

**WATER PERMIT NO. 8310-3**

Name of Applicant: Wild Oak Golf Club - David Backlund

Address: 2500 e 1<sup>st</sup> Ave, Mitchell SD 57301 Phone: 605 996-2084

Amount of Water Claimed: 2 AF Total Acres: 68

Source of Water Supply: Firesteel Creek

Water to be used for: irrigation County: Davison

Type of Waste Disposal System:

Location: East side of Mitchell

PRIORITY Date Received: 4-3-14 Application/License Fee: \$ 300

Corrected Application Received: 9-26-17 Period of Annual Use: Jan 1 – Dec 31

Remarks: Will irrigate 68 acres of the golf course authorized by No. 6314-3

Diversion Point: SE 1/4 SW 1/4 Sec 24-T103N-  
R60W

Land to be Irrigated: SE 1/4 Sec 23-T103N-R60W

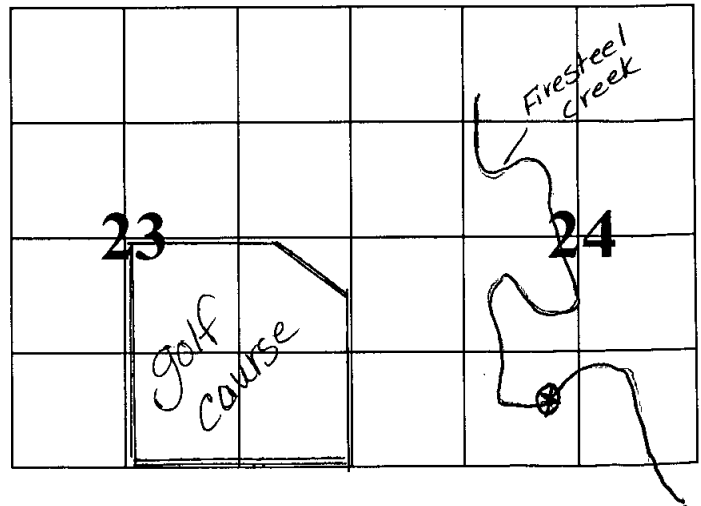
Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Tim Schaal



Reviewed and the Number Assigned on: 9-27-17

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_

**SOUTH DAKOTA**  
**WATER PERMIT NO. 8310-3 FOR IRRIGATION**

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Date of first receipt of application April 3, 2014.

Date of return to applicant for corrections, amendments or changes April 10, 2014.

Date of receipt of corrected application September 26, 2017.

The Water Management Board approved Water Permit No. 8310-3 on July 12, 2018 for Wild Oak Golf Club, 2500 E 1<sup>st</sup> Ave, Mitchell SD 57301 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. 8310-3 authorizes impoundment of 2 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE 1/4 SW 1/4 Section 24-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second from Firesteel Creek into two holding ponds located in the W 1/2 SE 1/4, SE 1/4 SE 1/4 Section 23 for irrigation of 68 acres located in the SE 1/4 Section 23 all in T103N-R60W. This permit authorizes a dam with a storage capacity of 2.0 acre-feet of water across Firesteel Creek using concrete blocks. The temporary dam is intended to provide the necessary head for the pump intake when low flow conditions exist. No increase in the authorized pump rates or acres irrigated is authorized.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 - November 1 (subject to qualifications when temporary dam may be installed).
3. The date from which applicant may claim right is September 26, 2017.
4. One-fifth of the construction is to be completed on or before January 12, 2021.
5. All construction is to be completed on or before July 12, 2023.
6. Water is to be put to beneficial use on or before July 12, 2027.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. Water Permit No. 8310-3 authorizes a temporary dam on Firesteel Creek with a storage capacity of 2.0 acre feet of water.
2. The city of Mitchell has priority right to Firesteel Creek water under a future use withdrawal permit. Water Permit No. 8310-3 is subject to their prior rights if or when the city develops the reserved water supply.
3. Water Permit No. 8310-3 is subject to written orders from the Chief Engineer for removal of the temporary dam if necessary.

continued

4. A permanent benchmark from a local datum shall be established near the dam for the purpose of referencing the irrigation pump intake and a stream water surface elevation one foot over the irrigation pump intake. The location of the benchmark shall be described and identified on a map by direction and distance from a section corner. The survey notes, map and description of the benchmark will be held in the administrative record for Water Permit No. 8310-3.
5. The temporary dam shall not be installed on Firesteel Creek until low flow conditions exist in which the stream water surface elevation is less than one foot over the established irrigation pump intake.
6. The temporary dam shall be removed from the Firesteel Creek channel no later than November 1<sup>st</sup> of each calendar year.
7. When the temporary dam is in place, the Permit holder is required to place clearly visible signage upstream and downstream cautioning users of Firesteel Creek that they are approaching the temporary dam.
8. The permit holder agrees to allow users of Firesteel Creek reasonable access for the sole purpose of portage around the temporary dam when it is in place.

**WATER MANAGEMENT BOARD**

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

JUL 30 2018  
date



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

Mail to:  
PMB 2020  
DENR - Water Rights  
523 E Capitol Ave  
Pierre, SD 57501-3182  
ph. (605) 773-3352

No. 8310-3 (office use only)  
Hydrologic Unit 10160011  
Basin James River  
Newspaper Daily Republic - Mitchell

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## Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. \_\_\_\_\_  
(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit David Backlund  
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent Wild Oak Golf Club  
(name and complete address if different than above name)

Mailing Address 117 S. Lawler 2500 E 1st St Dixon Mitchell SD 57301  
(Address) (City) (State) (Zip Code)

Home Phone (605) 996-7094 Cell 605-656-008 Email \_\_\_\_\_

2. Amount of water claimed \_\_\_\_\_ \*CFS or 300 \*\*GPM 2 \*\*\*AF Total Acreage \_\_\_\_\_  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Small dam on Firesteel Creek

4. Location of point of diversion Sec. 24 - T 103N - R 60W -  
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

SE1/4 NW1/4 SE1/4 SE1/4 County Dixon

5. County or counties where water will be used \_\_\_\_\_

6. Annual period during which water is to be used January thru Dec. Irrigation From April 1 to Nov. 1

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.  
(Attach sheet if more space is needed)

| Land Description                | Acres     | Land Description     | Acres |
|---------------------------------|-----------|----------------------|-------|
| <u>Same as permit #</u>         |           | <u>1374-3 6314-3</u> |       |
| <u>SE1/4 Sec. 23-T103N-R60W</u> | <u>68</u> |                      |       |
|                                 |           |                      |       |
|                                 |           |                      |       |

8. Give a description of the project. (Attach sheet if more space is needed)

Wild Oak plan to construct dam on Firesteel Creek for the  
purpose for providing the necessary head for a pump intake. no  
pump rate or acres will be added.

I, David A. Backlund owner - \_\_\_\_\_, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.



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APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT  
(33 CFR 325)OMB APPROVAL NO. 0710-0003  
EXPIRES: 31 August 2012

Public reporting burden for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

## PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This Information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

## (ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

|                    |                      |                  |                              |
|--------------------|----------------------|------------------|------------------------------|
| 1. APPLICATION NO. | 2. FIELD OFFICE CODE | 3. DATE RECEIVED | 4. DATE APPLICATION COMPLETE |
|--------------------|----------------------|------------------|------------------------------|

## (ITEMS BELOW TO BE FILLED BY APPLICANT)

|                                                                                                                                                                              |                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| <b>5. APPLICANT'S NAME:</b><br>First - scott      Middle - mathew      Last - fergen<br>Company - wild oak golf course<br>E-mail Address - scottfergen@wildoakgolfcourse.com | <b>8. AUTHORIZED AGENT'S NAME AND TITLE</b> (an agent is not required)<br>First -      Middle -      Last -<br>Company -<br>E-mail Address - |
| <b>6. APPLICANT'S ADDRESS.</b><br>Address - 2500 east 1st ave<br>City - mitchell      State - sd      Zip - 57301      Country - us                                          | <b>9. AGENT'S ADDRESS</b><br>Address -<br>City -      State -      Zip -      Country -                                                      |
| <b>7. APPLICANT'S PHONE NOs. W/AREA CODE.</b><br>a. Residence      b. Business      c. Fax<br>605-656-0008      60-996-208                                                   | <b>10. AGENT'S PHONE NOs. W/AREA CODE</b><br>a. Residence      b. Business      c. Fax                                                       |

## STATEMENT OF AUTHORIZATION

11. I hereby authorize, \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE

DATE

## NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)

putting a 2 foot by 2 foot by 4 foot blocks in firesteel creek . at 2500 east ave in mitchell.

13. NAME OF WATERBODY, IF KNOWN (if applicable)

firesteel creek

14. PROJECT STREET ADDRESS (if applicable)

Address

2500 east 1st ave

15. LOCATION OF PROJECT

Latitude: °N

Longitude: °W

City - mitchell

State - sd

Zip - 57301

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)

State Tax Parcel ID 06666-10360-2430 Municipality

Section - 24 Township - n. 24 E

Range - 60W

17. DIRECTIONS TO THE SITE

East of wild oak club house

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## 18. Nature of Activity (Description of project, include all features)

to raise the creek 2 feet to pump to a holding pond. the blocks will be put in the creek when needed and taking out

## 19. Project Purpose (Describe the reason or purpose of the project, see instructions)

raise the creek to pump to the holding pond for the golf course.

## USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

## 20. Reason(s) for Discharge

## 21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

| Type<br>Amount in Cubic Yards | Type<br>Amount in Cubic Yards | Type<br>Amount in Cubic Yards |
|-------------------------------|-------------------------------|-------------------------------|
| <i>Gravel</i>                 |                               |                               |

## 22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres

Or

Liner Feet

## 23. Description of Avoidance, Minimization, and Compensation (see instructions)

24. Is Any Portion of the Work Already Complete? Yes ☐ No ☒ IF YES, DESCRIBE THE COMPLETED WORK

## 25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (If more than can be entered here, please attach a supplemental list).

Address - 1321 E Havens Ave

City - Mitchell

State - SD

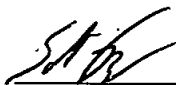
Zip - 57301

## 26. List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application.

| AGENCY | TYPE APPROVAL* | IDENTIFICATION NUMBER | DATE APPLIED | DATE APPROVED | DATE DENIED |
|--------|----------------|-----------------------|--------------|---------------|-------------|
|        |                |                       |              |               |             |

\* Would include but is not restricted to zoning, building, and flood plain permits

## 27. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.



SIGNATURE OF APPLICANT

4-2-14

DATE

SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

Blocks continued

Block 18 continued:

he blocks are 2 by 2 by 4 feet going across the creek.

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0 145 290 580 Yards  
0 145 290 580 Yards



Sec. 24 - T103N - R60W SW 1/4 W 1/4

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 27, 20 17

RECEIVED OF C L Wild Oak LLC 2500 E 125 Ave Mitchell, SD 57301

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

|                                                                                                                        |     |    |
|------------------------------------------------------------------------------------------------------------------------|-----|----|
| Fee for Application for Permit No. <u>8310-3</u> to Appropriate Water, to construct and to put water to beneficial use | 100 | 00 |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                           |     |    |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                 |     |    |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8310-3</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                                                                                 | 300 | 00 |

No. **08338**

By

Jeanne Goodman  
Chief Engineer

*zmm*



DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES

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



August 1, 2014

Wild Oak Golf Club  
c/o David Backlund  
2500 E 1<sup>st</sup> Ave  
Mitchell SD 57301

Dear Mr. Backlund:

On April 3, 2014, you submitted an *Application for Permit to Appropriate Water Within the State of South Dakota* for Wild Oak Golf Club. On April 10, 2014, Eric Gronlund sent an email to Scott Fergen regarding the application and what additional information was required to complete the application. A copy of that email is enclosed. To date, we have not received the required information.

