

WATER PERMIT NO. 2866-2

Name of Applicant: **Daniel D. O'Neill**

Address: **29252 243rd Ave, Tuthill SD 57574** Phone: **605-899-0023**

Amount of Water Claimed: **1.78 cfs** Total Acres: **63.88**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation** County: **Bennett**

Type of Waste Disposal System:

Location: **Approximately 9 miles northwest Spring Creek**

PRIORITY Date Received: **3-27-2023** Application/License Fee: **\$950.00**

Corrected Application Received: Period of Annual Use: **April 1 – October 31**

Remarks: **Requestion greater div rate than statutory limit**

Diversion Point: **E1/2 NW1/4 Sec 21 – T37N-
R33W**

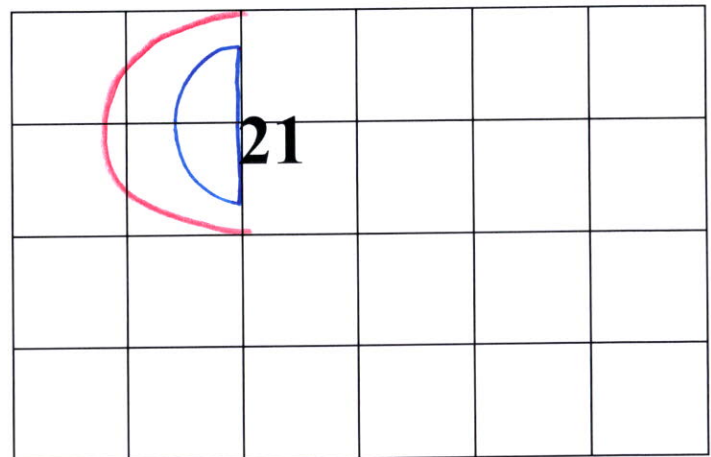
Land to be Irrigated: **E1/2 MW1/4 Sec 21 -T37N-
R33W**

Depth of Well: **300**

Well Driller: **Sargent Irrigation**

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **3-27-2023**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2866-2**

Date of first receipt of application March 27, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2866-2 to Daniel D. O'Neill, 29252 243rd Avenue, Tuthill SD 57574 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. 2866-2 appropriates 1.78 cubic feet of water per second (cfs) from one well to be completed into the Ogallala Aquifer (approximately 300 feet deep) located in Lots 2 and 3 (E1/2 NW1/4) Section 21 for irrigation of 63.88 acres located in the (E1/2 NW1/4) Lots 2 and 3 Section 21; all in T37N-R33W. This site is located approximately 25 miles east of Martin 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: April 1 – October 31.
3. The date from which applicant may claim right is March 27, 2023.
4. The date of approval of Permit No. 2866-2 is June 12, 2023.
5. One-fifth of the construction is to be completed on or before December 12, 2025.
6. All construction is to be completed on or before June 12, 2028.
7. Water is to be put to beneficial use on or before June 12, 2032.
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. The well approved under Water Permit No. 2866-2 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 2866-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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. 2866-2 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 63.88 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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

JUL 11 2023
date



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

PAID

MAR 27 2023

Ck# 2216

Rec't#

Mail to:

SD DANR, Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182

ph. (605) 773-3352

No. 2866-2 Hydrologic Unit 10140208
Basin White River
Newspaper Martin/Bennett Co Booster 685-6866
Rapid City Journal 394-8336
(office use only)

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 Daniel D. O'Neill

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

Mailing Address 29252 243rd AVE Tuthill SD 57574
(Address) (City) (State) (Zip Code)

Phone 605.685.6085 Mobile 605.899.0023 Email skinney_7@yahoo.com

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 70 63.88
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ogala Aquifer E1/2

4. Location of point of diversion 1 well in NW 1/4 Section 21 - 737N - R33W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

Lots 2 and 3 County Bennett

5. County or counties where water will be used Bennett

6. Annual period during which water is to be used Summer, early Fall April - Oct 31
May - Aug

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
	64		
NW 1/4 of Section 21	63.88		
Lots 2 and 3			

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

Its a 1/2 pivot windshield wiper pivot and it takes more water. (which is why I need more water).

Requesting a div rate greater than statutory limit.

I, Dan O'Neill, 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

MAR 27 2023

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 1 Have test holes been drilled? ☒ Yes ☐ No Drilled by Sargeant Irrigation
(if yes, please provide copies of logs)
- b) If existing wells, how many N/A Provide copy of log(s), if available. Drilled by Sargeant Irrigation

For either existing or proposed wells:

- c) Well Depth (required) 300 ft Depth to Top of Water Bearing Material 30 ft Depth to Water from Surface 30 ft
- d) Distance to nearest domestic well on applicant's property 800 yards Property owned by others Orvil O'Neill

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)

