

FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>123A-3</u>	(office use only) Hydrologic Unit <u>10130106</u>
	Basin <u>Missouri River</u>	
	Newspaper <u>Northwest Blade, Eureka, SD</u>	



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

Check use(s) of water:

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

Type of Application: ☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
 (check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☒ Amendment/Correction to Permit No. 723-3

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Change in use from municipal use to recreational use. Adding recreational use

- Name of Applicant City of Eureka Phone (605) 284-2441
 (check one) ☒ Owner ☐ Tenant/lessee
 Mailing Address P.O. Box 655, Eureka State SD 57437-0655
 (Street, R.R. or Box) (Zip Code)
- Amount of water claimed _____ *CFS or 200 **GPM ***AF
 (*Cubic Feet per Second) (**Gallons per Minute) (***)Acres feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Fall River formation of the Inyan Kara Aquifer.
- Location of point of diversion (example: 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) Flowing well located in block 13 SW1/4 SE1/4 Section 35-T127N-R73W.
 County McPherson
- County or counties where water will be used McPherson
- Annual period during which water is to be used Jan. 1 thru Dec. 31
- 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)

A flowing artesian well discharges through the city storm sewer system to East Eureka Lake.
Well is also to be used for fire protection.

STATE OF SOUTH DAKOTA) SS
 County of McPherson

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)

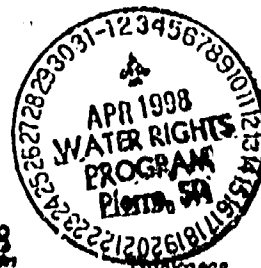
I, Ervin Gebhardt, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Ervin H. Gebhardt
 Subscribed and sworn to before me this 30 day of March, 19 98

[Signature]
 Notary Public Exp 10-8-02

Supplemental Information

(type or print in ink)



1. Well Information - Proposed Construction

- a) Drill Hole Diameter larger than casing Dept 2100'
- b) Casing Type steel Diameter 2004' of 4" and 160' of 8" Thickness _____
- c) Screen Type none Diameter _____ Thickness _____
- d) Gravel Pack none 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 applicants 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 _____

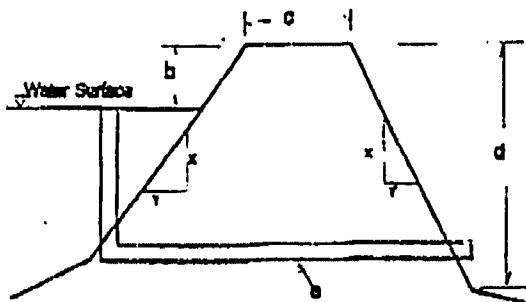
3. Dugout Information

- a) Surface Dimensions _____ 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

**SOUTH DAKOTA
WATER PERMIT NO. 723A-3**

Date of first receipt of application April 2, 1998.

The Water Management Board approved Water Permit Application No. 723A-3 on July 8, 1998 for City of Eureka, PO Box 655, Eureka SD 57437-0655 authorizing the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 723A-3 amends Water Right No. 723-3 to authorize the additional uses of recreational and fire protection to the water right. Water Right No. 723-3 appropriates 0.76 cubic feet of water per second (cfs) from an Inyan Kara Formation well (2,100 feet deep) located in the SW ¼ SE ¼ Section 35-T127N-R73W for municipal use. The current maximum diversion from the well is 0.44 cfs and the water right will be reissued to reflect this quantity. This permit adds recreational use to allow use of the well to maintain the water level of East and West Eureka Lake. Discharge from the well enters East Eureka Lake and flows via a narrow channel to West Eureka Lake. The city also intends to use the well for fire protection.

Vested Water Right No. 6068-3 and Water Permit No. 6049-3 authorize East and West Eureka Lakes.

2. The water appropriated shall be used for the purpose of recreation and fire protection and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is July 12, 1960.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

That the well approved under Permit No. 723A-3 be valved and the flow reduced to the amount needed or to a minimum when not needed for recreational and municipal purposes. The well is to be shut off or reduced to a minimum at any time when the West Eureka Lake outlet is discharging water.

WATER MANAGEMENT BOARD

By: _____

John Hatch
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 26 1999
date



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 723A-3

(1) The City of Eureka, PO Box 655, Eureka SD 57437-0655 made Application No. 723A-3, April 2, 1998 for a water permit to amend Water Right No. 723-3, McPherson County, South Dakota. Permit No. 723A-3, with a priority date of July 12, 1960 was approved July 8, 1998 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

Water Permit No. 723A-3 amends Water Right No. 723-3 to authorize the additional uses of recreational and fire protection to the water right. Water Right No. 723-3 authorizes 0.76 cubic feet of water per second (cfs) for municipal use. The recreational use allows use of the well to maintain the water level of East and West Eureka Lake. Discharge from the well enters East Eureka Lake and flows via a narrow channel to West Eureka Lake. The applicable portions of Water Right No. 723-3 are incorporated into Water Right No. 723A-3.

(2) It is certified that the City has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.44 cubic feet of water per second for beneficial use. The location of the diversion point is 3,032 feet east and 956 feet north of the southwest corner of Section 35-T127N-R73W (SW ¼ SE ¼).

(3) The City has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 the City of Eureka, PO Box 655, Eureka SD 57437-0655 the holder and/or owner of Incorporated Water Right No. 723A-3 is issued a license to appropriate water, the right to use 0.44 cubic feet of water per second from groundwater (one well) with a priority date of July 12, 1960 from the location specified in (2) of this license for domestic, recreational and fire protection purposes. This license is subject to any limitations or qualifications listed in Incorporated Water Right No. 723A-2 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 26 1999

date





U.S. GEOLOGICAL SURVEY
WATER RESOURCES DIVISION

Huron Subdistrict Office

111 Kansas Ave SE

Huron, South Dakota 57350

Phone (605) 353-7176

FAX (605) 353-7166

FAX TRANSMISSION COVER

To: Jim Goodman

Date: 3-9-98

Organization: DENR Water Rights

Fax Number: (605) 773-4068

Number of pages (include cover): 6

From: Kathy Neitzert

Subject: City of Eureka Well

Comments: Jim - I tried to copy the e-logs, but they
don't zero in readable format. Give me a call if
you would like us to mail the originals for temporary
loan.

NEXT

DOCUMENT (S)

BEST IMAGE

POSSIBLE

Eureka East group

SEE SPECIAL LOG FILE FOR
MORE INFORMATION

(Enter type of well, perforations, yield, and drawdown at end of log) width & log to

CORRELATION	MATERIAL	DEPTH (feet)	THICKNESS (feet)	DEPTH (feet)	TOP
11 45 268	Drift	14.5	265	265	-1037
11 45 932	Pierre	19.5	581	846	-783
11 45 1353	Niobrara	1100	252	1352	-531
11 45 1501	Carlisle	1352	200	1470	-403
11 45 1658	Greenhorn	1552	105	1657	-228
11 45 1799	Graneros	1657	273	1930	-47
11 45 2011	Dakota	1930	82	2012	-129
11 45 2011	Skull Creek	2012	64	2076	
11 45 2011	Fall River				

Notes: E-log indicates glacial drift to 270' and sandy gravel or till at 90-120, 190-210.

Initial flow 342 gpm at 3' above land surface

SDGS:

- unmarked
- Pierre
- Niobrara
- Carlisle (Top code at 1017')
- Greenhorn
- Graneros
- Newcastle
- Skull Creek
- Dakota
- Ensenada
- Laurel
- Mission

5/6 USGS Field + trace elements water analysis

4/7/66 USGS CHEMICAL ANAL.

7/23/69 "

PRELIMINARY DATA

NOT

not penetrated or devices

WELL NO. 127-73-35

Ground level 1878

Sample study by: SDGS ☐ Dr. Gries ☐ Company ☐ Service Co. ☐ Other ☐

PRELIMINARY DATA
SUBJECT TO REVISION

First page
of E-Lg
on 5-25-60

HOUSTON, TEXAS



Electrical Log

Other Surveys

Location of Well

WATER WELL #3

FIELD _____

LOCATION SEC 35-T127-R73

BLOCK 13 LOT 3

COUNTY McPHERSON

STATE SOUTH DAKOTA

Elevation: D.F.: _____
K.B.: 1883
or G.L.: 1878

FILING No.

RUN No.	ONE
Date	5-25-60
Last Reading	2049
First Reading	078
Total Measured	1971
Casing Schlum.	NONE
Casing Driller	NONE
Depth Reached	2050
Bottom Driller	2070
Depth Datum	KB-5' ABOVE GL
Mud Natl.	NATIVE MUD
Cons. Visc.	9.6 @ 33
Mud Resist.	3.1 @ 67°F
Res. BHT	2.7 @ 78°F
Rmf M	2.4 @ 78°F
Rmc M	2.3 @ 78°F
pH	8 @ F
Wlr. Loss	-- CC 30 min.
Hole Size	15" - 520; 12-3/4" - 2071
Cgs. — AM	16"
A M	6.4"
AO	18' 8"
Dr. Rig Time	
Luck No.	2572-NC
Recorded By	HILLER & ROUSER
Witness	WILLIAMS

FOLD HERE

REMARKS:

RESISTIVITY
ohms. m²/mRESISTIVITY
ohms. m²/m

DEPTHS

NEOUS-POTENTIAL
millivolts

10
- | +
mv

LATERAL
0 50
0 500

SPONTANEOUS-POTENTIAL
millivolts

DEPTH

RESISTIVITY
ohms. m²/m

RESISTIVITY
ohms. m²/m

COMPANY INDEPENDENT DRILLING COMPANY

WELL CITY OF EUREKA WATER WELL #3

FIELD

COUNTY MCPHERSON STATE SOUTH DAKOTA

Rm 2.7 @ 78 °F
Rmf 2.4 @ 78 °F
Rmc 2.3 @ 78 °F
BHT 78

SWSC FR 2008
SWSC TD 2008
DRIR TD 2010
Elev:

KB 1823
DF 1578
CI 1578

Last Page
of E-logs
5-20-60
W/dco

NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

Permit No. 723A-3
Missouri River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, March 26, 1998 made a thorough examination of the water use system constructed by City of Eureka of P.O. Box 655, Eureka, SD 57437 holder of Permit No. 723A-3, bearing the priority of July 12, 1960 authorizing the diversion of 0.44 cu. ft. per second of the waters of Inyan Kara aquifer for municipal and recreational purposes, in McPherson County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

One controlled artesian well 2100' deep with 2004' of 4" steel casing.

