

WATER PERMIT NO. 2873-2

Name of Applicant: **Joseph Kuhlman**

Address: **16235 E Hwy 44, Caputa SD 57725** Phone: **605-484-3045**

Amount of Water Claimed: **4.4 cfs** Total Acres: **225**

Source of Water Supply: **Surface**

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

Type of Waste Disposal System:

Location: **Approx. 17 miles southeast of Rapid City SD**

PRIORITY Date Received: **01-22-24**

Application/License Fee: **\$1,150.00**

Corrected Application Received: **01-30-24**

Period of Annual Use: **April 1 – September 30**

Remarks: **Applicant looked at canceled permit 2248-2 and applied for a water permit**

Diversion Point: **NW 1/4 NW 1/4 Sec 33 -T1S-R11E**

Land to be Irrigated: **S 1/2 Sec 28 -T1S-R11E, N 1/2 NW 1/4, N 1/2 NE 1/4 Sec 33 -T1S-R11E**

		^D 28			
		33			

Depth of Well: **N/A**

Well Driller: **N/A**

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **01-30-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2873-2**

Date of first receipt of application January 22, 2024.

Date of return to applicant for corrections, amendments or changes January 25, 2024.

Date of receipt of corrected application January 30, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2873-2 to Joseph Kuhlman, 16235 E Hwy 44, Caputa SD 57725, 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. 2873-2 appropriates 4.45 cubic feet of water per second (cfs) from Rapid Creek and runoff into a storage dam with a capacity of 6.5 acre-feet to irrigate 225 acres. Water diverted from Rapid Creek may either be used directly for irrigation or be diverted into the storage dam and then the acreage irrigated from the storage dam. The Rapid Creek diversion point and storage dam are both to be located in the NE 1/4 NW 1/4 Section 33-T1S-R11E. The area to be irrigated is located in the S 1/2 S 1/2 Section 28; N 1/2 N 1/2 Section 33; all in T1S-R11E. This site is located approximately 12 miles south of New Underwood 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 – September 30.
3. The date from which applicant may claim right is January 22, 2024.
4. The date of approval of Permit No. 2873-2 is March 18, 2024.
5. One-fifth of the construction is to be completed on or before September 18, 2026.
6. All construction is to be completed on or before March 18, 2029.
7. Water is to be put to beneficial use on or before March 18, 2033.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed. This Permit does not authorize the diversion of water from Rapid Creek or contributing tributaries when the flow at the USGS gaging station at Farmingdale is 15 cfs or less, unless written authorization is granted by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
2. The irrigation intake for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second in open water or 0.25 feet per second in an embayment and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.

(continued)

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. 2873-2 authorizes a maximum diversion rate of 4.45 cfs into a storage dam or directly for irrigation of 225 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit does not preclude upstream water right holders from utilizing different means of treating or discharging wastewater effluent or improving irrigation efficiencies which may reduce the amount of water being returned to Rapid Creek.
5. 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

MAR 26 2024
date



RECEIVED

JAN 22 2024

PAID

JAN 22 2024

Ck# 2578
Rec't# 9/22/24

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2873-2</u>	Hydrologic Unit <u>10120110</u>	OFFICE OF WATER
	Basin <u>Rapid</u>		
	Newspaper <u>Rapid City Journal</u>		
	(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 Joseph Kuhlman

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

Mailing Address 16235 E Hwy 44 Caputa SD 57725
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605 484 3045 Email hardeneyeconcrete@gmail.com

2. Amount of water claimed 4.45 *CFS or 2,000 **GPM 6.5 ***AF Total Acreage 6.5 annual
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable

3. Source of water supply Upper Cheyenne Basin (Rapid Creek)

4. Location of point of diversion Point A N1/2 NW1/4 section 33 58-33-100-001
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

All located in T1S, R12E BHM County Pennington

5. County or counties where water will be used Pennington

6. Annual period during which water is to be used April - September

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
		<u>N1/2 NE1/4 Sec 33 T1S-R11E</u>	<u>38</u>
<u>see attached sheet</u>			
<u>S1/2 Sec 28 T1S-R11E</u>	<u>153</u>		
<u>N1/2 NW1/4 Sec 33 T1S-R11E</u>	<u>34</u>		

8. Give a description of the project. (Attach sheet if more space is needed) Requesting div rate greater than statutory limit.
Irrigation for alfalfa, small grains, grasses. I would pump out of rapid creek
or from a water storage dam or both with water supplied from rapid creek
watershed. Diversion pump and dam will be located in N1/2 NW1/4 section 33. I am
applying for the old irrigation permit (2248-2) that was cancelled due to lack of
non-use and construction.

