

WATER PERMIT NO. 7201-3

Name of Applicant: **Myrl & Roy's Paving Inc.**

Address: **1300 N Bahnson Ave, Sioux Falls SD 57103**

Phone: **605 334-3204**

Amount of Water Claimed: **180 AF**

Total Acres: **NA**

Source of Water Supply: **dugout**

Water to be used for: **commercial**

County: **Minnehaha**

Type of Waste Disposal System:

Location: **west of Sioux Falls**

PRIORITY

Date Received: **5-26-2010**

Application/License Fee: **\$950**

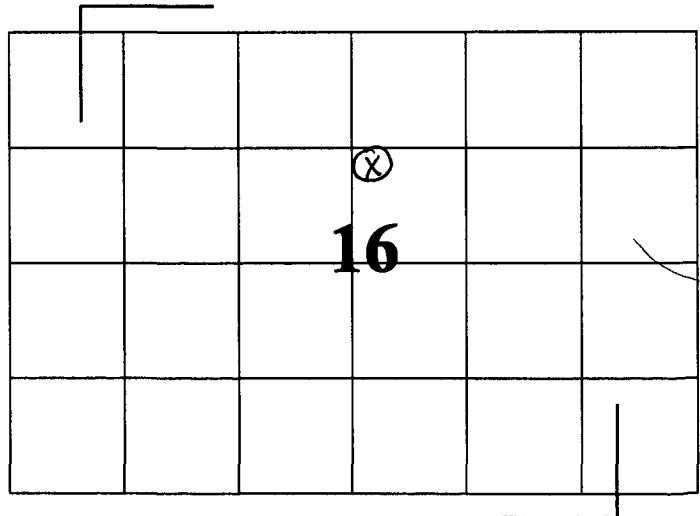
Corrected Application Received:

Period of Annual Use: **April 1 – October 31**

Remarks: **wash rock & sand and dust control on site**

Diversion Point: **SW ¼ NE ¼ Sec 16-T101N-R50W**

Land to be Irrigated: **NA**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **plat**

Prepared by: **Gary L Meyer, PE**

Reviewed and the Number Assigned on: **5-26-2010**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7201-3</u> (office use only) Hydrologic Unit <u>10170203</u>
	Basin <u>Sioux River</u>
	Newspaper <u>Argus Leader PO Box 5034</u>
	<u>605-331-2200</u> <u>5 Falls 57117</u>

RECEIVED

MAY 26 2010

WATER RIGHTS
PROGRAM

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

Check use(s) of water:

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

Type of Application:
(check one)

☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation

☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____

☐ Amendment/Correction to Permit No. _____

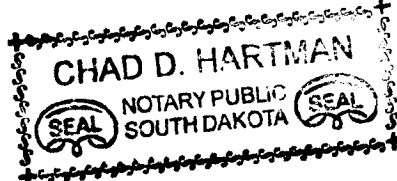
Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name of Applicant Myrl & Roy's Paving, Inc. Phone (605) 334-3204
(check one) ☒ Owner ☐ Tenant/lessee
- Mailing Address 1300 N Bahnson Avenue Sioux Falls SD 57103
(Address) (City) (State) (Zip Code)
2. Amount of water claimed 2.23 *CFS or 1000 **GPM 180 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Ground Water / Dugout
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Minnehaha
The SW 1/4 of NE 1/4 ; _____ of Section 16 T 101N, R 50W Minnehaha
County
5. County or counties where water will be used Minnehaha
6. Annual period during which water is to be used April through October 31
7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)
- Water will be used to wash rock or sand and dust control on site. Water will be pumped from dugout to plant and recycled and reused. See Attachment A & B for details on dugout.

STATE OF SOUTH DAKOTA)

County of MINNEHAHA) SS

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

I, Patty Nohr, Myrland Roy's Paving 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 Patty Nohr, Secretary Myrl & Roy'sSubscribed and sworn to before me this 24th day ofMAY 20 10

Chad D. Hartman

Notary Public signature

MY Commission EXPIRES: 4/01/11

SOUTH DAKOTA
WATER PERMIT NO. 7201-3

Date of first receipt of application May 26, 2010.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7201-3 to Myrl & Roy's Paving, Inc., 1300 N Bahnson Ave, Sioux Falls SD 57103 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. 7201-3 appropriates up to 180 acre-feet of water annually from a dugout/pond with an estimate storage capacity of 10.5 acre feet of water located in SW 1/4 NE 1/4 Section 16-T101N-R50W. The diversion rate from the dugout will be 2.23 cubic feet of water per second.
2. The water appropriated shall be for commercial use in a rock and sand wash operation which implements recycling and reuse. The water will also be used for dust control on the project site and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: April 1 – October 31.
4. The date of approval of Permit No. 7201-3 is August 2, 2010.
5. The date from which applicant may claim right is May 26, 2010.
6. One-fifth of the construction is to be completed on or before February 2, 2013.
7. All construction is to be completed on or before August 2, 2015.
8. Water is to be put to beneficial use on or before August 2, 2019.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Water Permit No. 7201-3 authorizes a dugout/pond with a capacity of approximately 10.5 acre feet of water.
2. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

WATER MANAGEMENT BOARD

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

AUG 20 2010

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicant's property _____ On property owned by others _____

2. Wastewater Disposal System Information

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

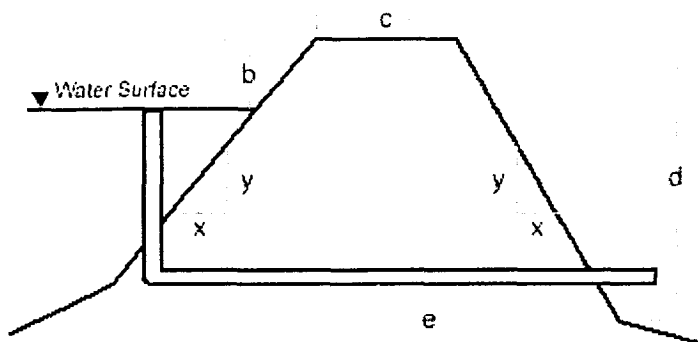
3. Dugout Information

- a) Surface Dimensions 575' X 270' Depth 13'-0" to 0' to 0"
- b) Depth to water (ground surface to water level) at S end 0'-0", at N end 13'-0"