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

City storm sewer.

C. Works used to apply water to beneficial use:

Used as fire protection and to enhance East and West Eureka Lake levels in accordance with the permit.

The system is in the following condition good. The point of diversion is located 3,032' E and 956' N of the SW corner of Section 35, T127N, R73W. The works are capable of diverting and conveying to the place of use 0.44 cu. ft. per second of water which is to be used for fire protection and recreational use. Water has been put to beneficial use to the maximum extent as follows:

East Eureka Lake: SW¼ Section 35

West Eureka Lake: E½ SW¼ Section 27 and portions of Section 34

The license should be issued for 0.44 cfs.

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none

Comments:

The well when looked at March 26, 1998 was flowing uncontrolled since then the well has been valved and controlled.

Lynn Beck
Lynn Beck
Natural Resources Engineer
DENR, Water Rights Program

12-16-98
Date

REPORT ON INSPECTION OF PERMIT NO. 723A-3

DATE OF INSPECTION: March 26, 1998 and December 1, 1998

Other permit(s) associated with the project: 6049-3 and 6068-3

NAME & ADDRESS OF INSPECTION CONTACT: Ron Hemmingson

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: Eureka's Water Superintendent

NAME & ADDRESS OF PERMIT HOLDER: City of Eureka, P.O. Box 655, Eureka, SD 57437

DIVERSION POINT LEGAL LOCATION: SW¼ SE¼ Section 35, T127N, R73W. 3,032' E and 956' N of the SW corner of Section 35.

WELL INFORMATION: Flowing well

- 1) Well Drilling Firm: Russell Drilling
- 2) No. of Wells 1
- 3) Depth(s) 2100 feet
- 4) Well log is available yes

Casing:

- 1) Diameter 8 and 4 inches
- 2) Length 160 and 2004 feet
- 3) Type steel

Screen:

- 1) Type no screen
- 2) Length # feet
- 3) Static water level # feet

DISTRIBUTION LINES OR CANALS:

Well discharges to the city storm sewer and ultimately to East Eureka Lake.

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 415722

Pierre, April 2, 19 98

RECEIVED OF Clt of Eureka, P.O. Box 655, Eureka, SD 57437
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>723A-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	50	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By _____
Chief Engineer

John H. Hildebrand

REPORT ON APPLICATION NO. 723A-3
CITY OF EUREKA
April 6, 1998

Application No. 723A-3 proposes to add to the uses authorized by Water Right No. 723-3 to allow diversion at a rate of 0.44 cubic feet of water per second cfs into East Eureka Lake in order to maintain lake levels. Water Right No. 723-3 appropriates 0.76 cfs from an artesian well located in the SW¼ SE¼ Section 35-T127N-R73W for municipal purposes. Vested Water Right Application No. 6068-3 is for 224 acre feet of storage in East Eureka Lake located in the SW¼ Section 35-T127N-R73W in McPherson County. Application No. 6049-3 is for 885 acre feet of storage in a dam (West Eureka Lake) located in the E½ of Section 34-T127N-R73W. This application, if approved, would not increase the diversion rate from the well but will add recreational use. The city also intends to use the well for fire protection. The maximum diversion rate is 0.44 cfs.

AQUIFER – INYAN KARA (INKR)

The Inyan Kara Group consists of the Fall River, Fuson, and Lakota Formations in descending order. The well in this application was completed into the Fall River Formation. Terry Helms of Helms and Associate, City Engineer for Eureka, reported that the well depth is over 2,000 feet, it was grouted to the bottom, and no screen was installed. According to a United States Geological Survey electronic well log for another Eureka City well drilled in 1960, the top of the Inyan Kara (Fall River Formation) is 2,012 feet below land surface. The 1960 well is located within 100 feet of the well in this application.

The Inyan Kara Group is made up of sandstone, shales, and siltstone and is under artesian pressure in this area. The electronic well log for the 1960 well indicated an initial flow of 342 gallons per minute at three feet above the ground. In McPherson County the Inyan Kara Group underlies 1,157 square miles with 6.1 million acre feet of water in storage (Hedges, 1982). The Water Rights Program does not have any observation wells in the Inyan Kara in the Eureka area. The nearest Inyan Kara observation well is near Mina Lake in Edmunds County, 50 miles southwest of the well in this application.

COMPLAINT ON EUREKA FLOWING WELL

The Water Right Program received a complaint concerning a City of Eureka uncontrolled flowing artesian well. The complaint was investigated and three wells were found. The oldest well was drilled in 1923 and was plugged in 1973. A second well was drilled in 1960 to a depth of 2,085 feet in the vicinity of the first well. At the time of the investigation the well drilled in 1960 was valved and a small amount of water was allowed to flow to East Eureka Lake. A third well, the subject of the complaint and this application, was allowed to flow uncontrolled to East Eureka Lake. This well was drilled in 1983.

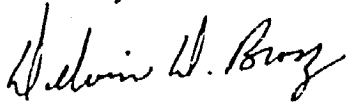
A notice was sent to the City of Eureka on March 31, 1998, advising that the 1960 well be plugged due to the deterioration of the casing. The notice also stated that the 1983 well must be controlled and the flow reduced to a minimum when water is not needed.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

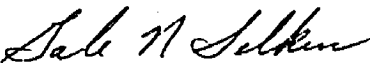
The only existing Water Right developed into the Inyan Kara Aquifer, in the area of the application, is Water Right No. 723-3 owned by the City of Eureka. The closest Water Right developed into the Inyan Kara Aquifer is in Mound City, 25 miles away.

CONCLUSIONS

1. Water is available from the Inyan Kara aquifer.
2. Interference is not expected to be a problem. The closest Inyan Kara well is located in Mound City 25 miles away.
3. Data is not available to determine any historical water level trends for the Inyan Kara in this area.
4. As stated in the March 31, 1998 Notice, the well in this application is to be controlled and flow shut off or reduced to a minimum when not needed. Also the well drilled in 1960 is to be plugged.
5. Diversions from the well into East Eureka Lake will be made on an as needed basis. Flow from the well is to be shut off or reduced to a minimum when water is discharging from West Eureka Lake.
6. The project is a beneficial use of water for fire protection and for recreational purposes. The city has developed recreational use of East Eureka Lake with the construction of a public beach with a swimming dock and bathhouse. The lake has picnic and shore fishing areas around the shore and a boat ramp. The fishery consists of northern pike and panfish.

for 
Lynn Beck
Natural Resources Engineer III

Approved by:


Gale N. Selken, P.E.
Natural Resources Engineer IV

REFERENCES

- Barari, Assad, and Steffen, L.J., 1975, Ground Water Investigation for the City of Eureka, Special Report 60, prepared by the Department of Natural Resource Development, South Dakota Geologic Survey, University of South Dakota, Vermillion, South Dakota.
- Hedges, Lynn S., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Sioux River, South Dakota and Iowa, prepared by Department of Water and Natural Resources, Office of Geological Survey, Vermillion, South Dakota.
- Stewart, William C., 1993, Lake Assessment Report East Lake Eureka McPherson County, South Dakota, prepared by the Division of Water Resource Management, Department of Environment and Natural Resources, Pierre, South Dakota.
- Water Rights Program Files, 1998, Department of Environment and Natural Resources, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota 57501.

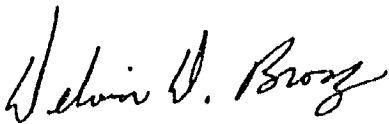
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 723A-3, City of Eureka**

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. 723A-3, City of Eureka, c/o Ervin Gebhardt, Mayor, P.O. Box 655, Eureka, SD 57437-0655.

The Chief Engineer is recommending APPROVAL of Application No. 723A-3 for an additional use because 1) the proposed diversion can be developed without unlawful impairment of existing rights when the condition of the permit is followed, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualification:

That the well approved under Permit No. 723A-3 be valved and the flow reduced to the amount needed or to a minimum when not needed for recreational and municipal purposes. The well is to be shut off or reduced to a minimum at any time when the West Eureka Lake outlet is discharging water.

See report on application for additional information.

for 
JOHN HATCH, Chief Engineer
May 29, 1998



HELMS and ASSOCIATES

CONSULTING ENGINEERS • LAND SURVEYORS

S P N

A DIVISION OF
SCHMUCKER, PAUL, NORD and ASSOC

BOX 111

BERKSHIRE PLAZA

ABERDEEN, SD 57402-0111

405 8th AVENUE NW

PHONE (406) 225-1212

FAX: (605) 225-3189

Fax Message

DATE:

4.7.98

TO:

Lynn Beck

773-4068

COMPANY:

SD-DENR

FROM:

Terry Helms

RE:

Eureka SD

CC:



Number of pages including cover sheet: 2

Message: Lynn, please give me
a call.

