

WATER PERMIT NO. 8428-3

Name of Applicant: Knodel Contractors LLC

Address: 43725 284th St, Freeman SD 57029

Phone: 57029

Amount of Water Claimed: 3.33 cfs - 795.46 AF

Total Acres: NA

Source of Water Supply: dewatering

Water to be used for: industrial

County: Turner

Type of Waste Disposal System:

Location: 2 miles southeast of Parker

PRIORITY Date Received: 6-8-20

Application/License Fee: \$ 1450

Corrected Application Received: 6-10-20

Period of Annual Use: March 1 – November 30

Remarks: Dewatering project

Diversion Point: W 1/2 NW 1/4 Sec 26-T99N-
R53W

Land to be Irrigated: NA

Depth of Well: NA

Well Driller:

Remarks:

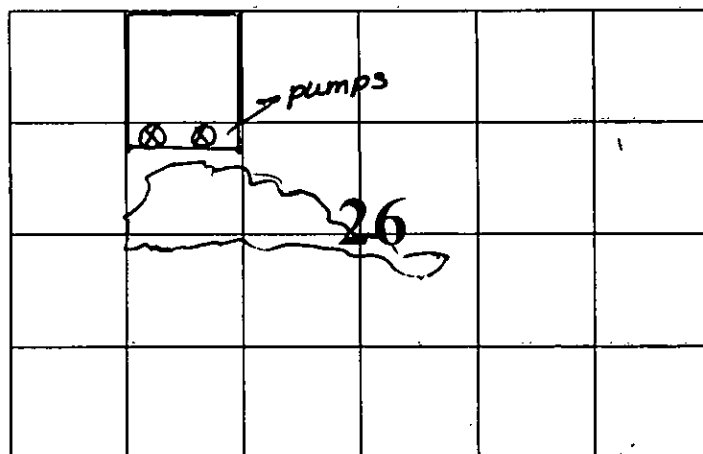
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 6-10-20

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 8428-3**

Date of first receipt of application June 10, 2020.

The Water Management Board approved Water Permit No. 8428-3 on February 10, 2021 for Knodel Contractors LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 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. 8428-3 appropriates 795.46 acre-feet of water annually at a maximum pump rate of 3.34 cubic feet of water per second for industrial use in a sand and gravel operation. The permit holder is authorized to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-T99N-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.
2. The water appropriated shall be used for the purpose of industrial use 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: March 1 – November 30.
4. The date from which applicant may claim right is June 10, 2020.
5. One-fifth of the construction is to be completed on or before August 10, 2023.
6. All construction is to be completed on or before February 10, 2026.
7. Water is to be put to beneficial use on or before February 10, 2030.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

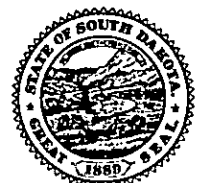
1. Dewatering approved under Permit No. 8428-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner under this Permit shall control withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Parker-Centerville aquifer.
3. Water Permit No. 8428-3 authorizes a total annual diversion of 795.46 acre feet of water from the Parker-Centerville aquifer.
4. No diversion may violate county or state ordinances or permits.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 03 2021

date



Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8428.3</u>	(office use only) Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>	
	Newspaper <u>New Era, Parker</u>	
	<u>Argus header</u>	

emailed
6/10/2020

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 _____	

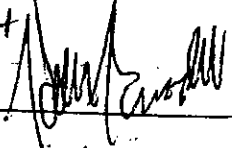
Type of Application: (check one)

☒ 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.)

- Name to Appear on Water Permit Knodel Contractors LLC
Mailing Address 43725 284th St Freeman SD 57029
Phone 605 925-4595 Mobile 605 310 1844 Email Kelly@Knodelcontractors.com
(Address) (City) (State) (Zip Code)
- Amount of water claimed 3.34 *CFS or 500 **GPM and 795.46 ***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
- Source of water supply prior excavation on property
- Location of point of diversion W 1/2 NW 1/4 Sec 26 T99R53 County Turner
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No
If "Yes," where will water be used? _____
(example - NW 1/4 section 12-T104N-R53W)
- County or counties where water will be used Turner
- Annual period during which water is to be used March - November 30
- 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)

Use pumps to lower the water level to mine sand/gravel.
~~During~~ In 2020 (wet) water is approximately 5' below natural surface and pumps used to lower it to approximately 4 additional feet.

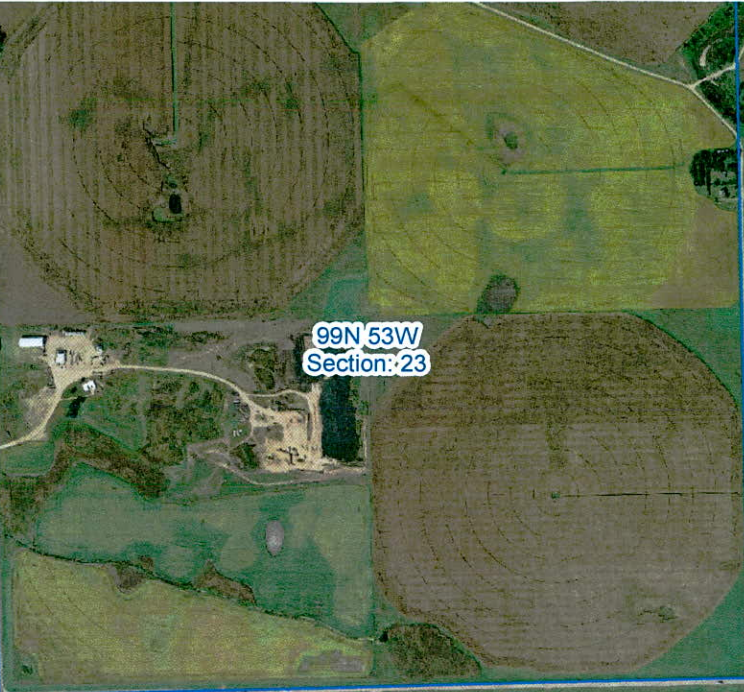
I, Laura Knodel  Office Manager, the applicant, certify under penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this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



Imagery ©2020 Maxar Technologies, USDA Farm Service Agency, Map data ©2020 500 ft



99N 53W
Section: 22



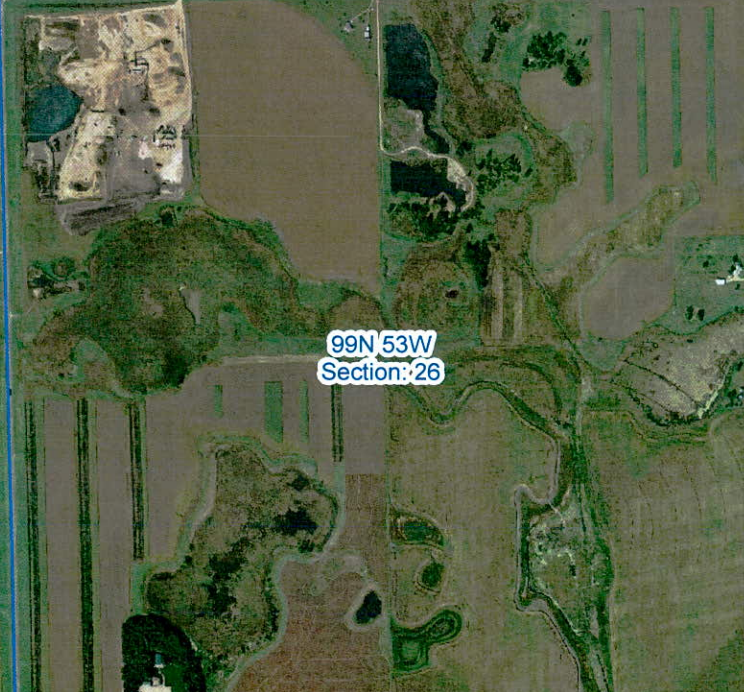
99N 53W
Section: 23



99N 53W
Section: 24



99N 53W
Section: 27



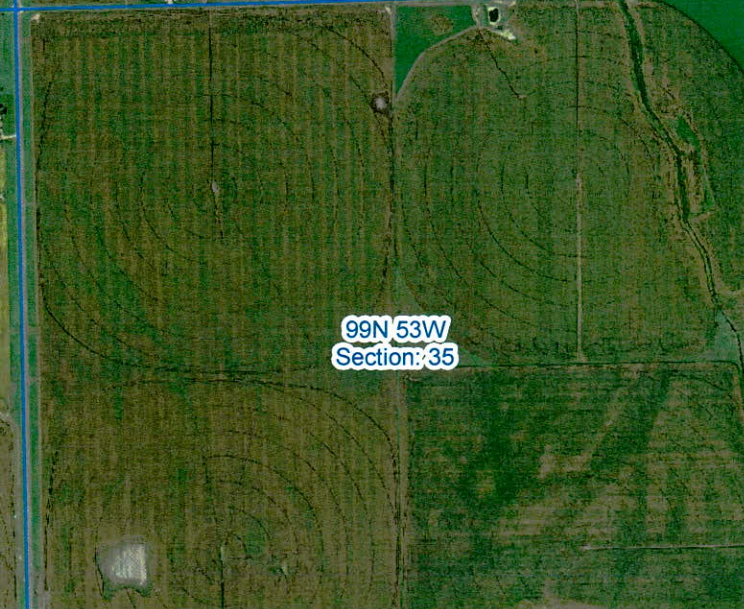
99N 53W
Section: 26



99N 53W
Section: 25



99N 53W
Section: 34



99N 53W
Section: 35



99N 53W
Section: 36

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 9, 2020

RECEIVED OF Knodel Contractors LLC 43725 284th St Freeman SD 57029

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

Fee for Application for Permit No. <u>8428-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$1250.00
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8428-3</u>	\$200.00
Fee for Filing Transfer Form _____	\$
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law)	TOTAL
	\$1450.00

By Eric Gronlund
Chief Engineer

me



530844600

B0108-9070 08/22/2019 10:12AM Rec'd by SD SOS

ANNUAL REPORT

Secretary of State
500 E. Capitol Ave
Pierre, SD 57501-5070
(605) 773-4845

Domestic Limited Liability Company
SDCL 47-34A-211; 59-11-24, 24.1

Please Type or Print Clearly in Ink
Please submit one Original
Make payable to the SECRETARY OF STATE

Filing Fee: \$50

Total Fee: \$50

2019
FILING YEAR

1. Business ID and Name:

DL040359
BUSINESS ID

Knodel Contractors, LLC
BUSINESS NAME

2. The jurisdiction under whose law it is formed **SOUTH DAKOTA**

3. The address of the principal executive office (business address):

Actual Street Address

**43725 284TH STREET
FREEMAN, SD 57029**

Mailing Address

**43725 284TH STREET
FREEMAN, SD 57029**

4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, or (b) a commercial registered agent.

(a) The South Dakota Noncommercial Registered Agent's name

Name **KELLY KNODEL**

Actual Street Address in this State

**43725 284TH STREET
FREEMAN, SD 57029**

Mailing Address in this State

5. If the LLC is manager-managed, list the names and addresses of its Managers. SDCL 59-11-24. If the LLC is member-managed, this section may be left blank.

Name

Address

Kelly Knodel

43725 284th Street, Freeman, SD 57029

6. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.

No person may execute this report knowing it is false in any material respect. Any violation may be subject to a criminal penalty (SDCL 22-39-36).

08/22/2019

Dated

Email (Optional)

Kelly Knodel

Signature of an Authorized Person

Kelly Knodel

Printed Name

Schlaak, Karen

From: Gronlund, Eric
Sent: Friday, June 5, 2020 1:24 PM
To: Duvall, Ron; Schlaak, Karen
Subject: RE: Knodel Contractors pumping from gravel pit in Turner County

Received a call back from Knodel, they are completing the application for a standard water permit in the mail today.

From: Gronlund, Eric
Sent: Friday, June 5, 2020 10:55 AM
To: Duvall, Ron <Ron.Duvall@state.sd.us>; Rath, Mark <Mark.Rath@state.sd.us>
Cc: Mines Bailey, Ann (Ann.MinesBailey@state.sd.us) <Ann.MinesBailey@state.sd.us>; Buscher, Kelli <Kelli.Buscher@state.sd.us>
Subject: Knodel Contractors pumping from gravel pit in Turner County

I received another call from Merlin VanOrsdel regarding Knodel Contracting continuing to pump from the gravel pit in Turner County. He also indicated the states attorney stated at their meeting this week said that this matter is entirely under the state's jurisdiction. I then contacted the main office of Knodel Contracting to find out if pumping was still occurring. The lady said she would have to check. I reminder her of my May 20th letter that stated their request for a temporary permit to use public water stated the date was use was to cease was May 16th. Additionally, the letter stated if they planned a continuing use of water in the future at this site a standard water right permit will need to be obtained. Finally, the letter stated that Knodel Contractors does not currently have a legal right to divert water for industrial purposes at this site.

I then received a call from Tony Ciampa who is a County Commissioner. I explained to him what had transpired. He was going to have the states attorney contact me and thought she would want a copy of my May 20th letter to Knodel Contracting.

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

Gronlund, Eric

From: Knodel Contractors LLC <kelly@knodelcontractors.com>
Sent: Friday, June 5, 2020 1:33 PM
To: Gronlund, Eric
Subject: [EXT] Knodel permit

Eric

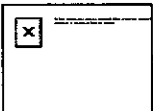
I'm going to run my calculations past you just to verify.

If we run 2 pumps at approximately 750 gallons per minute on each pump =	1500 gallons per minute
For a period of approximately 4 months per year (per prior permit)	<u>x 172,800</u>
	259,200,00
Conversion of gallons per year to acre feet per year	+325,851
	= 795.46

So based on that number, my fee is \$1,250 plus \$200 = \$1,450.00.

Again, thank you for assisting me with this. I seem to making it more complicated than necessary but want to be accurate so I can mail this today for you.

Laura
Knodel Contractors LLC
(605)925-4595



Scanned by McAfee and confirmed virus-free.

Schlaak, Karen

From: Knodel Contractors LLC <kelly@knodelcontractors.com>
Sent: Wednesday, June 10, 2020 10:32 AM
To: Schlaak, Karen
Subject: RE: [EXT] water permit application for non-irrigation.
Attachments: DENR NonIrrigation permit 2020 Kelly.pdf

Karen

Attached is the application with Kelly's signature & #6 completed. Sorry I was out of the office unexpected yesterday.

Thank you
Laura
Knodel Contractors LLC
(605)925-4595

From: Schlaak, Karen [mailto:Karen.Schlaak@state.sd.us]
Sent: Tuesday, June 9, 2020 8:45 AM
To: Knodel Contractors LLC
Subject: RE: water permit application for non-irrigation.

