

WATER PERMIT NO. 2037-1

Name of Applicant: **Jared and Anna Lukens-Black**

Address: **10551 Higgins Lane, Spearfish SD 57783**

Phone: **605-440-0226**

Amount of Water Claimed: **0.055 cfs**

Total Acres: **0.6**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation** / *comm/* County: **Lawrence**
dom

Type of Waste Disposal System:

Location: **Approx. 2 miles southwest of Spearfish SD**

PRIORITY

Date Received: **06-24-24**

Application/License Fee: **\$700.00**

Corrected Application Received:

Period of Annual Use: **January 1 – December 31**

Remarks: **Irrigation of a small commercial garden. Also supplies water to a commercial produce washing facility and domestic uses**

Diversion Point: **NW 1/4 SE 1/4 Sec 12-T6N-R1E**

Land to be Irrigated: **NW 1/4 SE 1/4 Sec 12-T6N-R1E**

			12		
			✕		

Depth of Well: **343**

Well Driller: **Taylor Drilling Co**

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **06-25-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2037-1**

Date of first receipt of application June 24, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2037-1 to Jared and Anna Lukens-Black, 10551 Higgins Lane, Spearfish SD 57783, 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. 2037-1 appropriates 0.055 cubic feet of water per second (cfs) from one well completed into the Madison Aquifer (approximately 343 feet deep) located in the NW 1/4 SE 1/4 Section 12 for irrigation of 0.6 acres located in the NW 1/4 SE 1/4 Section 12; all in T6N-R1E. Diversion from the well will also supply water to a commercial produce washing facility and domestic household use at the same location. This site is located approximately two miles west of Spearfish SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: January 1 – December 31.
3. The date from which applicant may claim right is June 24, 2024.
4. The date of approval of Permit No. 2037-1 is September 9, 2024.
5. One-fifth of the construction is to be completed on or before March 9, 2027.
6. All construction is to be completed on or before September 9, 2029.
7. Water is to be put to beneficial use on or before September 9, 2033.
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. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2037-1 is issued for a twenty-year term. Pursuant to SDCL 46-2A-21, the twenty-year term may be deleted at any time during the twenty-year period or following its expiration. If the twenty-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2037-1 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37.1 and ARSD 74:02:01:37.
2. The well will be 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.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

SEP 18 2024
date



PAID

JUN 24 2024

Ck# 1093

Rec't#

FORM 2: Application for irrigation in South Dakota
(type or print)

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2037-1</u> Hydrologic Unit <u>10120203</u> Basin <u>Belle Fourche</u> Newspaper <u>Spearfish Black Hills Pioneer</u> (office use only)
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Application for Permit to Appropriate Water for Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name to Appear on Irrigation Permit Jared and Anna Lukens-Black

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 10551 Higgins Lane Spearfish SD 57783
(Address) (City) (State) (Zip Code)Phone _____ Mobile 605-440-0226 Email budding moon farm@gmail.com2. Amount of water claimed 0.055 *CFS or 25 **GPM N/A ***AF Total Acreage 0.6
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply groundwater, 1 well4. Location of point of diversion NW 1/4 SE 1/4 Section 12, T6N, R1E
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)County Lawrence5. County or counties where water will be used Lawrence6. Annual period during which water is to be used January 1st - December 31st7. List below each forty-acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 SE 1/4 Sec 12, T6N, R1E	0.6		

8. Give a description of the project. (Attach sheet if more space is needed)

Irrigation of small commercial garden.

Well also supplies 25GPM to a commercial produce washing facility and domestic household uses.

I, Jared Lukens-Black Owner, the applicant, certify under
Name of Person Title (if applicable)

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

2021-08

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also attach map and any other technical information. (see instructions)

RECEIVED

JUN 24 2024

OFFICE OF
WATER

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable)

☐ Drilling new well(s) ☒ Using existing well(s)

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

b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by Taylor Drilling Co. (2018)

For either existing or proposed wells:

c) Well Depth (required) 343" Depth to Top of Water Bearing Material _____ Depth to Water from Surface 104"

d) Distance to nearest domestic well on applicant's property Only one on property Property owned by others ~200 feet to NW

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

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

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

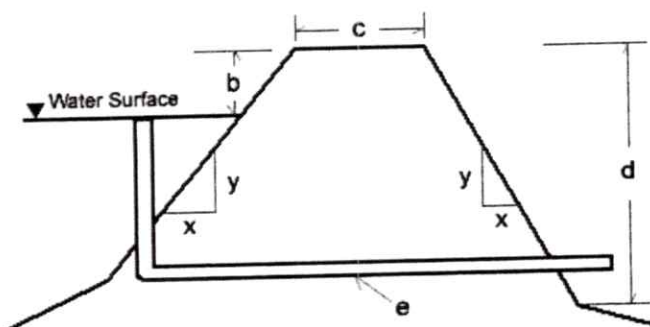
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Township: 6N,1E
Section: 12
QQ Sect: SENW