7

IF YOU DO NOT RECEIVE ALL PAGES PLEASE CALL BACK IMMEDIATELY

TELEPHONE: (605) 225-1212

FAX: (605) 225-3189

DOCUMENT (S)

RECEIVED

TAPED TOGETHER

NOT AN

OVERLAP

PERIODIC PAYMENT ESTIMATE NO. 1

(Forecast) (Final)

ISSUE DATE: August 3, 1983OWNER: City of EurekaCONTRACTOR: Russell DrillingBID SCHEDULE: Base Bid

Includes Approved Change Order

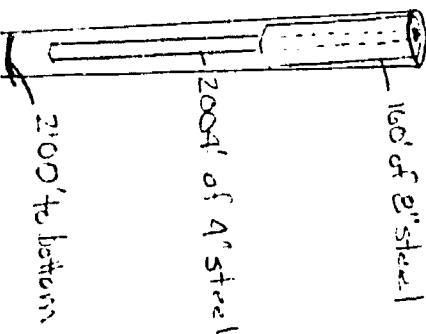
Item No.	Approved Units to Date	Description	Unit Price	Total Price Approved to Date	Installed this Application		Installed to Date		Balance to Install
					Units	Total Price	Units	Total Price	
1.	L.S.	Mobilization - Demobilization	Lump Sum	\$ 1,500.00	L.S.	\$ 1,500.00	L.S.	\$ 1,500.00	-0-
2.	2100 L.F.	Drilling for Casing & Screen	\$11.00	\$23,100.00	2100 L.F.	\$23,100.00	2100 L.F.	\$23,100.00	-0-
3.	2004 L.F.	4" I.D. Schedule 40 Casing Piping	\$ 4.88	\$ 9,779.52	2004 L.F.	\$ 9,779.52	2004 L.F.	\$ 9,779.52	-0-
4.	0 L.F.	4" O.D. Stainless Steel Telescoping Screen	\$ 0.00	-0-	-0-	-0-	-0-	-0-	-0-
5.	0 L.F.	4" O.D. Stainless Steel Telescoping Screen	\$26.75	-0-	-0-	-0-	-0-	-0-	-0-
6.	2002 L.F.	Groutline	\$ 2.00	\$ 4,004.00	2002 L.F.	\$ 4,004.00	2002 L.F.	\$ 4,004.00	-0-
7.	L.S.	Surface Piping & Valves	Lump Sum	\$ 150.00	L.S.	\$ 150.00	L.S.	\$ 150.00	-0-
8.	L.S.	Development	Lump Sum	\$ 300.00	L.S.	\$ 300.00	L.S.	\$ 300.00	-0-
9.	0 hrs.	Testing	\$62.50	-0-	-0-	-0-	-0-	-0-	-0-
10.	160 L.F.	6" Casing Grouted in Place	\$ 8.75	\$ 1,400.00	160 L.F.	\$ 1,400.00	160 L.F.	\$ 1,400.00	-0-

CERTIFICATION OF CONTRACTOR - I HEREBY CERTIFY that the work periodic payment estimate, represents the actual value of a approved plans and specifications, less an estimated amount and in accordance with the intent of the Contract Document correct, and that there has been full compliance with all I and in all subcontracts made under that contract.

CONTRACTOR'S SIGNATURE: John Russell DATE: 8-10-83

HE

Well construction - No screen.
Grouted to 2002'.



o date, as shown on this contract in conformity with because of known non-perfor-ly determined and are contract identified above.

ULTIMO ENGINEERS - LAND SURVEYORS
ABERDEEN, S.D. 57401 PHONE (605) 225-1575



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3101
www.state.sd.us/denr

June 4, 1998

Richard Sommers
305 6th Avenue SE
Aberdeen, SD 57401

Dear Mr. Sommers:

Please find enclosed a copy of the reports and recommendation and public notice for the City of Eureka's Water Permit Application Nos. 723A-3 and 6049-3 and Vested Water Right Application No. 6068-3. The notice of hearing for these application will be published on June 10 and 17, 1998, in the Northwest Blade.

The hearing on these applications is scheduled for July 8, 1998 beginning at 10:00 AM at the Staurolite Inn in Brookings, SD.

If you have any questions on the applications, please contact Lynn Beck at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script, reading "Eric Gronlund".

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

June 4, 1998

Mark Kroontje
P.O. Box 38
Herreid, SD 57632-0038

Dear Mr. Kroontje:

Please find enclosed a copy of the reports and recommendation and public notice for the City of Eureka's Water Permit Application Nos. 723A-3 and 6049-3 and Vested Water Right Application No. 6068-3. The notice of hearing for these application will be published on June 10 and 17, 1998, in the Northwest Blade.

The hearing on these applications is scheduled for July 8, 1998 beginning at 10:00 AM at the Staurolite Inn in Brookings, SD.

If you have any questions on the applications, please contact Lynn Beck at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

June 4, 1998

John Ladson, PE
Helms and Associates
Box 111
Aberdeen, SD 57402-0111

Dear Mr. Ladson:

Please find enclosed a copy of the reports and recommendation and public notice for the City of Eureka's Water Permit Application Nos. 723A-3 and 6049-3 and Vested Water Right Application No. 6068-3. The notice of hearing for these application will be published on June 10 and 17, 1998, in the Northwest Blade.

The hearing on these applications is scheduled for July 8, 1998 beginning at 10:00 AM at the Staurolite Inn in Brookings, SD.

If you have any questions on the applications, please contact Lynn Beck at (605) 773-3352.

Sincerely,


Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

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

June 4, 1998

City of Eureka
%Mayor Ervin Gebhardt
P.O. Box 655
Eureka, SD 57437-0655

Dear Mayor Gebhardt:

Water Permit Application Nos. 723A-3, 6049-3 and Vested Water Right Application No. 6068-3 for recreational use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Northwest Blade printed at Eureka, SD (Ph # (605) 284-2631). For your information, a copy of the notices, the recommendations of the Chief Engineer and a 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 newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

c: Ron Hemmingson, Water Superintendent, City of Eureka.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

June 4, 1998

Northwest Blade
Box 797
Eureka, SD 57437-0797

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application Nos. 723A-3, 6049-3 and Vested Water Right Application No. 6068-3 to Appropriate Water to be published twice. Please publish the first notice on June 10, 1998, with the second publication 7 days later.

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 City of Eureka, %Mayor Ervin Gebhardt, P.O. Box 655, Eureka, SD 57437-0655 (Ph # (605) 284-2441).

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
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

Nos. 723A-3, 6049-3 & 6068-3

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

Date _____

We are in receipt of your letter of June 4, 1998, enclosing Notice of Hearing to Appropriate Water by Application Nos. 723A-3, 6049-3 & 6068-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper - Publish first Notice on June 10, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Water Permit Application Nos. 723A-3, 6049-3 and Vested Water Right Application No. 6068-3

Notice is given that the City of Eureka, c/o Mayor Ervin Gebhardt, P.O. Box 655, Eureka, SD 57437-0655 has filed applications for water permits and a vested water right application for issues involving East and West Eureka Lake and the well that is used to assist in maintaining the lake level.

Water Permit Application No. 723A-3 proposes to amend Water Right No. 723-3 to authorize the additional uses of recreational and fire protection to the water right. Water Right No. 723-3 appropriates 0.76 cubic feet of water per second (cfs) from an Inyan Kara Formation well (2,100 feet deep) located in the SW1/4 SE1/4 Section 35, T127N, R73W for municipal purposes. The current maximum diversion from the well is 0.44 cfs and the water right will be reissued to reflect this quantity. This application proposes to add recreational use to allow use of the well to maintain the water level of East and West Eureka Lake. Discharge from the well enters East Eureka Lake and flows via a narrow channel to West Eureka Lake. The city also intends to use the well for fire protection.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 723A-3 with a qualification requiring the well to be valved and the flow reduce to the amount needed or to a minimum when not needed for recreational and municipal purposes 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.

Water Permit Application No. 6049-3 proposes to appropriate 885 acre feet of water of storage for recreational use in the existing dam. The dam is located in the SE1/4 Section 34 and impounds water in the E1/2 and SW1/4 of Section 27 and in portions of Section 34; all in T127N, R73W. The dam forms what is commonly known as West Eureka Lake and is supplied water from local runoff and the well listed in Application No. 723A-3 (see above). The dam which forms West Eureka Lake is to undergo maintenance to the primary and secondary spillways. The primary spillway will be designed for the 25 year precipitation event and will retain the historic elevation of 1,843.0 feet mean sea level. The combined primary and secondary spillways are designed to handle the 100 year precipitation event.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 6049-3 because 1) unappropriated water is available, 2) existing rights have not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Vested Water Right Application No. 6068-3 claims 224 acre feet of water of storage in East Eureka Lake for recreational purposes. The lake is a non-meandered lake located in the SW1/4 of Section 35, T127N, R73W. East Eureka lake is a man-made lake within the city limits. The lake was constructed as a Public Works Administration (WPA) project in 1933. Rather than a typical impoundment type reservoir, the lake was excavated and the shoreline rip-rapped. Sources of water for the lake include the municipal storm sewer, a well (see Application No. 723A-3), ground water, and its connection to West Eureka Lake.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 6068-3 because 1) water has been appropriated as describe for recreation use with a priority

date of January 1, 1933, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting these applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 June 29, 1998. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider these applications at 10:00 a.m. (CDT), July 8, 1998, at the Staurolite Inn, U.S. Hwy. 14 and I-29, Brookings, SD. 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 these applications based on the facts presented at the public hearing. The July 8, 1998, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by June 29, 1998.

Any hearing will be an adversary proceeding. Any person filing a petition 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. Contact Eric Gronlund by June 29, 1998, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are 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-18, 46-2A-20, 46-2A-21, 46-2A-22; 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 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:0201:19 thru 74:02:01:22. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

COPY MADE

BEST

IMAGE(S)

POSSIBLE

Affidavit of Publication

COUNTY OF McPHERSON
STATE OF SOUTH DAKOTA

Arlo C. Mehlhoff of said county being duly sworn, on oath says that he is the publisher of The Northwest Blade, a weekly newspaper published in Eureka in said County of McPherson and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least 200 copies weekly, and has been published within said County for fifty-two successive weeks next to prior to the publication of the notice herein mentioned and was and is printed wholly or in part in an office maintained at said place of publication; that the advertisement, a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in each week for two successive weeks, on the day of each week on which said newspaper was regularly published, to wit:

June 10	1998	19
June 17	1998	19
19	19	19
19	19	19
19	19	19
19	19	19

that the full amount of the fees for the publication of the annexed notice is \$ 105.77

Arlo C. Mehlhoff

Subscribed and sworn to before me this 24th

day of June, 19 98

Ernest J. Lipp
Notary Public

County of McPherson, South Dakota

ARNOLD J. LIPP
Notary Public-South Dakota
My Commission expires Aug. 1, 2000

Permit Application Nos. 723A-3, 6049-3 and Vested Water Right Application No. 6054-3

Notice is given that the City of Eureka, c/o Mayor Ervin Gebhardt, P.O. Box 655, Eureka, S.D. 57437-0655 has filed applications for water permits and a vested water right application for issues involving East and West Eureka Lake and the well that is used to assist in maintaining the lake level.