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



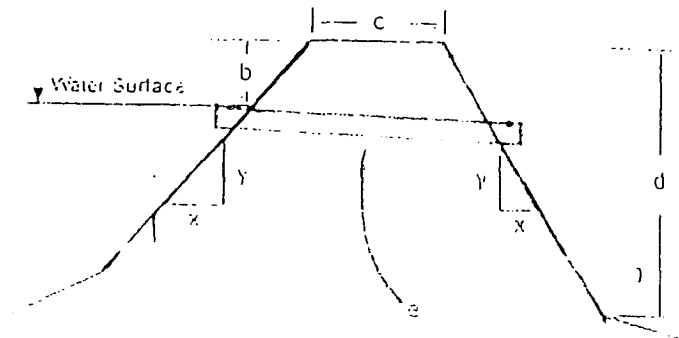
- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

ATTACHMENT B:

The proposed dugout is encased on 3 sides (North, West, and East) by preexisting berms. The West and East berms have a crest width of +/- 10 feet with an upstream and downstream slope of 4:1 or less, upstream depth for the West berm is approximately 25 feet and upstream depth for East berm is approximately 15 feet. Downstream depths will vary, but are greater than upstream depths due to the contouring of the topography. The North berm has a crest width of 15 feet with upstream and downstream slopes of 4:1, upstream depth is approximately 13 feet with downstream depth varying due to the contouring of the topography. There is no berm on the South side of the dugout as the existing surfacing will provide as a berm, natural contouring of the dugout area projects water to naturally settle at the North berm.

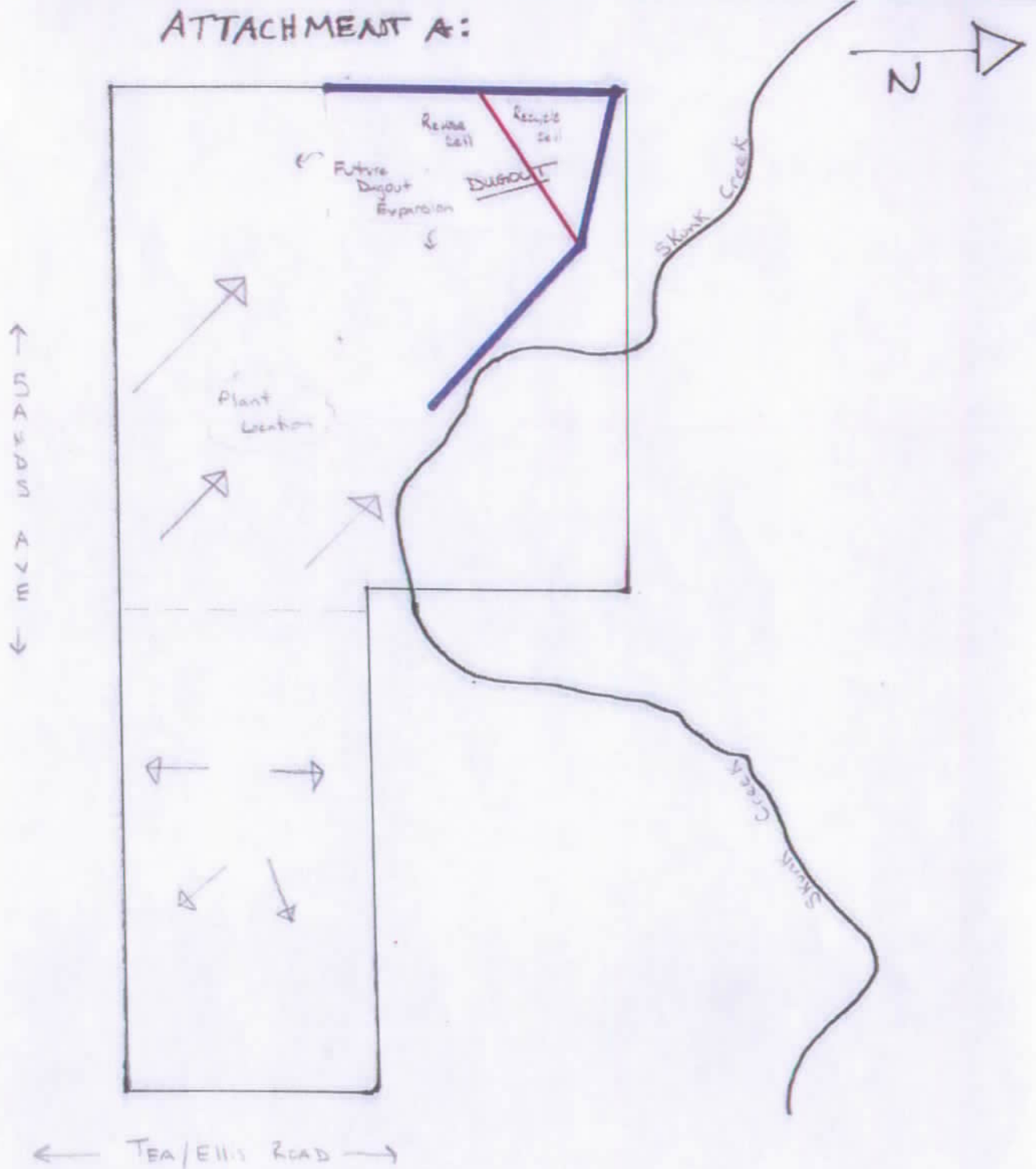
Within the dugout, we will be constructing a baffle to create cells to allocate water use areas; recycle and reuse. The structural integrity of the baffle has no effect on the surrounding areas; any escaped water due to baffle failure will be retained by dugout. The baffle will be constructed as shown below.