Township: 6N,1E
Section: 12
QQ Sect: SWNE

Township: 6N,1E
Section: 12
QQ Sect: NESW

Township: 6N,1E
Section: 12
QQ Sect: NWSE

ip: 6N,1E
on: 12
t: SESW

Township: 6N,1E
Section: 12
QQ Sect: SWSE

Tow
QQ



6N 1E
Section: 02

6N 1E
Section: 01

6N 2E
Section: 06

6N 1E
Section: 11

10120203 Redwater

Belle Fourche

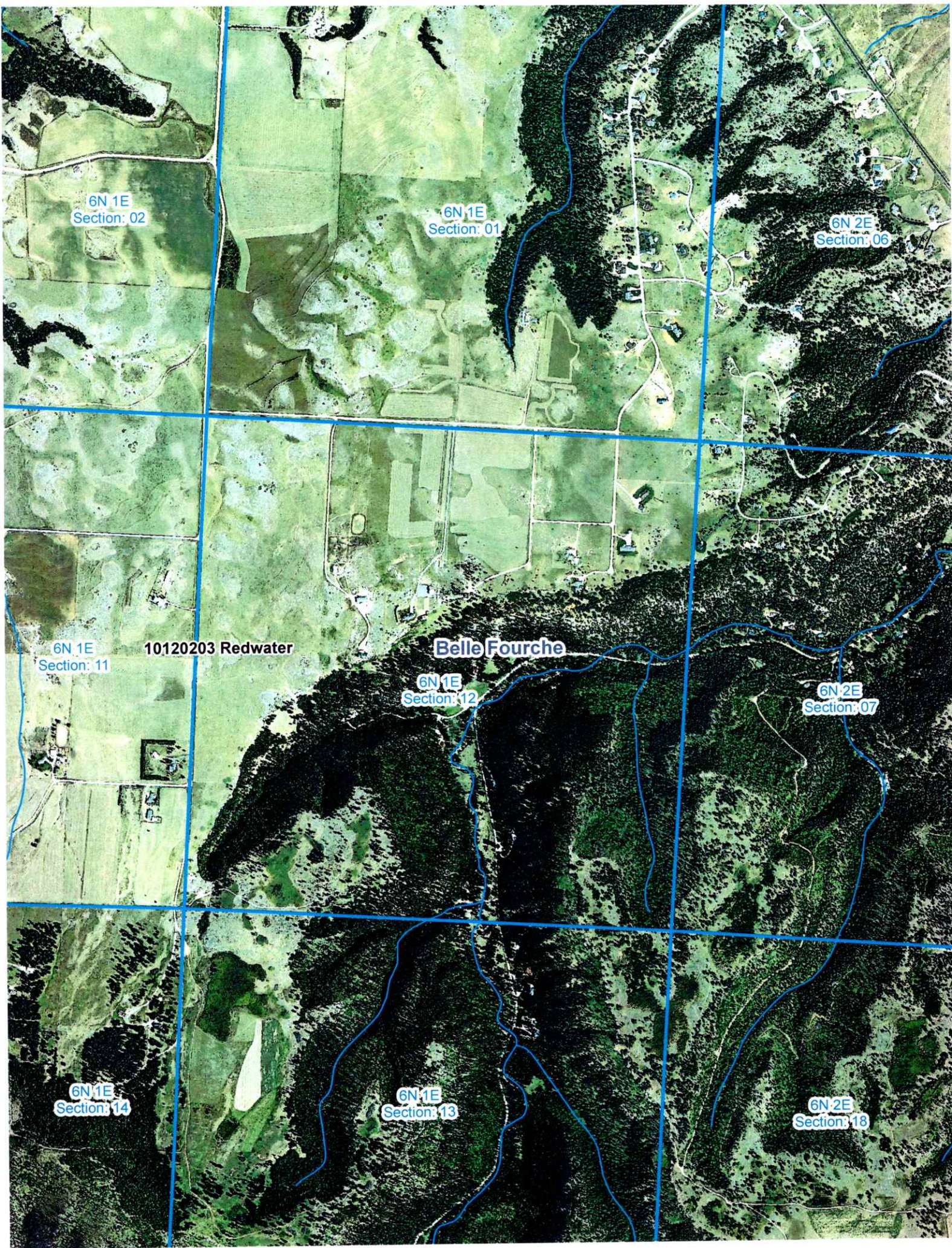
6N 1E
Section: 12

6N 2E
Section: 07

6N 1E
Section: 14

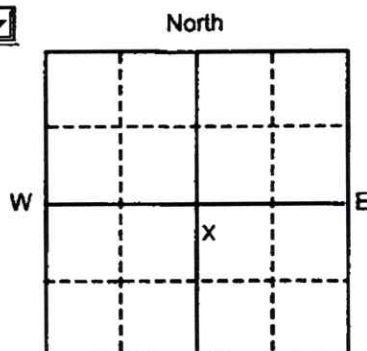
6N 1E
Section: 13

6N 2E
Section: 18



SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW 1/4 SE 1/2 Sec 12 Twp 6N Rg 1ECounty Lawrence ☒Please mark well
location with an "X"

Well Completion Date

6-5-2018

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?

>100 ft. from future septic system (identify source)

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

DHH

CASING DATA:

☒ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
24 LB/FT	8 IN	0 FT	40 FT	9.5 IN
sdr-17 LB/FT	5 IN	+2 FT	302 FT	7.5 IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
cement	30	13 Lb/gal	0 Ft	302 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
pressure grouted through casing

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? chlorine solution
☐ No, Why Not?
Lab to which water
quality sample sent for analysisWell Owner: Jared Lukens-Black

Business Name: _____

Address: 10551 Higgins LaneCity, State, Zip: Spearfish ☒ SD ☒ 57783

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
clay	0	8
sand, silt and gravel	8	34
mostly dolomite, shaley white, purple	34	
red some sandstone		235
shale orange to red some limestone	235	260
limestone with shale layers	260	288
limestone, yellow and white	288	298
limestone, white	298	343

STATIC WATER LEVEL 104 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: Air developed
☐ Bailed

☒ Other

Pumping Level Below Land Surface

340 Ft. After 2 Hrs. pumped 25 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 331 and this report is true and accurate.Drilling firm: Taylor Drilling Co.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

RECEIVED

JUL 19 2018

Date: _____

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 25th, 2024

RECEIVED OF Jared and Anna Lukens-Black 10551 Higgins Lane Spearfish SD 57783

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

Fee for Application for Permit No. <u>2037-1</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</u>
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>2037-1</u>	\$ <u>200.00</u>
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	\$ <u>700.00</u>

By Eric Jonlund
Chief Engineer

Sc

September 17, 2024

REFUND REQUEST FORM

PAYEE:

Jared and Anna Lukens -Black
1010051 Higgins Lane
Spearfish SD 57783

FROM: DANR-Water Rights Program

523 E. Capitol Ave
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Refund for overpayment of Water Permit Application:

AMOUNT: \$400.00

FUNDING SOURCE: WR Fees

GENERAL:

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

Eric Lundberg 9/17/2024

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2037-1, Jared and Anna Lukens-Black**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 2037-1, Jared and Anna Lukens-Black, 10551 Higgins Lane, Spearfish SD 57783.