I, Joseph Kuhlman, 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.

Supplemental Information

(type or print)

1. **Well Information** (check one or both as applicable) no well ☐ 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) _____ none 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) septic tank
- b) System Capacity (gallons) 2,000 Year Constructed 1972
- c) Connected to the City of none/pennington county 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 12"
- c) Crest Width 13'
- Crest Length 400'
- d) Height 8'

- e) Primary Outlet Capacity 2,000 gpm

If pipe, diameter 8"

- f) Secondary Spillway Capacity 4,000 gpm
- Spillway Width 4'

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

Upstream 3:1

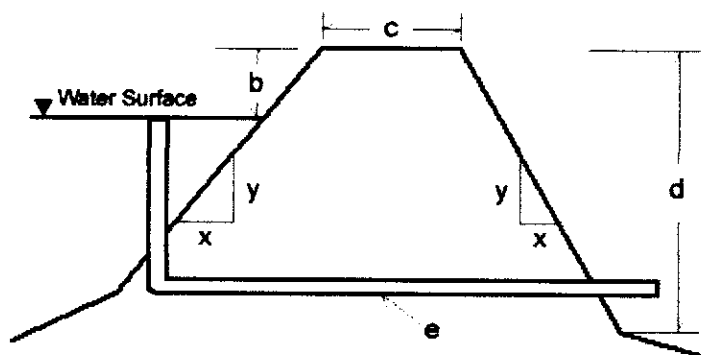
Downstream 3:1

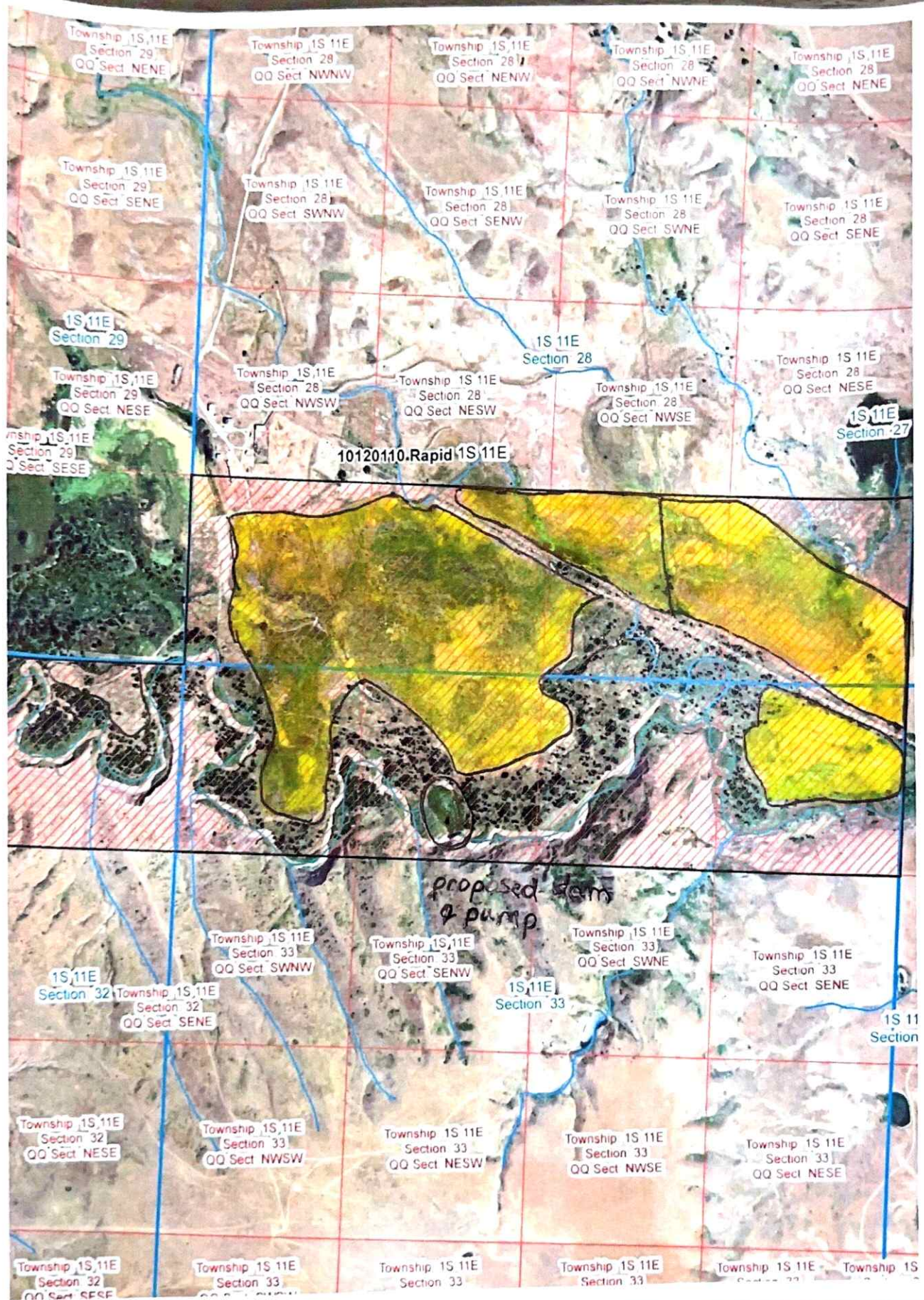
- h) Area of Impoundment 300' x 250'

