DEPARTMENT of AGRICULTURE and NATURAL RESOURCES
JOE FOSS BUILDING
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PIERRE SD 57501-3182
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RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT APPLICATION NO. 9028-3, Dakota Deere Farms, LLC.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 9028-3, Dakota Deere Farms, LLC., 30295 471st Ave, Beresford SD 57004.

The Acting Chief Engineer is recommending APPROVAL of Application No. 9028-3 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 9028-3 is located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The proposed well authorized by Permit No. 9028-3 must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Adam Mathiowetz, PE
Acting Chief Engineer
April 27, 2026

Report to the Chief Engineer

On Water Permit Application No. 9028-3

Dakota Deere Farms LLC

April 24th, 2026

Water Permit Application No. 9028-3 proposes to appropriate 1.78 cubic feet per second (cfs) from one well to be completed into the Brule Creek aquifer (approximately 86 feet deep) located in the NE ¼ NE ¼ Section 22 for irrigation of 187 acres located in the NW ¼, W ½ NE ¼ Section 22; all in T95N-R50W. This site is located in Union County, approximately three miles southeast of Beresford, SD.

AQUIFER: Brule Creek (BRC)

HYDROGEOLOGY:

The Brule Creek aquifer contains glacial and non-glacial sands and gravels, and underlies approximately 78,400 acres of southern Lincoln County, northern Union County, and a portion of northeast Clay County (Hedges and others, 1982). Niehus (1994) estimated the Brule Creek aquifer underlies 180 square miles (115,200 acres) of Union and Lincoln Counties. The Brule Creek aquifer is hydrologically connected with the Newton Hills aquifer in its northern extent and is likely connected to the Big Sioux and Lower Vermillion Missouri aquifers at its southern extent (Niehus, 1994; Mathiowetz, 2022). The Brule Creek aquifer is also likely to be hydrologically connected to surface water features, such as Brule Creek, in locations where the aquifer is near or at land surface (Niehus, 1994).

The Brule Creek aquifer is generally under confined conditions except in the few areas where the aquifer is near or at land surface (Niehus, 1994). The Brule Creek aquifer is generally overlain by till with an average till thickness of 46 feet but can be overlain by virtually none or up to 176 feet of till (Niehus, 1994). Water movement in the aquifer is generally to the south, except in the northernmost portion where water moves to the northeast toward the hydrologically connected Newton Hills aquifer (Niehus, 1994). The average thickness of aquifer materials in the Brule Creek aquifer is 33 feet, with an approximate maximum thickness of 88 feet (Niehus, 1994).

Several test hole logs with lithologic information were submitted with this application. The borings are located in the NE ¼ NW ¼, SE ¼ NW ¼, & NE ¼ NE ¼; all in Section 22-T95N-R50W and all completed on March 12th, 2024 (Water Rights, 2026d). The test holes show the top of aquifer material to be 42 feet below ground surface. Nearby well completion reports show the static water level to range from 8 to 28.5 feet below ground surface (Water Rights, 2026b). Based on the top of aquifer material, the static water level, bottom of aquifer material (approximately 63 ft), and nearby well completion reports, the aquifer is expected to be confined at this location (Water Rights, 2026b). Nearby well completion reports indicate the local aquifer material is confined by a layer of clay (Water Rights, 2026d).

South Dakota Codified Law (SDCL) 46-2A-9

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 for the applicant's proposed use, the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, the proposed use is a beneficial use, and the permit is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11." This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic uses and water rights within the Brule Creek aquifer.