The Chief Engineer is recommending APPROVAL of Application No. 2037-1 with a twenty-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20 year term limitation, 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. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2037-1 is issued for a twenty-year term. Pursuant to SDCL 46-2A-21, the twenty-year term may be deleted at any time during the twenty-year period or following its expiration. If the twenty-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2037-1 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37.1 and ARSD 74:02:01:37.
2. The well will be 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.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
August 20, 2024

**Report to the Chief Engineer on
Water Permit Application No. 2037-1**
Jared and Anna Lukens-Black
2024 August 12

Water Permit Application No. 2037-1 proposes to appropriate 0.055 cubic feet of water per second (cfs), equivalent to approximately 25 gallons per minute (gpm) from one well completed into the Madison aquifer (approximately 343 feet deep) located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12 for irrigation of 0.6 acres located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12; all in T6N-R1E Black Hills Meridian. Diversions from the well will also supply water to a commercial produce washing facility and domestic household use at the same location. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately two miles west of Spearfish, South Dakota.

Aquifer: Madison Limestone (MDSN)

Hydrogeologic Characteristics

The Madison Group in South Dakota is a Lower Mississippian and Upper Devonian aged group of formations that in the Black Hills consists of the Englewood and Pahasapa Limestone formations [1]. The Pahasapa Limestone is a “white, light-gray to tan, fine- to medium-grained limestone and dolomite containing brown to gray chert” [2]. The Englewood Limestone is a “pink to lavender to light-gray, thin- to medium-bedded, fine- to medium-grained, argillaceous, dolomitic limestone” [2]. The Madison aquifer consists of the permeable and porous portions of the Madison Group that are sufficiently saturated to deliver useful quantities of water. The Madison aquifer extends over more than 210,000 square miles in Montana, Wyoming, North Dakota, South Dakota, and Nebraska [3] although, it may not be suitable as a source of water in all of those areas due to extreme depth to the aquifer and poor water quality far from the outcrops [4]. It crops out in the Black Hills and is buried elsewhere in South Dakota [3]. The Madison aquifer may be hydrologically connected to the underlying Deadwood aquifer. It is also hydrologically connected to the overlying Minnelusa aquifer [5]. The Minnelusa aquifer overlies the Madison unconformably [1], which means there was a period of erosion or weathering between when the Madison Group and the Minnelusa Formation were deposited. Transmissivity in the Madison aquifer mainly comes from secondary porosity features such as solution cavities, faults, and fractures [5]. Because most of the transmissivity in the Madison aquifer comes from secondary porosity features, aquifer characteristics in the Madison aquifer vary greatly from location to location [5].

The applicant submitted a well completion report for a well completed on June 5, 2018 in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12 T6N-R1E. The driller reported encountering clay from ground surface to 8 feet below grade, white and purple shaley dolomite with some sandstone from 34 to 235 feet, orange to red shale with some limestone from 235 to 260 feet, limestone with shale layers from 260 to 288 feet, yellow and white limestone from 288 to 298 feet, and white limestone from 298 to 343 feet. The driller cased and grouted the well from 302 feet below grade and up and measured a static water level of 104 feet below grade at the time the well was completed. Based

on the geology described and static water level, this well is completed into the Madison aquifer [6] [7].

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 domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board (from here on, "Board"). This report will only assess the availability of water and possibility of developing this application without unlawful impairment of existing domestic water uses and water rights.

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 the results of a hydrologic budget. The Madison aquifer is older and stratigraphically lower than the Greenhorn Formation but this application is not for a water distribution system as defined in SDCL 46-1-6(17). Therefore, the Board must consider the balance of recharge and withdrawals if they approve this application.

Pursuant to SDCL 46-2A-20:

Notwithstanding §§ 46-1-14 and 46-2A-7, no water permit for construction of works to withdraw water from the Madison formation in Butte, Fall River, Custer, Lawrence, Meade and Pennington counties may be issued for a term of more than twenty years, unless the Water Management Board determines, based upon the evidence presented at a hearing that:

- (1) Sufficient information is available to determine whether any significant adverse hydrologic effects on the supply of water in the Madison formation would result if the proposed withdrawal were approved; and*
- (2) The information, whether provided by the applicant or by other means, shows that there is a reasonable probability that issuance of the proposed permit would not have a significant adverse effect on nearby Madison formation wells and springs.*

This application proposes to withdraw water from the Madison aquifer in one of the counties listed above. Therefore, in addition to the other requirements, the Board must consider the effect this application may have on nearby Madison aquifer wells and springs and this application is subject to a 20-year term limit.

Pursuant to SDCL 46-5-6 the amount of water diverted may not exceed 1 cfs per 70 acres irrigated, but also provides that the "Water Management Board may allow a greater diversion, in

volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires.” The applicant is requesting to divert more than 1 cfs per 70 acres for this application. In the description of the project for this proposed use, the applicant provided “Irrigation for a small commercial garden. Well also supplies 25 gpm to a commercial produce washing facility and domestic household uses.” Therefore, some of the diversion rate requested is going to non-irrigation uses. Furthermore, commercial gardens are irrigated in a significantly different method than the standard center pivot and possibly time constraints due to preferred hours of operation. Approving this application as an exception to SDCL 46-5-6 would be consistent with past Water Management Board decisions.

Availability of Water

Statewide Hydrologic Budget

Statewide Recharge

The Madison aquifer receives recharge from infiltration of precipitation and streamflow on the outcrop area and may also receive inflow from the underlying Deadwood aquifer [8]. There are several reports available estimating recharge to the Madison aquifer which have been referenced by Water Rights Staff in previous reports to the Chief Engineer.