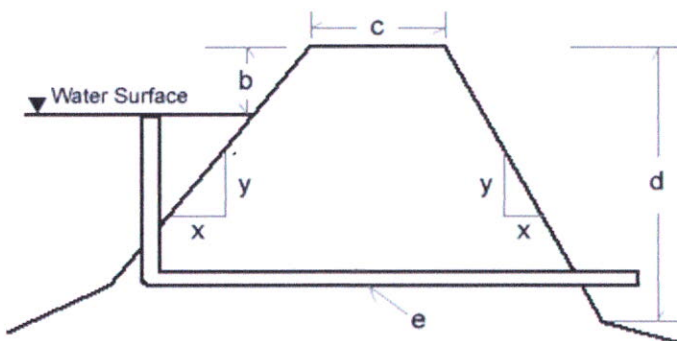
Upstream _____

Downstream _____

- h) Area of Impoundment _____

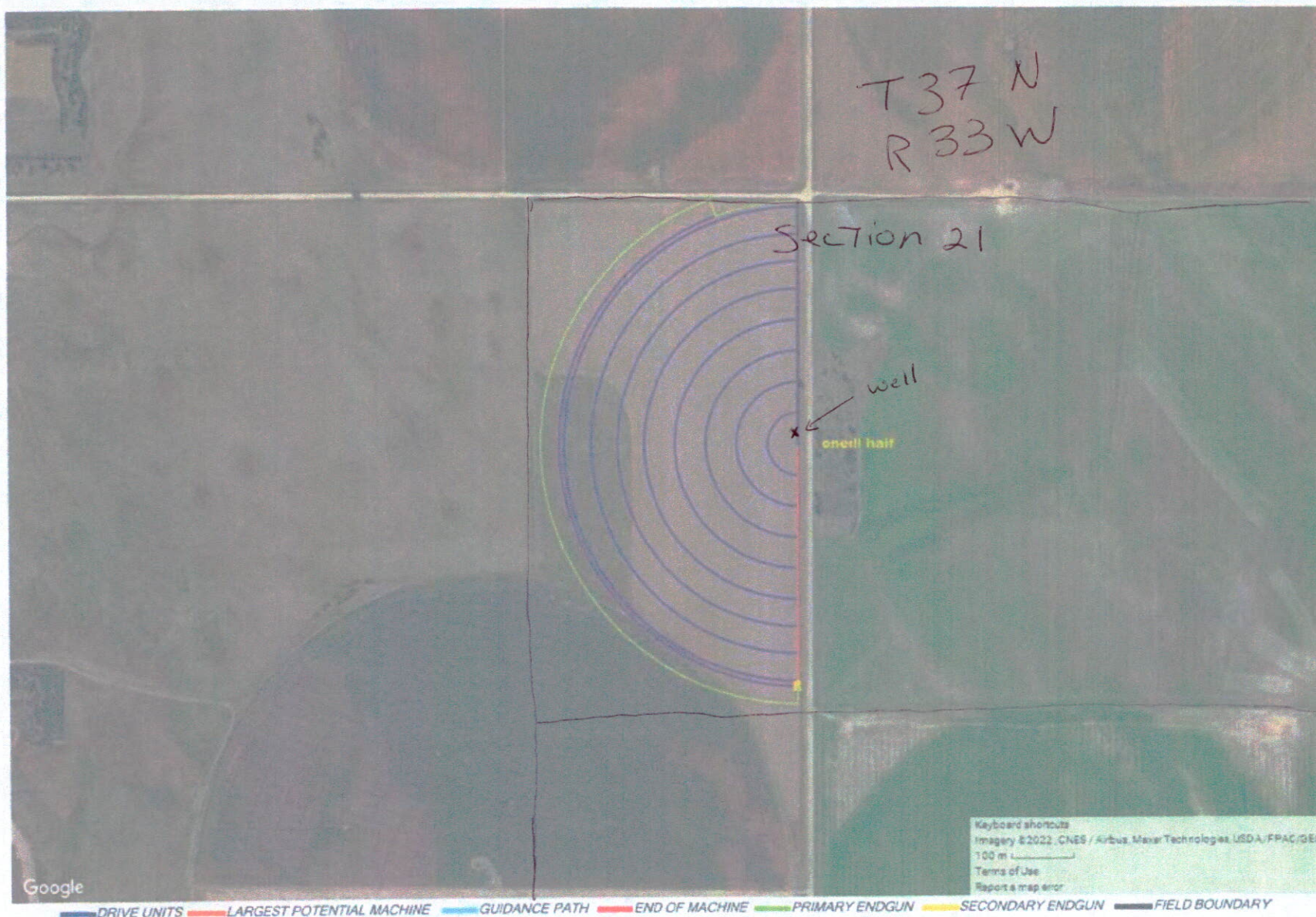
- i) Storage _____ Acre Feet

- j) Drainage Area Above Dam _____ Acres



Perfect Valley Irrigation, Inc.
(102) 681-2321

Project Name - james oneill
Version Name - james oneill_Version
Map Summary Report - oneill half



PERFECT VALLEY IRRIGATION - 44354 US Highway 20, Bassett, NE, 68714-6198, United States

N. 0° 3' W.

N. C.

PINERIDGE

33.05 33.07 33.09 33.11 33.13 33.15

46.95 80.08 43.51 46.91 46.89 46.87 80.08 43.47

ROSEBUD

N. 0° 2' W.

43.00 M. P. 1.86 N. 89° 54' W.

44.93 M. P. 1.76 N. 89° 54' W.

Sec. 21

Sargent Drilling

Geneva, NE

TEST HOLE LOG

CUSTOMER: James O'Neil		DATE:	
LOCATION: Martin South Dakota		SWL	
DRILLED BY: MK		PWL	GPM
GPS: N 43° 10' 06.95" W 101° 13' 46.12"			
ELEVATION:			

(Include: Type, Hardness & Color)

SAB = Same As Before

0	20	Top soil to 2 Ft Silty sand to 20
20	40	Silty sand from
40	60	from sand w/ silty sand layers
60	80	SAB
80	100	SAB
100	120	SAB turning to SS
120	140	SS soft & chunky
140	160	SAB
160	180	SAB w/ firm layers
180	200	SAB
200	220	SAB
220	240	SAB
240	260	SAB w/ silty sand streaks
260	280	SAB SS firm to 268 SS getting softer
280	300	SS chunky
300	320	SAB
320	340	
340	360	
360	380	
380	400	

Well Depth: _____' Plain casing: _____' of _____" OD & _____" ID type _____

Bore Hole Dia: _____" Perf casing: _____' of _____" x _____" OD Slot Size _____

Gravel pack from _____' to _____' and from _____' to _____' desc _____ qty _____

Grouted/sealed from _____' to _____' and from _____' to _____' volume _____ type _____

Perfect Valley Irrigation, Inc.
(402) 681-2321

Project Name - james oneill
Version Name - james oneill_Version
Map Summary Report - oneill half



Field Name	Design Name	Machine Category	Machine Area (ac)	No. of Towers	Total Machine Length (ft)	Total Irrigated Area (ac)
oneill half	oneill half	Large Field Electrical Pivot 8000	56.57	8	1248.04	63.88

Total Project Irrigated Area (ac): 63.88

(oneill half)	Spans and Overhang	Corner	Endgun*	Bender / DropSpan	Polygon
Irrigated Area using (ac)	56.39	0	7.49	0	0.00

* Estimated

Total Span Length (ft) 1220.00

Overhang Length (ft) 27.00

Flex/Transition/Other Lengths (ft) 1.04

S.No	Diameter	Length (ft)	Cable Size	Motor Options	Tire Size	Bender / DropSpan	Profile
1	6 5/8	160.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard
2	6 5/8	160.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard
3	6 5/8	160.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard
4	6 5/8	160.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard
5	6 5/8	160.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard
6	6 5/8	140.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard
7	6 5/8	140.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard
8	6 5/8	140.00	12 ga cable / 11 cond shielded	34 RPM Regal Helical	11.2 x 38 w/Tube	None	Standard

Primary Endgun

Endgun Angles (oneill half)	Endgun 1
Start Angle	180.00 deg
End Angle	340.00 deg

Field Name	Latitude	Longitude	Pivot Road Angle	Pivot Road Offset	Start Angle	End Angle
oneill half	43.16781011575199	-101.22815387396001	180 deg	-	180 deg	0 deg

Center Pivot Loc.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date March 27, 2023

RECEIVED OF Lazy EO Ranch/Daniel O'Neil 29252 243rd Ave., Tuthill SD 57574

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

Fee for Application for Permit No. <u>2866-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>750.00</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>2866-2</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>950.00</u>

By Eric Gronlund
Chief Engineer
Em



**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. 2866-2, Daniel D. O'Neill**

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. 2866-2, Daniel D. O'Neill, 29252 243rd Avenue, Tuthill SD 57574.

The Chief Engineer is recommending APPROVAL of Application No. 2866-2 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. The well approved under Water Permit No. 2866-2 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 2866-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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. 2866-2 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 63.88 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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
May 12, 2023

Report to the Chief Engineer
On Water Permit Application No. 2866-2

Daniel D. O'Neill

May 12, 2023

Water Permit Application No. 2866-2 proposes to divert water at a maximum instantaneous diversion rate of 1.78 cubic feet of water per second (cfs) from one well to be completed into the Ogallala aquifer (approximately 300 feet deep) located in Lots 2 and 3 (E ½ NW ¼) of Section 21 for the irrigation of 63.88 acres located in Lots 2 and 3 (E ½ NW ¼) in Section 21; all in T37N-R33W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Bennett County approximately 25 miles east of Martin, SD.

AQUIFER: Ogallala (OGLL)

HYDROGEOLOGY:

The Ogallala aquifer is encompassed within the High Plains aquifer (Filipovic, 2004 and 2011). The High Plains aquifer contains geologic units of late Tertiary and Quaternary age that are comprised of the Brule Formation, Arikaree Group, Ogallala Group, as well as other hydrologically connected alluvial, dune-sand, and valley-fill deposits (Gutentag et al., 1984). The Ogallala Group is composed of the Fort Randall, Ash Hollow, and Valentine Formations (Hammond, 1994; Filipovic, 2011; Martin et al., 2004). Within the High Plains aquifer system in South Dakota, the Ogallala aquifer is the uppermost, most readily available aquifer (Filipovic, 2011). The SD DANR-Water Rights Program and Water Management Board have historically considered the High Plains aquifer to be comprised of the Ogallala aquifer and the Arikaree aquifer to manage this regional water resource, and the two aquifers are treated as separate water sources (Water Rights, 2023c).

