

WATER PERMIT NO. 8319-3

Name of Applicant: Ducks Unlimited

Address: 2525 River Road, Bismarck ND 58503

Phone: 701400-6283

Amount of Water Claimed: 119.4 AF

Total Acres: NA

Source of Water Supply: Waubay Lake and runoff

Water to be used for: fish & wildlife propagation

County: Day

Type of Waste Disposal System:

Location: 2 miles northeast of Webster

PRIORITY Date Received: 11-2-17

Application/License Fee: \$ 700

Corrected Application Received: 11-14-17

Period of Annual Use: Jan 1 – Dec 31

Remarks: 3 small dams

Diversion Point: S 1/2 Sec 19-T122N-R55W

Land to be Irrigated: NA

Depth of Well: NA

Well Driller: NA

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 11-14-17

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

			19		

SOUTH DAKOTA
WATER PERMIT NO. 8319-3

Date of first receipt of application November 2, 2017.

The Water Management Board approved Water Permit No. 8319-3 on March 7, 2018 for Ducks Unlimited, c/o Maddie Saylor, 2525 River Road, Bismarck ND 58503 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. 8319-3 authorizes impoundment 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S 1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately 2 miles northeast of Webster SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water.
2. The water appropriated shall be used for the purpose of fish and wildlife propagation and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is November 2, 2017.
5. One-fifth of the construction is to be completed on or before September 7, 2020.
6. All construction is to be completed on or before March 7, 2023.
7. Water is to be put to beneficial use on or before March 7, 2027.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Water Permit No. 8319-3 authorizes storage of 119.4 acre feet of water in three impoundments.

WATER MANAGEMENT BOARD

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

MAR 16 2018

date



RECEIVED

NOV 02 2017

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8319-3</u> (office use only) Hydrologic Unit <u>10160010</u>
	Basin <u>James River</u>
	Newspaper <u>Reporter & Farmer, Webster</u>
	<u>Public Opinion, Watertown</u>

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

Check use(s) of water:

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

Type of Application:
(check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
_____1. Name to Appear on Water Permit Ducks Unlimited

Mailing Address 2525 River Road Bismarck ND 58503
(Address) (City) (State) (Zip Code)
 Phone 701-355-3553 Mobile 701-400-6283 Email msaylor@ducks.org

2. Amount of water claimed _____ *CFS or _____ **GPM and 119.4 ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use)3. Source of water supply Waubay Lake (during higher than normal lake levels) & surface drainage/watersheds4. Location of point of diversion 3 small earthen dams in S1/2 Section 19-T122N-R55W County Day
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ NoIf "Yes," where will water be used? _____
(example - NW1/4 section 12-T104N-R53W)5. County or counties where water will be used Day6. Annual period during which water is to be used Jan 1 - Dec 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

This project involves the restoration of shallow wetlands for habitat conservation purposes on a property adjacent to and southeast of Waubay Lake. In the past few years, this property has been impacted by rising water levels in the lake, resulting in water backing into shallow wetlands on the property. The project contains drain ditches that are proposed to be filled with compacted fill to restore these wetlands; multiple shallow earthen dams/embankments are proposed to be constructed in these areas to impound water. It is anticipated that once lake levels lower, construction/restoration work can proceed (Winter 2017/2018).

I, Maddie Saylor (c/o Ducks Unlimited), the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)

a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) ____

b) System Capacity (gallons) ____ Year Constructed ____

c) Connected to the City of ____ Sanitary System

3. Dugout Information

a) Surface Dimensions ____ Depth ____

b) Depth to water (ground surface to water level) ____

4. Water Storage Dams

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

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

Ducks Unlimited
2525 River Road
Bismarck, ND 58503

b) Freeboard See attachments

c) Crest Width ____

Crest Length ____

d) Height ____

e) Primary Outlet Capacity ____

If pipe, diameter ____

f) Secondary Spillway Capacity ____

Spillway Width ____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

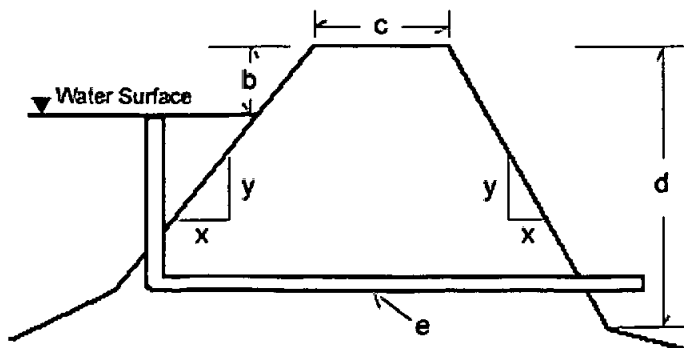
Upstream ____

Downstream ____

h) Surface Area of Impoundment ____

i) Storage ____ Acre Feet

j) Drainage Area Above Dam ____ Acres



Dam #	Freeboard (feet)	Crest Width (feet)	Crest Length (feet)	Height (feet)	Upstream Slope (ft/ft)	Downstream Slope (ft/ft)	Surface Area of Impoundment (acre)	Storage (acre-ft)	Drainage Area Above Dam (acre)
1	1	20	275	3.1	5:1	5:1	17.78	51.27	240
6	1	20	140	3	5:1	5:1	14.39	47.27	45
7	1	55	140	3.5	5:1	5:1	6.97	20.81	45

Total acre-feet claimed annually = 119.4 acre-feet.

Form 2A (Supplemental)
for Water Permit.

StreamStats Report

Region ID: SD
Workspace ID: SD20171026212437983000
Clicked Point (Latitude, Longitude): 45.35835, -97.48086
Time: 2017-10-26 16:24:55 -0500



Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
DRNAREA	Area that drains to a point on a stream	0.38	square miles

StreamStats Report

Region ID: SD
Workspace ID: SD20171026210159920000
Clicked Point (Latitude, Longitude): 45.36003, -97.47938
Time: 2017-10-26 16:02:18 -0500



Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
DRNAREA	Area that drains to a point on a stream	0.1	square miles

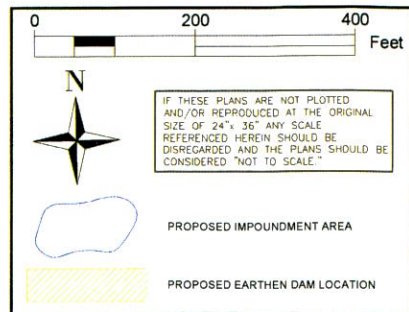
StreamStats Report

Region ID: SD
Workspace ID: SD20171026205354017000
Clicked Point (Latitude, Longitude): 45.35859, -97.46936
Time: 2017-10-26 15:54:11 -0500



Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
DRNAREA	Area that drains to a point on a stream	0.05	square miles



Global Leader in Wetlands & Wildlife Conservation
GREAT PLAINS REGIONAL OFFICE
ISMARCK, NORTH DAKOTA (701) 355-3500

DUCCS UNLIMITED

DENHOLM WETLAND RESTORATION
DAY COUNTY, SOUTH DAKOTA
OVERALL SITE VIEW

Revision	By	Date	Revisions
1	x	x	x
2	x	x	x
3	x	x	x
4	x	x	x
5	x	x	x
6	x	x	x
7	x	x	x
8	x	x	x
9	x	x	x
10	x	x	x

CAD FILE
SD-513-2 SD DENR

DESIGNED BY: RM
DRAWN BY: MS
SURVEYED BY: BK, TE
BOOK NO. -

DATE
10/27/2017
PROJECT NO.
US-SD-513-2
SHEET 1

Sec 12
T122N
R56W

Sec 7
T122N
R55W

Sec 8
T122N
R55W

Sec 13
T122N
R56W

Sec 18
T122N
R55W

Sec 17
T122N
R55W

Sec 24
T122N
R56W

Sec 19
T122N
R55W

Sec 20
T122N
R55W

Sec 25
T122N
R56W

Sec 30
T122N
R55W

Sec 29
T122N
R55W

Sec 36
T122N
R56W

Sec 31
T122N
R55W

Sec 32
T122N
R55W

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date November 14, 2017

RECEIVED OF ~~Ducks Unlimited One Waterfowl Way Memphis, TN 38120~~

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

Fee for Application for Permit No. <u>8319-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	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>8319-3</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	700 00

No. 08377

By

Jeanne Goodman
Chief Engineer

zlm

NOV 02 2017

WATER RIGHTS
PROGRAM

MEMORANDUM

TO: SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES, WATER RIGHTS PROGRAM

FROM: MADDIE SAYLOR, EIT C/O DUCKS UNLIMITED

SUBJECT: WATER PERMIT AND LOCATION NOTICE APPLICATIONS

DATE: OCTOBER 30, 2017

Dear SD DENR,

Please find attached the application for water permit for non-irrigation uses as well as the application for location notice. These forms are for a Ducks Unlimited restoration project in Day County, SD near Waubay Lake consisting of nine shallow earthen dams/embankments which will support eight wetland basins/impoundments for the purposes of wildlife conservation.

Three of the nine dams are included in the water permit application, and the remaining six dams are included in the location notice application. The total acre-feet claimed annually for this project (all eight impoundments and nine dams) is 134.4, out of which 119.4 acre-feet are included in the water permit application, and 15.0 acre-feet are included in the location notice application.

The total filing fee for the water permit application is \$700.00 (less than 120 acre-feet of storage). The total filing fee for the location notice is \$50.00 (less than 25 acre-feet of storage). A check will be issued to the SD DENR for \$750.00, and this payment will be separate from this letter and should arrive to your office near November 13th (the check needs to be issued from Ducks Unlimited's NHQ out of Tennessee).

Attachments included with this letter are:

1. Application for water permit for non-irrigation uses forms 2 and 2A with supplemental dam details
2. Application for site location notice with supplemental dam details
3. The overall site view Map (including all eight impoundment details and nine dam details, diversion point, section corner, etc.). **Both applications refer to this Map.**

If you have any questions regarding these applications, please call me at (701) 355-3519 or e-mail me at msaylor@ducks.org. Thank you for reviewing these applications, and I hope to hear from you soon.

Sincerely,

Maddie Saylor, EIT



Ducks Unlimited
2525 River Road
Bismarck, ND 58503

Schlaak, Karen

From: Maddie Saylor <msaylor@ducks.org>
Sent: Tuesday, December 05, 2017 3:12 PM
To: Gronlund, Eric
Cc: Schlaak, Karen
Subject: Re: [EXT] Send data from MFP07876021 12/05/2017 10:25

Eric,

We are going to leave this water right in Ducks Unlimited's name. I am going to contact the papers this week to have it published. Thank you for your help.

Maddie

From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Tuesday, December 5, 2017 2:44:12 PM
To: Schlaak, Karen; Maddie Saylor
Subject: RE: Send data from MFP07876021 12/05/2017 10:25

Maddie:

Karen forwarded me your email. Technically, only irrigation rights are appurtenant to the land and need to be in the owner's name. However it is logical and most appropriate to be in WAT's name. If you agree, let Karen and I know and we'll make that change. We'd need to know the address and contact person for WAT. Eric

From: Maddie Saylor [mailto:msaylor@ducks.org]
Sent: Tuesday, December 05, 2017 2:29 PM
To: Schlaak, Karen
Subject: Re: [EXT] Send data from MFP07876021 12/05/2017 10:25

Karen,

I do have one question. This land is technically owned by Wetlands America Trust. Ducks Unlimited is actually doing the project design and delivery including drafting the engineering plans, awarding the construction contract, etc. Given that WAT is the landowner, should their name be on this permit instead of ours (Ducks Unlimited)?