Good Morning,
Also when Kelly signs the application, will you also complete Item No 6. Annual period during which water is to be used. Such as – April 1 – November 30.
Thanks,
Karen

From: Knodel Contractors LLC <kelly@knodelcontractors.com>
Sent: Monday, June 8, 2020 11:20 AM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] water permit application for non-irrigation.

Ok will do. He is already on his jobsite today but I will try to get it to you later today or right away tomorrow.

Laura
Knodel Contractors LLC
(605)925-4595

From: Schlaak, Karen [mailto:Karen.Schlaak@state.sd.us]
Sent: Monday, June 8, 2020 8:47 AM
To: Knodel Contractors LLC
Cc: Duvall, Ron; Gronlund, Eric
Subject: RE: water permit application for non-irrigation.

Laura,
Regarding your signature on the application, our standard procedure is to review the Secretary of State website. The only officer listed for Knodel Contractors LLC is Kelly Knodel. We will need is a state of authority that the person signing the application (you) has the authority to act on behalf of Knodel Contractors LLC on all matters involving the permit application. The simplest solution is to have Kelly Knodel sign the application and email it to us again.

Let me know if you have questions.

Karen Schlaak

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



From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Friday, June 5, 2020 2:35 PM
To: Knodel Contractors LLC <kelly@knodelcontractors.com>
Cc: Schlaak, Karen <Karen.Schlaak@state.sd.us>; Duvall, Ron <Ron.Duvall@state.sd.us>
Subject: FW: [EXT] water permit application for non-irrigation.

Laura:

The application needs to be accompanied by a map showing the point of diversion in relation to a section corner.

Also based your previous email, is the annual volume to be pumped 795.5 acre feet of water?

Finally, the application will need to be reviewed and public noticed with the ability for citizens to intervene in opposition and cause a contested hearing before the Water Management Board (seven member citizen board appointed by the Governor). Given the inquiries DENR has received regarding the pumping from this gravel pit, DENR anticipates the application to be contested. Generally the review and public notice process takes about 2 ½ months. If contested, the period to obtain the water right permit will likely be longer.

Eric

From: Knodel Contractors LLC <kelly@knodelcontractors.com>
Sent: Friday, June 5, 2020 2:01 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Subject: RE: [EXT] water permit application for non-irrigation.

Eric

Attached is the completed application from Knodel Contractors LLC.

I am mailing the original along with payment today.

Thank you
Laura
Knodel Contractors LLC
(605)925-4595

From: Gronlund, Eric [<mailto:Eric.Gronlund@state.sd.us>]
Sent: Friday, May 15, 2020 4:43 PM
To: kelly@knodelcontractors.com

Cc: Duvall, Ron

Subject: water permit application for non-irrigation.

Here is the application for non-irrigation use.

Eric Gronlund, Chief Engineer

Water Rights Program, DENR

605 773-3352

Eric.gronlund@state.sd.us



Scanned by McAfee and confirmed virus-free.



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8428-3, Knodel Contractors, LLC**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8428-3, Knodel Contractors, LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029.

The Chief Engineer is recommending APPROVAL of Application No. 8428-3 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:

1. Dewatering approved under Permit No. 8428-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner under this Permit shall control withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Parker-Centerville aquifer.
3. Water Permit No. 8428-3 authorizes a total annual diversion of 795.46 acre feet of water from the Parker-Centerville aquifer.
4. No diversion may violate county or state ordinances or permits.

See report on application for additional information.

Eric Gronlund, Chief Engineer
December 31, 2020



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8428-3, Knodel Contractors, LLC**

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. 8428-3, Knodel Contractors, LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029.

The Chief Engineer is recommending APPROVAL of Application No. 8428-3 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:

1. Dewatering approved under Permit No. 8428-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner under this Permit shall control his withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Parker-Centerville aquifer.
3. Water Permit No. 8428-3 authorizes a total annual diversion of 795.46 acre feet of water from the Parker-Centerville aquifer.
4. No diversion is allowed which would result in a violation of county or state ordinances or permits.
5. Diversion of water is authorized under this Permit when the diversion will not increase the likelihood or the severity of flood damages between the discharge point and the Vermillion River.

See report on application for additional information.

Eric Gronlund, Chief Engineer
August 17, 2020

NOTE: The gravel pit completed into the water table of the Parker-Centerville aquifer is not considered an adequate well and therefore will not be afforded protection under water rights law should fluctuation in the water levels occur. If approved, the water permit authorizes only dewatering and does not allow diversion of water for gravel washing or irrigation.

**Report to the Chief Engineer on
Water Permit Application No. 8428-3**

Knodel Contractors, LLC, c/o Kelly Knodel
29 June 2020

Water Permit Application No. 8428-3 proposes to appropriate up to 795.46 acre-feet of water per year (ac-ft/yr) from the Parker-Centerville aquifer at a maximum pump rate of 3.34 cubic feet of water per second (cfs) for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W ½ NW ¼ Section 26-T99-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch, which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker, South Dakota.

Aquifer: Parker-Centerville (PAC)

Hydrogeological characteristics

The Parker-Centerville aquifer is a sand and gravel outwash that was deposited in an ancient river bed during the Quaternary period [1]. The aquifer can generally be encountered within 50 feet of ground surface with water levels typically within 30 feet of ground surface [2]. Multiple estimates of the area and boundaries of the Parker-Centerville aquifer are available. The first report on the Parker-Centerville aquifer mostly interpreted aquifer boundaries by visual survey of the landscape [3]. That study is likely to be the source used by Hedges et al [4], although they do not explicitly list sources for county-level aquifer information in their report. The boundary interpreted by Hedges et al. [4] was used by the Water Rights Program until 2015, when it was superseded by a boundary interpreted by Holmes and Filipovic [1]. Lindgren and Hansen [5] also published a county study including boundaries for the Parker-Centerville aquifer that do not agree with Hedges et al. [4] or Holmes and Filipovic [1]. Based on where water rights/permits are interpreted as belonging to the Parker-Centerville aquifer, it does not appear that the boundaries interpreted by Lindgren and Hansen [5] were consistently used by the Water Rights Program [6]. Other geological information is available in the form of lithologic logs [7], well completion reports [8], and a map of the first occurrences of aquifer materials in Turner county [9] indicate the boundaries of the Parker-Centerville aquifer may be wider than the area interpreted by Holmes and Filipovic [1]. For this report, the boundaries interpreted by Holmes and Filipovic [1] will be used, since they are the boundaries most recently used by the Water Management Board.

According to the most recent estimate, the Parker-Centerville aquifer primarily underlies the Vermillion River valley with an approximate areal extent of 40,270 acres in Clay, Lincoln, and Turner Counties [1]. The northern boundary of the Parker-Centerville aquifer is in hydraulic connection to the Vermillion East Fork: Montrose and Vermillion West Fork aquifers, which are made of the same material at the same elevation as the Parker-Centerville aquifer [7] [8] [5]. The Parker-Centerville aquifer directly overlies portions of the Upper Vermillion-Missouri aquifer [1], and the two aquifers both blend into the Lower Vermillion-Missouri aquifer to the south [4] [8]. The Parker-Centerville aquifer also has some hydrologic connection to the Vermillion River [1] and possibly other surface water features. Generally, the direction of groundwater movement in the Parker-Centerville aquifer is from north to south [2].

The applicant proposes to withdraw water from a sand and gravel quarry to lower the water level during operations. No well completion report was submitted with the application and no well will be required to develop this application, but since the applicant is withdrawing water from an excavation site including water that flows in from the aquifer, it is groundwater.

The Parker-Centerville aquifer is almost exclusively under unconfined (water table) conditions [2]. There are multiple water rights in the Parker-Centerville aquifer that withdraw amounts comparable to the applicant's request from a single well per water right/permit [6], indicating the aquifer is highly transmissive.

Applicable South Dakota Codified Law (SDCL)

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights, and that the proposed use is a beneficial use and in the public interest. This report will assess the availability of water and possibility of developing this application without unlawful impairment of existing rights only.

Pursuant to SDCL 46-6-3.1, no application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of a hydrologic budget. Knodel Contractors, LLC is not a water distribution system as defined in SDCL 46-1-6, and the Parker-Centerville aquifer is younger and stratigraphically higher than the Greenhorn Formation. Therefore, it is necessary to find that recharge exceeds withdrawals to approve this application.

Availability of water

Hydrologic budget

Recharge

Recharge to the Parker-Centerville aquifer is by infiltration from precipitation, seepage from surface water features when the surface water level is higher than the potentiometric surface of the aquifer, and by groundwater inflow from adjacent aquifers when the potentiometric surface of those aquifers is higher than that of the Parker-Centerville aquifer [3]. Hedges, et al. [10] estimated the average annual recharge rate to the aquifer is 4.9 inches per year based on observation well analysis. Multiplying the Hedges, et al. [10] estimate of recharge rate over the most recent estimate of the aquifer's area [1], the estimated average annual recharge rate is 16,444 ac-ft/yr.

Discharge

Natural discharge from the Parker-Centerville aquifer occurs through evapotranspiration when the potentiometric surface of the aquifer is at or near land surface, outflow to surface water features when the surface water level is lower than the potentiometric surface of the aquifer, groundwater outflow to the Lower Vermillion-Missouri and the Upper Vermillion-Missouri

aquifers when the potentiometric surface of the Parker-Centerville aquifer is higher than that of those aquifers [1] [5]. The other form of discharge is withdrawals by domestic and appropriative well users. Given the prevalence of appropriative water distribution systems and the relatively low pump rate allowed for domestic well use, domestic well withdrawals are considered negligible for this hydrologic budget.

There are 141 active water rights/permits authorized to withdraw water from the Parker-Centerville aquifer [6]. Due to the new lithologic information available as discussed in the Hydrogeological Characteristics section, four water rights/permits that were previously identified as belonging to other aquifers are within the boundaries of the Parker-Centerville aquifer interpreted by Holmes and Filipovic [1] that were used to estimate the area of the aquifer and have similar well depths and aquifer materials as the Parker-Centerville aquifer. Therefore, a total of 145 water rights/permits will be considered to withdraw from the Parker-Centerville aquifer for this hydrologic budget [6]. The four additional water rights/permits are Water Permit Nos. 7312-3, 7596-3, 7597-3 and Water Right No. 6491-3 and are all for irrigation [6].

Of the 141 water rights/permits officially categorized as being in the Parker-Centerville aquifer, 138 are for irrigation use [6]. Two water rights are for municipal use for the Town of Hurley and one water right is for commercial use [6]. The Town of Hurley purchases its water from another water distribution system [11] and is assumed to keep its water rights for emergency purposes. Therefore, those permits are likely to withdraw a negligible amount of water from the Parker-Centerville aquifer. The one commercial water permit, No. 8358-3 for Sonstegard Food Company appropriates 222.2 ac-ft/yr [6]. Sonstegard Food Company is also required to report their annual withdrawals to the Water Rights Program, but they acquired that permit in 2018 and reported no withdrawals that year. For the hydrologic budget, it is assumed they withdraw the full amount appropriated.

Irrigation withdrawal data is available for the period of record from 1979 through 2019 and shown in Table 1. The average irrigation reported over the period of record for the 142 irrigation water rights/permits in this hydrologic budget is 9,947 ac-ft/yr [12]. After the drought of 2012, the number of irrigation water rights/permits increased from 125 to 138 and an increase in permitted acres from 16,374 to 17,700 acres in the aquifer, including the four water rights/permits not previously identified as appropriating from the Parker-Centerville aquifer. Currently, there are 17,705 acres permitted/licensed for irrigation in the aquifer, which is an increase of 1,331 acres since 2012. Many of the newer permits in the aquifer may not be represented by the average over the period of record. The average irrigation per acre licensed/permitted over the period of record is 7.67 inches per acre. Conservatively assuming the 1,331 new acres permitted/licensed irrigate 12 inches of water per year, that would add 1,331 ac-ft/yr of withdrawals for irrigation to the 9,947 ac-ft/yr average. Therefore, the total estimated withdrawal due to irrigation is 11,278 ac-ft/yr.

Report on Water Permit Application No. 8428-3

Table 1: Irrigation reported over the period of record for the Parker-Centerville aquifer and the four shallow glacial outwash water rights/permits within the boundaries interpreted by Holmes and Filipovic [1] [12].

Year	Parker-Centerville		Within Boundaries		Total	
	No. Permits	Irrigation Reported (ac-ft/yr)	No. Permits	Irrigation Reported (ac-ft/yr)	No. Permits	Irrigation Reported (ac-ft/yr)
1979	114	7,481	0	0	114	7,481
1980	110	7,675	0	0	110	7,675
1981	121	9,321	0	0	121	9,321
1982	111	6,494	0	0	111	6,494
1983	110	5,523	0	0	110	5,523
1984	111	5,152	0	0	111	5,152
1985	112	6,515	0	0	112	6,515
1986	113	6,120	0	0	113	6,120
1987	111	8,620	0	0	111	8,620
1988	108	13,558	0	0	108	13,558
1989	110	13,959	0	0	110	13,959
1990	110	12,201	0	0	110	12,201
1991	110	11,186	0	0	110	11,186
1992	111	3,909	0	0	111	3,909
1993	110	1,919	0	0	110	1,919
1994	111	10,724	0	0	111	10,724
1995	108	9,664	0	0	108	9,664
1996	107	10,897	0	0	107	10,897
1997	110	11,585	0	0	110	11,585
1998	108	10,072	0	0	108	10,072
1999	112	11,027	0	0	112	11,027
2000	113	12,955	0	0	113	12,955
2001	113	12,238	0	0	113	12,238
2002	114	13,865	0	0	114	13,865
2003	116	12,471	0	0	116	12,471
2004	117	14,668	1	44	118	14,712
2005	119	13,450	1	99	120	13,549
2006	117	15,304	1	33	118	15,337
2007	120	11,995	1	53	121	12,048
2008	123	13,224	1	71	124	13,294
2009	125	7,260	1	23	126	7,283
2010	123	392	1	0	124	392
2011	123	11,315	1	42	124	11,357
2012	123	19,045	2	122	125	19,168
2013	134	15,083	4	127	138	15,210
2014	136	11,269	4	66	140	11,336
2015	137	9,606	4	102	141	9,707
2016	139	11,934	4	135	143	12,069
2017	139	11,430	4	117	143	11,548
2018	138	3,808	4	15	142	3,823
2019	138	1,842	4	11	142	1,852
Average						9,947

Balance of hydrologic budget

The estimated average annual recharge to the Parker-Centerville aquifer is 16,444 ac-ft/yr. One commercial permit in the aquifer appropriates 222.2 ac-ft/yr and the two municipal permits in the aquifer are assumed to withdraw a negligible amount. The average annual withdrawal for irrigation over the period of record is 9,947 ac-ft/yr, but some newer water rights/permits may not be represented by that average. The total estimated average annual withdrawal for irrigation is 11,278 ac-ft/yr. The total estimated withdrawal in the aquifer is approximately 11,500 ac-ft/yr. The applicant seeks to appropriate up to 795.46 ac-ft/yr. Therefore, based on a hydrologic budget, there is reasonable probability unappropriated water is available for this application.