Is it your intent to pursue this application? If so, please submit the required information.

Obtaining a water permit that accurately reflects your water use ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

If you have any questions, please contact Eric Gronlund.

Sincerely,

Karen Schlaak  
Water Rights Program  
Phone: (605) 773-3352  
[karen.schlaak@state.sd.us](mailto:karen.schlaak@state.sd.us)

enclosure



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

[denr.sd.gov](http://denr.sd.gov)

April 9, 2015

Wild Oak Golf Club  
c/o David Backlund  
2500 E 1<sup>st</sup> Ave  
Mitchell SD 57301

Dear Mr. Backlund:

A review of our files indicates you submitted an incomplete *Application for Permit to Appropriate Water Within the State of South Dakota for Irrigation* for construction of a dam on Firesteel Creek for irrigation of the golf course on April 3, 2014. A copy of the application and subsequent email are enclosed.

What is your intent regarding this application? In order to proceed, we will need the information requested in the April 10, 2014 email.

Obtaining a water permit that accurately reflects your water use ultimately benefits you by protecting your right to use water.

If you have any questions, please contact Eric Gronlund or me.

Sincerely,

Karen Schlaak  
Water Rights Program  
Phone: (605) 773-3352  
[karen.schlaak@state.sd.us](mailto:karen.schlaak@state.sd.us)

enclosures

## Gronlund, Eric

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**From:** Gronlund, Eric  
**Sent:** Wednesday, July 26, 2017 10:30 AM  
**To:** 'davebacklundjr@gmail.com'  
**Subject:** Wild Oak golf course application  
**Attachments:** WildOak.pdf

Dave:

Jeanne Goodman, the Chief Engineer of the Water Rights Program, and your father spoke yesterday in regards to water permitting for the structure placed across the Firesteel Creek channel. Your father requested that the original application and correspondence regarding the application be sent to you by email. Attached are the documents DENR has on file.

1. Filing of application on April 3, 2014 - Application form, Form 2A, Map, Application for Army Corps of Engineers Permit (this is a separate federal permit from the state permit required)
2. April 10, 2014 email to Scott Fergen with attachment of Water Permit No. 6314-3
3. August 1, 2014, letter regarding your intent to pursue the application.
4. April 9, 2015, letter regarding the application.

To complete the application, a \$300 application filing fee is required as well as an estimate of the storage capacity behind the structure on Firesteel Creek. The application indicated the structure would be in the SW ¼ Section 24, T103N, R60W. The site visit by Tim Schaal and Mike DeFea found the structure located in the SE ¼ SW ¼ Section 24, T103N, R60W. DENR also intend to use the map prepared by Tim & Mike after their site visit.

The filing of a complete application is no guarantee that the application will be approved. The complete application will need to be reviewed for the purpose of the Chief Engineer making a recommendation. Once a recommendation is made, the application will need to be public noticed with the opportunity for individuals to file a petition in opposition. DENR anticipates the application will be contested and a hearing held before the Water Management Board to consider the application. The Water Management Board is a seven member citizen Board for hearing contested water permit applications.

Firesteel Creek is a navigable watercourse and the structure may inhibit passage during periods of low flow. This will likely factor into the decision making process. As stated in last week's, Notice and Order, Wild Oaks golf course may want to look at alternative to this structure such as an in-channel excavation, with Corps of Engineers' approval, to provide sufficient head for the pump to operate.

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

---

**From:** Schaal, Tim  
**Sent:** Friday, July 14, 2017 4:33 PM  
**To:** 'davebacklundjr@gmail.com'  
**Subject:** FW: Wild Oak golf course application

Dave—I just talked to your Dad and made plans to meet and do an inspection of your Firesteel Creek dam and other irrigation on Tuesday July 18<sup>th</sup> at 11:00. The enclosed e-mail is some info from our file where we previously discussed with Scott the need for a permit from us and the Corps of Engineers to dam up Firesteel Creek. Hope to see you Tuesday morning.

Tim Schaal  
SD DENR, Water Rights  
773-3352

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**From:** Gronlund, Eric  
**Sent:** Thursday, April 10, 2014 9:40 AM  
**To:** 'scottfergen@wildoakgolfcourse.com'  
**Cc:** Schaal, Tim; Schlaak, Karen  
**Subject:** Wild Oak golf course application

Mr. Fergen:

DENR received the water right permit application for Wild Oak Golf Club. This application is for a small dam consisting of 2,400 pound blocks to be placed across Firesteel Creek for the purpose of providing the necessary head for the golf course's pump intake. DENR's assumption is that this application does not seek to request additional diversion rate authority from Firesteel Creek or additional irrigation of additional acres. Attached is the latest water permit issued to the golf course that does a pretty good job summarizing what is authorized.

The placement of a small dam across a watercourse like Firesteel Creek does require a water right permit to be obtained and therefore Wild Oak filed the application. DENR understands Wild Oak is also seeking authorization from the Corps of Engineers for this activity. Does Wild Oak want to pursue the water right permit application at the same time as the Corps permit or wait until Corps permit is issued?

If Wild Oak wants to proceed with the water right permit application at this time, the following is necessary.

- Application filing fee of \$300 (\$100 application + \$200 licensing fee)
- An estimate of the storage capacity of the dam in acre feet of water.
- Finally, the current water right for the golf club includes two storage dams. It is DENR's understanding that there is a third storage dam. If this is the case, this would be a good time to get it properly permitted. This would require a map showing the location, the storage capacity and information on the dam's construction on Form 2A of the application. Also please be aware this will increase the fee based on the storage capacity of the 3<sup>rd</sup> dam (likely to \$700 total).

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

## Gronlund, Eric

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**From:** Gronlund, Eric  
**Sent:** Thursday, April 10, 2014 9:40 AM  
**To:** 'scottfergen@wildoakgolfcourse.com'  
**Cc:** Schaal, Tim; Schlaak, Karen  
**Subject:** Wild Oak golf course application  
**Attachments:** Pages from 6314-3.pdf

Mr. Fergen:

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- Finally, the current water right for the golf club includes two storage dams. It is DENR's understanding that there is a third storage dam. If this is the case, this would be a good time to get it properly permitted. This would require a map showing the location, the storage capacity and information on the dam's construction on Form 2A of the application. Also please be aware this will increase the fee based on the storage capacity of the 3<sup>rd</sup> dam (likely to \$700 total).

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

**Schlaak, Karen**

---

**Subject:** FW: [EXT] Wild Oak golf course application

**From:** Dave Backlund [<mailto:davebacklundjr@gmail.com>]

**Sent:** Friday, September 22, 2017 12:14 PM

**To:** Gronlund, Eric

**Subject:** Re: [EXT] Wild Oak golf course application

Eric, The dam material will be 2x2x4 2400lb concrete blocks. Crest width will be 2', dam height 2ft, length of dam will be 50ft. There will not be an overflow unless requested. Water will spill over the top. Water capacity of dam structure will be 2 acre ft. I will get a check in the mail. If you need anything else please let me know. Thanks, Dave Backlund Jr

On Fri, Sep 8, 2017 at 8:04 AM, Gronlund, Eric <[Eric.Gronlund@state.sd.us](mailto:Eric.Gronlund@state.sd.us)> wrote:

Water Rights Program

Joe Foss Building

523 E Capitol Avenue

Pierre SD 57501

I think a description of the structure (materials, height, length, will there be a low flow bypass or will it just spill over the top). As far as I know that is what we need to proceed with processing the application. However, during the review process the staff engineer assigned to review the application may contact you with questions.

Eric

**From:** Dave Backlund [<mailto:davebacklundjr@gmail.com>]

**Sent:** Thursday, September 07, 2017 8:59 AM

**To:** Gronlund, Eric

**Subject:** Re: [EXT] Wild Oak golf course application

Eric, We are working on getting an estimate of the storage capacity for the requested dam. Where should we mail this information along with the \$300 check? Is there any other information that you will need at this time?

Thanks,

Dave Backlund Jr

Wild Oak Golf Course

Mitchell SD 57301

605-996-2084

On Wed, Jul 26, 2017 at 10:29 AM, Gronlund, Eric <[Eric.Gronlund@state.sd.us](mailto:Eric.Gronlund@state.sd.us)> wrote:

Dave:

Jeanne Goodman, the Chief Engineer of the Water Rights Program, and your father spoke yesterday in regards to water permitting for the structure placed across the Firesteel Creek channel. Your father requested that the original application and correspondence regarding the application be sent to you by email. Attached are the documents DENR has on file.

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4. April 9, 2015, letter regarding the application.

To complete the application, a \$300 application filing fee is required as well as an estimate of the storage capacity behind the structure on Firesteel Creek. The application indicated the structure would be in the SW ¼ Section 24, T103N, R60W. The site visit by Tim Schaal and Mike DeFea found the structure located in the SE ¼ SW ¼ Section 24, T103N, R60W. DENR also intend to use the map prepared by Tim & Mike after their site visit.

The filing of a complete application is no guarantee that the application will be approved. The complete application will need to be reviewed for the purpose of the Chief Engineer making a recommendation. Once a recommendation is made, the application will need to be public noticed with the opportunity for individuals to filed a petition in opposition. DENR anticipates the application will be contested and a hearing held before the Water Management Board to consider the application. The Water Management Board is a seven member citizen Board for hearing contested water permit applications.

Firesteel Creek is a navigable watercourse and the structure may inhibit passage during periods of low flow. This will likely factor into the decision making process. As stated in last week's, Notice and Order, Wild Oaks golf course may want to look at alternative to this structure such as an in-channel excavation, with Corps of Engineers' approval, to provide sufficient head for the pump to operate.

Eric Gronlund

Water Rights Program, DENR

605 773-3352

[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

---

**From:** Schaal, Tim  
**Sent:** Friday, July 14, 2017 4:33 PM  
**To:** 'davebacklundjr@gmail.com'  
**Subject:** FW: Wild Oak golf course application

Dave—I just talked to your Dad and made plans to meet and do an inspection of your Firesteel Creek dam and other irrigation on Tuesday July 18<sup>th</sup> at 11:00. The enclosed e-mail is some info from our file where we previously discussed with Scott the need for a permit from us and the Corps of Engineers to dam up Firesteel Creek. Hope to see you Tuesday morning.

Tim Schaal

SD DENR, Water Rights

773-3352

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**From:** Gronlund, Eric  
**Sent:** Thursday, April 10, 2014 9:40 AM

**To:** 'scottfergen@wildoakgolfcourse.com'  
**Cc:** Schaal, Tim; Schlaak, Karen  
**Subject:** Wild Oak golf course application

Mr. Fergen:

DENR received the water right permit application for Wild Oak Golf Club. This application is for a small dam consisting of 2,400 pound blocks to be placed across Firesteel Creek for the purpose of providing the necessary head for the golf course's pump intake. DENR's assumption is that this application does not seek to request additional diversion rate authority from Firesteel Creek or additional irrigation of additional acres. Attached is the latest water permit issued to the golf course that does a pretty good job summarizing what is authorized.

The placement of a small dam across a watercourse like Firesteel Creek does require a water right permit to be obtained and therefore Wild Oak filed the application. DENR understands Wild Oak is also seeking authorization from the Corps of Engineers for this activity. Does Wild Oak want to pursue the water right permit application at the same time as the Corps permit or wait until Corps permit is issued?

If Wild Oak wants to proceed with the water right permit application at this time, the following is necessary.