Thank you,

Maddie

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Tuesday, December 5, 2017 10:58:33 AM
To: Maddie Saylor
Subject: FW: Send data from MFP07876021 12/05/2017 10:25

Ms Saylor,

Attached is the report, recommendation and public notice information regarding Water Permit Application No. 8319-3 located in Day County. This is being mailed to you today. Thought I'd give you a heads-up so you can contact the papers to authorize publication and arrange payment. I have emailed the notice to the papers.

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
<http://denr.sd.gov>

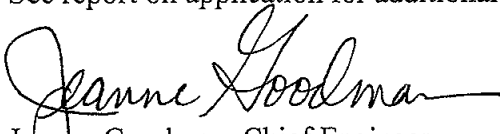
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8319-3, Ducks Unlimited**

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. 8319-3, Ducks Unlimited, c/o Maddie Saylor, 2525 River Rd, Bismarck SD 58503.

The Chief Engineer is recommending APPROVAL of Application No. 8319-3 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 qualification:

Water Permit No. 8319-3 authorizes storage of 119.4 acre feet of water in three impoundments.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
December 5, 2017

NOTE: Please be aware that water from Waubay Lake and surface drainage may not be a reliable water source capable of consistently producing the quantity of water annually that is requested.

Report on
Water Permit Application No. 8319-3
Ducks Unlimited, c/o Maddie Saylor
November 30, 2017

Ducks Unlimited, c/o Maddie Saylor, has filed Water Permit Application No. 8319-3 to appropriate and impound 119.4 acre-feet of water by constructing ditch plugs in drainage ditches located in the S ½ of Section 19-T122N-R55W, in Day County. The source of water will be surface water runoff and backwater from Waubay Lake during high water levels. The stored water will be in three separate impoundments which individually store 51.3, 47.3 and 20.8 acre-feet of water. The water will be used for fish and wildlife purposes.

Discussion

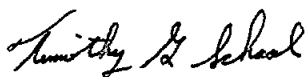
The project involves the restoration of shallow wetlands for habitat conservation purposes on property adjacent to and southeast of Waubay Lake. The project contains drainage ditches that are proposed to be filled with compacted fill to restore these wetlands. The project contains nine shallow earthen embankments to maintain eight wetlands/impoundments. The ditch plugs/embankments vary in height from two to four feet high and storage of 0.1 acre-feet to 51.3 acre-feet. Three of the impoundments are included in Water Permit Application for a total of 119.4 acre-feet of storage and the other five impoundments have been included in Location Notice No. 77334 with a total storage capacity of 15.0 acre-feet.

Section 74:02:08:01(7) of the Safety of Dams, Chapter 74:02:08, rules state that a barrier is not considered a dam for the purposes of this chapter if the height does not exceed 6 feet regardless of storage capacity. Therefore, the ditch plugs/embankments mentioned above do not need to meet the requirements of Chapter 74:02:08.

The source of water for this application will be surface water runoff and backwater from Waubay Lake during high water levels. The Department of Game, Fish and Parks holds Vested Water Right No. 639-3 for 28,320 acre-feet of water in Waubay Lake. Approval of Water Permit Application No. 8319-3 should not have any adverse effects on Vested Water Right No. 639-3 or Waubay Lake.

Conclusions:

1. Water Permit Application No. 8319-3 should be approved since unappropriated water is available and approval should not have any adverse effects on existing Water Rights.



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

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, December 05, 2017 10:59 AM
To: 'msaylor@ducks.org'
Subject: FW: Send data from MFP07876021 12/05/2017 10:25
Attachments: DOC120517-12052017102524.pdf

Ms Saylor,

Attached is the report, recommendation and public notice information regarding Water Permit Application No. 8319-3 located in Day County. This is being mailed to you today. Thought I'd give you a heads-up so you can contact the papers to authorize publication and arrange payment. I have emailed the notice to the papers.

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

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

December 5, 2017

Ducks Unlimited
c/o Maddie Saylor
2525 River Rd
Bismarck ND, 58503

Dear Ms. Saylor:

Water Permit Application No. 8319-3 for fish and wildlife propagation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Reporter & Farmer printed at Webster SD (Ph # 605-345-3356) and the Public Opinion printed at Watertown SD (Ph # 605-886-6901). You will need to contact the newspaper(s) 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) 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.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, December 05, 2017 10:10 AM
To: legals@thepublicopinion.com
Subject: 8319-3, Ducks Unlimited
Attachments: 8319-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on December 11, 2017.

Ducks Unlimited, c/o Maddie Saylor, 2525 River Rd, Bismarck ND 58503 (701 355-3553 or c 701 400-6283) 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



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, December 05, 2017 10:10 AM
To: news@reporterandfarmer.com
Subject: 8319-3, Ducks Unlimited
Attachments: 8319-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on December 11, 2017.

Ducks Unlimited, c/o Maddie Saylor, 2525 River Rd, Bismarck ND 58503 (701 355-3553 or c 701 400-6283) has been notified to contact you to authorize publication and arrange for payment.

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

Karen Schlaak

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



NOTICE OF APPLICATION NO. 8319-3 to Appropriate Water

Notice is given that Ducks Unlimited, c/o Maddie Saylor, 2525 River Road, Bismarck ND 58503 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S 1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately 2 miles northeast of Webster SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

This wetland restoration project consists of eight impoundments totaling 134.4 acre feet of water in storage capacity. The other five impoundments each store less water than the amount requiring a water permit and a location notice has been filed for these impoundments.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 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 December 21, 2017.

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 _____.

DEPARTMENT OF ENVIRON- MENT AND NATURAL RE- SOURCES

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Codington) SSI, Jackie Wettstad

certify that the attached printed Notice was taken

from the Watertown
Public Opinionprinted and published in WatertownCounty of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

December 11, 2017Cost of Printing \$ 64.30Jackie Wettstad
(Signature)Accounting Clerk
(Title)12/21/17
(Date Signed)

RECEIVED

DEC 22 2017

WATER RIGHTS
PROGRAM

NOTICE OF APPLICATION NO.

8319-3 to Appropriate Water Notice is given that Ducks Unlimited, c/o Maddle Saylor, 2525 River Road, Bismarck ND 58503 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S 1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately 2 miles northeast of Webster SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully kept, 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/pubs/cr/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 December 21, 2017.

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. Pinner, Secretary,
Department of Environment and
Natural Resources.

Published once at an approxi-
mate cost of \$59.30
(December 11, 2017)

RECEIVED

DEC 14 2017

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

County of Day
State of South Dakota,

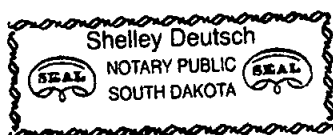
} ss.

John Suhr, of said county and state being duly sworn on oath, says: That the Reporter & Farmer is a legal weekly newspaper of general circulation, and an official newspaper as required by Session Laws of 1893, printed and published in Webster, in said county and state, by the Day County Printing Company and has been such newspaper during the time hereinafter mentioned, that I, John Suhr, the undersigned, am publisher of said newspaper, and have personal knowledge of all facts stated in this affidavit and that the advertisement headed, Water Rights Program-Maddie Saylor a printed copy of which is hereunto attached, was printed and published in the said newspaper one successive and complete issue as follows:

First Publication	December 11;
Third Publication	;
Fourth Publication	;
Fifth Publication	;

That the full amount of fees for publication of the annexed notice is \$34.94 and inures solely to the Reporter & Farmer, published by The Day County Printing Company, that no arrangement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid any person whomsoever.

Subscribed and sworn to before me this 11th day of December, 2017.



Shelley Deutsch
Notary Public, Day County, South Dakota

My Commission Expires
October 21 2022

**NOTICE OF APPLICATION
NO. 8319-3 TO
APPROPRIATE WATER**

Notice is given that Ducks Unlimited, c/o Maddie Saylor, 2525 River Road, Bismarck, ND 58503 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately two miles northeast of Webster, SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

This wetland restoration project consists of eight impoundments totaling 134.4 acre feet of water in storage capacity. The other five impoundments each store less water than the amount requiring a water permit and a location notice has been filed for these impoundments.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 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 December 21, 2017.

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 34.94.

12-13-2017

RECEIVED
DEC 14 2017
WATER RIGHTS
PROGRAM

Dear Sirs or madams:

My name is Steve Breske, I am the operator/caretaker of the Judy Breske farmland located both north and south of your application number 8319-3 to appropriate water in the December 11, 2017 edition of the newspaper. "Reporter and Farmer"

At this time we regret to inform you, we oppose your request for application to appropriate water, based upon the following criteria:

Unknown locations of proposed dam's or drainage plugs.

Unknown elevations of proposed dam's or drainage plugs.

Unknown intentions if ducks unlimited is proposing to keep run-off water in and Waubay Lake water out.

Unknown topographic view of affected areas in question, and being a neighbor what potential water elevation deviations-may or may not affect our property and adjoining waterways.

Potential Webster city storm drain-run off plan.

Enclosed are maps highlighted ducks unlimited 300 acres from years 1995, 2006, and 2014. The 1995 map visibly shows the drainage ditch, and with rising water the ditch seems to disappear into 2014, but I strongly feel the acting State and project engineers need to know this information, and potential ramification's that may occur from proposed dam's locations, and proposed elevations.

Any questions or comments with this opposition can be directed toward myself or the land-owner. We have a great understanding of conservation and its place on our farm, however living in a flood plain we feel we all have to be communicative and work together to assure we are not flooding our property or our neighbors in any way shape or form.

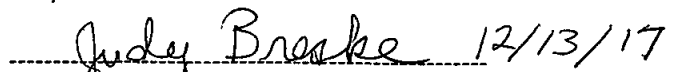
Respectfully

Steve Breske-operator



14041 437th ave
Webster SD 57274
605.881.8275
605.345.3582

Judy Breske-land owner

 12/13/17

211 w. 10th ave
Webster SD 57274
605.345.3537

524.70.
Breske, Jacob M., SENW,
266.01.
Breske, Jacob M., E1/2 SW
and NWSW, 639.79.
Breske, Jacob M., SE ex

Highland Township
Shepherd, Ryan, Shepherd
Addition in SW (14.5 acres),
452.96.

Andover Town
Clynick, Susan A., Lots

Feist, Cory, Lots 13, 14
and 15, Blk16 Lemmon's 6th
Addn, 224.54.

Roslyn Town
Okroi, Adam and Kather-
ine, S1/2 of Lots 8, 9 and 10

M., E 67' of Lots 21 and 22
Orig Plat Blk 9, 469.35.
Abraham, Caroline, N 65'
of Lot 14, Blk11 Prior's Third,
967.00.
Karst, James, Lot 4, Blk

Wortley's, 91.67.
Northland Auto Center
Inc., Lot 6B Sandvig's, 4,872.70.
Northland Auto Center
Inc., N Pt of 8, 9 and 11 Sand-
vig's, 400.27.

