

## 2010 Legal and Public Notices

pose of submitting a bid on the project. In consideration of the State of South Dakota providing such Plans and Specifications for the purpose of preparing a bid, bidder further agrees:

- A. The Plans and Specifications are the sole property of the State;
- B. Any copies of the Plans and Specifications obtained directly from the State will be returned to the office of Baldrige & Nelson Architects & Engineers immediately after the State provides notice that bidder will not be awarded a contract, or thirty (30) days after the bid opening for the project, which ever occurs first;
- C. Any copies of the Plans and Specifications made by the bidder will be destroyed immediately after the State provides notice that bidder will not be awarded a contract, or thirty (30) days after the bid opening for the project, which ever occurs first;
- D. If bidder does not submit a bid, bidder will fulfill the requirements of B and C above on or before the date of the bid opening;
- E. The Plans and Specifications are to be used only with respect to this project and are not to be used for any other project or purposes other than preparing a bid for this project;
- F. The Plans and Specifications will not be disseminated to any person or entity for purposes other than obtaining pricing information without the express written approval of the state;
- G. All information contained in the Plans and Specifications is confidential; and
- H. Should the bidder disseminate the Plans and Specifications to an individual or entity for purposes of obtaining pricing information, the bidder will require that individual or entity to adhere to the terms set forth herein. The bidder, however, assumes no liability for the misuse of the Plans and Specifications by such third party or such third party's failure to comply with the provisions contained herein.

Should bidder be awarded a contract for construction of the project, bidder does not need to return or destroy plans and specifications until after completion of the project.

Each bid in excess of \$50,000.00 must be accompanied by a certified check, cashier's check or draft in the amount of 5% of the base bid and all add alternates and drawn on a State or National Bank or a 10% bid bond issued by a surety authorized to do business in the State of South Dakota and made payable to the Board of Regents of the State of South Dakota.

The Board of Regents reserves the right to reject any or all bids and to waive any irregularities therein.

Effective January 9, 2013, the University of South Dakota is a smoke-free campus.

**KRISTI HONEYWELL, P.E.**  
State Engineer  
Office of the State Engineer

Published twice at the total approximate cost of \$103.65  
**Published: November 1 & 8 2013**

**NOTICE OF APPLICATION**  
NO. 7898-3 to Appropriate Water

Notice is given that Max Frhr. Raitz VonFrenzt, c/o James Orr, 2947 Pettersen Rd, Vermillion SD 57069 has filed an application for a water permit to appropriate 1.56 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (100 feet deep) located in the SW 1/4 Section 12 for irrigation of 132 acres located in the SW 1/4 Section 12; all in T93N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7898-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of \$26.81  
**Published: November 1, 2013**

State of South Dakota  
County of Clay  
SS.

In Circuit Court  
First Judicial Circuit  
Civ. 13-120

STATE OF SOUTH DAKOTA,  
Plaintiff,  
v.  
S8.083 IN AMERICAN CUR-  
RENCY

Defendants.

**SUMMONS**

**GREETINGS FROM THE STATE OF SOUTH DAKOTA TO THE ABOVE-NAMED DEFENDANT AND STEPHEN JEREMY BRIGGS, 539 MILTON AVENUE, WYOMING 82601:**

You are hereby summoned and required to serve upon the Attorney General, Plaintiff's attorney, whose address is the Office of the Attorney General, 1302 East Highway 14, Suite 1, Pierre, South Dakota 57501-8501, a verified Answer to the Complaint, which is herewith served upon you (and will be filed with the

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 Engi-

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neer'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 November 12, 2013.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

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Published: November 1, 2013

**NOTICE OF APPLICATION**  
NO. 7898-3 to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7898-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 12, 2013.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

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State of South Dakota  
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You are hereby summoned and required to serve upon the Attorney General, Plaintiff's attorney, whose address is the Office of the Attorney General, 1302 East Highway 14, Suite 1, Pierre, South Dakota 57501-8501, a verified Answer to the Complaint, which is herewith served upon you (and will be filed with the

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Clerk of the Circuit Court of the First Judicial Circuit at Vermillion, County of Clay, State of South Dakota, within thirty (30) days after the service of this Summons and Complaint upon you, exclusive to the date of service. If you fail to file an Answer within thirty days of the date of service upon you, judgment by default will be taken against you for the relief as prayed for in the Complaint. The object of the above action is forfeiture of the above described property to the State of South Dakota.

