

Lignite Water Use/Sales History

- April 1, 2013: State Engineer's office receives notice that the Lignite Fire Department (LFD) is selling water to the oil industry at a depot located at 162-092-12BBB. A single well is used for the depot, and the well is at the same location.
- Location of the well is within one of the points of diversion for the City of Lignite's Water Permit No. 816, which is for 100 acre-feet of groundwater per year for municipal and industrial uses.
- Well was originally owned by BNSF railroad, then used by the City and LFD. Following an environmental spill and remediation in the early 1990s, ND Department of Health said City and LFD could no longer use the well. After some time, the LFD was allowed to use the well again.
- LFD originally sold water to local farmers and small businesses. Reported water use showed they sold up to 10.4 acre-feet per year prior to 2010. This use was included with the City's municipal permit (total use was less than 100 acre-feet).
- Beginning in 2010, LFD water sales began to increase – to 61.6 acre-feet in 2010, 97.3 acre-feet in 2011, and 155.8 acre-feet in 2012.
- In 2011 and 2012 total water use (City's municipal plus LFD sales) exceeded 100 acre-feet per year (by 33.8 acre-feet in 2011 and 101.1 acre-feet in 2012).
- April 4, 2013: State Engineer's office notifies City and LFD about our policy for allowing municipalities to sell water to the industry if they 1) submit an application for industrial use and 2) do not exceed the allocation on their municipal water permit. City had already been notified of this policy in a 2011 letter from Water Appropriations that went to all cities in western ND.
- April 15, 2013: Member of LFD provides water sales figures to State Engineer's office. City had not been reporting industrial water use on their annual water use reports, so our office did not know that water was being sold, or how much was being sold.
- April 15, 2013: LFD submits Permit Application No. 6524 for 380 acre-feet per year from the well in Section 12.
- April 23, 2013: Because of overuse, State Engineer sends cease and desist orders to City and LFD to stop selling water to oil industry from the depot (sales to farmers, small businesses still allowed).
- January 15, 2014: State Engineer files administrative complaint against City and LFD, requests civil penalty of \$678,870.72 with \$15,000 suspended and forfeiture of right to future use of 134.9 acre-feet.
- December 15, 2014: Administrative consent agreement finalized. Penalty to LFD is:
 - \$20,000 with \$15,000 suspended for 2 years for 2011 overuse
 - \$658,870.72 for 2012 overuse (101.1 acre-feet x \$0.02 per gallon)
 - LFD report monthly revenue to State Engineer's office and pay 50% of pre-tax revenue each month.
 - Minimum annual payment of \$36,000
 - Annual interest rate of 1.5% beginning in 2016.
- Forfeiture of future use of 134.9 acre-feet was not included in the consent agreement, because the LFD already forfeited this use during the time between the issuance of the cease and desist order (April 2013) and the consent agreement (December 2014).
- December 16, 2014: LFD is issued Conditional Water Permit No. 6524 for 150 acre-feet per year with 230 acre-feet held in abeyance.