

WATER PERMIT NO. 2846-2

Name of Applicant: Clay Kaiser

Address: 31427 296th St, Millboro SD 57580

Phone: 605 840-4948

Amount of Water Claimed: 1.11 cfs

Total Acres: 60 acres

Source of Water Supply: runoff – existing dam

Water to be used for: irrigation

County: Tripp

Type of Waste Disposal System:

Location: 21 miles south of Winner

PRIORITY

Date Received: 3-28-22

Application/License Fee: \$ 700

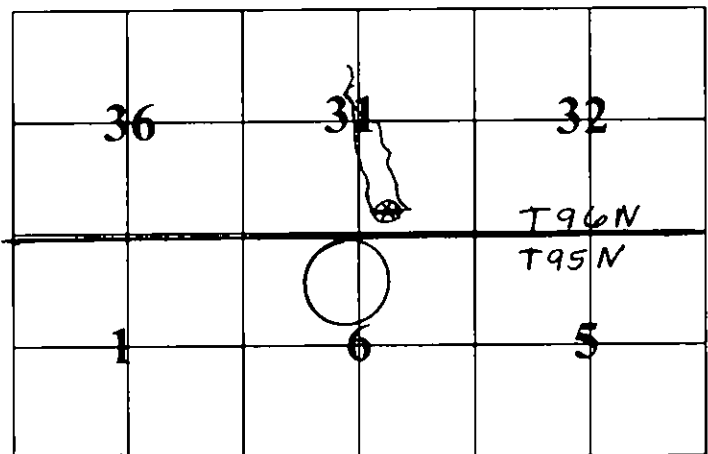
Corrected Application Received: 4-5-22

Period of Annual Use: May 1 – October 31

Remarks: Requesting diversion rate greater than statutory limit

Diversion Point: SW 1/4 SE 1/4 Sec 31-T96N-
R76W

Land to be Irrigated: E 1/2 NW 1/4, W 1/2 NE 1/4
Sec 6-T95N-R76W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 4-5-22

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA WATER PERMIT NO. 2846-2

Date of first receipt of application March 28, 2022.

Date of return to applicant for corrections, amendments or changes March 29, 2022.

Date of receipt of corrected application April 5, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2846-2 to Clay Kaiser, 31427 296th St, Millboro SD 57580 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. 2846-2 appropriates 1.11 cubic feet of water per second (cfs) from an existing 242 acre-foot storage dam authorized by Water Permit No. 2711-2 located in the SW 1/4 SE 1/4 Section 31-T96N-R76W to irrigate 60 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 6-T95N-R76W. This site is located approximately 21 miles south of Winner 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: May 1 – October 31.
3. The date from which applicant may claim right is March 28, 2022.
4. The date of approval of Permit No. 2846-2 is May 16, 2022.
5. One-fifth of the construction is to be completed on or before November 16, 2024.
6. All construction is to be completed on or before May 16, 2027.
7. Water is to be put to beneficial use on or before May 16, 2031.
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. Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from contributing tributaries when flow from the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the Chief Engineer. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

Irrigation from stored water in the dam may take place when the Keya Paha River low flow criteria is in effect as follows:

- When there is no inflow to the dam.
- When inflow is occurring, an equal amount of water is being bypassed through the dam using a low flow outlet mechanism.

(continued)

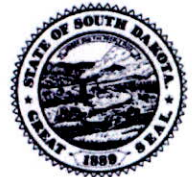
Water Permit No. 2846-2
Clay Kaiser
Page 2

2. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 2846-2 authorizes a maximum diversion rate of 1.11 cfs from the dam for the irrigation of 60 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
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

JUN 01 2022
date



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

MAR 28 2022

PAID

MAR 28 2022

Ck# 5979

Rec't#

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2846-2</u>	(office use only) Hydrologic Unit <u>10150006</u>	WATER RIGHTS PROGRAM
	Basin <u>Niobrara Trib</u>		
	Newspaper <u>Winner Advocate</u>		
	<u>Plainsman</u>		