The Ogallala Group is comprised of gravel, fine to medium sand and sandstone, and poorly consolidated sand, silt, and clay that were deposited from eastward flowing braided streams (Gutentag et al., 1984; Martin et al., 2004). The Ogallala Group has a documented maximum cumulative thickness of approximately 700 feet (Gutentag et al., 1984). The Ogallala aquifer is generally under unconfined conditions but can be overlain by unconsolidated alluvium and eolian deposits (Filipovic, 2004 and 2011; Water Rights, 2023b and 2023d).

A test hole completion report was submitted with Water Permit Application No. 2866-2 for a test hole located in Section 21-T37N-33W. The report lists alternating layers of silty sand and sandstones, then identifies a "firm sandstone" from 260 to 268 feet below the ground surface and a softer "sandstone (choppy?)" from 260 to 320 feet. Based on the submitted test hole completion report, the water well and test hole completion reports on file, and the lithologic logs on file for observation wells, the Ogallala aquifer is expected to be unconfined near the proposed diversion point (SDGS, 2023; Water Rights, 2023b, 2023c and 2023d).

The Ogallala aquifer in South Dakota is split into two portions: the main body west of Ponca Creek, and the remnant body east of Ponca Creek (Filipovic, 2004; Martin et al., 2004). Ponca Creek has completely incised through the Ogallala aquifer along its channel. The proposed diversion point for this application is within the main body of the Ogallala aquifer (Martin et al., 2004). For the remainder of this report, references to the Ogallala aquifer specifically reference the main body of the Ogallala aquifer west of Ponca Creek in South Dakota.

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

Pursuant to SDCL 46-2A-9, “A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant’s proposed use, that the diversion point 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 as defined by SDCL 46-2-9 and 46-2-11.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Ogallala aquifer.

WATER AVAILABILITY:

Water Permit Application No. 2866-2 proposes to appropriate water from the Ogallala aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Ogallala aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Ogallala aquifer must be considered.

HYDROLOGIC BUDGET:

The hydrologic budget completed in this analysis will exclude the water rights/permits not completed into the main body of the Ogallala aquifer. The wells authorized by Water Permit Nos. 2833-2 and 2834-2 are expected to be completed into relatively small sand and gravel deposits of Quaternary Eolian and Quaternary Terrace aquifers that have a significant hydrologic connection to the Ogallala aquifer. However, these deposits are geologically distinct from the Ogallala Group, do not directly overly the Ogallala aquifer, and have subsequently been identified as independent formations from the Ogallala aquifer. Due to the nature of natural discharge from the Ogallala aquifer flowing into and subsequently through these two particular deposits before discharging to the Keya Paha River, the estimated annual use by Water Permit Nos. 2833-2 and 2834-2 will be accounted for as Ogallala aquifer withdrawals. A more detailed

discussion is available in Mathiowetz (2022). Additionally, Water Right No. 1260-2, which is labeled as withdrawing from the Arikaree aquifer, will be considered as completed into the Quaternary Eolian aquifer based on current lithologic information that was not available at the time the permit was issued and will also be added to the hydrologic budget of the Ogallala aquifer for the previously discussed reasons (Mathiowetz, 2022).

Recharge

Recharge to the Ogallala aquifer is primarily through the infiltration of precipitation (Filipovic, 2004 and 2011). Kolm and Case (1983) estimated a range of recharge rates for the High Plains aquifer using a two-dimensional, finite-difference model. Hedges and Burch (1985) used both base-flow recession and observation well data analysis to develop their recharge rate estimates to the Ogallala aquifer specifically. Cederberg (2021) cited a combination of sources to estimate the areal extent of the main body of the Ogallala aquifer to be approximately 1,005,360 acres in South Dakota. Table 1 lists the average annual recharge rate in acre-feet per year based on the source of the recharge rate and Cederberg's (2021) estimated areal extent of the main body of the Ogallala aquifer. Therefore, the average annual recharge rate to the Ogallala aquifer within the main body of the Ogallala Group in South Dakota ranges between approximately 108,914 to 284,852 acre-feet per year.

Table 1. Estimated average annual recharge rate to the main body of the Ogallala aquifer (Kolm and Case, 1983; Hedges and Burch 1985; Cederberg, 2021)

Estimated Avg. Annual Recharge Rate (inches/year)	Method	Source	Estimated Avg. Annual Recharge Rate (acre-feet/year)
1.3	Computer Model	Kolm and Case (1983)	108,914
1.8	Computer Model	Kolm and Case (1983)	150,804
1.88	Base-Flow Recession	Hedges and Burch (1985)	157,506
3.4	Observation Well Data	Hedges and Burch (1985)	284,852

Discharge

Discharge from the Ogallala aquifer is primarily through direct evapotranspiration, outflow to streams and rivers, outflow to adjacent and hydrologically connected aquifers, and well withdrawals (Filipovic, 2004 and 2011; Water Rights, 2023c and 2023d).

Currently, there are 176 water rights/permits authorized to withdraw water (including Water Right No. 1260-2) and five future use permits reserving 6,651 acre-feet per year from the entirety of the Ogallala aquifer (Water Rights, 2023c).

Water Right Nos. 475-2 and 1114-2 and Water Permit Nos. 2678-2 and 2679-2 no longer report annual water use because the land authorized for irrigation has been sold to a nearby tribe (Water Rights, 2023c). The status of irrigation water withdrawals by the tribe from the Ogallala aquifer is unknown. Thus, this discharge analysis addresses only 172 state issued water rights/permits (including Water Right No. 1260-2) (142 irrigation and 30 non-irrigation) plus the five future use permits that are reserving water from the entirety of the Ogallala aquifer (Water Rights, 2023c).

Within the main body of the Ogallala aquifer, of which the aquifers for Water Permit Nos. 2833-2 and 2834-2 are hydrologic extensions of, there are 151 water rights/permits (137 irrigation (including Water Right No. 1260-2) and 14 non-irrigation) along with three future use permits (reserving 5,986 acre-feet per year) authorized to withdraw or reserve water from the main body of the Ogallala aquifer (Water Rights, 2023c).

Table 2 summarizes the 14 non-irrigation water rights/permits authorized to appropriate water from the main body of the Ogallala aquifer, plus the three future use permits reserving water from the main body of the Ogallala aquifer, with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer and is likely an overestimation of average annual withdrawals (Water Rights, 2023c). Overall, the estimated average annual withdrawal rate for the non-irrigation water rights/permits (including future use reservations) within the main body of the Ogallala aquifer is approximately 12,257 acre-feet per year (Table 2) (Water Rights, 2023c).

