad and Master's?

10 A My Undergrad Degree was in landscape design, and my
11 Master's was in regional planning, urban and regional
12 planning.

13 Q And tell me your employment history, just in rough form,
14 during your life after college.

15 A After my military obligations got taken care of, I was the
16 City Planning Director in Aberdeen, South Dakota, from
17 approximately 1972 to late either '77 or '78, at which
18 time I went back to graduate school. Spent about -- about
19 a year as the Planning Director for Sauk County,
20 Wisconsin; and in 1979, late '79, I moved to Lincoln
21 County, Minnesota, where I was the City Administrator for
22 several small communities in the area. That went on for a
23 few years and kind of more fed into a consulting
24 situation. Starting in about 1986 I started -- in
25 addition to the consulting, I started teaching at SDSU in

1 the landscape design program. I taught there until
2 November of 1999, at which time I started at
3 Lincoln-Pipestone Rural Water.

4 Q When you started at Lincoln-Pipestone, what position did
5 you start in?

6 A At the time I was the -- I think the job title was
7 Director of Finance and Administration.

8 Q When did you become the Chief Executive Officer?

9 A 2005.

10 MR. SCHRAMEL: That sounds right.

11 THE WITNESS: Thereabouts. About 2005.

12 Q (By Mr. Taylor) And you said you served in the Armed
13 Forces?

14 A Yes. I actually am retired from the National Guard.
15 Retired in 1992, I believe it was.

16 Q Tell me what your job duties as Chief Executive Officer
17 are for the Lincoln-Pipestone Rural Water.

18 A Well, obviously supervising the staff. We have -- we
19 currently have 18 total employees. I do all of the
20 dealings with State and Federal agencies, work closely
21 with our engineering consultants, hydrologists, et
22 cetera. In terms of new construction -- yeah, close that
23 door -- I am -- I oversee all of the financial functions,
24 take care of all the investment activity for the
25 organization. Obviously, work with -- closely with our

1 Board of Directors and represent Lincoln-Pipestone in
2 public situations.

3 Q Did you grow up in South Dakota?

4 A Yes.

5 Q Where?

6 A Marshall County. Langford, to be specific, or close to
7 Langford.

8 Q Grew up on a farm?

9 A Yes.

10 Q Tell me about the business organization of
11 Lincoln-Pipestone Rural Water. What form of business
12 organization is it?

13 A Well, we are actually a government entity. We are
14 organized under Minnesota Statute 116A. as a rural
15 water -- or as a water district. Not rural. It is not
16 attached to it. But we are -- we're essentially a joint
17 powers creation of the member counties. We currently
18 serve water in nine counties, and we are currently
19 expanding into a tenth county in Southwest Minnesota.

20 Q Okay. So you are a public entity under 116A. of the
21 Minnesota Statutes?

22 A Correct.

23 Q A water district?

24 A Yes.

25 Q And you say you are also a joint powers agency?

1 A Well, the statute -- the statute talks about two types of
2 water districts. To give you an example, Rock County
3 Rural Water is a single county district. They exist in
4 Rock County, Minnesota. Okay. They are directly
5 overseen by the County Board, by Rock County. In our
6 particular case, since we are a multi-county system, the
7 County Boards basically have authorized the Board of
8 Lincoln-Pipestone to operate the system. The Boards --
9 County Boards are involved in appointing the Board
10 members, although the -- we've got this weird situation
11 where the District Court actually makes the appointment to
12 the Board, and we report to the District Court. For
13 instance, if we want to issue debt to expand the system,
14 ultimately we, in addition to getting the concurrence of
15 the member counties, we have to go to the District Court
16 and get their -- the Board's blessing -- or the Court's
17 blessing on the debt, that type of thing.

18 Q So you consider yourself a joint powers agency in the
19 sense that you are partners in this hearing of public
20 powers, the counties in which you operate?

21 A Essentially, yes.

22 Q And you answer to the District Court because you have this
23 odd statute in Minnesota that requires a District Court to
24 have some type of supervisory capacity?

25 A Yes. And that's in 40 years of working at various levels

1 of local government, I have never quite experienced an
2 organization like this. It is a little different.

3 Q I shouldn't characterize Minnesota Statutes as odd,
4 but...

5 MR. SCHRAMMEL: Go ahead. I won't object.

6 THE WITNESS: That particular one seems odd to
7 me. I have dealt with cities, counties, joint powers,
8 boards, and I have never quite dealt with this.

9 MR. TAYLOR: I tried to figure out from the
10 statute how your commissioners are chosen, but I couldn't
11 figure it out, so you can tell me. I didn't try very
12 hard.

13 MR. SCHRAMMEL: I would tell you, but then we
14 would have to kill you, Bill.

15 THE WITNESS: If you have any suggestions, we
16 are open to that. You are right. We -- basically, our
17 Board just -- it got kind of frustrating because nobody
18 really understands exactly -- ultimately, it goes to the
19 District Court. The Court, as I understand it, the
20 District Judge can appoint his brother-in-law, if he felt
21 the move to do that. The only requirement to serve on the
22 Board is that you have to be a member or a customer of the
23 system. That's the only qualification that I am aware of.
24 And the -- the statute is very unclear, other than that
25 final step of the Court making the appointment.

1 So how do we get a name to the Court? We -- our
2 Board has adopted a policy that this Board will forward a
3 name, and the counties involved in a particular
4 appointment -- we have kind of divided up into districts,
5 so we get a good geographic balance. So, for instance, if
6 a Board member from Lincoln County is up for reappointment
7 or appointment, our Board and the Lincoln County Board
8 would, if it is a new appointment, we would send a letter
9 to all of the customers in that district and say okay, we
10 are going to have an opening on this Board; if you are
11 interested, send a letter, and would basically go through
12 an interview process. And that interview -- the way our
13 policy is set right now, that interview committee would
14 include the executive committee from this Board, plus
15 representatives from the Lincoln County Board. And we --
16 if we have got three applicants, for instance, we would
17 interview them and forward a recommendation. But that
18 recommendation then has to go to all of the counties.
19 They either approve or disapprove; and, ultimately, a name
20 is forwarded to the District Court, and the Judge makes
21 the appointment.

22 Q (By Mr. Taylor) Do your bylaws provide for this process?

23 A Well, it is not really a bylaw. It is a policy that we
24 adopted simply because when people asked us well, how do
25 you do this, the State statute didn't --

1 Q Didn't tell you, huh?

2 A -- didn't tell us much. So we tried to -- we tried to
3 come up with a system to do it. And it is not necessarily
4 perfect, but it has resulted in some pretty good Boards
5 over the years.

6 Q And operable terms on your Board are? How long are you
7 appointed to serve?

8 A Appointments are four years. Four-year terms. Revolving.
9 We have an 11-member Board.

10 Q All right. What about your finances? Where does your
11 money come from?

12 A All of our operating revenue is from the sale of water.
13 We have no -- well, we have no taxing authority, or
14 anything of that nature. The way -- the way the system is
15 developed and financed over the years, we kind of have two
16 tracks. All of the ongoing operations, maintenance, et
17 cetera, is financed through the sale of water. The
18 construction of the system and the associated debt service
19 is all financed through hookups of new customers. So, for
20 instance, if we have an expansion -- well, the current
21 expansion that we are undergoing, for instance, is quite
22 large. We are looking at 800 -- roughly 800 new
23 customers. The hookup -- our hookup fee is \$15,000, which
24 can either be paid in advance, or in Minnesota we have the
25 ability to assess that dollar amount over a period of

1 years. And the current assessment policy is a 38-year
2 assessment, which coincides with the USDA bonding that we
3 have.

4 Q Okay. I didn't look at your assessment statute. When you
5 speak in terms of an assessment, that's -- is that
6 mandatory? Is it like street assessment; do you go by the
7 place, you assess the landowner?

8 A No, no, no. The rural water hookups are all voluntary.
9 People basically tell us they want it, they want water
10 service. And as a public entity, public water system, it
11 is our -- we view it as our responsibility to supply that
12 water, if we can.

13 Q So it costs -- in the new district that you are about to
14 open, it will cost \$15,000 if I want to connect?

15 A Correct.

16 Q And that \$15,000 defrays the cost of all the plumbing?

17 A Yes.

18 Q Defrays the cost of necessary water towers, the pressure,
19 and so forth?

20 A Yes.

21 Q And pump stations?

22 A Yes.

23 Q And development of the well field?

24 A Yes.

25 Q Or whatever water source that you use?

1 A Yes. The way that we have arrived at the \$15,000, and
2 that's on an individual basis, it is not necessarily a
3 perfect system, but we have, with the assistance of our
4 engineers, we have determined that the existing general
5 infrastructure -- in other words, we have three well
6 fields, we have two treatment plants, and we have
7 storage facilities, et cetera. We kind of look at
8 those as serving the entire system. We have allocated --
9 of that 15,000, we have estimated that about \$6,000 of
10 that goes towards this general backbone infrastructure.
11 The remaining roughly \$9,000 is what it takes to get
12 smaller pipeline to an individual farm, put in a meter,
13 actually do the service. It is not an absolute --
14 absolutely perfect system, but it is as close as we can
15 estimate and try to make it as fair as possible.

16 And when we do a -- when we do a big project like
17 this, obviously a house, say maybe 'House A', is a mile
18 from the line, and 'House B' is right on the line, and all
19 those things, the footages, get averaged out.

20 Q Nonetheless, it costs \$15,000?

21 A \$15,000.

22 Q Whether you are 100 feet away from the water main, or
23 whether you are 100,000 feet away from the water main?

24 A Well, we wouldn't -- the 100 feet, yes.

25 Q All right.

1 A That's correct.

2 Q I kind of get the idea.

3 So your capital retirement program, the costs of
4 retiring the capital investment in your well field and
5 treatment plants, comes from a portion of the hookup fee?
6 Do you maintain capital accounts?

7 A Well, that's -- that's how we determine that \$15,000 is
8 what we need for a hookup fee at this time. And,
9 obviously, there is a good deal of estimation that goes
10 into that. And in terms of pipeline in the ground, there
11 is -- things get averaged out, and you hope that you can
12 stay within that average.

13 But the expansion that we have right now -- let's
14 see. We are looking at a little over 20 million dollars
15 in debt that has to be serviced over 39 years. So between
16 the \$15,000 and our estimate of the number of people that
17 are going to hook up to that, that has to generate the
18 revenue to service the debt.

19 Q And you have a bond issue closing today, I think?

20 A Yes, we do.

21 Q And that bond issue closing today is part of the
22 expansion, the funding for the expansion?

23 A Yes.

24 Q So tell me about your capital infrastructure. Where do
25 you raise your capital besides the \$15,000 hookup fees?

1 Through bonding?

2 A Well, yes, yes. Virtually -- not all of our capital -- we
3 are able to finance things like vehicles and equipment we
4 finance out of our water revenue because it is not easy to
5 tie that to a water improvement. But the water
6 improvements are basically financed from those hookup
7 fees. Not exclusively. We have had -- well, I guess the
8 clearest example when we had to upgrade the Holland
9 treatment plant because we exceeded the nitrate levels at
10 that well field. There was no expansion. We did that.
11 It was simply the regulator said if you are going to use
12 this water source, we have to do additional treatment, and
13 so we did that. And it became an overall system
14 improvement.

15 Q And that was paid for out of bonded funding?

16 A Yes, it was bonded. Initially we had to come up with the
17 financing or the annual payments from water sales, which
18 normally we don't. But eventually over a period of years
19 between projects we still hook up new customers along --
20 generally along existing lines. And those people paid the
21 same hookup charges, so eventually we had enough of those
22 general hookups to service that debt, also. But when we
23 did the project, there were no new hookups tied to that
24 project.

25 Q Okay. You do an annual audit?

1 A Yes, we do.

2 Q Do you have an annual financial statement?

3 A Yes.

4 Q Will you give me a couple of -- say, give me your 2009
5 annual financial statement, and maybe a couple years
6 behind that, and that will save us a half hour of talking
7 about how your finances work?

8 A Yeah, I think I can come up with copies of audits for as
9 far back as you want to go.

10 Q Sure.

11 And your bond issue that you are going to close
12 today, you have an official statement to go with the bond
13 issue? You got some high dollar bond lawyers from
14 Minneapolis that write all that stuff?

15 MR. SCHRAMMEL: Duluth, technically.

16 THE WITNESS: I haven't even seen the paperwork.
17 I believe Ron has that. This is -- this particular one is
18 a supplemental issue. This one is direct to USDA Rural
19 Development. So it is a little more simplified than open
20 market issue.

21 Q (By Mr. Taylor) Do you have an open market issue that has
22 gone off in the last few years?

23 A Two fairly substantial ones. Rural Development, when
24 they finance a project, requires that we go to the open
25 market for construction financing, and then they buy that

1 out at the end of the project with their long-term
2 financing. So the only open market financing we really do
3 is the short-term construction loans. But we have done
4 two fairly large ones in the last year or so.

5 Q The only reason I ask if you have an official statement
6 for the bond issue, if you give me a copy of the official
7 statement from one of your recent bond issues, it will
8 teach me, and it will teach me more than I really want to
9 know, about Lincoln-Pipestone Rural Water. Anyway, if you
10 can find one of those --

11 A Yeah. We have got some around. I should be able to.

12 MR. SCHRAMEL: Are you looking for the bond
13 transcript, or what exactly are you looking for?

14 MR. TAYLOR: Well, the history of the agency is
15 typically in the first page of the OIS, official
16 statement, as it is called in colloquial.

17 MR. SCHRAMEL: Yes.

18 MR. TAYLOR: I am assuming --

19 MR. SCHRAMEL: What I recollect is -- do we have
20 an extra -- we should have some of those bond transcripts
21 around, some extra ones, don't you?

22 THE WITNESS: I don't know if I have any extra.

23 MR. TAYLOR: Well, let me look at one, and I will
24 tell you what we want copied, and we can make a copy.

25 MR. SCHRAMEL: There is today's sitting right

1 there, if you want to look at it.

2 MR. TAYLOR: Why don't we do that when we are
3 done.

4 Q (By Mr. Taylor) Let's talk about the physical nature of
5 your system a little bit. And to do that, probably the
6 easiest way to do that is to use your report, so I will
7 show you what has been marked Exhibit 4, and if you can
8 tell me what that is.

9 A This is a brief report that I prepared for the --
10 basically for this hearing, just to provide a little bit
11 of -- a brief background of the Lincoln-Pipestone System
12 and a little bit of detail on what our Verdi Well Field
13 Service Area is and how we have been using that in the
14 last few years.

15 Q Would you look at the third page of that report, Figure
16 I.

17 A Yes.

18 Q Okay. One other question I forgot to ask you.

19 You are also a member of the Lewis & Clark
20 System?

21 A Yes, we are.

22 Q And you have made a commitment to subscribe to Lewis &
23 Clark water when it is done?

24 A Yes, we have.

25 Q And you made the financial commitment to the Lewis & Clark

1 System to participate in a construction at the part that
2 is not funded by the government?

3 A Yes, we have. We have prepaid our share, which was 2.6
4 or 2.8 million.

5 Q And you have prepaid?

6 A Yes.

7 Q So you don't have an annual forward-looking assessment
8 coming out of Lewis & Clark?

9 A That's correct.

10 Q You are like the City of Sioux Falls?

11 A Correct.

12 Q All right. Back to where we were.

13 Now looking at Figure I, there are three colored
14 areas. One called the Burr Service Area, one called the
15 Verdi Service Area, and one called the Holland Service
16 Area?

17 A Yes.

18 Q Does the parameter of those three colored areas represent
19 the scope and breadth of the Lincoln-Pipestone Rural Water
20 Distribution System?

21 A At this point, yes. I have not included the -- I did not
22 include the expansion areas in this map. Basically,
23 because it was a PDF file, and I couldn't figure out how
24 to manipulate it to expand it. But in terms of customers
25 we are serving today, yes.

1 Q And where is -- just generally, tell me where the
2 expansion area is.

3 A The expansion area is in Nobles County. We are expanding
4 into Southeastern Nobles County and Southwestern Jackson
5 County; about four townships in the southwest corner of
6 Jackson County. And then up on the north part of the
7 purple area the City of Montevideo is not shown on there,
8 but it is approximately up in this location, and we have
9 got a smaller expansion up in that area.

10 Q So you are going to provide rural service in Eastern
11 Nobles and part of Jackson County?

12 A Correct.

13 Q And will you also be providing service to any communities
14 in that area?

15 A At this point in time, none of the communities have signed
16 up. Several have shown interest, but I think they
17 basically need to find the financing to do the hookup.

18 Q And in the Northern District you said you are going to
19 what town?

20 A Well, it is up to the Montevideo area. We are not going
21 into Montevideo or anything, but the rural areas to the
22 south of there.