WATER AVAILABILITY:

Water Permit Application No. 9028-3 proposes to appropriate water from the Brule Creek aquifer for the purpose of irrigation. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires,

> *"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 water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the Greenhorn Formation in excess of the average estimated annual recharge for use by water distribution systems."*

The Brule Creek aquifer is not older than or stratigraphically lower than the Greenhorn Formation, and the applicant's proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Brule Creek aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Brule Creek aquifer occurs primarily through infiltration and subsequent percolation of precipitation in areas where the aquifer is at or near land surface (Niehus, 1994). Buhler (2009) calculated an average annual recharge rate of approximately 4.5 inches per year by using observation well data from the six wells completed into unconfined portions of the aquifer. The average annual water level rise was multiplied by the specific yield to calculate the average annual recharge in inches, which is approximately 4.5 inches per year. This recharge rate is only applied to unconfined portions of the aquifer, which Buhler (2009) estimated to be at least one quarter of the whole aquifer. Applying the rate of 4.5 inches to one quarter of the estimated aquifer area (78,400 total acres from Hedges and others (1982) and 115,200 total acres from Niehus (1994)) gives an estimated recharge range of 7,350 acre-feet (ac-ft) per year to 10,800 ac-ft per year.

Discharge

Discharge from the Brule Creek aquifer occurs through evapotranspiration where the aquifer is near land surface, groundwater outflow to the Newton Hills aquifer, outflow to East or West Brule Creeks when the creek water level is lower relative to the head of the aquifer, and well withdrawals (Niehus, 1994; Water Rights, 2026a and 2026c). Currently, there are 27 water rights/permits authorized to appropriate water from the Brule Creek aquifer (Water Rights, 2026c).

Table 1 summarizes the four non-irrigation water rights/permits authorized to appropriate water from the Brule Creek aquifer with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume (Water Rights, 2026c). The amount of water that can be withdrawn was estimated by assuming the non-irrigation water rights/permits limited by an annual volume will withdraw their entire appropriated volume every year. It is estimated that non-irrigation water rights/permits limited only by a diversion rate will pump at their maximum permitted diversion rate for 60 percent of the time. The 60 percent estimation was established by Water Rights Staff to be a reasonable and safe overestimate of average annual withdrawals by non-irrigation appropriations (Water Rights, 2026c). Historically, the 60 percent estimate has been accepted by the Water Management Board. Some of the water permits/rights on Table 1 are connected to rural water systems but maintain their local wells for standby purposes, pursuant to ARSD 74:02:01:37.02. Therefore, they will not be treated as contributing to the annual withdrawal rate. This includes water rights for the City of Beresford which purchases 100% of their water from Lewis and Clark Regional Water System and water rights for the City of Alcester which purchases 100% of their water from South Lincoln Rural Water System (Drinking Water, 2026). Overall, the estimated average annual withdrawal rate for the Brule Creek aquifer non-irrigation water rights/permits is 19 acre-feet/year (Table 1) (Water Rights, 2026c).

Table 1. Estimated annual use for non-irrigation water rights/permits authorized to divert water from the Brule Creek aquifer (Water Rights, 2026c)

Permit No.	Name	Status	Use Type	Authorized Diversion Rate (cfs)	Estimated Annual Use (acre-feet/year)
4909-3	City of Beresford	License	Municipal	1.920	0*
672-3	City of Alcester	License	Municipal	0.440	0*
758-3	City of Alcester	License	Municipal	0.170	0*
6558-3	Marlow Christensen	License	Commercial	0.044	19
*Water Right holder sources their water from another water distribution system.				**Total:**	19

Table 2 shows the historically reported irrigation withdrawals and the number of permits reporting for the period of record, 1979 to 2024, average annual irrigation withdrawal along with average annual withdrawal from 2015 to 2024 for a more recent ten-year period. As there has been more development of irrigation permits in the aquifer, there has been an increase in average

annual irrigation withdrawal. The average annual irrigation withdrawal across the period of record is approximately 678 acre-feet/yr. The average annual irrigation withdrawal from 2015 to 2024 is approximately 1,043 acre-feet/yr. To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2015 to 2024 will be used for this report (Table 2) (Water Rights, 2026a).