Vacated Stree
Goehring,
Tchida Addn,
Published
approximate c

Two notices of applications to appropriate water

NOTICE OF APPLICATION NO. 8319-3 TO APPROPRIATE WATER

Notice is given that Ducks
Unlimited, c/o Maddie Saylor,
2525 River Road, Bismarck,
ND 58503 has filed an appli-
cation for a water permit to
appropriate and impound
119.4 acre-feet of water from
surface water runoff and
backwater from Waubay Lake
during high water levels by
constructing ditch plugs in
drainage ditches located in the
S1/2 Section 19-T122N-R55W
for restoration of shallow
wetlands approximately two
miles northeast of Webster,
SD. The impoundments indi-
vidually store 51.3, 47.3 and
20.8 acre feet of water. The
water is for fish and wildlife
propagation purposes.

This wetland restoration
project consists of eight
impoundments totaling 134.4
acre feet of water in storage
capacity. The other five im-
poundments each store less
water than the amount re-
quiring a water permit and a
location notice has been filed
for these impoundments.

Pursuant to SDCL 46-
2A-2, the Chief Engineer
recommends APPROVAL of
Application No. 8319-3 with
qualifications because 1) unap-
propriated 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 recommenda-
tion 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
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Any person interested in
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application or recommendation
must file a written petition
with BOTH the applicant and
Chief Engineer. The applicant
must file a petition if con-
testing the Chief Engineer's
recommendation. The Chief
Engineer's address is "Water
Rights Program, Foss Build-
ing, 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 December 21, 2017.

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 sup-
porting the application, and
the signature and mailing
address of the petitioner or
the petitioner's legal counsel,
if legal counsel is obtained.

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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 appli-
cation or contesting the rec-
ommendation 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 34.94.

NOTICE OF APPLICATION NO. 8312-3 TO APPROPRIATE WATER

Notice is given that Ron-
ald Olson, 44228 150th St.,
Waubay, SD 57273 has filed an
application for a water permit
to appropriate 1.78 cubic feet
of water per second from one
well to be completed into the
Prairie Coteau Aquifer (100
feet deep) located in the ap-
proximate center of the SE
1/4 Section 34 for irrigation
of 130 acres located in the SE
1/4 Section 34; all in T121N-
R54W which is approximately
six miles south of Waubay, SD.

Pursuant to SDCL 46-
2A-2, the Chief Engineer
recommends APPROVAL of
Application No. 8312-3 with
qualifications because 1) unap-
propriated 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 recommenda-
tion 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 con-
testing the Chief Engineer's
recommendation. The Chief
Engineer's address is "Water
Rights Program, Foss Build-
ing, 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 December 21, 2017.

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 sup-
porting the application, and
the signature and mailing
address of the petitioner or
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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
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the application pursuant to
the recommendation with
no hearing held before the
Water Management Board. If
a petition opposing the appli-
cation or contesting the rec-
ommendation 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 \$30.24.

Butler declares su

OFFICIAL PROCEEDINGS BUTLER TOWN REGULAR MEETING December 5, 2017

President Kristen Marko
brought the meeting to order
at 6:30 p.m. at her residence.
Members present were James
Marko and Duane Huwe.

Motion to read and ap-
prove the minutes of the
previous meeting was made
by Marko, second Huwe, car-
ried. Minutes were approved
as read.

Motion to submit and
pay bills was made by Huwe,
second Marko, carried. Pre-
sented for payments were
NorthWestern Energy \$110.44;
Reporter & Farmer \$12.98;
Dependable Sanitation \$197.00;

Colin Johnso
gager Stack M
Delaney, Niel
\$1,779.70; Jame
Diana Marko
roll \$6,390.00.

Motion t
dumpster as s
was made by
Huwe, carried

Motion w
journ the mer
second Huwe
meeting adjou

The next
held on Janua
the Kristen M
Emily Anc
Secretary/
Published
approximate c

Grenville will cele 100 years in June

OFFICIAL PROCEEDINGS TOWN OF GRENVILLE REGULAR MEETING December 5, 2017

The Town Board of Gren-
ville, SD met in regular ses-
sion on Monday, December 5,
2017. The meeting was called
to order by Chairman Gonza-
les. Answering roll call were
M. Gonzales and R. Grajczyk.
Pledge of Allegiance was said
by everyone at the meeting.
Motion to approve the agenda,
by M. Gonzales, second by R.
Grajczyk. The minutes were
read and approved on motion
by M. Gonzales, second by R.
Grajczyk. Motion to approve
the finance report by M. Gon-
zales, second by R. Grajczyk.
No new building permits.

Warrants: Dacotah Bank
CC \$240.54; Porter Dist. \$91.10;
CWD \$2,245.14; Ameripride
\$118.28; Harry's Frozen Food
\$203.00; Otter Tail \$719.57;

more informa
won the bid f
and Eric Sna
for the snow l
permits were
and an ame
current ordin
sented at the J
Ordinance #2
Appropriation
motion was r
zales, second
to pass it. Al
penalties incu
2015 were dis
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by the finance
we can receiv
them. The tow
rently workin

New Bu:
Grenville Imp
brought in ir
gesting that
established in
was made by l
ond by R. Graj

Andover hears concerns over smoke and dust

OFFICE OF
DAY COUNTY TREASURER
711 WEST FIRST STREET

Morton Twp. 5.28
Herrick, Barbara (LS)
Kosciusko Twp. 2.041 67

Judy Drake
farm 897

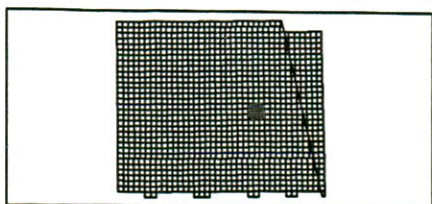
WETLAND MAP



1995



USDA U.S. Dept. of Agriculture
Farm Service Agency



South Dakota Day County 19-122N-55W

Legend

- Wetlands
- Tract Boundaries
- Section-Township-Range
- Easements
- CRP
- Field Boundaries
- Rangeland

USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or the 2004 ortho rectified imagery for South Dakota. The producer accepts the data 'as is' and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs.

May 01, 2006



- Common Land Unit**
 Cropland / Non-cropland
 Conservation Reserve Program
Wetland Determination Identifiers
 ● Restricted Use
 ▼ Limited Restrictions
 ■ Exempt from Conservation Compliance Provisions
 □ Tract Boundary □ Section Line



2012 Ortho-Photography - not to scale

2014 Program Year

Map Created March 31, 2014

Farm 897

19 -122N -55W

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

DAY COUNTY STATES ATTORNEY

506 Main Street
WEBSTER, SD 57274

RECEIVED

DEC 18 2017

**WATER RIGHTS
PROGRAM**

DANNY R. SMEINS, STATES ATTORNEY

TELEPHONE: (605) 345-4624

FAX: (605) 345-4250

EMAIL: drslaw@itctel.com

December 14, 2017

Chief Engineer
Water Rights Program
Foss Building
523 East Capitol
Pierre, SD 57501

Re: Notice of Application No. 8319-3 to Appropriate Water

Dear Sir:

Please note that this letter comes to you in response to the Notice referred to in the above caption. This is to let you know that Day County is an interested party in this application. We don't know based on the information we have whether the County is opposed or supports this application. We have been contacted by a number of landowners with concerns about this application.

If you have any questions, please let me know.

Most sincerely,



Danny R. Smeins
Day County State's Attorney

DRS:klb



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

December 28, 2017

NOTICE OF HEARING

TO: Maddie Saylor
Ducks Unlimited
2525 River Road
Bismarck ND 57503

Danny R Smeins
Day County States Attorney
506 Main Street
Webster SD 57274

Steve Breske
14041 437th Avenue
Webster SD 57274

Judy Breske
211 W 10th Avenue
Webster SD 57274

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 8319-3, Ducks Unlimited

Petitions were filed in the matter Water Permit Application No. 8319-3 in response to the Notice of Application published in the Report & Farmer and Public Opinion. This notice schedules a hearing on Application No. 8319-3 before the South Dakota Water Management Board.

Water Permit Application No. 8319-3 proposes to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S 1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately 2 miles northeast of Webster SD. The impoundments individually store 51.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 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. 8319-3 at 10:30 AM (Central Time) on Wednesday, March 7, 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 March 7, 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 February 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 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, affidavits of publication and the petitions filed in the matter of Water Permit Application No. 8319-3. 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 January 7, 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.

enclosures

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on December 28, 2017, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated December 28, 2017, regarding notice of hearing for Water Right Permit Application No. 8319-3, as addressed below:

Maddie Saylor
Ducks Unlimited
2525 River Road
Bismarck ND 57503

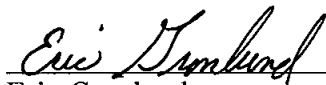
Danny R Smeins
Day County States Attorney
506 Main Street
Webster SD 57274

Steve Breske
14041 437th Avenue
Webster SD 57274

Judy Breske
211 W 10th Avenue
Webster SD 57274

Sent Inter-office to:

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



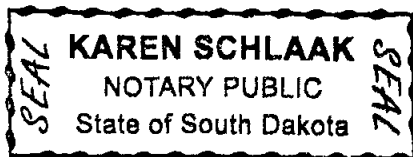
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 28th day of December, 2017



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



Report on
Water Permit Application No. 8319-3
Ducks Unlimited, c/o Maddie Saylor
November 30, 2017

Ducks Unlimited, c/o Maddie Saylor, has filed Water Permit Application No. 8319-3 to appropriate and impound 119.4 acre-feet of water by constructing ditch plugs in drainage ditches located in the S ½ of Section 19-T122N-R55W, in Day County. The source of water will be surface water runoff and backwater from Waubay Lake during high water levels. The stored water will be in three separate impoundments which individually store 51.3, 47.3 and 20.8 acre-feet of water. The water will be used for fish and wildlife purposes.

Discussion

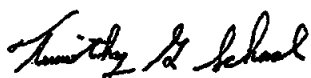
The project involves the restoration of shallow wetlands for habitat conservation purposes on property adjacent to and southeast of Waubay Lake. The project contains drainage ditches that are proposed to be filled with compacted fill to restore these wetlands. The project contains nine shallow earthen embankments to maintain eight wetlands/impoundments. The ditch plugs/embankments vary in height from two to four feet high and storage of 0.1 acre-feet to 51.3 acre-feet. Three of the impoundments are included in Water Permit Application for a total of 119.4 acre-feet of storage and the other five impoundments have been included in Location Notice No. 77334 with a total storage capacity of 15.0 acre-feet.

Section 74:02:08:01(7) of the Safety of Dams, Chapter 74:02:08, rules state that a barrier is not considered a dam for the purposes of this chapter if the height does not exceed 6 feet regardless of storage capacity. Therefore, the ditch plugs/embankments mentioned above do not need to meet the requirements of Chapter 74:02:08.

The source of water for this application will be surface water runoff and backwater from Waubay Lake during high water levels. The Department of Game, Fish and Parks holds Vested Water Right No. 639-3 for 28,320 acre-feet of water in Waubay Lake. Approval of Water Permit Application No. 8319-3 should not have any adverse effects on Vested Water Right No. 639-3 or Waubay Lake.

Conclusions:

1. Water Permit Application No. 8319-3 should be approved since unappropriated water is available and approval should not have any adverse effects on existing Water Rights.