Baffle Dimensions



- b) Freeboard 2'-0"
- c) Crest Width 15'-0"
- Crest Length 400'-0"
- d) Height 13'-0"
- e) Primary Outlet Capacity _____
If pipe diameter 12"
- f) Secondary Spillway Capacity _____
Spillway Width 25'-0"
- g) X & Y Slope (eg 3 to 1 is a typical slope)
Upstream 4:1
Downstream 4:1
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acre

ATTACHMENT A:



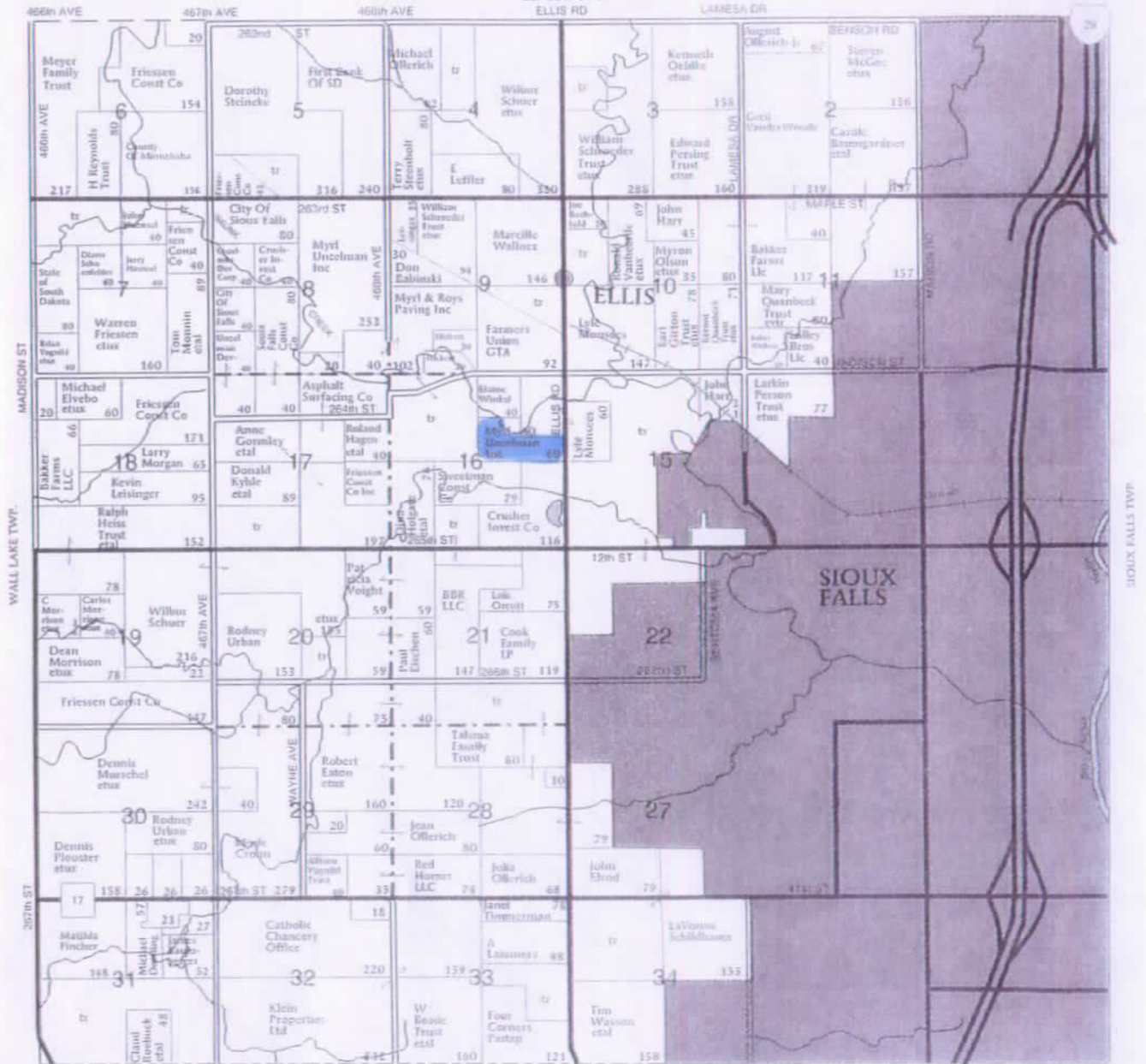
- Existing Berm
- BAFFLE
- Slope



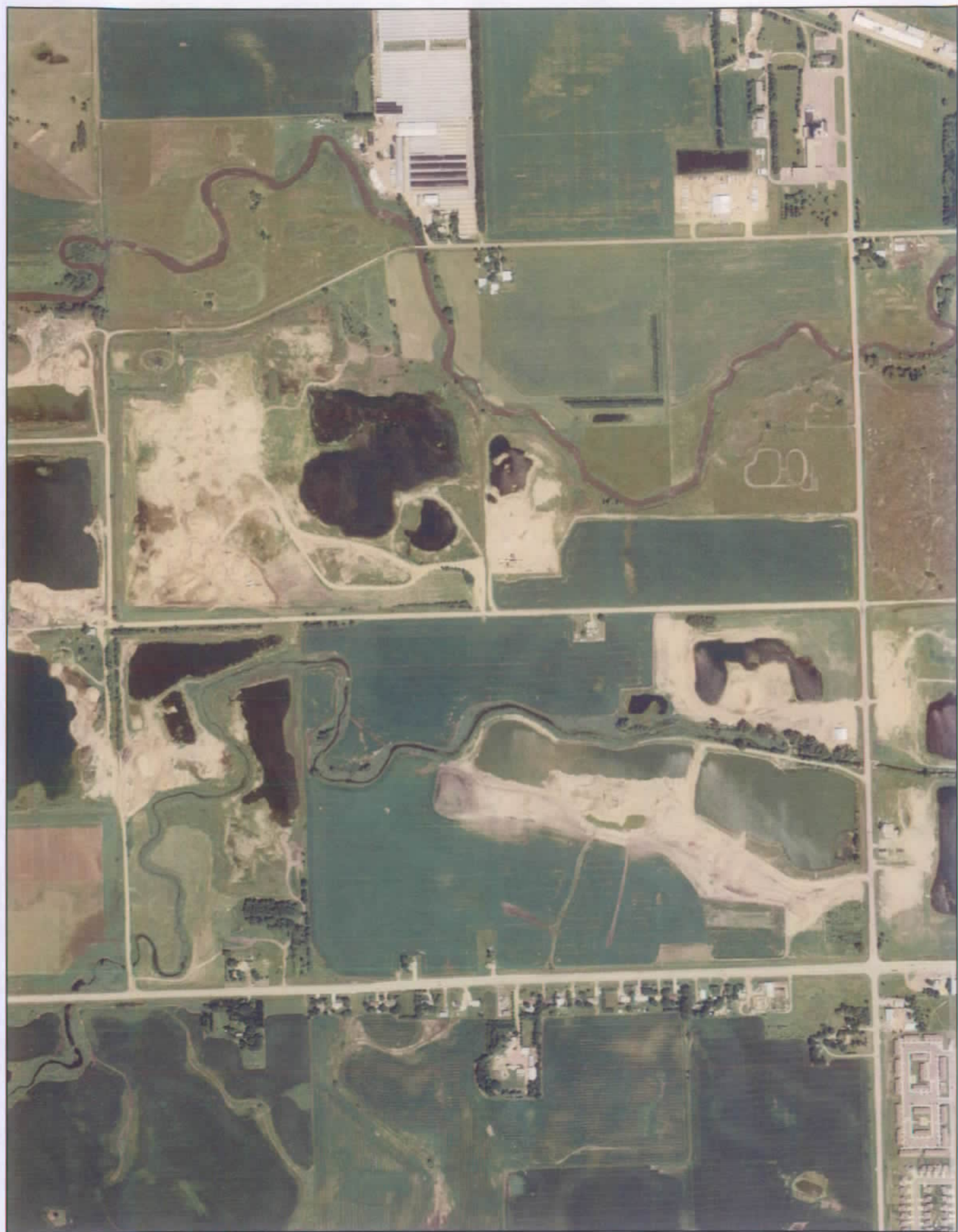
Food (usually meats or vegetables) is browned in fat, then cooked in a small amount of liquid at a low heat for long period of time. It is important to keep the pan tightly covered so the liquid doesn't evaporate.

R-50-W

BENTON TWT







Months – 7 (Avg 20 days/month) 1000 gpm
April, May, June, July, August, September, October 325,851.4 gallons/ acre ft

Days/week - 5

Hours/day – 7

7 months x 20 days/mnth = 140 days x 7 hrs/day = 980 hrs x 60 min/hour = 58,800
minutes x 1000 gal/minute = 58,800,000 gallons

58,800,000 gallons x 1 acre ft / 325,851.4 gallons = 180 acre ft

120 acre ft \$500.00

60 acre ft \$250.00

Fee \$200.00

\$950.00

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 26, 2010

RECEIVED OF Myrl & Roy's Paving Inc., 1300 N Bahnson Ave, Sioux Falls SD 57103

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

Fee for Application for Permit No. <u>7201-3</u> to Appropriate Water, to construct and to put water to beneficial use	750	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>7201-3</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	950.00

No. 04562

By Garland Erbele
Chief Engineer

(KS)



**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. 7201-3, Myrl and Roy's Paving, Inc.**

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. 7201-3, Myrl & Roy's Paving, Inc., c/o Patty Nohr, 1300 N Bahnson Avenue, Sioux Falls SD 57103.