- Application filing fee of \$300 (\$100 application + \$200 licensing fee)
- An estimate of the storage capacity of the dam in acre feet of water.
- Finally, the current water right for the golf club includes two storage dams. It is DENR's understanding that there is a third storage dam. If this is the case, this would be a good time to get it properly permitted. This would require a map showing the location, the storage capacity and information on the dam's construction on Form 2A of the application. Also please be aware this will increase the fee based on the storage capacity of the 3<sup>rd</sup> dam (likely to \$700 total).

Eric Gronlund

Water Rights Program, DENR

605 773-3352

[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

# Wild Oak Golf Course\_Firesteel Creek



Prepared By:  
Mike DeFea  
DENR, Water Rights Program  
July 21, 2017

0 330 660 1,320  
Feet



# Water Permit Application No. 6314-3



Timothy G. Schaal, P.E.  
Engineer IV  
SD DENR, Water Rights Program



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

December 5, 2017

David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

Dear Mr. Backlund:

Wild Oak Golf Club filed a water permit application to impound 2.0 acre feet of water by constructing a dam on Firesteel Creek using concrete blocks. The dam is intended to provide head for the pump to function properly. This allows the golf club to continue to divert water during low creek flow conditions for irrigation of the portion of the golf course covered by Water Permit No. 6314-3.

DENR's review has raised the following questions to be addressed prior to making a recommendation and publishing notice of the application. To have a full understanding of the application, please provide information to address the following:

1. Is the proposed structure intended to be permanent or will it be temporarily installed only during certain creek flow conditions?
2. If temporary, what is the operation plan for when the structure will be in place and when it will be removed? For example, at what flow will the structure be placed and by what reference will the flow be measured? Also, at what point will the structure be removed?
3. Will the structure be removed during non-irrigation season regardless of flow conditions?
4. If permanent, what is the operation plan for the structure?
5. What elevation or water depth of impoundment will the structure be set?
6. What provisions are planned to prevent erosion and scour around the structure?
7. Depending upon the final design, size, height, width, etc., the proposed structure could act similarly to a low head dam in certain flow circumstances. Low head dams are very dangerous and have caused deaths to unaware recreationists in South Dakota and elsewhere. What are your plans for signage both upstream and downstream to inform users on Firesteel Creek that they are approaching the structure?
8. Will access be allowed for recreational users to portage around the structure?
9. What is the status of US Army Corps of Engineer's permitting for having the proposed structure either temporarily or permanently placed across Firesteel Creek?
10. Did Wild Oak Golf Club investigate alternatives, such as an excavated sump hole in the creek, a wet well pump intake design or utilizing a well during low flow conditions, instead of a structure across Firesteel Creek? Why was the structure across the creek the preferred alternative?

Once you have had an opportunity to review our questions, I suggest a conference call between the Corps of Engineer, DENR and you so that everyone has a full understanding of the project. We can discuss regulatory requirements and answer any questions. Please contact Eric Gronlund of my staff at (605) 773-3352 to discuss and arrange for a conference call. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeanne Goodman".

Jeanne Goodman, Chief Engineer  
Water Rights Program, DENR

C: Harry Decker, US Army Corps of Engineer

## Gronlund, Eric

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**From:** Gronlund, Eric  
**Sent:** Wednesday, January 10, 2018 9:47 AM  
**To:** 'Dave Backlund'  
**Subject:** Wild Oak golf course water permit application  
**Attachments:** WildOak12052017.pdf

Mr. Backlund:

DENR sent the attached letter to your father on December 5, 2017, regarding Wild Oak's water permit application for the concrete block dam across Firesteel Creek to be used to provide the necessary head for the pump intake for the golf course's irrigation system. We have not heard back in response to the letter.

Although it is currently winter, it will not be long before the irrigation system is again upon us. With the potential for another dry year, DENR wants to get resolved whether Wild Oak has a legal right to place a dam across Firesteel Creek if low flows occur. Without a water permit in place, Wild Oak does not have a legal right to place a dam in Firesteel Creek that obstructs the stage, level or flow.

Please let us know the answers to the questions in the letter. As mentioned in the letter, DENR is willing to set up a conference call between the Corps of Engineers, DENR and Wild Oak representatives to discuss the application.

I attempted to contact your father at 605 996-2084 to discuss but was unable to reach him.

Thank you for your attention to this matter.

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

[denr.sd.gov](http://denr.sd.gov)

January 31, 2018

David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

Dear Mr. Backlund:

After our phone conversation in mid-January, I sent an email summarizing our discussions. I sent it to your son's email address. Since I have not received a response from you I am sending you the summary by mail. DENR will need a response from you in writing addressing the issues in order for us to proceed with processing the application.

Contents of the January 17<sup>th</sup> email.

Thank you for taking the time to talk with us about Wild Oak Golf Club's water permit application to place a dam across Firesteel Creek during periods of low flow to provide the necessary head for the pump to function properly.

Wild Oak holds a permit to pump at a rate of 300 gallons per minute from Firesteel Creek to two holding ponds and for irrigation of 68 acres of golf course property. Wild Oak has filed an application to install a concrete block dam across Firesteel Creek during periods of low flow. DENR's review of the application led to a December 5, 2017, letter in order to gain a full understanding of the application. This email attempts to summarize our January 17, 2018, discussion.

- The existing intake is placed at the channel bottom and gravity flows to a wet well where water can be pumped to the holding ponds for irrigation.
- The concrete dam will be in place on a temporary basis only during low flow conditions to provide the necessary head to allow the pump to operate. When removed it will be removed in its entirety. Wild Oak will need to get temporary authorization from the Corps of Engineers for periods when the structure is in place.
- Wild Oak is agreeable to establishing a reference datum on higher ground that is surveyed in to the intake elevation in order to insure the intake elevation is maintained at the same elevation.
- No part of the concrete block dam will be in place during the non-irrigation season and in year's it is in place it must be removed by November 1<sup>st</sup>.

- Wild Oak is agreeable to placing signage both upstream and downstream of the dam when the dam is in place cautioning users of Firesteel Creek that they are approaching the dam.
- Wild Oak is agreeable to allow recreational users of Firesteel Creek access on Wild Oak's property to portage around the structure. Access is limited to allowing access to the extent necessary to portage and does not grant permission on other Wild Oak property without permission.

Although we did not discuss this issue is Wild Oak agreeable to a requirement that does not allow the initial placement, if necessary, of the concrete block dam across Firesteel Creek each year until such time as flow over Lake Mitchell spillway ceases?

Please keep in mind that the application will still need to go before the Chief Engineer for a recommendation and then be public noticed.

Sincerely,



Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

## Gronlund, Eric

---

**From:** Gronlund, Eric  
**Sent:** Wednesday, January 17, 2018 4:50 PM  
**To:** davebacklundjr@gmail.com  
**Cc:** Schaal, Tim  
**Subject:** Wild Oak's water permit application

Dave – sorry to be using you but can you please forward this to your dad. Thanks – Eric

-----  
Mr. Backlund:

Thank you for taking the time to talk with us about Wild Oak Golf Club's water permit application to place a dam across Firesteel Creek during periods of low flow to provide the necessary head for the pump to function properly.

Wild Oak holds a permit to pump at a rate of 300 gallons per minute from Firesteel Creek to two holding ponds and for irrigation of 68 acres of golf course property. Wild Oak has filed an application to install a concrete block dam across Firesteel Creek during periods of low flow. DENR's review of the application led to a December 5, 2017, letter in order to gain a full understanding of the application. This email attempts to summarize our January 17, 2018, discussion.

- The existing intake is placed at the channel bottom and gravity flows to a wet well where water can be pumped to the holding ponds for irrigation.
- The concrete dam will be in place on a temporary basis only during low flow conditions to provide the necessary head to allow the pump to operate. When removed it will be removed in its entirety. Wild Oak will need to get temporary authorization from the Corps of Engineers for periods when the structure is in place.
- Wild Oak is agreeable to establishing a reference datum on higher ground that is surveyed in to the intake elevation in order to insure the intake elevation is maintained at the same elevation.
- No part of the concrete block dam will be in place during the non-irrigation season and in year's it is in place it must be removed by November 1<sup>st</sup>.
- Wild Oak is agreeable to placing signage both upstream and downstream of the dam when the dam is in place cautioning users of Firesteel Creek that they are approaching the dam.
- Wild Oak is agreeable to allow recreational users of Firesteel Creek access on Wild Oak's property to portage around the structure. Access is limited to allowing access to the extent necessary to portage and does not grant permission on other Wild Oak property without permission.

Although we did not discuss this issue is Wild Oak agreeable to a requirement that does not allow the initial placement, if necessary, of the concrete block dam across Firesteel Creek each year until such time as flow over Lake Mitchell spillway ceases?

Please keep in mind that the application will still need to go before the Chief Engineer for a recommendation and then be public noticed.

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
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PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 8310-3, Wild Oak Golf Club**

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. 8310-3, Wild Oak Golf Club, c/o David Backlund, 2500 E 1<sup>st</sup> Avenue, Mitchell SD 57301.

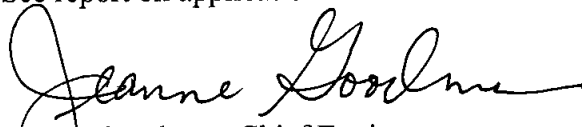
The Chief Engineer is recommending APPROVAL of Application No. 8310-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Water Permit No. 8310-3 authorizes a temporary dam on Firesteel Creek with a storage capacity of 2.0 acre feet of water.
2. The city of Mitchell has priority right to Firesteel Creek water under a future use withdrawal permit. Water Permit No. 8310-3 is subject to their prior rights if or when the city develops the reserved water supply.
3. Water Permit No. 8310-3 is subject to written orders from the Chief Engineer for removal of the temporary dam if necessary to protect downstream senior water rights.
4. A permanent benchmark from a local datum shall be established near the dam for the purpose of referencing the irrigation pump intake and a stream water surface elevation one foot over the irrigation pump intake. The location of the benchmark shall be described and identified on a map by direction and distance from a section corner. The survey notes, map and description of the benchmark will be held in the administrative record for Water Permit No. 8310-3.
5. The temporary dam shall not be installed on Firesteel Creek until low flow conditions exist in which the stream water surface elevation is less than one foot over the established irrigation pump intake.
6. The temporary dam shall be removed from the Firesteel Creek channel no later than November 1<sup>st</sup> of each calendar year.

(continued)

7. When the temporary dam is in place, the Permit holder is required to place clearly visible signage upstream and downstream cautioning users of Firesteel Creek that they are approaching the temporary dam.
8. The Permit holder agrees to allow users of Firesteel Creek reasonable access for the sole purpose of portage around the temporary dam when it is in place.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Jeanne Goodman". The signature is fluid and cursive, with a large initial "J" and "G".

Jeanne Goodman, Chief Engineer  
February 22, 2018

Report on  
Water Permit Application No. 8310-3  
Wild Oak Golf Club  
c/o David Backlund  
February 12, 2018

Water Permit Application No. 8310-3 has been filed by the Wild Oak Golf Club, c/o David Backlund, to impound 2.0 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 24-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second (cfs) from Firesteel Creek into two holding ponds located in the W  $\frac{1}{2}$  SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 23 for irrigation of 80 acres located in the SE  $\frac{1}{4}$  Section 23 all in T103N-R60W. Water Permit Application No. 8310-3 proposes to construct a temporary dam, with a storage capacity of 2.0 acre-feet of water, across Firesteel Creek using large concrete blocks. The temporary dam is intended to provide the necessary head at the pump intake for the diversion authorized by Water Permit No. 6314-3. No increase in authorized pump rate or acres irrigated is requested.