23 Q So it will be rural service?

24 A Yes.

25 Q Any communities there?

1 A Well, we are extending service, pending a line to Seaforth
2 in Redwood County. That was an add-on to the project. It
3 was a situation where Rural Development had financed a new
4 water system and sewer system in Seaforth. The original
5 plan was that they were going to drill wells and have
6 their own system. Well, the well drilling didn't work
7 out, and we were the closest source of water. Not very
8 close, but we were the only source of water available to
9 them. So Rural Development convinced us that we should
10 extend service to them.

11 Q Okay. So they drilled dry holes?

12 A Yes.

13 Q And you say Rural Development convinced you, and you sort
14 of smile as you say that. Is there a strong arm involved
15 in that?

16 A To the extent that they are our banker, yes.

17 Q Fairly strong arm then.

18 Now these two service expansions, one is in
19 conjunction to what you show on the map as your yellow
20 area and characterize as the Holland Service Area.

21 Do you consider the Nobles County and Jackson
22 County expansion an expansion of the Holland Service
23 Area?

24 A Actually, it is probably more of a decrease of the Holland
25 Service Area because the primary source of water for this

1 expansion, and actually part of the expansion cost, we are
2 purchasing water from Osceola County Rural Water System in
3 Iowa. Osceola County was in the process of expanding
4 their treatment plant and water source. We have been in
5 discussions with them off and on over several years, but
6 ultimately they were -- they decided, based on discussions
7 with us, that they would double the size of their
8 facility. In other words, they had approximately 2.4
9 million -- or, excuse me, 2,400 gallons per minute to
10 their production capacity, and we purchased -- basically
11 purchased the right to a thousand gallons a minute of that
12 capacity.

13 So that is the primary water source for the south
14 expansion area and the south -- southwest quarter of the
15 existing of Nobles County. So we are actually decreasing
16 the size of the Holland Service Area on this particular
17 expansion.

18 Q Okay. The Holland Service Area, currently what is the
19 water source for the water service as it is presently
20 configured?

21 A We have a well field and treatment plant along Highway 75
22 approximately halfway between Pipestone and Lake Benton.

23 Q Does the Holland Service Area also acquire water from
24 Osceola Rural Water now?

25 A No, no, no.

1 Q Because in your report you mention the acquisition of
2 water from Osceola. That's -- that should be -- that's a
3 forward-looking mention?

4 A It was at the time I wrote this. We have actually been
5 getting part of our water supply -- or part of the water
6 supply we purchased for two weeks now, it is all part of
7 this expansion project. Most of the water we purchased so
8 far has been to fill pipes, disinfect pipes, and flush
9 pipes. So we have purchased water and essentially dumped
10 it on the ground for the most part. But we are getting to
11 the point where we are able to serve some of our existing
12 customers, existing Holland Service Area customers. In
13 terms of area, it is basically that portion of Nobles
14 County south of the interstate.

15 Q Okay. So is that your eventual goal that the Holland
16 Service Area south of the interstate, south of Interstate
17 90, and the expansion area in Nobles and Jackson County,
18 will be served by Osceola-produced water?

19 A Osceola and, eventually, the Lewis & Clark System. We
20 waited for a long time for Lewis & Clark; and when it was
21 obvious that it was further down the road than we had
22 hoped, we decided to look for another source. And we
23 actually spent -- well, our system, the City of
24 Worthington, and Red Rock Rural Water, spent several
25 hundred thousand dollars poking holes down there until we

1 basically determined there is no significant source of
2 water down there. And Worthington has been looking for
3 water for a hundred years. But our current plan or our
4 current estimates are that what we have purchased from
5 Osceola will serve our needs in that area for now; and as
6 customers are added and demand increases over time, we are
7 hoping that that will take us to Lewis & Clark. And
8 between those sources, we will have a solid source of
9 water.

10 Q Just so I can report it to the Argus Leader, do you have
11 an estimate of when Lewis & Clark will be completed?

12 A As long as you don't use my name. I don't want to
13 contradict Troy. But the number, the date I have used all
14 along, is 2020.

15 Q Yeah.

16 A To get water to Lincoln-Pipestone.

17 Q So with the completion of the plumbing to the Osceola
18 treatment plants, your Holland Service Area, the service
19 area that is serviced by the wells you spoke of, the
20 treatment plants will shrink?

21 A At least temporarily, yes.

22 Q Are those wells and treatment plant at maximum capacity
23 now?

24 A Very close, yes.

25 Q So you are bumping up against the service capacity that

1 you can manage out of that water source?

2 A That's right. And one of the reasons we -- or the Board
3 decided to move forward with the Osceola purchase is
4 that for at least the last five years we have basically
5 had a moratorium on new services in most of that area.
6 And it is one of our -- it is our largest livestock
7 production area, for instance, so the demand for water is
8 perhaps a little larger there than it is in some of the
9 other areas.

10 Q Now when you expand your service area as you are doing in
11 the south portion, what do you have to do politically? Do
12 you have to expand the boundaries of your water district?
13 For example, if you were doing this in South Dakota, it
14 would require an election within the geography that you
15 intend to bring within the water district. Is the same
16 true here?

17 A To my knowledge, there are no political boundaries. For
18 instance, Redwood County is one of the counties that we
19 serve, and they get treated like all the other counties.
20 Well, currently we have two customers in Redwood County;
21 so, obviously, they have got a lot of voice for fairly
22 few customers. I guess the boundary issue has never come
23 up.

24 With some of the bigger communities, Worthington
25 and Marshall for instance, we have negotiated agreements

1 with those cities so that we are not encroaching on their
2 urban growth area, that type of thing. We border Rock
3 County Rural Water, and we have kind of agreed on what the
4 boundaries are going to be there, even though we serve
5 small portions of Rock County. It was basically a
6 physical barrier. The rock ledge coming through there.
7 Rather than trying to build across that, we decided we
8 would build up to it on each side. In general, we go
9 where the people -- usually it is the people coming to us,
10 saying we need water service.

11 Q So if you don't have any political restrictions on your
12 ability to expand, are there economic restrictions on your
13 ability to expand?

14 A Yes.

15 Q And there are demand driven restrictions on your ability
16 to expand?

17 You have to answer outloud.

18 A Yes.

19 Q And then there are what I will call treaty arrangements on
20 your expansion so that you don't encroach on other
21 existing systems?

22 A That's correct.

23 Q All right. Now as we come up out of the Holland Service
24 Area, there is a green area called the Verdi Service Area.
25 And where are the wells for the Verdi Service Area?

1 A The Verdi Service Area, Lake Benton is at the -- is
2 located on the confluence of the two red lines, which is
3 Highway 14 and Highway 75. Just to the southwest of
4 there, there is a black dot right above the Lincoln County
5 line. That's the unincorporated community of Verdi. Our
6 water system is located straight west of the community of
7 Verdi on -- on the South Dakota border.

8 Q And is there a treatment plant in the Verdi Service
9 Area?

10 A No. We have -- the only things we do to the water out of
11 the Verdi Well Field is we add chlorine for disinfection
12 and fluoride, which is mandated by State statute or State
13 regulation.

14 Q For your teeth?

15 A Right.

16 Q And where is the chlorine/fluoride added?

17 A We have a ground storage tank and pump station located
18 approximately a half a mile east, straight east, of the
19 well field.

20 Q So your wells -- your Verdi wells pump to a ground storage
21 tank?

22 A That's correct.

23 Q And a ground storage tank is under ground, or above
24 ground, or both?

25 A Both, both.

1 Q This particular one?

2 A There is maybe five feet sticking out of the ground. It
3 is half buried. It is a concrete tank.

4 Q What's the capacity of that?

5 A I believe that one is a 200,000 gallon tank.

6 Q So it is basically a flow-through tank?

7 A Yes.

8 Q Okay. And then let's talk about the Burr Service Area
9 briefly.

10 Where are the water sources in the Burr Service
11 Area?

12 A The water sources at the Burr Service Area are straight
13 west of Canby, again on the South Dakota border, or near
14 the South Dakota border.

15 Q Do you know what aquifer the Canby wells are in?

16 A I don't believe they are in an aquifer.

17 Q In a defined aquifer?

18 A There are several water sources. Some of them we have
19 given names to. The original four wells were in the
20 Prairie Coteau Aquifer. We have since drilled wells into
21 the Altamont Aquifer, which is roughly 200 feet deeper.
22 And over the last ten years we have drilled -- we have
23 drilled five other wells into two other vanes of water
24 that I don't believe have been named.

25 Q Maybe surficial?

1 A No, sir, these are all deep aquifers ranging from roughly
2 200 to 400 feet deep.

3 Q So in the Burr Service Area, if my count was right, nine
4 wells?

5 A Yes.

6 Q And in the Verdi Service Area, you have five?

7 A We have five wells, four of which are production wells.

8 Q Are all nine Burr Service Area wells production wells?

9 A Yes.

10 Q And in the Holland Service Area, you have how many wells?

11 A We have eight in two different closely-related surficial
12 aquifers.

13 Q Do you know the name of those aquifers and the rough depth
14 of the wells?

15 A I have never seen a name attached to them specifically.
16 The wells in Holland are very shallow. Water levels in a
17 wet season, a wet year like this, will be within a foot of
18 the surface in some cases. The wells themselves are in
19 the neighborhood of 50 feet deep.

20 Q Maybe you told me where those wells are located. If you
21 have, forgive me. Tell me again.

22 A They are located along Highway 75.

23 Q Yeah.

24 A Roughly halfway between Lake Benton and Pipestone.

25 Q Okay. So those are 50-foot wells and surficial aquifers

1 in the Holland Service Area.

2 You also have a million gallons per minute
3 capacity from Osceola?

4 A Thousand gallons a minute.

5 Q Thousand gallons a minute from Osceola.

6 And then it is delivered to you as treated
7 water?

8 A Yes, it is. The only thing we do to the water that we get
9 from Iowa is we have to add fluoride. The State of Iowa
10 does not require fluoridation. Minnesota does.

11 Q So does that come to you through a single main?

12 A Yes, it does.

13 Q And then it goes into your branch facility after fluoride
14 is added?

15 A That's correct.

16 Q All right. Then if you move to the Verdi Service Area,
17 those are also 50 to 60-foot wells?

18 A Correct.

19 Q And do you know the aquifer they are in?

20 A Yes.

21 Q Name of it is? This is a test.

22 A I don't recall.

23 Q All right. And the Burr Service Area are deeper wells
24 from two to four hundred feet?

25 A That's correct.

1 Q Now are these service areas physically interconnected?

2 A To some extent, yes.

3 Q Explain that for me.

4 A Well, it takes a little bit of history, I suppose.

5 The Verdi Service Area, or the Verdi Well Field,
6 was the original water source for the system. So prior to
7 the development of the Holland and Burr Service Areas,
8 Verdi actually served all of Pipestone County and down
9 into the very northwest part of Nobles County. And on the
10 north side, Verdi actually served up into Yellow Medicine
11 County a little bit and the west -- kind of the west half
12 of Lyon County.

13 So originally the Verdi Service Area was much
14 larger. The density of rural water hookups was less, but
15 originally it served a larger area. So when these new
16 water sources came on line, Holland -- when Holland came
17 on line, for instance, the water that use to come from
18 Verdi to service that area came from the Holland source.
19 For instance, at the Holland treatment plant, originally
20 there was just a big pump station there. So water would
21 come from Verdi and get repumped and moved on down the
22 line. So in that regard there is some interconnect there.
23 The primary interconnect is from Verdi going south. With
24 some improvement and rearrangement of some pumps, I
25 suppose it could be essentially reversed.

1 Another area that is affected on that, you will
2 notice there is a section of the Verdi Service Area that
3 goes down the west side of Pipestone County. That was a
4 line that was put in from Verdi, basically to serve the
5 City of Jasper. We have some interconnects there, so that
6 Verdi area could be served from Holland.

7 On the Burr side, northern Lincoln County, the
8 very southern edge of Yellow Medicine County, and the
9 northwest part of Lyon County, all use to be served out of
10 Verdi. When the Burr System came on line, Burr took over
11 that area. But the pipes are still in place. There is
12 parts of that area that can be served from either.

13 But in terms of -- I guess one of our long --
14 long-range hopes would be that someday we can have a
15 system of redundancy so that if something happens at a
16 given water source, we can serve everybody. The way we
17 are set up now we can kind of, if we have to, we can kind
18 of serve along the fringes of each of these service areas
19 from more than one source. But in terms of serving the
20 entire area, no, we can't. We don't have the facilities
21 to do that.

22 Q So let's see if I can characterize what I think you told
23 me.

24 Each of your service areas independently relies
25 on a source of water; service areas are independent one of

1 the other?

2 A Yes.

3 Q There is some overlap along the boundaries?

4 A That's correct.

5 Q But, for example, the way your system currently is
6 configured, if there were a reliability issue with the
7 Burr Service Area, you could not supply the Burr Service
8 Area from the Verdi Service Area?

9 A That's correct.

10 Q Or from the Verdi Well Field, I mean?

11 A That's correct.

12 Q The same would be true to the south with the Holland
13 Service Area?

14 A Yes.

15 Q And vice versa?

16 A Yes.

17 Q For reliability purposes, someday you would like to be
18 able to have an interconnect that would resolve that?

19 A Well, yes. In an ideal world, it would be nice to be able
20 to serve everything from two sources. Whether that's ever
21 financially feasible remains to be seen because -- mainly
22 because of the long distances involved and the fact that
23 the high point, the Ridge, kind of goes down through the
24 middle of a lot of this system, so pumping up over the
25 hill is the most expensive way to do it.

1 Q Buffalo Ridge is what you are talking about?

2 A Yes.

3 Q Buffalo Ridge runs from northwest to southeast and sort of
4 splits your service area right along the line that the
5 windmills are on?

6 A That's correct. That's correct.

7 Q So we can walk outside and basically see where the high
8 point of your system is?

9 A Yes. It is right over there.

10 Q If we stood on your roof, we could see it?

11 A Yes.

12 Q All right. And it is impractical, at least based on
13 today's water rates, to push a great deal of water from
14 one side of the system to the other because of geographics
15 of the Ridge?

16 A In order to make it happen, we would have to put in a lot
17 of miles of fairly large diameter pipe to get total
18 redundancy.

19 Q And some expensive pump stations, also?

20 A Correct.

21 Q Okay. Now let's talk just for a minute about your water
22 rates. Are your water rates uniform across your system?

23 A Yes, they are.

24 Q Everybody pays the same rate?

25 A Yes.

1 Q Do you have a high volume user rate?

2 A Right now we have two rate structures; one for retail
3 sales, and one for sales to communities. Basically, a
4 wholesale rate. The wholesale rate to the communities is
5 currently a dollar -- \$1.90 per thousand gallons. And it
6 is just a flat rate. The communities then resell the
7 water to their customers. Our retail rate is an inclining
8 rate so that the more water being used, the more cost per
9 thousand gallons.

10 Q Do you have a rate card that would save us talking about
11 all that?

12 A Yes. I can either get it right now --

13 Q Why don't you tell me -- just tell me what your base rate
14 per thousand gallons is.

15 A Our base rate is \$17.50 for the first thousand gallons.
16 And then the rate structure starts at \$2.05 per thousand
17 after that and goes up to -- I believe the top rate is
18 2.35 per thousand.

19 Q Okay.

20 MR. SCHRAMEL: If I could clarify something.

21 The 17.50 isn't just for water; that includes a
22 standard monthly charge whether they use one gallon or a
23 thousand, correct?

24 THE WITNESS: That's correct.

25 Q (By Mr. Taylor) Okay.

1 A That's the base rate.

2 Q So if I buy no water at my summer cabin in the winter, I
3 still pay 17.50 a month?

4 A You can either do that, or you can have us come out and
5 shut off the water, and then we will charge you \$40.00 to
6 come and turn it back on in the spring.

7 Q You are easier to get along with than the electric
8 co-ops?

9 A Yes. I also belong to a rural water system up on Roy
10 Lake, and I pay them \$25.00 a month year-round.

11 Q Okay. Now let's talk a little bit about the Verdi System,
12 Verdi Well Field, itself.

13 I have Exhibits 1, 2, and 3, which appear to me,
14 based on what they sent me from St. Paul, to be your water
15 permits for the Verdi Well Field. Will you take a look at
16 those. I will tell you that they were redacted by the
17 State of Minnesota, not by me. They redacted the
18 locations out of the well fields, despite the fact that
19 you can find them on Google Search with two clicks.

20 A That's strange. Okay. Yes.

21 Q Those three exhibits appear to be your water permits from
22 the State of Minnesota?

23 A Yes, they do.

24 Q The most recent one is November of 1995, the most recent
25 amendments. Are there any, as to the Verdi Well Field,

1 that are more recent than that?