Woodward-Clyde Consultants [9] estimated recharge to the outcrop of the Madison aquifer in the Black Hills as part of an environmental impact statement for the ETSI Coal Slurry Pipeline Project. The upper-bound estimate of recharge in the Woodward-Clyde Consultants report is approximately 400,000 ac-ft/yr, assuming almost all of the precipitation that falls on the outcrop infiltrates into the aquifer [9]. Woodward-Clyde Consultants produced a lower-bound recharge estimate of 140,000 ac-ft/yr based on the Rahn and Gries [10] report [9]. However, the Rahn and Gries report estimated recharge for all Paleozoic limestone in the Black Hills, which includes the Madison Group, the Minnelusa Formation, and the Minnekahta Formation [10]. Rahn and Gries [10, p. 15] reported that 146.14 cfs was their minimum estimated recharge rate for the Paleozoic limestone from infiltration of precipitation, which converts to approximately 106,000 ac-ft/yr for all Paleozoic formations. The Woodward-Clyde Consultants report did not acknowledge the fact that the Rahn and Gries [10] report estimated minimum recharge for a larger group of formations than the Woodward-Clyde Consultants report covers, and therefore was likely to overestimate recharge to the Madison aquifer under the assumptions made [9].

Carter, Driscoll, and Hamade [8] analyzed streamflow and precipitation data from water years 1931 to 1998 in the Black Hills area in South Dakota and Wyoming to determine the average annual recharge to the Madison and Minnelusa aquifers. They estimated a combined average annual recharge to both aquifers to be 344 cfs, or approximately 249,000 ac-ft/yr, not including possible flow from the Deadwood aquifer [8]. Carter, Driscoll, and Hamade [8] estimated that approximately 55% of the recharge goes to the Madison aquifer, so the total estimated average recharge to the Madison aquifer from the outcrop in the Black Hills is 137,000 ac-ft/yr, not including possible inflow from adjacent aquifers or from the Madison aquifer outside of the Black Hills of South Dakota and Wyoming. The Carter, Driscoll, and Hamade [8] report uses more years of data, more recent data, and better assumptions than the Woodward-Clyde

Consultants [9] and Rahn and Gries [10] reports. Therefore, the best estimate of recharge to the Madison aquifer is based on the Carter, Driscoll, and Hamade [8] report.

Statewide Discharge

Discharge from the Madison aquifer in South Dakota is mainly by outflow to other aquifers when the hydraulic head in the Madison aquifer is higher than the other aquifers, outflow to springs and seeps, and withdrawals by domestic and appropriative wells [11]. Due to the presence of overlying aquifers and water distribution systems in many areas of the aquifer, domestic well withdrawals are a negligible portion of the hydrologic budget of the Madison aquifer. There are 172 water rights/permits currently authorized to withdraw from the Madison aquifer, and 11 future use water rights/permits reserving water from the Madison aquifer. Table 1 shows the future use permits reserving water from the Madison aquifer [12].

Table 1: Future Use Permits from the Madison aquifer [12]

Permit No.	Name/Business	County	Use	Priority Date	Amount Reserved (ac-ft/yr)
2028-1	Bear Butte Valley Water, Inc	MD	RWS, WDS	03/23/2023	440
369-1	City of Belle Fourche	LA	MUN	12/10/1958	620
2086-2	City of Rapid City	PE	MUN	05/18/1989	4,075
439-2*	City of Rapid City	PE	MUN	09/22/1956	3,367
1872-1	City of Spearfish	LA	MUN	11/13/2006	2,704
2560-2	Fall River Water Users District	FR	RWS	05/16/2005	358
2560A-2	Fall River Water Users District	FR	RWS	05/16/2005	0
2560B-2	Fall River Water Users District	FR	RWS	05/16/2005	0
2580-2	Southern Black Hills Water System	FR	RWS	03/02/2006	1,474
1833-2	Weston Heights Home Owners	MD	RWS	02/18/1983	211
1995-1	Black Hawk Water User District	MD	RWS	04/15/2020	1,300
Total					14,549
FR – Fall River, LA – Lawrence, MD – Meade, PE – Pennington					
MUN – Municipal, RWS – Rural Water System, WDS – Water Distribution System					
* This permit reserves water from multiple aquifers but is assumed to withdraw solely from the Madison for estimation of the hydrologic budget.					

Of the 172 active water rights/permits, 107 are primarily for some type of water distribution system (rural water system, municipal, etc), 31 primarily for irrigation, 14 for commercial use, 11 for industrial use, 4 for domestic use, 2 for geothermal use, 2 for institutional use, and one for recreation [12]. Estimated withdrawals for irrigation use are shown in Table 2. When there were more than 10 years of irrigation reports available, the average reported irrigation was used to estimate irrigation withdrawals. When there were fewer than 10 years of irrigation reports available, withdrawals are assumed to equal two acre-feet per acre, although actual usage is likely less for non-turf irrigation. Non-irrigation withdrawals from permit holders with irrigation also being a permitted use are assumed to withdraw at their maximum instantaneous diversion rate 60% of the time. In the case of Water Right No. 1885-1, that would have caused the total

Report on Water Permit App. No. 2037-1

estimated withdrawal to exceed the rate they were physically capable of withdrawing, so their total estimated withdrawal is 100% of their maximum instantaneous diversion rate.