The Chief Engineer is recommending APPROVAL of Application No. 7201-3 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. Water Permit No. 7201-3 authorizes a dugout/pond with a capacity of approximately 10.5 acre feet of water.
2. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

See report on application for additional information.

Garland Erbele, Chief Engineer
July 2, 2010

NOTE: This source of water may not be a dependable source during extreme dry conditions. Based on the staff report, the water level of the dugout/pond is likely supplied and maintained by the Big Sioux:Southern Skunk Creek Aquifer which fluctuates based on climatic conditions.

REPORT ON
WATER PERMIT APPLICATION NO. 7201-3
Myrl and Roy's Paving Inc.
June 18, 2010

Water Permit Application No. 7201-3 has been filed by Myrl's and Roy's Paving, Inc. to appropriate up to 180 acre-feet of water annual from an existing dugout/pond with an estimated storage capacity of 10.5 acre-feet of water located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16-T101N-R50W. The diversion rate from the dugout will be 2.23 cubic feet per second for commercial use in a rock and gravel wash operation which implements recycling and reuse. Water will also be used for dust control on the project site.

Discussion:

The existing dugout/pond is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16-T101N-R50W adjacent to Skunk Creek. The dugout/pond is in the general area of several other abandoned gravel pits. The dugout /pond is bermed on the West, North and East ends, which should help separate the pond from Skunk Creek. The approximate surface dimensions of the pond will be 575 feet by 270 feet and the depth will vary from zero to thirteen feet deep. The dugout/pond will be supplied by the Big Sioux-Southern Skunk Creek Aquifer.