Table 2. Estimated annual use for the non-irrigation water rights/permits authorized to divert water from the main body of the Ogallala aquifer, and the future use permits reserving water (Water Rights, 2023c)

Permit No.	Name	County	Status	Use	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet/year)	Estimated Use (acre-feet/year)
521-2	City of Winner	Tripp	LC	MUN	4.11		1785.4
551-2	City of Winner	Tripp	FU	MUN	2.44	1,568	1,568
632-2	City of Colombe	Tripp	LC	MUN	0.22		95.6
882-2	City of Winner	Tripp	FU	MUN	n/a		0
976-2	City of Colombe	Tripp	LC	MUN	0.33		143.4
1038-2	City of Winner	Tripp	LC	MUN	0.87		377.9
1285-2	City of Winner	Tripp	LC	MUN	0.67		291.0
1286-2	City of Winner	Tripp	LC	MUN	0.72		312.8
1416-2	City of Winner	Tripp	LC	MUN	0.69		299.7
1942-2	Littau & Massa Et Al	Tripp	LC	DOM	0.09		39.1
2293-2	Tripp County Water User District	Tripp	LC	RWS	3.88		1685.5
2455-2	Martin J Vanderploeg	Bennett	LC	FWP	0.045		19.5
2505-2	Lakeview Christian Reform	Todd	LC	INS	0.033		14.3
2515-2	Tripp County Water User District	Tripp	LC	RWS	2.68	1,200	1,200
2621-2	Tuthill Community Presbyterian Church	Bennett	LC	INS	0.02		8.7
2804-2	Dougherty Cattle Company Inc	Tripp	PE	COM	0.13	16.12	16.12
2849-2	Tripp County Water User District	Tripp	FU	RWS	n/a	4,400	4,400
LC: Licensed Water Right; PE: Water Permit; FU: Future Use Reservation; COM: Commercial						TOTAL:	12,257
DOM: Domestic; FWP: Fish and Wildlife Propagation; INS: Institutional; MUN: Municipal; RWS: Rural Water System							

Currently, there are 142 irrigation water rights/permits authorized to appropriate water from the Ogallala aquifer, with 137 (including Water Right No. 1260-2) irrigation water rights/permits authorized to appropriate water from the main body of the Ogallala aquifer (Water Rights, 2023c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the irrigation water rights/permits within the main body of the Ogallala aquifer that have reported over the period of record (1982 to 2021) is approximately 19,212 acre-feet per year (Table 3) (Water Rights, 2023a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2012 to 2021 is approximately 23,726 acre-feet per year (Table 3) (Water Rights, 2023a).

Table 3 only lists 131 water rights/permits as reporting as Water Permit Nos. 2718A-2, 2822-2, 2833-2, 2834-2, 2836-2 and 2847-2 (approved in 2021 or 2022) collectively authorize the irrigation of 735 acres and have not submitted an irrigation questionnaire at this time (still within their construction periods, except for Permit No. 2718A-2, which authorizes change of acres) (Water Rights, 2023a and 2023c). Generally, irrigators in South Dakota apply less than one foot of water per acre per year. However, to account for the fluctuation in wet and dry cycles from year to year, the one foot of water per acre per year application rate will be used to somewhat overestimate the annual withdrawal rate for these irrigation water permits. Therefore, the estimated average annual withdrawal rate for the irrigation water permits approved in 2021 or 2022 (and not included as listed as reporting on Table 3) is approximately 735 acre-feet per year (Water Rights, 2023c). The collective estimated average annual withdrawal rate for the irrigation appropriations from 2012 to 2021 (23,726 acre-feet/year), plus the estimated average annual withdrawal rate for the irrigation water rights/permits approved in 2021 or 2022 (735 acre-feet/year), is approximately 24,461 acre-feet/year (Water Rights, 2023a and 2023c).

Table 3. Reported historic irrigation use from the main body of the Ogallala aquifer (Water Rights, 2023a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1982	91	9,217.4
1983	98	10,172
1984	106	13,298.4
1985	104	18,583.5
1986	100	12,997.6
1987	99	12,397
1988	98	16,199.3
1989	99	27,326.4
1990	103	16,501.6
1991	104	16,074.5
1992	104	11,921
1993	102	11,151.9
1994	105	16,705.3
1995	103	14,252.8
1996	106	21,168
1997	107	18,661
1998	105	13,857.9
1999	106	13,709.5
2000	107	16,119
2001	106	17,989.9
2002	101	24,179.8
2003	103	22,039.1
2004	105	23,868
2005	106	20,054.7
2006	109	25,657.1
2007	111	24,010.9
2008	112	24,483.6
2009	112	22,173.6
2010	111	21,209.1
2011	112	15,235.4
2012	114	33,144.5
2013	124	26,492.3
2014	131	22,126.7
2015	131	23,993.9
2016	134	23,297.6
2017	135	27,319.3
2018	132	19,384.3
2019	131	11,464.1
2020	131	22,058.8
2021	131	27,976.4
Min	91	9,217.4
Max	135	33,144.5
Avg	111	19,212
Avg 2012-2021	129	23,726

There are domestic wells completed into the Ogallala aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2023d). Since the introduction of rural water systems, many domestic wells are likely no longer in use or are not being used as primary water sources. Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the Ogallala aquifer.

Data was compiled for selected irrigation and municipal wells operated by the Rosebud Sioux Tribe (Valseth and Driscoll, 2020). However, it is likely not all municipal and irrigation wells that are operated by the tribe or on tribal lands were included. Furthermore, many of the selected wells that were reviewed do not include well depth or aquifer assignment to determine if the wells are completed into the Ogallala aquifer. The data does not include an estimated annual volume pumped by each well. The data available is only estimated mean production (pumping rate). Therefore, there is not sufficient information available to make a reasonably accurate estimate of average annual water use from these wells. Overall, the withdrawal rate from the Ogallala aquifer by tribe members on tribal trust land is not known; however, that use on tribal trust lands, even though unknown, is still expected to be represented in the observation well data (Water Rights, 2023b).

Hydrologic Budget Summary

The estimated average annual recharge rate to the main body of the Ogallala aquifer in South Dakota ranges between approximately 108,914 to 284,852 acre-feet per year. The estimated average annual withdrawal rate from the main body of the Ogallala aquifer from state-issued water rights/permits is approximately 36,782 acre-feet per year (non-irrigation (including future use): 12,275 acre-feet/year; irrigation (average from 2012 to 2021 plus Nos. 2718A-2, 2822-2, 2833-2, 2834-2, 2836-2, and 2847-2): 24,461 acre-feet/year; Water Permit Application No. 2866-2 (if approved, assuming one-foot per authorized acre): 63.88 acre-feet/year).

Additionally, an unknown amount of water may be withdrawn from the Ogallala aquifer by tribe members on tribal trust land. The estimated average annual withdrawal rate based on the state-issued water rights/permits currently authorized to appropriate water from the Ogallala aquifer is less than 30% of the lowest estimated average annual recharge rate to the aquifer.

Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the main body of the Ogallala aquifer for the proposed appropriation.

OBSERVATION WELL DATA:

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

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DNR-Water Rights Program monitors 76 observation wells completed into the Ogallala aquifer, with 69 observation wells being completed into the main body of the Ogallala aquifer (Water Rights, 2023b). The three closest observation wells to the proposed diversion point are BT-76C (approximately 1.5 miles northwest), BT-80E (approximately 2.3 miles southwest), and BT-78KR (approximately four miles northwest) (as shown in Figure 4) (Water Rights, 2023b). The hydrographs for these observation wells are displayed in Figures 1 to 3 (Water Rights, 2023b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. It is worth noting the hydrograph titles display DENR Water Rights Observation Well on the hydrographs when the titles should display DNR Water Rights Observation Well on the hydrographs.