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 Clay Kaiser

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

Mailing Address 31427 296th St Millboro SD 57580
(Address) (City) (State) (Zip Code)

Phone (605) 557-3366 Mobile 840-4948 Email renae.dawn@hotmail.com

2. Amount of water claimed 1.11 *CFS or 500 **GPM ***AF Total Acreage 60
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Existing Dam

4. Location of point of diversion 31-96N-76W (SW 1/4 SE 1/4)
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

Authorized by Water Permit No. 2711-2 County Tripp

5. County or counties where water will be used Tripp6. Annual period during which water is to be used May 1 to October 31

7. 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
NE 1/4 of NW 1/4 6-95N-76W	40.31	SE 1/4 NW 1/4 6-95N-76W	12
NW 1/4 of NE 1/4 6-95N-76W	10.13	SW 1/4 NE 1/4 6-95N-76W	4
SW 1/4 NW 1/4 6-95N-76W	10		

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

Would like to add a 60 +/- Acre pivot to land I purchased in 2018. The water will come from a dam I built in 2014 when I constructed two pivots. The new pivot will be serviced with the existing pump. I will be using a Corn - Alfalfa rotation. Requesting diversion rate greater than statutory limit.

1. Clay Kaiser 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.

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 ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

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

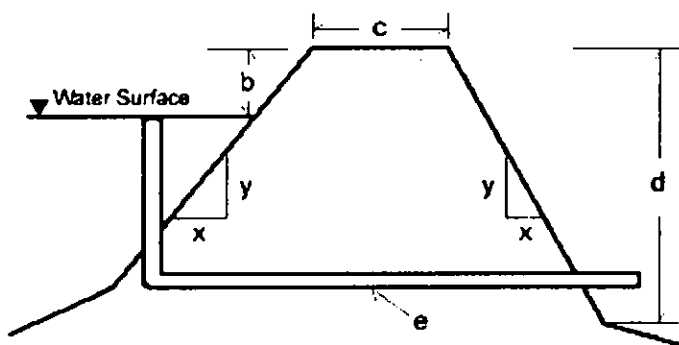
a) Surface Dimensions ____ Depth ____

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: ____

Existing Dam
Permit # 2711-Z

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) Surface Area of Impoundment ____

i) Storage ____ Acre Feet

j) Drainage Area Above Dam ____ Acres



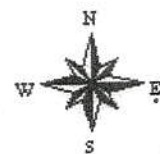
Aerial Map



map center: 43° 4' 51.33, -99° 52' 47.55

0ft 823ft 1647ft

6-95N-76W
Tripp County
South Dakota



5/23/2018

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 28, 2022

RECEIVED OF Clay/Renae Kaiser 31427 296th St Millboro SD 57580

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

Fee for Application for Permit No. <u>2846-2</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>2846-2</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 Gronlund
Chief Engineer

eru



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 29, 2022

Clay Kaiser
31427 296th St
Millboro SD 57580

Dear Mr. Kaiser:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Tripp County. To complete the application, the following needs to be clarified.

- On Item No. 6, Annual period during which water is to be used. Do you agree with changing June - October to May 1 - October 31? This will give you more flexibility when operating your system.
- The application states total acreage as 60 acres. Further down the application you indicate 60 + - acre pivot. Please be aware if the application is approved for 60 acres and more acres are developed, the additional acres will require another permit application. It would be to your advantage to determine the number of acres the pivot will cover at this time. If you increase the acreage over 60 acres, the application fee will increase \$250.00.

If your application remains for 60 acres, I have included an aerial photo map which outlines 60 acres and breakdown in acres by the quarter quarter is as follows: Do you agree?

Section 6-T95N-R76W	NE 1/4 NW 1/4	31 acres	SE 1/4 NW 1/4	12 acres
	NW 1/4 NE 1/4	13 acres	SW 1/4 NE 1/4	4 acres

If you decide to increase the number of acres to be irrigated, please outline that area on the enclosed map, list the total number of acres to be irrigated and submit the additional fee.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

Water Rights Program - File Documentation

NAME: Clay Kaiser

ADDRESS: Millboro SD

DATE: April 5, 2022

RE: Pending application

COMMENTS:

Clay Kaiser called regarding my March 29th letter. Mr. Kaiser indicated he would like the period of annual use to be May 1 – October 31.