Dated this 29th day of August, 2013.

**M. Bridget Mayer**  
Assistant Attorney General  
Office of the Attorney General  
1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501  
Telephone: (605) 773-3215

Published Four times at the total approximate cost of \$80.14

Published: October 18, 25, November 1, and 8 2013.

**NOTICE OF HEARING** on  
Application No. 7900-3

Notice is given that Leon Thompson, 401 S 11th St, Beresford SD 57004 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from one well to be completed into the Upper Vermillion:Missouri Aquifer (151 feet deep) located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

SDCL 46-2A-4(10) provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 7900-3 until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

The Water Management Board will consider this application at 11:00 a.m. on December 5, 2013 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 25, 2013. The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The December 5, 2013 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 25, 2013. 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.

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Contact Eric Gronlund by November 25, 2013 at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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 publication, and the applicable date to give notice to the Chief Engineer is November 12, 2013. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 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; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25:02; 74:02:01:35:01.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of \$66.85.

Published once at the total approximate cost of \$66.82

**Published: November 1, 2013**

**October 8, 2013**  
Commissioner Meeting

The Board of County Commissioners met in regular session Tuesday, October 8, 2013 at 9:00 a.m. Members present: Mockler, Packard, Powell, Kephart, and Passick.

Kephart moved, seconded by Mockler and carried to approve the agenda as presented.

Minutes of the October 1st meeting were approved with a motion by Mockler seconded by Powell and carried.

Gene Lunn, Director of Equalization, appeared during Visitors to be Heard to introduce Laura Christensen, new Deputy Director of Equalization, to the Board. Christensen was hired full-time at \$12.05/hr. and started October 7, 2013.

The Board had a public hearing at 9:05 a.m., the time set for consideration of a two day malt beverage license for Westlund/Peterson Post #44 on November 18 & 19, 2013. No one appeared in objection to the license and no written letters of opposition were received. Powell moved, seconded by Mockler and carried to approve the application and grant the license.

Layne Stewart, Emergency Management Director, met with the Board to present the SLA Quarterly Activity Report and the South Dakota Emergency Management State and Local Agreement for Fiscal Year 2014. Packard moved, seconded by Kephart and carried to authorize the Chairman to sign the SLA Quarterly Activity Report. Powell moved, seconded by Mockler and carried to authorize the Chairman to sign the SD Emg. Mgmt. State and Local Agreement for FY2014.

Rod Polley, Highway Superintendent, met with the Board to discuss Highway matters. Polley reported that the Highway Department will be resuming the winter schedule of 7:00 a.m.-4:00 p.m. beginning October 28th.

Bill O'Connor appeared before the Board with Polley to discuss locating efforts for a culvert under

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Greenfield Rd. south of 311 St. It has been said that the culvert was put into place long ago, but currently no one knows for certain where it is located. It was the consensus of the Board to allow Polley to hire a company that handles seismic culvert detection to find it. If the culvert is in fact in place, it should be cleared to assist with drainage. The topic will be placed on the agenda for the October 29th meeting to allow for a proper vote of the Board.

Polley reported that the Baptist Creek Project is 60-75% finished at this point.

At 9:28 a.m., Powell moved, seconded by Packard and carried to adjourn as Board of County Commissioners and convene as Clay Creek Ditch Board.

Powell moved, seconded by Kephart and carried to approve payment to Star Publishing in the amount of \$61.18 for publishing an advertisement for bids in the Tri-County News.