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. 8319-3, Ducks Unlimited**

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. 8319-3, Ducks Unlimited, c/o Maddie Saylor, 2525 River Rd, Bismarck SD 58503.

The Chief Engineer is recommending APPROVAL of Application No. 8319-3 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 qualification:

Water Permit No. 8319-3 authorizes storage of 119.4 acre feet of water in three impoundments.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
December 5, 2017

NOTE: Please be aware that water from Waubay Lake and surface drainage may not be a reliable water source capable of consistently producing the quantity of water annually that is requested.

RECEIVED
DEC 14 2017
WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

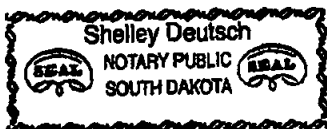
County of Day }
State of South Dakota, ss.

John Suhr, of said county and state being duly sworn on oath, says: That the Reporter & Farmer is a legal weekly newspaper of general circulation, and an official newspaper as required by Session Laws of 1893, printed and published in Webster, in said county and state, by the Day County Printing Company and has been such newspaper during the time hereinafter mentioned, that I, John Suhr, the undersigned, am publisher of said newspaper, and have personal knowledge of all facts stated in this affidavit and that the advertisement headed, Water Rights Program-Maddie Saylor a printed copy of which is hereunto attached, was printed and published in the said newspaper one successive and complete issue as follows:

First Publication	December 11;
Third Publication	;
Fourth Publication	;
Fifth Publication	;

That the full amount of fees for publication of the annexed notice is \$34.94 and inures solely to the Reporter & Farmer, published by The Day County Printing Company, that no arrangement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid any person whomsoever.

Subscribed and sworn to before me this 11th day of December, 2017.



Shelley Deutsch
Notary Public, Day County, South Dakota

My Commission Expires
October 21 2022

**NOTICE OF APPLICATION
NO. 8319-3 TO
APPROPRIATE WATER**

Notice is given that Ducks Unlimited, c/o Maddie Saylor, 2525 River Road, Bismarck, ND 58508 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S1/2 Section 19-T122N-R65W for restoration of shallow wetlands approximately two miles northeast of Webster, SD. The impoundments individually store 51.8, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

This wetland restoration project consists of eight impoundments totaling 134.4 acre feet of water in storage capacity. The other five impoundments each store less water than the amount requiring a water permit and a location notice has been filed for these impoundments.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-3 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 December 21, 2017.

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 \$4.94.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Codington) SSI, Jackie Wettstad

certify that the attached printed Notice was taken

from the WatertownPublic Opinionprinted and published in WatertownCounty of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

December 11, 2017Cost of Printing \$64.30Jackie Wettstad
(Signature)Accounting Clerk
(Title)12/21/17
(Date Signed)DEPARTMENT
OF ENVIRON-
MENT AND
NATURAL RE-
SOURCES

NOTICE OF APPLICATION NO.

8319-S, to Appropriate Water. Notice is given that Ducks Unlimited, c/o Madeline Saylor, 2625 River Road, Bismarck ND 58503 has filed an application for a water permit to appropriate and impound 119.4 acre-feet of water from surface water runoff and backwater from Waubay Lake during high water levels by constructing ditch plugs in drainage ditches located in the S 1/2 Section 19-T122N-R55W for restoration of shallow wetlands approximately 2 miles northeast of Webster SD. The impoundments individually store 61.3, 47.3 and 20.8 acre feet of water. The water is for fish and wildlife propagation purposes.

This wetland restoration project consists of eight impoundments totaling 134.4 acre feet of water in storage capacity. The other five impoundments each store less water than the amount requiring a water permit and a location notice has been filed for these impoundments.

Pursuant to SDC 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8319-S with qualifications because 1) unappropriated water is available, 2) existing rights will not be unreasonably 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://dwr.sd.gov/publicaffairs/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, 525 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 December 21, 2017.

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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. Pimer, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$59.30 (December 11, 2017)

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DEC 22 2017

WATER RIGHTS
PROGRAM

DAY COUNTY STATES ATTORNEY

506 Main Street
WEBSTER, SD 57274

RECEIVED

DEC 18 2017

**WATER RIGHTS
PROGRAM**

DANNY R. SMEINS, STATES ATTORNEY

TELEPHONE: (605) 345-4624

FAX: (605) 345-4250

EMAIL: drslaw@lctel.com

December 14, 2017

Chief Engineer
Water Rights Program
Foss Building
523 East Capitol
Pierre, SD 57501

Re: Notice of Application No. 8319-3 to Appropriate Water

Dear Sir:

Please note that this letter comes to you in response to the Notice referred to in the above caption. This is to let you know that Day County is an interested party in this application. We don't know based on the information we have whether the County is opposed or supports this application. We have been contacted by a number of landowners with concerns about this application.

If you have any questions, please let me know.

Most sincerely,



Danny R. Smeins
Day County State's Attorney

DRS:klb.

12-13-2017

RECEIVED

DEC 14 2017

WATER RIGHTS
PROGRAM

Dear Sirs or madams:

My name is Steve Breske, I am the operator/caretaker of the Judy Breske farmland located both north and south of your application number 8319-3 to appropriate water in the December 11, 2017 edition of the newspaper. "Reporter and Farmer"

At this time we regret to inform you, we oppose your request for application to appropriate water, based upon the following criteria:

Unknown locations of proposed dam's or drainage plugs.

Unknown elevations of proposed dam's or drainage plugs.

Unknown intentions if ducks unlimited is proposing to keep run-off water in and Waubay Lake water out.

Unknown topographic view of affected areas in question, and being a neighbor what potential water elevation deviations may or may not affect our property and adjoining waterways.

Potential Webster city storm drain-run off plan.

Enclosed are maps highlighted ducks unlimited 300 acres from years 1995, 2006, and 2014. The 1995 map visibly shows the drainage ditch, and with rising water the ditch seems to disappear into 2014, but I strongly feel the acting State and project engineers need to know this information, and potential ramifications that may occur from proposed dam's locations, and proposed elevations.

Any questions or comments with this opposition can be directed toward myself or the land-owner. We have a great understanding of conservation and its place on our farm, however living in a flood plain we feel we all have to be communicative and work together to assure we are not flooding our property or our neighbors in any way shape or form.

Respectfully

Steve Breske-operator



14041 437th ave
Webster SD 57274
605.881.8275
605.345.3582

Judy Breske-land owner

 12/13/17

211 W. 10th ave
Webster SD 57274
605.345.3537

Highland Township
Shepherd, Ryan, Shepherd
Addition in SW (14.5 acres),
452.96.

Andover Town
Clynick, Susan A., Lots

Feist, Cory, Lots 13, 14
and 15, Blk16 Lemmon's 6th
Addn, 224.54.

Roslyn Town
Okroi, Adam and Katherine,
inc. S1/2 of Lots 8, 9 and 10

M., E 67' of Lots 21 and 22
Orig Plat Blk 9, 469.35.

Abraham, Caroline, N 65'
of Lot 14, Blk11 Prior's Third,
967.00.

Karst, James, Lot 4, Blk

Wortley's, 91.67.

Northland Auto Center
Inc., Lot 6B Sandvig's, 4,872.70.
Northland Auto Center
Inc., N Pt of 8, 9 and 11 Sand-
vig's, 400.27.

Vacated Stre
Goehring
Tchida Addn
Published
approximate

of applications to appropriate water

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 con-
testing the Chief Engineer's
recommendation. The Chief
Engineer's address is "Water
Rights Program, Foss Build-
ing, 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 December 21, 2017.

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 sup-
porting 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 appli-
cation or contesting the rec-
ommendation 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 \$34.94.

NOTICE OF APPLICATION NO. 8312-3 TO APPROPRIATE WATER

Notice is given that Ron-
ald Olson, 44228 150th St.,
Waubay, SD 57273 has filed an
application for a water permit
to appropriate 1.78 cubic feet
of water per second from one
well to be completed into the
Prairie Coteau Aquifer (100
feet deep) located in the ap-
proximate center of the SE
1/4 Section 34 for irrigation
of 130 acres located in the SE
1/4 Section 34; all in T121N-
R54W which is approximately
six miles south of Waubay, SD.

Pursuant to SDCL 46-
2A-2, the Chief Engineer
recommends APPROVAL of
Application No. 8312-3 with
qualifications because 1) unap-
propriated 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 recommenda-
tion with qualifications, the
application, and staff report
are available at [http://denr.
sd.gov/public](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 con-
testing the Chief Engineer's
recommendation. The Chief
Engineer's address is "Water
Rights Program, Foss Build-
ing, 523 E Capitol, Pierre, SD
57501 (605 773-3352)" and the
applicant's mailing address is
given above. A petition filed
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The petition may be
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cation or contesting the rec-
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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 \$30.24.

rs concerns and dust

Delinquent leased sites

OFFICE OF
DAY COUNTY TREASURER
711 WEST FIRST STREET

Morton Twp. 5.28
Herrick, Barbara (LS)
Kosciusko Twp. 2.041 67

Butler declares si

OFFICIAL PROCEEDINGS BUTLER TOWN REGULAR MEETING December 5, 2017

President Kristen Marko
brought the meeting to order
at 6:30 p.m. at her residence.
Members present were James
Marko and Duane Huwe.

Motion to read and ap-
prove the minutes of the
previous meeting was made
by Marko, second Huwe, car-
ried. Minutes were approved
as read.

Motion to submit and
pay bills was made by Huwe,
second Marko, carried. Pre-
sented for payments were
NorthWestern Energy \$110.44;
Reporter & Farmer \$12.98;
Dependable Sanitation \$197.00;

Colin Johns
gager Stack
Delaney, Nie
\$1,779.70; Jan
Diana Marko
roll \$6,390.00
Motion
dumpster as
was made b
Huwe, carri
Motion v
journal the m
second Huw
meeting adjoi
The next
held on Janu
the Kristen l
Emily Ar
Secretary
Published
approximate