Table 2: Permits with irrigation listed as one beneficial use, or are connected to an irrigation permit [12] [13]

Permit No.	Name/Business	Diversio n rate (cfs)	Acres Licensed/ Permitted	Average Report (ac-ft/yr)	Years of Irrigation Reports	Estimated average irrigation (ac-ft/yr)	Est. Non- irr. Use (ac-ft/yr)	Total Est. Withdrawa l (ac-ft/yr)
2773-2	Arrowhead Country Club	1.110	100.0	0.0	6	200.0	0.0	200.0
1635-1	Black Hills National Cemetery	0.820	54.5	94.7	28	94.7	356.4	451.1
1452-1	Black Hills State College	3.330	25.4	20.1	35	20.1	1,447.5	1,467.6
1670-1	Buddy L, Peggy A, Kami S Ireland	3.610	253.0	43.9	26	*	*	*
1096A-1	Butte Meade Sanitary Dist	1.330	0.0	N/A	0	*	*	963.5
2458-2	City of Rapid City	0.800	107.0	104.6	23	104.6	0.0	104.6
2002-1	City of Spearfish	1.330	40.0	0.0	3	80.0	0.0	80.0
2313-2	Coca-Cola Bottling	0.330	3.0	7.1	29	7.1	143.4	150.6
1899-1	Davis Ranches Inc	1.430	100.0	0.0	15	0.0	0.0	0.0
1650-1	Dennis L Miller	0.890	0.0	85.4	1	*	*	55.9
2673-2	Diocese of Rapid City	0.120	7.0	8.2	11	8.2	0.0	8.2
1009-1	Donald F/Ann J Brady	0.780	53.7	29.0	42	29.0	0.0	29.0
1185-1		0.380	22.5	115.0	42	115.0	***	115.0
2286-2	Donald Konechne	0.100	38.5	9.8	30	9.8	0.0	9.8
1707A-1	Elkhorn Ridge @ Frawley Ranches LLC	3.705	100.0	0.0	4	0.0	1,610.5	1,610.5
1707E-1**		0.000	0.0	14.2	17	14.2	0	14.2
1931-1		0.170	3.3	3.0	11	3.0	73.9	76.9
1945-1	Frawley Ranches LLC	1.110	265.0	53.4	10	530.0	0.0	530.0
1858-1	Glencoe Camp Resort II LLC	0.860	34.0	0.0	18	0.0	373.8	373.8
2593-2	Hart Ranch Development	0.490	72.5	29.8	17	29.8	213.0	242.8
1911-2	Hart Ranch Development Co	0.880	124.0	118.0	30	118.0	382.5	500.5
1725-2	Janice R Crowser	1.070	75.1	0.9	25	0.9	0.0	0.9
2012-1	Jesse Horstmann	0.500	43.5	0.0	2	87.0	0.0	87.0
858-2	John & Heidi McBride	9.360	655.8	6.4	40	6.4	0.0	6.4
1885-1	John T & Veronica Widdoss	0.110	22.0	18.5	7	44.0	35.7	79.7
1960-1	One Diamond Inc	1.280	150.0	130.1	8	300.0	29.0	329.0
1223-1	P & L Water and Hay LLP	0.670	263.0	186.1	42	186.1	0.0	186.1
1923-1	Roger and Jean Ranschau	0.110	3.0	0.8	12	0.8	47.8	48.6
2013-1	Santa Maria Land and Cattle Corp.	2.220	460.0	0.0	1	920.0	0.0	920.0
1363-1	Spearfish Canyon Country Club	0.900	80.1	66.4	37	66.4	0.0	66.4
2106-2	Stuart Rice	0.080	2.8	0.8	32	0.8	34.8	35.6
1842-1	Tom C Davis	0.440	330.0	0.0	19	0.0	0.0	0.0
2741-2	Tubbs Land & Cattle LLC	3.340	567.0	267.7	5	1,134.0	0.0	1,134.0
419-2	Wind Cave National Park	0.150	6.0	N/A	0	12.0	65.2	77.2
Total		43.805	4,061.7	1,414.0	628	4,122.1	4,813.5	9,955.0
* Discussed in text. **gives additional time to develop 1707A-1. *** Reports all use types in irrigation report								

Water Right/Permit Nos. 1096A-1, 1496-1, and 1670-1 are all authorized to withdraw from the same well and one dam. Water Right Nos. 1096A-1, 1670-1 authorize diversion of water for irrigation use and Water Right No. 1096A-1 and Water Permit No. 1496-1 authorize diversion of water for rural water system use. Documentation in the administrative file for Water Right No. 1670-1 indicates that the well is not valved such that it can be shut off when not in use for the

beneficial uses listed on the permits. A letter dated September 9, 1998, indicates that when the water for that well is not being used for the beneficial uses described in the permits, it is used for fish and wildlife propagation. The person writing the letter indicated they would prefer the Board not order the well to be shut off when not used for irrigation or rural water system withdrawals. It is likely the well continues to flow uncontrolled; thus, at the flow rate listed in Water Right No. 1096A-1 of 1.33 cfs, that well withdraws approximately 964 ac-ft/yr from the Madison aquifer.

Water Right No. 1650-1 does not require the water right holder to report annual withdrawals and allocates no acreage. It provides supplemental water supply from a flowing well for Water Right No. 1231-1. Water Right No. 1231-1 permits a 110 acre-ft dam to provide water for a commercial livestock operation and irrigation of 134 acres. Water Right No. 1650-1 allows for direct irrigation from a Madison aquifer well of up to 2 acre-ft per acre for the land permitted by Water Right No. 1231-1. Kilts estimated that Water Right No. 1650-1 withdraws 55.9 ac-ft/yr [14]. This water right was transferred to a new owner in 2021. For the 2023 irrigation season, the owner reported using 85.36 ac-ft of water for irrigation. As this is the only year this owner has reported, the value of 55.9 ac-ft/yr will be used as their average until more years of reporting can establish an average.

There are 7 water rights/permits for water distribution systems that have indicated to the DANR Drinking Water Program [15] that they do not produce water from their own wells and are purchasing water from another system, so they are assumed to withdraw a negligible amount of water.

There are 49 water rights/permits that have a volume limit listed in their permit or have had their total withdrawal limited by a subsequent water right/permit held by the same person/entity. While many of those water rights/permits are required to report their withdrawals, they may develop their permits further to withdraw up to the limit on their permit, so the volume limit listed on their permits is assumed to be their total appropriation. The total volume limit listed by such permits is 28,115 ac-ft/yr.