At 9:30 a.m., bid opening commenced for the Clay Creek Ditch Clean-out Project Phase 1. Pete Johnson, Johnson Engineering, assisted with reading the bids.

**3-D Digging and Trucking:** \$75,600.00 bid and 10% bid bond  
**Dakota Soil Construction:** \$223,055.00 bid and 10% bid bond  
**Jerke & Sons Construction:** \$72,016.40 bid and 10% bid bond  
**Pollman Excavation:** \$ 6 3 , 6 5 0 . 0 0 and 10% bid bond  
**Slowey Construction:** \$178,500.00 and 10% bid bond  
**Smith & Smith Construction:** \$125,400.00 and 10% bid bond

Powell moved, seconded by Kephart and carried to accept low bid from Pollman Excavation contingent upon Johnson Engineering's inspection of bid documents to ensure that bid specs were met.

At 9:46 a.m., Powell moved, seconded by Packard and carried to adjourn as Clay Creek Ditch Board and reconvene as Board of County Commissioners.

Cynthia Aden, Zoning Administrator, met with the Board to present a request from the City of Vermillion for waiver of building permit fees for the baler building at the landfill. Powell moved, seconded by Packard and carried to approve waiver of the building permit fee.

The Board reviewed fee proposals for mechanical engineering services for the Courthouse Childer Project. Powell moved, seconded by Mockler and carried to accept the fee proposal and hire Associated Consulting Engineering, Inc.

The Register of Deeds monthly report and the monthly Sheriff's Office reports were accepted and placed on file.

The following Auditor's Account with the County Treasurer Report for September 2013 was accepted and placed on file.

**AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER**

To the Honorable Board of County Commissioners of Clay County items in the hands of the County Treasurer as of September 30, 2013. I hereby submit the following report of my examination of the cash:

Total amount of deposits in banks 3,079,957.70

Amount of actual cash 1,790.18

Total amount of checks and drafts in Treasurer's Possession not exceeding three days 37,037.79

Itemized list of all items, checks and drafts which have been in the Treasurer's possession over three days: 2,167.84

Checks returned and not deposited  
Cash Items  
Investments 1,000.00  
Cash Variation 0.00  
Total 3,121,953.51

Dated this 1st Day of October 2013.

Carri R. Crum, County Auditor

Motion by Powell, seconded by Packard and carried to approve the following claims for payment: October Bills: (Tax Disbursement) Beresford School-\$14832.02, Bethel Twp.-\$5957.52, Centerville School-\$6417.33, City of Vermillion-\$69968.34, Domestic Violence-\$280.00, Fairview