2 A No. No, that's the -- that's our only -- the only water
3 source we have been in conflict with the DNR about.

4 Q You say you have been in conflict with the DNR about it.
5 What conflicts have you had with the DNR?

6 A Oh --

7 MR. SCHRAMEL: We only have a couple hours,
8 Bill.

9 THE WITNESS: We have argued about calcareous
10 fens up at the rural water source, among other things, and
11 we have discussed the declining -- what DNR has considered
12 declining water levels at Holland.

13 Q (By Mr. Taylor) Okay. So those permits allow you to pump
14 about 1,800 gallons per minute --

15 A That's correct.

16 Q --total?

17 And it is roughly 683 million gallons a year,
18 right?

19 A That's correct.

20 Q From five 12-inch diameter wells?

21 A That's correct.

22 Q And those wells range from 53 to 62 feet in depth?

23 A 53 to 67.

24 Q 53 to 67. In my notes --

25 A I am reading off the permit.

1 Q I am looking at my notes, which maybe the 2 is a 7.

2 Okay. Now in your report there is a series of
3 statements relating to your appropriations, Figure II for
4 example. Is it a fair statement to say that the Verdi
5 Well Field over the last five years has probably run an
6 average of around 390 million gallons per year?

7 A Yes, that sounds very close. Yes.

8 Q Something slightly less than 400?

9 A Correct.

10 Q And the high -- there was a high from 2003 to 2006 that
11 looked like it might have bumped up to 425, 430 million
12 gallons per year?

13 A Yes.

14 Q And your estimate for 2010 is about 390 million gallons
15 per year?

16 A That sounds reasonable, yes. That's close.

17 Q So you are well beneath the permitted limits of your well
18 field --

19 A That's correct.

20 Q -- at Verdi?

21 And can you tell me what your appropriations from
22 the well field at Verdi are in that 390 average, as
23 opposed to being higher in the 683, closer to your
24 permitted average?

25 A Well, the Verdi Service Area, as it exists today, that's

1 the amount of water that's required to serve that area.

2 Q So it is demand driven?

3 A Yes, yes. And it is also -- well, there is -- even if the
4 demand was there, there is no way that we can produce 683
5 million gallons a year out of that well field. It is not
6 sustainable.

7 Q Okay. We will get to that in a minute.

8 I just have one question about your production
9 over the years. Why is there a dip between 2003 and 2006?
10 Can you attribute that to anything?

11 A Weather, and at the time -- at the time the winter runoff
12 was virtually zero. And the way that the Verdi Well Field
13 recharges, there has to be runoff. There is a stream that
14 goes through the middle of the well protection area; and
15 if there is no runoff, there is very little recharge in
16 the -- in that well field. And we purposely cut back in
17 '04, and '05 especially, because water levels were
18 dropping.

19 Q So it wasn't because demand dropped?

20 A No.

21 Q And how did you service the demand for the Verdi
22 District?

23 A Well, as an example that I mentioned earlier, this line
24 going south to Jasper --

25 MR. SCHRAMEL: Dennis, if I can interrupt.

1 For the record, he is referring to Figure I on
2 Exhibit 4.

3 MR. TAYLOR: Sure.

4 THE WITNESS: We basically started serving that
5 area, especially in the summer during peak demands, out of
6 our Holland Well Field, and we did that to a lesser extent
7 on the north boundary of the Verdi Service Area.

8 Q (By Mr. Taylor) So you were balancing your system to take
9 into account what you perceived to be available water
10 stock within the Verdi Well Field?

11 A That's correct. Both Verdi and Holland water sources
12 being quite shallow, or they fluctuate a lot based on
13 weather conditions. If we get a big rain, the water
14 levels go up. They are extremely shallow water sources.

15 Q So why don't you tell me about the physical
16 characteristics of your wells. The way I read your -- we
17 might as well put this into evidence.

18 I will show you Exhibit 5, which is a report of
19 your hydrologist that your lawyer sent to me a couple
20 weeks ago. You are familiar with that?

21 A Yes.

22 Q That report characterizes the wells as being screened from
23 the bottom of the aquifer upwards?

24 A Yes.

25 Q And the pumping, the pumps, being in the wells in the

1 screens, in the screened area. Did I read that
2 correctly?

3 A Yes, I believe that's the case. I mean, there is just not
4 a lot of room to work with.

5 Q So during that period of 2003 through 2006, the physical
6 problem is that if the static level in the aquifer is
7 reduced, you run into the problem of the potential for
8 your pumps going dry?

9 A I don't know if they will go dry per se. It is more a
10 matter of we want to keep the operating water level above
11 the level of the screens, simply to preserve the well and
12 so that the pumps will operate appropriately. If we pump
13 the water down below the level of the screen, we -- it
14 increases the risk of essentially running the well from an
15 operational standpoint.

16 Q In the sense that physically it allows material to come
17 into the screen, it allows sand and gravel to come into
18 the screen, which will plug the well eventually?

19 A Yes.

20 Q So operationally you want to keep -- you want to be sure
21 that the static water level in that well is above the
22 screens?

23 A Well, not only the static, but the operating water level.
24 In other words, when the pumps are operating, we want
25 to -- the more water we can keep above the level of the

1 screen, the better it is.

2 Q Okay. Now why don't you use the No. 5 well?

3 A It is a water quality issue. Water quality is so poor
4 that -- it is basically an emergency backup. If it is the
5 only thing we have that is wet, we will use it; but other
6 than that, it is basically not used.

7 Q What's wrong with the water quality?

8 A Oh, very high iron. High magnesia. On that particular
9 well it is mostly aesthetic issues.

10 Q So it is not a human health hazard; it is a hardness
11 hazard?

12 A Hardness, iron, magnesia. The things that customers call
13 and complain about immediately.

14 Q And you don't have a treatment plant in that area, so
15 there is no way to treat that water?

16 A That's correct.

17 Q So the well doesn't have capacity problems; it has quality
18 problems?

19 A Well, the capacity of that well is lower than the other
20 four wells, mainly because it is in a shallower part of
21 the gravel layer. So it is not like it is a super high
22 capacity well, either.

23 Q So if you elected to use that well, you could; and you are
24 permitted to use that well?

25 A That's correct, yes.

1 Q And under the Minnesota scheme of water permitting,
2 Minnesota is not a use-it-or-lose-it state, is it?

3 A That's correct.

4 Q You have the right to appropriate that well field six
5 hundred -- whatever it is, 683 million gallons per year;
6 and you don't lose that privilege by virtue of not doing
7 it?

8 A That's correct.

9 Q Okay. Now this well field is within a half mile of the
10 South Dakota border, is it not?

11 A Yes.

12 Q In fact, one of your wells is within a stone's throw of
13 the South Dakota border?

14 A That's correct.

15 Q Small stone?

16 A Yes.

17 Q Good arm and small stone, right?

18 A Correct.

19 Q And when you pump these wells, when you operate your pumps
20 on these wells, within the well itself operating the pump
21 lowers the water level in the well, right?

22 A That's correct.

23 Q And it also -- operation of these wells lowers the water
24 level in the aquifer to some extent, right?

25 A Well, yes. I am not sure I quite understand.

1 Q Well, are you familiar with the term that is sometimes
2 used in the water business as the cone or zone of
3 influence relative to a well?

4 A Oh, certainly, yes, yes.

5 Q Do you have an estimate of what the zone of influence of
6 these wells is? How far out does the cone reach?

7 A I don't know. Our hydrologist could probably answer
8 that.

9 Q Has your company ever done a study of the zone of
10 influence for these wells?

11 A I don't know. I have seen -- I guess I have seen the
12 original reports back from the 70s when they were doing
13 some test pumps and all of that, and there have been some
14 wellhead studies that have been done since then,
15 wellhead protection studies. In terms of quantifying
16 things like zone of influence, I am not sure what has been
17 done there.

18 Q So if I asked you what your opinion is as to the zone of
19 influence of these wells, your answer would be?

20 A I don't know.

21 Q You don't have an opinion?

22 A No, I don't.

23 Q You defer to your hydrologist?

24 A Correct.

25 Q Is there anybody on your staff -- do you have an

1 engineering staff?

2 A No.

3 Q So there is nobody on your staff with -- who is your
4 staff hydrologist who would have the opinion of the
5 company?

6 A In terms of zone of influence, no. I don't believe so.

7 I just am presuming that when those wells were
8 drilled and spaced the way they are, that obviously the
9 zone of influence or the cone of influence factored into
10 that. Because, obviously, more than one well operates it
11 at one time.

12 Q Okay.

13 A As far as quantifying it, no.

14 Q The best person I should talk to about that is your
15 hydrologist?

16 A Correct.

17 Q Do you keep production records from those wells?

18 A Yes.

19 Q And how do you do that? Do you have continuous
20 monitoring?

21 A We have -- we have -- let's see. We do monthly monitoring
22 of water levels. We do -- all of the wells have meters,
23 so we meter the amount of water each well pumps. We do
24 water quality testing out there. We do some testing of
25 the water that leaves the plant, obviously, on a daily

1 basis; but in terms of sampling water quality for nitrates
2 and those types of things, we generally do that on a
3 quarterly basis.

4 So we do -- and, again, in recent years we have
5 started doing a lot of additional monitoring at all of our
6 well fields, primarily because we have a staff person who
7 understands that stuff and is a computer --

8 Q Person?

9 A -- whiz. Keeping data on records and all those kind of
10 things is something that he does and is very good at.

11 Q Do you have continuous level monitoring, or does somebody
12 have to go out and drop the weight?

13 A Right now we have to go out and measure it. We are in the
14 process, actually, at all of our well fields, of acquiring
15 what are called data loggers which will allow us to keep
16 constant -- the new constant monitoring that will take a
17 measurement every so many minutes.

18 Q Does the company have a record from inception in 1979 of
19 the static levels?

20 A We haven't been able to find them. I am assuming there
21 are records somewhere. We have not located all of them.

22 We have -- we have excellent records from 2000
23 forward. From about 2006 forward we have probably got
24 more detail than we need, but some people would say you
25 never have enough data.

1 Q Do you have a report from 2000 forward that shows
2 day-in-day-out levels in a well, a trend line report or --
3 for example, in your Figure II in your report from plotted
4 certain levels do you have a trend line or an average
5 line? Trend line is the wrong word. Do you have an
6 average line?

7 A These particular graphs I put together from our -- it is
8 basically the numbers come from an annual operating
9 record that we do. And, basically, I started doing that
10 report in 2000. We have that kind of data from 2000
11 forward.

12 I do have -- let's see here. Okay. I have
13 got -- I have got some records here that the GPS/GIS/Water
14 Quality person has put together. And he has been able to,
15 pretty well, to get readings back to it looks like about
16 January of '94. Prior to '94, we really don't have much.
17 But we do have graphs of each of the wells, or each
18 pumping well has an associated Ob Well located within a
19 few feet of the well.

20 Q Ob Well meaning?

21 A An observation well. And that's where the data is
22 collected is that observation well and that type of thing.

23 So we do have those kind of -- we have that kind
24 of data. But it doesn't go back to '79 or, you know, when
25 the wells first went into production. And I have got

1 real -- I really have not got very much information about
2 the studies that were done when the well field was first
3 tested and all of that. It is pretty limited.

4 Q So it sounds like from '94 forward you can tell me what
5 the water levels in the wells are on an average basis, and
6 can you correlate that to production from the well on an
7 average basis so that you can see the line of water level
8 versus pumping?

9 A Well, when it comes to -- I have got the measurements back
10 to '94. Production of water I can -- I have got monthly
11 data back to 2000. Prior to that --

12 Q It is spotty?

13 A If -- most of it just hasn't been found. And perhaps it
14 never existed. I don't know.

15 Q Now just as a matter of curiosity, your water permits
16 require that you report production from the wells and that
17 it has required that since 1979. Yes, agreed?

18 A How long it has been required, I don't know. I assume
19 that there has been some sort of report, but I don't
20 know -- really don't know prior to 2000.

21 Q DNR correspondence with you about your wells and some of
22 the amendments is critical of the fact that you hadn't
23 reported annual production up into the '80s. There are a
24 couple letters in the file --

25 A Okay.

1 Q -- that criticizes you for that.

2 But then those criticisms seem to end in the --
3 by the time we get to the '95 amendment, although they are
4 mentioned.

5 So you think maybe that didn't happen prior to
6 the 90s, that you didn't report your production?

7 A I frankly don't know. I haven't seen the letters.

8 Q Somebody here is responsible for that today, though?

9 A Yes.

10 Q Reporting production?

11 A Yes, yes.

12 Q And I gather what you are telling me is you have firm
13 records on production out of that well field from 2000
14 forward, and you have firm records on water levels '95,
15 roughly, forward?

16 A Correct.

17 Q So the two can be correlated without a great deal of
18 difficulty, at least from 2000 forward?

19 A Yes.

20 Q All right. Have you done that?

21 A Personally, no. I don't know -- I don't think Jason has
22 done that, to the best of my knowledge. I guess I
23 presume that it could be done. The data that I waited
24 for, I am confident the data is there from 2000 forward to
25 do that.

1 Q Do you have any intention of doing that in anticipation of
2 this hearing that's currently scheduled for a couple weeks
3 from now?

4 A No. I don't have time, if I wanted to.

5 Q One other question about that well field.

6 Do you know the scope of the -- geographical
7 scope of the aquifer from which that water is drawn?

8 A In terms of the area that affects the well field, that has
9 been defined as part of our wellhead protection process.
10 And the State Health Department and our hydrologists have
11 basically defined the area that those wells draw the water
12 from.

13 Q Within the State of Minnesota?

14 A That's correct.

15 Q So is it your testimony that the wellhead protection area
16 represents the boundaries of the aquifer?

17 A Well, our hydrologist, I think, would be better able to
18 answer that. But my understanding of this is that we're
19 essentially on the eastern edge of a much -- obviously
20 much larger aquifer located in South Dakota. The -- and
21 not only eastern edge, but kind of a peninsula that is
22 coming up into Lincoln County and that that is the extent
23 of the aquifer. We basically go to the top of Buffalo
24 Ridge, and whatever comes down that little peninsula is
25 basically the water that we have available. At least

1 that's my understanding of the situation.

2 Q Do you know the ground water direction flow within that
3 aquifer?

4 A Basically from northeast to southwest.

5 Q Mr. Goodman, our geologist and hydrologist from the South
6 Dakota Department of Environment and Natural Resources
7 Water Division, refers to this aquifer as the Big
8 Sioux-Aurora Aquifer?

9 A Yes.

10 Q Is that the same name that is used for it in Minnesota?

11 A I guess I haven't seen a name attached to it, or at least
12 haven't --

13 Q Have you read Mr. Goodman's report?

14 A The two pages?

15 Q Yes.

16 A Two or three pages?

17 Q The two pages that were included.

18 A Yes.

19 Q And tell me, do you have any quarrel with that?

20 A There again, I am not a hydrologist, so I don't know that
21 I am qualified to say.

22 Q I understand that; but you are also the Chief Executive
23 Officer of the company, and you are the voice of the
24 company.

25 A Well, okay. From that standpoint, I guess I don't have a

1 quarrel with it. But my hydrologist is saying that yes,
2 if we are out in the middle of that aquifer someplace,
3 that is, in fact, the case where it is like being in the
4 middle of a big lake. My hydrologist is saying but we are
5 not in the middle of a big lake, we are up here next to
6 the shore. And, basically, the water that we have
7 available is what's coming down essentially this stream
8 from a relatively small, small area. So anything that
9 reduces that flow is going to be detrimental to our
10 situation.

11 Q So maybe --

12 A Here again, I am basically repeating kind of what the
13 experts are saying on this issue.

14 Q Well, in our business there is a thing called a Rule 36
15 witness. A Rule 36 witness is the voice of the company.
16 And, unfortunately, in administrative law in South Dakota
17 there is no -- I don't clearly have the ability to say to
18 your company, 'Who is the Rule 36 witness going to be?'
19 So because the way this case has developed, I have to
20 assume that's you.

21 A Okay.

22 Q The buck stops somewhere, and it says CEO on your shirt,
23 so I am assuming the buck stops with you, right?

24 A Correct.

25 Q Because if there is somebody else within the employment of

1 the company who is the voice of the company on this issue,
2 tell me now.

3 A There wouldn't be anybody else.

4 Q Okay. Because sometimes there is a chief engineer or --

5 A Well, I am -- I am no different than any CEO. If you are
6 smart, you don't claim to know everything. That's why you
7 have lawyers, engineers, hydrologists. You need to listen
8 to them and evaluate what they say.

9 Q I understand that, and I am not trying to trap you, and I
10 am not trying to play lawyer games with you.

11 All I want to know is, if there is somebody else
12 who is going to say something different than what you say,
13 speaking for the company, I just want you to tell me who
14 that is because I don't want to screw around with you
15 anymore; I will go talk to that person.