There are 82 non-irrigation water rights/permits that do not have a volume limit listed in their permit and are not discussed above. They are estimated to withdraw their maximum instantaneous diversion rate 60% of the time, for a total estimated withdrawal of 15,279 ac-ft/yr. Based on Water Rights Staff experience, this estimate is likely to be higher than the actual withdrawals by those water rights/permits.

In addition to the potential withdrawals by future use permits described above, three other applications are deferred, held in abeyance, or pending review. Water Permit Application No. 2585-2 for Southern Black Hills Water System proposes to appropriate 1,600 ac-ft/yr but is deferred for further study. Water Permit Application No. 2685-2 for Powertech, Inc is held in abeyance pending federal permitting and proposes to appropriate 889 ac-ft/yr. Water Permit Application No. 2879-2 for Weinreis Brothers, LLC, is pending approval following public notice and proposes to irrigate 75 acres in Fall River County. That application may withdraw at most 150 ac-ft/yr.

Summary of Statewide Hydrologic Budget

The best available estimate of recharge to the Madison aquifer in South Dakota is approximately 137,000 ac-ft/yr. The estimated withdrawals as described in the Statewide Discharge section are summarized in Table 3. The total estimated withdrawal, including withdrawals reserved for future use and held, or deferred applications is approximately 70,537 ac-ft/yr. This application proposes to withdraw 0.055 cfs, equivalent to 40 ac-ft/yr if it pumps continuously, although it will likely use much less than that. Therefore, based on the statewide hydrologic budget, there is reasonable probability unappropriated water is available for this application.

Table 3: Summary of estimated appropriations

Use Type	Count	Estimated Use/Appropriation (ac-ft/yr)
Irrigation	34	9,955
Standby	7	0
Volume Limit	49	28,115
Sixty Percent Estimate	82	15,279
<i>Subtotal</i>	<i>172</i>	<i>53,349</i>
Future Use	11	14,549
Pending	3	2,639
Grand Total	186	70,537

Local Hydrologic Budgets

While the statewide hydrologic budget is used as the basis for determination of availability of water, other studies exist which have focused on smaller areas of the Black Hills. This section will address estimated withdrawals within those areas for the information of the Chief Engineer and the Board.

Carter, et al. [11]

Carter, et al [11] used streamflow, precipitation, spring flow, estimated ground water flow, and well withdrawal data from 1987 to 1996 for the hydrologic budgets. This application is in Subarea 1 of their report. The boundaries of the Carter et al. [11] subareas were designed to minimize flow across subarea boundaries. Carter et al. [11] estimated the total recharge to the Madison and Minnelusa aquifers in Subarea 1 was 130.7 cfs. Assuming 55% of the recharge goes to the Madison aquifer, the estimated recharge to the Madison aquifer in Subarea 1 is 71.9 cfs, or approximately 52,100 ac-ft/yr [8] [11]. Carter, et al. [11] do not provide values for the recharge area of the Madison and Minnelusa formations for each subarea in their report, so it is possible the proportion of recharge area to those two aquifers is different within each subarea. There are 36 water rights/permits authorized to withdraw from Subarea 1 and two future use permits reserving water from Subarea 1. Domestic well withdrawals are negligible on the scale of this hydrologic budget. Using the same methods as described in the Statewide Discharge section, the total estimated withdrawal from Subarea 1 is 19,652 ac-ft/yr as compared to the estimated recharge of 52,100 ac-ft/yr. This application proposes to withdraw up to 40 ac-ft/yr, if approved. Therefore, based on the local hydrologic budget in combination with other information available, there is reasonable probability unappropriated water is available for this application.

Putnam and Long [16]

Putnam and Long [16] characterized groundwater flow in northern Lawrence County in the Madison and Minnelusa aquifers. They estimated the average annual recharge to the Madison and Minnelusa aquifers was 38.1 cfs. They estimated recharge to the Madison aquifer from precipitation infiltration, and stream flow infiltration from Spearfish and False Bottom Creeks, to total 16.5 cfs [16]. There were 6.0 cfs of infiltration from Bear Gulch and Beaver Creek that the Putnam and Long [16] report does not specifically attribute to either the Madison or Minnelusa aquifers. Approximately 23% of the river miles from Bear Gulch and Beaver Creek are above the Madison aquifer [17] [4]. Assuming recharge occurs in proportion to the mileage of those flows, approximately 1.4 cfs of recharge to the Madison aquifer comes from Bear Gulch and Beaver Creek. Therefore, according to the Putnam and Long [16] report, recharge to the Madison aquifer in the area of that study is 17.9 cfs, equivalent to 12,968 ac-ft/yr. That estimate does not include recharge from groundwater inflows from other parts of the Madison aquifer. There are 42 water rights/permits authorized to withdraw and two future use permits reserving water from the Madison aquifer in the area of the Putnam and Long [16] study [12]. Using the same methods as in the Statewide Discharge section, the total estimated withdrawal including reservations for future use in the Putnam and Long [16] study area is 17,551 ac-ft/yr. This application seeks to appropriate up to 40 ac-ft/yr. This hydrologic budget does not include recharge from groundwater flow from other areas of the Madison aquifer and estimates from permits only limited by discharge rate are likely to be higher than actual withdrawals.

Observation Wells

Administrative Rule of South Dakota 74:02:05:07 requires that the Board rely upon the record of observation wells, in addition to other information, to determine that recharge exceeds withdrawals to approve an application. The Water Rights Program maintains 25 observation wells completed into the Madison aquifer [18]. The nearest observation well to this application that is completed into the Madison aquifer is LA-96B, which is located approximately 2.3 miles south-southeast of the well for this application. From some time in 2018 through late 2023, Observation Well LA-96B had an object lodged in its casing, preventing measurement. The next-nearest observation wells are LA-87A, located approximately 3.7 miles west-northwest of this application, and LA-88C, located approximately 5.6 miles east-southeast of this application. Figure 1 shows water elevations those three observation wells over the period of record. The fluctuations in these three wells represent the general behavior of the Madison aquifer. In general, water levels rise during periods of higher-than-average rainfall and decline during periods of lower-than-average rainfall [19]. This means that recharge and natural discharge are the dominant effects in the aquifer and natural discharge is available for capture. Therefore, based on observation well analysis, there is reasonable probability unappropriated water is available for this application.