Grenville will cele 100 years in June

OFFICIAL PROCEEDINGS TOWN OF GRENVILLE REGULAR MEETING December 5, 2017

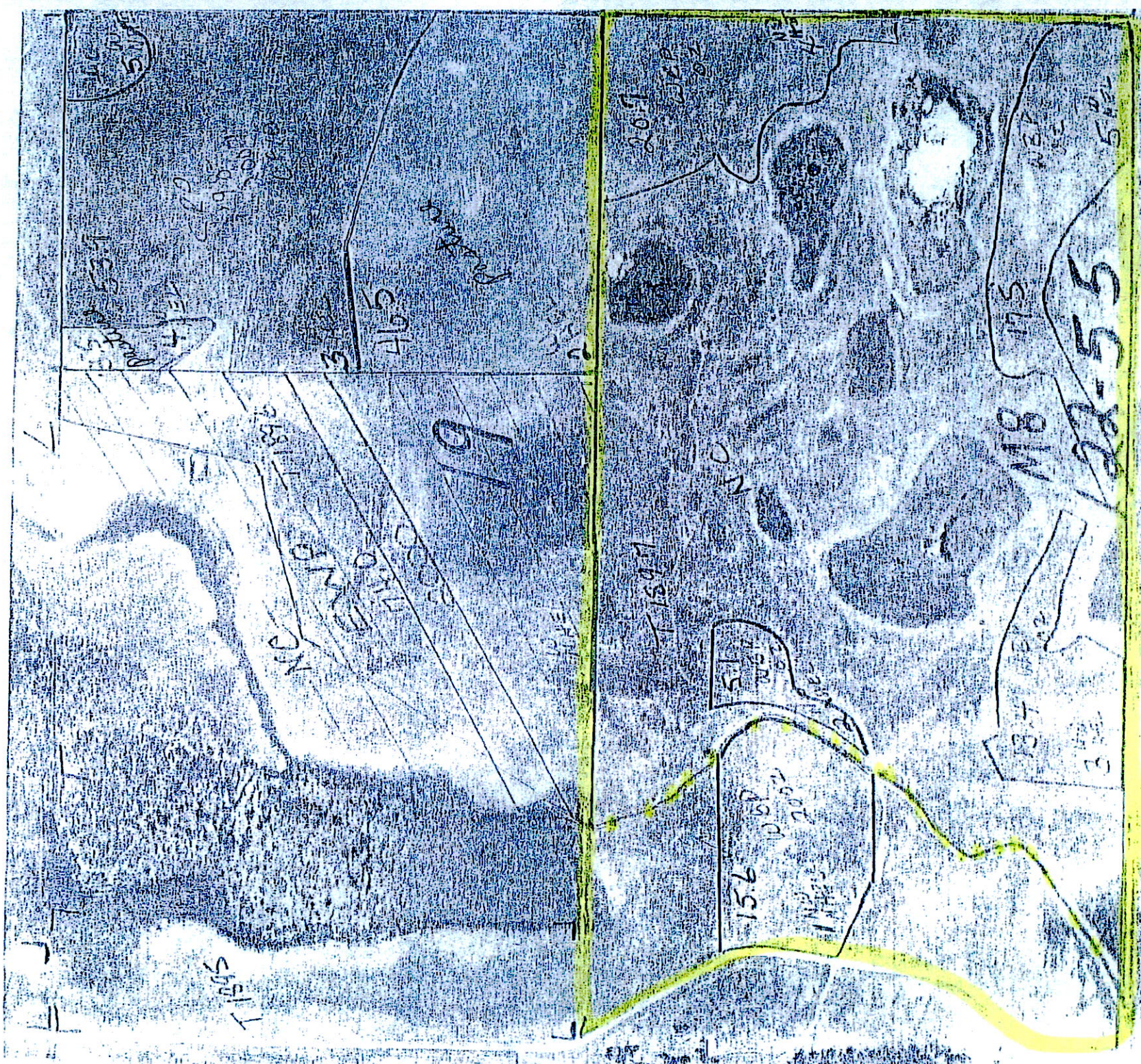
The Town Board of Gren-
ville, SD met in regular ses-
sion on Monday, December 5,
2017. The meeting was called
to order by Chairman Gonza-
les. Answering roll call were
M. Gonzales and R. Graczyk.
Pledge of Allegiance was said
by everyone at the meeting.
Motion to approve the agenda,
by M. Gonzales, second by R.
Graczyk. The minutes were
read and approved on motion
by M. Gonzales, second by R.
Graczyk. Motion to approve
the finance report by M. Gon-
zales, second by R. Graczyk.
No new building permits.

Warrants: Dacotah Bank
CC \$240.54; Porter Dist. \$91.10;
CWD \$2,245.14; Ameripride
\$118.28; Harry's Frozen Food
\$203.00; Otter Tail \$719.57;

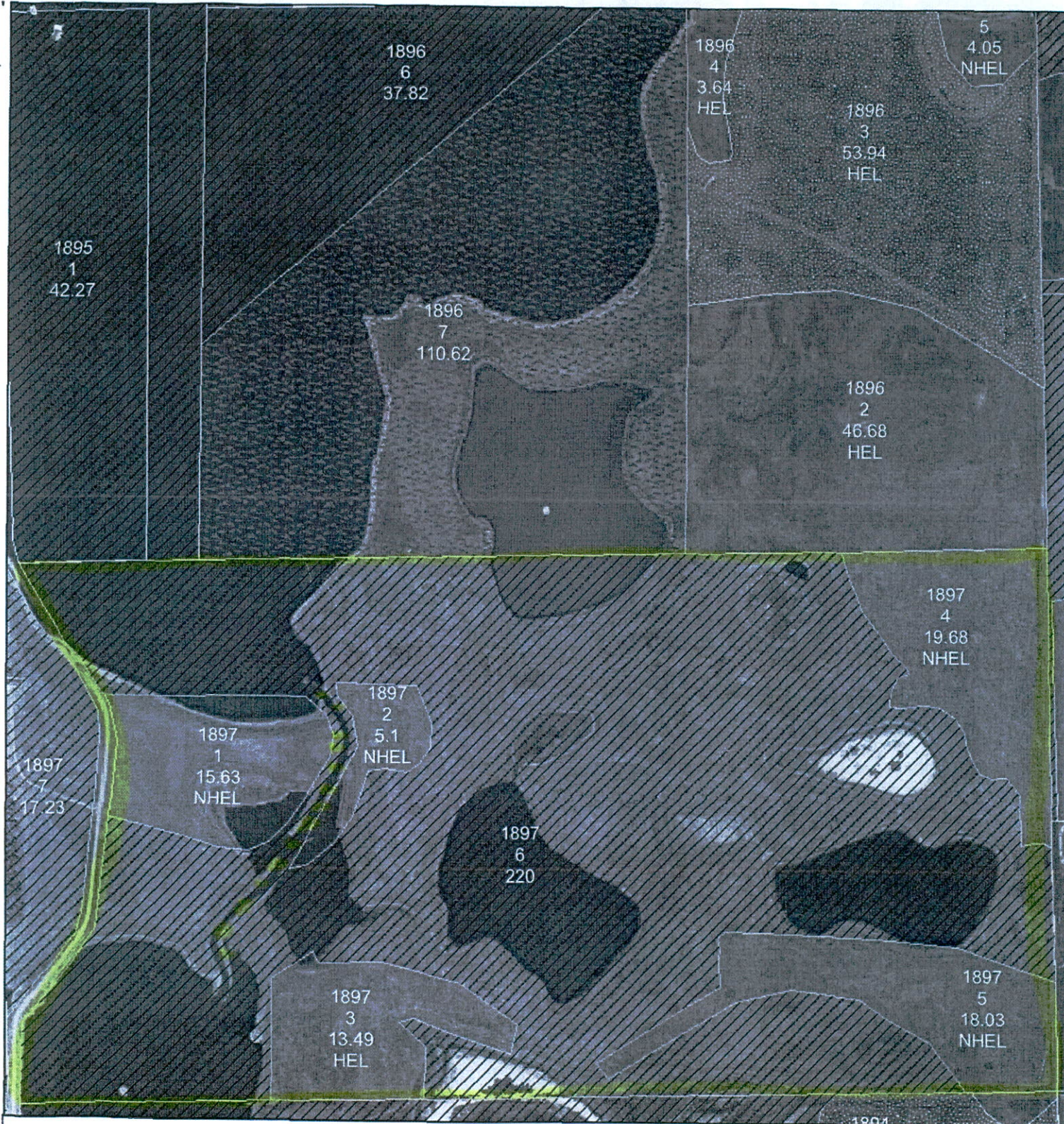
more inform
won the bid
and Eric Sn
for the snow
permits were
and an amo
current ordi
sented at the
Ordinance #:
Appropriation
motion was
zales, second
to pass it. A
penalties inc
2015 were di
paper work
by the financ
we can recei
them. The to
rently worki
New Bu
Grenville Imp
brought in i
gesting that
established i
was made by
ond by R. Gra

quarry stream
farm 897

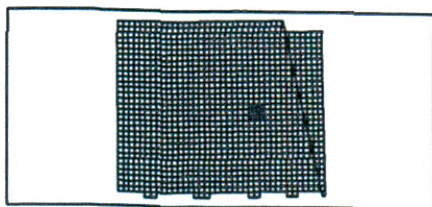
WETLAND MAP



1995



USDA U.S. Dept. of Agriculture
Farm Service Agency



South Dakota Day County

19-122N-55W

Legend

- Wetlands
- ▬ Tract Boundaries
- ▬ Section-Township-Range
- ▬ Easements
- ▬ CRP
- ▬ Field Boundaries
- ▬ Rangeland

USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or the 2004 ortho rectified imagery for South Dakota. The producer accepts the data 'as is' and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs.

May 01, 2006



Common Land Unit
Cropland / Non-cropland

Conservation Reserve Program

Wetland Determination Identifiers

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

Tract Boundary Section Line



2012 Ortho-Photography - not to scale

2014 Program Year

Map Created March 31, 2014

Farm 897

19 -122N -55W

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

Procedure for Hearings before the Water Management Board

The Water Management Board's function is to regulate and control the development, conservation, and allocation of the use of water according to the principles of beneficial use and priority of appropriation. In this role, the Water Management Board conducts contested case hearings on water right permit applications. This document is intended to acquaint participants in hearings of general procedures before the Board.

The Board is a citizen board consisting of seven members appointed by the Governor. They are from varying backgrounds and locations around the state. The Board has meetings approximately every two months.

South Dakota codified laws (SDCL) and administrative rules (ARSD) govern water rights. The laws and rules may be downloaded at DENR's website at <http://www.state.sd.us/denr/denr.html>. Laws of interest include SDCL Chapters 1-26, 46-1, 46-2, 46-2A, 46-4, 46-5 and 46-6. Administrative rules to review are ARSD 74:02:01.

An individual may represent himself in a contested case before the Board or may be represented by legal counsel. However, an organization, association, partnership, corporation, etc., must be represented by an attorney. Attorneys that intend to participate in the hearing must mail a Notice of Appearance to all other parties. Non-resident attorneys must be able to demonstrate compliance with the requirements set forth SDCL 16-18-2 to practice in South Dakota.

Burden of Proof

The applicant for an permit issued by the Water Management Board has the burden of proving that he is entitled to the permit. The applicant must therefore be prepared to present the permit application and the proposed operation to the Board at a contested case hearing. This burden then switches to the petitioning parties to prove their case. Do not rely on the Department of Environment and Natural Resources (DENR) to carry the burden of proof. Although DENR makes a recommendation to the Board, this recommendation is in no way binding upon the Board. While a DENR expert will present their report and be subject to questioning by the Board and parties on the application, DENR is not an advocate for your position.

SDCL 46-2A-9 sets forth the four criteria that must be present in order to approve an application. They are:

- 1) A reasonable probability that unappropriated water is available for the proposed use;
- 2) The proposed diversion will not unlawfully impair existing rights;
- 3) The use is a beneficial use; and
- 4) The use is in the public interest.

Procedure

You or your legal counsel need to be at the hearing to present your position in a contested case hearing.

The Board Chairman runs the hearing. Address all questions and objections to the Chairman for a ruling. In some instances the Board will appoint a hearing chairman for preside over prehearing conferences and prehearing motions. An attorney from the Attorney General's office is seated with the Board to provide

them legal advice. In addition, the Water Rights Program is represented by legal counsel. This is a legal proceeding so expect to swear an oath to tell the truth when you approach the podium.