The proposed diversion is within the future use area of the city of Sioux Falls' Future Use Permit No. 449-3. This permit reserves 5,430 acre-feet of water from the Big Sioux-Southern Skunk Creek Aquifer for future development. The priority date for permit No. 449-3 is April 8, 1957.

Conclusions:

1. This project proposes to withdraw 2.23 cfs of water for gravel and rock washing, and dust control. The dugout will have approximately 10.5 acre-feet of storage available.
2. The dugout/pond intercepts ground water at an unknown recharge rate.
3. Similar projects have been in the area with no reported adverse affects on the ground water levels.
4. Existing Water Rights within the area of the proposed project should not be adversely affected.



Timothy G. Schaal, P.E.
Natural Resources Engineering Specialist

CUSTOMER NUMBER:	078340	Argus Leader P.O. Box 5034, Sioux Falls, S.D. 57117-5034
INVOICE NUMBER:	1280679	
RUN DATES	7/14, 7/21, 2010	
		AMOUNT DUE: \$110.73

RECEIVED

JUL 26 2010

WATER RIGHTS PROGRAM

pd by
Marl + Royce

Dept of Environment & Natural Resources
Attn: Karen Schlaak
523 E Capitol Avenue, Joe Foss Building
Pierre, SD 57501

DETACH THIS STUB AND RETURN WITH PAYMENT

PAYMENT DUE

NOTICE OF APPLICATION
NO. 7201-3 to Appropriate
Water

Notice is given that Myrl & Roy's Paving, Inc., 1300 N. Bahnsen Ave., Sioux Falls SD 57103 has filed an application for a water permit to appropriate up to 180 acre-feet of water annually from a dugout/pond with an estimate storage capacity of 10.5 acre feet of water located in SW 1/4 NE 1/4 Section 16-T101N-R50W. The diversion rate from the dugout will be 2.23 cubic feet of water per second for commercial use in a rock and sand wash operation which implements recycling and reuse. Water will also be used for dust control on the project site.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7201-3 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 August 2, 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 \$110.73.
1280679 July 14 & 21, 2010

AFFIDAVIT OF PUBLICATION-

Customer Number: 078340
Invoice Number: 1280679

Dept of Environment & Natural Resources

Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Linda Schulte being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Wednesday, the 14 day of July, 2010,
Wednesday, the 21 day of July, 2010,
 _____, the _____ day of _____, 2010,
 _____, the _____ day of _____, 2010,
 _____, the _____ day of _____, 2010,
 _____, the _____ day of _____, 2010,
 _____, the _____ day of _____, 2010,

and that \$110.73 was charged for publishing the same

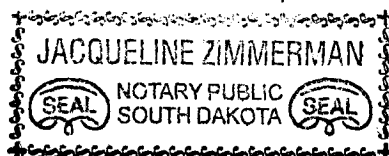
Linda Schulte

Subscribed and sworn to before me 7/21/2010

J. Zimmerman

Notary Public, South Dakota

My Commission expires December 22, 2015





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 6, 2010

Argus Leader
PO Box 5034
Sioux Falls SD 57117

ATTENTION: Legal Public Notice

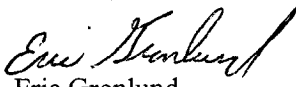
Enclosed is a Notice on Application No. 7201-3 to Appropriate Water to be published twice. Please publish the first notice on July 14, 2010 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Myrl & Roy's Paving Inc., c/o Patty Nohr, 1300 N Bahnson Ave., Sioux Falls SD 57103 (Ph # 605-334-3204).

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. 7201-3

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

Date _____

We are in receipt of your letter of July 6, 2010 enclosing Notice to Appropriate Water by Application No. 7201-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

July 6, 2010

Myrl & Roy's Paving Inc
Patty Nohr
1300 N Bahnson Ave
Sioux Falls SD 57103

Dear Ms. Nohr:

Water Permit Application No. 7201-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Argus Leader printed at Sioux Falls SD (Ph # 605-331-2200). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
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 July 14, 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. 7201-3 to Appropriate Water

Notice is given that Myrl & Roy's Paving, Inc., 1300 N Bahnson Ave, Sioux Falls SD 57103 has filed an application for a water permit to appropriate up to 180 acre-feet of water annually from a dugout/pond with an estimate storage capacity of 10.5 acre feet of water located in SW ¼ NE ¼ Section 16-T101N-R50W. The diversion rate from the dugout will be 2.23 cubic feet of water per second for commercial use in a rock and sand wash operation which implements recycling and reuse. Water will also be used for dust control on the project site.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7201-3 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 August 2, 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

AUG 20 2010

Myrl & Roy's Paving
1300 N Bahnson Ave
Sioux Falls SD 57103

Dear Sirs:

Enclosed is Water Permit No. 7201-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

A handwritten signature in cursive script that reads 'Garland Erbele'.

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

PAID

FEB - 3 2020

For assistance call (605) 773-3352

RECEIVED

Ck# 231795

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

FEB 03 2020

Water Right/Permit No. 7201-3

WATER RIGHTS
PROGRAM

Date: January 8, 2020

I/We request that Water Right/Permit No. 7201-3 formerly owned by:

Myrl & Roy's Paving Inc.

be transferred to:

New Owner Name: L. G. Everist, Inc.

Address: 350 S Main Ave, Suite 400

City, State, Zip Sioux Falls SD 57104 Telephone No. 605-334-5000

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

L. G. Everist, Inc. has purchased Myrl & Roy's Paving Inc.

- ☒ I understand that the validity of Water Right/Permit No. 7201-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, Chris Klein, the new owner, certify that the above information is true and correct.