Observation well analysis

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires the Water Management Board to rely upon the record of observation wells in addition to other information to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer. The Water Rights Program maintains 22 observation wells in the Parker-Centerville aquifer [2]. The nearest observation well to this application is Observation Well TU-80D, located approximately 0.7 miles to the south of this application [2]. Figure 1 shows water level data for that observation well [2]. Observation Well TU-80D is representative of the Parker-Centerville aquifer's behavior at other wells in the aquifer [2]. Some seasonal declines are observed, but springtime water levels in the aquifer are dominated by the influence of climate more than pumping [13]. Therefore, based on Observation well analysis, there is reasonable probability unappropriated water is available for this application.

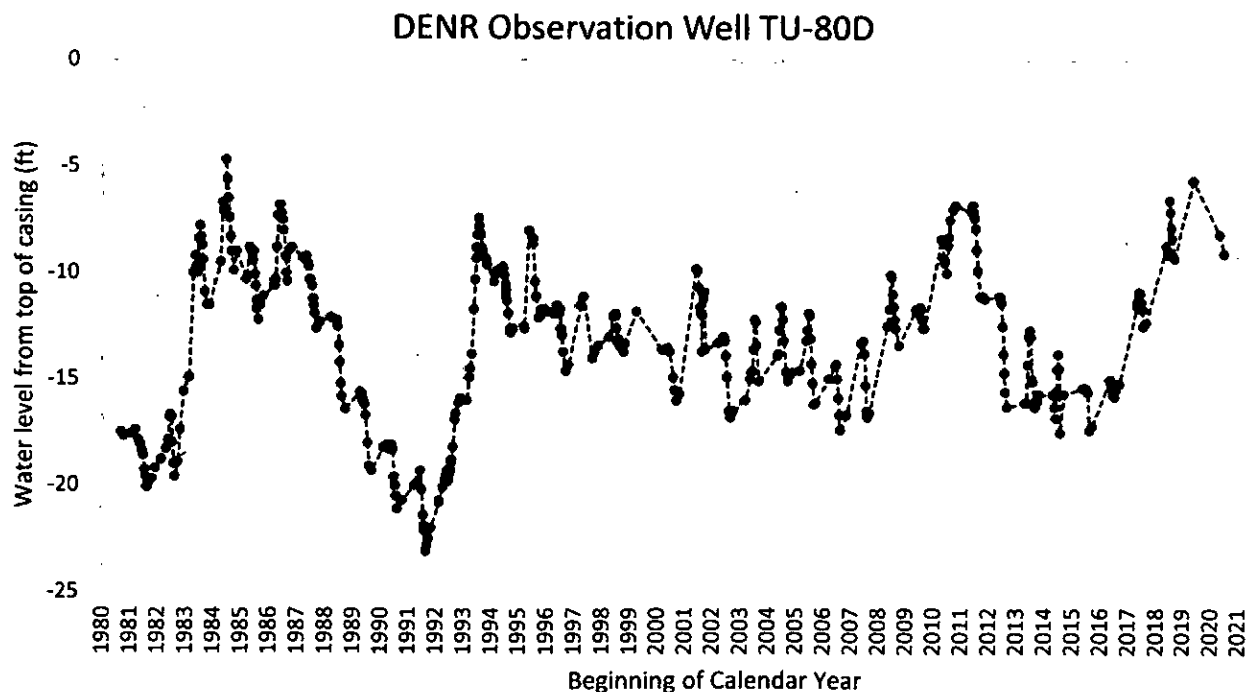


Figure 1: Water level data for DENR Observation Well TU-80D [13]

Existing users

The nearest water right to the diversion points proposed for this application in the Parker-Centerville aquifer is Water Right No. 5952-3, held by Knodel Contractors, LLC for irrigation and located approximately 0.17 miles northeast of this application [6]. The next nearest water right to this application is Water Right No. 2810-3, which is located approximately 0.2 miles southwest of this application [6]. Figure 2 shows nearby water rights/permits [6], observation wells in the Parker-Centerville aquifer [2], the boundary of the Parker-Centerville aquifer as interpreted by Holmes and Filipovic [1], and aquifer materials near the surface in the area [9]. Table 2 shows details about the water rights/permits in Figure 2. The nearest domestic well on file with the Water Rights Program that is likely to be completed into the Parker-Centerville aquifer is located approximately 1.1 miles to the east of this application [8]. There may be nearby domestic wells that are not on file with the Water Rights Program. Precise drawdown behavior cannot be known without an aquifer performance test. However, some drawdown is likely to occur. To protect domestic well users, the Water Management Board defined an “adversely impacted adequate well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction 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 for the well owner's needs.”

There is one complaint in Turner county regarding well interference in the Dolton aquifer, but the Water Rights Program engineer responding to the complaint determined that the well that was not delivering water did not have its pump placed deep enough to meet the definition of an adequate well [14]. Given the lack of complaints for adequate wells completed into this aquifer in Turner County, the unconfined and highly transmissive nature of the aquifer, the fact that the applicant will likely impact their own irrigation well before they impact anyone else, and given the distance from the applicant's proposed pumping site to the nearest water right in the aquifer not owned by the applicant, it is likely this application can be developed without unlawful impairment of existing water rights or domestic wells. However, out of an abundance of caution, the applicant should control their withdrawals so that nearby adequate wells are not adversely impacted.

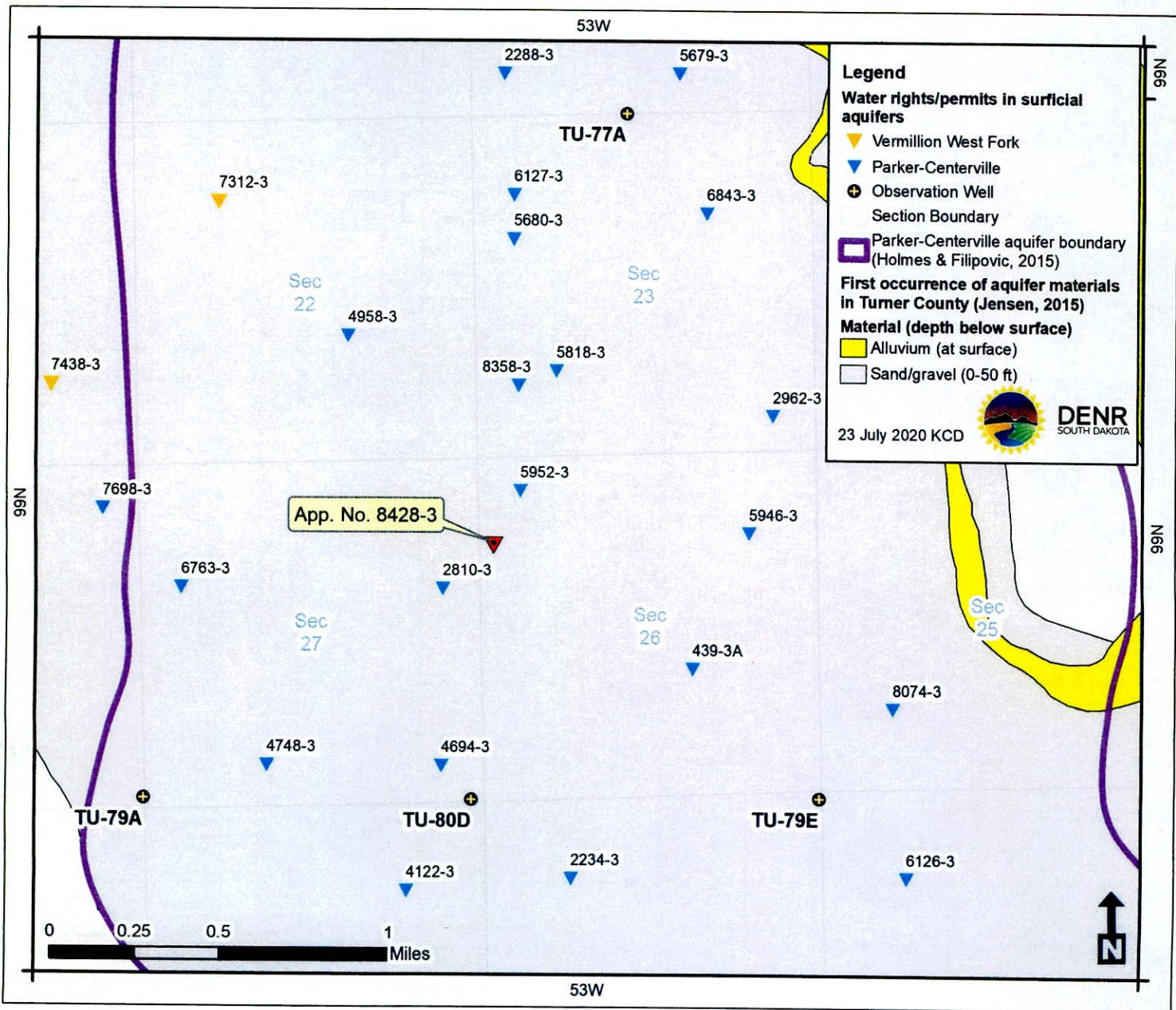


Figure 2: Nearby water rights/permits [6], observation wells [2], aquifer boundary as interpreted by Holmes and Filipovic [1], and aquifer materials encountered near the surface in the area [9].

Report on Water Permit Application No. 8428-3

Table 2: Water rights/permits shown in Figure 2 [6].

Permit No.	Name/Business	Status	Priority	Use Type	Max. Withdrawal Rate (cfs)	Acres licensed/ permitted
5818-3	Allen Abbas	License	04/06/1994	IRR	1.110	132
7312-3	Allen Merrill	Permit	11/28/2011	IRR	1.110	75
7698-3		Permit	02/08/2013	IRR	1.110	145
2288-3	Allen or Kristi Merrill	License	05/09/1975	IRR	1.000	76
5679-3	Ballacostain LLP	License	06/22/1951	IRR	1.520	107
5680-3		License	06/22/1951	IRR	1.110	78
6843-3		License	06/22/1951	IRR	1.560	105
6127-3		Permit	02/12/1999	IRR	0.860	60
6126-3		License	04/19/1999	IRR	1.670	147
2234-3	Glyndon Knutson	License	03/18/1975	IRR	1.890	132
2810-3	James J Davis	License	06/07/1976	IRR	1.880	136
7438-3		Permit	09/17/2012	IRR	1.560	160
5952-3	Kelly Knodel	License	08/19/1996	IRR	1.330	104
4748-3	Kent & Vickie Plucker	License	04/17/1981	IRR	1.440	155
2962-3	Linda J Bartels	License	08/30/1976	IRR	1.770	136
6763-3	Plucker Family Limited Partnership I	Permit	10/18/2006	IRR	1.780	160
5946-3	Ralph & Lucille Marquardt	License	06/20/1996	IRR	0.880	62
8074-3	Sam Oltmanns	Permit	01/12/2015	IRR	1.780	120
8358-3	Sonstegard Food Company	Permit	05/31/2018	COM	1.110	0
4122-3	Weeg Family Farms LLLP	License	04/20/1955	IRR	1.660	140
439-3A		License	01/13/1959	IRR	1.780	127
4694-3		License	02/26/1981	IRR	1.880	150
4958-3		License	03/30/1983	IRR	1.440	101
COM – Commercial, IRR – Irrigation						

Special considerations

On April 27, 2020, the Water Rights Program received a complaint regarding Knodel Contractors, LLC's pumping from their gravel pit [14]. The complainant was concerned that the discharge from the applicant's dewatering activities was causing his farmland to be oversaturated. Generally, in South Dakota, drainage issues are adjudicated by county authorities [14]. Knodel Contractors, LLC acquired a General Permit for Temporary Drainage Activities from the DENR Surface Water Quality Program [14]. On May 20, 2020, the Chief Engineer of the Water Rights Program informed the applicant that if they intended to pump water from the gravel pit, they would be required to get a water right permit [14].

Conclusions

1. Water Permit Application No. 8428-3 seeks to appropriate 795.46 acre-feet of water per year (ac-ft/yr) from the Parker-Centerville aquifer at a maximum pump rate of 3.34 cubic feet of water per second (cfs) for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W ½ NW ¼ Section 26-T99-R53W.
2. Based on a hydrologic budget, there is reasonable probability unappropriated water is available for this application.

3. Based on observation well analysis, there is reasonable probability unappropriated water is available for this application.
4. There is reasonable probability this application can be developed without unlawful impairment to existing water rights and domestic users.



Kimberly Drennon, Natural Resources Engineer
DENR Water Rights Program

References

- [1] S. L. Holmes and D. Filipovic, "Hydrogeologic investigation of the Upper-Vermillion-Missouri aquifer," SD DENR Geological Survey Program, Vermillion, South Dakota, 2015. Open-File Report 93-UR.
- [2] SD Water Rights, "Observation wells," Pierre, South Dakota, 2020.
- [3] M. J. Tipton, "Geology and hydrology of the Parker-Centerville outwash," SD DENR Geological Survey Program, Vermillion, South Dakota, 1957. Report of Investigations No. 82.
- [4] L. S. Hedges, S. L. Burch, D. L. Iles, R. A. Barari and R. A. Schoon, "Evaluation of ground-water resources eastern South Dakota and upper Big Sioux River, South Dakota and Iowa, Tasks 1-4," U.S. Army Corps of Engineers, Omaha, Nebraska, 1982.
- [5] R. J. Lindgren and D. S. Hansen, "Major aquifers in Hutchinson and Turner Counties, South Dakota," SD DENR Geological Survey Program, Vermillion, South Dakota, 1993. Information Pamphlet No. 45.
- [6] SD Water Rights, "Water right/permit files," Pierre, South Dakota, 2020.
- [7] SD Geological Survey, "Lithologic logs," Vermillion, South Dakota, 2020.
- [8] SD Water Rights, "Well completion reports," Pierre, South Dakota, 2020.
- [9] A. Jensen, "First occurrence of aquifer materials in Turner County, South Dakota," SD DENR Geological Survey Program, Vermillion, South Dakota, 2015. Aquifer Materials Map 36.
- [10] L. S. Hedges, J. Allen and D. E. Holly, "Evaluation of ground-water resources eastern South Dakota and upper Big Sioux River - South Dakota and Iowa: Task 7: Ground water recharge," U.S. Army Corps of Engineers, Omaha, Nebraska, 1985.