DANR Observation Wells Near This Application

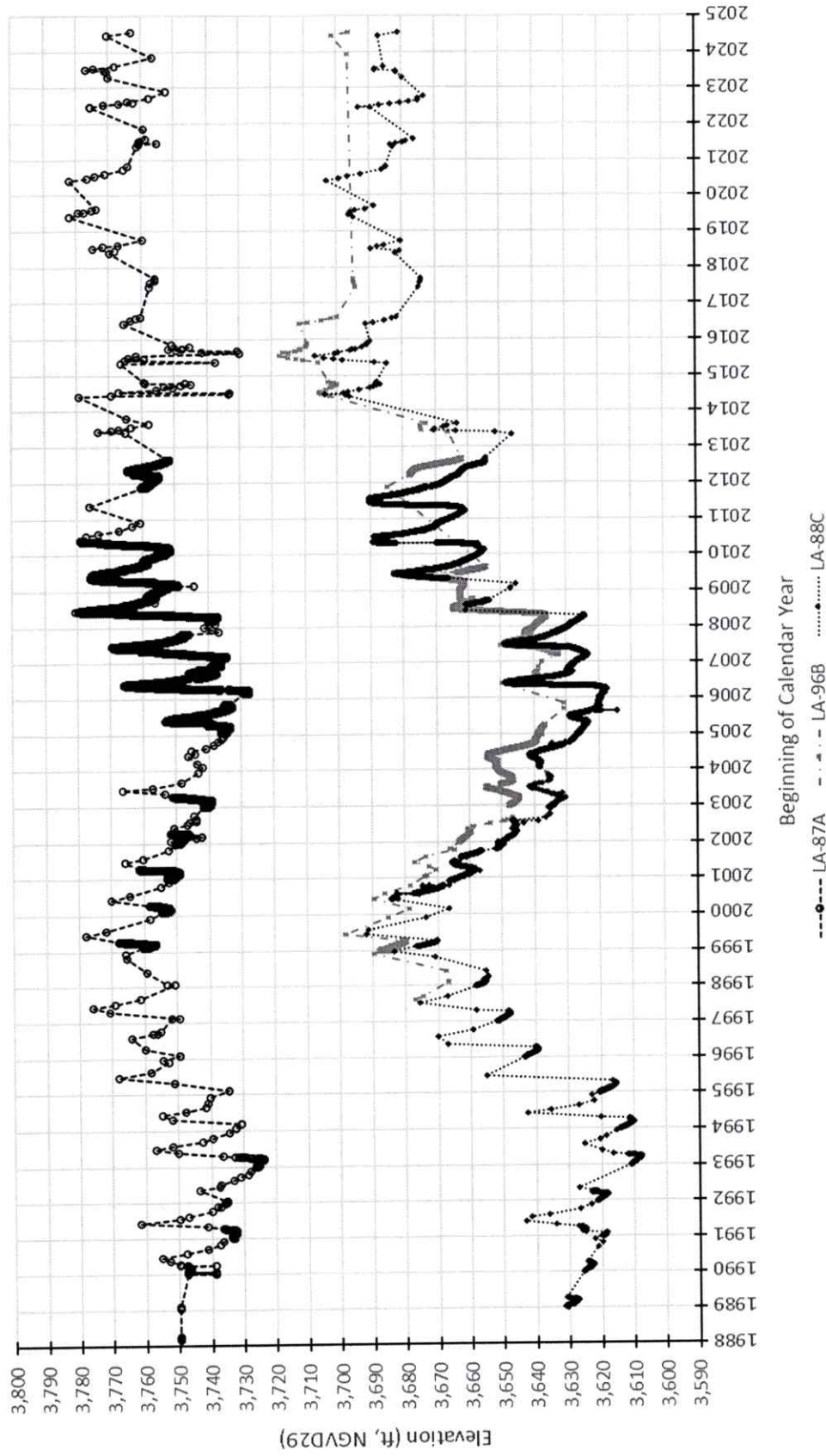


Figure 1: Observation Wells near this application [18]

Possibility of Unlawful Impairment of Existing Water Rights

The nearest water right or permits to this application are Water Right No. 1950-1, located approximately 1 mile north of this application, and Water Permit No. 2005-1, located approximately 0.9 miles north of this application [12]. There are numerous well completion reports for domestic wells on file in the same mile section as this application [20]. The location of well completion reports in the DANR well completion reports database is the location provided by the well driller. The Water Rights Program has historically interpreted an unlawful impairment of existing water rights to occur if a junior water right/permit causes a nearby adequate well with a senior water right/permit to become unable to withdraw at the rate it is entitled to or, if a domestic well is impacted, a water right/permit causes an adequate domestic well to be unable to withdraw at the rate needed to supply reasonable domestic use of water. Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) defines an adequate well as:

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

Precise drawdown effects caused by a well cannot be known without an aquifer performance test that includes an observation well at the location of concern. Madison aquifer characteristics vary greatly from location to location. In the area of this application, the Madison aquifer is under unconfined conditions. Therefore, drawdown is not likely to occur as far from the pumped well as it would in a confined area of the aquifer. Because the Madison aquifer is unconfined near this application, the top of the aquifer is defined as the static water level at the time the well is completed. If the well does not meet the definition of an adversely impacted adequate well (ARSD 74:02:04:20(7)), the Board has not historically considered it an unlawful impairment of existing water rights. There is no record of well interference complaints in Lawrence County in the Madison aquifer [21] and the well for this application has likely been in use as a domestic well since it was drilled in 2018. Observation wells completed into this aquifer near larger appropriative wells show limited drawdown when the large appropriative wells are in use [18]. Given the lack of well interference complaints in Lawrence County, and limited drawdown shown in observation wells completed near large appropriations, there is reasonable probability this application can be developed without unlawful impairment of existing water rights. However, out of an abundance of caution, the applicant should control withdrawals so that adequate domestic wells and senior water rights are able to access needed water.