(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

7201-3

RECEIPT

WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date February 3, 2020

RECEIVED OF L G Everist Inc. 350 S Main Ave, Suite 400 Sioux Falls SD 57104

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
Fee for Filing Transfer Form <u>7201-3</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law)	
TOTAL	\$50.00

By Jeanne Godman
Chief Engineer me

7201-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 4, 2020

4792-3
5996-3
7201-3
7787-3

Chris Klein
L G Everist Inc
350 S Main Ave Suite 400
Sioux Falls SD 57104

Dear Mr. Klein:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership in Water Right Nos. 4792-3 & 5996-3 and Water Permit Nos. 7201-3 & 7787-3.

The ownership changes have been completed. The above listed water rights and water permits formerly held by Myrl & Roy's Paving Inc are now listed under L G Everist Inc.

Enclosed for your records are receipts for the filing fees that were paid. If I can answer any questions for you, please let me know.

Sincerely,

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

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 7201-3**

I have this day, July 6, 2021, made a thorough examination of the water use system constructed by Myrl & Roy's Paving, Inc, 1300 N Bahnson Ave, Sioux Falls, SD 57103 of Permit No. 7201-3, bearing the priority of May 26, 2010 authorizing the diversion of 2.23 cu. ft. per second and the storage of 180 acre-feet of the waters of dugout/pond for commercial use purposes, in Minnehaha County.

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

This inspector did not see any construction activity on the site during a July 6, 2021 site visit and a gate closure barrier contained a sign indicating a L G Everest property.

A visit with Mr. Chris Klein, L G Everest, Inc (Mine Planning/Regulatory Manager) on July 29, 2021 revealed that the Everest organization purchased the Myrl & Roy's company and is managing the water permit on the property. However, since the water right is not being utilized on the property at this time, the Everest Company is considering a move of the water permit to another location in the future.

Mr. Klein was advised to contact the Water Rights Office in Pierre regarding the possible change in the permit.

The L G Everest address is 350 S Main Ave, Suite 400, Sioux Falls, SD 57104 and the company's telephone number is 605/334-5000 while Chris Klein's direct number is 605/330-6570 (office) & 605/929-4017 (cell).



Darrell W DeBoer
Water Rights Inspector
DANR, Water Rights Program

Date report completed: July 30, 2021



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 1, 2024

7201-3

LG Everest Inc
c/o Chris Klein
350 S Main Ave Suite 400
Sioux Falls SD 57104

Dear Mr. Klein:

I am writing you today regarding Water Permit No. 7201-3, transferred to LG Everest Inc., on February 3, 2020, authorizing the appropriation of 180 acre-feet of water annually from a dugout/pond (10.5 acre-feet capacity) located in the SW ¼ NE ¼ Section 16, T101N, R50W, for commercial use in a rock & sand operation.

In July 2021, a Water Rights staff engineer attempted to conduct an inspection of the property and found no signs that a dugout or gravel & sand operation had been developed. The dates for construction to be completed and water to be put to beneficial use, as set forth in Permit No. 7201-3, were August 2, 2015, and August 2, 2019, respectively.

With this letter I hope to confirm whether a dugout/pond was in place prior to August 2, 2015, and if so, how that water was being used.

If the project had not been completed, and the water had not been put to beneficial use by the dates provided above, this permit would need to be scheduled before the South Dakota Water Management Board for cancellation. If the project has since been developed, either at the above listed location, or moved to a secondary location, a new permit application would be required.

Please call me at (605)910-5187 or email me at the Amanda.Dewell@state.sd.us to discuss.

Sincerely,

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



L. G. EVERIST, INC.

350 S. MAIN AVE., SUITE 400
SIOUX FALLS, SD 57104
605.334.5000
WWW.LGEVERIST.COM

08/24/2021

PMB 2020
DENR – Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182

Dear Sir or Madam:

Pursuant to SDCL 46-5-13.1, we are requesting to move the diversion point for Water Right 7201-3 from the current location of SW $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 16, T101N - R50W, Minnehaha County approximately 4,000' to the northwest to SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 08, T101N - R50W, Minnehaha County, as shown in the enclosed map.

The source of the water and the diversion rate will remain as currently permitted.