Water Permit Application No. 723A-3 proposes to amend Water Right No. 723-3 to authorize the additional uses of recreational and fire protection to the water right. Water Right No. 723-3 appropriates 0.76 cubic feet of water per second (cfs) from an Inyan Kara Formation well (2,100 feet deep) located in the SW $\frac{1}{4}$ Section 35, T127N, R73W for municipal purposes. The current maximum diversion from the well is 0.44 cfs and the water right will be released to reflect this quantity. This application proposes to add recreational use to allow use of the well to maintain the water level of East and West Eureka Lake. Discharge from the well enters East Eureka Lake and flows via a narrow channel to West Eureka Lake. The city also intends to use the well for fire protection.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 723A-3 with a qualification requiring the well to be valved and the flow reduce to the amount needed or to a minimum when not needed for recreational and municipal purposes 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.

Water Permit Application No. 6049-3 proposes to appropriate 885 acre feet of water of storage for recreational use in the existing dam. The dam is located in the SE $\frac{1}{4}$ Section 34 and impounds water in the E $\frac{1}{4}$ and SW $\frac{1}{4}$ of Section 27 and in portions of Section 34; all in T127N, R73W. The dam forms what is commonly known as West Eureka Lake and is supplied water from local runoff and the well listed in Application No. 723A-3 (see above). The dam which forms West Eureka Lake is to undergo maintenance to the primary and secondary spillways. The primary spillway will be designed for the 25 year precipitation event and will retain the historic elevation of 1,843.0 feet mean sea level. The combined primary and secondary spillways are designed to handle the 100 year precipitation event.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 6049-3 because 1) unappropriated water is available, 2) existing rights have not been unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Vested Water Right Application No. 6054-3 claims 224 acre feet of water of storage in East Eureka Lake for recreational purposes. The lake is a non-meandered lake located in the SW $\frac{1}{4}$ of Section 35, T127N, R73W. East Eureka Lake is a man-made lake within the city limits. The lake was constructed as a Public Works Administration (WPA) project in 1933. Rather than a typical impoundment type reservoir, the lake was excavated and the shoreline riprapped. Sources of water for the lake include the municipal storm sewer, a well (see Application No. 723A-3), ground water, and its connection to West Eureka Lake.

Pursuant to SDCL 46-2A-7, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 6054-3 because 1) water has been appropriated as describe for recreation use with a priority date of Jan. 1, 1933, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting these applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, S.D. 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 June 29, 1998. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider these applications at 10 a.m. (CDT), July 8, 1998, at the Staurulite Inn, U.S. Hwy. 14 and I-29, Brookings, S.D. 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 these applications based on the facts presented at the public hearing. The July 8, 1998, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by June 29, 1998.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-23. 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. Contact Eric Gronlund by June 29, 1998, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-2, 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-18, 46-2A-20, 46-2A-21, 46-2A-22; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-6-30.2, 46-6-30.4, 46-6-31, 46-6-3, 46-6-3-1, 46-6-4.1, 46-6-20, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01.01 thru 74:02:01:15; 74:02:01: 19 thru 74:02:01:22. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

6-10-17-98

P.011

KROONTJE LAW OFFICE

P.O. Box 38 204 Main Street
HERREID, SOUTH DAKOTA 57632 0038
(605) 437-2426

Mark K. Kroonje

*Also admitted in North Dakota

FACSIMILE TRANSACTION SHEET

DATE: JUNE 30, 1998

TO: ERIC GRONLUND OR
LYNN BECK

FAX NO: 1-605-773-4068

FROM: MARK K. KROONTJE

TELEPHONE NO.: (605) 437-2426

WE ARE SENDING YOU 12 PAGES, PLUS THIS PAGE.

ORIGINAL (S): _____ not mailed x mailed
 _____ sent by overnight courier

IF THERE IS A PROBLEM WITH THIS TRANSMISSION, OR YOU DO NOT
RECEIVE ALL PAGES, PLEASE CALL: (605) 437-2426

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE OR ACCOMPANYING THIS TRANSMISSION IS PRIVILEGED INFORMATION UNDER THE ATTORNEY/CLIENT PRIVILEGE AND/OR ATTORNEY WORK PRODUCT PRIVILEGE; THEREFORE IT IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. WE WILL REIMBURSE YOU FOR POSTAGE. THANK YOU.



KROONTJE LAW OFFICE
P.O. Box 38 204 Main Street
HERREID, SOUTH DAKOTA 57632-0038
(605) 437-2428

Mark K. Kroontje
*Also admitted in North Dakota

June 30, 1998

Mayor Ervin Gebhardt
P.O. Box 655
Eureka, SD 57437-0655

Eric Gronlund
Water Rights Program
Dept. of Environment and Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

RE: PETITION

Dear Mayor Ervin Gebhardt and Mr. Gronlund:

Please consider this letter as Harvey & Duard Delzer's petition or statement in opposition to Water Permit Application No. 723A-3, report on Water Permit Application No. 6049-3, recommendation of Chief Engineer for Water Permit Application No. 6049-3, and report on Vested Water Rights Application No. 6068-3, and recommendation of Chief Engineer for validation of Vested Water Rights Application No. 6068-3.

Harvey Delzer and Duard Delzer are interested parties in that they own land which is down stream from the proposed drainage by the City of Eureka.

The address of Harvey Delzer is 508 11th Street, Eureka, SD 57437.

The address of Duard Delzer is P.O. Box 232, Eureka, SD 57437.

Harvey and Duard Delzer desire that the water management board be fully aware of all the implications in their decision on the various applications contained herein. You will find enclosed, a variety of objections which were originally filed in relation to the assessment of the Eureka Spillway Project No. 9797-684, but a review of those objections should give the Water Management Board a clearer understanding of what has been taking place over the years in regard to the City of Eureka's drainage, and the problem with the drainage ending up on Harvey and Duard Delzer's land and staying there. Please consider the objections to the assessment of the Eureka Spillway Project No. 9797-684 as a part of this Petition.

Gebhardt and Gronlund Letter

6-30-98

Page Two

Essentially, a brief summary of the situation is as follows. The City of Eureka had an unrestricted flowing artesian well, which I understand may have now been capped, which flowed into East Lake Eureka. It is my understanding that the City of Eureka's storm sewer water also flows and ends up in East Lake Eureka. From East Lake Eureka, the water flows into West Lake Eureka. In 1994, 1995, 1997, the excess water in West Lake Eureka was siphoned out of West Lake Eureka and allowed to flow into an unreclaimed sewage lake located south of Highway 10. Finally, in 1994, 1995, 1997, the water which accumulated in the unreclaimed sewage lake overflowed onto Harvey and Duard Delzer's land.

It is Harvey and Duard Delzer's position, that the City of Eureka by collecting their storm sewer water and allowing the artesian well to flow unrestricted, have created this problem. Although it is said that there were some kind of spillway drains that at one point were cemented shut, there has been no showing that such devices were ever used on West Lake Eureka.

On behalf of Harvey and Duard Delzer, it can be asserted that it is not in the public's best interest to allow water to flow unrestricted through an unreclaimed sewage lake to ultimately rest on private property. Obviously the problems have been exacerbated by high levels of water and natural drainage in recent years, but the answer should not be for the City of Eureka to receive a vested right to simply dump water on private property. The City of Eureka has created an artificial hazard by collecting flowing artesian well water, storm sewer water, and natural flowing waters in man made lakes and an unreclaimed sewage lake. They dump their overflow on Harvey and Duard Delzer's property, and this is wrong.

When the City of Eureka obtained additional land for drainage in regard to their sewer lagoon and lakes, they simply purchased the land and had more room for drainage. What the City of Eureka is requesting in the vested water right permits addressed herein is the unrestricted right to deposit the water which they have collected, onto a private parties property. This should not be allowed. Safe guards must also be made such that the artesian water flow is controlled in anticipation and in conjunction with heavy rainfalls.

Thank you for your consideration of these various issues. Thank you also for considering the objections to the Environmental Assessment and of the Eureka spillway, as those objections also relate directly to the impact which will result from the granting of the permits addressed herein.

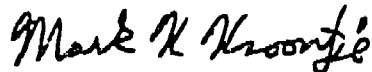
Gabhardt and Gronlund Letter
6-30-98
Page Three

It should also be noted that the City of Eureka's drainage activity is the subject of current litigation based upon the enclosed complaint and notice has been filed that an additional suit may be filed against the City of Eureka based upon their unlawful taking of Delzer's land.

The letter I received from Eric Gronlund indicated that the hearing in this matter is scheduled for July 8, 1998 at 10:00 a.m. at the Staurolite Inn in Brookings, South Dakota and at this time I plan to attend with Harvey and Duard Delzer.

Sincerely,

On behalf of Harvey and Duard Delzer,



Mark K. Kroontje

MKK/sjk

pc: Harvey Delzer
Duard Delzer

daily\gronlund.ltr

**OBJECTIONS TO ENVIRONMENTAL
ASSESSMENT OF EUREKA SPILLWAY
PROJECT # 9797-684**

OBJECTION I

Under the Land Development Impact Category dealing with Erosion a finding has been made that the project will not negatively impact or be impacted by erosion. This finding is objected to on the basis that substantial soil erosion has resulted from The City of Eureka's release of water from West Lake Eureka in the spring of 1994, 1995, and 1997 and again in the summer of 1997. This water flows through an unreclaimed sewage lake, where it is released upon the private property of Harvey and Duard Delzer resulting in soil erosion and damage to the soil and property. Future releases of water will certainly result in additional soil erosion.