- i) Storage 6.5 Acre Feet

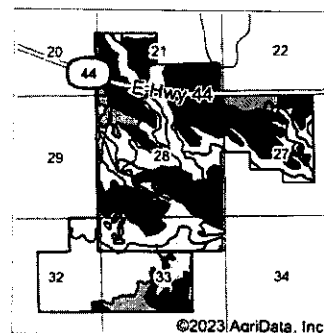
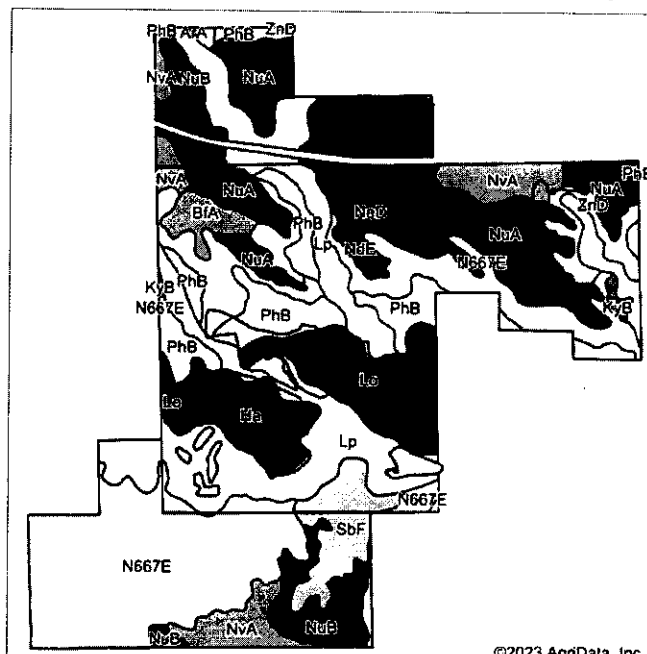
- j) Drainage Area Above Dam _____ Acres

rapid creek watershed





Soils Map



State: **South Dakota**
County: **Pennington**
Location: **28-1S-11E**
Township: **East Central Pennington**
Acres: **1767.49**
Date: **6/22/2023**



Mapa Provided By



surety
CUSTOMIZED ONLINE MAPS
2013 www.AgrDataInc.com



Soils data provided by USDA and NRCS.