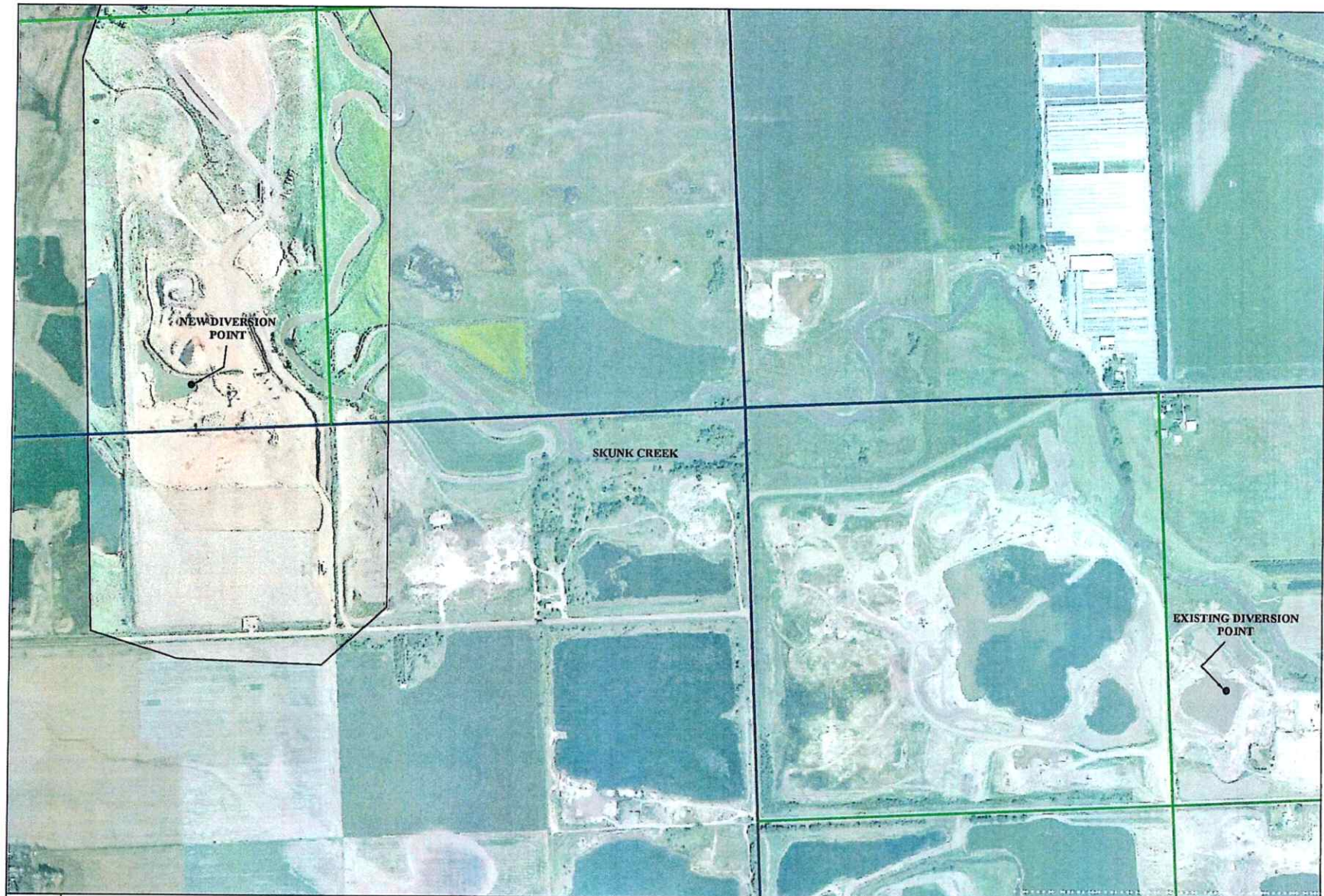
I trust this is the information you need. If you have any other questions or concerns, feel free to contact me at (605) 929-4017 or by email at cmklein@lgeverist.com.

Sincerely,

Chris Klein
L.G. Everist, Inc.

letter requesting location change was overlooked & not processed in 2021. Per SDCL 46-5-13.1 the location change will be approved.

Email correspondence was received from James Soukup w/ Crusher Investment Co (owner of property previously approved for development) agreeing to change in DVP location. Source (BS:SSC) was confirmed to stay the same by Adam.



SECTION LINE
QUARTER SECTION LINE



EXISTING DIVERSION POINT:

NEW DIVERSION POINT:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ SECT 16, T101N - R50W
MINNEHAHA COUNTY
SE $\frac{1}{4}$ SW $\frac{1}{4}$ SECT 8, T101N - R50W
MINNEHAHA COUNTY

SIoux FALLS, SD
WATER RIGHT 7201-3 DIVERSION POINT LOCATION CHANGE



L. G. EVERIST, INC.
We Deliver Solutions!
SIoux FALLS, SD

DATE: C. KLEIN
BY: NTS
REV: 08/24/2021

DRAWING NO.

1

KEY



Dewell, Amanda

From: Chris Klein <cmklein@LGEVERIST.com>
Sent: Tuesday, July 16, 2024 8:59 AM
To: Gronlund, Eric
Cc: Dewell, Amanda
Subject: RE: [EXT] Water Right 7201-3

Follow Up Flag: Follow up
Flag Status: Completed

Eric –

I apologize for the delayed reply as I was out late last week.

In answer to your initial question, TCB LLC is owned by the former owners of Myrl & Roy's Paving. This parcel was originally retained by them as part of the acquisition process but there was the agreement to take ownership of the water right which gave us the freedom to use it as necessary, which would also include moving it if allowed by the DANR (hence the request in 2021 to do so). As for Crusher Investment Company, it would appear that we'd have to reach out to them about moving it if that is what is now required.

To answer your last question, the site we are looking to move it to is an intermittent one – we operate it only as necessary depending on aggregate sales in the area. I can say that while we most likely would have used water over the last 3 years at some point, I do know we wouldn't be using any water this production season and we couldn't commit to next year at this point either. Obviously we would like to be able to keep the permit in place, but if it has to be terminated for lack of use then we would have to regroup at a later date.

Hopefully this helps.

Let me know if you have any other questions or would like to discuss further.

Thanks again.



CHRIS KLEIN, L.G. Everist, Inc. – Mine Planning & Regulatory Manager
350 S Main Ave, Suite 400, Sioux Falls, SD 57104
605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com
SAFE...RELIABLE...PRODUCTIVE

From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Thursday, July 11, 2024 2:58 PM
To: Chris Klein <cmklein@LGEVERIST.com>
Cc: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: FW: Water Right 7201-3

From: Gronlund, Eric
Sent: Thursday, July 11, 2024 2:47 PM

To: Dewell, Amanda <Amanda.Dewell@state.sd.us>

Subject: FW: [EXT] Water Right 7201-3

What about this as a response coming from me to Chris Klein.

Chris – Amanda looped me in on the issue that arose on Water Permit No. 7201-3.

I have no doubt that we discussed this and you sent the attached letter. What I can't recall is receiving the letter but that was almost three years ago and memories fade. What I can't explain is if it was received why Water Rights did not process because generally we turn change of diversion point requests around in less than two weeks.

The water permit was transferred from Myrl and Roy's Paving to L G Everist based on the filing of the transfer of ownership form on February 3, 2020. From records, TCB LLC purchased the ground in 2019. Is or was there an affiliation between TCB LLC and L G Everist at that time causing the permit to be transferred into the name of L G Everist instead of TCB LLC? Then in 2022 records show the land was purchased by Crusher Investment Company who currently owns the land where the diversion point was originally located. Do you know if Crusher Investment Company is agreeable to allowing the change of diversion point away from property they currently own? I recognize the request to change the diversion point was made prior to Crusher owning the property. But now that Crusher owns the property where the diversion point is located their concurrence is likely necessary.