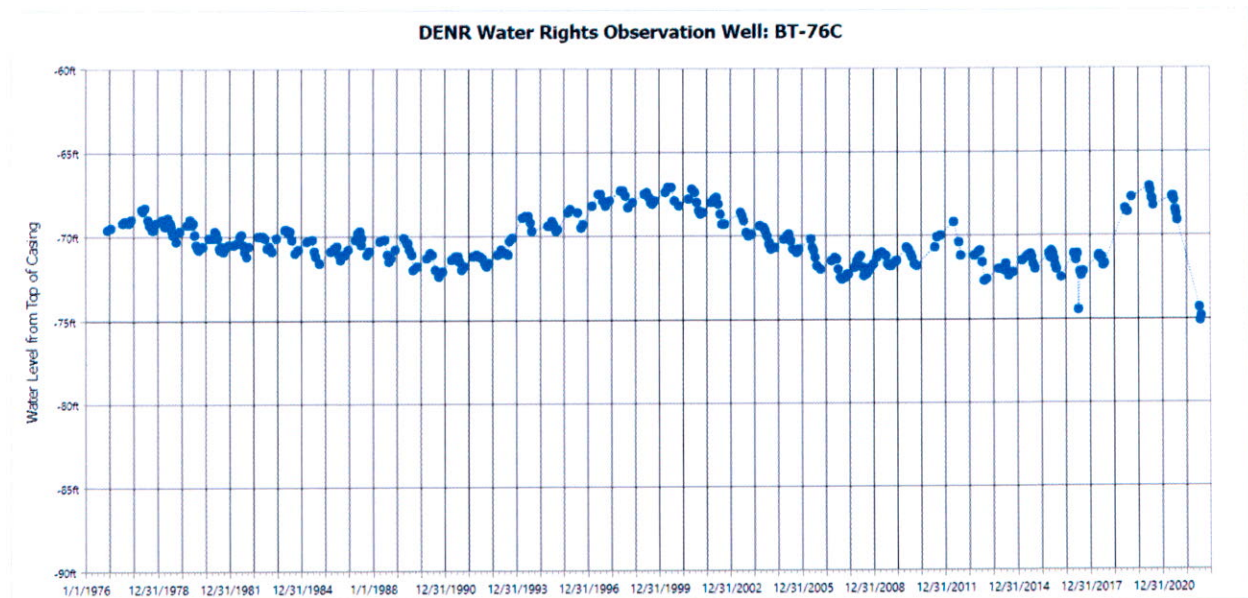


Figure 1. Hydrograph for observation well BT-76C (Water Rights, 2023b)

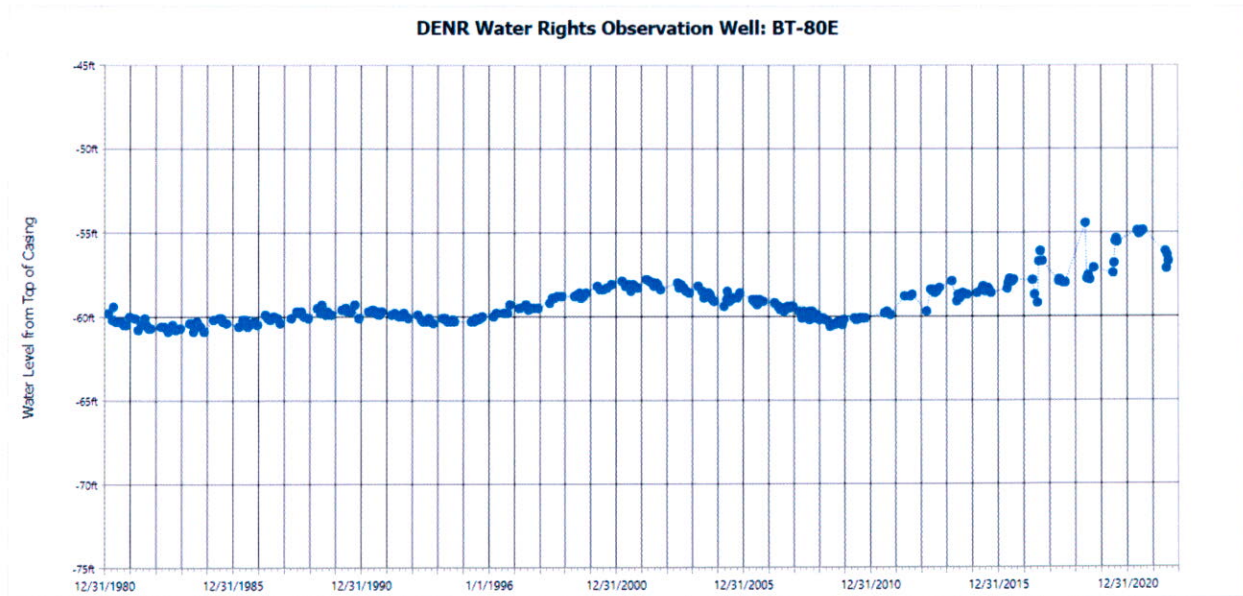


Figure 2. Hydrograph for observation well BT-80E (Water Rights, 2023b)

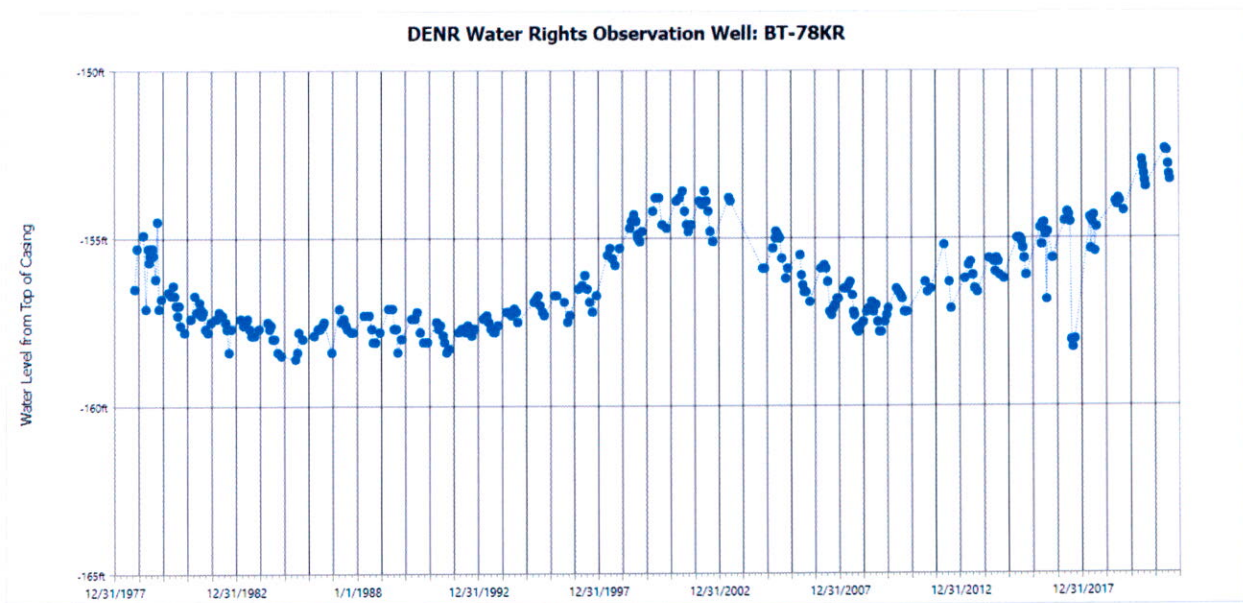


Figure 3. Hydrograph for observation well BT-78KR (Water Rights, 2023b)

The hydrographs for these observation wells were compared to the hydrographs for the other observations wells completed into the Ogallala aquifer and each displayed a generally similar trend as shown on the hydrographs displayed in Figures 1 to 3 (Water Rights, 2023b). The hydrographs for the observation wells completed into the main body of the Ogallala aquifer display stable to slightly increasing water levels over their respective periods of record, except in areas of significant recent development such as Bennett County (Water Rights, 2023b). In the

areas of significant recent development, some hydrographs show a slight recent decline in water levels (Water Rights, 2023b). This is likely representative of the potentiometric surface of the aquifer equilibrating to new and increased pumping and not indicative of over appropriation.