Discussion

The Wild Oak Golf Club holds three Water Rights/Permits. Water Right No. 1747-3 is licensed for 1.18 cfs from one well to irrigate 83.13 acres of the “old” golf course located in the SW  $\frac{1}{4}$  of Section 24-T103N-R60W. Water Right No. 1371-3 was originally incorporated into Water Right No. 1747-3 to irrigate the same 83.13 acres of the “old” golf course with a diversion rate of 0.5 cfs from Firesteel Creek. It was later incorporated into Water Permit Application No. 6314-3 when it was filed for the 0.5 cfs diversion from Firesteel Creek plus an additional 0.17 cfs for irrigation of 80 acres of the “new” golf course located in the SE  $\frac{1}{4}$  of Section 23-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second (cfs) from Firesteel Creek into two holding ponds with a combined storage capacity of 245 acre-feet of water located in the W  $\frac{1}{2}$  SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 23 for irrigation of 80 acres of the “new” golf course located in the SE  $\frac{1}{4}$  Section 23 all in T103N-R60W. None of these Water Rights/Permits allowed for storage of water on Firesteel Creek.

Water Permit No. 6314-3 was inspected and is waiting to be licensed for the irrigation of 68 acres of land in the “new” golf course located in the SE  $\frac{1}{4}$  of Section 23-T103N-R60W, with a diversion rate of 0.67 cfs from Firesteel Creek and a combined storage capacity of 47 acre-feet of water in two holding ponds located in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 23 and the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 24, all in T103N-R60W.

On July 13, 2017, the SD Department of Environment and Natural Resources (DENR) Water Rights Program received a phone call and an e-mail from a recreational user of Firesteel Creek indicating a barricade had been constructed across Firesteel Creek. Also on July 13, 2017, the Mitchell Police Department reported to DENR the similar information regarding a concrete barrier placed across Firesteel Creek.

On July 14, 2017, Mitchell area SD Department of Game, Fish and Parks (GF&P) staff investigated the situation at DENR’s request. GF&P staff confirmed the structure was in place, impounding water, and impacting recreational use. GF&P indicated they also had received complaints regarding the concrete structure.

On July 18, 2017, DENR Water Rights staff met with the Wild Oak Golf Course owner to conduct a licensing inspection of Water Permit No. 6314-3 and to investigate the complaints regarding the concrete structure crossing the creek. During the course of the inspection, Water Rights staff observed the concrete structure obstructing and interfering with the stage, level, and flow of the creek.

Firesteel Creek is considered to be a navigable stream and as per South Dakota Codified Law (SDCL) 46-5-1.1, no person except under lawful authority to do so, may intentionally obstruct, tamper with, or interfere with the stage, level, or flow of water. A Water Right permit is required as per Administrative Rule of South Dakota 74:02:01:03 to construct a dam across a navigable water course for any purpose.

Wild Oak Golf Course submitted a Water Right Permit application in 2014 to create storage in Firesteel Creek; however, they were informed the application was incomplete. No further information to complete the application was submitted.

Intentionally obstructing, tampering with, or interfering with the stage, level, or flow of public waters without lawful authority to do so is a violation of South Dakota's water law and subject to penalties of up to \$500 per day per violation. Therefore, the Chief Engineer issued an order on July 21, 2017, to Wild Oak Golf Course to remove the concrete structure obstructing Firesteel Creek by August 7, 2017. The order also informed them they had the options of withdrawing the application submitted in 2014, modifying the application, or completing it. They were also informed that it may be to Wild Oak Golf Course's advantage to consider alternatives to obstructing the creek channel. One possibility would be excavating a sump hole in the creek channel, with the Corps of Engineers approval, within which to place the pump to operate. The concrete structure was removed before the August 7, 2017 deadline.

Water Permit Application No. 8310-3 has been filed by the Wild Oak Golf Club, c/o David Backlund, to impound 2.0 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE ¼ SW ¼ of Section 24-T103N-R60W. This would be located about 6.5 river miles downstream of Lake Mitchell Dam, and about one river mile upstream of the confluence of Firesteel Creek and the James River. There are no Water Rights/Permits located on Firesteel Creek between the proposed temporary dam and the James River. The City of Mitchell holds two Water Rights on Firesteel Creek upstream of the proposed dam. Vested Water Right No. 426-3 claims 15 cfs from Firesteel Creek, stored in Lake Mitchell and Future Use Permit No. 427-3, which reserves the right to apply for and appropriate 23.2 cfs up to 5,756 acre-feet annually for municipal use. These Water Rights from Firesteel Creek are senior to the diversions authorized by Water Permit No. 6314-3.

The James River has Water Rights downstream of the confluence with Firesteel Creek. If approved there may be times when this permit and Water Permit No. 6314-3 are shutoff to protect downstream senior Water Rights on the James River.

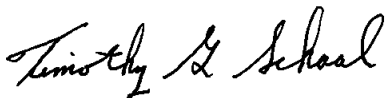
Our review of Water Permit Application No. 8310-3 led to a letter to the applicant, dated December 5, 2017, from the Chief Engineer with several questions or concerns. This also led to a conference call on January 17, 2018, between the applicant, the US Army Corps of Engineers and DENR so that everyone could have a better understanding of the project. The applicant, David Backlund, later responded to the questions raised in the December 5<sup>th</sup> letter and conference call in a letter from him dated February 7, 2018.

One of the questions asked was if the proposed structure was intended to be a permanent or temporary structure, and if temporary what was their operating plan for when the structure would be in place. Mr. Backlund responded that they intended the structure to be temporary and only used during low flow periods when the level in Firesteel Creek did not provide a water level of at least one foot over the irrigation pump intake. The temporary dam would not be needed as long as water was flowing over the Lake Mitchell Dam spillway and, if used, it would be removed no later than November 1<sup>st</sup>. Since their plan is to set the temporary dam in order to maintain one foot of water over the irrigation pump intake during low flow periods, a local datum elevation of the pump intake should be established. A point on the existing pump housing structure would be a good reference point.

Mr. Backlund agreed to place upstream and downstream signs warning any recreational users of Firesteel Creek that a dam is in place and to allow the recreational users access around the structure as needed. Also, the Wild Oak Golf Club would contact the US Army Corps of Engineers and request permission to place the temporary dam across Firesteel Creek under their nationwide permitting authority each calendar year when there is low flow.

Conclusion:

1. Water Permit Application No. 8310-3 should be approved. No increase in authorized pump rate or acres irrigated is requested and approval should not have any adverse effect on existing Water Permits/Rights.
2. A local datum elevation of the pump intake in Firesteel Creek needs to be established and maintained.
3. Firesteel Creek is considered to be a navigable stream and as per South Dakota Codified Law (SDCL) 46-5-1.1, no person except under lawful authority to do so, may intentionally obstruct, tamper with, or interfere with the stage, level, or flow of water. A Water Right permit is required as per Administrative Rule of South Dakota 74:02:01:03 to construct a dam across a navigable water course for any purpose.



Timothy G. Schaal, P.E.  
Engineer IV  
SD DENR, Water Rights Program

February 6, 2018

Jeanne Goodman, Chief Engineer  
Department of Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

Dear Jeanne:

Wild Oak Golf Club has filed for a water permit to construct a dam on Firesteel Creek using concrete blocks during low creek flow conditions. The DENR review raised some questions in your letter dated 12/05/17. The following is my response to the questions addressed in that letter:

- 1) It would be temporary as per discussed.
- 2) The structure would be placed when the existing intake is above the water level in the creek. The flow is measured by the height of the water in relationship to the intake. In reference to the conversation on 1/17/18, the dam would be removed by November 1 of that year.
- 3) Yes the structure would be removed during non-irrigation season.
- 4) The dam will not be a permanent structure.
- 5) We need about a foot of water over the intake which is placed at the channel bottom.
- 6) Temporary fixture so should not be a major factor.
- 7) Signage will be placed above & below the dam. Please note that at the time a dam would be necessary to place, the creek is not navigable.
- 8) Yes it would be.
- 9) Covered under the Corp of Engineer's nationwide permit.
- 10) Yes we have, but it is not cost effective. The existing wet well would need to be lowered as well as the intake which would be a tremendous amount of cost.

Thank you for your consideration in this matter. We feel that the dam is the easiest in terms of construction and most economical to solve the irrigation situation when the creek is low. If you need additional information or have additional questions, please feel free to contact me at 605-656-0011.

Respectfully submitted,

David A. Backlund  
Wild Oak Golf Club

CC: Eric Gronlund  
Harry Decker  
Tim Schaal

February 7, 2018

Jeanne Goodman, Chief Engineer  
Department of Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

RECEIVED  
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WATER RIGHTS  
PROGRAM

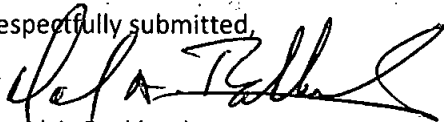
Dear Jeanne:

Wild Oak Golf Club has filed for a water permit to construct a dam on Firesteel Creek using concrete blocks during low creek flow conditions. Low flow condition coincides with Lake Mitchell spillway when the flow over the spillway ceases. The temporary dam would not be placed as long as water flows over the Lake Mitchell spillway. The DENR review raised some questions in your letter dated 12/05/17. The following is my response to the questions addressed in that letter:

- 1) It would be temporary as per discussed.
- 2) The temporary dam will be placed across Firesteel Creek in any calendar year only during low flow periods when the creek's water level is not sufficient to maintain one foot of water over the irrigation pump intake. The dam will be removed when either the flow can sustain the one foot of elevation above the intake or no later than November 1<sup>st</sup> of the same calendar year.
- 3) Yes the structure would be removed during non-irrigation season.
- 4) The dam will not be a permanent structure.
- 5) As stated in number 2, the temporary dam will be set in order to maintain one foot of water over the irrigation pump intake during low flow periods.
- 6) Temporary fixture so should not be a major factor.
- 7) Signage will be placed above & below the dam. Please note that at the time a dam would be necessary to place, the creek is not navigable.
- 8) Yes, access would be allowed for recreational users to get around the structure.
- 9) We would contact & request permission to place the temporary dam across Firesteel creek from the US Army Corp of Engineer's under their nationwide permitting authority each calendar year when there is low creek flow.
- 10) Yes we have, but it is not cost effective. The existing wet well would need to be lowered as well as the intake which would be a tremendous amount of cost.

Thank you for your consideration in this matter. We feel that the dam is the easiest in terms of construction and most economical to solve the irrigation situation when the creek is low. If you need additional information or have additional questions, please feel free to contact me at 605-656-0011.

Respectfully submitted,



David A. Backlund  
Wild Oak Golf Club

CC: Harry Decker

## Gronlund, Eric

---

**From:** Gronlund, Eric  
**Sent:** Thursday, February 22, 2018 1:39 PM  
**To:** 'mitchelllivestock@santel.net'  
**Subject:** Wild Oak golf club - temporary dam across Firesteel Creek  
**Attachments:** WildOakapplication.pdf

Ms. Christopher:

Last summer you reported a barricade across Firesteel Creek. This was a temporary concrete dam placed in the creek by Wild Oak golf club for the purpose of providing necessary head so their irrigation pump system could operate during the low flow conditions. Wild Oak golf club had an application filed since 2014 with DENR that was incomplete. They took the necessary steps to complete the application. The Chief Engineer is recommending approval with conditions that limits when the structure can be in place and that it must be removed. In general the temporary dam can only be put in place each year when low flow conditions exist such that there is not one foot of water over the irrigation intake. Also the temporary dam must be removed by November 1<sup>st</sup>.