16 A No.

17 Q All right. Because it is Lincoln-Pipestone Rural Water
18 who made the objection.

19 A That's correct.

20 Q It is not your hydrologist who made the objection.

21 A I am just saying that if you want information that's of a
22 real technical nature, I am not necessarily -- I am not
23 trained as a hydrologist, so I may not be able to give you
24 the technical answer.

25 Q Sure. I understand.

1 A My interpretation and my feeling is that anything that --
2 basically, our wells and the proposed wells are setting at
3 the base of the river where it dumps into the lake, and
4 anything that -- anything that consumes that water is a
5 threat to our water system. Obviously, there is a lot of
6 irrigators in other locations out there that have no
7 impact on us, or at least none that I have been able to
8 identify. And I think we have -- perhaps have a different
9 situation here.

10 Q Okay. So why don't you just tell me what is the basis for
11 your objection? What is your objection to this
12 application?

13 A Well, at some point in the future we are going to have
14 some sort of drought conditions. And drought conditions
15 increase the demand on my water system, and they are going
16 to increase the demands to irrigate.

17 Our experience with the Verdi water source is
18 that if we have more than a one-year period of little or
19 no recharge, water levels start to drop, and we don't
20 have a lot -- we don't have a lot of drop to work with.
21 And if the situation -- if the situation reaches a point
22 where water levels are falling below my screens, pretty
23 soon I won't have a well field, and I have got a lot of
24 people that have no other water source. I mean, it is
25 one thing if the corn field doesn't get wet. It is

1 another thing if I can't supply water to the communities
2 of Lake Benton, Tyler, et cetera, and all the farms and
3 the livestock that are dependent on our water system.
4 And it is not like we can, well, let the corn dry up.
5 People need water. And it is my responsibility to make
6 sure that they have water every year, every day, without
7 fail.

8 Q So how would you resolve this dispute?

9 A Well, I believe we suggested some possible solutions.

10 Q Tell them to me.

11 A Well, if we can reach an agreement that under some defined
12 conditions, and I don't pretend to know what that
13 definition would be, but if we could reach agreement that
14 in those drought conditions that we will all cut back on
15 our water use to the extent that we can; and if it gets
16 serious enough, that the irrigation would stop.

17 You know, I guess if we could come to an
18 agreement that gives us the greatest assurance that we are
19 going to have enough of a water supply to serve the
20 customers that can only be served from the Verdi source, I
21 would go away. It is not something that I think we need
22 to fight over.

23 From a common sense standpoint, it is pretty
24 obvious that people need a dependable supply of water.
25 If we can come to -- reach a situation where we can

1 assure that that's going to happen every day, that's
2 really all we are looking for. We are -- we consider
3 ourselves a huge supporter of agriculture. We have
4 big parts of our service area that would not be a
5 livestock industry if it wasn't for Lincoln-Pipestone.
6 So, you know -- but the bottom line, the bottom line, is
7 drinking water is not optional for people, or livestock,
8 or whatever. So, obviously, I am going to do whatever I
9 need to do to make sure that three years from now, or
10 whenever the next drought hits, that I have got a water
11 source that we can rely on. It is not that it would be
12 nice to have a water source; we have to have a water
13 source. People have to have water. And that's our
14 responsibility.

15 Q So your concern is that in competition for the water
16 within the Big Sioux-Aurora Aquifer, that there may come a
17 time when the zone of influence of this proposed
18 irrigation well will conflict with the zone of influence
19 of your five wells, right?

20 A Well, that may be one way of putting it. But our
21 experience with the portion of the aquifer we are located
22 in is that those water levels will fluctuate; that they
23 will fluctuate with the weather.

24 Q Depending on both demand and recharge, right?

25 A That's correct. That's correct. And as I have indicated,

1 we have some capacity to adjust our demand to deal with
2 that recharge. It is fairly limited, but we can do that.
3 And the bottom line is all my customers get water every
4 day.

5 Q Do you believe that you are first in time and first in
6 right by virtue of the fact that your wells have been in
7 the ground since 1979?

8 MR. SCHRAMMEL: Dennis, you don't have to answer
9 that. This is getting to a legal question now.

10 MR. TAYLOR: Well, you do have to answer because
11 this is a deposition. Your objection --

12 MR. SCHRAMMEL: Actually, you don't have to answer
13 it. This isn't a Court proceeding where you can go to a
14 Judge and order him to answer. You are asking him to draw
15 a -- find a legal conclusion.

16 MR. TAYLOR: Mr. Schrammel, I am not going to
17 argue with you; but you did stipulate that this is
18 governed by the Rules of Civil Procedure in the State of
19 South Dakota, and the Rules of Civil Procedure of the
20 State of South Dakota say that you are free to make any
21 objection you want. It also says all objections are
22 reserved except as to the form of the question. And it
23 also says that he has to answer the question that I put to
24 him, despite your objection.

25 You can instruct him not to answer on three

1 grounds; one of which is that the objection must be well
2 taken. So if you want to instruct him not to answer, go
3 ahead; but there is a consequence that goes with that,
4 which I may choose to enforce. He is the CEO of the
5 company, and he is speaking to the company's objection.
6 And I certainly have the right to ask him if he believes
7 that his water from the company he represents are first in
8 time and first in right. So your choice.

9 MR. SCHRAMMEL: Answer the best you can.

10 THE WITNESS: Well, I am not -- I understand, I
11 think, the terms you used. I -- obviously, we were here
12 first, where in Minnesota -- in Minnesota that
13 essentially gives us no rights because the State owns the
14 water. They can increase, decrease, or do whatever they
15 want, with my water permits any time it so pleases them.
16 So I am familiar with the system as it works in
17 Minnesota. What that means in South Dakota is totally
18 beyond me.

19 Q (By Mr. Taylor) Which, of course, raises one of the
20 issues in this water rights application, doesn't it?
21 And that's the application of South Dakota law versus
22 the application of Minnesota law to a single body of
23 water.

24 A It raises the question, but that's many levels above us.

25 I guess the timing issue to me has relevance

1 regardless because, obviously, we could not have located
2 our well field at that location if irrigation levels had
3 been such that we knew we didn't have a sustainable water
4 supply. At the time we located it was determined we had a
5 sustainable water supply, and in any public water system
6 that is -- that is the critical issue.

7 As I mentioned before, a public water supply has
8 to supply all of its customers every day.

9 Q Within the description of your water system you speak in
10 terms of large users, which you characterize as one
11 million gallons per year or greater, and I think you say
12 in your history you have 32 some such customers. Are
13 there any within the Verdi Service Area, one million per
14 year or greater users?

15 A That was the 32 I was referring to.

16 Q They are within the Verdi?

17 A Yes.

18 Q Those are all cattle producers, right?

19 A Some cattle, probably more hog producers.

20 Q Livestock producers?

21 A They are all livestock producers, yes.

22 Q Do you have the ability within your recordkeeping system
23 to say I know who the household users are and what their
24 volumes are; and I know who the industrial users and
25 factory-style users are and what their volumes are; and I

1 know who the cattle producers are and what their volumes
2 are? Can you carve those out?

3 A Well, I can carve it out. I can retrieve some data with
4 just about any breakdown. But, basically, I have -- we
5 have monthly records of three types of users: Municipal
6 users, by individual; the large users, the million gallons
7 a year. And what's magic about that number is that I have
8 to report that to the DNR. Typical Minnesota.

9 Q Yeah.

10 A But I have them by name by user. Everyone else is
11 considered a small user in our system. And, granted, we
12 could pull up data on any individual or any group of
13 individuals, but we don't. We don't keep track at that
14 level.

15 Q Everybody has a meter, though?

16 A Oh, yes, all the locations are metered. And I can, you
17 know, right now -- or I believe we maintain seven years of
18 use records on all of our customers.

19 Q So if I set a set of parameters and said that --

20 MR. SCHRAMEL: Can we take a break? I need to
21 use the restroom.

22 MR. TAYLOR: Yes. I am sorry.

23 (WHEREUPON, the foregoing proceedings were duly
24 ended at 10:51 a.m., after which the following proceedings
25 were duly commenced at 11:02 a.m.)

1 Q (By Mr. Taylor) We were talking about the scope of your
2 metering and your understanding of the users within the
3 Verdi District. Do you have any industrial users as such,
4 and by industrial I mean factories, businesses, that are
5 of any substantial quantity?

6 A There are -- the closest thing I can think of, there is a
7 couple of hospitals. I think three nursing homes. And
8 some schools. That would be the closest thing.

9 Q Do you have an idea what their volume is?

10 A No. They are all located in the towns; so in order to
11 find out what their specific use is, I would have to go to
12 that community.

13 Q Okay. So within your direct supply, I will use the term
14 'direct supply', within your direct supply you have rural
15 residences, cattle operations?

16 MR. SCHRAMEL: Dennis, you have to answer
17 outloud.

18 THE WITNESS: Yes, yes.

19 Q (By Mr. Taylor) Do you have any rural factories? You
20 know, Iowa is full of the Mayfield maker of this and that
21 sitting out in the country someplace.

22 A No. None that has anything more than a bathroom.

23 Q Okay. So we would best characterize your direct customers
24 as domestic users?

25 A Yes.

1 Q And cattle operations?

2 A If you define farms as domestic users, yes. And a few
3 large livestock producers.

4 Q Okay. So your farm is going to have water to the house;
5 if they have some livestock, livestock watering, and so
6 forth?

7 A Yes.

8 Q And you can tell me by meter what each of those volumes
9 is, if you really wanted to do it?

10 A If we had to, yes.

11 Q All right. Now when I asked you what your objection to
12 this permit application was, I gather that the principal
13 objection is the competition for water, and you want to be
14 certain that you have an adequate supply to supply your
15 customers?

16 A We have to be assured that we can meet the needs of our
17 customers on a daily basis, regardless of what the weather
18 conditions might have been, et cetera, yes.

19 Q And you want to be able to expand your system?

20 A Do you mean from the Verdi water supply?

21 Q Sure.

22 A There is really -- there really isn't a lot of expansion
23 capability from the Verdi Water System. We feel that we
24 are using the aquifer at an appropriate level right now.
25 Probably could get a little more out of it. But for the

1 most part, because of the way our system of pump, storage,
2 and piping is concerned, any substantial expansion of the
3 Verdi Service Area would be pretty expensive and difficult
4 because the system has been built, and expansion for the
5 most part occurs around the edges. Well, the Verdi --
6 when the Verdi System was built, it was built with smaller
7 and smaller straws as you get closer to the edges. So it
8 would be probably more difficult to expand Verdi than some
9 of the newer parts of the system that perhaps had a little
10 more forethought.

11 Q What about within the existing infrastructure? Say, for
12 example, I want to build a hog confinement facility ten
13 miles from the Verdi Well Field on the main line, and I
14 want to do ten barns, and I am going to need two million
15 gallons a year to do that. Basically, the system has the
16 capacity to do that, right?

17 A To a certain extent, yes. Yes.

18 Q And you wouldn't turn that customer down, would you?

19 A Well, the first thing we would do is take that request.
20 Our engineers have a software program that evaluates the
21 availability of water and the impact of a new user on the
22 other people in that part of the system and in terms of
23 pressure and volume, that kind of thing. And so the first
24 thing we do is go to them and say okay, we are going to
25 add X-Y-Z user at two million gallons a year, can we do it

1 on this line? And if the answer is yes, then we will be
2 more than happy to hook them up. If the answer is no, we
3 will either -- if there is a reasonable-priced improvement
4 we can do somewhere, we may ask that large user to
5 participate in the cost, and we will improve the system.
6 If not, we will just have to suggest that they go
7 elsewhere.

8 Q Let's suppose that my client's application for an
9 irrigation permit is granted, and let's suppose that the
10 year after that, that this two million gallon a year user
11 for a hog farm comes on your system. As between my client
12 and your new two million gallon a year customer, in a low
13 water situation who would you shut off first?

14 A Well, I guess if the choice was between corn getting dry
15 or a barn full of hogs dying for lack of water, I guess I
16 would turn off the irrigator first.

17 Q What can you do to your well field to increase the
18 production? Have you ever studied that?

19 A Well, there is -- there haven't been any specific studies
20 during my tenure. As I believe the situation to be, there
21 really is no reason to expand the well field because we
22 feel that -- we feel we are using the water at a pretty
23 sustainable level right now. So we are not -- for that
24 little piece of aquifer that we are using, we feel that we
25 can operate at this level through most at least short-term

1 drought situations and survive and, again, serve our
2 customers. I totally do not believe that we would ever be
3 able to use all the water permitted and maintain the
4 system.

5 Q So you think that the 680 million gallons per year, your
6 authorized capacity to draw from that aquifer, would
7 deplete the aquifer?

8 A Yes.

9 Q Do you have a study that supports that finding?

10 A No. I am just --

11 Q That's just your feeling?

12 A Well, that's -- I have been here ten years. My
13 predecessor had been here since the day the system was
14 started. And that was his feeling, and I agree with him.
15 A year like this year, yes, we could probably get six --
16 take 600 million gallons out of there, and it wouldn't be
17 a problem. If we have a dry winter and don't get any
18 recharge next year, we are going to look at a whole
19 different thing.

20 So our philosophy, or my philosophy at least, is
21 okay, if this water source will give us three and a half
22 to 400 million gallons a year on a reliable, sustainable
23 basis through virtually any weather conditions, that's the
24 way I want to size our service area and operate the
25 system.

1 It means that -- in some years there are -- there
2 is what some people would call excess water. A wet year
3 like this, for instance, you know there has been a lot of
4 runoff. There was a good snowfall last winter. There has
5 been more rain than we have needed for a good part of
6 summer. So it is a non-issue this year. But weather
7 conditions aren't always like this.

8 Q So your view is the sustainable level of the aquifer
9 relative to your wells is somewhere in the 390 to 400
10 million gallons per year?

11 A Just rough, rough estimates, yes.

12 Q Okay.

13 A We kind of have to design a water system for the worst
14 case scenario. Because, as you said earlier, it is not
15 whether or not people have water to drink; it is people
16 have to have water to drink, obviously, to function. And
17 it is our job to make sure they have it every day, all
18 day, as much as we can.

19 So we kind of have to worry about the, you
20 know -- think on the negative and, okay, what's the
21 worst case scenario we are going to run into? If the
22 worst case scenario says we are only going to have 350
23 million gallons of water available some year, okay, do I
24 have a system set up out there that still is going to be
25 able to take care of everybody's needs with 350 million

1 from this source and whatever I can bring it from
2 elsewhere?

3 Q Some of that will be alleviated when and if the Lewis &
4 Clark System is finished, right?

5 A Really, it has relatively little influence up here. I
6 mean, it is not like Lewis & Clark water is going to be
7 piped up here. It may be some influence. It will
8 influence the Holland water source, which potentially
9 could influence Verdi by assuming some of the Verdi area.
10 The problem is the Holland water source is already a high
11 nitrate source. It is certainly our least dependable
12 water source and certainly most expensive water source in
13 terms of production costs with reverse osmosis. It is
14 highly regulated, some of it.

15 Q Do you use reverse osmosis to clear the nitrates from the
16 water in the Holland?

17 A Yes.

18 Q Okay. So a fair statement is that when you look at the
19 balancing of your overall system, cost is a factor in
20 determining what water you want to use?

21 A Certainly.

22 Q And production from the various aquifers is a factor?

23 A Yes.

24 Q And the physical constraints of your system, particularly
25 on the fringes, are a factor?

1 A Yes.

2 Q And from your perspective, all those have to be balanced
3 properly to properly operate your business?

4 A Yes. You certainly have to consider all of those things.

5 Q As a public utility?

6 A Yes.

7 Q And that, in part, is because you have a single water rate
8 throughout your system, right?

9 A Yes.

10 Q So the people in Verdi, although in the Verdi District --
11 although the cost of production of that water is less than
12 the cost of production in the southern water, they
13 subsidize the southern water to some degree?

14 A To that extent, yes.

15 Q And I don't think you want to answer this question very
16 badly, but it sounds to me like you are speaking for the
17 company. Your opinion is that somewhere around 400
18 million gallons a year on a year-in-year-out basis spread
19 over the continuum of time is about what you think you can
20 produce out of that Verdi Well Field in this current
21 configuration without depleting the reservoir, the
22 aquifer, in such a manner that the wells no longer
23 produce, right?

24 A Yes. In the worst case -- or the -- well, as the worst
25 case scenario goes, yes.

1 Q Another alternative for you would be to improve your
2 wells?

3 A How so? I guess I don't know what kind of improvements.

4 Q Well, you go outside of the zone of influence, your
5 existing well, and drill another well, and you have the
6 ability to produce from that well.

7 A But I don't know that that would have any significant
8 impact on the water that's available. About the only way
9 I could do that would be to move into South Dakota some
10 distance. In other words, get out more in the middle of
11 the lake.