There are four irrigation use water permits approved in early 2025 (Nos. 8927-3, 8929-3, 8966-3, & 8967-3) that are not accounted for in Table 2. These water rights/permits are authorized to irrigate 595 acres, combined (Water Rights, 2026c). Over the entire period of record, crop irrigators in the Tulare aquifer of South Dakota applied, on average, 7.58 inches of water per acre per year (Drennon, 2025). However, the Tulare aquifer is more than 100-miles northwest of the Brule Creek aquifer. To account for the fluctuation in wet and dry cycles from year to year and differences in percolation of local soils, an estimate of 10 inches (0.83 feet) of water per acre per year will be used to somewhat overestimate the annual withdrawal rate of the recently approved irrigation water permits. Assuming 0.83 feet of water per acre per year, the withdrawal rate for these water rights/permits is approximately 494 acre-feet per year. Additionally, this application proposes to irrigate 187 acres. Using the same described estimation method as above, the estimated average annual withdrawal rate for this application, if approved, is approximately 155 acre-feet per year. Collectively, the average annual withdrawal rate for the irrigation appropriations from 2015 to 2024 (1,043 acre-feet/year), plus the estimated average annual withdrawal rate for the irrigation water permits approved in 2025 (494 acre-feet/year), plus the estimated average annual withdrawal rate for this application (155 acre-feet/year), is approximately 1,692 acre-feet per year.

Table 2. Reported historic irrigation use from the Brule Creek aquifer (Water Rights, 2026a)

Year	Number of Permits	Reported Pumpage (ac-ft)	Year	Number of Permits	Reported Pumpage (ac-ft)
1982	11	139	2004	8	668
1983	11	68	2005	7	638
1984	13	32	2006	7	734
1985	7	221	2007	7	703
1986	7	15	2008	11	755
1987	7	412	2009	11	333
1988	7	300	2010	12	92
1989	7	253	2011	12	671
1990	7	279	2012	12	1,527
1991	7	939	2013	13	1,159
1992	7	1,029	2014	18	616
1993	8	859	2015	18	786
1994	9	993	2016	18	1,123
1995	9	6	2017	18	817
1996	10	11	2018	18	160
1997	10	1,193	2019	18	121
1998	10	1,041	2020	18	1,544
1999	9	447	2021	19	1,209
2000	10	651	2022	20	2,011
2001	10	988	2023	20	1,204
2002	9	505	2024	20	1,456
2003	8	470	**Average (1982-2024)**	11	**678**
			Average (2015-2024)	19	**1,043**

There are domestic wells completed into the Brule Creek aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2026d). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Brule Creek aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the Brule Creek aquifer.

Hydrologic Budget Summary

Buhler (2009) estimated the recharge rate ranges from 7,350 to 10,800 acre-feet/year in the unconfined portion of the aquifer (Hedges & others, 1982: Niehus, 1994). The estimated average withdrawal rate from the Brule Creek aquifer totals to approximately 1,711 acre-feet/year; (non-irrigation: 19 acre-feet/year; and irrigation (avg 2014 to 2023), including recent 2025 permits & this application (if approved): 1,692 acre-feet/year). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Brule Creek aquifer for the proposed appropriation.

Table 3. List of water rights/permits withdrawals (Water Rights, 2026a & 2026c), this application (if approved), and recharge to the Brule Creek aquifer (Hedges and others, 1982; Niehus, 1994)

	Hydrologic Budget for the Brule Creek Aquifer (ac-ft/yr)
Non-Irrigation Estimated Use	19
Irrigation Reported Use (2015-2024)	1,043
Recent Permits (Nos. 8927-3, 8929-3, 8966-3, & 8967-3)	494
Current Estimated Withdrawal	**1,556**
Pending Application (9028-3)	155
Estimated Withdrawal	**1,711**
Estimated Recharge	**7,350 – 10,800**

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DANR-Water Rights Program monitors 10 observation wells completed into the Brule Creek aquifer (Water Rights, 2026b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The four closest observation wells to the proposed diversion point are UN-77A (approximately 0.1 miles east), UN-80B (approximately 1.2 miles northeast), UN-77B (approximately 1.9 miles south), and UN-80C (approximately 3.1 miles southeast) (Water Rights, 2026b). The hydrographs for these observation wells are displayed in Figure 1 (Water Rights, 2026b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. The data from the hydrographs in Figure 1 shows a stable trend in water levels over the period of record.