He also indicated he would like the application to be for 60 acres. He said the pivot would probably cover more like 50 acres and be the size of the pivot located to northeast of his proposed pivot as shown on the aerial photo map I created with the green pivot outlined.



Karen Schlaak
Water Rights Program



**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. 2846-2, Clay Kaiser**

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. 2846-2, Clay Kaiser, 31427 296th Street, Millboro SD 57580.

The Chief Engineer is recommending APPROVAL of Application No. 2846-2 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. Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from contributing tributaries when flow from the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the Chief Engineer. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

Irrigation from stored water in the dam may take place when the Keya Paha River low flow criteria is in effect as follows:

- When there is no inflow to the dam.
 - When inflow is occurring, an equal amount of water is being bypassed through the dam using a low flow outlet mechanism.
2. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 2846-2 authorizes a maximum diversion rate of 1.11 cfs from the dam for the irrigation of 60 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
 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
April 25, 2022

REPORT ON WATER PERMIT APPLICATION NO. 2846-2

**Clay Kaiser
April 22, 2022**

Application No 2846-2, proposes to appropriate 1.11 cubic feet of water per second (cfs) from an existing 242 acre-feet storage dam authorized by Water Permit No. 2711-2 located in the SW 1/4 SE 1/4 Section 31-T96N-R76W to irrigate 60 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 6-T95N-R76W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 21 miles south of Winner SD in Tripp County.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 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. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Proposed Project and Water Source

The applicant holds Water Permit No. 2711-2 authorizing the impoundment of 242 acre-feet of water in a dam and appropriates 3.91 cfs from the dam for the irrigation of 274 acres. This application proposes to appropriate an additional 1.11 cfs from the dam to irrigate 60 acres (Water Rights. 2022).

The applicant proposes to irrigate 60 acres utilizing a center pivot irrigator at a diversion rate of 1.11 cfs. The applicant is requesting a diversion rate greater the statutory limit of 1 cfs per 70 irrigated acres as specified in SDCL 46-5-6.

46-5-6. Appropriation of water for irrigation--Limitation of amount.

In the issuance of permits to appropriate water for irrigation or in the adjudication of rights to the use of water for such purpose, the amount allowed may not be in excess of the rate of one cubic foot of water per second for each seventy acres, or the equivalent thereof, and the volume of water diverted for use may not exceed two acre-feet per acre, delivered on the land for a specified time each year. 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. However, no annual volume may be greater than three acre-feet per acre delivered to the land. The above rate of one cubic foot per second for each seventy acres does not apply in cases of flood water at such times when the flow of the stream is much in excess of the total recorded and approved rights on the stream.

The Water Management Board may allow for a greater diversion rate if the method of irrigation requires it. The applicant intends to use the existing pump authorized by Water Permit No. 2711-2 to supply this smaller center pivot.

The water source for the proposed project is runoff from a watershed located on an unnamed tributary to the Keya Paha River. A watershed yield analysis was made for runoff from the watershed located upstream from the dam. The analysis estimated the drainage area above the dam to be 6,643 acres and had a potential annual yield with an 80% chance of occurrence or 8 out of 10 years of yielding 369 acre-feet annually. At a 50% chance of occurrence or 1 out of 2 years of yielding 780 acre-feet annually. At a 10% chance of occurrence, 1 out of 10 years, the estimated annual runoff yield is 2,450 acre-feet (USDA-NRCS, 2009). The watershed can provide sufficient runoff to fill this dam and supply water for irrigation of the total acres authorized by Water Permit No. 2711-2 and this proposed permit except in years of extremely dry climatic conditions.