- [11] SD Drinking Water Program, "Town of Hurley Drinking Water Report," SD DENR Drinking Water Program, Joe Foss Bldg., Pierre, South Dakota, 2019.
- [12] SD Water Rights, "Irrigation summaries," SD DENR Water Rights Program, Joe Foss Bldg., Pierre, SD, 2020.
- [13] NOAA National Centers for Environmental Education, "Climate at a glance: Divisional Time Series for South Dakota Climate Division 9," 1 07 2020. [Online]. Available: <https://www.ncdc.noaa.gov/cag/>. [Accessed 27 07 2020].
- [14] SD Water Rights, "County Files," SD DENR Water Rights Program, Joe Foss Bldg., Pierre, SD, 2020.



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 17, 2020

Don Boyd
4504 W 12th St
Sioux Falls SD 57107

Dear Mr. Boyd:

For your information, enclosed are copies of the Report, Recommendation of the Chief Engineer, and public notice regarding Water Permit Application No. 8428-3, Knodel Contractors LLC.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, August 18, 2020 12:49 PM
To: Knodel Contractors LLC
Subject: Water Permit Application No. 8428-3
Attachments: 8428-3.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the papers as soon as possible to authorize publication and arrange for payment. When contacting the Argus Leader ask for Erin Oettinger Office: 605-331-2345 x3. This information was mailed to you yesterday.

Karen Schlaak

Water Rights Program
(605) 773-3352



Argus Leader

P.O. Box 677349, Dallas, TX 75267-7349

KNODEL CONTRACTORS LLC
43725 284TH STREET
FREEMAN, SD 57029

Account No.: 6059254595KNOD

Ad No.: 0004341046

PO #: AD#4341046

Lines : 113

Ad Total: \$74.00

This is not an invoice

of Affidavits 1

Account No.: 6059254595KNOD
Ad No.: 0004341046

Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA

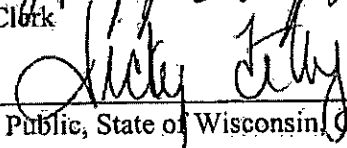
I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher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

Thursday, August 27, 2020

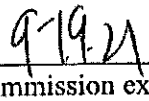
Sworn to and subscribed before me this 27 day of August, 2020.



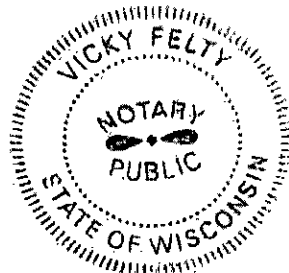
Legal Clerk



Notary Public, State of Wisconsin, County of Brown



My Commission expires



**NOTICE OF
APPLICATION NO. 8428-3
to Appropriate Water**

Notice is given that Knodel Contractors LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 has filed an application for a water permit to appropriate 795.46 acre-feet of water annually at a maximum pump rate of 3.34 cubic feet of water per second for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-199N-R13W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8428-3 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 Ron Duval 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 September 8, 2020.

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.

Published once at the total approximate cost of \$74.00
Pub: August 27, 2020

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SEP 03 2020

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Turner) SS

I, Dawn Ryle

certify that the attached printed Notice was taken

from the The New Era

printed and published in The New Era

County of Turner and

state of South Dakota. The notice was published

in the newspaper on the following date:

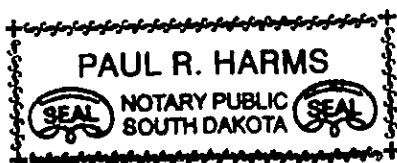
Aug, 27 2020

Cost of Printing \$33.10

[Signature]
(Signature)

Office Manager
(Title)

8/1/2020
(Date Signed)



Notice of application no.

8428-3 to appropriate water

Notice is given that Knodel Contractors LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 has filed an application for a water permit to appropriate 795.46 acre-feet of water annually at a maximum pump rate of 3.34 cubic feet of water per second for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-T99N-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8428-3 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 Ron Duvall 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 September 8, 2020.

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.

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Published once at the total approximate cost of \$33.10 (N0827-1)

September
Paul R Harms
My Commission
expires
April 24



DENR
SOUTH DAKOTA

**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 NEWSPAPERS RIGHT AWAY.**

August 17, 2020

Knodel Contractors LLC
c/o Kelly Knodel
43725 284th St
Freeman SD 57029

Dear Mr. Knodel:

Water Permit Application No. 8428-3 for industrial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Argus Leader printed at Sioux Falls SD (Ph # 605 331-2200) and The New Era printed at Parker SD (Ph # 605 297-4419). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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.

Instruction to Newspaper - Publish the Notice on August 27, 2020. Knodel Contractors LLC is responsible for payment.

NOTICE OF APPLICATION NO. 8428-3 to Appropriate Water

Notice is given that Knodel Contractors LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 has filed an application for a water permit to appropriate 795.46 acre-feet of water annually at a maximum pump rate of 3.34 cubic feet of water per second for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-T99N-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8428-3 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 Ron Duvall 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 September 8, 2020.

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.

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Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, August 17, 2020 11:12 AM
To: 'legals@argusleader.com'
Subject: 8428-3, Knodel Contractors LLC
Attachments: 8428-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 27, 2020.

Knodel Contractors LLC c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 (605 925-4595 or 605 310-1844) 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

Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, August 17, 2020 11:11 AM
To: 'sebeling@ncppub.com'
Subject: 8428-3, Knodel Contractors LLC
Attachments: 8428-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 27, 2020.

Knodel Contractors LLC c/o Kelly Knodel, 43725 284th St, Freeman SD 57029 (605 925-4595 or 605 310-1844) 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
Water Rights Program
(605) 773-3352



RECEIVED

SEP 08 2020

WATER RIGHTS
PROGRAM

9-5-20

TO: Knodel Contractors LLC
43725 284th ST
Freeman, SD 57029

Ron Duvall, Water Rights Program
Foss Building
503 E Capital
Pierre, SD 57501

FROM: Darrin + Roger Ihnen
28065 451st Ave
Hurley, SD 57036

(605) 201-1209

RECEIVED

SEP 08 2020

WATER RIGHTS
PROGRAM

Roger and Darrin Ihnen adamantly oppose the water permit requested by Knodel Contractors LLC.

We farm land that the Alberta Ditch runs through. This ditch is more like a draw through farm ground. It normally only runs if there is an excessive rain event or if the Vermillion river severely floods. This land is normally farmed and our irrigation pivots cross these lower areas.

Because Knodel pumped down the aquifer at his gravel pit with a temporary water permit the discharge into this ditch keep the water running. This artificially raised our aquifer down stream. This keep us from farming 285 acres this crop year 2020. This land is located in Section 36 of Parker Twp, Section 1 of Hurley Twp, Sections 7, 8 and 17 of Middleton Twp.

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SEP 08 2020

WATER RIGHTS
PROGRAM

This is causing a financial burden for our farm and also affects Roger Innes's ability to rent the land out to others.

As the land was flooded this spring, these acres couldn't be planted to corn or soybeans. This also caused extra expense of trying to irrigate the land around the flooded acres. We had to purchase rock and fill to try to keep the irrigators from getting stuck in these areas.

Other gravel companies ~~can~~ either have the equipment to get the gravel mined without pumping the aquifer down or they do not mine below the water table.

We feel this permit should be denied. This flooding has affected many of our neighbors as well.

Sincerely

Darin Innes

Roger Innes

RECEIVED

SEP 08 2020

WATER RIGHTS
PROGRAM

September 4, 2020

Water Rights Program
Foss Building
523 Capitol
Pierre, SD 57501

To Whom it may concern:

I would like to file a petition objecting to Mr. Kelly Knodel's application No. 8428-3 to appropriate water. My concern is with his pumping of 795.46 acre feet of water annually that it will lower of the water level of our irrigation wells. With my brother and I being renters of land in the vicinity with four irrigation wells within one and a half miles of the gravel pit, it could seriously affect our ability to grow crops if unable to irrigate due to low water levels. With the drought we are having at this time, some of our wells are sucking air now. If he lowers the water level, it will greatly affect irrigation systems in the area.

While I understand Mr. Knodel's business and appreciate why he needs to lower the water level, this is a serious concern for not only us, but other farmers who irrigate in the area.

I appreciate your consideration in the matter. If you have any questions, please contact me at (605)750-0385 or email waynebossman@gmail.com. My mailing address is 45692 274th Street, Parker, SD 57053.

Sincerely,

A handwritten signature in black ink that reads "Wayne L. Bossman Partner". The signature is written in a cursive, flowing style.

Wayne L. Bossman
Bossman Bros.

9/1/2020

To: Ron Duvall
CC: Knodel Contractors LLC

Re: Application #8428-3 for Knodel Contractors, LLC.
From: Weeg Family Farms, LLLP. and Pine Knoll Inc.
4504 W 12th St Sioux Falls, SD 57107

RECEIVED

SEP 08 2020

WATER RIGHTS
PROGRAM

Weeg Family Farms LLLP. and Pine Knoll Inc. object to the application No. 8428-3 for Knodel Contractors LLC., to appropriate 759 acre-feet of water annually for use in sand and gravel.

We have land along the Alberty ditch and in the spring of 2020, we were unable to farm approximately 40 acres due to excess saturation which is attributed to the pumping of water from the gravel operation for Knodel Contractors.

One of the conditions for a permit is for the good of the public interest. When we farm and irrigate, we ensure we are using water on our land only and not discharging water onto other landowners crops and property. Our issue is that Knodel's operation saturates our land and crops. We have to plant our crops in a timely manner each season. It is hard enough to accomplish with weather issues and now we have to wait for our land next to the ditch to dry out because of their usage. July is too late to be planting crops in South Dakota. We do not claim to know the specifics of the ditch development, but it appears it was not designed to carry 795 acre-feet of water, but rather was designed to carry the routine participation of snow and rain.

We understand that in your recommendation you address this point, but who will judge if there is flood damage from pumping? Will a simple call to the state from an affected landowner suffice to shut off the pumps and how quickly? We believe this process leaves too many unknowns and not enough assurances for farmers who already deal with too many uncontrollable issues. This is our lively hood and we invest heavily in the welfare of South Dakota.

Our recommendation would be to grant Knodel the right to release their water directly into the Vermillion River which is just to their East. It would be a much more viable solution than allowing over 5 miles of flow through all of this productive field acreage.

Our second objection comes from the amount of water Knodel would be allocated. Almost 6% of the aquifer usage would be theirs. It is not right that so much of the public water availability would be consumed simply so they can more easily get to the gravel.

Our final objection is also about the amount of water usage. We have begun experiencing air in our wells during August of this year. We know that if he has the right to pump 794 acre-feet of water, the supply to our wells will certainly be affected by the magnitude of that disbursement. We understand that the state says that you will recharge what we use each year, but when we are in the midst of a summer drought we cannot be delayed in irrigating because we have air in our wells.

Thank you for your consideration of the issues outlined in this memo. We strongly object to this approach to resolving Knodel Contractor's request. We want all businesses to be profitable, just not at the expense of others, especially when there are certainly other viable solutions.

Respectfully,

Weeg Family Farms, LLLP.

Don Weeg 9-4-20

Pine Knoll Inc.

Wm Boyd 9-4-2020



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 18, 2020

NOTICE OF HEARING

TO:	Kelly Knodel Knodel Contractors, LLC 43725 284 th Street Freeman SD 57029	Don Weeg, President Weeg Family Farms, LLLP 4504 W 12 th Street Sioux Falls SD 57107	Don Boyd Pine Knoll, Inc 4504 W 12 th Street Sioux Falls SD 57107
	Wayne L Bossman 45692 274 th Street Parker SD 57053	Darrin Ihnen 28065 459 th Avenue Hurley SD 57036	Roger Ihnen 28065 459 th Avenue Hurley SD 57036

FROM: *for* Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 8428-3, Knodel Contractors LLC

Water Permit Application No. 8428-3 proposes to appropriate 795.46 acre-feet of water annually at a maximum pump rate of 3.34 cubic feet of water per second for industrial use in a sand and gravel operation. The applicant is proposing to lower the water level in the excavation site located in the W 1/2 NW 1/4 Section 26-T99N-R53W. The pumped water is discharged to a wetland area which is connected to Alberty Ditch which drains to the Vermillion River. This site is located approximately 3 miles southeast of Parker SD.

In response to the Notice of Application published in the New Era and Argus Leader, petitions in opposition were filed in the matter of Water Permit Application No. 8428-3. This notice schedules a contested case hearing before the South Dakota Water Management Board on Application No. 8428-3.

The Water Management Board will consider Application No. 8428-3 at 11:00 AM, Central Time, on Wednesday, December 2, 2020, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior items on the agenda. Notice will be provided to parties if there is a change in the time or date of the hearing.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends approval of Application No. 8428-3 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 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 hearing is an adversary proceeding and any party has the right to be present at the hearing and is required to be represented by a lawyer. **The applicant and any petitioner participating as part of an entity, such as Weeg Family Farms LLLP and Pine Knoll, Inc., are required to be represented by legal counsel in this administrative proceeding.** 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.

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, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

The December 2, 2020 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 November 23, 2020. 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.

Contact Ron Duvall at ron.duvall@state.sd.us or (605) 773-3352 to request the report, recommendation, application or any other information. For your convenience, enclosed is a copy of the report, recommendation, publication affidavits and the petitions filed in the matter of Water Permit Application No. 8428-3. Filings regarding the application can also be found on the department's contested case page at <https://denr.sd.gov/contested.aspx>. 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. Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

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 September 28, 2020. 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.

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.

Enclosures

c: Ann Mines Bailey

CERTIFICATION

I hereby certify that on September 18, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated September 18, 2020, with enclosures regarding notice of hearing for Water Right Permit Application No. 8428-3, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

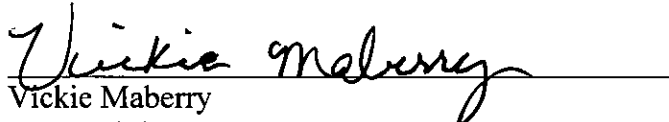
Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

Sent Inter-office to:

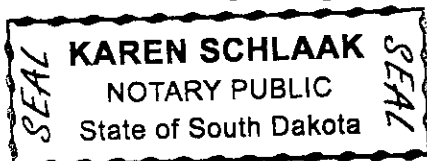
Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of September, 2020.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025





OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov/>

RECEIVED

NOV 06 2020

**WATER RIGHTS
PROGRAM**

JASON R. RAVNSBORG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

November 5, 2020

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls, SD 57104

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman, SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W. 12th Street
Sioux Falls, SD 57107

Don Boyd
Pine Knoll, Inc.
4504 W. 12th Street
Sioux Falls, SD 57101

Wayne L. Bossman
45692 274th Street
Parker, SD 57053

Darrin Ihnen
28065 459th Ave.
Hurley, SD 57036

David M. McVey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501
Hand delivered

Roger Ihnen
28065 459th Ave.
Hurley, SD 57036

RE: ***In the Matter of Water Application No. 8428-3, Knodel Contractors, LLC***

To Whom it May Concern:

Enclosed please find a copy of the Motion for Procedural Order and Procedural Order in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann F. Mines-Bailey".