Finally, is it L G Everist's intent if the change diversion point is authorized to begin making a beneficial use of water by pumping from the pit in the near future?

Sorry for all the confusion. Eric

Eric Gronlund
Water Rights Program, DANR
605 773-3352

From: Chris Klein <cmklein@LGEVERIST.com>

Sent: Monday, July 8, 2024 1:26 PM

To: Dewell, Amanda <Amanda.Dewell@state.sd.us>

Subject: [EXT] Water Right 7201-3

Amanda –

I have received both your voicemail and letter regarding Water Right 7201-3.

I cannot verify whether or not a pond/dugout was in place prior to August 2, 2015 as that was well before the permit was transferred to L. G. Everist, Inc. We were told verbally that all deadlines/milestones/report forms were all met or submitted prior to our taking ownership in , however we are unable to physically confirm whether that is true. Assuming that the former is correct, we do know that water would have been used for washing aggregate.

With the above said, what I can tell you is the following:

- There was no dugout/pumping system in place when the permit was transferred to L. G. Everist, Inc. The site was an old sand/gravel aggregate pit that was being reclaimed and being turned into a housing development.

- Between 02/11/2020 and 02/25/2020 I had email correspondence with Eric Gronlund discussing moving the diversion point from the currently permitted location to a new location approximately 4,000' to the northwest. His recommendation was to send in a letter with the request showing the new location as well as stating that the source of the water and diversion rate would stay the same and it would be reviewed to see if it met SDCL46-5-13.1. After review and discussion internally, we chose to move forward with the request. Attached is the letter that was sent to the Water Rights program on 08/24/2021. We have not heard anything from the DANR regarding any review and/or decision since the letter was submitted.
- While there is a pond (dugout) at the new proposed diversion location, there is currently no pumping system in place. This is due in part to the uncertainty/lack of approval to do so.

If the permit needs to go before the Water Board for cancellation due to lack of confirmation of system construction and use prior to August 2, 2015 then we'll reassess our needs to determine whether we would apply for a new permit.

If you have any further questions or need more clarification, feel free to give me a call at 605-929-4017.

Sincerely,



CHRIS KLEIN, L.G. Everist, Inc. – Mine Planning & Regulatory Manager

350 S Main Ave, Suite 400, Sioux Falls, SD 57104

605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com

SAFE...RELIABLE...PRODUCTIVE

Approval of Location Change and/or Additional Diversion Point(s)

NAME: LG Everest Inc COUNTY: MinnehahaADDRESS: 350 S Main Ave, Suite 400, Sioux Falls SD 57104DATE: August 14, 2024**GENERAL DESCRIPTION OF AUTHORIZED PROJECT:**

The permit holder is authorized diversion of up to 180 acre-feet annually, at a maximum rate of 2.23 cfs, from a 10.5 ac-ft dugout/pond located in the SW ¼ NE ¼ Section 16, T101N, R50W. Water Permit No. 7201-3 authorizes appropriation from both the Big Sioux: Southern Skunk Creek Aquifer and incidental surface water.

AUTHORITY:

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

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

The permit holder has requested that the diversion point location be moved approximately 7,000 feet northwest, to the SE ¼ SW ¼ Section 8, T101N, R50W. The source of appropriation as well as the diversion rate will remain the same.

If irrigation, no new land is irrigated

Water Permit No. 7201-3 does not authorize irrigation and no irrigation is being requested.

Review of Existing Diversions

There are four existing water permits/rights and one future use permit located within approximately 2 miles of where the new diversion point is going to be developed, also authorizing diversion from the Big Sioux: Southern Skunk Creek Aquifer. The nearest of which being 5916-3 (Natural Beauty Growers), located approximately 0.9 miles northeast of the new site. It was determined that there was reasonable probability any interference due to pumping from the original dugout would not adversely or unlawfully impair existing rights. The same would be expected for the dugout constructed in the new location.

The closest domestic well is approximately 0.4 miles to the south, located in the S ½ NW ¼ Section 17, T101N, R50W, on property owned by Crusher Investment Company, according to Regrid. The next nearest domestic well is approximately 0.6 miles to the south, located in the NE ¼ SW ¼ Section 17, T101N, R50W, on property owned by Kuhle LLC, according to Regrid. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the change in diversion point location be approved.



Amanda Dewell, Permitting Administrator
Water Rights Program

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

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



Eric Gronlund, Chief Engineer
Water Rights Program

Measure Distance ✕

Planar Feet

Result 📄 🗑️

Distance

Segment (ft)	Path (ft)	Sum (ft)
7,008.90		
5,261.73	12,270.64	12,270.64

Path Net Bearing: 264°

Path Net Distance: 7,774.02 ft





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

AUG 16 2024

7102-3

L.G. Everest, Inc.
c/o Chris Klein
350 S. Main Ave, Suite 400
Sioux Falls SD 57104

Dear Mr. Klein:

This letter is in regard to your request for a change in diversion point location authorized under Water Permit No. 7102-3.

Your request stated that the new dugout would be located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 8, T101N, R50W, Minnehaha County, and was made due to the sand and gravel aggregate washing operation being relocated.

Water Permit No. 7201-3 authorizes diversion of up to 180 acre-feet, at a maximum rate of 2.23 cfs, from a dugout for commercial use in and rock and sand washing operation.

Upon review of your request and pursuant to SDCL 46-5-13.1, the relocation of the dugout is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4.

No increase to the 10.5 acre-feet storage volume of the dugout, the annual appropriation of 180 acre-feet, or the maximum diversion rate of 2.23 cfs is authorized by the approval of this request.

If you have any questions, please contact Amanda Dewell at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program