Area Symbol: SD606, Soil Area Version: 14							
Code	Soil Description	Acres	Percent of field	PI Legend	Non-Irr Class °c	Irr Class °c	Productivity Index
N667E	Pierre-Samsil, moderately deep clays, 6 to 25 percent slopes	425.33	24.1%		Vle		20
NuA	Nunn loam, 0 to 2 percent slopes	351.94	19.9%		IIIe	IIIs	80
Lp	Lohmiller silty clay, channeled, 0 to 3 percent slopes, occasionally flooded	316.05	17.9%		VIw		30
PhB	Pierre-Hisle complex, 0 to 9 percent slopes	135.96	7.7%		IVe		27
Lo	Lohmiller silty clay	121.93	6.9%		IIIC	IIle	73
NvA	Nunn-Beckton complex, 0 to 3 percent slopes	89.83	5.1%		IIIs		63
Ha	Haverson silt loam	71.91	4.1%		IIIC		79
NuB	Nunn loam, 2 to 6 percent slopes	65.71	3.7%		IIIs		80
SbF	Samsil clay, 15 to 40 percent slopes	62.25	3.5%		VIIe		4
ZnD	Zigweid-Nihill complex, 6 to 15 percent slopes	47.16	2.7%		Vle		23
NeD	Nihill very gravelly loam, 0 to 25 percent slopes	33.79	1.9%		VIIIs		12
BfA	Beckton silt loam, 0 to 4 percent slopes	25.27	1.4%		IVs		36
NdE	Nihill gravelly loam, 6 to 40 percent slopes	14.15	0.8%		Vis		12
KyB	Kyle clay, 2 to 6 percent slopes	5.77	0.3%		IVe		52
ArA	Arvada loam, 0 to 3 percent slopes	0.44	0.0%		VIIs		12
Weighted Average					4.68	-	47

***c: Using Capabilities Class Dominant Condition Aggregation Method**

* In Class weighted average cannot be calculated on the current soils data due to missing data.

Soils data provided by USDA and NRCS.

Township: 1S,11E
Section: 29
QQ Sect: NENE

Township: 1S,11E
Section: 28
QQ Sect: NVNW

Township: 1S,11E
Section: 28
QQ Sect: NENW

Township: 1S,11E
Section: 28
QQ Sect: NWNE

Township: 1S,11E
Section: 28
QQ Sect: NENE

Township: 1S,11E
Section: 29
QQ Sect: SENE

Township: 1S,11E
Section: 28
QQ Sect: SWNW

Township: 1S,11E
Section: 28
QQ Sect: SENW

Township: 1S,11E
Section: 28
QQ Sect: SWNE

Township: 1S,11E
Section: 28
QQ Sect: SENE

1S,11E
Section: 29

Township: 1S,11E
Section: 29
QQ Sect: NESE

Township: 1S,11E
Section: 29
QQ Sect: SESE

Township: 1S,11E
Section: 28
QQ Sect: NWSW

Township: 1S,11E
Section: 28
QQ Sect: NESW

Township: 1S,11E
Section: 28
QQ Sect: NWSE

Township: 1S,11E
Section: 28
QQ Sect: NESE

1S,11E
Section: 27

10120110.Rapid 1S,11E

1S,11E
Section: 28

1S,11E
Section: 32

Township: 1S,11E
Section: 32
QQ Sect: SENE

Township: 1S,11E
Section: 33
QQ Sect: SWNW

Township: 1S,11E
Section: 33
QQ Sect: SENW

1S,11E
Section: 33

Township: 1S,11E
Section: 33
QQ Sect: SWNE

Township: 1S,11E
Section: 33
QQ Sect: SENE

1S,11E
Section: 34

Township: 1S,11E
Section: 32
QQ Sect: NESE

Township: 1S,11E
Section: 33
QQ Sect: NWSW

Township: 1S,11E
Section: 33
QQ Sect: NESW

Township: 1S,11E
Section: 33
QQ Sect: NWSE

Township: 1S,11E
Section: 33
QQ Sect: NESE

Township: 1S,11E
Section: 32
QQ Sect: SESE

Township: 1S,11E
Section: 33
QQ Sect: SWSW

Township: 1S,11E
Section: 33
QQ Sect: SESW

Township: 1S,11E
Section: 33
QQ Sect: SWSE

Township: 1S,11E
Section: 33
QQ Sect: SESE

Township: 1S,11E
Section: 34
QQ Sect: SWSW

Joseph Kuhlman
Irrigated Parcels

Section 28 - T1S - R1E Acres

SW $\frac{1}{4}$ SW $\frac{1}{4}$	39
SW $\frac{1}{4}$ SE $\frac{1}{4}$	37
SE $\frac{1}{4}$ SW $\frac{1}{4}$	38
SE $\frac{1}{4}$ SE $\frac{1}{4}$	39

Section 33 T1S - R1E

N $\frac{1}{2}$ NW $\frac{1}{4}$	34
N $\frac{1}{2}$ NE $\frac{1}{4}$	38

Section 32 T1S - R1E

NE $\frac{1}{4}$ NE $\frac{1}{4}$	12
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Total acres

~~237~~ 225



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER
FOR WATER PERMIT NO. 2248-2, DALE JENSEN**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 2248-2, now owned by Roger Croell and Bret Hamm.