Impact to Springs

The nearest major artesian spring to this application is Higgins Gulch Spring, located approximately 4 miles northeast of the well for this application [22]. Upon considering the deferral of Water Permit Application No. 2585-2 for Southern Black Hills Water System, the Board adopted a conclusion of law stating in part, "... The only protection South Dakota law provides when considering an application for an underground water permit for flow from an artesian spring is under the public interest criteria" [23]. Given the distance between the

proposed well site and the nearest springs and the relatively small diversion rate, there is reasonable probability this application can be developed without noticeably impacting flow from the spring.

Conclusions

1. Water Permit Application No. 2037-1 proposes to appropriate 0.055 cfs from one well completed into the Madison aquifer located in the NW ¼ SE ¼ Section 12 for irrigation of 0.6 acres located in the NW ¼ SE ¼ Section 12, as well as domestic and commercial use in the same area; all in T6N-R1E Black Hills Meridian.
2. This application requests a greater diversion rate than the statutory limit of 1 cfs per 70 acres. Several of the uses for this application are non-irrigation and this application is proposing to irrigate using a method consistent with watering a garden and possibly with time constraints due to preferred hours of operation. Therefore, it is consistent with past Board decisions to approve this application as an exception to the statutory limit.
3. Based on the hydrologic budget and 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 of existing water rights.
5. There is reasonable probability this application can be developed without noticeably impacting flow from major springs.



Kimberly C. Drennon, E.I.

Natural Resources Engineer II – DANR Water Rights Program

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

August 21, 2024

Jared and Anna Lukens-Black
10551 Higgins Lane
Spearfish SD 57783

Dear Mr. & Mrs. Lukens-Black:

Water Permit Application No. 2037-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Black Hills Pioneer printed in Spearfish SD (Ph # 605 642-2761). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
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.

NOTICE OF APPLICATION NO. 2037-1 to Appropriate Water

Notice is given that Jared and Anna Lukens-Black, 10551 Higgins Lane, Spearfish SD 57783, have filed an application for a water permit to appropriate 0.055 cubic feet of water per second (cfs) from one well completed into the Madison Aquifer (approximately 343 feet deep) located in the NW 1/4 SE 1/4 Section 12 for irrigation of 0.6 acres located in the NW 1/4 SE 1/4 Section 12; all in T6N-R1E. Diversion from the well will also supply water to a commercial produce washing facility and domestic household use at the same location. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately two miles west of Spearfish SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2037-1 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 9, 2024.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 9, 2024.

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_

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, August 21, 2024 8:27 AM
To: legals@bhpioneer.com
Subject: 2037-1 Jared and Anna Lukens-Black - Public Notice
Attachments: 2037-1 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 29, 2024.

Jared and Anna Lukens-Black, 10551 Higgins Lane, Spearfish SD 57783, 605-440-0226, 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 Ave, Pierre SD 57501.

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

**NOTICE OF
APPLICATION NO.
2037-1 to Appropriate
Water**

Notice is given that Jared and Anna Lukens-Black, 10551 Higgins Lane, Spearfish SD 57783, have filed an application for a water permit to appropriate 0.055 cubic feet of water per second (cfs) from one well completed into the Madison Aquifer (approximately 343 feet deep) located in the NW 1/4 SE 1/4 Section 12 for irrigation of 0.6 acres located in the NW 1/4 SE

Notice Of Application
No. 2037-1

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 29th day of Aug, 2024, and the last publication on the _____ day of _____, _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 41.25, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

[Signature]
Subscribed and sworn to before me this 30th day of Aug, 2024

[Signature]

Notary Public, Lawrence County, South Dakota

My commission expires: 7-18-2025

RECEIVED

SEP 03 2024

OFFICE OF
WATER

1/4 Section 12; all in T6N-R1E. Diversion from the well will also supply water to a commercial produce washing facility and domestic household use at the same location. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately two miles west of Spearfish SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2037-1 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Wa-

ter Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 9, 2024.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the pe-

tioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 9, 2024.

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 \$42.70 and can be viewed free of charge at www.sd-publicnotices.com.

#890

Aug 29

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, August 21, 2024 8:33 AM
To: buddingmoonfarm@gmail.com
Subject: 2037-1 Jared and Anna Lukens-Black - Public Notice
Attachments: 2037-1 Rec.pdf; 2037-1 Ltr.pdf; 2037-1 PubNotice.pdf

Good morning,

Attached is a copy of the report, chief engineer's recommendation, and information regarding the public notice for your water permit application. As stated in the letter, **please contact the paper(s) as soon as possible to authorize publication and arrange for payment.** This information is also being mailed to you today.

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

SEP 18 2024

Jared and Anna Lukens-Black
1010551 Higgins Lane
Spearfish SD 57783

Dear Mr. & Mrs. Lukens-Black:

Enclosed is Water Permit No. 2037-1 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

An application/license filing fee of \$700.00 was submitted with the application. The correct fee for this permit is \$300.00. Therefore, \$400.00 will be refunded to you. The refund check should be received within the next couple of weeks.

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 2037-1

Name of Applicant: Jared and Anna Lukens-Black

Date of Posting: 8/26/2024

Date of Removal: 9/18/2024



Ron Duvall, Engineer III

9/18/2024

Date

Subscribed and sworn to before me, a notary public, this 18th day of Sept, 20 24.



Notary Public - South Dakota
My commission expires: **Rachel Rodriguez**
My Commission Expires
May 16, 2029

(SEAL)