Contested case hearing are conducted pursuant to procedures outlined in SDCL ch. 1-26. Only parties of record can participate in the hearing by presenting testimony, calling witnesses or cross examining witnesses. Parties include the applicant and those individuals that have filed a petition as set forth in the public notice. The following procedure is followed:

1. Opening statements (parties may waive their opening statement)
 - a. Applicant
 - b. DENR – DENR will present a brief description of the application
 - c. Petitioners and Intervenors
2. Evidentiary hearing
 - a. Applicant (applicant's opportunity to present testimony and call witnesses)
 - b. DENR – staff present their report and the Chief Engineer's recommendation
 - c. Petitioners and Intervenors (opportunity to present testimony and call witnesses)

Be prepared to explain your position on the application. Although the Board members have a great deal of expertise, don't presume they know anything about your issue before them. If you're the applicant, state what the proposed project is, the location of the project, timelines for completed the project and its benefits. If you are an opponent to the application, explain where you live in proximity to the proposed project and the adverse impact of the proposed project.

Parties may call witnesses on their behalf. The Board oftentimes hears testimony from technical experts, neighbors or other witnesses regarding the proposal. Written endorsements are subject to the hearsay rule at the time of the hearing since the person can not be cross examined. Written comments will usually be allowed only if there is no objection from any other party.

Upon the conclusion of any witness's testimony, Board members may ask questions of the witness and all parties will be afforded an opportunity in an orderly manner to cross examine the witness regarding their testimony. Cross examination is your opportunity to ask questions of the witness related to their direct testimony. It is not the appropriate time for you to provide your testimony.

3. Rebuttal – parties are afforded an opportunity to present testimony rebutting a prior witnesses testimony. Witnesses are again subject to cross examination but only related to their rebuttal testimony.
4. Closing arguments (summation of your position)
 - a. Applicant
 - b. DENR
 - c. Petitioners and Intervenors
5. Board decision. The decision making process occurs in public in front of all concerned and on the record. Normally, the Board limits discussion to its members but may call on witnesses, lawyers or parties to clarify a point. Upon making a verbal decision, the Board will direct

either the prevailing party or Water Rights Program's staff attorney to prepare findings of fact, conclusions of laws and Final Decision that will be considered at the Board's next meeting. The findings are a record of the facts considered by the Board. In the event the Board's decision is appealed to court, the findings reflect the facts considered by the Board to arrive at a decision. The non-prevailing party may waive their rights to findings if they are satisfied the Board addressed their concerns or have no intention of appealing the decision.

Although hearings may sometimes be considered informal, it is evidentiary hearing. Lawyers cannot testify or answer factual questions, cross examination is allowed, copies of exhibits must be available for opposing counsel or parties.

Ex-parte Communication

It is improper for any party to a pending application or contested case proceeding to contact Board members prior to the hearing. To do so is ex-parte communication with the likely result being the Board member excusing himself from the proceeding. The Board is very careful to avoid even the appearance of discussing a contested case hearing that will come before it. Situations do arise where a party requests to have a Board ruling on a motion prior to the evidentiary hearing. If an applicant or party has an issue he wishes to raise prior to the hearing, please contact the Water Rights Program and they will put you in contact with either the Board's attorney or the Water Rights Program attorney.

Exhibits

Exhibits are pictures, maps or documents you wish the Board to consider in conjunction with your testimony. Used effectively, exhibits greatly increase the interest and knowledge of the Board. Please have all exhibits you intend to present marked in advance of the hearing (example – Applicant Exhibit 1, 2 and 3 or Petitioner Exhibit 1, 2 and 3). Provide enough copies of each exhibit for the Board, Water Rights Program, opposing counsel and other parties. The exchange of exhibits by parties prior to the hearing is encouraged. Be aware that someone may object to admission of an exhibit. The Board Chairman will rule whether the exhibit is admissible. All exhibits become part of the record and will not be returned.

Transcript

A court reporter is present at all contested case hearings. A party wishing to have a transcript of the hearing should make their own arrangement with the court reporter. DENR will tape the proceeding and will prepare minutes of the hearing.

Appeal of Board's Decision

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days from when the signed findings of fact, conclusions of law and final decision is mailed to parties. The notice of appeal must be in accordance with procedures established in SDCL 1-26-31.

The best advice is to come to the hearing prepared! If you have question regarding the hearing process, please contact Eric Gronlund, Water Rights Program at (605) 773-3352.



Summary of South Dakota Water Laws and Rules

Prepared by Water Rights Program

May 2013

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov/wr>

The following is a summary of South Dakota water laws and rules. This summary is provided as a service of the Water Rights Program, Department of Environment and Natural Resources for the purpose of introducing the public to the water rights laws of South Dakota. The actual text of the laws and rules may be viewed at <http://denr.sd.gov/des/wr/laws.aspx>.

PLEASE NOTE: This summary is not a substitute for the South Dakota Codified Laws or Administrative Rules of South Dakota and is not intended to serve as legal advice. In the event there is a difference in interpretation between this document and South Dakota Codified Law and/or Administrative Rule, the law and/or rule controls.

ADMINISTRATIVE OVERVIEW

- 1) Water in South Dakota is owned by the people of the state and not by private individuals. The right to use water may be obtained under State Law.

Reference: SDCL 46-1-1, 46-1-3, and 46-5-5.

- 2) South Dakota water rights are administered by a system commonly called the "Doctrine of Prior Appropriation." This means the first in time (senior priority) is the first in right, except for individual domestic use. Priority is established based on the date of filing the application. Uses of water developed prior to or under development as of March 2, 1955 (surface water) or February 28, 1955 (ground water) may qualify for a vested water right depending on the type of use involved.

Reference: SDCL 46-1-9, 46-2A-9, 46-2A-12, 46-4-1, 46-4-2, 46-5-4, 46-5-7, 46-5-8, 46-5-34, 46-5-34.1, and 46-6-3.

- 3) Domestic use of water takes precedence over appropriative rights.

Reference: SDCL 46-1-5, 46-1-6(7), and 46-1-6(14).

- 4) The seven member Water Management Board regulates water use, approves and denies permits, validates vested rights, cancels water right permits or rights, establishes ordinary high and low water marks for lakes as well as setting lake outlet elevations.

Reference: SDCL 1-40-15, 43-17-21, 43-17-23 thru 43-17-25, 43-17-28, 46-2-9, 46-2-11, 46-2A-7, 46-2A-8, 46-2A-16, 46-4-2, and 46-5-8.1.

DOMESTIC WATER USE – no permit needed

- 1) The following domestic uses do not require a water right permit:
 - a. Domestic use of water from other than a common water distribution system that does not exceed 25,920 gallons per day (which is 18 gpm pumped 24 hours per day) or a peak diversion rate of 25 gallons per minute (gpm) for:

1. Individual farm or ranch use including livestock water;
2. Individual household use for drinking, washing, sanitary, culinary, and other ordinary household purposes; and
3. Irrigation of a noncommercial family garden, trees, lawn, shrubbery, or orchard that is no larger in area than one acre. Lawn, tree, and garden watering within a city, town, or from other common water distribution systems is covered by the system water right.

Note: Drip irrigation systems for noncommercial purposes and not exceeding 18 gpm do not need to be permitted even if the irrigated area exceeds one acre.

- b. Water use from other than a common water distribution system that does not exceed 18 gallons per minute (gpm) for:
 1. Schools, parks and other public recreation areas;
 2. Geothermal heating or cooling of a single household. Most heat pump installations for household heating and cooling should not require more than 5 to 10 gpm; and
 3. Noncommercial on-farm alcohol production.

Reference: SDCL 46-1-6(7), 46-5-50 thru 46-5-52. Water Management Board Rules 74:02:01:01 and 74:02:01:03.

WATER RIGHT PERMITTING

- 1) Except for the previously described domestic water uses and water distribution systems (e.g. towns, rural water systems, subdivisions, and mobile home parks) that do not pump more than 18 gpm, all uses of water require a water right permit pursuant to procedures in SDCL Chapter 46-2A. Water uses supplied from a water distribution system do not need a separate permit. Examples of uses which require a permit are:
 - a. Cities, towns, rural water systems, mobile home parks, subdivisions, and other common water distribution systems that pump more than 18 gpm. Those systems not pumping more than 18 gpm that may expand and increase pumping above 18 gpm, should obtain a water right permit to establish a priority date.

Note: Certain water distribution systems that do not pump more than 18 gpm may still be subject to compliance with Safe Drinking Water Standards. SDCL Chapter 34A-3A. Water Management Board Rules Chapter 74:04:05.
 - b. Domestic use for farm, ranch, household, and livestock use from other than a common water distribution system in excess of either 25,920 gallons per day (18 gpm continuously for a day) or 25 gpm (peak rate).
 - c. Any well that is allowed to flow more than 18 gpm.
 - d. Any dam or dugout on a dry draw or nonnavigable watercourse impounding more than 25 acre feet.
 - e. Any dam constructed for any purpose on a stream considered navigable.
 - f. Irrigation of more than one acre.
 - g. Commercial use, even less than 18 gpm, when supplied from other than a common water distribution system to a truckstop, tourist attraction, eating, drinking, or lodging establishment, commercial campground and any other business. An existing business without a water right has no right to the use of water. The commercial user without a water right is not entitled to receive protection in the event of well

interference by a new or future user who has a water right. The new user with a water right will have the senior priority over an existing user without a water right.

- h. Industrial, manufacturing, gravel washing and mining uses when supplied by other than a common water distribution system. Temporary water permits may be issued for temporary, short term projects. See Temporary Water Permitting.
- i. Geothermal use of any amount of water from other than a common water distribution system, for businesses, churches, schools, or any other building, except for individual homes using 18 gpm or less.
- j. Any use by a school, park, rest area or other public recreation area in excess of 18 gpm when supplied by other than a common water distribution system.
- k. Any use by a hospital, nursing home or church when supplied by other than a common water distribution system.

Fees for permit applications are set by SDCL 46-2-13(2).

Depending on the type of use involved a person who applied water to a beneficial use for works constructed prior to or under construction as of March 2, 1955 (surface water) or February 28, 1955 (ground water), may qualify for a vested right pursuant to SDCL 46-1-9 or 46-6-1, if that vested water right has not been forfeited or abandoned. Vested water right claims may be filed or the chief engineer may require vested water right claims to be filed pursuant to SDCL 46-5-49 or 46-6-2.

Reference: SDCL 46-1-3, 46-1-6(3), 46-1-9, 46-1-15, 46-5-1.1, 46-5-6.2 thru 46-5-6.8, 46-5-8.2, 46-5-9, 46-5-10, 46-5-49 and 46-6-2. Water Management Board Rules ARSD 74:02:01:03.

2) Criteria for granting a water right permit as set forth in SDCL 46-2A-9:

- a. Water must be available for the proposed use.

The water source, whether surface or ground water, needs to be capable of supporting the proposed water use. For ground water, the average annual use from the water source may not exceed the average estimated annual recharge with some limited exceptions – please refer to “WELLS, Ground Water Management” for additional details.

- b. The proposed diversion can be developed without unlawful impairment of existing rights.

Existing rights, including domestic uses of water, may not be unlawfully impaired regardless of whether the proposed source is surface or ground water. In order for a well to be protected it must meet the definition of an “adequate” well – please refer to “WELLS, Well Construction” for additional details.

- c. The use of water must be a beneficial use.