Review of Existing Water Rights

There is one existing water permit appropriating 3.91 cfs from this unnamed tributary. This permit is held by the applicant. There are 11 existing water rights/permits appropriating 15.55 cfs from the Keya Paha River downstream from the unnamed tributary's confluence with the river to where the river crosses the South Dakota-Nebraska border.

This unnamed tributary is a tributary to the Keya Paha River. The Water Management Board at a February 27, 1991, hearing revised the qualifications on water rights/permits from the Keya Paha River and contributing tributaries. When Water Permit No. 2711-2 was issued in 2013 it included the Board adopted qualification and, in addition, a special flow bypass qualification. If this permit is approved, it should contain the following qualifications to protect downstream domestic use and existing rights and to be with consistent Water Permit No. 2711-2:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from contributing tributaries when flow from the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the Chief Engineer. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

Irrigation from stored water in the dam may take place when the Keya Paha River low flow criteria is in effect as follows:

- When there is no inflow to the dam.
- When inflow is occurring, an equal amount of water is being bypassed through the dam using a low flow outlet mechanism.

Conclusions

1. This application proposes to appropriate 1.11 cubic feet of water per second (cfs) from an existing dam on an unnamed tributary to the Keya Paha River for irrigation of 60 acres.
2. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.
3. The Water Management Board may allow for a greater diversion rate if the method of irrigation requires it. The applicant intends to use the existing pump authorized by Water Permit No. 2711-2 to supply this smaller center pivot.
4. There should be sufficient water available for this proposed permit except in years of extremely dry climatic conditions.
5. If this permit is approved, in order to protect downstream domestic use and existing rights, it should contain the following qualifications:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from contributing tributaries when flow from the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the Chief Engineer. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

Irrigation from stored water in the dam may take place when the Keya Paha River low flow criteria is in effect as follows:

- When there is no inflow to the dam.
- When inflow is occurring, an equal amount of water is being bypassed through the dam using a low flow outlet mechanism.



Mark D. Rath
Natural Resources Engineer III

References

1. USDA-NRCS. 2009. National Engineering Handbook Part 630 Hydrology - South Dakota Engineering Field Manual - Watershed Yield.
2. Water Rights. 2022. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 25, 2022 8:34 AM
To: renae.dawn@hotmail.com
Subject: Water Permit Application No. 2846-2
Attachments: 3319.pdf

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

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



AFFIDAVIT OF PUBLICATION

State of South Dakota, county of Tripp-ss.

Dan Bechtold

of said county being first duly sworn, on oath says that he is the Editor of the

WINNER ADVOCATE

a weekly newspaper printed and published at Winner, said county of Tripp, and has full and personal knowledge of all the facts herein stated that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies weekly and has been published within said county for fifty-two successive weeks prior to the publication of the notice herein mentioned, and was printed wholly or in part in an office maintained at said place of publication; that the

96 lines @ 1 column X 90%

Application NO. 2846-2

Clay Kaiser

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this affidavit, was published in said newspaper at least once in each week for 1 week(s), on the day of each week on which said newspaper was regularly published to wit:

5-4-2022

That the full amount of the fees for the publication of the *annexed notice is \$36.29

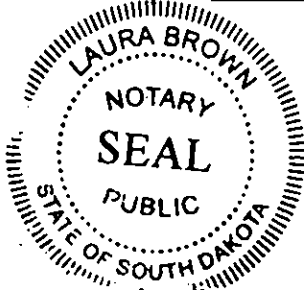
Subscribed and sworn to before me this 4th day of May, 2022

Laura Brown

Notary Public

County of Tripp, South Dakota

My Commission Expires June 12, 2025



RECEIVED

MAY 06 2022

WATER RIGHTS
PROGRAM

NOTICE OF APPLICATION NO. 2846-2

To Appropriate Water

Notice is given that Clay Kaiser, 31427 296th St, Millboro, SD 57580 has filed an application for a water permit to appropriate 1.11 cubic feet of water per second (cfs) from an existing 242 acre-foot storage dam authorized by Water Permit No. 2711-2 located in the SW 1/4 SE 1/4 Section 31-T96N-R76W to irrigate 60 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 6-T95N-R76W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 21 miles south of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2846-2 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://dam.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 May 16, 2022.