Attached is the public notice to be published in the Mitchell Daily Republic, the Chief Engineer's recommendation and the staff report on the application. The public notice process allows petitioning to cause a hearing and being able to participate in a hearing before the Water Management Board

Eric Gronlund  
Water Rights Program, DENR  
605 773-3352  
[Eric.gronlund@state.sd.us](mailto:Eric.gronlund@state.sd.us)

---

**From:** Lisa Christopher [<mailto:mitchelllivestock@santel.net>]  
**Sent:** Thursday, July 13, 2017 9:43 AM  
**To:** DENR INTERNET INFORMATION  
**Subject:** [EXT] Atten: Jeanne Goodman

Hello Jeanne,

My name is Lisa I live at 2761 E 1<sup>st</sup> Ave Mitchell, SD 57301. I am right across from Fire Steel Creek , I canoe up and down when the water level permits , as do a lot of others. Just last weekend we tried to go south but the water was to low so we went north. On Tuesday July 11 we noticed that the neighbor put in a barricade across the creek. I was wondering are you going to be cleaning up the creek and this is the reason this was done for temporary reasons? Pictures are of the barricade.

Thank you for your time.

*Lisa Christopher*

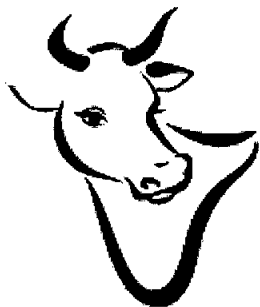
*Mitchell Livestock Marketing LLC*

*Office Manager*

*P-605-996-6543*

*F-605-996-6491*

*C-605-553-5205*



## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Thursday, February 22, 2018 11:46 AM  
**To:** 'phohbach@mitchellrepublic.com'  
**Subject:** 8310-3, Wild Oak Golf Club  
**Attachments:** 8310-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on March 1, 2018.

Wild Oak Golf Club, c/o David Backlund, 2500 E 1<sup>st</sup> Ave, Mitchell SD 57301 (605 656-0011) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

*Karen Schlaak*

SD DENR, Water Rights Program  
(605) 773-3352





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

[denr.sd.gov](http://denr.sd.gov)

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

February 22, 2018

Wild Oak Golf Club  
c/o David Backlund  
2500 E 1<sup>st</sup> Ave  
Mitchell SD 57301

Dear Mr. Backlund:

Water Permit Application No. 8310-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Mitchell Daily Republic (Ph # 605-996-5514). 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 from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 8310-3 to Appropriate Water

Notice is given that Wild Oak Golf Club, c/o David Backlund, 2500 E 1<sup>st</sup> Ave, Mitchell SD 57301 has filed an application for a water permit to impound 2 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE 1/4 SW 1/4 Section 24-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second from Firesteel Creek into two holding ponds located in the W 1/2 SE 1/4, SE 1/4 SE 1/4 Section 23 for irrigation of 68 acres located in the SE 1/4 Section 23 all in T103N-R60W. This application proposes to construct a dam with a storage capacity of 2.0 acre-feet of water across Firesteel Creek using concrete blocks. The temporary dam is intended to provide the necessary head for the pump intake when low flow conditions exist. No increase in the authorized pump rates or acres irrigated is requested.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8310-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 12, 2018.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \_\_\_\_\_.

**WATER RIGHTS  
PROGRAM**

DEB TOWNSEND  
Notary Public  
SEAL  
South Dakota



## SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

523 EAST CAPITOL AVENUE | PIERRE, SD 57501

March 9, 2018

Ms. Jeanne Goodman, Chief Engineer  
South Dakota Department of Environment and Natural Resources  
523 East Capitol Avenue  
Pierre, SD 57501

RECEIVED  
MAR 09 2018  
WATER RIGHTS  
PROGRAM

**RE: Application No. 8310-3 – Wild Oak Golf Club  
Firesteel Creek, Davison County**

Dear Jeanne,

The South Dakota Department of Game, Fish and Parks, Division of Wildlife, has reviewed the application and supplemental materials submitted by the Wild Oak Golf Club in the City of Mitchell, South Dakota. If permitted, this application would authorize the placement of a temporary dam on Firesteel Creek with a storage capacity of 2.0 acre feet of water. The South Dakota Department of Game, Fish and Parks is opposing the authorization of this application.

As you are aware, Firesteel Creek is a navigable stream as described in South Dakota Codified Law (SDCL) 46-5-1.1. Local Game, Fish and Parks (GFP) staff had received complaints regarding the structure that was illegally placed in Firesteel Creek in the summer of 2017. Recreational users of the creek complained of inappropriate signage, or lack thereof, as well as the impact to recreational uses, such as kayaking and canoeing.

In 2015, the Water Management Board heard testimony regarding the navigability of Firesteel Creek. Although navigability has been determined already, the testimony regarding the usage of Firesteel Creek remains true yet today as the public use of the creek has not diminished. Fishermen, boaters and other recreational users come from around the state to utilize both Lake Mitchell and Firesteel Creek. While fishing remains popular, additional outdoor activities such as kayaking, canoeing, snowmobiling, bow-fishing and trapping are a popular past time for recreationists on Firesteel Creek as well. Public use of Firesteel Creek is significant, and the addition of a dam across the creek would negatively impact the use of a valuable public resource.

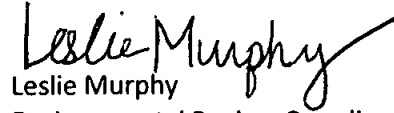
In addition to the impacts to recreation that a dam may cause, GFP is also concerned about potential impacts to the Topeka shiner (*Notropis topeka*), a federally endangered minnow species. Topeka shiners are known to occupy numerous small streams within eastern South Dakota in the watersheds of the Big Sioux, Vermillion and James Rivers. Firesteel Creek is a tributary of the James River and is a known Topeka shiner inhabited stream, with specimens being found above Lake Mitchell as recent as 2017 and vouchered specimens existing from below Lake Mitchell as well.

At this time, we have concerns with a dam being placed across a known Topeka shiner inhabited stream, even if only temporary. Dams are known to block or limit fish passage, and will keep fish from migrating up and down the creek to suitable habitat areas. If flow is low in Firesteel Creek, the dam will pool water, which may concentrate fish near the pumping system

If this application is approved, GFP would request that a qualification to the permit be added regarding screening of the pump intake. A proper screening mechanism should be installed and maintained to avoid entrapment of fish. The recommended screen sizes are either ¼-inch in diameter or 3/16-inch slotted, with pump velocities at ½-foot/second or less in open water or 0.25-foot/second in embayments.

If you have any questions, please contact me at (605) 773-6208.

Sincerely,

A handwritten signature in black ink that reads "Leslie Murphy". The signature is fluid and cursive, with the first name "Leslie" and last name "Murphy" clearly distinguishable.

Leslie Murphy  
Environmental Review Coordinator  
523 East Capitol Avenue  
Pierre, SD 57501  
[Leslie.Murphy@state.sd.us](mailto:Leslie.Murphy@state.sd.us)



IN REPLY REFER TO:  
Wild Oak Golf  
irrigation/dam

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE South Dakota Ecological Services

420 South Garfield Avenue, Suite 400  
Pierre, South Dakota 57501-5408

March 12, 2018



**RECEIVED**

**MAR 14 2018**

**WATER RIGHTS  
PROGRAM**

SDDENR Chief Engineer  
Water Rights Program  
Foss Building  
532 E. Capitol  
Pierre, SD 57501

Wild Oak Golf Club  
c/o David Backlund  
2500 E 1<sup>st</sup> Ave  
Mitchell, SD 57301

Dear Sirs:

This letter is in response to the NOTICE OF APPLICATION No. 8310-3 to appropriate water from Firesteel Creek to irrigate the Wild Oak Golf Course in Mitchell, South Dakota.

U.S. Fish and Wildlife Service (Service) concerns regarding this project relate to the possible impingement and/or entrainment of small fishes and aquatic life that exist in Firesteel Creek that may be impacted by the pumping component of the project, as well as the fragmentation and interference with flows that may occur as a result of the temporary obstruction when flows are reduced in the stream. The materials provided with application 8310-3 indicate that alternatives to obstructing the creek channel have already been suggested to the applicant; the Service supports further review of alternatives that would provide for reduced impact to the flows within the stream, and preclude the potential for impacts to aquatic life. We are available to coordinate with the SD Department of Environment and Natural Resources and SD Department of Game, Fish and Parks.

The Service appreciates the opportunity to provide comments. If you have any questions on these comments, please contact Natalie Gates of this office at (605) 224-8693, Extension 227.

Sincerely,

Field Supervisor  
South Dakota Field Office



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

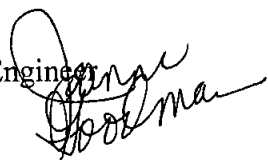
March 20, 2018

**NOTICE OF HEARING**

TO: David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

Leslie Murphy  
Dept of Game, Fish and Parks  
523 East Capitol Avenue  
Pierre SD 57501

Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S Garfield Ave, Suite 400  
Pierre SD 57501-5408

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program 

SUBJECT: Notice of Hearing on Water Permit Application No. 8310-3, David Backlund – Wild Oak Golf Club

Two petitions were filed in the matter of Water Permit Application No. 8310-3 in response to the Notice of Application published in the Mitchell Daily Republic. This notice schedules a hearing on Application No. 8310-3 before the South Dakota Water Management Board.

Water Permit Application No. 8310-3 proposes to impound 2 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE 1/4 SW 1/4 Section 24-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second from Firesteel Creek into two holding ponds located in the W 1/2 SE 1/4, SE 1/4 SE 1/4 Section 23 for irrigation of 68 acres located in the SE 1/4 Section 23 all in T103N-R60W at Wild Oak Golf Club. This application proposes to construct a dam with a storage capacity of 2.0 acre-feet of water across Firesteel Creek using concrete blocks. The temporary dam is intended to provide the necessary head for the pump intake when low flow conditions exist. No increase in the authorized pump rates or acres irrigated is requested.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8310-3 with qualifications 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.

The Water Management Board will consider Application No. 8310-3 at 3:30 PM on Wednesday, May 2, 2018, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate. Parties will be provided written notice if there is a change to the hearing time or date.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application after it reaches a conclusion based on the facts presented at the public hearing.

The May 2, 2018, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by April 23, 2018. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

The hearing is an adversary proceeding and any party has the right to be present at the hearing and is required to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Contact Eric Gronlund at the above Chief Engineer's address to request the staff report, recommendation, application or any other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Enclosed is a copy of the report, recommendation, affidavit of publication and the petitions filed in the matter of Water Permit Application No. 8310-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is March 30, 2018. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, and 46-5-46; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

enclosures

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on March 20, 2018, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated March 20, 2018, regarding notice of hearing for Water Right Permit Application No. 8310-3, as addressed below:

David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S Garfield Ave, Suite 400  
Pierre SD 57501-5408

Hand Delivered:

Leslie Murphy  
Dept of Game, Fish and Parks  
523 East Capitol Avenue  
Pierre SD 57501

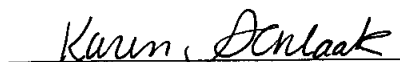
Sent Inter-office to:

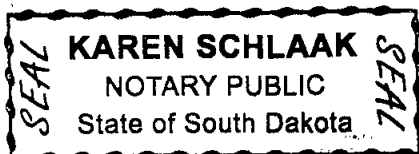
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                          ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 20<sup>th</sup> day of March, 2018

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019



Report on  
Water Permit Application No. 8310-3  
Wild Oak Golf Club  
c/o David Backlund  
February 12, 2018

Water Permit Application No. 8310-3 has been filed by the Wild Oak Golf Club, c/o David Backlund, to impound 2.0 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 24-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second (cfs) from Firesteel Creek into two holding ponds located in the W  $\frac{1}{2}$  SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 23 for irrigation of 80 acres located in the SE  $\frac{1}{4}$  Section 23 all in T103N-R60W. Water Permit Application No. 8310-3 proposes to construct a temporary dam, with a storage capacity of 2.0 acre-feet of water, across Firesteel Creek using large concrete blocks. The temporary dam is intended to provide the necessary head at the pump intake for the diversion authorized by Water Permit No. 6314-3. No increase in authorized pump rate or acres irrigated is requested.