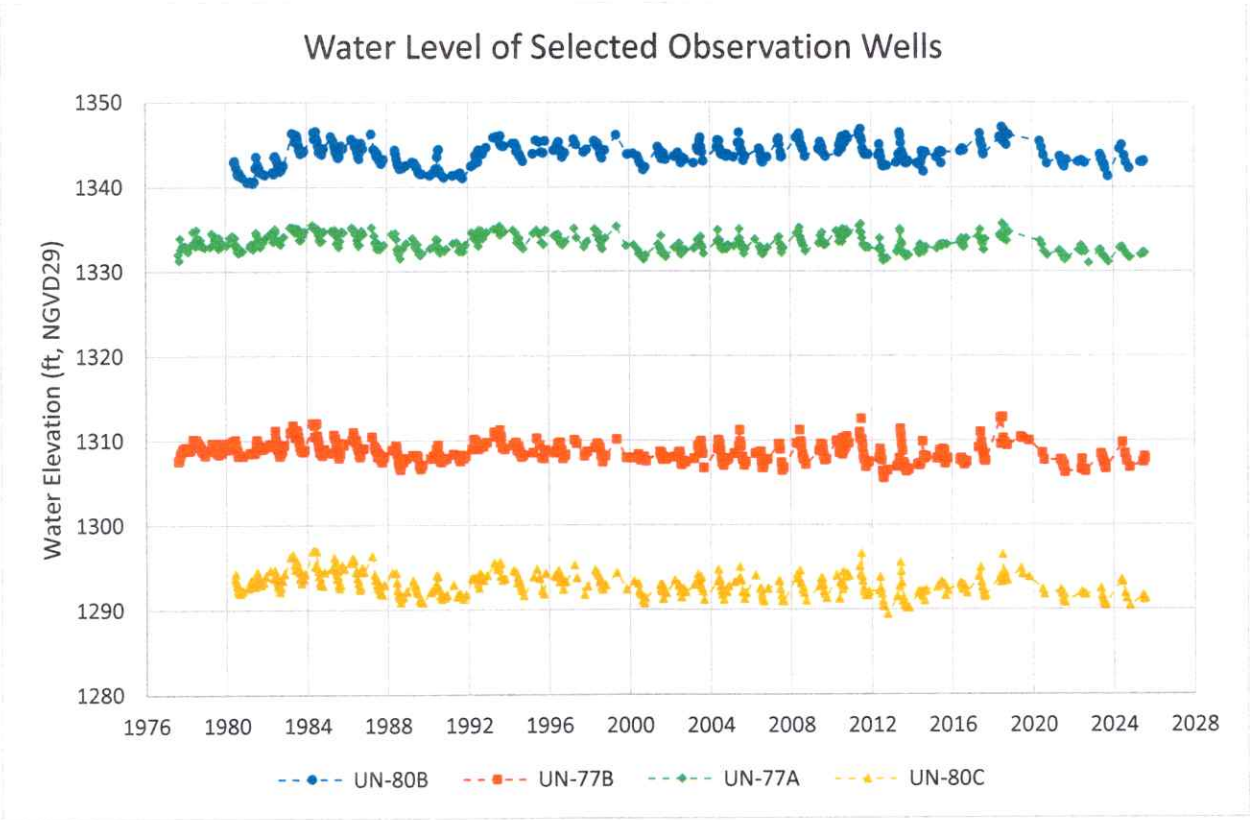

Figure 1. Hydrograph for observation wells UN-80B, UN-77B, UN-77A, and UN-80C (Water Rights, 2026b)