12 Q Get off of the border and across the border?

13 A Well, rather than being on this edge up here with only a
14 small area of influence as the water flows to the
15 southwest, get out in the middle of the lake. I would
16 have deeper sands. Our rate of withdrawal on water is
17 pretty -- is really pretty small compared to an irrigator,
18 for instance.

19 Q Although the irrigator, while his rate of withdrawal is
20 high, his annual impact is relatively low compared to
21 yours, is it not?

22 A Generally, yes. They remove less water in a year's time.
23 They take it over a much shorter period of time.

24 Q Yeah. And depending on whether it is corn or soybeans in
25 the rotation, the water comes at a different time in the

1 summer?

2 A Sure.

3 Q Right?

4 A Yes.

5 Q And depending on how much it rains, the water may be taken
6 not at all?

7 A Correct.

8 Q So you can't -- well, okay.

9 What outcome do you want of this particular area?

10 How do you want this to end?

11 A As long as it protects Lincoln-Pipestone's ability to
12 serve its customers in any scenario, any reasonable
13 scenario, that would be fine. It is not that --

14 Q There is a lot of sub-parts in that.

15 A Well, I agree. It is not that I am anti-irrigation or --
16 we are certainly not anti-agriculture. And it is just
17 that we have got a responsibility to the people of this
18 area that we are going to serve them water. And as long
19 as I can do that, without breaking the bank, we are more
20 than willing to sit down with your client and see if we
21 can work out a deal. But --

22 Q Well, I am --

23 A -- your responsibility is your client. My responsibility
24 are our customers.

25 It is not like well, Lincoln-Pipestone will run

1 out of water, so the City of Tyler goes and turns on their
2 own wells. There are no wells.

3 Q Listen to my question.

4 A Okay.

5 Q And I will see if I can characterize it a little more
6 specifically.

7 There is a permit application pending in the
8 State of South Dakota for an irrigation well on my
9 client's property, and you have made an objection to
10 that. And I don't think your objection is no, we don't
11 want the well there, period; I think your objection is
12 we will agree to the well, subject to certain conditions.

13 A Yeah.

14 Q What are those conditions?

15 A Well, I don't have the details. I think --

16 Q Who does?

17 A Well, it is one of those things where probably a couple of
18 hydrologists should sit down and say okay, here is how
19 things operate; let's look at weather history; and, okay,
20 if we have this kind of a weather situation -- I realize
21 I am talking about Minnesota again, but one of their --
22 one of the things they have done to us and other water
23 users on numerous occasions, they establish observation
24 wells or wells, and they monitor that; and if it reaches a
25 certain point, you have got to do this. And, you know, it

1 is kind of -- I think the technical ability is there to do
2 it and -- but I am not the technician.

3 Q Something like 15 days from now we are going to have a
4 hearing.

5 A Yeah.

6 Q And somebody from your side of the table is going to have
7 to testify and say this is what we want. And I am 15 days
8 away from that hearing, and I am equally curious to know
9 what it is that you want.

10 A Well, the way it has been presented to me so far is it is
11 an either/or. Either the permit is granted, or the permit
12 is denied. And if those are my only two choices, I have
13 to go with denying the permit because I don't have any
14 other options. So somebody give me an option.

15 Q So what you are telling me is that as we sit here today,
16 you don't have any conditions in mind, other than the most
17 general condition, and that is 'I want to be able to serve
18 my customers'?

19 A Well, I think, yeah, that's a pretty important condition.
20 The time that this will become an issue, and it will
21 happen; based on recent history maybe it happens one year
22 out of 20 or two years out of 20, at some point the
23 decision needs to be made either by some scientific
24 measurement, or whatever, that the irrigator gets shut off
25 because there isn't enough water to do both. And when --

1 the only time that decision comes is when we are both
2 suffering the most. It will be during our peak-use period
3 in the summer. And since it is going to be a drought
4 situation, in all likelihood it is going to be when your
5 client wants the water the worst.

6 And although I don't see those as certainly not
7 everyday situations, or even something that happens very
8 often, it is going to happen somewhere at sometime in the
9 future. And in my mind, if it doesn't get resolved now,
10 it certainly isn't going to get any prettier when it has
11 to happen because if it happens while I am still working,
12 we have no choice but to take whatever resources we have
13 and protect our customers. I mean, if we don't have some
14 sort of mechanism to do that upfront, well, obviously, the
15 only way it gets done is in the Courts, and that generally
16 doesn't work very well.

17 Q So if I told you there was a mechanism for that now for
18 deciding the priority of use from this water permit, as
19 between competing water permits, would that make you
20 happy?

21 A I don't know. It would certainly lessen it.

22 Q You better ask your guy what that mechanism is.

23 I have a couple other questions for you, and then
24 we are done.

25 Other than the study that you commissioned and

1 that has been delivered to us and is marked Exhibit 5 --

2 A This one?

3 Q Yes.

4 -- have you done any other -- have you commissioned
5 any other professional studies in anticipation of this
6 hearing?

7 A No.

8 Q Did your hydrologist present you with any preliminary
9 reports prior to this one being developed?

10 A That was basically a draft copy of this one. I mean, this
11 one was more elaborate. We asked him to add more
12 information, basically. But his draft was essentially the
13 same. Same thing, with less information in it.

14 Q What took him so long, do you know?

15 A No, I don't.

16 Q I just want to be sure I understand your prior answers
17 correctly.

18 You don't disagree with Mr. Goodman's report as
19 to the scope and recharge and -- as to the boundaries and
20 recharge capacity of the Big Sioux-Aurora Aquifer?

21 A No. I think in terms of the macro characteristics of the
22 aquifer, I think it is certainly correct. I do believe
23 that the location of the Verdi Well Field is somewhat
24 unique and that the general conditions of the report may
25 not totally apply to that particular situation. I guess

1 that's --

2 Q Do you think if this proposed irrigation well were moved
3 further away, you would -- that would then -- you wouldn't
4 have an objection?

5 A Well, I think if it could be relocated, I think that could
6 be very helpful. I just don't know if you have been out
7 physically on our particular site; but if you stand in the
8 northwest corner of our property, right on the State line,
9 and look off to the northwest, there is an irrigator there
10 that has been operating for years. And there are several
11 other irrigators that are a little further away that have
12 had essentially no impact on our operation, at least that
13 we can determine.

14 And I think that kind of goes back to what we
15 think of as unique about our little section; that our
16 primary source of water is coming down this one small --
17 relatively small part of the overall watershed and that
18 most of the water that's available to us has to be
19 supplied from that area. At least that's our
20 interpretation and feeling on the situation.

21 Q So once we figure out what this cone of influence is for
22 your wells, if the cone of influence for an irrigation
23 well is outside of the cone of influence for your wells,
24 you are satisfied?

25 A No, I don't -- I think you are mischaracterizing the

1 cone of influence. The cone of influence -- any well,
2 when it pumps, basically develops a cone. In terms of
3 spacing wells -- for instance, in our well field, our main
4 part of our well field, we have four wells. They are
5 spaced far enough apart so that if two of those wells are
6 operating at the same time, their cone of influence won't
7 overlap to the point where it draws down the water below
8 the screens, essentially. That's one issue. That doesn't
9 necessarily affect the overall level of water available in
10 that aquifer or portion of the aquifer.

11 Basically, when a well operates, for instance,
12 and I will just pull some numbers kind of out of the air,
13 but let's say we have static level of 25 feet below
14 grade. And when we turn on the pump, we have a drawdown,
15 which perhaps takes it down to 35 feet below grade. As
16 long as that 35 feet is above the screen, and hopefully
17 at least Verdi would hope to keep it at least two feet
18 above the screen, things work, the wells work the way
19 they are suppose to, they produce the way they are suppose
20 to.

21 But let's say something occurs, and the static
22 water level is all of a sudden down to 30 feet below
23 grade. Now rather than having 10 feet of drawdown to use,
24 we have only got 5 feet. So, at a minimum, our well isn't
25 as productive as it use to be.

1 Q Okay. You have to slow down production from your well to
2 stay above the screen?

3 A Right.

4 Q All right. So you have two concerns. One is that the
5 cone of influence of proposed irrigation well may fall
6 within the cone of influence of your wells?

7 A Frankly, I think that particular issue is relatively
8 unlikely, but...

9 Q So then your real concern is that the overall level of the
10 aquifer will be drawn down by the irrigation well?

11 A In those dry conditions. When we both need the water the
12 worst.

13 Q And you don't mean that on a seasonal basis; you mean that
14 on a drought basis, a continuum of lack of recharge in the
15 aquifer?

16 A Yeah. Yes.

17 Q As you said, this year it wouldn't be an issue?

18 A No. I think that a year like this year, we could probably
19 both pump all the water we could possibly pump, and we
20 would be good to go.

21 Q You could take your six million gallons, and the irrigator
22 could create his own river, if he wanted to?

23 A Irrigate a golf course.

24 Q In an average year, and you and I both know what an
25 average year is?

1 A Pretty close, yes.

2 Q Do you think that the irrigator will negatively
3 influence your ability to take water at your current
4 appropriation?

5 A Probably not.

6 Q So how many years out of 30 is it going to be a problem,
7 or out of 10? Depends on whether you believe Al Gore or
8 not, right?

9 A Yeah. Who knows. Some people say it is going to get
10 wetter in this part of the country, and some people we are
11 going to dry up and blow away.

12 Q So all we can do is look at history?

13 A That's right. And I wish I had the records. All I have
14 is the comments of some of the older staff that have been
15 around.

16 But, for instance, 1988 was the last
17 exceptionally dry year in this area. And I don't have any
18 data, and I wasn't here myself, but the old-timers say
19 that, you know, Verdi was really stressed then because we
20 didn't get the runoff, we didn't get the rain. And being
21 a shallow well field, well, it started showing the
22 effects. They made it through. They cut back where they
23 could; and, you know, they asked people to conserve and
24 that kind of thing. But those are the kind of years --
25 maybe it only happens once every 20 years. We would

1 prefer it didn't ever happen, but the bottom line is I
2 can't take a year off supplying my customers. They are
3 dependent on us for water supply.

4 Q Do you have a program of conservation --

5 A Yes.

6 Q -- in your district?

7 A Yes.

8 Q It is the policy of the State of Minnesota, I think, on
9 that?

10 A Yes.

11 Q In fact, you have to demonstrate on an annual basis the
12 effectiveness of your conservation program, don't you?

13 A Yes.

14 Q Just like our friends in the electricity business have to
15 do?

16 A Yes.

17 Q All right. So do you have any plans to come up with some
18 proposed conditions on this well permit application
19 between now and the day we have a hearing on October 6, or
20 whenever it is?

21 A No. Simply because of lack of time. And it is the kind
22 of thing that we would need to tell our hydrologists, you
23 know, okay, give us a specific water level in a specific
24 observation well, or something that we can all monitor and
25 measure and look at. And that would involve us spending

1 considerable time and dollars.

2 And, quite frankly, I think it is -- I think in
3 order for that kind of agreement to be effective, it works
4 much better if we work together on it so that we
5 understand what the science is, agree on the scientific
6 approach; and, you know, because I can come up with a
7 number. I can probably give you a number, hypothetical
8 number, right now; and if you didn't like the number,
9 we would be right back where we started from. So, I
10 guess, that's -- I would prefer if we could do that, a
11 more cooperative approach, because I think there is an
12 answer.

13 Q You have to have a number in mind. Am I missing some
14 tables here, sir?

15 A No, no. There is no number in mind. We know -- we know
16 what our -- you know, I can give you the elevation at the
17 screen depth and at two feet above the screen on every one
18 of our pumping wells.

19 Q Sure.

20 A But I don't know that that -- I don't know the answer we
21 are looking for is quite that simple.

22 Q Well, help me out here, and quantify it for me from the
23 plainest English language you can quantify.

24 What is it we are looking for? Are we looking
25 for a water table level, MSL, elevation above mean sea

1 level, that you think will afford --

2 A I think it is something that -- we need some technical
3 assistance. Sure, the simple thing -- I can go out -- I
4 have got the elevations. I can tell you okay, if our
5 water level ever drops below this elevation, we have to
6 turn off the irrigator. Otherwise, I am going to be
7 worried. I don't know that it is -- and that would
8 satisfy me. I mean, if the level never dropped below 'X'
9 feet above mean sea level, we could do that. But I don't
10 think -- I don't know that answer to be satisfactory from
11 your standpoint, and I don't know that it is necessarily
12 the right approach.

13 I would rather have some hydrologists, who are
14 experts at this, take a look at a little bigger picture
15 here to make sure that we have got something that's
16 reasonable on both sides that, A., is going to provide us
17 with some protection and not require your client to shut
18 down his irrigator when it doesn't need to be shut down.
19 And I am not in a position to give you that kind of a hard
20 answer right now. I think it needs some study.

21 Q Do you think your guy, hydrologist, is qualified to do
22 that?

23 A Well, he is the most qualified that we have available
24 simply because Liesch Associates was involved in finding
25 that well field and were our only hydrologists for nearly

1 30 years. So...

2 Q So they got the history is what you are telling me?

3 A They have got the history. They are familiar with this
4 system. I don't think Liesch has anybody on staff that
5 was working there in the 70s, but...

6 Q Have you ever done a drawdown test on this aquifer; pump
7 test as they call it in the business?

8 A Not recently, but before the well field was established.

9 Q So in '79?

10 A Yeah.

11 Q '78-'79 is the last time?

12 A Right. And I don't know what was required at that time.

13 Q Now you recently put a monitoring well in, right?

14 A Yes, we did.

15 Q Where is that located?

16 A That is located in the southwest corner of our property.
17 We did that at the recommendation of the Minnesota DNR.

18 Q It is as close as you can get to the proposed -- my
19 applicant's proposed well site?

20 A That's right. Yes.

21 Q And how deep is the monitoring well?

22 A Well, the monitoring well was drilled to the bottom of the
23 aquifer.

24 Q So it is in the 60-foot range?

25 A Thereabouts, yes.

1 Q How big is the casing? Four-inch, probably?

2 A I think it was four-inch we ended up putting in, yes.

3 Q And where are the screens in that?

4 A I would have to look at the well spec. I haven't -- that
5 was just recently done, so I guess I haven't looked at
6 that.

7 Q It is completed?

8 A Yes.

9 Q Operational?

10 A Well, operational in that it is just setting there. I
11 think -- I think Jason has put in the data logger.

12 Q Okay. That's my next question was what you were going to
13 use for monitoring equipment.

14 A That's right. Our plan is to install a data logger there,
15 and I don't know for sure whether it has been done yet or
16 not.

17 Q So you plan to continuously monitor the water table --

18 A Yes.

19 Q -- using that?

20 And, of course, that is one of the
21 recommendations of South Dakota that that be considered,
22 right, the monitoring level style well be put in?

23 A The one that I responded to was Minnesota.

24 Q They always recommend that.

25 A Okay. Well -- well, hydrologists are like data hounds.

1 They all want more data.

2 Q And you know there are other wells -- monitoring wells in
3 the reasonable proximity, a half mile or so away?

4 A Yes.

5 Q And you have the data from that well, and do you have --

6 A From our monitoring wells I do.

7 Q But there is one in South Dakota, too?

8 A Right. And I just got a graph today of the -- of that.

9 Was that the monitoring well?

10 MR. TAYLOR: I know you are not sworn, but what's
11 the number, do you know?

12 MR. GOODMAN: I think it is BG78H. It is the
13 same one.

14 THE WITNESS: BG78H.

15 MR. TAYLOR: Well, let me just think for a
16 minute. I think I am done. I think that's it.

17 Under the South Dakota Rules you have -- well, I
18 guess your lawyer is allowed to ask any questions you
19 want, and so is Ms. Best.

20 EXAMINATION BY MS. BEST:

21 Q Ready for me?

22 A Sure.

23 Q I just have a few questions, I think; and, of course, as
24 you know, that's what all lawyers say.

25 You testified that four out of the five Verdi

1 wells are currently in production?

2 A That's correct.

3 Q Okay. Are they consistently in production, or do you
4 jockey the use back and forth among those wells?

5 A Wells 1 and 3 are the most -- more productive of the four
6 wells. So we kind of -- our data system we can set up
7 which wells come on, which order, depending on demand.
8 So, typically, Wells 1 or 3 are set up as the lead well.
9 And then we go down the pecking order from there.

10 Well 5 is not even included in that. The water
11 quality is such that the only time we -- we would have to
12 be pretty desperate, and we would have to manually turn
13 that one on.

14 Q And then do you operate 1 and 3 sometimes at the same
15 time?

16 A Yes.

17 Q Okay. And so there are times you actually operate 1, 2,
18 3, and 4?

19 A All four of them at once would be fairly rare, but
20 typically three at a time is pretty common in the
21 summertime.

22 Q Okay. I think there is some issues here -- what would
23 be the pumping peak diversion when -- you have talked
24 about total diversion in your written work, but what do
25 you consider the peak diversion to be out of those pumps?