Beneficial use is the use of water that is reasonable and useful and beneficial to the owner and consistent with the best utilization of water supplies. In general, beneficial uses of water include, but are not limited to: 1) domestic, 2) municipal, 3) rural water system, 4) irrigation, 5) suburban housing, 6) commercial, 7) industrial, 8) recreation, 9) fish and wildlife, and 10) institutional.

- d. The use of water must be in the public interest.

Public interest is not specifically defined in water rights law and is a determination made by the Board based on testimony at the time of hearing. In making a public interest determination, the Board may recognize that some issues are within the jurisdiction of local, state and federal entities.

WATER RIGHT PERMIT ADMINISTRATION

- 1) After approval of a water right permit, the permit owner has five years to complete any construction. The owner then has an additional four years to put the water to beneficial use.

A water right permit may be amended to extend the time for completion of construction or the time to put the water to beneficial use. The extension may be granted on account of delays due to physical or engineering difficulties, due to operation of law, or due to exigent circumstances identified by the Water Management Board. An application to amend a permit to extend the time for construction or the time to put the water to use needs to be made prior to expiration of the time period to be extended.

Reference: SDCL 46-2A-1(2), 46-2A-8, and 46-5-26.

- 2) An existing water right permit or right may be amended. Amendment examples are: to change the use of water, to change place of use, to extend time for construction beyond five years, to change diversion points or to add diversion points. An amendment can not be granted to increase the rate of diversion or volume of water appropriated under the original permit or if an existing water right will be impaired. An application to increase the rate of diversion or volume of water will be treated as a new application and will be assigned a new priority date.

The location of an existing diversion point may be moved or additional diversion points may be added without application or publication, if:

- a. The water source remains unchanged;
- b. No additional water is appropriated;
- c. If for irrigation purposes, no new land is irrigated; and
- d. The Chief Engineer makes a finding that the potential for interference with existing diversions is not increased.

Reference: SDCL 46-2A-1(2), 46-2A-12, 46-5-13.1, 46-5-30.4, and 46-5-31.

- 3) Notice of any sale, grant, lease, conveyance or other transfer of an application, permit, or license to appropriate water must be filed with the Chief Engineer of the Water Rights Program within 90 days. No assignment is binding, except upon the parties thereto, unless filed for record in the Water Rights Program.

Reference: SDCL 46-5-30.3 and 46-5-32.

- 4) Water right permits can be cancelled for nonconstruction. However, the Board may reinstate any water right permit with a priority date after March 31, 1977, within three years after expiration of the original construction period if unappropriated water is available. A new priority date is assigned to a reinstated permit. A water right permit or right can be lost for any of the following three reasons:

- a. Abandonment - The water right permit or right owner has no intent to use water and abandons its use. Once a water right permit or right is abandoned, it can not be reclaimed under the original permit or right.

- b. Forfeiture - Occurs by operation of law if water is not used for a three year period without legal excuse. A "legal excuse" would include, generally, the lack of water, but may include other reasons. Once a water right permit or right is forfeited, it can not be reclaimed under the original permit or right.
- c. A third violation of a condition of a water right permit or right.

Reference: SDCL 46-1-12, 46-2A-8.1, 46-5-36, 46-5-37, and 46-5-37.1. Water Management Board rules ARSD 74:02:01:36 thru 74:02:01:41.

FUTURE USE PERMITTING

- 1) The following entities may reserve water for expected future needs pursuant to procedures in SDCL 46-2A:
 - a. State institution;
 - b. Municipality as defined in SDCL 9-1-1;
 - c. The South Dakota conservancy district or water development districts as defined in SDCL 46A-2-4;
 - d. Water user district as defined in SDCL 46A-9-2;
 - e. Nonprofit rural water supply company as defined in SDCL 10-36A-1;
 - f. Sanitary district as defined in SDCL Chapter 34A-5;
 - g. Irrigation district as defined in SDCL 46A-4; or
 - h. Water project district as defined in SDCL Chapter 46A-18.

Approval of an application to appropriate water for future use is a reservation of a definite amount of water with a specific priority date. A future use permit does not grant authority to construct works or put the water to beneficial use. An additional application is required to construct works and put reserved water to beneficial use. The fee for a future use application is 10% of the usual fee for an application to construct works and put water to beneficial use.

Future use permits are subject to review by the Water Management Board every seven years. If the future use permit is allowed to remain in effect after the seven year review, an additional 10% fee is required.

Reference: SDCL 46-2-13(2), 46-5-38, and 46-5-38.1.

FLOOD CONTROL PERMITTING

- 1) Flood control permits are required pursuant to SDCL 46-2A for facilities constructed on a watercourse to control flooding. Emergency facilities may be constructed without a permit. However, the Chief Engineer of the Water Rights Program must be promptly notified. Flood control permits are not required for flood control facilities constructed on dry draws.

Reference: SDCL 46-2A-11, 46-5-47, and 46-5-48.

TEMPORARY WATER PERMITTING

- 1) Temporary water permits may be issued by the Chief Engineer when limited amounts of public water are needed on a temporary basis. For example, permission may be granted to use water for highway and other construction projects and exploration drilling. A temporary permit is not valid after December 31 of the year in which the permit was issued and, under certain circumstances, a temporary permit may be rescinded. In

addition, a temporary permit is temporary permission to use public water and does not grant any right of priority for the temporary use.

Temporary permits may be granted to use water from either public or privately owned sources of water. Approval of a temporary permit does not grant trespass rights to access the water. Water may be obtained from municipalities and other permitted water distribution systems without a temporary permit.

Reference: SDCL 46-5-40.1. Water Management Board Rules ARSD 74:02:01:32 thru 74:02:01:34.02.

WELLS

1) Ground Water Management

- a. An adversely impacted domestic well is a well in which the pump intake is at least 20 feet below the top of the aquifer or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water from the well owner's needs.

Reference: Water Management Board Rules ARSD 74:02:04:20(7)

- b. South Dakota water laws do not allow the "mining" of ground water. "Mining" occurs when the average quantity of water pumped annually from a ground water aquifer exceeds the estimated average annual recharge to the aquifer. There are a few areas in South Dakota where additional water right permits are not being approved for this reason. A limited exception to "no mining" is made by SDCL 46-6-3.1 for water distribution systems. The Water Rights Program maintains more than 1,500 observation wells to monitor ground water levels.

Reference: SDCL 46-2-14 and 46-6-3.1.

- c. South Dakota water law does not protect artesian head pressure as a means of diversion. In other words, a well owner is not necessarily guaranteed that water from a flowing well or from a pump placement that relies on head pressure will always be available. A pump must be capable of being placed 20 feet into the aquifer or set as near to the bottom of the aquifer as practical if the aquifer is less than 20 feet thick.

2) Well Construction

- a. All wells must be completed in accordance with South Dakota Well Construction Standards. A well driller must be licensed to drill water wells in South Dakota. The driller is required by law to file a copy of a well completion report with the Water Rights Program within 30 days of completion of each well.

Reference: 46-2A-13, 46-6-9, and 46-6-11. Water Management Board Rules ARSD Chapter 74:02:04

- b. Any person who performs work for compensation in the repair of wells or as a well pump installer must obtain either a well driller's license or a well pump installer's license.

Reference: 46-2A-13 and 46-6-9.2.

- c. An adequate well is defined as a well constructed to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.

Reference: Water Management Board Rules ARSD 74:02:04:20(6)

3) Well Owner Responsibilities

- a. The owner or equitable property holder is responsible for the well from the time the licensed well driller successfully completes the well in compliance with the Well Construction Standards ARSD Chapter 74:02:04. The owner shall keep the well capped or covered, in good repair, and in a sanitary condition.

Reference: Water Management Board Rules ARSD 74:02:04:74

- b. All flowing wells must be controlled by the owner to produce only the amount of water needed and to prevent waste of water.

Reference: SDCL 46-2-18, 46-6-10, 46-6-14, 46-6-20, 46-6-21, 46-6-29, and 46-6-30. Water Management Board Rules ARSD 74:02:04:74.

- c. When the owner of an existing well constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Other abandoned wells must also be plugged. If an old well is not to be abandoned or will be used, the well must still be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

Reference: SDCL 46-6-18 and 46-6-27.

DAMS OR DUGOUTS

- 1) Dams or dugouts of any size on a navigable watercourse or storing greater than 25 acre feet of water located on a dry draw or on a nonnavigable watercourse require a water right permit.

Reference: SDCL 46-4-1 and Water Management Board Rules ARSD 74:02:01:03.

- 2) Dams or dugouts storing 25 acre feet or less of water located on a dry draw or on a nonnavigable watercourse can be constructed without a water right permit provided a location notice is filed. However, the dam may not be constructed if it changes the course of the water, interferes with water rights, or wrongfully floods land owned by others.

Reference: SDCL 46-4-1.1, 46-4-3 and 46-5-2.

- 3) The owner of a dam or dugout storing 25 acre feet or less on a dry draw must file a location notice with the county Register of Deeds and the Water Management Board to avail the owner of the rights provided in SDCL Chapter 46-4 including establishment of a priority date. The \$50.00 filing fee is set by SDCL 46-2-13(1).

Reference: SDCL 46-4-3 thru 46-4-6.

- 4) The Board may not enforce limitations on domestic use of water from dry draw dams except in response to a written complaint from a person claiming interference with water permits or rights on the same watercourse.

Reference: SDCL 46-2-22

- 5) Water Management Board Safety of Dams Rules Chapter 74:02:08 apply to dams that are 25 feet or more in height (top of dam) or that store 50 acre-feet or more of water (maximum storage to top of dam.)

Reference: Water Management Board Safety of Dams Rule ARSD 74:02:08:01(7).

- 6) Beaver dams - No person owning land through which a watercourse passes may prohibit the removal of obstructions built by beavers in a watercourse, if the beavers have obstructed or interfered with the flow of water through the watercourse in a manner that floods land belonging to others or impairs existing water rights.

Reference: SDCL 46-5-1.2.

ORDINARY HIGH/LOW WATER MARKS AND LAKE OUTLET ELEVATIONS

- 1) The Water Management Board establishes ordinary high water marks (OHWM), ordinary low water marks (OLWM) and lake outlet elevations for public lakes.

State law provides that all navigable rivers and lakes are public highways within 50 feet landward from the water's nearest edge, provided that the outer boundary of such public highway may not expand beyond the OHWM and may not contract within the OLWM. Thus, the public has the right to use a strip of land up to 50 feet wide below the OHWM beginning at the water's edge or the OLWM. Further, while the public may use the 50 foot strip of land for only "public" purposes, the private adjoining landowner may use the land for any purpose not inconsistent with the rights of the public.

The meander line is a survey line and is usually not a property line nor is the title of an adjacent landowner limited to the meander line, except when the land title conveyance clearly states that the meander line is the property line. Subject to the preceding exception, the meander line defines neither the boundary of a lake or stream nor the extent of land area owned by the adjacent landowner. The meander line was established during early government surveys and used to determine the acres of land subject to sale.

Reference: SDCL 43-17-1 thru 43-17-4, and 43-17-20 thru 43-17-30.