The hydrographs for observation wells completed into the main body of the Ogallala aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods and declining to a stable water level during drier periods. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping from the main body of the Ogallala aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 172 water rights/permits (not including Right and Permit Nos. 475-2, 1114-2, 2678-2 and 2679-2) that are authorized to withdraw water from the entirety of the Ogallala aquifer and five future use permits reserving water (Water Rights, 2023c). Within the main body of the Ogallala aquifer, there are currently 151 water rights/permits authorized to withdraw water, and three future use permits reserving water (Water Rights, 2023c). The closest water right/permit to the proposed diversion point is Water Right No. 2693-2, which is held by Brad & Marlene Pisha. The diversion point for Water Right No. 2693-2 is located approximately 1.7 miles west of the proposed diversion point for this application (Table 4) (Figure 4) (Water Rights, 2023c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Ogallala aquifer, with the closest domestic well on file (not held by the applicant) approximately 1.3 miles southeast of the proposed diversion point (Water Rights, 2023d). There could potentially be other domestic wells completed into the Ogallala aquifer near the proposed diversion point that are not on file with the DANR-Water Rights Program. The location of the domestic wells is based on the location provided at the time of completion by the well driller.

Table 4. Water rights/permits authorized to withdraw water from the main body of the Ogallala aquifer within approximately four miles of the proposed diversion point, as shown in Figure 4 (Water Rights, 2023c)

Permit No.	Name	Status	Use	Authorized Acres if IRR	Authorized Diversion Rate (cfs)
1001-2	James O'Neill	LC	IRR	135	1.66
1002A-2	Dan O'Neill	LC	IRR	176	2.3
1207-2	Donovan Farms LLC	LC	IRR	132	1.78
1208-2	Dan O'Neill	LC	IRR	135	1.66
1211-2	Farm Credit Services of America PCA	LC	IRR	264	2
1555-2	Dean O'Neill	LC	IRR	264	2
1637-2	O'Neill Cattle Co Inc	LC	IRR	384	5.35
1674-2	Wayne Johnson	LC	IRR	180	2.45
2509-2	Brad & Marlene Pisha	LC	IRR	270	2
2599-2	Jeff Johnson	LC	IRR	291	4.34
2609-2	Jeff Johnson	LC	IRR	188	2
2627-2	Daniel D O'Neill	LC	IRR	236	2
2693-2	Brad & Marlene Pisha	LC	IRR	140	1.93
2696-2	Jeffery Johnson	LC	IRR	151	2
2710-2	O'Neill Cattle Co Inc	LC	IRR	591	5.12
2725-2	James W & Abby Ann O'Neill	LC	IRR	130	1.78
2822-2	Johnson Land & Cattle LLC	PE	IRR	180	2.56
LC: Licensed Water Right; PE: Water Permit; IRR: Irrigation					

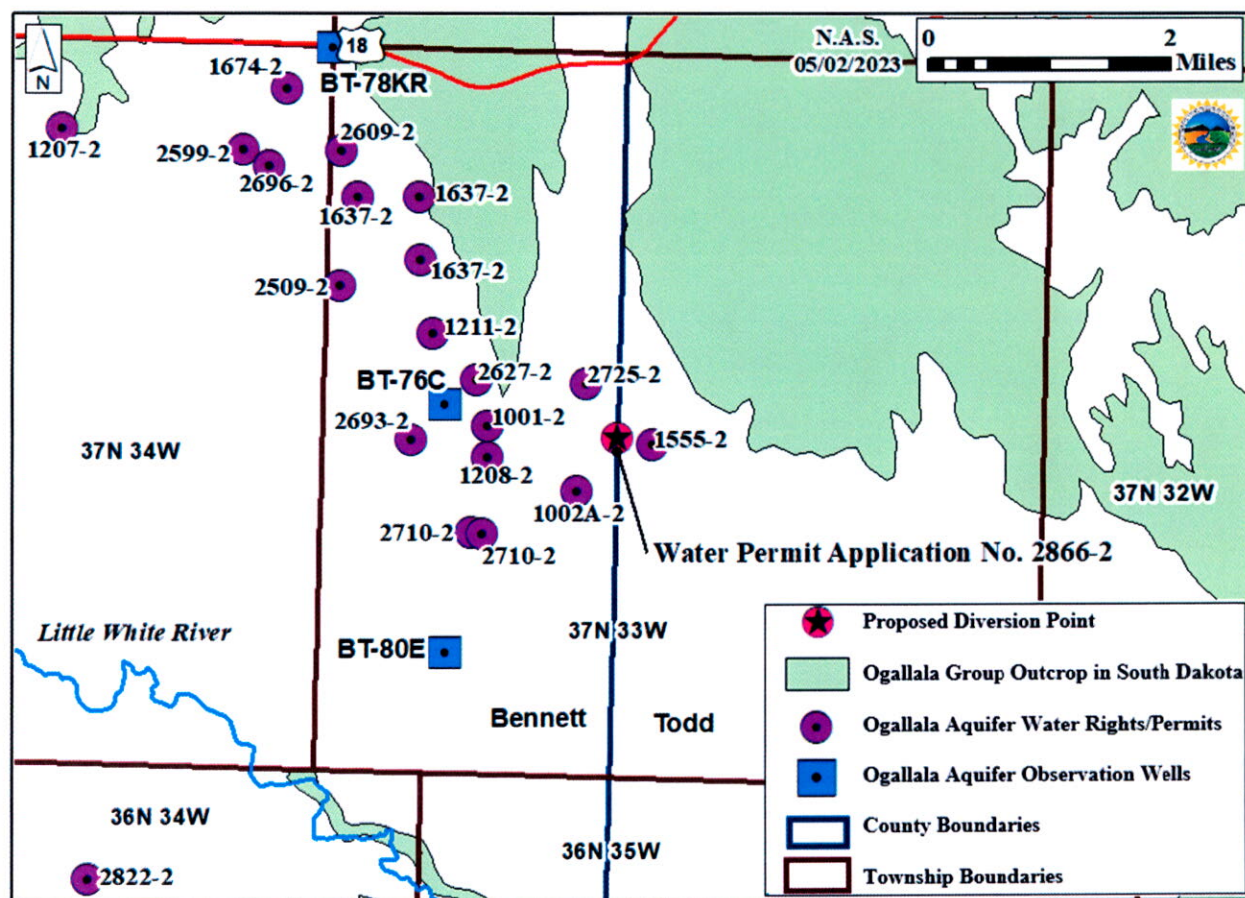


Figure 4. Ogallala Group outcrop in South Dakota (Martin et al., 2004), with the location of the proposed diversion point for Water Permit Application No. 2866-2, and the water rights/permits and observation wells within the main body of the Ogallala aquifer located within approximately four miles of the proposed diversion point (Water Rights, 2023b and 2023c)

The Ogallala aquifer is generally unconfined but can be locally confined (Filipovic, 2004 and 2011; Water Rights, 2023d). The Ogallala aquifer is expected to be unconfined in the area of the proposed diversion point based on the submitted test hole completion report, the water well and test hole completion reports on file, and the lithologic logs on file for nearby observation wells (SDGS, 20232; Water Rights, 2023b, 2023c and 2023d). Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer; however, in a confined aquifer, drawdown from pumping could extend a distance from the diversion point. The exact drawdown behavior of a well cannot be known without an aquifer performance test.