OBJECTION II

Under the Land Development Impact Category dealing with Hazards and Nuisances including Site Safety HUD Notice 79-33-24 CFR Part 51 C & D a finding has been made that no-man made hazards were identified on or near the site to adversely impact the project. This finding is objected too on three grounds.

First, due to substantial releases of water by the City of Eureka from West Lake Eureka in 1994, 1995, and 1997 a public nuisance has been created by the flow of water through an unreclaimed sewage lake creating a stagnant lake on private property.

Second, this nuisance is exacerbated by the City of Eureka's collection of city storm sewer waters in Lake Eureka and West Lake Eureka. This excess water has been siphoned into an unreclaimed sewage lake in 1994, 1995, and 1997, which overflows on to the private land of Harvey Delzer, Duard Delzor and others, where the water remains.

Third, this nuisance is exacerbated by the City of Eureka's maintenance of an unrestricted continuously flowing artesian well which water flows into West Lake Eureka. This excess water has been pumped into an unreclaimed sewage lake where it overflows on to the land of Harvey Delzer, Duard Delzer and remains. This artesian well is maintained in violation of South Dakota Administrative Rule 74:02:04:74 which requires the capping or controlling of artesian wells in such a manner that the well owner can reduce the flow to no more than five gallons per minute. This well is also in violation of South Dakota Codified Law 46-6-14 which requires that artesian wells are not to be allowed to flow to waste and South Dakota Codified Law 46-6-21 which requires the control of large capacity artesian wells.

The above three considerations constitute the creation of a nuisance which will be exacerbated by the construction of a spillway which will speed the flow of this water to where it collects and remains on private property.

OBJECTION III

Under the Land Development Impact category dealing with Environmental Design and historic values under the Visual Quality - Coherence, Diversity, Compatible Use, and Scale, a finding is made that the project will be compatible with and complimentary to the surrounding area.

This finding is objected to on the ground that the excess water generated by the City of Eureka in flowing through the proposed spillway and unreclaimed sewage lake collects on private property, is possibly contaminated, and thus creates a nuisance and may negatively impact the quality of the ground water and surface water of the area. This is not compatible with and complimentary to the surrounding area, and is in violation of South Dakota state law and likely is in violation of Federal Environmental law.

OBJECTION IV

Under the Land Development Impact Category dealing with Socioeconomic impact under the Displacement Category a finding has been made that the project will not create any displacement.

This finding is objected to on the basis that displacement has occurred in 1994, 1995, and 1997 in that Harvey and Duard Dalzer and others have been effectively displaced from their private land by the City of Eureka's drainage activity. The construction of the proposed spillway will continue to expand this displacement and will effectively result in a "taking" under State and Federal law.

OBJECTION V

Under the Land Development Impact Category dealing with Community Facilities and Services under the waste water, storm water and water supply categories, findings have been made that the project will not have an adverse effect on waste water systems, storm water systems, and water supply.

The three findings noted here under Objection V are objected to on the basis that the City of Eureka has no right, license, or permit to discharge their excess waste water and storm water onto private property.

In recent years the City of Eureka has repeatedly discharged excess waste water from its lagoons into an unreclaimed sewage lake. Excess storm sewage and artesian well water flows into West Lake Eureka where in 1994, 1995, and 1997 it also was siphoned into the unreclaimed sewage lake. The overflow from the unreclaimed sewage lake ends up on the private land of Harvey and

Duward Delzer and others. The proposed spillway will exacerbate the problem created by the flow of water from all of the various sources noted herein onto private property.

The City of Eureka is essentially using the unreclaimed sewage lake and private property as a part of its waste water and storm water disposal system. The City of Eureka's excess waste water, storm water and artesian well water is dumped into the unreclaimed sewage lake, which cannot hold it all, and overflows onto private property.

An objection is also made in regard to the possible impact of this drainage on local water supply. Clearly the release of water through an unreclaimed sewage lake may have possible effects on the surrounding area's water supply. The construction of the proposed spillway will contribute to any negative impact on the water supply system, and the undersigned is aware of no studies or testing which has been done to verify what the impact of the drainage has been on the water supply.

OBJECTION VI

Under the Land Development Impact Category dealing with natural features, under the water resources, surface water, floodplains, and wetlands categories the four separate findings state that there will be no impact in each of these categories and that 404 permits are pending on some sites.

Objection V should be considered in relation to each of these four categories and is incorporated in this objection by this reference.

Water Resources may specifically be impacted by possible contamination by water flowing through the unreclaimed sewage lake and discharges from the City of Eureka's waste water system when combined with the flow of water through the proposed spillway. The same is true for surface waters and floodplains.

An objection can additionally be raised in regards to the finding that there will be no impact on agricultural lands. Clearly, agricultural land is being flooded and rendered useless for agricultural purposes by past discharges of water by the City of Eureka and proposed future discharges through the proposed spillway.

OBJECTION VII

The summary of Findings and Conclusions is specifically objected to in that the alleged use of the proposed spillway drainage in times of high water levels is inaccurate. The City of Eureka's artesian well is continuously running. In mid summer in 1997 substantial discharges occurred after normal amounts of

rainfall subsequent to the drainage which occurred to eliminate spring runoff. Regular drainage in 1994, 1995 and 1997 makes the characterization of the project as one providing relief for a 100 year storm inappropriate where substantial drainage has occurred in three of the last four years. The finding that there will be no adverse impact associated with the project is simply incorrect.

OBJECTION VIII

Under the Project Modifications and Alternatives considered, no alternatives were considered. An objection is raised here as alternatives to the construction of the spillway should be considered.

First, the alternatives inherent in reducing the flow of water into West Lake Eureka must be considered. Control of the artesian well should be considered. Alternatives for the disposal of the City of Eureka's storm water should be considered. Construction of a lagoon, or holding facility for the City of Eureka's storm water should also be considered. Each of these alternatives should be considered and seem to be preferable to hastening the flow of the City of Eureka's excess water onto private land.

OBJECTION IX

Under the additional studies section, no additional studies were suggested in conjunction with this project. The primary objection raised here, is that the excess water to be disposed of through the spillway runs into an unreclaimed sewage lake and has been allowed to overflow through a culvert maintained by the City of Eureka for this purpose on to private land. Studies should be done to determine what contamination occurs in the overflow, and additionally as to what effect this may have upon the ground water and surface water. Studies should also be done as to the effect of the discharges of water from the City of Eureka's waste water facility which is mixed with the water that overflows onto private property. Studies should also be done in regard to alternatives to the spillway.

OBJECTION X

Under the Mitigation Measures needed, it is asserted that no adverse impacts were identified in the environmental assessment and therefore no mitigation measures are needed. This finding is objected to based on all of the foregoing objections. Mitigation measures should be examined in respect to controlling the unrestricted flow of artesian well water into West Lake Eureka. Mitigation measures should also be explored in respect to controlling or finding alternatives to allowing the City of Eureka storm water to flow into West Lake Eureka.

OBJECTION XI

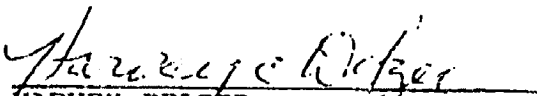
On page 7 of the Environmental Check List a finding that the project is in compliance with applicable law and regulations is questioned where a portion of the water to flow over the proposed spillway comes from an unrestricted flowing artesian well and the water is ultimately deposited on private ground where it remains.

The finding that an EIS (Environmental Impact Study) is not required on page 7 is also objected to based upon the foregoing objections.

The finding of No Significant Impact on page 7 of the Environmental Assessment is objected to based upon the foregoing objections and unknown effect of the impact of the City of Eureka's water overflow from the unreclaimed sewage lake on to private proeprty in this case.

Based upon the foregoing objections and U.S.C.A. section 4332 the undersigned hereby request that an appropriate Environmental Impact study be prepared in accordance with Federal law and that the recommendations of such statement be considered and followed accordingly.

Dated this 26th day of March, 1998.


HARVEY DELZER


MARK K. KROONTJE
Attorney for Harvey Delzer
KROONTJE LAW OFFICE
P.O. Box 38
204 Main Street
Herreid, SD 57632
605-437-2426

FILED

JUL 23 1996

COPY

STATE OF SOUTH DAKOTA)

IN CIRCUIT COURT

:SS. RONDA L. GEFFRE
COUNTY OF McPHERSON McPHERSON COUNTY CLERK OF DISTRICT JUDICIAL CIRCUIT

HARVEY DELZER and DUARD DELZER,

CIV. 96-15

Plaintiffs,

vs.

VERIFIED COMPLAINT

CITY OF EUREKA, a political
subdivision of the State of
South Dakota,

Defendant.

COMES NOW the above named Plaintiffs and for their causes of
action against the above named Defendants allege and state as
follows:

GENERAL ALLEGATIONS**I.**

That the Plaintiffs are residents of the County of
McPherson, State of South Dakota.

II.

Defendant, City of Eureka, hereinafter referred to as
"Defendant" is and at all times herein mentioned was a political
subdivision of the State of South Dakota duly organized and
existing under and by virtue of the laws of the State of South
Dakota.

III.

That Plaintiffs are and at all times herein mentioned the
owners of and have an interest in land located in McPherson
County, South Dakota.

IV.

That the Plaintiffs have used their land for farming
purposes, including the growing of crops and grazing of
livestock.

V.

That the City of Eureka has caused water and treated sewage water to be drained on property owned by Plaintiffs located in Sections 10 and 15, Township 126 North, Range 73 West, of the Fifth Principal Meridian in McPherson County, South Dakota from and after March of 1995, and at various times through the present time.

VI.

That the origin of the water Defendant drained on Plaintiffs' land was from an artesian well, treated sewage water, surface drainage water from the City of Eureka, and from two artificially created lakes near the City of Eureka.

VII.

That the waters drained by Defendant onto Plaintiffs' land could no longer be considered surface waters, as the water drained came from artificially created lakes, ponds, holding areas and an artesian well.

VIII.

That the notice required to be given by SDCL 3-21-2 as a prerequisite for this suit was dated August 21, 1995, and admission of service of said notice was made by Ervin Gebhart on August 22, 1995.