DAY COUNTY STATES ATTORNEY

506 Main Street
WEBSTER, SD 57274

RECEIVED

JAN 25 2018

**WATER RIGHTS
PROGRAM**

DANNY R. SMEINS, STATES ATTORNEY

TELEPHONE: (605) 345-4624

FAX: (605) 345-4250

EMAIL: drslaw@itctel.com

January 22, 2018

Jeanne Goodman
Chief Engineer/Water Rights Program
Department of Environment & Natural Resources
523 East Capitol
Pierre, SD 57501-3182

Dear Ms. Goodman:

I received the Notice of Hearing on the water permit application #8319-3 filed by Ducks Unlimited. I previously made inquiry to the Department regarding this permit application and expressed an interest on behalf of Day County in the permit. Since filing that request, I did review the application and also talked to one of the representatives of Ducks Unlimited.

I presented the application information to the Day County Board of Commissioners and after reviewing the application information, Day County does not intend to file any objection or participate in any hearing.

The County is therefore waiving any petition filed in connection with this case and the Department can proceed without the hearing should the balance of the parties consent.

If you have any questions, please let me know.

Most sincerely,



Danny R. Smeins
Day County State's Attorney

DRS(klb)

pc: Maddie Saylor/Ducks Unlimited
Kari A. Bartling

Gronlund, Eric

From: Randy Meidinger <rmeidinger@ducks.org>
Sent: Wednesday, February 28, 2018 10:01 AM
To: Gronlund, Eric
Subject: RE: [EXT] application no. 8319-3 (withdraw)

Hi Eric,

Does your email acknowledging receipt of Mr. Breske's email to withdraw his request to petition for a hearing imply that the pending hearing for this case to be heard next week Wed. in Pierre has now been cancelled?

Thank you for the clarification.

*Randy Meidinger
Regional Biologist - SD
Ducks Unlimited, Inc.
34697 107th Street
Long Lake, SD 57457
(605) 380-0380
rmeidinger@ducks.org*

From: Gronlund, Eric [<mailto:Eric.Gronlund@state.sd.us>]
Sent: Wednesday, February 28, 2018 9:46 AM
To: 'Steve Breske'
Cc: Maddie Saylor; Randy Meidinger
Subject: RE: application no. 8319-3 (withdraw)

DENR acknowledges receipt of your email. Eric

From: Steve Breske [<mailto:SBreske@Mereen-Johnson.com>]
Sent: Wednesday, February 28, 2018 9:42 AM
To: Gronlund, Eric
Cc: Maddie Saylor; Randy Meidinger
Subject: [EXT] application no. 8319-3 (withdraw)

Eric, as per our conversation earlier with Tim.

We as adjoining land-owners of: application number 8319-3, the Breske party filling the petition for the hearing would like to "rescind" or withdraw our application for hearing, based on the removal of plug#3 in original plat due to potential conflicting elevations of an adjoining slough, and its natural drainage, if this area should ever see high water again.

As I said earlier, the Breske party has no intent to represent or hire representation for a hearing, and working with Randy and Maddie from Ducks unlimited a hearing is not needed with our resolve to dam#3.

If anything else is needed on our end here (formal documents) please let me know. Thanks for understanding the infrastructure situation in our town, and our land-owners absence, but I can assure you Judy Breske has been aware of everything happening of this as its progressed through its stages.

Its been a privilege working with Randy and Maddie on this: again if anything is more is needed from our party, please let us know asap, so we don't hold up progress.

Thanks

Steve Breske
Manufacturing Engineer
Mereen-Johnson Machine co.
10 pk lane
Webster SD 57274
605.345.3347
605.345.6166 (direct)
605.345.4096 (fax)
sbreske@mereen-johnson.com

SETTING THE STANDARD



WWW.MEREEN-JOHNSON.COM

Gronlund, Eric

From: Maddie Saylor <msaylor@ducks.org>
Sent: Wednesday, February 28, 2018 10:17 AM
To: Gronlund, Eric
Cc: Randy Meidinger
Subject: Re: [EXT] application no. 8319-3 (withdraw)

Eric,

Will Steve still need to send in a formal 'petition withdrawal' letter, or will his e-mail to you suffice as official documentation of the withdrawal of his and Judy's petition? If his e-mail is considered official, I am assuming Ducks Unlimited will no longer need to appear at the hearing next week. Please confirm when you have a moment.

Thank you,

Maddie

From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Wednesday, February 28, 2018 9:46:01 AM
To: 'Steve Breske'
Cc: Maddie Saylor; Randy Meidinger
Subject: RE: application no. 8319-3 (withdraw)

DENR acknowledges receipt of your email. Eric

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Sent: Wednesday, February 28, 2018 9:42 AM
To: Gronlund, Eric
Cc: Maddie Saylor; Randy Meidinger
Subject: [EXT] application no. 8319-3 (withdraw)

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As I said earlier, the Breske party has no intent to represent or hire representation for a hearing, and working with Randy and Maddie from Ducks unlimited a hearing is not needed with our resolve to dam#3.

If anything else is needed on our end here (formal documents) please let me know. Thanks for understanding the infrastructure situation in our town, and our land-owners absence, but I can assure you Judy Breske has been aware of everything happening of this as its progressed through its stages.

Its been a privilege working with Randy and Maddie on this: again if anything is more Is needed from our party, please let us know asap, so we don't hold up progress.

Thanks

Steve Breske
Manufacturing Engineer
Mereen-Johnson Machine co.
10 pk lane
Webster SD 57274
605.345.3347
605.345.6166 (direct)
605.345.4096 (fax)
sbreske@mereen-johnson.com

SETTING THE STANDARD



WWW.MEREEN-JOHNSON.COM

Gronlund, Eric

From: Gronlund, Eric
Sent: Wednesday, February 28, 2018 3:34 PM
To: 'Maddie Saylor'
Cc: Randy Meidinger
Subject: RE: [EXT] Hearing

I can certainly call Randy at that time of the hearing to afford him an opportunity to listen but he will not be able to testify or answer questions without DU's representation by counsel.

From: Maddie Saylor [<mailto:msaylor@ducks.org>]
Sent: Wednesday, February 28, 2018 3:19 PM
To: Gronlund, Eric
Cc: Randy Meidinger
Subject: [EXT] Hearing

Eric,

Randy Meidinger with Ducks Unlimited will be available next Wednesday morning to listen in on the board hearing from his cell. He is copied on this email.

Randy's primary phone number is (605) 380-0380. Cell coverage in his home area might be a little spotty, so in case this happens, his home number is (605) 577-6204 as a backup.

Will the board be making a call to Randy, or will Randy need to make contact with the board himself before the hearing starts? Could you please remind me of the time the hearing will begin?

Thank you,

Maddie

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

IN THE MATTER OF
DUCKS UNLIMITED
WATER PERMIT APPLICATION

Water Permit Application No. 8319-3

NOTICE OF APPEARANCE

COMES NOW, Kari A. Bartling, attorney at law and hereby files her Notice of Appearance in the above-entitled matter on behalf of the Ducks Unlimited.

Dated this 7th day of March, 2018.

KOLKER LAW OFFICE

/s/ Kari A. Bartling

Kari A. Bartling, Attorney
P.O. Box 467, 102 N. Main Street
Groton, SD 57445
(605) 397 – 8464

CERTIFICATE OF SERVICE

Kari A. Bartling, the undersigned attorney hereby certifies that, on the 7th day of March, 2018, a true and correct copy of the foregoing Notice of Appearance, was emailed to:

Eric Gronlund
Water Rights Program

/s/ Kari A. Bartling

Kari A. Bartling



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAR 16 2018

Ducks Unlimited
c/o Maddie Saylor
2525 River Road
Bismarck ND 58503

Dear Ms. Saylor:

Enclosed is Water Permit No. 8319-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

Good morning –

This email is intended to follow up on our conversation from Friday, regarding [Water Permit No. 8319-3](#), held in the name of Ducks Unlimited, authorizing construction of 3 ditch plugs to aid in the impoundment of 119.4 acre-feet of surface water & runoff. I've attached a link to the full Water Rights file for the permit.

On September 27, 2023, a staff engineer attempted to conduct a field inspection for the purpose of licensing the permit. Unfortunately, the levels of Waubay Lake had overtaken the authorized site and it was impossible to determine whether the ditch plugs had been installed. I've also attached a copy of his inspection report and map for you to reference.

Presently, the Water Rights Program is hoping that your office can verify whether those ditch plugs had been installed prior to the "completion of works deadline", September 7, 2020. If the plugs had been installed and the water successfully impounded, a new inspection will be conducted after Waubay Lake eventually recedes. If the plugs have not been installed, the permit will be cancelled due to non-construction.

Please review the information and get back to me at your earliest convenience.

Thank you,

Amanda Dewell

DANR - Water Rights Program

Permitting Administrator

Main Phone: 605 773-3352

Website: danr.sd.gov





From: Bruce Toay <btoay@ducks.org>
Sent: Monday, April 22, 2024 10:59 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Cc: Dylan Peterson <dpeterson@ducks.org>
Subject: FW: [EXT] Water Permit No. 8319-3

Good morning, Amanda.

Thanks for reaching out about Water Permit No. 8319-3. I can verify that those plugs were installed in the summer of 2018.

If you have any other questions, don't hesitate to reach out.

Thank you,
Bruce



Bruce Toay
Manager of Conservation Programs
South Dakota
P O Box 427
Ipswich, SD 57451
605.380.0684 (c)
btoay@ducks.org

From: Dylan Peterson <dpeterson@ducks.org>
Sent: Monday, April 22, 2024 10:07 AM
To: Bruce Toay <btoay@ducks.org>
Cc: Casey Campbell <ccampbell@ducks.org>
Subject: FW: Water Permit No. 8319-3

Bruce,

Please read email below.

Amanda Dewell from SD DANR is asking if the 3 ditch plugs in this permit were constructed. If not they would like to cancel the permit as Waubay lake is flooded over the original water level.

Thanks, Dylan

From: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Sent: Monday, April 22, 2024 9:27 AM
To: Dylan Peterson <dpeterson@ducks.org>
Subject: Water Permit No. 8319-3

CAUTION: - This email originated outside of Ducks Unlimited.

Dewell, Amanda

From: Bruce Toay <btoay@ducks.org>
Sent: Monday, April 22, 2024 2:41 PM
To: Dewell, Amanda
Cc: Dylan Peterson
Subject: RE: [EXT] Water Permit No. 8319-3

Hi Amanda,

You can list me as the contact for this permit. Water levels in that part of the state are hard to predict!

Feel free to reach out with questions.

Thanks,
Bruce



Bruce Toay
Manager of Conservation Programs
South Dakota
P.O. Box 427
Ipswich, SD 57451
605.380.0684 (c)
btoay@ducks.org

From: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Sent: Monday, April 22, 2024 1:37 PM
To: Bruce Toay <btoay@ducks.org>
Cc: Dylan Peterson <dpeterson@ducks.org>
Subject: RE: Water Permit No. 8319-3

CAUTION: - This email originated outside of Ducks Unlimited.

Bruce & Dylan –

Thank you for that confirmation. The previous contact for this permit was Maddie Saylor, who I understand is no longer with your office. Who should Water Right list as the new point of contact for this permit? While in South Dakota we never dare wish for a drier climate, hopefully soon enough the levels in Waubay Lake will recede to the point that a proper inspection may be conducted. At such time, a staff engineer with may contact to set up a new inspection.

Amanda Dewell
DANR - Water Rights Program
Permitting Administrator
Main Phone: 605 773-3352
Website: danr.sd.gov