1 A The peak?

2 Q The total production out of those pumps. The peak water
3 use.

4 A On an annual basis, or --

5 Q The highest use. Say, you know, in municipal use we talk
6 about the peak day being Super Bowl Sunday. Well, I
7 don't know if that's the case for rural water system use,
8 but what would be your peak diversion out of that Verdi
9 well?

10 A I have got the data someplace, but I don't know that I can
11 put my fingers on it right now.

12 Q Can you explain to me your general understanding then, at
13 least, of what the range would be between your peak
14 diversion, as opposed to your average rate of pumping out
15 of that well field?

16 A Oh, typically peak on our system is somewhere in the
17 neighborhood of 150 percent of average. It is not nearly
18 as large as you find in most municipal situations.

19 Q Why is that?

20 A Oh, municipalities seem to be dominated by lawn watering,
21 where --

22 Q You are not dominated by lawn watering?

23 A No. Hogs drink water year-round. They drink a little bit
24 more in the summer. But they still drink a lot of water.
25 So it is that kind of thing. Crop spraying is a big thing

1 with us, and becoming a little less so because of changing
2 technology; but at one time we use to reach our peak in
3 late May, early June, depending on weather conditions,
4 when the crops were being sprayed.

5 Q What is the average pumping rate out of the Verdi Well
6 Field?

7 A You want to know exactly, or --

8 Q If you know.

9 A I can go get the data, but peak is in the neighborhood of
10 1,200 gallons a minute, maybe a little higher than that.

11 Q Well, I asked average pumping rate.

12 A Average --

13 MR. SCHRAMMEL: Would you like him to get the
14 data, Diane? It would probably only take a few minutes.

15 MS. BEST: Yeah. Why don't I finish up with
16 this, and then you can give it to me, that number,
17 afterwards.

18 THE WITNESS: Okay.

19 Q (By Ms. Best) And then the other item that I would be
20 interested in and would like to get is the Well
21 Construction Log, is it?

22 A Yes.

23 Q A Well Construction Log?

24 A Yes.

25 Q I would like to get a copy of that.

1 A I frankly don't know if I have seen a copy of it yet.
2 Jason is out in the field today. I don't know if he has a
3 copy.

4 Q You will have it?

5 A I can -- as soon as I get it, or get access to it, I can
6 certainly get that to you.

7 Q Okay. And that observation well, you said it has a data
8 logger on it, and then will it log the data every 15
9 minutes during the irrigation season?

10 A I don't know if we have even thought that far ahead. I
11 mean, how much data -- it all depends on how much data we
12 want to collect --

13 Q Okay.

14 A -- every half hour, every hour.

15 Q Here is what I am getting at: The Minnesota DNR has filed
16 a letter with the South Dakota DENR with respect to the
17 Jo's Family Farm's well, and they have made a comment that
18 an appropriate monitoring well would be one with a data
19 logger that provides data every 15 minutes during the
20 irrigation season and daily during the non-irrigation
21 season. And I am assuming if that's their criteria,
22 that's the criteria for this well?

23 A Fine.

24 Q Is that not right?

25 A Yeah. The way data loggers operate, you establish how --

1 I mean --

2 Q Sure.

3 A They can take a reading every minute, if you want them
4 to.

5 Q You key it in electronically?

6 A If 15 minutes is the number everybody wants, we can do
7 every 15 minutes for six months a year, and once an hour
8 for the other six months.

9 Q Okay. And then, finally, I am a little puzzled here at
10 whether the aquifer is, in your opinion, basically the
11 withdrawals from this aquifer are at the capacity of the
12 aquifer. Would the aquifer sustain additional use from
13 your rural water system if you had to bring -- you had to
14 bring Ruthton or Balaton into the system?

15 MR. TAYLOR: Those are towns?

16 MS. BEST: Yes.

17 THE WITNESS: It would probably handle that
18 because, frankly, a town that size isn't that huge of a
19 water user.

20 Q (By Ms. Best) Well, how big a water user is Lake Benton,
21 or one of these other towns in the system?

22 A Let me bring you that data. I will give you the spread
23 sheets. I have got it by town.

24 Q Well, let's say -- let's say that you -- that Ruthton
25 and Balaton both approached you, and they used 2,000

1 gallons per minute. Would you be able to bring them on
2 board?

3 A No, not at 2,000 gallons a minute. In reality, there --
4 if they applied for water service from us, they would
5 probably -- Ruthton would probably apply for something
6 like 25 gallons a minute.

7 Q Okay.

8 A Balaton is a little bigger. Maybe 35, 40.

9 Q What if there is a new user in your area, whether it be
10 the City of Marshall or an ethanol plant; or Balaton,
11 bless their hearts, grew greatly so that there was a
12 subscriber that came to you with a request for 2,000
13 gallons per minute; would you be able to service them or
14 not?

15 A No, I don't have -- at this point I could put one right
16 next to my -- any of my water sources and shut everybody
17 else off, and I don't have anybody I could give 2,000
18 gallons a minute to on a sustaining basis.

19 Q And then you testified about no industrial customers. Was
20 there --

21 A In the Verdi Service Area.

22 Q In the Verdi. Oh, okay. Okay.

23 So this Minnesota Corn Processors, is that a
24 customer over at Marshall?

25 A Marshall Municipal Utilities is. But, virtually, all the

1 water goes to the --

2 Q To the plant?

3 A Who owns it now?

4 Q Archer-Daniels?

5 A ADM.

6 Q You can tell how old I am. I use an old name for that
7 facility that changed hands a while back.

8 And you serve no ethanol plants?

9 A Other than the ADM plant through Marshall Utilities, no.

10 Q And that's --

11 A We have turned down service to a number of them.

12 Q And is that ADM plant at Marshall, that gets water
13 strictly then from that Burr site?

14 A Correct, correct. And our agreement with them is that we
15 have agreed to supply 100 million gallons a year. We
16 occasionally go over that, but that's on an availability
17 basis only.

18 Q And your system serves no irrigators out of the --

19 A No.

20 Q And the nearest irrigator to the Verdi Well Field that's
21 currently operating that draws water from the Verdi --
22 from the same aquifer, is who? You mentioned other
23 irrigators.

24 A I don't know who it is, but there is an irrigator off to
25 the northwest, half a mile to mile.

1 Q Is that on the South Dakota side?

2 A Yes, that's in South Dakota. I don't know of any on the
3 Minnesota side.

4 Q Do you know if it is even the same aquifer?

5 A No. I presume it is not. If my understanding -- if my
6 understanding of our situation is correct, that I feel
7 fairly confident that it is, this irrigator looks like
8 they would be kind of north of the Ridge and probably --
9 probably influenced from a different stream than one that
10 we are on.

11 Q So other than the irrigator up there in the South Dakota
12 side on the Ridge, are you aware of any other irrigators
13 that irrigate out of the same source as your Verdi Well
14 Field?

15 A No, I don't know of any.

16 MS. BEST: I have no further questions.

17 MR. SCHRAMEL: I don't have any.

18 MR. TAYLOR: You have the right to read and sign
19 the transcript of the deposition, or you can waive the
20 reading and signing. Customarily, people waive the
21 reading and signing, especially if their sister-in-law is
22 the court reporter. You don't have to put that on the
23 transcript.

24 THE WITNESS: The way my schedule is now, I won't
25 read it.

1 MR. SCHRAMMEL: Why don't you read it. We will
2 not waive the reading of it.

3 MR. TAYLOR: I have one question to ask you.

4 EXAMINATION BY MR. TAYLOR:

5 Q Just look at Exhibit 8. That's taken out of your expert
6 report?

7 A Yep.

8 Q Are the locations of those wells a fair and accurate
9 characterization?

10 A Yes. Yes, they are quite -- they are pretty close.

11 Q Same with the monitoring well?

12 A The monitoring well was a proposed site at the time; but,
13 yes, we got as close to the corner of the property as we
14 could. Kind of out of the way. Out of sight, out of
15 mind.

16 MR. TAYLOR: Okay. That's it.

17 Now we will go through the reading and signing
18 again, and you are not going to waive?

19 MR. SCHRAMMEL: He is not going to waive.

20 THE WITNESS: No.

21 MR. TAYLOR: If your sister-in-law makes any
22 mistakes, you can --

23 THE WITNESS: Do I really have to read it?

24 MR. SCHRAMMEL: Sure.

25 MR. TAYLOR: Under the statutes in South Dakota

1 you have the right to read and make any corrections.

2 MR. SCHRAMEL: Same as Minnesota.

3 MR. TAYLOR: But you don't get to change your
4 testimony. If you said black is white, you don't get to
5 change it. If you said black is black, and she spells
6 black L-A-K instead of L-A-C-K, that's what it means.

7 (WHEREUPON, the foregoing proceedings were duly
8 ended at 12:04 p.m.)

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ERRATA SHEET

BE IT KNOWN, that I, the undersigned Deponent,
have on this date, _____, read the
transcript of my deposition testimony, noting the following
changes (if any):

Dennis B. Healy

[illegible]

CERTIFICATE OF COURT REPORTER

I, Paige Alese Scholl, Official Court Reporter within and for the Fifth Judicial District, State of Minnesota, do hereby certify that I recorded the foregoing proceedings stenographically; that I thereafter caused my stenotype notes to be transcribed into typewriting; that the foregoing pages, numbered 1 - 94, are a true and correct copy of all evidence offered in said cause.

Dated this 27th day of September 2010.

PS

Paige Alese Scholl
Official Court Reporter



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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October 18, 2010

NOTICE

TO: William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

Ronald J Schramel
McDonald and Schramel, PLLP
PO Box 505
Windom MN 56101

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

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

The Water Management Board directed William Taylor to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of the approval of Water Permit Application No. 7178-3 filed by Jo's Family Farms. The Board will consider adoption of Findings, Conclusions and Final Decision at 9:00 AM, on December 1, 2010, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD. Notice will be provided if there is a change in the hearing date or time.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by November 11, 2010. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) and parties of record by November 22, 2010. Board counsel requests that the draft findings or alternative findings be provided in a WORD format file via email to jeff.hallem@state.sd.us.

At the Board's discretion, oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on December 1, 2010. The public hearing was completed on October 6, 2010. No additional testimony will be received.

If you have questions about the findings process, please contact Diane Best at (605) 367-5880.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General

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CERTIFICATION

I hereby certify that on October 18, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 18, 2010, regarding scheduling of hearing on Water Right Permit Application No. 7178-3, as addressed below:

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Sioux Falls SD 57104

Sent Notice Inter-Office mail to:

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



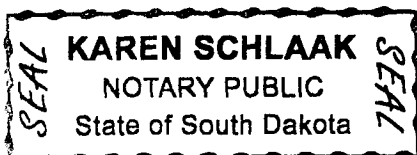
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of October, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





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NOV - 8 2010

WATER RIGHTS
PROGRAM

November 4, 2010

William Taylor
Bill.Taylor@woodsfuller.com
Extension 647

Jeff Hallem, Assistant Attorney General
Natural Resources Section
Office of Attorney General
George S. Mickelson Criminal Justice Center
1302 E. Hwy. 14, Suite 1
Pierre, SD 57501

Leo Holzbauer
PO Box 877
Wagner, SD 57380

Rondey Freeman, Jr., Vice-Chair
PO Box 176
Huron, SD 57350

Bernita Loucks, Secretary
255 Texas St., #F 332
Rapid City, SD 57701

Everett Hoyt
4422 Carriage Hills Drive
Rapid City, SD 57702

Tim Bjork, Chairman
112 W. Oak Street
Pierre, SD 57501

Jim Hutmacher
802 E. 7th Street
Oacoma, SD 57365

Chad Comes PE
PO Box 308
Madison, SD 57042

Diane Best
Assistant Attorney General
Office of the Attorney General
Natural Resources Section
300 N. Dakota Ave., #403
Sioux Falls, SD 57105

Garland Erbele, Chief Engineer
Department of Environment
and Natural Resources
Water Rights Program
523 E. Capitol Ave.
Pierre, SD 57501-3181

Ronald J. Schramel
McDonald and Schramel, P.L.L.P.
P.O. Box 505
Windom, MN 56101

Craig E. Smith
Neumayr & Smith
P.O. Box 205
Gettysburg, SD 57442

Re: In the Matter of Jo's Family Farms Water Permit Application No. 7178-3

00764178.1

November 4, 2010

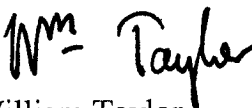
Page 2

Ladies and Gentlemen:

The Applicants' proposed Findings of Fact, Conclusions of Law, and Order are enclosed.
For the lawyers, please consider this service by mail.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.


William Taylor

Enclosure (Emailed to Mr. Hallem in WORD format)

cc: Eric Gronlund
James A. Goodman

FINDINGS OF FACT

1. The Applicant seeks to appropriate 4.44 cubic feet of water per second from the Big Sioux Aurora aquifer and to construct three wells to accommodate the irrigation of approximately 400 acres located in Section 34, Township 109 North, Range 47 West of the 5th Principal Meridian in Brookings County, and in Section 3, Township 108 North, Range 47 West of the 5th Principal Meridian in Moody County, South Dakota.

2. Applicant proposes to drill three wells, approximately 60 feet in depth, cased with 12-inch diameter steel casing, in the south half of Section 34, T109N, R47 west of the 5th P.M., Brookings County. Irrigation will be undertaken from May until September of each year, employing center pivot irrigators.

3. The Chief Engineer recommended approval of the application.

4. Notice of the Application and hearing was timely advertised in the Moody County Enterprise and the Brookings Register, respectively, on February 24 and March 3, 2010.

5. Lincoln Pipestone Rural Water, East Highway 14, Box 188, Lake Benton, MN 56149 ("LPRW") timely filed a petition to intervene, received in the office of the Water Rights Program on March 3, 2010.

6. LPRW appropriates water from five wells located in Minnesota, approximately three-fourths of a mile northeast of Applicant's proposed wells. LPRW brought the wells into service in approximately 1977, and presently supplies approximately 1,350 users on its water system from its well field, pumping approximately 350 million gallons per annum, or approximately 1,000 acre feet, from the wells.

7. The Big Sioux Aurora aquifer underlies approximately 39,000 acres and contains an estimated 165,000 acre feet of recoverable water in Brookings County. An undefined portion of the Big Sioux aquifer extends into Minnesota to the east, underlying the LPRW well field, and an undefined area northeast thereof. The direction of ground water movement in the aquifer in the subject area is from northeast to southwest, including the area where the LPRW wells are located. Approximately 4,500 acres of Brookings County and 6,400 acres of Moody County are underlain by the Big Sioux Aurora aquifer. The portion of the aquifer underlying that area is available to supply water to Applicant's well field.

8. Recharge to the Big Sioux Aurora aquifer is estimated to be 6.57 inches per year for the portion in Brookings County. The portion of the aquifer in Brookings and Moody Counties will supply about 6,000 acre feet annually from recharge alone. Water use from the subject portion of the aquifer in 2008 in Brookings County was 730 acre

feet and in Moody County 310 acre feet. This Application will add use of approximately 40 acre feet annually. Recharge is sufficient to protect the integrity and capacity of the aquifer, even after the Applicant's proposed withdrawals.

9. The DENR monitors observation well BG-78H located about one-half mile to the west of the proposed well site. A hydrograph from the observation well indicates the aquifer is capable of sustaining additional withdrawals well in excess of the withdrawals proposed in the subject Application without threat to its capacity.

10. Permitted wells are located one mile northwest, one mile north, and one mile southwest, irrigating a total of approximately 400 acres. Operation of the Applicant's wells will not interfere with those wells.

11. The proposed wells will not interfere with LPRW's wells.

12. The aquifer is under water table conditions at the proposed well site. Draw down of the static level of the aquifer will not impact wells in the area due to the distance between the proposed wells and the area wells.

13. Irrigation of crop land for agricultural purposes is a beneficial use.

14. Development of unappropriated water for beneficial use is in the public interest.

From the foregoing Findings of Fact, the Board makes the following

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter.
2. Publication of the notice of hearing in the Moody County Enterprise and the Brookings Register was due and timely made in conformity with the requirements of SDCL 46-2A-4. Notice of hearing was properly given in conformity with SDCL 1-26-17.
3. There is adequate water within the Big Sioux Aurora aquifer in the area proposed for construction of the wells that is unappropriated and available for the Applicant's proposed use.
4. The proposed diversion of 4.4 cubic feet per second of water will not unlawfully impair existing water rights.
5. There is sufficient recharge capability that the future viability of the aquifer will not be impaired by the proposed appropriation.
6. The proposed use for irrigation is a beneficial use and in the public interest.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters the following

FINAL DECISION and ORDER

Application number 7178.3 is granted subject to the following permit qualifications and restrictions:

1. Applicant shall install a device within its pumping and irrigation system that records the time and duration of operation of the pumps and the volume of water appropriated during periods of operation.