IX.

That Plaintiffs have made repeated demands on Defendant City to either halt the drainage activity or provide suitable and reasonable compensation for the damage done to Plaintiffs' land.

X.

That Plaintiffs affirmatively allege that they have been damaged by Defendant's actions, and that a substantial portion of their pasture, hay and crop land has been flooded as a direct result of Defendant's drainage activity.

NEXT

DOCUMENT (S)

BEST IMAGE

POSSIBLE

COUNT ONE

NEGLIGENCE

XI.

That Defendant has negligently caused water to be drained upon Plaintiffs' land, altering the natural flow of said water, and as a direct proximate result of the aforesaid negligence, the natural drainage has been altered, and the final result has been flooding and damage done to Plaintiffs' land.

XII.

As a further direct proximate result of the aforesaid negligence of Defendant, such flooding of Plaintiffs' land has caused in severe damage to Plaintiffs' land causing past and future losses of revenue to said Plaintiffs.

XIII.

Plaintiffs affirmatively assert that unless this Court issues an injunction compelling Defendant to cease drainage activity resulting in the drainage of water by Defendant onto Plaintiffs' land, Plaintiffs' land and farm will continue to suffer irreparable damage.

XIV.

That Plaintiffs have no adequate remedy at law, for the reason that the amount of damages Plaintiffs will incur in the future if the aforesaid negligent acts of Defendant City are not enjoined by this Court, cannot be calculated with any degree of accuracy.

Realleging and restating the preceding paragraphs, the Plaintiffs further state and allege:

COUNT TWO

NUISANCE

XV.

That Defendant, by omission to perform, as hereinabove alleged and requested by Plaintiffs, have: (1) annoyed, injured, and endangered the comfort, repose, health, and/or safety of the Plaintiffs; and (2) have rendered the Plaintiffs insecure in life, or in the use of their property.

XVI.

That the omissions of the Defendant constitute a public nuisance, and the drainage, if not abated, will continue to flood a considerable amount of land, which at the same time will affect the entire community, and a considerable number of persons.

WHEREFORE, Plaintiffs request the following relief:

1. That an Order be issued directing the Defendant to appear on a day certain to be fixed by the Court and then and there show cause, if any they have, why a preliminary injunction should not be issued restraining the Defendant and its agents, servants and employees from continuing to alter the natural flow of water to Defendant's property, and to further prohibit drainage of the artificially collected lake water, artesian well water and City of Eureka storm sewer water onto Defendant's property.

2. That the Defendant be enjoined and restrained, and those succeeding them, from continuing to allow and maintain the public nuisance as above mentioned.

3. That the Court enter a judgment and decree compelling the Defendant to either remove the water which they have deposited on Plaintiffs' land, or that this Court enter judgment against Defendant City in a sum sufficient to compensate them for the damages which Plaintiffs have incurred as a result of Defendant's negligent actions.

4. That Plaintiffs be granted payment for their costs and disbursements incurred herein; and

5. That Plaintiffs be granted such other and further relief as the Court may deem just and proper.

Dated this 21 day of July, 1998.

CAIN & ASSOCIATES

By: Mark K. Kroontje
Mark K. Kroontje
Attorney for Plaintiffs
P.O. Box 38
Herreid, SD 57632
(605) 437-2426

KROONTJE LAW OFFICE

P.O. Box 38 204 Main Street
HERREID, SOUTH DAKOTA 57632-0038
(605) 437-2426

Fixed July 2, 1998

Mark K. Kroontje
*Also admitted in North Dakota

July 2, 1998



Lynn Beck
Dept. of Environment & Natural
Resources
Joe Foss Bldg.
524 East Capital
Pierre, SD 57501-3180

RE: NOTICE RELATING TO EUREKA'S WATER PERMIT APPLICATION
NOS. 723-A-3 6049-3 AND VESTED WATER RIGHT APPLICATION
NO. 6068-3.

Dear Lynn:

On behalf of Harvey and Duard Delzer, I believe that the Notice which was sent out concerning the hearing on the application set forth above was defective. Under SDCL 46-2A-23, the Notice shall contain the information provided for in subdivisions 46-2A-4 and (1) (2) (3) (5) (6) (10). If you look at SDCL 46-2A-4 (10) it is required to set forth in the Notice a statement that if the applicant does not contest the recommendation of the chief engineer and no petition to oppose the application is received, the engineer shall act upon the application pursuant to his recommendation and no hearing may be held before the board, unless the chief engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board. No where in the legal notice does it say a hearing will not be held if no petition is filed. I believe that is a very important requirement under the law and is mandatory.

I cannot find the statement 46-2A-4(10) anywhere in the Notice which I received, an which I understand has been published. When I received my letter of June 4, 1998 from Eric Gronlund, in the letter itself no mention is made of a required response, and I simply viewed the letter as an invitation to attend the hearing and present the Delzer's position. In fact, had I not by chance called you to discuss what would take place at the hearing, I would have not been alerted to the required response deadline.

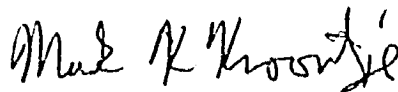
I believe that the Notice for this deemed however is additional inherently flawed, in that the statements required by SDCL 46-2A-23 were not in the legal notice specifically, the statement at 46-2A-4 (10) appears no where in the Notice.

Beck. ltr
Page Two

Please advise as to what the Department of Environment and Natural Resources position will be concerning this matter. My clients desire to appear and present testimony concerning this matter. My clients may be willing to waive the Defective Notice if allowed to appear and testify, with full right to testify an appeal if necessary. Otherwise, I request that proper notice be given as required by law.

Sincerely,

KROONTJE LAW OFFICE

A handwritten signature in cursive script, appearing to read "Mark K. Kroontje".

Mark K. Kroontje

MKK/drh

FAX# (605) 773-4106

July 6, 1948

Chas. B. At-

cc: Lynn Poek
Richard A. Summers

KROONTJE LAW OFFICE

P.O. Box 38 204 Main Street
HERREID, SOUTH DAKOTA 57632-0038
(605) 437-2426

Mark K. Kroontje

*Also admitted in North Dakota



July 6, 1998

Lynn Beck
Dept. of Environment & Natural
Resources
Joe Foss Bldg.
524 East Capital
Pierre, SD 57501-3180

RE: CITY OF EUREKA WATER PERMIT APPLICATION NOS. 723-A-3 &
6049-3 AND VESTED WATER RIGHT APPLICATION NO. 6068-3.

Dear Lynn:

After due consideration to the issues involved, my clients, Duard and Harvey Delzer have chosen not to attend the hearing on the above applications scheduled for July 8, 1998 at 10:00 a.m. in Brookings, South Dakota. It is my understanding that the applications for the water permits are not retroactive in effect, and the Vested Water Right Application relates only to Lake Eureka.

I do trust that the Water Board will be fully informed as to the fact that there have been problems containing the water in Lake Eureka and West Lake Eureka in the past few years, and that the spillway runs into an unreclaimed sewer lake, and that the City has allowed the water to freely flow through that unreclaimed sewage lake on to private property in the past few years. Any other representations I believe would be untruthful to the Water Board. They should have this information to make a fully informed decision.

Thank you for your assistance and consideration of this matter.

Sincerely,

KROONTJE LAW OFFICE

Mark K. Kroontje

MKK/sjk

P.O. Box 38 204 Main Street
HERREID, SOUTH DAKOTA 57632-0038
(605) 437-2428

DATE: JULY 6, 1998

TO: LYNN BECK
DEPT OF ENVIRONMENT & NATURAL RESOURCES

FAX NO: 1-605-773-4068

FROM: MARK K. KROONTJE

TELEPHONE NO.: (605) 437-2425

WE ARE SENDING YOU 1 PAGE, PLUS THIS PAGE.

ORIGINAL (S): not mailed x mailed
 sent by overnight courier

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE OR ACCOMPANYING THIS TRANSMISSION IS PRIVILEGED INFORMATION UNDER THE ATTORNEY/CLIENT PRIVILEGE AND/OR ATTORNEY WORK PRODUCT PRIVILEGE; THEREFORE IT IS CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. WE WILL REIMBURSE YOU FOR POSTAGE. THANK YOU.

KROONTJE LAW OFFICE
P.O. Box 38 204 Main Street
HERREID, SOUTH DAKOTA 57832-0038
(605) 437-2426

Mark K. Kroontje
*Also admitted in North Dakota



July 6, 1998

Lynn Beck
Dept. of Environment & Natural
Resources
Joe Foss Bldg.
524 East Capital
Pierre, SD 57501-3180

RE: CITY OF EUREKA WATER PERMIT APPLICATION NOS. 723-A-3 &
6049-3 AND VESTED WATER RIGHT APPLICATION NO. 6068-3.

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Thank you for your assistance and consideration of this matter.

Sincerely,

KROONTJE LAW OFFICE

Mark K. Kroontje

MKK/sjk

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

The main focus of these discussions involved the question of whether, or to what extent, evidence should be presented to the South Dakota Water Management Board regarding water discharges on the Delzer's property. It is my opinion that the scope of a water permit hearing should be limited to whether a water permit should be issued and is not the proper forum for resolving pollution matters, past grievances over surface water discharge, or even discussing whether flowage easements are appropriate. These issues are all issues which would be more properly addressed through negotiations among the parties or, if necessary, court action. Indeed, the South Dakota Water Management Board clearly does not have authority to issue judgments on property damage or money disputes.

Don W. Kallenberger
July 30, 1993
Page 2

Ultimately, the hearing was held before the South Dakota Water Management Board. Neither Mr. Kroontje nor the Delzers were present. The Water Management Board approved issuance of the permits as recommended by the Department of Environmental and Natural Resources.

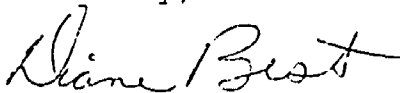
Once the city confirms that one well is properly valved and controlled and the other well is plugged according to well construction standards, the permits will be issued.