Discussion

The Wild Oak Golf Club holds three Water Rights/Permits. Water Right No. 1747-3 is licensed for 1.18 cfs from one well to irrigate 83.13 acres of the “old” golf course located in the SW  $\frac{1}{4}$  of Section 24-T103N-R60W. Water Right No. 1371-3 was originally incorporated into Water Right No. 1747-3 to irrigate the same 83.13 acres of the “old” golf course with a diversion rate of 0.5 cfs from Firesteel Creek. It was later incorporated into Water Permit Application No. 6314-3 when it was filed for the 0.5 cfs diversion from Firesteel Creek plus an additional 0.17 cfs for irrigation of 80 acres of the “new” golf course located in the SE  $\frac{1}{4}$  of Section 23-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second (cfs) from Firesteel Creek into two holding ponds with a combined storage capacity of 245 acre-feet of water located in the W  $\frac{1}{2}$  SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 23 for irrigation of 80 acres of the “new” golf course located in the SE  $\frac{1}{4}$  Section 23 all in T103N-R60W. None of these Water Rights/Permits allowed for storage of water on Firesteel Creek.

Water Permit No. 6314-3 was inspected and is waiting to be licensed for the irrigation of 68 acres of land in the “new” golf course located in the SE  $\frac{1}{4}$  of Section 23-T103N-R60W, with a diversion rate of 0.67 cfs from Firesteel Creek and a combined storage capacity of 47 acre-feet of water in two holding ponds located in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 23 and the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 24, all in T103N-R60W.

On July 13, 2017, the SD Department of Environment and Natural Resources (DENR) Water Rights Program received a phone call and an e-mail from a recreational user of Firesteel Creek indicating a barricade had been constructed across Firesteel Creek. Also on July 13, 2017, the Mitchell Police Department reported to DENR the similar information regarding a concrete barrier placed across Firesteel Creek.

On July 14, 2017, Mitchell area SD Department of Game, Fish and Parks (GF&P) staff investigated the situation at DENR’s request. GF&P staff confirmed the structure was in place, impounding water, and impacting recreational use. GF&P indicated they also had received complaints regarding the concrete structure.

On July 18, 2017, DENR Water Rights staff met with the Wild Oak Golf Course owner to conduct a licensing inspection of Water Permit No. 6314-3 and to investigate the complaints regarding the concrete structure crossing the creek. During the course of the inspection, Water Rights staff observed the concrete structure obstructing and interfering with the stage, level, and flow of the creek.

Firesteel Creek is considered to be a navigable stream and as per South Dakota Codified Law (SDCL) 46-5-1.1, no person except under lawful authority to do so, may intentionally obstruct, tamper with, or interfere with the stage, level, or flow of water. A Water Right permit is required as per Administrative Rule of South Dakota 74:02:01:03 to construct a dam across a navigable water course for any purpose.

Wild Oak Golf Course submitted a Water Right Permit application in 2014 to create storage in Firesteel Creek; however, they were informed the application was incomplete. No further information to complete the application was submitted.

Intentionally obstructing, tampering with, or interfering with the stage, level, or flow of public waters without lawful authority to do so is a violation of South Dakota's water law and subject to penalties of up to \$500 per day per violation. Therefore, the Chief Engineer issued an order on July 21, 2017, to Wild Oak Golf Course to remove the concrete structure obstructing Firesteel Creek by August 7, 2017. The order also informed them they had the options of withdrawing the application submitted in 2014, modifying the application, or completing it. They were also informed that it may be to Wild Oak Golf Course's advantage to consider alternatives to obstructing the creek channel. One possibility would be excavating a sump hole in the creek channel, with the Corps of Engineers approval, within which to place the pump to operate. The concrete structure was removed before the August 7, 2017 deadline.

Water Permit Application No. 8310-3 has been filed by the Wild Oak Golf Club, c/o David Backlund, to impound 2.0 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE ¼ SW ¼ of Section 24-T103N-R60W. This would be located about 6.5 river miles downstream of Lake Mitchell Dam, and about one river mile upstream of the confluence of Firesteel Creek and the James River. There are no Water Rights/Permits located on Firesteel Creek between the proposed temporary dam and the James River. The City of Mitchell holds two Water Rights on Firesteel Creek upstream of the proposed dam. Vested Water Right No. 426-3 claims 15 cfs from Firesteel Creek, stored in Lake Mitchell and Future Use Permit No. 427-3, which reserves the right to apply for and appropriate 23.2 cfs up to 5,756 acre-feet annually for municipal use. These Water Rights from Firesteel Creek are senior to the diversions authorized by Water Permit No. 6314-3.

The James River has Water Rights downstream of the confluence with Firesteel Creek. If approved there may be times when this permit and Water Permit No. 6314-3 are shutoff to protect downstream senior Water Rights on the James River.

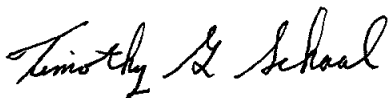
Our review of Water Permit Application No. 8310-3 led to a letter to the applicant, dated December 5, 2017, from the Chief Engineer with several questions or concerns. This also led to a conference call on January 17, 2018, between the applicant, the US Army Corps of Engineers and DENR so that everyone could have a better understanding of the project. The applicant, David Backlund, later responded to the questions raised in the December 5<sup>th</sup> letter and conference call in a letter from him dated February 7, 2018.

One of the questions asked was if the proposed structure was intended to be a permanent or temporary structure, and if temporary what was their operating plan for when the structure would be in place. Mr. Backlund responded that they intended the structure to be temporary and only used during low flow periods when the level in Firesteel Creek did not provide a water level of at least one foot over the irrigation pump intake. The temporary dam would not be needed as long as water was flowing over the Lake Mitchell Dam spillway and, if used, it would be removed no later than November 1<sup>st</sup>. Since their plan is to set the temporary dam in order to maintain one foot of water over the irrigation pump intake during low flow periods, a local datum elevation of the pump intake should be established. A point on the existing pump housing structure would be a good reference point.

Mr. Backlund agreed to place upstream and downstream signs warning any recreational users of Firesteel Creek that a dam is in place and to allow the recreational users access around the structure as needed. Also, the Wild Oak Golf Club would contact the US Army Corps of Engineers and request permission to place the temporary dam across Firesteel Creek under their nationwide permitting authority each calendar year when there is low flow.

Conclusion:

1. Water Permit Application No. 8310-3 should be approved. No increase in authorized pump rate or acres irrigated is requested and approval should not have any adverse effect on existing Water Permits/Rights.
2. A local datum elevation of the pump intake in Firesteel Creek needs to be established and maintained.
3. Firesteel Creek is considered to be a navigable stream and as per South Dakota Codified Law (SDCL) 46-5-1.1, no person except under lawful authority to do so, may intentionally obstruct, tamper with, or interfere with the stage, level, or flow of water. A Water Right permit is required as per Administrative Rule of South Dakota 74:02:01:03 to construct a dam across a navigable water course for any purpose.



Timothy G. Schaal, P.E.  
Engineer IV  
SD DENR, Water Rights Program



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 8310-3, Wild Oak Golf Club**

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. 8310-3, Wild Oak Golf Club, c/o David Backlund, 2500 E 1<sup>st</sup> Avenue, Mitchell SD 57301.

The Chief Engineer is recommending APPROVAL of Application No. 8310-3 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. 8310-3 authorizes a temporary dam on Firesteel Creek with a storage capacity of 2.0 acre feet of water.
2. The city of Mitchell has priority right to Firesteel Creek water under a future use withdrawal permit. Water Permit No. 8310-3 is subject to their prior rights if or when the city develops the reserved water supply.
3. Water Permit No. 8310-3 is subject to written orders from the Chief Engineer for removal of the temporary dam if necessary to protect downstream senior water rights.
4. A permanent benchmark from a local datum shall be established near the dam for the purpose of referencing the irrigation pump intake and a stream water surface elevation one foot over the irrigation pump intake. The location of the benchmark shall be described and identified on a map by direction and distance from a section corner. The survey notes, map and description of the benchmark will be held in the administrative record for Water Permit No. 8310-3.
5. The temporary dam shall not be installed on Firesteel Creek until low flow conditions exist in which the stream water surface elevation is less than one foot over the established irrigation pump intake.
6. The temporary dam shall be removed from the Firesteel Creek channel no later than November 1<sup>st</sup> of each calendar year.

(continued)

7. When the temporary dam is in place, the Permit holder is required to place clearly visible signage upstream and downstream cautioning users of Firesteel Creek that they are approaching the temporary dam.
8. The Permit holder agrees to allow users of Firesteel Creek reasonable access for the sole purpose of portage around the temporary dam when it is in place.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Jeanne Goodman". The signature is fluid and cursive, with the first name "Jeanne" being more prominent than the last name "Goodman".

Jeanne Goodman, Chief Engineer

February 22, 2018



IN REPLY REFER TO:  
Wild Oak Golf  
irrigation/dam

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE South Dakota Ecological Services

420 South Garfield Avenue, Suite 400  
Pierre, South Dakota 57501-5408

March 12, 2018



RECEIVED

MAR 14 2018

WATER RIGHTS  
PROGRAM

SDDENR Chief Engineer  
Water Rights Program  
Foss Building  
532 E. Capitol  
Pierre, SD 57501

Wild Oak Golf Club  
c/o David Backlund  
2500 E 1<sup>st</sup> Ave  
Mitchell, SD 57301

Dear Sirs:

This letter is in response to the NOTICE OF APPLICATION No. 8310-3 to appropriate water from Firesteel Creek to irrigate the Wild Oak Golf Course in Mitchell, South Dakota.

U.S. Fish and Wildlife Service (Service) concerns regarding this project relate to the possible impingement and/or entrainment of small fishes and aquatic life that exist in Firesteel Creek that may be impacted by the pumping component of the project, as well as the fragmentation and interference with flows that may occur as a result of the temporary obstruction when flows are reduced in the stream. The materials provided with application 8310-3 indicate that alternatives to obstructing the creek channel have already been suggested to the applicant; the Service supports further review of alternatives that would provide for reduced impact to the flows within the stream, and preclude the potential for impacts to aquatic life. We are available to coordinate with the SD Department of Environment and Natural Resources and SD Department of Game, Fish and Parks.

The Service appreciates the opportunity to provide comments. If you have any questions on these comments, please contact Natalie Gates of this office at (605) 224-8693, Extension 227.

Sincerely,

Field Supervisor  
South Dakota Field Office



## SOUTH DAKOTA DEPARTMENT OF GAME, FISH AND PARKS

523 EAST CAPITOL AVENUE | PIERRE, SD 57501

March 9, 2018

Ms. Jeanne Goodman, Chief Engineer  
South Dakota Department of Environment and Natural Resources  
523 East Capitol Avenue  
Pierre, SD 57501

RECEIVED  
MAR 09 2018  
WATER RIGHTS  
PROGRAM

**RE: Application No. 8310-3 – Wild Oak Golf Club  
Firesteel Creek, Davison County**

Dear Jeanne,

The South Dakota Department of Game, Fish and Parks, Division of Wildlife, has reviewed the application and supplemental materials submitted by the Wild Oak Golf Club in the City of Mitchell, South Dakota. If permitted, this application would authorize the placement of a temporary dam on Firesteel Creek with a storage capacity of 2.0 acre feet of water. The South Dakota Department of Game, Fish and Parks is opposing the authorization of this application.