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Twp.-\$7591.07, Garfield Twp.-\$8693.50, Glenwood Twp.-\$6924.35, City of Irene-\$1181.31, Irene-Wakonda School District-\$18016.04, Meckling Twp.-\$7518.35, Norway Twp.-\$5034.90, Pleasant Valley Twp.-\$6772.07, Prairie Center Twp.-\$8653.69, Riverside Twp.-\$5372.79, Seilers Second Road Dist.-\$215.05, Spirit Mound Twp.-\$7820.09, Star Twp.-\$7458.74, TLC Water Proj. Dist.-\$59.12, Vermillion Basin Water Dev. Dist.-\$746.04, Vermillion School-\$159140.09, Vermillion Twp.-\$4701.81, Wakonda Town-\$2864.95; (Prof. Serv./Fees) Centerville Community Ambulance-\$861.20, City of Vermillion-\$72.00, Denise Cody-\$15.00, David Kauffman-\$2295.00, Dakotabilities - \$ 3 5 0 . 0 0 , Datatronics-\$297.20, Greentree Psychological-\$225.00, Insecure-trac-\$242.55, Joan Kittelson-\$15.00, Lucille Lewno-\$344.67, Netsys Plus-\$106.25, Quality Motors-\$53.42, SD Achieve - \$ 1 2 0 . 0 0 , SESDAC-\$360.00, SD Assn. of County Officials-\$304.00, SD Human Services Center-\$600.00, Shepherd Reporting-\$90.00, Karen Swanda-\$30.00, University Cleaners-\$20.00, Vermillion FCU-\$386.05, Volunteers of America-\$990.00, W.H. Over Museum-\$250.00, Yankton Co. Sheriff-\$75.00, Yankton County Treasurer-\$106.25; (Publishing) Star Publishing-\$210.17, The Equalizer - \$ 1 6 2 . 0 0 ; (Repairs/Maint.) Brunick Furniture-\$15.00, Bureau of Administration-\$20.00, Century Business Products-\$22.53, Datatronics, Inc.-\$2674.81, First Bank & Trust Visa-\$18.00, Hartelco-\$10.00, Roger Hauger/Hauger Lawn-\$400.00, Johnson Controls-\$3442.50, Johnson Electric-\$68.62, Microfilm Imaging Systems-\$432.00, Midwest Building Maintenance-\$24.00, Netsys Plus-\$311.99, Paul's Plumbing - \$ 8 4 . 2 6 , Presto-X-\$65.73, Software Services-\$1320.00; (Clay Creek Ditch Expense) Star Publishing-\$61.18, Vermillion Ford-\$44.99; (Materials/Supplies) A-OX Welding Supply-\$152.52, Allied Oil & Supply-\$3198.00, Appearance-\$44.01, Brunick Service-\$49.03, Bierschbach Equip.-\$103.50, Bob Barker Co.-\$186.60, Brown & Saenger-\$115.00, Butler Machinery-\$1050.26, Campbell Supply-\$399.75, Certified Labs-\$163.83, Chemco-\$175.22, Cmoore Pit Service-\$80.00, Davis Pharmacy-\$147.34, Diamond Mowers-\$1294.50, First Bank & Trust Visa-\$41.90, I-State truck center-\$66.15, Jebro, Inc.-\$16919.65, John Deere Financial-\$148.10, Lyle Signs-\$1820.05, McLeod's Printing-\$135.45, Midwest Bldg. Maint.-\$42.00, National 4H Council Supplies-\$32.90, Pharmchem, Inc.-\$608.00, Runge Enterprises-\$57269.77, Sign-Up Ltd.-\$33.96, Sturdevant's Auto Parts-\$270.89, Titan Machinery-\$1091.72, Truorth Steel-\$666.11, True Value-\$130.52, Vermillion Ace Hardware-\$148.80, Western Office Tech.-\$194.53, Wheelco Brake and Supply-\$948.22; (Travel & Conference) First Bank & Trsut Visa-\$223.25, Holiday Inn Spearfish-\$434.95, Tim McClelland-\$47.36, Raymond Passick-\$505.75, Rodney Polley-\$51.00, Safety Benefits, Inc.-\$130.00, Vermillion FCU-\$453.24; (Utilities) City of Vermillion - \$ 3 4 5 0 . 8 8 , Hartelco-\$79.95, MidAmerican Energy-\$67.55, Reliance Telephone-\$500.00, Layne Stewart-\$60.00, Verizon Wireless-\$280.07, Vermillion Garbage Svc.-\$216.00; (Jury/Subpoena Fees) Jamie Bell-\$17.00, Anthony Boland-\$20.00, Anthony Williams-\$20.00; (Books) SD Continuing Legal-\$675.00.

At 10:05 a.m. Powell moved, seconded by Mockler and carried to adjourn and reconvene Tuesday, October 29, 2013 at 9:00 a.m.

Raymond Passick, Chairman  
Board of County Commissioners

ATTEST:

Carri R. Crum, County Auditor

Published once at the total approximate cost of \$106.64  
**Published: November 1, 2013**

**Unapproved Minutes**  
Council Special Session  
October 21, 2013  
Monday 12:00 noon

The special session of the City Council, City of Vermillion, South Dakota was held on Monday, October 21, 2013 at 12:00 noon at the city Hall large conference room.

1. Roll Call

Present: Collier-Wise, Grayson, Meins, Osborne, Ward, Willson,