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 May 16, 2022.

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 \$36.29

RECEIVED

MAY 19 2022

Proof Of Publication

OFFICE OF
WATER

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

Legal Notice Number: 1389

I, Kim Davis, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: Clay Kaiser – Application for Water Permit was published for one day, in said newspaper and not in any supplement of the said newspaper; the publication was on 5/4/2022. That the full amount of the fee charged for the publishing \$ 44.85 insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.

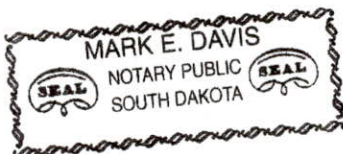


Subscribed and sworn to me before this date 5/16/22.



Notary Public, South Dakota

My Term Expires 12/27/2024



F. P. 05-04-22

**NOTICE OF
APPLICATION
NO. 2846-2 to**

Appropriate Water

Notice is given that Clay Kaiser, 31427 296th St, Millboro SD 57580 has filed an application for a water permit to appropriate 1.11 cubic feet of water per second (cfs) from an existing 242 acre-feet storage dam authorized by Water Permit No. 2711-2 located in the SW 1/4 SE 1/4 Section 31-T96N-R76W to irrigate 80 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 6-T95N-R76W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 21 miles south of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2846-2 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 May 16, 2022.

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 May 16, 2022.

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.

No. 1389 (adv.)
Published one time at the total approximate cost of \$44.85.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 25, 2022 8:25 AM
To: 'rcrandall@plainsman.com'
Subject: 2846-2, Clay Kaiser
Attachments: 2846-2public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 4, 2022.

Clay Kaiser, 31427 296th St, Millboro SD 57580 (605 840-4948) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

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

Karen Schlaak
DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 25, 2022 8:25 AM
To: Winner Advocate
Subject: 2846-2, Clay Kaiser
Attachments: 2846-2public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 4, 2022.

Clay Kaiser, 31427 296th St, Millboro SD 57580 (605 840-4948) has been notified to contact you to authorize publication and arrange for payment.

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

Karen Schlaak

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**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 NEWSPAPERS RIGHT AWAY.**

April 25, 2022

Clay Kaiser
31427 296th St
Millboro SD 57580

Dear Mr. Kaiser:

Water Permit Application No. 2846-2 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Winner Advocate printed at Winner (Ph # 605 842-1481) and the Plainsman printed at Huron (Ph # 605 353-7414). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

NOTICE OF APPLICATION NO. 2846-2 to Appropriate Water

Notice is given that Clay Kaiser, 31427 296th St, Millboro SD 57580 has filed an application for a water permit to appropriate 1.11 cubic feet of water per second (cfs) from an existing 242 acre-foot storage dam authorized by Water Permit No. 2711-2 located in the SW 1/4 SE 1/4 Section 31-T96N-R76W to irrigate 60 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4 Section 6-T95N-R76W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 21 miles south of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2846-2 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 May 16, 2022.

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 May 16, 2022.

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_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUN 01 2022

Clay Kaiser
31427 296th St
Millboro SD 57580

Dear Mr. Kaiser:

Enclosed is Water Permit No. 2846-2 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

DEC 29 2022

OFFICE OF
WATERNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 7-5-2022TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Clay Kaiser
(name)31427 296th St
(address)Millboro SD 57580
(city, state, zip)840-4948
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 2846-2 states that the water use system is to be constructed by6-20-2022, and water is to be put to beneficial use by 7-1-2022.
(date) (date)The water use system was completed on 7-1-22.
(date)Applying the water to beneficial use was completed on 7-1-22.
(date)

You may schedule an investigation so that the water license may be issued.

Clay Kaiser
(signature)

2846-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 24, 2023

2846-2

Clay Kaiser
31427 296th St
Millboro SD 57580

Dear Mr. Kaiser:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system authorized under Water Permit No. 2846-2. The form was received December 29, 2022.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us