I do not believe that the issuance of the permits resolves the lawsuit filed by the Delzers' against the City of Eureka. Further, nothing in the permit prohibits the Delzers from litigating their claims regarding past or future downstream discharges of surface water, whether polluted or not. I cannot offer an opinion as to the potential outcome of such litigation.

In addition, the permit does not make any determination with respect to the necessity for downstream easements of discharge and surface water. An easement is a separate private matter between the city and the downstream landowners.

You are likely already fully aware of the foregoing. I am, however, writing this letter to make sure that there is no misunderstanding on the part of the municipality. If you feel it is appropriate, please share this letter with the city council.

Sincerely,



Diane Best
Assistant Attorney General

DB:js
Enclosures



S P N

A DIVISION OF
SCHMUCKER, PAUL, MOHR and ASSOC.

HELMS and ASSOCIATES

CONSULTING ENGINEERS • LAND SURVEYORS

BOX 111

BERKSHIRE PLAZA

ABERDEEN, SD 57402-0111

405 8th AVENUE NW

PHONE (605) 225-1212

FAX: (605) 225-3189

October 28, 1998

Randy Pulkrabek
LTP Enterprises, Inc.
P.O. Box 9035
Fargo, ND 58106

Re: Eureka Well
A-1974



Dear Randy,

On behalf of the City of Eureka, we are soliciting proposals to plug an existing artesian well which was drilled in 1960. The information known about the well is that it was drilled to a depth of 2085 feet in 1960 and has a deteriorating casing which ranges from 7-7/8" to 15" in diameter during inspections. There is a 10" Cast iron pipe coming out of the ground. This is reduced to a 6" cast iron pipe and has a gate valve on it. The flow is minimal and flows into Eureka Lake.

We would ask that you visit the site prior to bidding the project. The well must be plugged meeting all Well Construction Standards in the State of South Dakota. The project must be completed by December 31, 1998.

Please submit a proposal to the City of Eureka with a copy to our office by November 6th. Please give a cost proposal to complete the entire project as per the State of South Dakota Well Construction Standards after visiting the site. Please state that you are a Licensed Well Driller in the State of South Dakota.

We appreciate your consideration in submitting a proposal for this project. If you have any questions, please give our office a call. Proposals shall be sent to:

City of Eureka
P.O. Box 655
Eureka, SD 57437

Sincerely,
Helms and Associates

John G. Ladson, P.E.

cc: Tonya Maier, City of Eureka
Lynn Beck, DENR ✓



HELMS and ASSOCIATES

CONSULTING ENGINEERS • LAND SURVEYORS

S P N

A DIVISION OF
SCHMUCKER PAUL MOHR and ASSOC

BOX 111

BERKSHIRE PLAZA

ABERDEEN, SD 57402-0111

405 8th AVENUE NW

PHONE (605) 225-1212

FAX: (605) 225-3189

October 28, 1998

Pullman Well Drilling
P.O. Box 188
Wolsey, SD 57384

Re: Eureka Well
A-1974

Dear Jack,

On behalf of the City of Eureka, we are soliciting proposals to plug an existing artesian well which was drilled in 1960. The information known about the well is that it was drilled to a depth of 2085 feet in 1960 and has a deteriorating casing which ranges from 7-7/8" to 15" in diameter during inspections. There is a 10" Cast iron pipe coming out of the ground. This is reduced to a 6" cast iron pipe and has a gate valve on it. The flow is minimal and flows into Eureka Lake.

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City of Eureka
P.O. Box 655
Eureka, SD 57437

Sincerely,
Helms and Associates

John G. Ladson, P.E.

cc: Tonya Maier, City of Eureka
Lynn Beck, DENR ✓



HELMS and ASSOCIATES

CONSULTING ENGINEERS • LAND SURVEYORS

S P N

A DIVISION OF
SCHMUCKER, PAUL, NOHR and ASSOC

BOX 111

BERKSHIRE PLAZA

ABERDEEN, SD 57402-0111

405 8th AVENUE NW

PHONE (605) 225-1212

FAX: (605) 225-3189

October 28, 1998

Doug Osberg
Huron Drilling Inc.
P.O. Box 1422
Huron, SD 57350

Re: Eureka Well
A-1974

Dear Doug,

On behalf of the City of Eureka, we are soliciting proposals to plug an existing artesian well which was drilled in 1960. The information known about the well is that it was drilled to a depth of 2085 feet in 1960 and has a deteriorating casing which ranges from 7-7/8" to 15" in diameter during inspections. There is a 10" Cast iron pipe coming out of the ground. This is reduced to a 6" cast iron pipe and has a gate valve on it. The flow is minimal and flows into Eureka Lake.

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We appreciate your consideration in submitting a proposal for this project. If you have any questions, please give our office a call. Proposals shall be sent to: City of Eureka
P.O. Box 655
Eureka, SD 57437

Sincerely,
Helms and Associates

John G. Ladson, P.E.

cc: Tonya Maier, City of Eureka
Lynn Beck, DENR ✓

MEMO

TO: File

FROM: Gale N. Selken *Gale N. Selken*

RE: Well plugging of City of Eureka's well SW1/4SE1/4 35 T127N R73W

December 1, 1998

Huron Drilling moved onto site

December 2, 1998

Ran 1600 feet of 2 inch schedule 80 plastic pipe into well

Ordered 450 sacks of cement mixed at 7 gallons per sack. Grout came from Herrid Concrete

First truck on site 11:40 AM carrying 115 sacks of grout mixed 7 to 1; grout pumped in 12 minutes

Second truck on site 12:05 PM carrying 130 sacks mixed 7 to 1; grout pumped in 16 minutes

Third truck on site 12:22 PM carrying 115 sacks mixed 7 to 1; grout pumped in 31 minutes

Pulled approximately 440 feet of 2 inch pipe out of well.

Fourth truck on site 1:27 PM carrying 90 sacks mixed 7 to 1; grout pumped in 20 minutes, wasted approximately 10 sacks of grout as the well was full.

Pulled the rest of the 2 inch plastic out of the well and cleaned up.

The well is plugged.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

December 30, 1998

Ervin Gebhardt, Mayor
City of Eureka
PO Box 655
Eureka SD 57437-0655

Dear Mayor Gebhardt:

The final investigation of the City of Eureka's Water Permit Nos. 723A-3 and 6049-3, was completed by Gale Selken, engineer with this office, on December 2, 1998. The final water right documents, the Water Licenses, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of each Water License. Upon receipt of the \$100.00 fee, we will begin processing the Water Licenses.

Please submit \$100.00 to: Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

c: Tonya Maier, Finance Officer

NOTE: On check or money order, please specify the permit numbers. This will insure proper handling of the fee.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416008

Pierre, _____ January 15, 1999

RECEIVED OF City of Eureka, P.O. Box 655, Eureka, SD 57437-0655

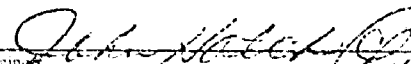
the following amount in fees for services rendered as provided for by law:

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. <u>723A-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By

Chief Engineer





723A-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

APR 26 1999

Ervin Gebhardt, Mayor
City of Eureka
PO Box 655
Eureka SD 57437-0655

Dear Mayor Gebhardt:

Enclosed are Water Permit & Water License No. 723A-3, Water Permit & Water License No. 6049-3 and Vested Water Right & License No. 6068-3. Enclosed also are receipts for the fee assessed for the investigations and issuance of the licenses. These are the final documents which complete the process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water Licenses, State Water Laws provide that the City of Eureka has a continuing right to use the water.

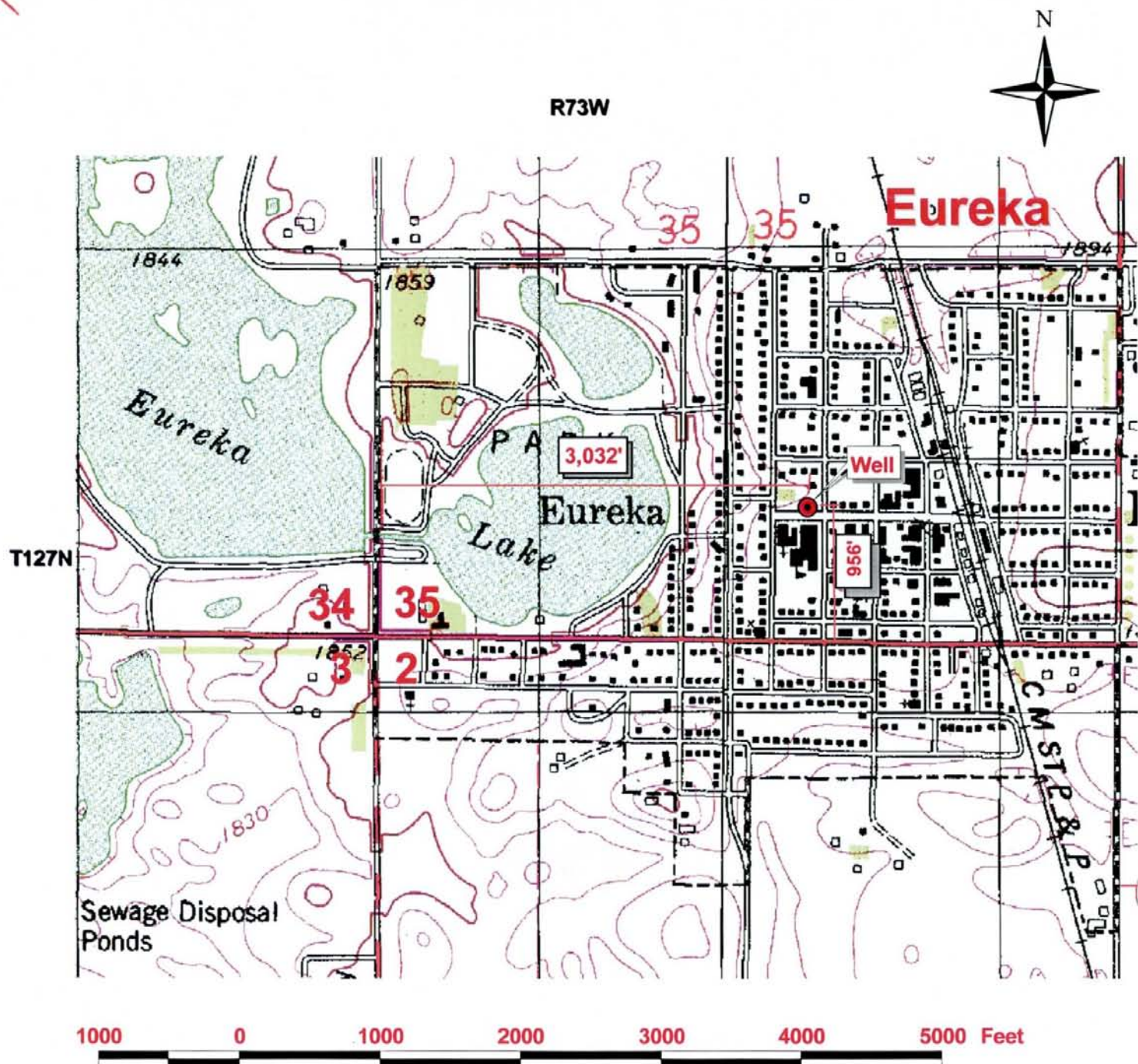
Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
605 773-3352