2. The information gathered from the foregoing device shall be supplied at least annually to the Water Rights Division and if requested, to intervenor Lincoln Pipestone Rural Water.

3. The permit holder shall control withdrawals so as to not unlawfully interfere with other adequate wells.

4. The wells shall be constructed by a licensed well driller. Construction of the wells and installation of the pumps shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 ARSD, and the well casing shall be pressure grouted bottom to top pursuant to ARSD Section 74:02:04:28.

5. The Permit is approved subject to the irrigation water use questionnaire being completed and submitted annually.

Dated this ____ day of December, 2010.

THE WATER MANAGEMENT BOARD of
the STATE OF SOUTH DAKOTA

By _____
It's Chairman

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of November, 2010, I caused to be served by United States first-class mail, postage prepaid, a true and correct copy of the foregoing Applicant's Proposed Findings of Fact, Conclusions of Law, and Order upon the following:

Diane Best
Assistant Attorney General
Office of the Attorney General
Natural Resources Section
300 N. Dakota Ave., #403
Sioux Falls, SD 57105

Garland Erbele, Chief Engineer
Department of Environment
and Natural Resources
Water Rights Program
523 E. Capitol Ave.
Pierre, SD 57501-3181

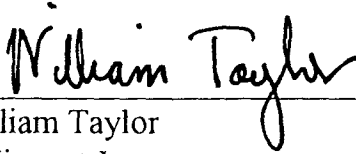
Craig E. Smith
Neumayr & Smith
P.O. Box 205
Gettysburg, SD 57442

Dennis B. Healy
Lincoln Pipestone Rural Water
Box 188
Lake Benton, MN 56149-0188

Dave Gullickson
Farmers Implement and Irrigation
3023 US Hwy 14 Bypass
Brookings, SD 57006

Ronald J. Schramel
McDonald and Schramel, P.L.L.P.
P.O. Box 505
Windom, MN 56101

WOODS, FULLER, SHULTZ & SMITH P.C.

By 
William Taylor
J. Vincent Jones
Post Office Box 5027
Sioux Falls, South Dakota 57117-5027
(605) 336-3890
Attorneys for Jo's Family Farm



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WATER RIGHTS
PROGRAM

OFFICE OF ATTORNEY GENERAL

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Phone (605) 367-5880
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CHARLES D. McGUIGAN
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Rapid City, SD 57702

Leo Holzbauer
P.O. Box 877
Wagner, SD 57380

Jim Hutmacher
802 East 7th Street
Oacoma, SD 57365

Bernita Loucks
219 42nd Street
Rapid City, SD 57702-2123

Tim Bjork
112 W. Oak Street
Pierre, SD 57501

Rodney Freeman, Jr.
Attorney at Law
P.O. Box 176
Huron, SD 57350-0176

Jeffrey P. Hallem
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501

Re: *In the Matter of Water Permit Application No. 7178-3, Jo's Family Farms*

Dear Water Management Board Members and Counsel,

Consistent with Board requirements, I am enclosing a copy of the DENR Response to Proposed Findings of Fact and Conclusions of Law in the above referenced matter. This Response is being provided to all parties.

Sincerely,

Diane Best
Diane Best
Assistant Attorney General

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WATER RIGHTS
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STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER |
PERMIT APPLICATION No. | RESPONSE TO PROPOSED FINDINGS OF
7178, JO'S FAMILY FARMS | FACT AND CONCLUSIONS OF LAW

The Department of Environment and Natural Resources, Water Rights Program (DENR) makes the following Response to the proposed Findings of Fact, Conclusions of Law and Final Decision filed by the Applicant's Counsel:

1. Except as set forth below, the DENR urges that the Board adopt the proposed Findings of Fact, Conclusions of Law, and Final Decision as drafted.
2. There are a few minor wording changes. The second paragraph of the proposal should refer to undersigned counsel as an Assistant Attorney General as opposed to a Deputy. Also, this paragraph should refer to the Water Rights Program as a "program" as it is no longer called a "division" of the DENR.

FINDINGS OF FACT

3. The DENR asks that the full legal description be used in proposed Finding of Fact No. 1. It is the S 1/2 Section 34, T109N, R47W in Brookings County and the N 1/2 and NW 1/4 SE 1/4 Section 3, T108N, R47W. Further, this Findings states that the application is for "approximately" 400 acres. The application is for 400 acres.

4. Finding of Fact 8 should reflect that the application will use approximately 400 ac ft of water annually as opposed to 40 ac ft.

CONCLUSIONS OF LAW

5. The DENR asks that the following underlined language be added to

Conclusion of Law 4:

The proposed diversion rate of 4.4 cubic feet per second of water will not unlawfully impair existing water rights, particularly when qualified, as addressed below. In concluding that this water permit will not unlawfully impair existing water rights, this Board considered domestic use as defined in SDCL 46-1-6(7), appropriative water rights used under authority of South Dakota law (title 46), and also the water use authorized by the State of Minnesota for intervenor Lincoln Pipestone RWS.

6. The DENR submits that additional language should be added to

Paragraph 5 which would state as follows:

Issuance of this water permit is consistent with SDCL 46-6-3.1. In other words, it is not probable that the water to be used under the proposed permit would result in a situation where the total quantity of water withdrawn annually from the Big Sioux Aurora Aquifer would exceed the average estimated annual recharge of water to the aquifer.

7. The DENR recommends an additional Conclusion of Law between

proposed Conclusions 5 and 6 which would state as follows:

This Board has repeatedly concluded that using water for irrigation is a beneficial use and in the public interest. The use is beneficial within the meaning of SDCL 46-1-6(3) in that it is reasonable and useful and beneficial to the appropriator in terms of enhanced agricultural production and economic benefit and, at the same time, is consistent with the interest of the public of this state in the best utilization of water supplies, particularly when considering the policy set forth in SDCL 46-1-4.

8. The DENR recommends an additional Conclusion of Law after

proposed Conclusion 6 which would state that "This application meets the criteria for issuance of a water permit under SDCL 46-2A-9."

FINAL DECISION AND ORDER

9. The Final Decision, paragraphs 1-3, blends the Chief Engineer's recommended qualifications with language from the additional stipulated qualification offered by the parties at hearing. Based on the Board's oral motion/deliberations at the end of hearing, however, the DENR understood that the Board intended to adopt the three qualifications recommended by the Chief Engineer (standard qualifications generally used and enforced by the Chief Engineer) and to also adopt the additional stipulated qualification concerning measuring devices. As such, the DENR requests that the Board adopt the following three standard qualifications:

1) The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2) The wells authorized by Permit No. 7178-3 shall be constructed by a licensed well driller and construction for the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3) This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Further, the DENR asks that the stipulated qualification be adopted as agreed upon at hearing:

4) That Jo's Family Farm LLC (and any successor, assign, or transferee of this water permit) must install and maintain (at their own cost) a timing device on each of its irrigation wells which logs each time the pumps on the irrigation well are turned on and off and, further, that data be collected by the timing device and provided to Lincoln Pipestone Rural Water on or before December 1st of each calendar year.

Dated this 18th day of November, 2010

Diane Best

Diane Best
Assistant Attorney General
300 N. Dakota Ave., Suite 403
Sioux Falls, SD 57104
Telephone: (605) 367-5880
Counsel for DENR/Chief Engineer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the DENR Response to proposed Findings of Fact, Conclusions of Law, and Final Decision was served on the following by enclosing the same in envelopes with first class postage, prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Sioux Falls, SD this 18th day of November, 2010:

Chad Comes, PE
Box 308
Madison, SD 57042

Tim Bjork
112 W. Oak St.
Pierre, SD 57501

Leo Holzbauer
P.O. Box 877
Wagner, SD 57380

Everett Hoyt
4422 Carriage Hills Dr.
Rapid City, SD 57702

Jim Hutmacher
802 E. Seventh St.
Oacoma, SD 57365

Bernita Loucks
219 42nd St.
Rapid City, SD 57702-2123

Jeffrey P. Hallem
Assistant Attorney General
1302 E. Highway 14, Ste. 1
Pierre, SD 57501-8501

Rodney Freeman, Jr.
Attorney at Law
P.O. Box 176
Huron, SD 57350-0176

Ron Schramel
Attorney at Law
P.O. Box 505
Windom, MN 56101

William Taylor
J. Vincent Jones
P.O. Box 5027
Sioux Falls, SD 57117-5027

Craig E. Smith
Neumayr & Smith
P.O. Box 205
Gettysburg, SD 57442

Dave Gullickson
Farmer's Implement and Irrigation
3023 US HWY 14 Bypass
Brookings, SD 57006

And was also sent electronically to the following:

Jeff.Hallem@state.sd.us

Bill.Taylor@woodsfuller.com

VINCE.Jones@woodsfuller.com

mcdonaldschramelatty@windomnet.com

And that on the same day the original was filed for record with:

Garland Erbele, Chief Engineer
DENR Water Rights Program
Joe Foss Bldg.
523 E. Capitol Ave.
Pierre, SD 57501


Diane Best
Assistant Attorney General
300 N. Dakota Ave., Suite 403
Sioux Falls, SD 57104
Telephone: (605) 367-5880
Counsel for DENR/Chief Engineer



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WATER RIGHTS
PROGRAM

November 24, 2010

William Taylor

Bill.Taylor@woodsfuller.com

Extension 647

Jeff Hallem, Assistant Attorney General
Natural Resources Section
Office of Attorney General
George S. Mickelson Criminal Justice Center
1302 E. Hwy. 14, Suite 1
Pierre, SD 57501

Leo Holzbauer
PO Box 877
Wagner, SD 57380

Rondey Freeman, Jr., Vice-Chair
PO Box 176
Huron, SD 57350

Bernita Loucks, Secretary
255 Texas St., #F 332
Rapid City, SD 57701

Everett Hoyt
4422 Carriage Hills Drive
Rapid City, SD 57702

Tim Bjork, Chairman
112 W. Oak Street
Pierre, SD 57501

Jim Hutmacher
802 E. 7th Street
Oacoma, SD 57365

Chad Comes PE
PO Box 308
Madison, SD 57042

Diane Best
Assistant Attorney General
Office of the Attorney General
Natural Resources Section
300 N. Dakota Ave., #403
Sioux Falls, SD 57105

Garland Erbele, Chief Engineer
Department of Environment
and Natural Resources
Water Rights Program
523 E. Capitol Ave.
Pierre, SD 57501-3181

Ronald J. Schramel
McDonald and Schramel, P.L.L.P.
P.O. Box 505
Windom, MN 56101

Craig E. Smith
Neumayr & Smith
P.O. Box 205
Gettysburg, SD 57442

00778622.1

November 24, 2010

Page 2

Re: In the Matter of Jo's Family Farms Water Permit Application No. 7178-3

Ladies and Gentlemen:

I reviewed the various objections to my client's proposed findings of fact, conclusions of law and order, and reviewed Mr. Hallem's proposed final version.

I have no objection to Mr. Hallem's work.

I would observe that the last sentence of Mr. Hallem's proposed conclusion of law 4 is probably a statement of fact and accordingly should be among the findings of fact, but it isn't significant enough to merit revising the document. I would also note that in numbered paragraph 4 of the order, "theirs" should be "its."

Given the general agreement on final documents, I will not be attending the hearing on December 1.

Members of the board, thank you for your time and service and attention to this matter. Counsel and DENR staff, thank you for your courtesies.

Yours sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink, appearing to read "Wm Taylor".

William Taylor

cc: Eric Gronlund
James A. Goodman



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 7, 2010

NOTICE

TO: William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

Ronald J Schramel
McDonald and Schramel, PLLP
PO Box 505
Windom MN 56101

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Adoption of Finding of Fact, Conclusion of Law and Final Decision in the matter
of Water Permit Application No. 7178-3, Jo's Family Farms

This is to notify you that the Water Management Board rulings and the Final Decision, including Findings of Fact and Conclusions of Law, were adopted December 1, 2010, by the Water Management Board in the matter of Water Permit No. 7178-3, Jo's Family Farms. The Board ruling and signed Findings of Fact, Conclusions of Law and Final Decision are enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts pursuant to the procedures established in SDCL 1-26-31 and 1-26-32.

Enclosures

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General, 300 N. Dakota Ave., Suite 403, Sioux Falls SD

CERTIFICATION

I hereby certify that on December 7, 2010, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 7, 2010, regarding adoption of findings of fact, conclusions of law and final decision in the matter of Water Right Permit Application No. 7178-3, as addressed below:

William Taylor and J. Vince Jones
Woods Fuller Law Firm
PO Box 5027
Sioux Falls SD 57104-6322

Ronald J Schramel
McDonald and Schramel, PLLP
PO Box 505
Windom MN 56101

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

Sent Notice Inter-Office mail to:

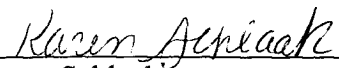
Jeff Hallem, Assistant Attorney General
1302 E Hwy 14, Suite 1
Pierre SD 57501-8501



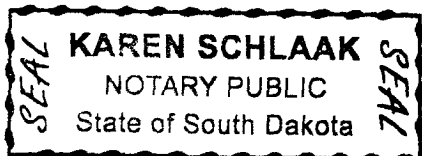
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of December, 2010.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	WATER MANAGEMENT BOARD'S RULINGS
PERMIT APPLICATION	)	ON APPLICANT'S PROPOSED FINDINGS OF
No. 7178-3, JO'S FAMILY FARM)	)	FACT, CONCLUSIONS OF LAW, AND ORDER;
	)	DENR'S RESPONSE TO PROPOSED
	)	FINDINGS OF FACT AND CONCLUSIONS OF
	)	LAW; AND INTERVENOR'S OBJECTIONS
	)	TO APPLICANT'S PROPOSED
	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW, AND ORDER

Pursuant to directions of the Water Management Board, counsel for Applicant Jo's Family Farm submitted proposed Findings of Fact, Conclusions of Law and Order. Subsequently, counsel for Department of Environment and Natural Resources, Water Rights Program (DENR), submitted DENR's Response to Proposed Findings of Fact and Conclusions of Law; and counsel for Intervenor Lincoln Pipestone Rural Water submitted Intervenor's objections to Applicant's proposed Findings of Fact, Conclusions of Law, and Order. The Board, upon review of the parties' submissions and the administrative record, and having orally entered its decision, hereby makes the following rulings:

A. Applicant's proposed introductory paragraphs are adopted by the Board as modified to be consistent with the modifications set forth in DENR Response #2, and additional references to the Board's oral decision and rulings on the parties' submissions.

B. Applicant's proposed Findings of Fact numbers 2, 4, 5, 7, 9, 10, 11, 12, 13 and 14 are adopted by the Board.

C. Applicant's proposed Finding of Fact #1 is adopted by the Board as modified to be consistent with the modification set forth in DENR Response #3.

D. Applicant's proposed Findings of Fact #3 is adopted by the Board as modified to include that the State Engineer's approval was conditioned on including three permit qualifications.

E. Applicant's proposed Finding of Fact #6 is adopted by the Board as modified below to more accurately reflect the record as follows:

6. LPRW appropriates water from five wells located in Minnesota, approximately three-fourths of a mile northeast of Applicant's proposed wells. LPRW brought the wells into service in approximately 1979, and presently supplies 1,350 users (which includes ten wholesale/public system users and 33 large rural users that use over 1,000,000 gallons per year for livestock and dairy operations) from its well field, pumping on average 394,000,000 gallons per annum, or approximately 1,200 acre feet, from the wells.

F. Applicant's proposed Finding of Fact #8 is adopted by the Board as modified to be consistent with the modification set forth in DENR Response #4.

G. In addition, the Board adopts the following Finding of Fact in order to more accurately reflect the record:

15. Applicant had no objection to the inclusion of an additional qualification to be placed on the permit -- that Applicant install and maintain at its cost a timing device on each of its irrigation wells which logs each time the pumps on the irrigation wells are turned on and off, and that data collected by the timing devices be provided to Intervenor LPRW.

H. Applicant's proposed Conclusions of Law numbers 1, 2 and 3 are adopted by the Board as consistent with the administrative record, the Board's oral decision, and the rulings set forth above.

I. Applicant's proposed Conclusion of Law #4 is adopted by the Board as modified to be consistent with the modification set forth in DENR Response #5.

J. Applicant's proposed Conclusion of Law #5 is adopted by the Board as modified to be consistent with the modifications set forth in DENR Response #6.

K. Applicant's proposed Final Decision and Order are adopted, but only to the extent modified by the Board to be consistent with the modifications included in DENR Response #9 and the objections raised by Intervenor, which modifications are more consistent with the administrative record, the Board's oral decision, and the above rulings.

L. DENR Responses numbers 2, 3, 4, 5, 6, 7 and 8 are adopted by the Board as consistent with the administrative record, the Board's oral decision, and the above rulings.