Near the proposed diversion point, the Ogallala aquifer has a saturated thickness ranging from approximately 20 to 60 feet (Water Rights, 2023d). This would generally allow for enough thickness for a pump inlet to be placed 20 feet below the top of the aquifer, which is required for the well to be considered adequate. An adequate well is defined by ARSD 74:02:04:20(6) 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.” Any drawdown as a result of the proposed diversion is not expected to unlawfully impair nearby adequate wells. In Bennett County, there have been no substantiated complaints submitted to the DANR-Water Rights Program regarding well interference for adequate wells completed into the Ogallala aquifer (Water Rights, 2023d).

When considering the generally unconfined nature of the aquifer, the saturated thickness of the Ogallala aquifer near the proposed diversion point, and the lack of well interference complaints from the Ogallala aquifer in the area, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed diversion by Water Permit Application No. 2866-2 will not impose unlawful impairments on existing users with adequate wells.

SDCL 46-5-6:

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of 1.0 cfs per 70 acres, or “the equivalent thereof.” The statute does provide 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...”

If approved, Water Permit Application No. 2866-2 would authorize a maximum instantaneous diversion rate of 1.78 cfs from one well for the irrigation of 63.88 acres, from April through October, or at a rate of 1.95 cfs per 70 acres. The applicant provided the reason for the exceedance being due to the center pivot size and that it makes a partial rotation (windshield wiper). The pivot is smaller than a normal, quarter-sized pivot; however, smaller pivots often use a proportionally greater diversion rate to operate properly than their size would indicate is needed. Furthermore, the pivot is only making a partial rotation. A center pivot making a partial rotation uses water at the same rate as a center pivot making a full rotation while irrigating less acres. These reasons fall within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate.

CONCLUSIONS:

1. Water Permit Application No. 2866-2 proposes to divert water at a maximum instantaneous diversion rate of 1.78 cfs from one well to be completed into the Ogallala aquifer (approximately 300 feet deep) for the irrigation of 63.88 acres. The site of interest is located in Bennett County approximately 25 miles east of Martin, SD.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the main body of the Ogallala aquifer to supply the proposed appropriation.

3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 2866-2 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.
4. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres due to the size and partial rotation orientation of the center pivot. These reasons fall within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program

Reviewed by:

Adam Mathiowetz

Adam Mathiowetz, PE
Natural Resources Engineer IV
SD DANR - Water Rights Program

References

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- Water Rights, 2023d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2023e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



**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.**

May 15, 2023

Daniel D. O'Neill
29252 243rd Ave
Tuthill SD 57574

Dear Mr. O'Neill:

Water Permit Application No. 2866-2 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 Bennett County Booster printed at Martin SD (Ph # 605 685-6866) and the Rapid City Journal printed at Rapid City SD (Ph # 605 394-8336). 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,

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. 2866-2 to Appropriate Water

Notice is given that Daniel D. O'Neill, 29252 243rd Avenue, Tuthill SD 57574 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Ogallala Aquifer (approximately 300 feet deep) located in Lots 2 and 3 (E1/2 NW1/4) Section 21 for irrigation of 63.88 acres located in the (E1/2 NW1/4) Lots 2 and 3 Section 21; all in T37N-R33W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 25 miles east of Martin SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2866-2 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 June 12, 2023.

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 June 12, 2023.

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: Bennett County Booster <booster@gwtc.net>
Sent: Monday, May 15, 2023 1:10 PM
To: Rodriguez, Rachel
Subject: Re: [EXT] 2866-2 Daniel O'Neill - Public Notice

Thank you!

On May 15, 2023, at 10:56 AM, Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Attached is a notice to be published on May 31, 2023.

Daniel O'Neill, 29252 243rd Avenue, Tuthill SD 57574, (605-899-0023) 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.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us
<image001.png>

<FORM8.FRM.doc><2866-2 public.short_final.docx>

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, May 15, 2023 11:56 AM
To: 'booster@gwtc.net'
Subject: 2866-2 Daniel O'Neill - Public Notice
Attachments: FORM8.FRM.doc; 2866-2 public.short_final.docx

Attached is a notice to be published on May 31, 2023.

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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.

Thank you,

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, May 15, 2023 11:58 AM
To: RCY Legals
Subject: 2866-2 Daniel O'Neill - Public Notice
Attachments: FORM8.FRM.doc; 2866-2 public.short_final.docx

Attached is a notice to be published on May 31, 2023.

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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



*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

S.D. DANR - GROUND WATER

523 E CAPITOL AVE
PIERRE SD 57501

ORDER NUMBER 57124

The undersigned, being duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, a clerk of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published for at least one year prior to the first date of the published notice.

This affidavit is a true and corrected copy of notice which appeared

in said newspaper once each week for one

successive week, the first publication there of being on the

31 day of May, 2023.

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 05/31/2023

TOTAL AD COST: 91.40

FILED ON: 6/6/2023

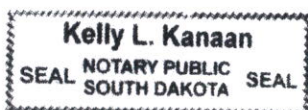
Subscribed and sworn to before me this

6th day of June, 2023.

Kelly L. Kanaan Notary Public

My commission expires

Jan 17, 2025



RECEIVED

JUN 09 2023

OFFICE OF
WATER

Public Notices

NOTICE OF APPLICATION NO. 2866-2 to Appropriate Water

Notice is given that Daniel D. O'Neill, 29252 243rd Avenue, Tut-till SD 57574 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Ogallala Aquifer (approximately 300 feet deep) located in Lots 2 and 3 (E1/2 NW1/4) Section 21 for irrigation of 63.88 acres located in the (E1/2 NW1/4) Lots 2 and 3 Section 21; all in T37N-R33W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 25 miles east of

Martin SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends AP-PROVAL of Application No. 2866-2 with qualifications because 1) un-appropriated 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 concern-ing 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 re-quirements 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 June 12, 2023.

The petition shall include a state-ment describing the unique injury upon approval of the application on the petitioner, the petitioner's rea-sons 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 June 12, 2023.

If the applicant does not contest the recommendation of the Chief Engi-neer and no petition to oppose the application is received, the Chief Engineer shall act on the applica-tion pursuant to the recommenda-tion 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 Manage-ment Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

(Published May 31, 2023 for a total approximate cost of \$91.40 and may be viewed for free at www.sdpublicnotices.com)
Legal No: 57124

RECEIVED
JULY 11 2023
KELLY J. KANDER
SOUTH DAKOTA
STATE OF SOUTH DAKOTA
OFFICE OF THE ATTORNEY GENERAL

JUN 02 2023

Affidavit of Publication

State of South Dakota

County of Bennett

OFFICE OF
WATER

Taylor Risse, being, first duly sworn, on oath, says: That he/she is an employee of Scherer Publishing, LLC, and that the **Bennett County Booster** is, and during all the times hereinafter mentioned was, a weekly legal newspaper as defined in the SDCL 17-2-2.1 through the 17-2-2.4 inclusive; that said newspaper has been published within the said county of Bennett and State of South Dakota, for at least one year prior to the first publication of the attached public notice, and that the printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for **1** successive week(s) to wit:

May 31, 2023

That the full amount of the fee charged for the publication of the attached public notice, **\$51.10** insures to the sole benefit of the publisher or publishers; 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 whomsoever; that the fees charged for the publication thereof are:

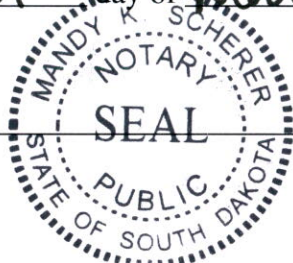
Signed: _____

Subscribed and sworn to before me this 31 day of May, 2023.