Ann F. Mines-Bailey
Assistant Attorney General
AFM/mb
Enc.

cc w/enc.: Ron Duvall, DENR Water Rights Program

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	MOTION FOR
APPLICATION NO. 8428-3, KNODEL	)	PROCEDURAL ORDER
CONTRACTORS, LLC.	)	

COME NOW the Chief Engineer and the Water Rights Program and request the Prehearing Chair enter a Procedural Order regarding the conduct of the hearing to be held on December 2, 2020. The COVID-19 pandemic is ongoing. In an effort to comply with the guidelines set forth by the Centers for Disease Control, such as social distancing, the Chief Engineer and Water Rights Program request that the Prehearing Chairman order that the parties submit their exhibits, properly numbered, in order to effectuate the provision of those exhibits to Board members who may be attending the meeting remotely. It is also requested that the Prehearing Chairman order the parties to provide the administrator responsible for the physical arrangements of the hearing room with the number of people that will be in attendance so that the room could be set up in a manner which would allow for social distancing. A proposed order is submitted with this motion for the Prehearing Chairman's consideration.

Dated this 5th day of November, 2020.


Ann F. Mines Bailey
Assistant Attorney General

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	PROCEDURAL ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

Hearing on this matter is scheduled for December 2, 2020. In preparation for hearing, the parties are hereby ordered to comply with the following:

1. To facilitate distribution to those Board members who will be appearing remotely, the parties shall provide a hardcopy of each exhibit which may be used during the course of the hearing. Each exhibit is to be numbered prior to submission. The Applicant shall identify its exhibits using letters A-Z. Water Rights shall use numbers 1-99. Weeg Family Farms shall use numbers 100-199. Pine Knoll, Inc. shall use numbers 200-299. Wayne Bossman shall use numbers 300-399. Darrin Ihnen shall use numbers 400-499. Roger Ihnen shall use numbers 500-599.
2. In order to comply with the guidance issued by the Centers for Disease Control and the South Dakota Department of Health, the parties shall also submit on or before November 23, 2020, the number of individuals who will be present on their behalf during the hearing.
3. The parties must still be prepared to provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the contested

case hearing, including at least nine (9) copies for the Board, its counsel, and court reporter, and enough additional copies for all parties participating in the contested proceedings.

On or before November 23, 2020, the number of participants to be present and the exhibits as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

Finally, Knodel Contractors, LLC, Weeg Family Farms, LLLP, and Pine Knoll, Inc. are reminded that entities are required to be represented by licensed counsel during legal proceedings such as this hearing.

Dated this ____ day of November, 2020.

Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	CERTIFICATE OF SERVICE
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC.	)	

The undersigned hereby certifies that a true and correct copy of the Motion for Procedural Order and the proposed Procedural Order in the above matter was served by U.S. mail, first class, postage prepaid, upon the following on this 5th day of November, 2020:

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls, SD 57104

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman, SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W. 12th Street
Sioux Falls, SD 57107

Don Boyd
Pine Knoll, Inc.
4504 W. 12th Street
Sioux Falls, SD 57101

Wayne L. Bossman
45692 274th Street
Parker, SD 57053

Darrin Ihnen
28065 459th Ave.
Hurley, SD 57036

David M. McVey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501

Roger Ihnen
28065 459th Ave.
Hurley, SD 57036

Hand-delivered and emailed WORD version of Order

And on the same date, the original was filed with:

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501


Ann F. Mines Bailey
Assistant Attorney General



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 9, 2020

NOTICE

TO: Kelly Knodel Don Weeg, President Don Boyd
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
43725 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th Avenue
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

FROM: Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Pre-hearing Officer's Procedural Order in the matter of Water Permit Application No.
8428-3, Knodel Contractors LLC

Enclosed is Pre-Hearing Officer Freeman's Procedural Order in the matter of Water Permit Application No.
8428-3, Knodel Contractors LLC.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-
3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey
David McVey, Assistant Attorney General

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	PROCEDURAL ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

Hearing on this matter is scheduled for December 2, 2020. In preparation for hearing, the parties are hereby ordered to comply with the following:

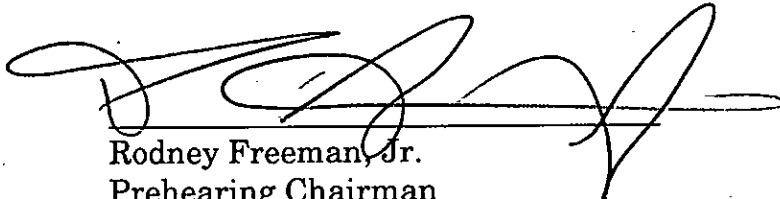
1. To facilitate distribution to those Board members who will be appearing remotely, the parties shall provide a hardcopy of each exhibit which may be used during the course of the hearing. Each exhibit is to be numbered prior to submission. The Applicant shall identify its exhibits using letters A-Z. Water Rights shall use numbers 1-99. Weeg Family Farms shall use numbers 100-199. Pine Knoll, Inc. shall use numbers 200-299. Wayne Bossman shall use numbers 300-399. Darrin Ihnen shall use numbers 400-499. Roger Ihnen shall use numbers 500-599.
2. In order to comply with the guidance issued by the Centers for Disease Control and the South Dakota Department of Health, the parties shall also submit on or before November 23, 2020, the number of individuals who will be present on their behalf during the hearing.
3. The parties must be prepared to provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the contested

case hearing, including at least nine (9) copies for the Board, its counsel, and court reporter, and enough additional copies for all parties participating in the contested proceedings.

On or before November 23, 2020, the number of participants to be present and the exhibits as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

Finally, Knodel Contractors, LLC, Weeg Family Farms, LLLP, and Pine Knoll, Inc. are reminded that entities are required to be represented by licensed counsel during legal proceedings such as this hearing.

Dated this 6th day of November, 2020.



Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board

CERTIFICATION

I hereby certify that on November 9, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of issuance of a procedural order received November 9, 2020, with the procedural order enclosed regarding Water Right Permit Application No. 8428-3, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

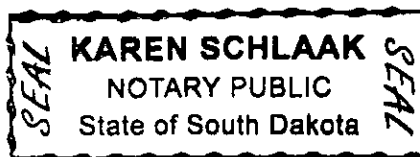


Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of November, 2020.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025





DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 16, 2020

NOTICE OF RESCHEDULED HEARING

TO: Kelly Knodel Don Weeg, President Don Boyd
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
43725 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th Avenue
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: Notice of Rescheduled Hearing on Water Permit Application No. 8428-3, Knodel
Contractors LLC

The hearing on Water Permit Application No. 8428-3, Knodel Contractors LLC, scheduled to start at 11:00 AM, Wednesday, December 2, 2020 has been rescheduled to start at 1:00 PM on the same day. The Water Management Board will now consider Application No. 8428-3 **at 1:00 PM, Central Time, on Wednesday, December 2, 2020**, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior items on the agenda.

All other provisions detailed in the Notice of Hearing dated September 18, 2020, still apply.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey
David McVey, Assistant Attorney General

CERTIFICATION

I hereby certify that on November 16, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Rescheduled Hearing dated November 16, 2020, regarding Water Right Permit Application No. 8428-3, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

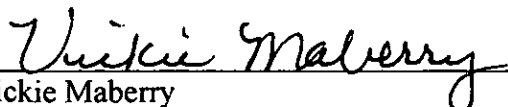
Roger Ihnen
28065 459th Avenue
Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this _____ day of November, 2020.

Karen Schlaak
Notary Public
My Commission expires April 1, 2025



BREIT & BOOMSMA, P.C.

Robert J. Breit
Glenn J. Boomsma *
Member of South Dakota Bar
*Member of Minnesota Bar

November 24, 2020

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NOV 30 2020

WATER RIGHTS
PROGRAM

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: In The Matter Of Water Application No. 8428-3, Knodel Contractors, LLC

Dear Mr. Ron Duvall:

Enclosed and intended upon you as service by mail please find the Notice Of Appearance, Motion For Continuance, and Certificate Of Service with respect to the above-entitled matter. Thank you.

Very truly yours,
BREIT & BOOMSMA, P.C.



Glenn J. Boomsma
GJB/jp

Enclosure

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STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE of the appearance of Glenn J. Boomsma, Breit & Boomsma,
PC, 606 E. Tan Tara Circle, Sioux Falls, South Dakota, 57108, on behalf of the following parties
in interest in the above-captioned matter:

- (a) Scott Vannorsdel, 28888 455th Avenue, Viborg, SD 57077;
- (b) Merlin Vannorsdel, 28861 455th Avenue, Viborg, SD 57077
- (c) Roger Ihnen, 28065 459th Avenue, Hurley, SD 57036;
- (d) Darrin Ihnen, 28065 459th Avenue, Hurley, SD 57036;
- (e) Don Boyd, Pine Knoll, Inc., 4504 W. 12th Street, Sioux Falls, SD 57107;
- (f) Darrel Westerman, 610 4th Street, Chancellor, SD 57015;
- (g) Paul Petersen, 45610 282nd Street, Hurley, SD 57036;
- (h) Brett Petersen, 45656 US Hwy. 18, Hurley, SD 57036;
- (i) Jarrod Hagen, 45900 283rd Street, Hurley, SD 57036;
- (j) Steve Hagen, 28386 460th Avenue, Davis, SD 57021;
- (k) LaRhon Hagen, 45964 283rd Street, Davis, SD 57021;
- (l) Wayne Bossman, 45692 274th Street, Parker, SD 57053;
- (m) Larry Bossman, 27348 456th Avenue, Parker, SD 57053;
- (n) Shon Sawyer, 28122 SD Hwy. 19, Hurley, SD 57036;
- (o) Burnette Sawyer, 45690 280th Street, Hurley, SD 57036;
- (p) Calvin Graber, 45486 282nd Street, Hurley, SD 57036; and
- (q) Kent Westerman, 27840 460th Avenue, Chancellor, SD 57015

All pleadings and documents subsequent to your receipt of this notice should be served
upon or mailed to said attorney.

Dated this 24 day of November, 2020.

BREIT & BOOMSMA, P.C.



Glenn J. Boomsma
606 E. Tan Tara Circle
Sioux Falls, SD 57108
(605)336-8234

Attorney for Parties in Interest: Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd, Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman

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WATER RIGHTS
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STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC

MOTION FOR CONTINUANCE

COMES NOW, Glenn J. Boomsma, Attorney for Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman (hereinafter referred to as "Parties In Interest") and requests a continuance of the hearing set for December 2, 2020 at 1:00 p.m. based upon the following reasons:

1. Attorney Glenn J. Boomsma was only recently retained in this matter and does not have adequate time to prepare for the December 2, 2020 hearing;
2. Attorney Glenn J. Boomsma already has appointments and court hearings scheduled on his calendar for December 2, 2020;
3. The Interested Parties listed above have not made any previous requests for delays or continuances;
4. The request for continuance is not made for purposes of procrastination or bad faith; and
5. The prejudice suffered by the Applicant Kelly Knodel would be minimal or non-existent.

Pursuant to Meadowland Apartments vs. Shumacher, 813 N.W. 2d 618, 622-623 (SD 2012), the trial court must consider the following factors with respect to a request for continuance: (a) whether the delay resulting from the continuance will be prejudicial to the opposing party; (b) whether the continuance motion was motivated by procrastination, bad planning, dilatory tactics or bad faith on the part of the moving party or his counsel, (c) the prejudice caused to the moving party by the trial court's refusal to grant the continuance, and (d) whether there have been any prior continuances or delays.

Based upon the above reasons and the legal authority presented in the Meadowland Apartments case, the Interested Parties submit that the request for continuance is supported by good cause.

Dated this 24 day of November, 2020 in Sioux Falls, South Dakota.

BREIT & BOOMSMA, P.C.



Glenn J. Boomsma
606 East Tan Tara Circle
Sioux Falls, SD 57108
(605) 336-8234

Attorney for Parties in Interest: Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagena, Steve Hagena, LaRhon Hagena, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

RECEIVED

NOV 30 2020

WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice Of
Appearance and Motion For Continuance was served upon the following, via U.S. mail on
November 24 2020.

Seth A. Lopur
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Ste. 300
Sioux Falls, SD 57104

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman, SD 57029

David M. McVey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

~~BRETT & BOOMSMA, P.C.~~

Glenn J. Boomsma
606 E. Tan Tara Circle

Sioux Falls, SD 57108

(605)336-8234

Attorney for Parties in Interest: Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd, Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman



RECEIVED

NOV 25 2020

WATER RIGHTS
PROGRAM

November 25, 2020

Seth A. Lopour
Seth.Lopour@woodsfuller.com
Extension 635

VIA E-MAIL

ron.duvall@state.sd.us

Ron Duvall
Water Rights Program
Department of Energy and Natural Resources
523 East Capitol
Pierre, SD 57501

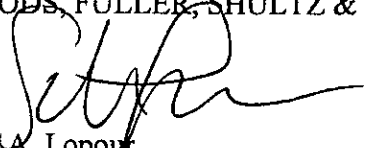
Re: Water Permit Application No. 8428-3, Knodel Contractors, LLC

Ron,

Please find enclosed Applicant's Objection to Motion for Continuance for filing. I understand the motion has already been granted and a Notice of Entry is forthcoming. This pleading is strictly for purposes of maintaining a record.

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.



Seth A. Lopour

Enclosure

cc: Glenn J. Boomsma (Via U.S. Mail)

- d. Paul Petersen,
- e. Brett Petersen,
- f. Jarrod Hagen,
- g. Steve Hagen,
- h. LaRhon Hagen,
- i. Larry Bossman,
- j. Shon Sawyer,
- k. Burnette Sawyer,
- l. Calvin Graber, and
- m. Kent Westerman

6. Given these individuals' failure to timely file a petition, they do not have standing to move for a continuance.

7. Applicant further objects to the Motion for Continuance on the grounds that it is untimely.

8. On September 18, 2020, the Water Rights Program sent out a Notice of Hearing, designating November 23, 2020 as the deadline to request an automatic continuance.

9. No request was made by or on November 23, 2020 for an automatic continuance.

10. Applicant was prepared to proceed with the hearing, as scheduled for December 2, 2020.

11. Applicant also objects to this continuance on the grounds that Applicant will suffer prejudice from delay of this hearing.

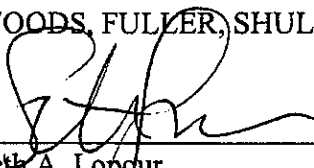
12. Delay of this hearing will seriously inhibit Applicant's ability to bid current and future jobs up until the date of the next hearing.

13. Delay of this hearing will cause Applicant financial harm.
14. Delay of this hearing will inhibit Applicant's ability to conduct its business.

Dated this 25th day of November, 2020.

WOODS, FULLER, SHULTZ & SMITH P.C.