The hydrographs for the Brule Creek aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods (early spring snowmelt and precipitation) and declining to a stable water level during drier periods (NOAA, 2026). Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping from the Brule Creek aquifer. It should be noted, water levels in observation wells are representative of recharge to, natural discharge from, and active withdrawals from the aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate water is available for appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Water rights/permits in the general vicinity of the proposed diversion point for this application are shown in Figure 2 and summarized in Table 4 (Water Rights, 2026c). The closest water right/permit to the proposed diversion point, not held by the applicant, is Water Right No. 6962-3 held by Norman Kramer as shown on Figure 2. The diversion point for Water Right No. 6962-3 is located approximately 0.2 miles east of the proposed diversion point for this application (Water Rights, 2026c). There are domestic wells on file with the DANR-Water Rights Program that are completed into the Brule Creek aquifer, with the closest domestic well on file (not held by the applicant) located approximately 0.5 miles northwest of the proposed diversion point based on the well completion report submitted by the driller (Water Rights, 2026d). There could potentially be other domestic wells completed into the Brule Creek aquifer near the proposed diversion point that are not on file with the DANR-Water Rights Program. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

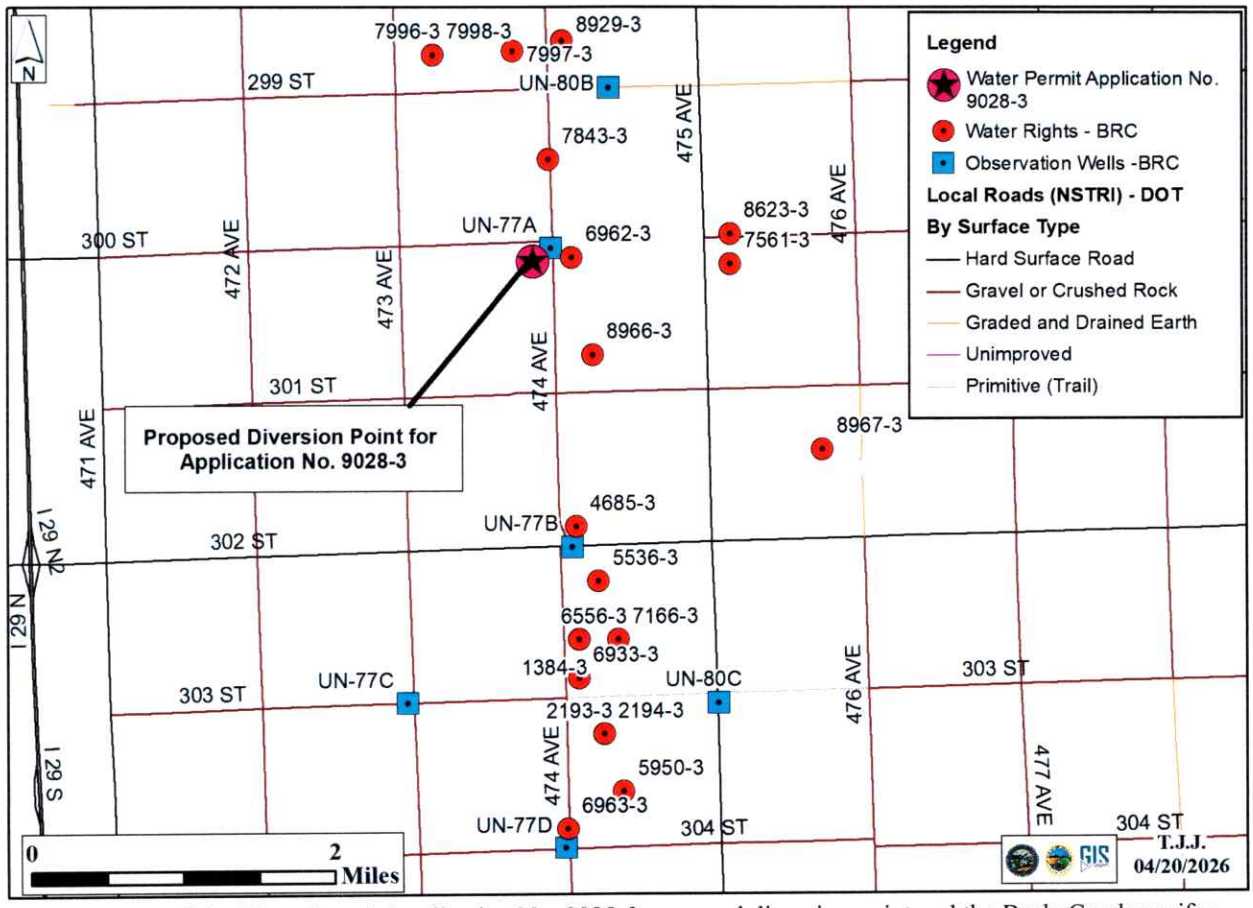

Figure 2. Map of the Water Permit Application No. 9028-3 proposed diversion point and the Brule Creek aquifer water rights/permits and observation wells (Water Rights, 2026b and 2026c).