ks

enclosures

Water Right No. 723A-3



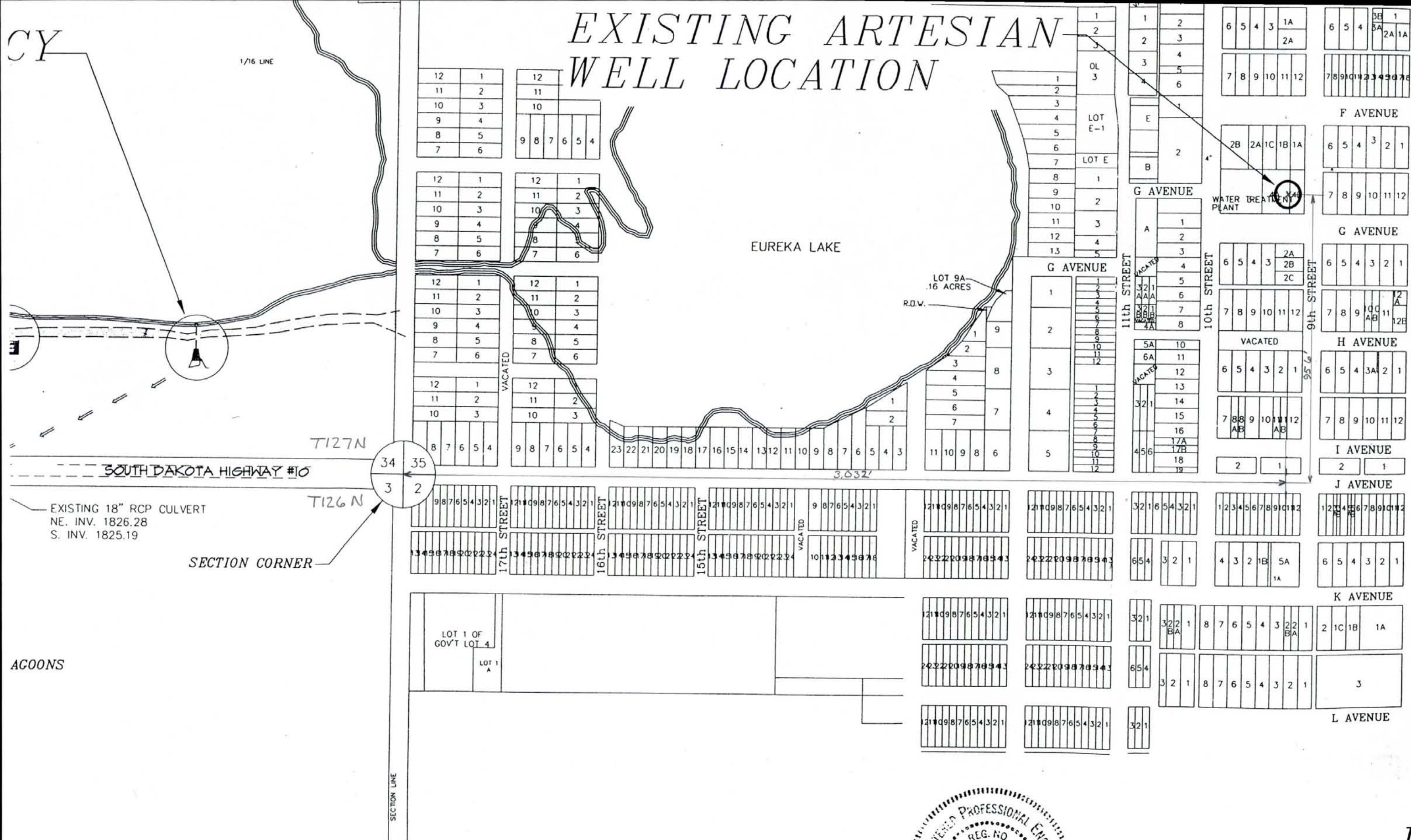
Lynn Beck

Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Program
December 15, 1998

CY

1/16 LINE

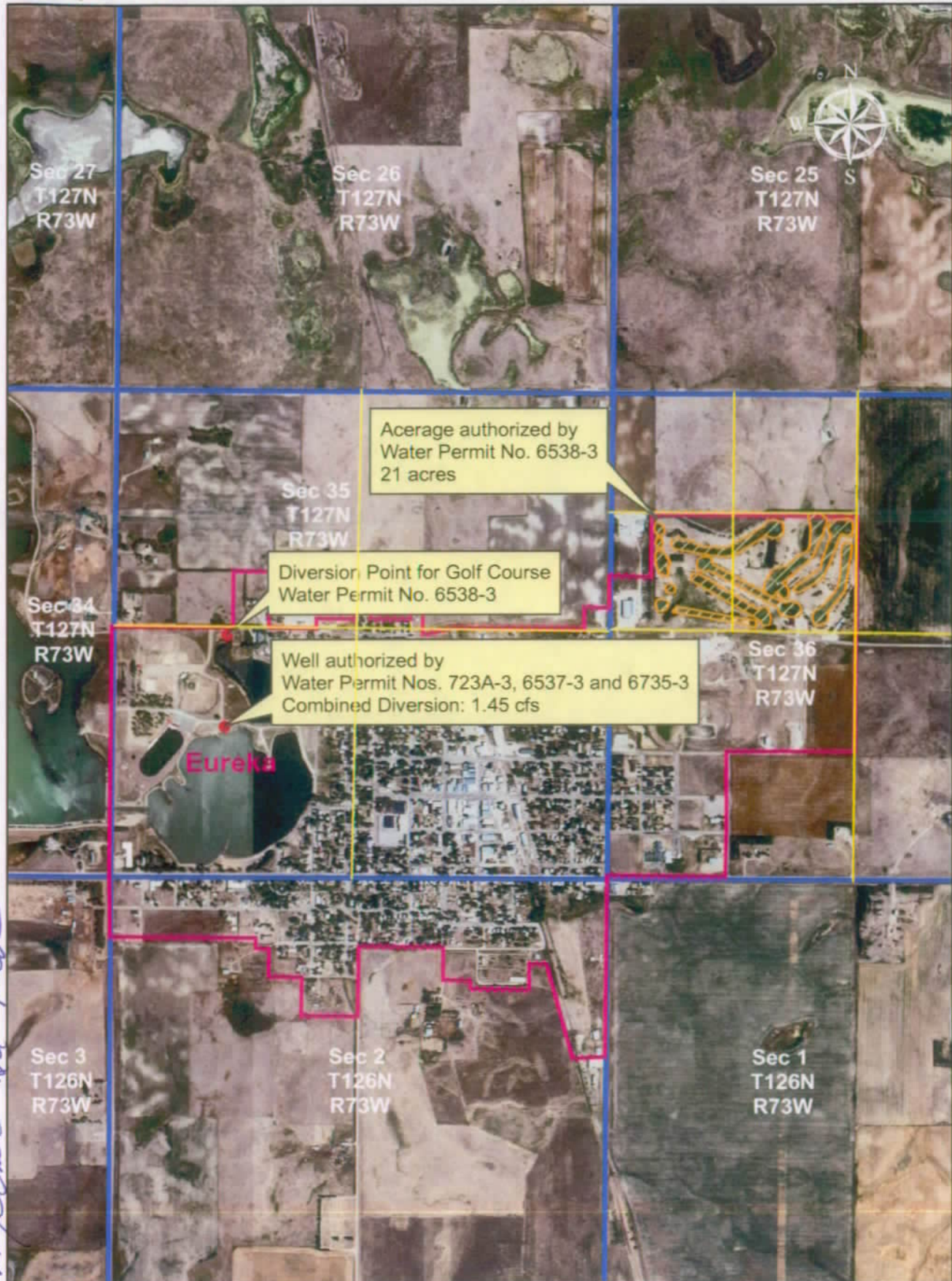
EXISTING ARTESIAN WELL LOCATION



723A-3

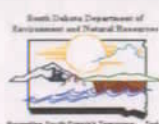
City of Eureka
PO Box 655
Eureka, SD 57437

Water Permit Nos. 6537-3, 6538-3 and 6753-3



Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
January 2, 2008



0 500 1,000 2,000 3,000 4,000 Feet



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 24 2009

723A-3
6538-3
6735-3

City of Eureka
Mark Opp, Mayor
PO Box 655
Eureka SD 57437

Dear Mayor Opp:

Enclosed are Water License Nos. 6538-3 and 6735-3. These are the final water right documents completing city's process of obtaining a Water Right. Also, included with the licenses is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6735-3, 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 the city has a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

Note: The applicable portions of Water Right No. 723A-3 are incorporated into Water License No. ⁶⁷³⁵⁻³~~6537-3~~.

enclosures