By

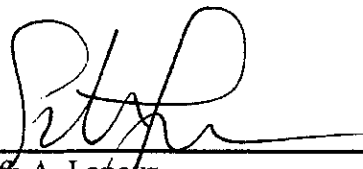

Seth A. Lopour
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
Email Seth.Lopour@woodsfuller.com
Attorneys for Applicant

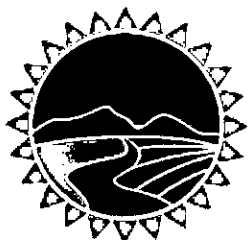
CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of November, 2020, a true and correct copy of the foregoing Objection to Motion for Continuance was filed via email with DENR c/o Ron Duvall at Ron.Duvall@state.sd.us and served via U.S. Mail to:

Glenn J. Boomsma
606 East Tan Tara Circle
Sioux Falls, SD 57108
605-336-8234

*Attorneys for Scott Scott Vannorsdel,
Merlin Vannorsdel, Roger Ihnen, Darrin
Ihnen, Don Boyd and Pine Knoll, Inc.,
Darrel Westerman, Paul Petersen,
Brett Petersen, Jarrod Hagena,
Steve Hagena, LaRhon Hagena,
Wayne Bossman, Larry Bossman,
Shon Sawyer, Burnette Sawyer, Calvin
Graber, and Kent Westerman*


Seth A. Lopour
Attorney for Applicant



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 25, 2020

NOTICE OF ENTRY OF ORDER

TO: Kelly Knodel Don Weeg, President Don Boyd
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
43725 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darriñ Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th Avenue
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour Glen J. Boomsma
Woods, Fuller, Shultz and Smith Breit & Boomsma, PC
300 S. Phillips Ave., Suite 300 606 E. Tan Tara Circle
Sioux Falls SD 57104 Sioux Falls SD 57108

FROM: Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Pre-hearing Officer's Order on Motion for Continuance in the matter of Water Permit
Application No. 8428-3, Knodel Contractors LLC

Enclosed is Pre-Hearing Officer Freeman's Order granting a continuance in the matter of Water Permit Application No. 8428-3, Knodel Contractors LLC. The contested case hearing on Application No. 8428-3 scheduled for December 2, 2020, has been cancelled.

However, as noted in the attached Order, the Board will take up the matter of scheduling the hearing for a future date. If you wish to participate in the discussion on the setting of a date for the hearing, the matter will be discussed by the Board at 12:00 PM, noon, Central Time on December 2, 2020. To participate remotely in the discussion, please call (605) 679-7263 and enter Conference ID 688370224# when prompted. Please note that the Board may be running behind schedule due to prior agenda items.

Questions regarding this matter may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey
David McVey, Assistant Attorney General

CERTIFICATION

I hereby certify that on November 25, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated November 25, 2020, regarding a continuance of the hearing scheduled for Water Right Permit Application No. 8428-3 also including a copy of the Pre-hearing Officer's Order received on November 25, 2020, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Glen J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



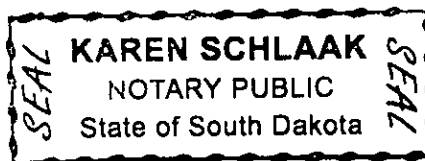
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of November, 2020.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

RECEIVED
NOV 25 2020
WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC.

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ORDER ON MOTION FOR
CONTINUANCE

WHEREAS, the Hearing for this matter is scheduled before the Board on December 2, 2020; and

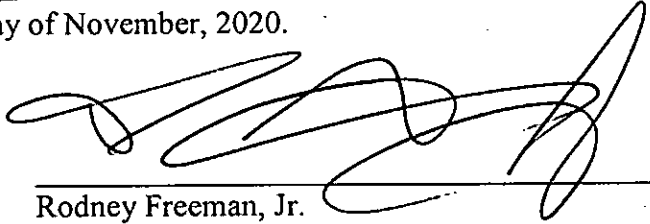
WHEREAS, on November 24, 2020, Glenn J. Boomsma, Attorney for Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman (hereinafter referred to as "Parties In Interest") and requested a continuance of the hearing; and

WHEREAS, Attorney Boomsma stated in his motion 1. That he was only recently retained and did not have adequate time to prepare; 2. That he had "appointments and court hearings scheduled on his calendar for December 2, 2020;" 3. That no previous requests for delays or continuances have been made; 4. that the request for continuance is not made for purposes of procrastination or bad faith; and 5. That the prejudice suffered by the Applicant Kelly Knodel would be minimal or non-existent.

NOW THEREFORE, upon consideration of the papers filed herein and relevant case law, the following Order shall be entered in the above captioned action.

Attorney Boomsma's Motion for a Continuance is hereby **GRANTED**. This contested case shall be heard on such date as determined by the Board, who shall take up this matter to determine a hearing date at the December 2, 2020 regularly scheduled meeting.

Dated this 24th day of November, 2020.



Rodney Freeman, Jr.
Hearing Officer
South Dakota Water Management Board



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 18, 2020

NOTICE OF ENTRY OF ORDER

TO: Kelly Knodel Don Weeg, President Don Boyd
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
43725 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th Avenue
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour Glenn J. Boomsma
Woods, Fuller, Shultz and Smith Breit & Boomsma, PC
300 S. Phillips Ave., Suite 300 606 E. Tan Tara Circle
Sioux Falls SD 57104 Sioux Falls SD 57108

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: Pre-hearing Officer's Procedural Order in the matter of Water Permit Application No.
8428-3, Knodel Contractors LLC

Enclosed is Pre-Hearing Officer Freeman's procedural order in the matter of Water Permit Application No. 8428-3, Knodel Contractors LLC. The order requires numbering of exhibits and providing a copy of the numbered exhibits and number of individuals attending the hearing to Ron Duvall on or before January 25, 2021; filing any motions, including motions allowing video testimony, by January 13, 2021, with responses to any filed motions due by January 20, 2021; and have copies of numbered exhibits available at the hearing.

Questions regarding this matter may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

Enclosure

c: Ann Mines Bailey
David McVey, Assistant Attorney General

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	PROCEDURAL ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

Hearing on this matter is scheduled for February 10-11, 2020. In preparation for hearing, the parties are hereby ordered to comply with the following:

1. To facilitate distribution to those Board members who will be appearing remotely, the parties shall provide a hardcopy of each exhibit which may be used during the course of the hearing. Each exhibit is to be numbered prior to submission. The Applicant shall identify its exhibits using letters A-Z. Water Rights shall use numbers 1-99. Petitioners represented by Glen J. Boomsma, Esq. including Weeg Family Farms, Pine Knoll, Inc., Wayne Bossman, Darrin Ihnen, and Roger Ihnen shall use numbers 100-599.
2. In order to comply with the guidance issued by the Centers for Disease Control and the South Dakota Department of Health, the parties shall also submit on or before January 25, 2021, the number of individuals who will be present on their behalf during the hearing.
3. The parties must be prepared to provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the contested case hearing, including at least nine (9) copies for the Board, its counsel, and

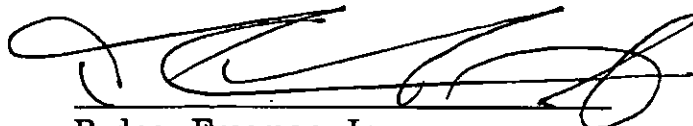
court reporter, and enough additional copies for all parties participating in the contested proceedings.

4. All witnesses who will be testifying or introducing or authenticating evidence must be present at the hearing in Pierre. If any Party or witness has special health issues related to COVID-19, they may file a motion to request to testify via video conferencing. Telephonic testimony will not be allowed.

All motions, including those to testify via video conference, must be received by January 13, 2021 at 5:00 P.M. Central Time. All responses to motions must be received by January 20, 2021 at 5:00 P.M. Central Time. All motions and responses as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

5. On or before January 25, 2021, the number of participants to be present and the exhibits as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

Dated this 17th day of December, 2020.



Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board

CERTIFICATION

I hereby certify that on December 18, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated December 18, 2020, including a copy of the Pre-hearing Officer's Procedural Order dated on December 17, 2020, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

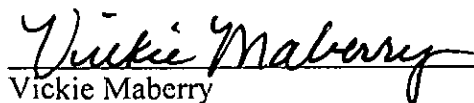
Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Glen J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



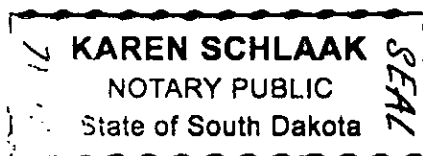
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of December, 2020.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025



DEC 21 2020

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	PROCEDURAL ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

Hearing on this matter is scheduled for February 10-11, 2020. In preparation for hearing, the parties are hereby ordered to comply with the following:

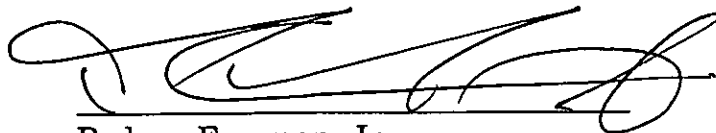
1. To facilitate distribution to those Board members who will be appearing remotely, the parties shall provide a hardcopy of each exhibit which may be used during the course of the hearing. Each exhibit is to be numbered prior to submission. The Applicant shall identify its exhibits using letters A-Z. Water Rights shall use numbers 1-99. Petitioners represented by Glen J. Boomsma, Esq. including Weeg Family Farms, Pine Knoll, Inc., Wayne Bossman, Darrin Ihnen, and Roger Ihnen shall use numbers 100-599.
2. In order to comply with the guidance issued by the Centers for Disease Control and the South Dakota Department of Health, the parties shall also submit on or before January 25, 2021, the number of individuals who will be present on their behalf during the hearing.
3. The parties must be prepared to provide a sufficient number of copies of exhibits, with the exception of the administrative file, for use at the contested case hearing, including at least nine (9) copies for the Board, its counsel, and

2

court reporter, and enough additional copies for all parties participating in the contested proceedings.

4. All witnesses who will be testifying or introducing or authenticating evidence must be present at the hearing in Pierre. If any Party or witness has special health issues related to COVID-19, they may file a motion to request to testify via video conferencing. Telephonic testimony will not be allowed. All motions, including those to testify via video conference, must be received by January 13, 2021 at 5:00 P.M. Central Time. All responses to motions must be received by January 20, 2021 at 5:00 P.M. Central Time. All motions and responses as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.
5. On or before January 25, 2021, the number of participants to be present and the exhibits as outlined above must be provided to Ron Duvall, Water Rights, Department of Environment of Natural Resources, 523 East Capitol, Pierre, SD 57501.

Dated this 17th day of December, 2020.



Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov/>

JASON R. RAVNSBORG
ATTORNEY GENERAL

RECEIVED

JAN 06 2021

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

January 4, 2021

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman, SD 57029

Wayne L. Bossman
45692 274th Street
Parker, SD 57053

Seth A. Lapour
Woods, Fuller, Shultz and Smith
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57104

Don Weeg, President
Weeg Family Farms, LLLP
4504 West 12th Street
Sioux Falls, SD 57107

Darrin Ihnen
28065 459th Avenue
Hurley, SD 57036

Roger Ihnen
28065 459th Avenue
Hurley, SD 57036

Don Boyd
Pine Knoll, Inc.
4504 West 12th Street
Sioux Falls, SD 57107

Glenn J. Boomsma
Breit & Boomsma, Pc
606 East Tan Tara Circle
Sioux Falls, SD 57108

David M. McVey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501

Re: *In the Matter of Water Permit Application No. 8428-3;*
Knodel Contractors, LLC

To Whom It May Concern:

In preparation for the hearing scheduled in December, the Chief Engineer conducted an onsite visit to the general area where Knodel Contractors, LLC

seeks to divert water. Based upon that visit, the Chief Engineer has revised his recommendation, a copy of which is enclosed. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann F. Mines Bailey".

Ann F. Mines Bailey
Counsel for Chief Engineer and Water Rights Program

AFM/mn

Enclosure

cc w/enc: Ron Duvall, Water Rights Program✓

RECEIVED

JAN 06 2021

WATER RIGHTS
PROGRAM

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov



DENR
SOUTH DAKOTA

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8428-3, Knodel Contractors, LLC**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 8428-3, Knodel Contractors, LLC, c/o Kelly Knodel, 43725 284th St, Freeman SD 57029.

The Chief Engineer is recommending APPROVAL of Application No. 8428-3 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:

1. Dewatering approved under Permit No. 8428-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner under this Permit shall control withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Parker-Centerville aquifer.
3. Water Permit No. 8428-3 authorizes a total annual diversion of 795.46 acre feet of water from the Parker-Centerville aquifer.
4. No diversion may violate county or state ordinances or permits.

See report on application for additional information.

Eric Gronlund, Chief Engineer
December 31, 2020



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SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

January 21, 2021

NOTICE OF HEARING

TO: Kelly Knodel Don Weeg, President Don Boyd
Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
43725 284th Street 4504 W 12th Street 4504 W 12th Street
Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

Wayne L Bossman Darrin Ihnen Roger Ihnen
45692 274th Street 28065 459th Avenue 28065 459th Avenue
Parker SD 57053 Hurley SD 57036 Hurley SD 57036

Seth A. Lopour Glenn J. Boomsma
Woods, Fuller, Shultz and Smith Breit & Boomsma, PC
300 S. Phillips Ave., Suite 300 606 E. Tan Tara Circle
Sioux Falls SD 57104 Sioux Falls SD 57108

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: Scheduling of Hearing on Water Permit Application No. 8428-3, Knodel Contractors LLC

The Water Management Board will conduct a hearing to consider Application No. 8428-3 at 9:30 AM (Central Time), on Wednesday, February 10, 2021, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. If necessary, the hearing will continue at 8:30 AM (Central Time), Thursday, February 11, 2021, to complete any remaining testimony. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Applicable provisions of the notice dated September 18, 2020, and the public notice published August 27, 2020, in the Argus Leader and The New Era still apply.

Please note you need to enter the Joe Foss Building from the Capitol avenue main entrance and check in at the desk in the lobby area. Due to the Covid-19 pandemic, social distancing will be observed in the meeting room, masks are optional. Any party intending to testify, present evidence, or cross-examine witnesses will need to be physically present at the hearing.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

c: Ann Mines Bailey
David McVey, Assistant Attorney General

CERTIFICATION

I hereby certify that on January 21, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated January 21, 2021, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Glenn J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

Sent Inter-office to:

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

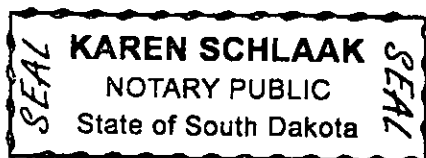
David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st day of January, 2021.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2025



Duvall, Ron

From: Seth Lopour <Seth.Lopour@woodsfuller.com>
Sent: Monday, January 25, 2021 3:17 PM
To: Duvall, Ron
Cc: Cheryl Immecker
Subject: [EXT] Water Permit Application No. 8428-3 - Knodel Contractos, LLC
Attachments: 03976894.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Ron,

Applicant's Witness and Exhibit list is due today and I wanted to inform you that we are making no revisions to our prior filing before Mr. Boomsma became involved. We also still plan on having the same number of people appear for the hearing as well.