Table 4. List of water rights/permits shown in Figure 2.

Permit	Name/Business	Priority	Status	Use Type	CFS	
1384-3	Jim Andrews	03/29/1967	License	Irrigation	1.94	136
2193-3	Larry D. Andrews	01/23/1975	License	Irrigation	1.94	136
2194-3	Larry D. Andrews	01/23/1975	License	Irrigation	1.94	136
4685-3	Allen Andrews	04/10/1981	License	Irrigation	1.77	136
5536-3	Don Lerseth	02/21/1991	License	Irrigation	1.77	136
5950-3	Larry D. Andrews	08/07/1996	License	Irrigation	1.65	116
6556-3	James Andrews	12/21/2004	Permit	Irrigation	1.15	80
6933-3	Steven Andrews	01/02/2008	Permit	Irrigation	2.22	249.1
6962-3	Norman Kramer	02/11/2008	Permit	Irrigation	1.56	160
6963-3	Norman Kramer	02/11/2008	License	Irrigation	1.44	62
7166-3	Steven Andrews	11/13/2009	Permit	Irrigation	0	41.4
7561-3	Jerry/Joyce Hansen	12/10/2012	License	Irrigation	1.44	120
7843-3	John Thompson	05/10/2013	License	Irrigation	1.67	120
7996-3	Danish Farmland and Holdings LLC	04/10/2014	License	Irrigation	0.89	134
7997-3	Danish Farmland and Holdings LLC	04/10/2014	License	Irrigation	1.78	64.18
7998-3	Danish Farmland and Holdings LLC	04/10/2014	License	Irrigation	0.89	95
8623-3	Mavis Van Beek	04/04/2022	Permit	Irrigation	1.56	246.45
8929-3	Olsen Family Farm	02/18/2025	Permit	Irrigation	1.78	185
8966-3	Mikota Holdings LLC	06/25/2025	Permit	Irrigation	1.78	130
8967-3	Legacy Farm Holdings LLC	06/25/2025	Permit	Irrigation	1.78	200

The Brule Creek aquifer is primarily under confined conditions. In a confined aquifer, drawdown from a pumping well can extend some distance from the well. The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an "adversely impacted domestic 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."*

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, "general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable..." (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995).

A recent complaint was made in June of 2025 in regard to a domestic well going dry (Water Rights, 2026e). The complainant suspected new irrigation wells were the cause. However, based on data of several observation wells between the complainant's well and the new irrigation wells, and the distance between the wells (located approximately 8.7 miles north-northwest of the complainant's well), the complaint was not substantiated, and no action was taken. It should be noted that this application's diversion point is 5.6 miles northwest of the complainant's well.

When considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20 (6) and (7)) the saturated thickness of the Brule Creek aquifer in Union County, and the lack of any substantiated well interference complaints for wells completed into the Brule Creek aquifer, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment to existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments to existing users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 9028-3 proposes to appropriate 1.78 cfs from one well to be completed into the Brule Creek aquifer (approximately 86 feet deep) located in the NE ¼ NE ¼ Section 22 for irrigation of 187 acres located in the NW ¼, W ½ NE ¼ Section 22; all in T95N-R50W. This site is located in Union County, approximately three miles southeast of Beresford, SD.

2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Brule Creek aquifer to supply the proposed appropriation.

3. There is a reasonable probability that the diversion by Water Permit Application No. 9028-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.

Tyler Jensen
Natural Resources Engineer II
SD DANR - Water Rights Program

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