As you are aware, Firesteel Creek is a navigable stream as described in South Dakota Codified Law (SDCL) 46-5-1.1 Local Game, Fish and Parks (GFP) staff had received complaints regarding the structure that was illegally placed in Firesteel Creek in the summer of 2017. Recreational users of the creek complained of inappropriate signage, or lack thereof, as well as the impact to recreational uses, such as kayaking and canoeing.

In 2015, the Water Management Board heard testimony regarding the navigability of Firesteel Creek. Although navigability has been determined already, the testimony regarding the usage of Firesteel Creek remains true yet today as the public use of the creek has not diminished. Fishermen, boaters and other recreational users come from around the state to utilize both Lake Mitchell and Firesteel Creek. While fishing remains popular, additional outdoor activities such as kayaking, canoeing, snowmobiling, bow-fishing and trapping are a popular past time for recreationists on Firesteel Creek as well. Public use of Firesteel Creek is significant, and the addition of a dam across the creek would negatively impact the use of a valuable public resource.

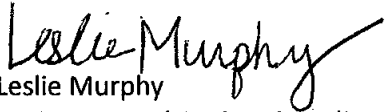
In addition to the impacts to recreation that a dam may cause, GFP is also concerned about potential impacts to the Topeka shiner (*Notropis topeka*), a federally endangered minnow species. Topeka shiners are known to occupy numerous small streams within eastern South Dakota in the watersheds of the Big Sioux, Vermillion and James Rivers. Firesteel Creek is a tributary of the James River and is a known Topeka shiner inhabited stream, with specimens being found above Lake Mitchell as recent as 2017 and vouchered specimens existing from below Lake Mitchell as well.

At this time, we have concerns with a dam being placed across a known Topeka shiner inhabited stream, even if only temporary. Dams are known to block or limit fish passage, and will keep fish from migrating up and down the creek to suitable habitat areas. If flow is low in Firesteel Creek, the dam will pool water, which may concentrate fish near the pumping system

If this application is approved, GFP would request that a qualification to the permit be added regarding screening of the pump intake. A proper screening mechanism should be installed and maintained to avoid entrapment of fish. The recommended screen sizes are either ¼-inch in diameter or 3/16-inch slotted, with pump velocities at ½-foot/second or less in open water or 0.25-foot/second in embayments.

If you have any questions, please contact me at (605) 773-6208.

Sincerely,

A handwritten signature in black ink that reads "Leslie Murphy". The signature is written in a cursive style with a long, sweeping underline.

Leslie Murphy  
Environmental Review Coordinator  
523 East Capitol Avenue  
Pierre, SD 57501  
[Leslie.Murphy@state.sd.us](mailto:Leslie.Murphy@state.sd.us)

RECEIVED  
APR 20 2018  
WATER RIGHTS  
PROGRAM

Jeanne Goodman, Chief Engineer  
Water Rights Program, DENR  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501

Subject: Permit application 8310-3 David Backlund-Wild Oak Golf Club

Dear Jeanne,

I am in support of this temporary dam on the Firesteel Creek. It is needed. People that are familiar with Firesteel Creek know that there have been times when flow is very low or spots where it even ceases. This is not "every" year but it does happen. A temporary dam to be used during those times would be an obvious benefit. Firesteel is used to water parts of the golf course and to supply water to the two holding ponds on the course. It is a "Public" golf course providing recreation for people in this region.

My understanding is that during times of higher flow the dam would not be needed and would not be in place. That is perfect as a small amount of canoeing and fishing is done in the spring when flow is high. So, there would be no dam in place to create any potential issues for those folks. The time when the dam would be used is when no canoeing or fishing is possible avoiding conflict.

The golf club already has a permit to pump from the Firesteel. This proposed, temporary dam creating a very small 2.0 acre pond to get better use of this resource seems like a good idea. As I stated, I am in support.

Thank you for your time on this matter.

Randy Reider

Mitchell, SD 57301

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APR 18 2018

WATER RIGHTS  
PROGRAM

April 16, 2018

To: Jeanne Goodman, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota. 57501-3182

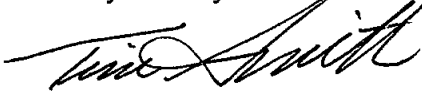
CC: Eric Gronlund

From: Wild Oak Home Owners' Association  
P O Box 534  
Mitchell, SD. 57301

Subject: In support of the hearing on the permit application No. 8310-3 David  
Backlund, Wild Oak Golf Club

The Wild Oak Home Owners' Association is in full support of this project. The Firesteel Creek provides the water for the two holding dams on the upper nine holes on the course. This water maintains the golf grasses and said water provides aesthetic and recreational use of the course.

Thank you for your consideration,



HOA - PAES.

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MAR 07 2018

WATER RIGHTS  
PROGRAM

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF DAVISON )

Penny Hohbach of said county, being, first duly sworn, on oath, says; that he/she is the publisher or an employee of the publisher of The Daily Republic, a daily newspaper, published in the City of Mitchell, in said County of Davison, and State of South Dakota; that he/she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the notice, order or advertisement, a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 issues(s), to wit:

Thursday, March 1, 2018

That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the fees charged for the publication thereof are: \$77.09

Signed: Penny Hohbach

Subscribed and sworn to before me this 1st day of March, 2018.

Deb Townsend

Notary Public  
County of Davison

My Commission Expires: 09-21-18

Prepared by: The Daily Republic, P.O. Box 1288, Mitchell S.D. 57301 605-996-5515



NOTICE OF  
APPLICATION  
NO. 8310-3  
to Appropriate Water

Notice is given that Wild Oak Golf Club, c/o David Backlund, 2500 E 1st Ave, Mitchell SD 57301 has filed an application for a water permit to impound 2 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE 1/4 SW 1/4 Section 24-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second from Firesteel Creek into two holding ponds located in the W 1/2 SE 1/4, SE 1/4 SE 1/4 Section 23 for irrigation of 68 acres located in the SE 1/4 Section 23 all in T103N-R60W. This application proposes to construct a dam with a storage capacity of 2.0 acre-feet of water across Firesteel Creek using concrete blocks. The temporary dam is intended to provide the necessary head for the pump intake when low flow conditions exist. No increase in the authorized pump rates or acres irrigated is requested.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8310-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 12, 2018.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Steven M. Pirner  
Secretary  
Department of  
Environment and  
Natural Resources.  
Published once at the total approximate cost of \$77.09

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APR 18 2018

WATER RIGHTS  
PROGRAM

April 16, 2018

To: Jeanne Goodman, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota. 57501-3182

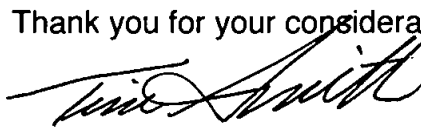
CC: Eric Gronlund

From: Wild Oak Home Owners' Association  
P O Box 534  
Mitchell, SD. 57301

Subject: In support of the hearing on the permit application No. 8310-3 David Backlund, Wild Oak Golf Club

The Wild Oak Home Owners' Association is in full support of this project. The Firesteel Creek provides the water for the two holding dams on the upper nine holes on the course. This water maintains the golf grasses and said water provides aesthetic and recreational use of the course.

Thank you for your consideration,

  
HOA - PAES.

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APR 20 2018  
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PROGRAM

Jeanne Goodman, Chief Engineer

Water Rights Program, DENR

Joe Foss Building

523 East Capitol

Pierre, SD 57501

Subject: Permit application 8310-3 David Backlund-Wild Oak Golf Club

Dear Jeanne,

I am in support of this temporary dam on the Firesteel Creek. It is needed. People that are familiar with Firesteel Creek know that there have been times when flow is very low or spots where it even ceases. This is not "every" year but it does happen. A temporary dam to be used during those times would be an obvious benefit. Firesteel is used to water parts of the golf course and to supply water to the two holding ponds on the course. It is a "Public" golf course providing recreation for people in this region.

My understanding is that during times of higher flow the dam would not be needed and would not be in place. That is perfect as a small amount of canoeing and fishing is done in the spring when flow is high. So, there would be no dam in place to create any potential issues for those folks. The time when the dam would be used is when no canoeing or fishing is possible avoiding conflict.

The golf club already has a permit to pump from the Firesteel. This proposed, temporary dam creating a very small 2.0 acre pond to get better use of this resource seems like a good idea. As I stated, I am in support.

Thank you for your time on this matter.

Randy Reider

Mitchell, SD 57301

Randy Reider  
369 Mildred CT  
Mitchell, SD 57301

DAKOTA CENTRAL 573

18 APR 2018 PM 1 T



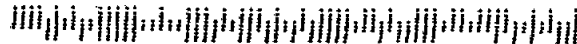
SD DENR CHIEF ENGINEER  
Water RIGHTS PROGRAM  
JOE FOSS BUILDING  
523 E. Capitol  
Pierre, SD 57501

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APR 20 2018

WATER RIGHTS  
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APR 23 2018

WATER RIGHTS  
PROGRAM

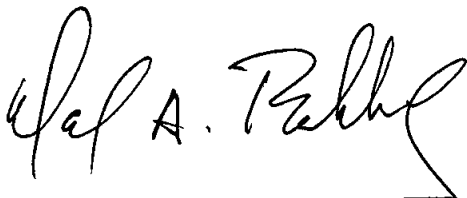
To: Jeanne Goodman, Chief Engineer  
Water Rights Program  
Dept. of Environment & Natural Resources  
Joe Foss Building  
523 E. Capital  
Pierre, SD 57501-3182

From: David A. Backlund  
Wild Oak Golf Course  
Mitchell, SD 57301

RE: Delay of May 2, 2018, hearing

This is a request for a delay of hearing on Water Permit Application #8310-3 David Backlund-Wild Oak Golf Course which was to be held May 2, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Backlund". The signature is fluid and cursive, with a long horizontal stroke at the end.

David A. Backlund  
Wild Oak Golf Course



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

April 23, 2018

**NOTICE**

TO: David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

Leslie Murphy  
Dept of Game, Fish and Parks  
523 East Capitol Avenue  
Pierre SD 57501

Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S Garfield Ave, Suite 400  
Pierre SD 57501-5408

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 8310-3, Wild Oak Golf Club

Petitions of opposition were filed in response to the public notice for Water Permit Application No. 8310-3 filed by Wild Oak Golf Club. Notice scheduling a May 2, 2018, hearing before the Water Management Board on Application No. 8310-3 was sent to parties on March 20, 2018. In response to this notice, the applicant made a formal request (copy enclosed) for postponement of the May 2, 2018, hearing date on the application. Therefore, the hearing on Application No. 8310-3 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on May 2, 2018.