Please let me know if you need anything else.



Seth A. Lopour
Attorney
Woods, Fuller, Shultz & Smith P.C.
300 S. Phillips Ave., Suite 300
Sioux Falls, SD 57104-6322
(605) 336-3890 Fax (605) 339-3357

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This email has been scanned for email related threats and delivered safely by Mimecast.



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NOV 25 2020

WATER RIGHTS
PROGRAM

November 23, 2020

Seth A. Lopour
Seth.Lopour@woodsfuller.com
Extension 635

VIA E-MAIL AND U.S. MAIL

Ron Duvall
Water Rights Program
Department of Energy and Natural Resources
523 East Capitol
Pierre, SD 57501

ron.duvall@state.sd.us

Re: Water Permit Application No. 8428-3, Knodel Contractors, LLC

Ron,

Pursuant to Pre-Hearing Officer Freeman's Procedural Order in this matter, I am enclosing a Witness and Exhibit List for filing with the DENR, along with nine (9) copies of Applicant's Exhibit A which will be used at the hearing on December 2, 2020.

There will be three (3) people present: Kelly Knodel, Laura Knodel, and myself.

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

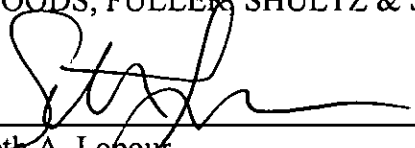
Seth A. Lopour

Enclosures

Dated this 23rd day of November, 2020.

WOODS, FULLER, SHULTZ & SMITH P.C.

By


Seth A. Lopour
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
Email Seth.Lopour@woodsfuller.com
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of November, 2020, a true and correct copy of the foregoing Witness and Exhibit List was filed via email with DENR c/o Ron Duvall at Ron.Duvall@state.sd.us and by U.S. Mail to Ron Duvall, DENR, 523 E. Capitol, Pierre, SD 57501 by first class mail.


Seth A. Lopour
Attorney for Applicant



BREIT & BOOMSMA, P.C.

Robert J. Breit
Glenn J. Boomsma *
Member of South Dakota Bar
*Member of Minnesota Bar

January 25, 2021

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JAN 27 2021

WATER RIGHTS
PROGRAM

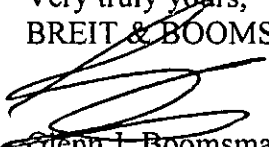
Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

RE: In The Matter Of Water Application No. 8428-3, Knodel Contractors, LLC

Dear Mr. Ron Duvall:

Enclosed and intended upon you as service by mail please find the Exhibit List, Witness List and Certificate Of Service with respect to the above-entitled matter. Thank you.

Very truly yours,
BREIT & BOOMSMA, P.C.



Glenn J. Boomsma
GJB/jp

Enclosure

RECEIVED

JAN 27 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Exhibit
List and Witness List was served upon the following, via U.S. mail on January 25, 2021.

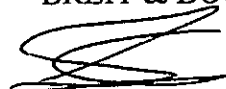
Seth A. Lopur
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Ste. 300
Sioux Falls, SD 57104

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman, SD 57029

David M. McVey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501

Ron Duvall
DENR Water Rights Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501

BREIT & BOOMSMA, P.C.



Glenn J. Boomsma
606 E. Tan Tara Circle
Sioux Falls, SD 57108
(605)336-8234

Attorney for Parties in Interest: Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd, Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman

RECEIVED

JAN 27 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC

EXHIBIT LIST

COMES NOW, Glenn J. Boomsma, Attorney for Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagena, Steve Hagena, LaRhon Hagena, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman and hereby submits this Exhibit List in connection with the upcoming February 10 - 11, 2021 hearing.

Exhibit No.:

Exhibit Description:

- | | |
|------|--|
| 100. | 2014 – 2020 Yield Monitor Reports – Vannorsdel Farm Land –
½ Section Land |
| 101. | 2015 – 2020 Yield Monitor Reports – Vannorsdel Farm Land –
Sahara Land |
| 102. | Receipts From 605 Building Supply |
| 103. | Color Photographs of Irrigation System and Farmland |
| 104. | Receipts From Menards |
| 105. | Receipts From Dawson Tire And Wheel |
| 106. | Receipts From A&M Trucking |

- 107 - 127. Google Earth Maps/Diagrams/Field Diagrams/Color Photographs Of Farm Land
128. Google Maps – Westerman Farm Ground
129. 2019 – 2020 Field Monitor Reports – Westerman Farm Land
- 130 – 133. Report Of Commodities – Farm And Tract Detail Listing – Westerman Farm Land
134. Soil Survey Maps – Turner County, South Dakota
- All Documents In Administrative File No. 8428-3
- All Documents Submitted By Applicant
- All Documents Submitted By Or On Behalf Of Water Management Board

Dated this 25 day of January, 2021 in Sioux Falls, South Dakota.

BREIT & BOOMSMA, P.C.



Glenn J. Boomsma
606 East Tan Tara Circle
Sioux Falls, SD 57108
(605) 336-8234

Attorney for Parties in Interest: Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman

RECEIVED

JAN 27 2021

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENTAL AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8428-3, KNODEL
CONTRACTORS, LLC

WITNESS LIST

COMES NOW, Glenn J. Boomsma, Attorney for Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman and hereby submits this Witness List in connection with the upcoming February 10 – 11, 2021 hearing.

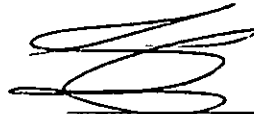
Witnesses:

1. Darrin Ihnen
2. Roger Ihnen
3. Scott Vannorsdel
4. Kent Westerman
5. Darrel Westerman
6. Warren Barse
7. Brett Peterson
8. Paul Peterson
9. Wayne Bossman

10. Don Boyd
11. Shon Sawyer
12. Burnette Sawyer
13. Jarrod Hagen
14. Steve Hagen
15. LaRhon Hagen
16. Calvin Graber
17. Kevin Rechnagel
18. Lyle Rechnagel
19. Al Abbas

Dated this 35 day of January, 2021 in Sioux Falls, South Dakota.

BREIT & BOOMSMA, P.C.



Glenn J. Boomsma
606 East Tan Tara Circle
Sioux Falls, SD 57108
(605) 336-8234

Attorney for Parties in Interest: Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Don Boyd and Pine Knoll, Inc., Darrel Westerman, Paul Petersen, Brett Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman

2. After Applicant objected to addition of these thirteen (13) parties, the Board held a telephonic conference on December 2, 2020 and held the following individuals had failed to meet the deadline and, thus, were not parties to this action:

- a. Scott Vannorsdel,
- b. Merlin Vannorsdel,
- c. Darrel Westerman,
- d. Paul Petersen,
- e. Brett Petersen,
- f. Jarrod Hagena,
- g. Steve Hagena,
- h. LaRhon Hagena,
- i. Larry Bossman,
- j. Shon Sawyer,
- k. Burnette Sawyer,
- l. Calvin Graber, and
- m. Kent Westerman

3. Although the Board has already excluded these individuals as interested parties, all but two have been recently designated as fact witnesses. The following previously-excluded parties have been identified as fact witnesses:

- a. Scott Vannorsdel
- b. Kent Westerman
- c. Darrel Westerman,
- d. Paul Petersen,

- e. Brett Petersen,
- f. Shon Sawyer,
- g. Burnette Sawyer,
- h. Jarrod Hagen,
- i. Steve Hagen,
- j. LaRhon Hagen,
- k. Calvin Graber,

4. Upon information and belief, the above-named individuals are neither associated nor affiliated with the parties to this action: Knodel Contractors, LLC, Weeg Family Farms, LLLP, Don Boyd, Wayne L. Bossman, Darrin Ihnen, or Roger Ihnen.

5. Upon information and belief, the above-named individuals are not employed by any of the parties to this action.

6. Additionally, four direct competitors of Applicant have been named as witnesses:

- a. Warren Barse
- b. Kevin Rechnagel
- c. Lyle Rechnagel
- d. Al Abbas

7. Upon information and belief, these four individuals are in no way affiliated or associated with the parties to this action. Furthermore, they have not even attempted to intervene or object to Application No. 8428-3.

8. In contested case hearings, such as this one, “[i]rrelevant, incompetent, immaterial, or unduly repetitious evidence *shall* be excluded.” SDCL § 1-26-19 (emphasis added).

9. All witnesses identified, except the party witnesses, have either failed or refused to follow the procedural requirements in order to object to Application No. 8428-3. As such, they are not parties to this action and should not be allowed to subvert the Board's decision or basic procedural requirements by being designated as fact witnesses.

10. Because the above-named witnesses are not parties to the action, their testimony is irrelevant and immaterial to the claims made by Don Boyd, Pine Knoll, Inc., Roger Ihnen, Darrin Ihnen, Don Weeg, Weeg Family Farms, LLLP, and Wayne L. Bossman.

WHEREFORE, Applicant requests and Order from the Board excluding as witnesses, and any corresponding exhibits, the following individuals:

- a. Scott Vannorsdel
- b. Kent Westerman
- c. Darrel Westerman,
- d. Paul Petersen,
- e. Brett Petersen,
- f. Shon Sawyer,
- g. Burnette Sawyer,
- h. Jarrod Hagen,
- i. Steve Hagen,
- j. LaRhon Hagen,
- k. Calvin Graber,
- l. Warren Barse
- m. Kevin Rechnagel
- n. Lyle Rechnagel

o. Al Abbas

Dated this 2nd day of February, 2021.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ Seth A. Lopour
Seth A. Lopour
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
Email Seth.Lopour@woodsfuller.com
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of February, 2021, a true and correct copy of the foregoing Objection to Witness and Exhibit List was filed via email with DENR c/o Ron Duvall at Ron.Duvall@state.sd.us and served via U.S. Mail to:

Glenn J. Boomsma
606 East Tan Tara Circle
Sioux Falls, SD 57108
605-336-8234

*Attorneys for Scott Scott Vannorsdel,
Merlin Vannorsdel, Roger Ihnen, Darrin
Ihnen, Don Boyd and Pine Knoll, Inc.,
Darrel Westerman, Paul Petersen,
Brett Petersen, Jarrod Hagen, a,
Steve Hagen, LaRhon Hagen, a,
Wayne Bossman, Larry Bossman,
Shon Sawyer, Burnette Sawyer, Calvin
Graber, and Kent Westerman*

/s/ Seth A. Lopour
Seth A. Lopour
Attorney for Applicant



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 5, 2021

NOTICE OF ENTRY OF ORDER

TO: Kelly Knodel Don Weeg, President Don Boyd
 Knodel Contractors, LLC Weeg Family Farms, LLLP Pine Knoll, Inc
 43725 284th Street 4504 W 12th Street 4504 W 12th Street
 Freeman SD 57029 Sioux Falls SD 57107 Sioux Falls SD 57107

 Wayne L Bossman Darrin Ihnen Roger Ihnen
 45692 274th Street 28065 459th Avenue 28065 459th Avenue
 Parker SD 57053 Hurley SD 57036 Hurley SD 57036

 Seth A. Lopour Glenn J. Boomsma
 Woods, Fuller, Shultz and Smith Breit & Boomsma, PC
 300 S. Phillips Ave., Suite 300 606 E. Tan Tara Circle
 Sioux Falls SD 57104 Sioux Falls SD 57108

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
 Water Rights Program

SUBJECT: Pre-hearing Officer's Order in the matter of Water Permit Application No. 8428-3, Knodel
 Contractors LLC

Enclosed is Pre-Hearing Officer Freeman's order on the applicant's motion objecting to the witness and exhibits concerning Water Permit Application No. 8428-3, Knodel Contractors LLC.

Questions regarding this matter may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

Enclosure

c: Ann Mines Bailey
 David McVey, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 5, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated February 5, 2021, including a copy of the Pre-hearing Officer's Order dated on February 4, 2021, as addressed below:

Kelly Knodel
Knodel Contractors, LLC
43725 284th Street
Freeman SD 57029

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Wayne L Bossman
45692 274th Street
Parker SD 57053

Darrin Ihnen
28065 459th Avenue
Hurley SD 57036

Roger Ihnen
28065 459th Avenue
Hurley SD 57036

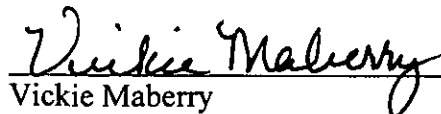
Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Glenn J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

Sent Inter-office to:

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

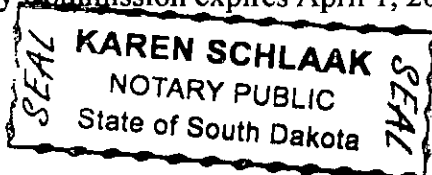
David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 5th day of February, 2021.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025



STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	ORDER ON MOTION OBJECTING TO
APPLICATION NO. 8428-3, KNODEL	)	WITNESS AND EXHIBIT LIST
CONTRACTORS, LLC	)	

WHEREAS, Hearing on this matter is scheduled for February 10-11, 2020; and

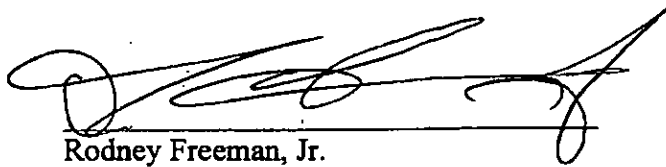
WHEREAS, on January 25, 2021, Attorney Glenn Boomsma filed a witness and exhibit list identifying nineteen fact witnesses; and

WHEREAS, on February 2, 2021 the Applicant, Knodel Contractors, filed their objection to the witness and exhibit list filed by Glen Boomsma on behalf of Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Dob Boyd and Pine Knoll, Inc., Darrel Westerman Paul Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman; and

WHEREAS, on December 2, 2020 a telephonic conference was held in which thirteen of the witnesses identified by Boomsma attempted to obtain party status but were denied on procedural grounds in that they had missed the filing deadline.

NOW THEREFORE, the Applicant's motion to exclude the disclosed witness is **DENIED**. The Board excluded the named individuals as parties on procedural grounds but did not take a position on the relevance or materiality of any witness's potential testimony. The Applicant will have the ability to object at the hearing if they feel that any particular witness or portion of testimony is irrelevant, incompetent, immaterial, or unduly repetitious.

Dated this 7th day of February, 2021.

A handwritten signature in black ink, appearing to read 'Rodney Freeman, Jr.', written over a horizontal line.

Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board

Duvall, Ron

From: Glenn Boomsma <gb@breitlawpc.com>
Sent: Monday, February 8, 2021 9:08 AM
To: Duvall, Ron
Cc: Mines Bailey, Ann; darrin.ihnen@gmail.com; pbfarms@gmail.com; Seth Lopour
Subject: RE: [EXT] Water Permit Application No. 8428-3, Knodel Contractors LLC

Ron,

My client group has decided to withdraw its objection to the above referenced Water Application. However, my clients specifically reserve their rights to pursue Kelly Knodel under state law for crop loss damages attributable to Kelly's water discharge. I hereby request permission to appear telephonically at the hearing to enter my clients' position on the record.

Feel free to contact me with any questions or concerns. Thank you.

Glenn J. Boomsma
Breit & Boomsma, P.C.
606 E. Tan Tara Circle
Sioux Falls, SD 57108
Telephone: (605) 336-8234
Telecopier: (605) 336-1123

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From: Duvall, Ron [<mailto:Ron.Duvall@state.sd.us>]
Sent: Thursday, February 4, 2021 9:56 AM
To: Seth Lopour <Seth.Lopour@woodsfuller.com>
Cc: glenn@breitlawpc.com; Mines Bailey, Ann <Ann.MinesBailey@state.sd.us>; Gronlund, Eric <Eric.Gronlund@state.sd.us>
Subject: Water Permit Application No. 8428-3, Knodel Contractors LLC

Mr. Lopour,

Mr. Boomsma contacted me regarding a possible settlement agreement with you concerning Application No. 8428-3, Knodel Contractors LLC. Mr. Boomsma also indicated that he would like to have a phone call discussing the status of the settlement agreement. We are available to discuss this matter tomorrow at 11:00 AM provided that time works for you Mr. Lopour. Assuming 11:00 AM works for everyone, I am providing a conference call number to use:

(866) 410-8397

Conference ID 6894850239

Please advise if this time works for everyone.

Thank you,

Ron Duvall
Water Rights Program
605.773.3352
denr.sd.gov



DENR
SOUTH DAKOTA

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2-8-2021

To: South Dakota DENR
To Ron DuVALL

Concerning Water Permit Application No 8428-3,
Knodel Contractors LLC.

Weggs Family Farm LLP will drop their
objections to the above Application No 8428-3.
We thank the DENR for all that they
have done.

Respectfully

Don Weggs partner

RECEIVED
FEB 08 2021
WATER RIGHTS
PROGRAM

**Farm Credit Services of America****AGRICULTURE WORKS HERE..****FAX COVER SHEET****To:** ron duvall**From:** <Theresa.Johnson@fcsamerica.com>**Company:****Date:** 02/08/21 04:00:40 PM**Fax Number:** 6057736035**Pages (Including cover):** 2**Re:****Notes:**

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WATER RIGHTS
PROGRAM



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

File No. 8428-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: Don Weeg and Don Boyd

DATE: February 8, 2021

TELEPHONE: Don Boyd – 605.366.3640
Don Weeg – 605.370.3156

RE: Regarding Withdrawal of Opposition to Water Permit Application No. 8428-3, Knodel Contractors LLC

COMMENTS:

On February 8, 2021, Glenn Boomsma, representing all but one petitioner opposed to Appl. No. 8428-3, emailed, and indicated the petitioners he represented were withdrawing their opposition to the application. Mr. Boomsma confirmed he did not represent Weeg Family Farms, LLLP c/o Don Weeg.

I contacted Don Boyd who is a business partner with Don Weeg, to obtain contact information for Mr. Weeg. Mr. Boyd indicated he would contact Mr. Weeg, who is 87 years old, since Mr. Weeg will not make any decisions without speaking to Mr. Boyd first. Mr. Boyd contacted Mr. Weeg and asked Mr. Weeg to call me to discuss the matter. Mr. Boyd also indicated that Mr. Weeg would be unable to send an email confirming his desire to withdraw the petition in opposition.

Mr. Weeg called me after being contacted by Mr. Boyd and indicated he had decided to withdraw his opposition to the application the same as the other petitioners represented by Mr. Boomsma. Mr. Weeg followed the phone call with a signed faxed document indicating withdrawal of his objection to Application No. 8428-3.

Ron Duvall
Water Rights Permitting Administrator
SD DENR, Water Rights Program

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FEB 08 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
APPLICATION NO. 8428-3, KNODEL)
CONTRACTORS, LLC)

ORDER ON MOTION OBJECTING TO
WITNESS AND EXHIBIT LIST

WHEREAS, Hearing on this matter is scheduled for February 10-11, 2020; and

WHEREAS, on January 25, 2021, Attorney Glenn Boomsma filed a witness and exhibit list identifying nineteen fact witnesses; and

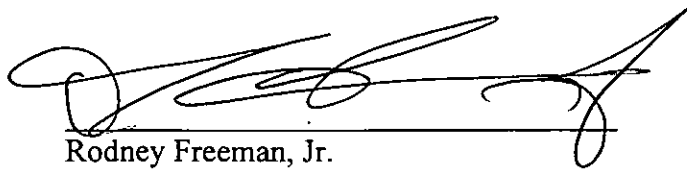
WHEREAS, on February 2, 2021 the Applicant, Knodel Contractors, filed their objection to the witness and exhibit list filed by Glen Boomsa on behalf of Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Dob Boyd and Pine Knoll, Inc., Darrel Westerman Paul Petersen, Jarrod Hagena, Steve Hagena, LaRhon Hagewna, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman; and

WHEREAS, on December 2, 2020 a telephonic conference was held in which thirteen of the witnesses identified by Boomsma attempted to obtain party status but were denied on procedural grounds in that they had missed the filing deadline.

NOW THEREFORE, the Applicant's motion to exclude the disclosed witness is **DENIED**.

The Board excluded the named individuals as parties on procedural grounds but did not take a position on the relevance or materiality of any witness's potential testimony. The Applicant will have the ability to object at the hearing if they feel that any particular witness or portion of testimony is irrelevant, incompetent, immaterial, or unduly repetitious.

Dated this 7th day of February, 2021.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Rodney Freeman, Jr.
Prehearing Chairman
Water Management Board

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FEB 16 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

WHEREAS, Hearing on this matter was held on February 10, 2020; and

WHEREAS, Attorney Glenn Boomsma withdrew all opposition to the Application on behalf of his clients of Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Dob Boyd and Pine Knoll, Inc., Darrel Westerman Paul Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman; and

WHEREAS, by facsimile, Don Weff and the Wegg Family Farm, LLP. likewise withdrew its opposition to the petition; and

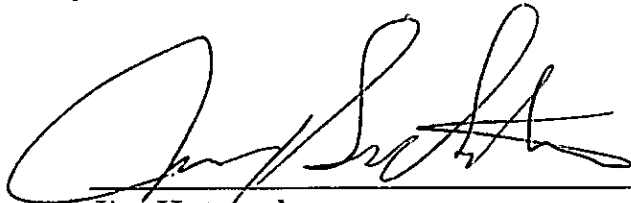
WHEREAS, with the withdrawal of all petitions in opposition, the Application was unopposed and it came before the Board along with the recommendation of the Chief Engineer; and

WHEREAS, a motion to approve Application No. 8428-3 with the Revised Recommendation of Chief Engineer dated December 31, 2020, was made by Comes and seconded by Dixon; and

WHEREAS, a vote was held and Application No. 8428-3 with the Revised Recommendation of Chief Engineer dated December 31, 2020 was approved by the Board by a vote of 5-0.

NOW THEREFORE, Application No. 8428-3 with the Revised Recommendation of Chief Engineer dated December 31, 2020 is **APPROVED**.

So Ordered this 10 day of February, 2021.

A handwritten signature in black ink, appearing to read 'Jim Hutmacher', is written over a horizontal line.

Jim Hutmacher
Chairman
Water Management Board



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 08 2021

Knodel Contractors
Kelly Knodel
43725 284th St
Freeman SD 57029

Dear Mr. Knodel:

Enclosed is Water Permit No. 8428-3 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,

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

Enclosure



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 9, 2021

NOTICE OF ENTRY OF ORDER

TO:	Glenn J. Boomsma Breit & Boomsma, PC 606 E. Tan Tara Circle Sioux Falls SD 57108	Don Weeg, President Weeg Family Farms, LLLP 4504 W 12 th Street Sioux Falls SD 57107	Don Boyd Pine Knoll, Inc 4504 W 12 th Street Sioux Falls SD 57107
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Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

FROM: Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Order Approving Water Permit Application No. 8428-3, Knodel Contractors LLC

Enclosed is the Water Management Board's order dated February 10, 2021, approving Water Permit Application No. 8428-3, Knodel Contractors LLC.

Questions regarding this matter may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or ron.duvall@state.sd.us.

Enclosure

c: Ann Mines Bailey, Assistant Attorney General
David McVey, Assistant Attorney General

RECEIVED

FEB 16 2021

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	ORDER
APPLICATION NO. 8428-3, KNODEL	)	
CONTRACTORS, LLC	)	

WHEREAS, Hearing on this matter was held on February 10, 2020; and

WHEREAS, Attorney Glenn Boomsma withdrew all opposition to the Application on behalf of his clients of Scott Vannorsdel, Merlin Vannorsdel, Roger Ihnen, Darrin Ihnen, Dob Boyd and Pine Knoll, Inc., Darrel Westerman Paul Petersen, Jarrod Hagen, Steve Hagen, LaRhon Hagen, Wayne Bossman, Larry Bossman, Shon Sawyer, Burnette Sawyer, Calvin Graber, and Kent Westerman; and

WHEREAS, by facsimile, Don Weff and the Wegg Family Farm, LLP. likewise withdrew its opposition to the petition; and

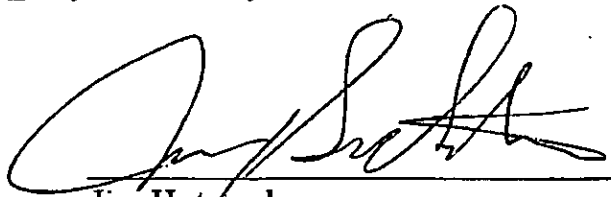
WHEREAS, with the withdrawal of all petitions in opposition, the Application was unopposed and it came before the Board along with the recommendation of the Chief Engineer; and

WHEREAS, a motion to approve Application No. 8428-3 with the Revised Recommendation of Chief Engineer dated December 31, 2020, was made by Comes and seconded by Dixon; and

WHEREAS, a vote was held and Application No. 8428-3 with the Revised Recommendation of Chief Engineer dated December 31, 2020 was approved by the Board by a vote of 5-0.

NOW THEREFORE, Application No. 8428-3 with the Revised Recommendation of Chief Engineer dated December 31, 2020 is **APPROVED.**

So Ordered this 10 day of February, 2021.

A handwritten signature in black ink, appearing to read "Jim Hutmacher", written over a horizontal line.

Jim Hutmacher
Chairman
Water Management Board

CERTIFICATION

I hereby certify that on March 9, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Entry of Order dated March 9, 2021, including a copy of the Water Management Board's Order dated on February 10, 2021, signed by Chairman Jim Hutmacher as addressed below:

Glenn J. Boomsma
Breit & Boomsma, PC
606 E. Tan Tara Circle
Sioux Falls SD 57108

Don Weeg, President
Weeg Family Farms, LLLP
4504 W 12th Street
Sioux Falls SD 57107

Don Boyd
Pine Knoll, Inc
4504 W 12th Street
Sioux Falls SD 57107

Seth A. Lopour
Woods, Fuller, Shultz and Smith
300 S. Phillips Ave., Suite 300
Sioux Falls SD 57104

Sent Inter-office to:

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

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry

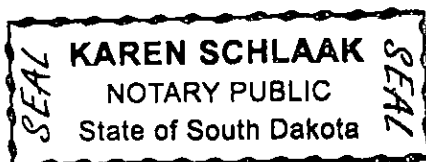
Vickie Maberry
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of March, 2021.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2025



* EMAILED SHANNON
3.10.25

8428-3
RECEIVED

MAR 10 2025

OFFICE OF
WATER



www.kniferiver.com

1500 N Sweetman Place
Sioux Falls, SD 57107

Phone: (605) 336-5776

3/5/2025

South Dakota DANR
Attn: Water Rights Program
Joe Foss Building
523 E Capitol Ave
Pierre, SD 57501-3182

RE: Permits 8428-3 Transfer of Ownership

Dear Ms. Rodriguez,

Knife River now has ownership of the land tied to the above mentioned water right permit. Included in this mailing are the notice of transfer of ownership and the required 50 dollar check.

Please let us know if you have any other questions.

Cheers,

Colin Chatterton, CPESC, CPISM
Environmental Manager – KRSD & KRMW



Office: (605) 336-5776
Cell: (712) 577-6757

RECEIVED

MAR 10 2025

PAID

MAR 10 2025

Ck# 42015761

Rec't# _____

NOTICE OF TRANSFER OF OWNERSHIP OF WATER

For assistance call (605) 773-3352

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

Water Right/Permit No. 8428-3Date: 27 3/5/2025I/We request that Water Right/Permit No. 8428-3 formerly owned by:Knodel Contractors

be transferred to:

New Owner Name: Knife River
Address: 1500 N Sweetman PL mobile: (712) 577-6757
City, State, Zip: Sioux Falls, SD 57107 email: colin.chatterton@kniferiver.com

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

Address:

Legal: NW 1/4 less Beckman Tract 1, in sec. 26, T-099N,
R-053W of the 5th P.M., Turner Co., SD.

☒ I understand that the validity of Water Right/Permit No. 8428-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

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

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

I, Clark Meyer (President), the new owner, certify that the above information is true and correct.

Clark Meyer
(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five-year construction period has expired. Once a water permit is developed, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following reasons:

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date March 10th, 2025

RECEIVED OF Knife River 1500 N Sweetman Pl Sioux Falls Sd 57107

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>8428-3</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	<u>\$50.00</u>

By

Mark Marky

Chief Engineer



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 11, 2025

No. 8428-3

Knife River
c/o Clark Meyer
1500 N Sweetman Pl
Sioux Falls, SD 57107

Dear Mr. Meyer:

The South Dakota Water Rights Program is in receipt of the "Notice of Transfer of Ownership" form and the required fees you submitted for Water Permit No. 8428-3. Enclosed is a receipt of payment for your records.

Water Permit No. 8428-3 previously held by Knodel Contractors LLC is now listed under Knife River. I have also updated your contact information in our system.

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

If you have any questions, please contact me.

Sincerely,

Miranda Smith
Water Rights Program
605 773-3352
Miranda.Smith@state.sd.us

NOTE: The validity of Water Permit No. 8428-3 has not been determined by this transfer action. Only the Water Management Board has the authority to determine if a water permit/right is valid.

enclosure