The Chief Engineer is recommending cancellation of the above water permit due to non-construction of the irrigation system. An investigation of the area on March 16, 2005, found no evidence of an irrigation system. The project was to have been completed by December 16, 1997 and water placed to beneficial use by December 16, 2001.

RON DUVALL, Natural Resources Engineer
for Garland Erbele, Chief Engineer
May 25, 2005

Note:

Cancellation of the water permit/right does not prohibit a new application for this project in the future.

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 30, 2024

RECEIVED OF Joseph R. Kuhlman 16235 E Hwy 44 Caputa SD 57725

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

Fee for Application for Permit No. <u>2873-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>100.00</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. _____	\$ _____
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>100.00</u>

By Eric Gronlund
Chief Engineer
Em

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 22, 2024

RECEIVED OF Joseph Kuhlman 16235 E Hwy 44 Caputa SD 57725

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

Fee for Application for Permit No. <u>2873-Z</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</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>2873-Z</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>1050.00</u>

By Eric Gronlund
Chief Engineer
VM

Rodriguez, Rachel

From: Joe Kuhlman <hardeneyeconcrete@gmail.com>
Sent: Friday, January 26, 2024 1:28 PM
To: Rodriguez, Rachel
Subject: Re: [EXT] Water Permit Application

Rachel

Good question, I was going to but now I am not mainly just for ease of fencing for cattle it will not work to irrigate that parcel.

Sent from my iPhone

On Jan 26, 2024, at 7:29 AM, Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good Morning Joe,

Thanks for your quick response. Yes, you have answered all my questions. However, the sheet you submitted, see attached, has 12 acres in the NE ¼ NE 1/4 Section 32-T1S-R11E and the map you returned does not include these 12 acres. Please let me know if you plan on irrigating these 12 acres or not.

Thank you,

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

From: Joe Kuhlman <hardeneyeconcrete@gmail.com>
Sent: Thursday, January 25, 2024 7:13 PM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: Re: [EXT] Water Permit Application

Rachel,

Just to clarify,

- 1). The location of the proposed dam will be by the creek. Rapid Creek used to make a "U" but in 2018 it washed through and now goes straight across and no longer flows around the "U" in the creek. I believe I had it marked on the map. It's hard to explain so I hope this explanation helps. I can resend another map with the additional check to further clarify location.
- 2). The pump would go basically in the same location as the dam or extremely close too. Both dam location and pump location is about directly in the middle of our proposed irrigated farmground so this location would work well for us.
- 3). Yes the highlighted section is most of our irrigated farmground but not all. I will try another way to map that out for you.
- 4). Can you let me know if this clarifies things before I send the additional paperwork back to you.

Thank you.

On Thu, Jan 25, 2024 at 3:59 PM Joe Kuhlman <hardeneyeconcrete@gmail.com> wrote:

Rachel

I will get it fixed. Thank you.

Sent from my iPhone

On Jan 25, 2024, at 1:06 PM, Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good Morning Joe,

I am in receipt of your water permit application. However, there are a few items that need clarification.

1. Attached is a map –
 1. please mark the location of the dam – is it on the creek or beside the creek
 2. mark the location where you plan to pump from the creek
 3. Is the crosshatched section in bright red the irrigation area? If not, please mark the area to be irrigated.
2. The fee for irrigating 237 acres is $\$950 + \$200 = \$1,150.00$. You submitted $\$1,050.00$, please submit the additional $\$100$.

Once I am in receipt of the required information and fee, I can begin processing your application.

Thank you,

Rachel Rodriguez

DANR | Program Assistant

Rachel.Rodriguez@state.sd.us

<image001.png>

<KuhlmanMap.pdf>

Rodriguez, Rachel

From: Joe Kuhlman <hardeneyeconcrete@gmail.com>
Sent: Thursday, January 25, 2024 8:20 PM
To: Rodriguez, Rachel
Subject: [EXT] Dam & pump location
Attachments: QQ Sect SENE.pdf

Rachel,

I am sorry but I did see your map that was attached at first. I hope this helps explain from my earlier email. Yellow is irrigated ground and the "circled" part is the dam or pump location.

Thank you.