M. DENR Response #9 is adopted by the Board as consistent with the administrative record, the Board's oral decision, and the above rulings with the fourth qualification modified as follows:

4. That Jo's Family Farm LLC (and any successor, assign, or transferee of this water permit) must install and maintain (at their own cost) a timing device on each of its irrigation wells which logs each time the pumps on the irrigation well are turned on and off, and further, that data be collected by the timing device and provided to Lincoln Pipestone Rural Water on or before December 1st of each calendar year.

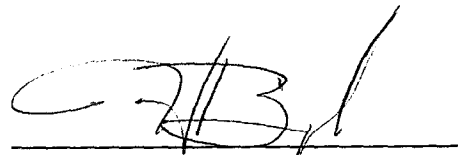
N. Intervenor's objections numbers 1, 2, 3 and 4 are adopted by the Board as consistent with the administrative record, the Board's oral decision and rulings as set forth above.

The Board's attorney is directed to prepare Findings of Fact, Conclusions of Law, and Final Decision and Order consistent with the above rulings, to be executed by the Chairman of the Board or Board designee without further motion or hearing.

Dated this 3 day of December, 2010.

BY THE BOARD:

By:



Tim Bjork, Chairman

STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	FINDINGS OF FACT
PERMIT APPLICATION	)	CONCLUSIONS OF LAW,
No. 7178-3, JO'S FAMILY FARM	)	FINAL DECISION AND ORDER

This matter regularly came on for hearing before the South Dakota Water Management Board on October 6, 2010. Board members Tim Bjork, Jim Hutmacher, Everett Hoyt, Rodney Freeman, Leo Holzbauer, and Chad Comes were present and heard the evidence presented and the arguments of counsel.

Applicant Jo's Family Farms appeared by Peter Sonstegard, and was represented by attorneys William Taylor and J. Vincent Jones. The Department of Environment and Natural Resources Water Rights Program appeared by its Chief Engineer, Garland Erbele, and was represented by Assistant Attorney General Diane Best. Lincoln Pipestone Rural Water of Lake Benton, Minnesota, appeared by its president and chief executive officer, Dennis B. Healy, and was represented by its attorneys, Ron Schramel and Craig E. Smith.

The Board, having heard and considered the testimony and exhibits presented and all records and documents on file, having orally entered its decision to grant the permit subject to the qualifications proposed by the Chief Engineer and the additional qualifications agreed to by Applicant, and having entered its rulings on the parties' submissions, makes the following:

FINDINGS OF FACT

1. The Applicant seeks to appropriate 4.44 cubic feet of water per second from the Big Sioux Aurora aquifer and to construct three wells to accommodate the irrigation of 400 acres located in South 1/2 Section 34, Township 109 North, Range 47 West of the 5th Principal Meridian in Brookings County, and in North 1/2 and NW 1/4 SE 1/4 Section 3, Township 108 North, Range 47 West of the 5th Principal Meridian in Moody County, South Dakota.

2. Applicant proposes to drill three wells, approximately 60 feet in depth, cased with 12-inch diameter steel casing, in the south half of Section 34, T109N, R47 west of the 5th P.M., Brookings County. Irrigation will be undertaken from May until September of each year, employing center pivot irrigators.

3. The Chief Engineer recommended approval of the application subject to the permit including three specified qualifications.

4. Notice of the Application and hearing was timely advertised in the Moody County Enterprise and the Brookings Register, respectively, on February 24 and March 3, 2010.

5. Lincoln Pipestone Rural Water, East Highway 14, Box 188, Lake Benton, MN 56149 ("LPRW") timely filed a petition to intervene, received in the office of the Water Rights Program on March 3, 2010.

6. LPRW appropriates water from five wells located in Minnesota, approximately three-fourths of a mile northeast of Applicant's proposed wells. LPRW brought the wells into service in approximately 1979, and presently

supplies 1,350 users (which includes ten wholesale/public system users and 33 large rural users that use over 1,000,000 gallons per year for livestock and dairy operations) from its well field, pumping on average 394,000,000 gallons per annum, or approximately 1,200 acre feet, from the wells.

7. The Big Sioux Aurora aquifer underlies approximately 39,000 acres and contains an estimated 165,000 acre feet of recoverable water in Brookings County. An undefined portion of the Big Sioux aquifer extends into Minnesota to the east, underlying the LPRW well field, and an undefined area northeast thereof. The direction of ground water movement in the aquifer in the subject area is from northeast to southwest, including the area where the LPRW wells are located. Approximately 4,500 acres of Brookings County and 6,400 acres of Moody County are underlain by the Big Sioux Aurora aquifer. The portion of the aquifer underlying that area is available to supply water to Applicant's well field.

8. Recharge to the Big Sioux Aurora aquifer is estimated to be 6.57 inches per year for the portion in Brookings County. The portion of the aquifer in Brookings and Moody Counties will supply about 6,000 acre feet annually from recharge alone. Water use from the subject portion of the aquifer in 2008 in Brookings County was 730 acre feet and in Moody County 310 acre feet. This Application will add use of approximately 400 acre feet annually. Recharge is sufficient to protect the integrity and capacity of the aquifer, even after the Applicant's proposed withdrawals.

9. The DENR monitors observation well BG-78H located about

one-half mile to the west of the proposed well site. A hydrograph from the observation well indicates the aquifer is capable of sustaining additional withdrawals well in excess of the withdrawals proposed in the subject Application without threat to its capacity.

10. Permitted wells are located one mile northwest, one mile north, and one mile southwest, irrigating a total of approximately 400 acres.

Operation of the Applicant's wells will not interfere with those wells.

11. The proposed wells will not interfere with LPRW's wells.

12. The aquifer is under water table conditions at the proposed well site. Draw down of the static level of the aquifer will not impact wells in the area due to the distance between the proposed wells and the area wells.

13. Irrigation of crop land for agricultural purposes is a beneficial use.

14. Development of unappropriated water for beneficial use is in the public interest.

15. Applicant had no objection to the inclusion of an additional qualification to be placed on the permit -- that Applicant install and maintain at its cost a timing device on each of its irrigation wells which logs each time the pumps on the irrigation wells are turned on and off, and that data collected by the timing devices be provided to Intervenor LPRW.

From the foregoing Findings of Fact, the Board makes the following

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter.

2. Publication of the notice of hearing in the Moody County

Enterprise and the Brookings Register was due and timely made in conformity with the requirements of SDCL 46-2A-4. Notice of hearing was properly given in conformity with SDCL 1-26-17.

3. There is adequate water within the Big Sioux Aurora aquifer in the area proposed for construction of the wells that is unappropriated and available for the Applicant's proposed use.

4. The proposed diversion rate of 4.4 cubic feet per second of water will not unlawfully impair existing water rights, particularly when qualified, as addressed below. In concluding that this water permit will not unlawfully impair existing water rights, this Board considered domestic use as defined in SDCL 46-1-6(7), appropriative water rights used under authority of South Dakota law (title 46), and also the water use authorized by the State of Minnesota for LPRW.

5. There is sufficient recharge capability that the future viability of the aquifer will not be impaired by the proposed appropriation. Issuance of this water permit is consistent with SDCL 46-6-3.1. It is not probable that the water to be used under the proposed permit would result in a situation where the total quantity of water withdrawn annually from the Big Sioux Aurora Aquifer would exceed the average estimated annual recharge of water to the aquifer.

6. This Board has repeatedly concluded that using water for irrigation is a beneficial use and in the public interest. The use is beneficial within the meaning of SDCL 46-1-6(3) in that it is reasonable and useful and beneficial to

the appropriator in terms of enhanced agricultural production and economic benefit and, at the same time, is consistent with the interest of the public of this state in the best utilization of water supplies, particularly when considering the policy set forth in SDCL 46-1-4.

7. The proposed use for irrigation is a beneficial use and in the public interest.

8. This application meets the criteria for issuance of a water permit under SDCL 46-2A-9.

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters the following

FINAL DECISION AND ORDER

Application number 7178-3 is granted subject to the following permit qualifications and restrictions:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

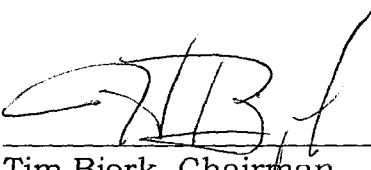
2. The wells authorized by Permit No. 7178-3 shall be constructed by a licensed well driller, and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

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

4. That Jo's Family Farm LLC, and any successor, assign, or transferee of this water permit, must install and maintain, at its own cost, a timing device on each of its irrigation wells which records each time the pumps on the irrigation wells are turned on and off, and further, that data be recorded by the timing devices be collected and provided to Lincoln Pipestone Rural Water on or before December 1st of each calendar year.

Dated this 3 day of December, 2010.

WATER MANAGEMENT BOARD

By 
Tim Bjork, Chairman



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

APR 26 2011

Jo's Family Farms
c/o Phil Sonstegard
1911 W 57th St
Sioux Falls SD 57108

Dear Ms. Sonstegard:

Enclosed is Water Permit No. 7178-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

This permit was submitted with a \$1,550.00 fee. The correct fee is \$1,450.00. Therefore, \$100.00 will be refunded to you. The refund check should be received within the next couple of weeks.

A 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 information 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

7178-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

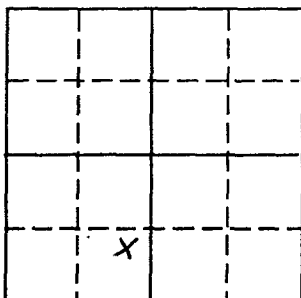
11-02

Location SE 1/4 SE 1/4 Sec 34 Twp 109-N Rg 47-W

County

Brookings

North

Please mark well
location with an "X"

Well completion Date

5-19-11

N44° 11.945 W096° 27.545

Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

? 314 m ft from Septic Tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Bucket - Fake Casing

CASING DATA:

- ☒ Steel ☐ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
50 LB/FT	12 IN	1 FT	52 FT	20 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>Cement</u>		Lb/gal	0 Ft	20 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure Tremie

SCREEN:

- ☐ Perforated pipe ☒ Manufactured

Diameter 12 Inches Length 12 FeetMaterial Stainless SteelSlot Size 100 Set From 52 Feet to 64 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 Pellets

☐ No, Why Not?
 Lab sample sent to for
 water quality analysis

No time

Please return White Copy to DENR Water Rights

Well Owner: Phillip SonstegardBusiness Name: Joe's Family FarmAddress1: 1911 W 57th St. Suite 102

Address2:

City, State, Zip: Sioux Falls, S.D. 57108

WELL LOG:

DEPTH

FORMATION	FROM	TO
<u>Gray Tension</u>	<u>0</u>	<u>5</u>
<u>Clay Sand</u>	<u>5</u>	<u>15</u>
<u>Sand-wet</u>	<u>15</u>	<u>20</u>
<u>Clay lens</u>	<u>20</u>	<u>22</u>
<u>Brown Gravel</u>	<u>22</u>	<u>64</u>

STATIC WATER LEVEL

15.7" FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: 10" sub☐ Bailed☐ Other

Pumping Level Below Land Surface

57 Ft. After 1 Hrs. pumped 950 GPM

Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

RECEIVED

JUN 27 2011

WATER RIGHTS
PROGRAMThis well was drilled under license # 111

And this report is true and accurate.

Drilling firm: Joe's Family Farm

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

X Phillip SonstegardDate: X June 22, 2011

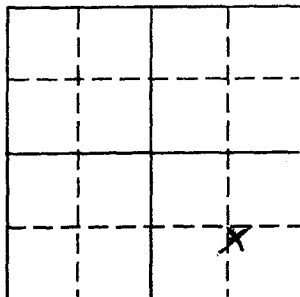
523 E. Capitol Ave., Pierre SD 57501

116217

7178-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SE 1/4 SE 1/4 Sec 33 Twp 109-N Rg 47-WCounty Brookings NorthPlease mark well
location with an "X"

Well completion Date

5-11-11

N44° 11.985 W 096° 26.200 1 Mile

Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

? 1/4 mile left from Septic Tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Bucket- False Casing

CASING DATA:

- ☒ Steel ☐ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
50 LB/FT	12 IN	1 FT	44 FT	20 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Cement		Lb/gal	0 FT	20 FT
		Lb/gal	FT	FT

Describe grouting procedure Tremie

SCREEN:

- ☐ Perforated pipe ☒ Manufactured

Diameter 12 Inches Length 14' FeetMaterial Stainless SteelSlot Size .100 Set From 50 Feet to 58 FeetOther information .0612 44 50WAS 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 Pellets

☐ No, Why Not?
 Lab sample sent to for
 water quality analysis

No - For

Please return White Copy to DENR Water Rights

Well Owner: Phillip SonstegardBusiness Name: Joe's Family FarmAddress1: 1911 W 57th St. Suite 102

Address2:

City, State, Zip: Sioux Falls, S.D. 57102

WELL LOG:

DEPTH

FORMATION	FROM	TO
Topsail	0	1
Sandy Clay	1	4
Yellow Gravel	4	54
Grey, Coarse Gravel	54	58

STATIC WATER LEVEL

14'

FEET

If flowing: closed in pressure

PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: 6" 54b☐ Bailed☐ Other

Pumping Level Below Land Surface

49' Ft. After 3 Hrs. pumped 1000 GPM41' Ft. After 1 Hrs. pumped 750 GPM

If pump installed, pump rate: _____ GPM

REMARKS

RECEIVED

JUN 27 2011

WATER RIGHTS
PROGRAMThis well was drilled under license # 111

And this report is true and accurate.

Drilling firm: Lacey Underhill Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

x Phillip SonstegardDate: X JUNE 22, 2011

523 E. Capitol Ave., Pierre SD 57501

11/29/11

7178-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 SW 1/4 Sec 34 Twp 109-N Rg 47-W

County Brookings

North

Please mark well location with an "X"

Well completion Date 5-6-11

N 44° 11.591 W 096.27 228

Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)
1/4 mile ft. from Septic Tank (identify source)

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

METHOD OF DRILLING:
Bucket-False Casing

CASING DATA: ☒ Steel ☐ Plastic ☐ Other
 If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>50 LB/FT</u>	<u>12 IN</u>	<u>+1 FT</u>	<u>52 FT</u>	<u>20 IN</u>
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>		<u>Lb/gal</u>	<u>12 FT</u>	<u>20 FT</u>
		Lb/gal	FT	FT

Describe grouting procedure Tremie

SCREEN: ☐ Perforated pipe ☒ Manufactured
 Diameter 12 Inches Length 12 Feet
 Material Stainless Steel
 Slot Size 100 Set From 52 Feet to 64 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 Pellet
☐ No, Why Not? _____
 Lab sample sent to for water quality analysis _____
No-2m

Well Owner: Phillip Sonstegard

Business Name: Joe's Family Farm

Address1: 1911 W 57th St - Suite 102

Address2: _____

City, State, Zip: Sioux Falls, SD 57108

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Till</u>	<u>12</u>	<u>2</u>
<u>Sand, Clay</u>	<u>2</u>	<u>3</u>
<u>GRAVEL</u>	<u>3</u>	<u>64</u>

STATIC WATER LEVEL 20 FEET
 If flowing: closed in pressure _____ PSI
 GPM flow _____ through _____ Inch pipe
 Controlled by ☐ Valve ☐ Reducers ☐ Other _____
 Reduced flow rate _____ GPM
 Can well be completely shut in? _____

WELL TEST DATA:
☒ Pumped Describe: 6" Sub
☐ Bailed
☐ Other _____

Pumping Level Below Land Surface
46 Ft. After 2 Hrs. pumped 1000 GPM
42 Ft. After 1 Hrs. pumped 800 GPM
 If pump installed, pump rate: _____ GPM

REMARKS

RECEIVED
JUN 27 2011
WATER RIGHTS PROGRAM

This well was drilled under license # 111
 And this report is true and accurate.
 Drilling firm: Lacey Well Drilling Inc.
 Signature of License Representative: _____
 Signature of Well Owner or Equitable Property Holder: X Phillip Sonstegard
 Date: X JUNE 22, 2011

Please return White Copy to DENR Water Rights

523 E. Capitol Ave., Pierre SD 57501

11/12/11



7178-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JUL 01 2016

7178-3
7702-3
8143-3
8144-3

Jo's Family Farms
c/o Jon Wiering, Farm Manager
1911 W 57th St
Suite 102
Sioux Falls SD 57108

Dear Mr. Wiering:

Enclosed are Water License Nos. 8143-3 and 8144-3. These are the final water right documents completing the process of obtaining a Water Right. Also, included with the licenses are maps prepared by the staff engineer who conducted the investigations.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right Nos. 8143-3 and 8144-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water Licenses, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

Note: The applicable portions of No. 7178-3 are incorporated into Water License No. 8143-3.
The applicable portions of No. 7702-3 are incorporated into Water License No. 8144-3.

enclosures