Mandy Scherer

Notary Public

My Commission Expires
December 9, 2027



Third Tornado in 23 Years – June 6, 1963 As told through the Archives

By Jonni Joyce

Bennett County people were still digging out of the rubble on Wednesday after the third disastrous tornado to strike the area in the past 23 years.

The first two plowed a path of destruction through the city limits of Martin. The first one on July 19, 1939, destroying the former Allen theatre, St. Katharine's Episcopal Church and the rectory and other buildings in the center of Martin. The second tornado plowed through the southern edge of Martin in the early evening hours of August 6, 1956, wreaking havoc at the hospital building, the fair grounds building, the fair grounds property and many others.

Martin escaped the latest onslaught, which occurred in the early evening hours of June 6. The tornado touched down in the southwestern part of the country first, about 6:30 p.m., doing the most damage to the farms of Rodney Rayhill, Leland Jacobs and Kermit Croner, besides completely destroying the Gamble Episcopal Church.

The hardest hit farms were in the Patricia area in the northeast part of Bennett County. Personal belongings were scattered across the countryside. The Patricia school house was destroyed. The Patricia store sustained severe damage. Three farm residences were damaged.

Telephone and power lines were knocked out.

Miraculously, no one sustained any serious injuries, a situation in common with the tornado in 1939 and the one in 1956.

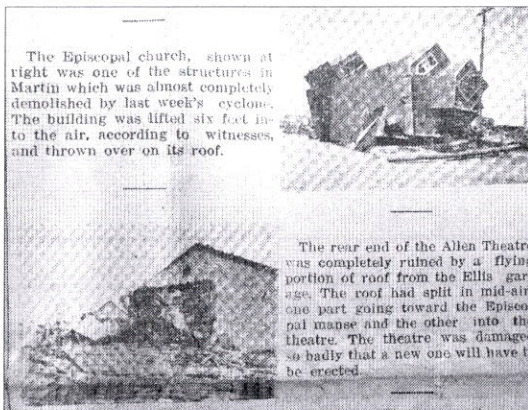
The 1939 headline of the Bennett County News, July 20th edition reads Cyclone Hit Martin Tuesday Evening. "Let it be said in all fairness to the City Board, the city police force and officials in general, they did a swell job of handling the situation and within a few hours citizens that visit Martin will not know that anything had ever happened."

The Allen Theatre quickly relocated to Milliken Hall and continued to show picture shows, the first being Spencer Tracy and Mickey Rooney in Father Flanagan's Boys Town. Reconstruction began immediately.

The 1956 headline of the Bennett County Booster II, August 9 edition reads Many Reports of Tornado Damage Here Exaggerated; Hits Outskirts; No Injuries

The story opens with an obviously aggravated reporter who takes issue with the outside world's assessment of the damage to Martin. In 1956, the Booster did not use by lines so the author is unknown.

"Despite wild and wilder reports about a tornado which struck Martin about 7:15 pm Monday evening, the community is still here, is still in substantially the same shape and form it was Monday afternoon, and nobody is suffering any extreme hardship because of the storm. It is true that a tornado of substantial force struck the community shortly after 7 p.m. Monday evening resulting in the obliteration of some buildings, extensive damage to some others and some wind, hail and water damage to most buildings in the city. But the reports of hundreds



This photo of damage to the Episcopal Church and Allen Theatre was taken in 1939 after the July 19 cyclone that struck Martin.

homeless, the city leveled, or the worst disaster I have ever seen are outlandish."

The 1956 tornado took a similar path through Martin as the 1939 tornado. The storm hit when most of the buildings were unoccupied. It leveled the fairgrounds pavilion that was used as a roller skating rink. Other fairgrounds buildings were reduced to kindling.

A family near the fairgrounds sheltered in their "spud cellar" as the storm struck, lifting their house off the foundation and taking the contents with it.

The Martin Livestock Sales pavilion sustained the most damage along with the new Bennett County Community Hospital. Both buildings were just a year old.

The sisters in the hospital took the thirteen patients to the basement. After the storm, patients were evacuated to private homes due to the roof being damaged and water being on the floor of the hospital. Local firemen helped to evacuate the patients.

As in all tornadoes, oddities are common. Such was the case with this one. A 2x4 board, believed to be from the sales pavilion roof was driven completely through a tire on a vehicle more than 100 yards from the pavilion.

All six long distance circuits into Martin were cut by the storm but one circuit was restored by 10:30 am Tuesday morning. About 30 home phones in Martin were cut by flying debris and 14 rural circuits east and west were cut by gale.



This photo of damage to the Martin Livestock Sales pavilion was taken after the August 6, 1956 tornado that struck Martin.

The exaggerated reports about the damage here, that apparently got bigger and bigger caused an influx of calls by anxious friends and relatives from a distance

concerned about people and property within Martin. The one long distance circuit could not begin to carry the messages.

NOW HIRING

Westcott Construction Inc. at Holabird SD is seeking 2 full time employees for fiber optic construction. Work is located in Western SD. Martin area, Faith area, White River area.

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If Interested Call:

Craig Sterkel 605 870 1678 Or Lindell Adair 605 685-3710

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Legal Notices

Notice Of Application NO. 2866-2 to Appropriate Water

Notice is given that Daniel D. O'Neill, 29252 243rd Avenue, Turhill SD 57574 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Ogallala Aquifer (approximately 300 feet deep) located in Lots 2 and 3 (E1/2 NW1/4) Section 21 for irrigation of 63.88 acres located in the (E1/2 NW1/4) Lots 2 and 3 Section 21; all in T37N R33W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 25 miles east of Martin SD.

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Published once at the total approximate cost of \$51.10

and can be viewed free of charge at www.sdpublicnotices.com.

Published: May 31, 2023

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Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, May 19, 2023 8:43 AM
To: skinney_7@yahoo.com
Subject: 2866-2 Daniel O'Neill - Public Notice
Attachments: 2866-2.pdf; 2866-2 APPL2.docx; 2866-2 public.short_final.docx

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 was mailed to you earlier this week.

Please note that the Rapid City Journal requires prepayment.

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

JUL 11 2023

Daniel D. O'Neill
29252 243rd Avenue
Tuthill SD 57574

Dear Mr. O'Neill:

Enclosed is Water Permit No. 2866-2 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



**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
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.: 2866-2

Name of Applicant: Daniel D. O'Neill

Date of Posting: 5/30/2023

Date of Removal: 7/11/2023



Ron Duvall, Water Rights Permitting Administrator

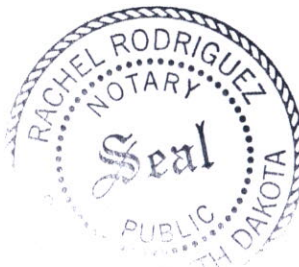


Date

Subscribed and sworn to before me, a notary public, this 14 day of July, 2023.



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



(SEAL)



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2024

NOTICE

TO: DANIEL D O'NEILL, 29252 243RD AVE, TUTHILL, SD 57574

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaires

Our records indicate your 2023 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1208-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 1002A-2, 2627-2, 2866-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1002A-2, 2627-2, 2866-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1208-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaires are received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: SQNYTQ**

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 13, 2024

1002A-2, 1208-2,
2627-2 & 2866-2

Dan & David O'Neill
29252 243rd Ave
Tuthill SD 57574

Dear Sirs:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 2627-2, 1208-2, 1002A-2 & 2866-2. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us