The hearing to consider Application No. 8310-3 is tentatively scheduled for the July 11 – 12, 2018, Water Management Board meeting. The Board will formalize its next meeting date at their May 2<sup>nd</sup> meeting. Future notice of the time and place of the hearing for Application No. 8310-3 will be provided to all parties of record.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

enclosure

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on April 23, 2018, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated April 23, 2018, regarding notice of hearing for Water Right Permit Application No. 8310-3, as addressed below:

David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

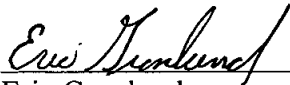
Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S Garfield Ave, Suite 400  
Pierre SD 57501-5408

Hand Delivered:

Leslie Murphy  
Dept of Game, Fish and Parks  
523 East Capitol Avenue  
Pierre SD 57501

Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501



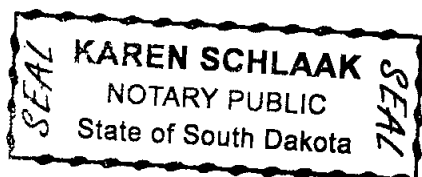
Eric Gronlund  
Water Rights Program, DENR

STATE OF SOUTH DAKOTA     )  
                                          )   SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 23<sup>rd</sup> day of April, 2018



Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

June 8, 2018

NOTICE

TO: David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

Leslie Murphy  
Dept of Game, Fish and Parks  
523 East Capitol Avenue  
Pierre SD 57501

Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S Garfield Ave, Suite 400  
Pierre SD 57501-5408

Randy Reider  
309 Mildred CT  
Mitchell SD 57301

Tim Smith  
Wild Oak Home Owner's Assoc.  
PO Box 534  
Mitchell SD 57301

FROM: Jeanne Goodman, Chief Engineer  
Water Rights Program

SUBJECT: Scheduling Hearing on Water Permit Application No. 8310-3, Wild Oak Golf Club

Water Permit Application No. 8310-3 proposes to impound 2 acre-feet of water by constructing a temporary dam on Firesteel Creek located in the SE 1/4 SW 1/4 Section 24-T103N-R60W. Water Permit No. 6314-3 appropriates 0.67 cubic feet of water per second from Firesteel Creek into two holding ponds located in the W 1/2 SE 1/4, SE 1/4 SE 1/4 Section 23 for irrigation of 68 acres located in the SE 1/4 Section 23 all in T103N-R60W at Wild Oak Golf Club. The application proposes to construct a dam with a storage capacity of 2.0 acre-feet of water across Firesteel Creek using concrete blocks. The temporary dam is intended to provide the necessary head for the pump intake when low flow conditions exist. No increase in the authorized pump rates or acres irrigated is requested.

Petitions of opposition to Water Permit Application No. 8278-3 were filed in response to the public notice. The May 2, 2018, hearing was postponed and this notice reschedules the hearing on Application No. 8284-3 for July 12, 2018.

Late filed petitions were received from Randy Reider and the Wild Oak Home Owner's Association. The Water Management Board will consider whether to accept the petitions prior to the evidentiary hearing.

**The Water Management Board will conduct a hearing to consider Application No. 8310-3 at 1:30 PM on Thursday, July 12, 2018, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.** The agenda time is an estimate and may be delayed due to prior items. Future notice will be provided to all parties if there is a significant change to the hearing time.

Applicable provisions of the notice of hearing dated March 20, 2018, and the public notice published in the Daily Republic on March 1, 2018, still apply.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or [eric.gronlund@state.sd.us](mailto:eric.gronlund@state.sd.us).

c: Ann Mines Bailey, Assistant Attorney General

## CERTIFICATION

I hereby certify that on June 8, 2018, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated June 8, 2018, regarding notice of hearing for Water Right Permit Application No. 8310-3, as addressed below:

David Backlund  
Wild Oak Golf Club  
2500 E 1<sup>st</sup> Avenue  
Mitchell SD 57301

Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S Garfield Ave, Suite 400  
Pierre SD 57501-5408

Randy Reider  
309 Mildred CT  
Mitchell SD 57301

Tim Smith  
Wild Oak Home Owner's Assoc.  
PO Box 534  
Mitchell SD 57301

Hand Delivered:

Leslie Murphy  
Dept of Game, Fish and Parks  
523 East Capitol Avenue  
Pierre SD 57501

Sent Inter-office to:

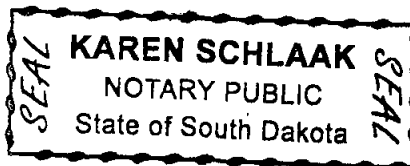
Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

  
Eric Gronlund  
Water Rights Program, DENR

[illegible]

Sworn to, before me, this 8<sup>th</sup> day of June, 2018

Karen Schlaak  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2019





**Riter Rogers**

Law Office

June 29, 2018

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JUL 02 2018

WATER RIGHTS  
PROGRAM

319 South Coteau Street  
P.O. Box 280  
Pierre, SD 57501

Phone: 605-224-5825  
Fax: 605-224-7102  
www.riterlaw.com

Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S. Garfield Ave., Ste. 400  
Pierre, SD 57501-5408

Tim Smith  
Wild Oak Home Owner's Association  
P. O. Box 534  
Mitchell, SD 57301

Leslie Murphy  
Dept. of Game, Fish and Parks  
523 E. Capitol Avenue  
Pierre, SD 57501

Randy Reider  
309 Mildred Ct.  
Mitchell, SD 57301

Jeanne Goodman, Chief Engineer  
Water Rights Program  
Department of Environment  
And Natural Resources  
523 E. Capitol  
Pierre, SD 57501-3182

RE: Water Permit Application No. 8310-3

Dear Folks:

Enclosed herewith to each of you please find a copy of my Notice of Appearance. This is intended as service upon you by mail.

I also enclose the original Notice of Appearance to Jeanne Goodman and would ask that she place the same in her original file relating to this matter.

Thank you.

Very truly yours,

RITER, ROGERS, WATTIER &  
NORTHROP, LLP

BY:

Margo D. Northrup

MDN-wb

Enclosures

Robert C. Riter, Jr  
Margo D. Northrup

Darla Pollman Rogers  
Lindsey Riter-Rapp

Jerry L. Wattier  
Kody R. Kyriss, Associate

WATER MANAGEMENT BOARD )  
WATER PERMIT APPLICATION NO. 8310-3) NOTICE OF APPEARANCE  
 )  
WILD OAK GOLF CLUB. )

DATED at Pierre, South Dakota this 29 day of June,  
2018.

By: Margo D. Northrup  
Margo D. Northrup

I, Margo D. Northrup, certify that a true and correct copy of Notice of Appearance was mailed to the following by first class mail on the 29 day of June, 2018:

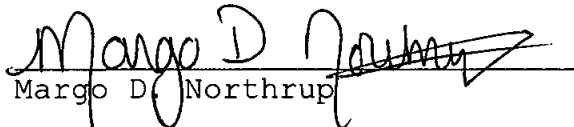
Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S. Garfield Ave., Ste. 400  
Pierre, SD 57501-5408

Tim Smith  
Wild Oak Home Owner's Association  
P. O. Box 534  
Mitchell, SD 57301

Leslie Murphy  
Dept. of Game, Fish and Parks  
523 E. Capitol Avenue  
Pierre, SD 57501

Randy Reider  
309 Mildred Ct.  
Mitchell, SD 57301

Jeanne Goodman, Chief Engineer  
Water Rights Program  
Department of Environment  
And Natural Resources  
523 E. Capitol  
Pierre, SD 57501-3182

  
Margo D. Northrup

WATER MANAGEMENT BOARD )  
WATER PERMIT APPLICATION NO. 8310-3) NOTICE OF APPEARANCE  
 )  
WILD OAK GOLF CLUB. )

DATED at Pierre, South Dakota this 29 day of June,  
2018.

By: Margo D. Northrup  
Margo D. Northrup

I, Margo D. Northrup, certify that a true and correct copy of Notice of Appearance was mailed to the following by first class mail on the 29 day of June, 2018:

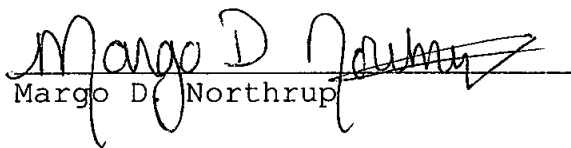
Scott Larson, Field Supervisor  
South Dakota Field Office  
US Fish and Wildlife Service  
420 S. Garfield Ave., Ste. 400  
Pierre, SD 57501-5408

Tim Smith  
Wild Oak Home Owner's Association  
P. O. Box 534  
Mitchell, SD 57301

Leslie Murphy  
Dept. of Game, Fish and Parks  
523 E. Capitol Avenue  
Pierre, SD 57501

Randy Reider  
309 Mildred Ct.  
Mitchell, SD 57301

Jeanne Goodman, Chief Engineer  
Water Rights Program  
Department of Environment  
And Natural Resources  
523 E. Capitol  
Pierre, SD 57501-3182

  
Margo D. Northrup

## Gronlund, Eric

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**From:** Gronlund, Eric  
**Sent:** Monday, July 16, 2018 11:19 AM  
**To:** Murphy, Leslie  
**Subject:** Wild Oak

Mr. Backlund reached out on signage requirements when the temporary barrier is put in place on Firesteel Creek. With last Thursday's rains the flow has increased dramatically in the creek and he does not anticipate needing to install the blocks anytime soon.

Does GF&P have any standard or recommended font size for the lettering for use in signage when an recreationalist is approaching a known obstruction that may require portaging.? Also at what distance upstream and downstream from the barrier that the signs should be placed (ie 500 feet). The goal is to insure readability and give the recreationalist sufficient time to prepare. My thought is that the signage should be placed along the creek's edge.

Thanks - Eric



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
<http://denr.sd.gov>

JUL 30 2018

Wild Oak Golf Club  
David Backlund  
2500 E 1<sup>st</sup> Ave  
Mitchell SD 57310

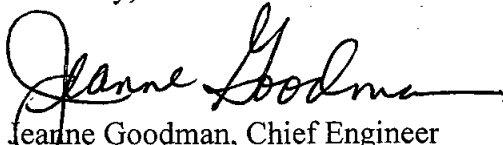
Dear Mr. Backlund:

Enclosed is Water Permit No. 8310-3 authorizing construction of a temporary dam on Firesteel Creek and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

PAID

JAN 26 2026

Ck# 1123

Rec't#

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

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

Water Right/Permit No. 8310-3

Date: 1-10-26

RECEIVED

JAN 27 2026

OFFICE OF  
WATER

I/We request that Water Right/Permit No. 8310-3 formerly owned by:  
Wild Oak Golf Club

be transferred to:

New Owner Name: Legacy Links, LLC DBA Wild Oak Golf Course  
Address: 204 N. Mather St mobile: 605-682-9203 (cell)  
City, State, Zip: Mitchell, SD 57301 email: chase.k@wildoakgolfcourse.com

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

2 acre feet of water by construction of a temporary dam in Firesteel Creek locted in  
SE1/4, SW1/4, Section 24 - T103N, R60W

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

☒ I understand that the validity of Water Right/Permit No. 8310-3 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, Chase Kristensen (Legacy Links, LLC) 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, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following 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.

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

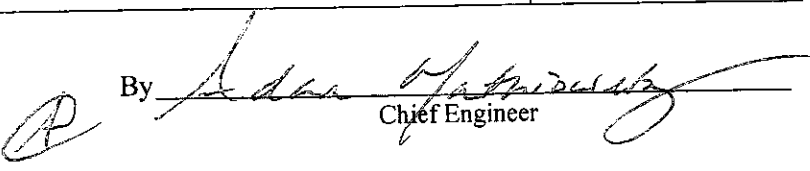
Date January 26, 2026

RECEIVED OF Legacy Links LLC 204 N Mattie St Mitchell SD 57301

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 #8310-3                                                                           | \$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

  
Chief Engineer



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

January 27th, 2026

8310-3

Legacy Links LLC  
204 N Mattie St  
Mitchell, SD 57301

Dear Mr. Kristensen,

The South Dakota Water Rights Program is in receipt of the "Notice of Transfer of Ownership" form and the required fee you submitted for Water Permit No. 8310-3. Enclosed is a receipt of payment for your records.

Water Permit No. 8310-3, previously held by Wild Oak Golf Club, is now listed under Legacy Links LLC. I have also updated your contact information in our system.

As a reminder, so long as you use the water beneficially, as stated in the Permit (copy enclosed), State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the Permit will be subject to cancellation.

If you have any questions, please contact me.

Sincerely,

Shannon Konst  
Water Rights Program  
605 773-3352  
Shannon.konst@state.sd.us

**NOTE:** The validity of Water Permit No.8310-3 has not been determined by this transfer action. Only the Water Management Board has the authority to determine if a water permit/right is valid.

*enclosure*