Sent from my iPhone

Rodriguez, Rachel

From: Joe Kuhlman <hardeneyeconcrete@gmail.com>
Sent: Thursday, January 25, 2024 7:13 PM
To: Rodriguez, Rachel
Subject: Re: [EXT] Water Permit Application

Rachel,

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Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, January 25, 2024 2:06 PM
To: Joe Kuhlman
Subject: Water Permit Application
Attachments: KuhlmanMap.pdf

Good Morning Joe,

I am in receipt of your water permit application. However, there are a few items that need clarification.

- Attached is a map –
 - please mark the location of the dam – is it on the creek or beside the creek
 - mark the location where you plan to pump from the creek
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Once I am in receipt of the required information and fee, I can begin processing your application.

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2873-2, Joseph Kuhlman**

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. 2873-2, Joseph Kuhlman, 16235 E Hwy 44, Caputa SD 57725.

The Chief Engineer is recommending APPROVAL of Application No. 2873-2 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 water and prior water rights must be by-passed. This Permit does not authorize the diversion of water from Rapid Creek or contributing tributaries when the flow at the USGS gaging station at Farmingdale is 15 cfs or less, unless written authorization is granted by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
2. The irrigation intake for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second in open water or 0.25 feet per second in an embayment and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.
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. 2873-2 authorizes a maximum diversion rate of 4.45 cfs into a storage dam or directly for irrigation of 225 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit does not preclude upstream water right holders from utilizing different means of treating or discharging wastewater effluent or improving irrigation efficiencies which may reduce the amount of water being returned to Rapid Creek.
5. 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
February 29, 2024

NOTE: The Permit holder must recognize that during periods of low flow in Rapid Creek or in the Cheyenne River below Rapid Creek's confluence with the Cheyenne River that Permit No. 2873-2, if approved, may be subject to shut off orders.

Report to the Chief Engineer
On Water Permit Application No. 2873-2

Joseph Kuhlman

February 29, 2024

Water Permit Application No. 2873-2 proposes to divert water at a maximum instantaneous diversion rate of 4.45 cubic feet of water per second (cfs) from Rapid Creek and runoff into a storage dam with a capacity of 6.5 acre-feet to irrigate 225 acres. Water diverted from Rapid Creek may either be used directly for irrigation or be diverted into the storage dam and then the acreage irrigated from the storage dam. The Rapid Creek diversion point and storage dam are both to be located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33-T1S-R11E. The area to be irrigated is located in the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 28 and N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 33; all in T1S-R11E.

The site of interest is located in Pennington County approximately twelve miles south of New Underwood, SD. Water Permit Application No. 2873-2 specified a period of annual use for diversion beginning April 1 through September 30. The applicant is requesting a diversion rate greater than the statutory limit of 1.0 cfs per 70 acres.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a water permit application. The Chief Engineer needs to consider four criteria when 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 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 best available information and 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 Water Source

The water source for this application is from Rapid Creek downstream of Rapid City and the Rapid Valley Water Conservancy District and local runoff, approximately nine miles upstream from the confluence with the Cheyenne River (Figure 1).

Rapid Creek begins flowing in the Black Hills west of Rapid City. Deerfield Reservoir, located on Castle Creek, a major tributary to Rapid Creek, is a US Bureau of Reclamation storage reservoir. Rapid City and Rapid Valley Water Conservancy District service contracts with Reclamation for stored water releases from Deerfield. Castle Creek joins Rapid Creek upstream of Pactola Reservoir, another Bureau of Reclamation storage reservoir. Rapid City has a storage contract with Reclamation allowing for the release of stored water to Rapid Creek from Pactola

Reservoir. These two reservoirs provide Rapid City and the Conservancy District the ability to supplement natural flow in the creek to help supply their downstream uses.

During the irrigation season, the natural flow in Rapid Creek downstream from the Water Conservancy District is primarily effluent water from Rapid City's wastewater treatment plant and irrigation return flows from the District. If in the future, Rapid City changes the method of treating wastewater or irrigation efficiencies increase, the amount of water in Rapid Creek downstream from the District may decrease. Approval of this application will not require Rapid City or Rapid Valley Water Conservancy District to maintain return flows to Rapid Creek.

The US Geological Survey (USGS) has constructed and maintained gaging sites on streams and rivers to monitor real-time flow information. This includes historical daily flow data and statistical daily, monthly and annual flow information. The streamflow datasets can be graphed to further understand how the flow values of streams and rivers fluctuate during wet and dry periods. The nearest stream flow gage operates approximately four miles upstream of the proposed diversion point on Rapid Creek near Farmingdale, SD (Site No. 06421500) (Figure 1).

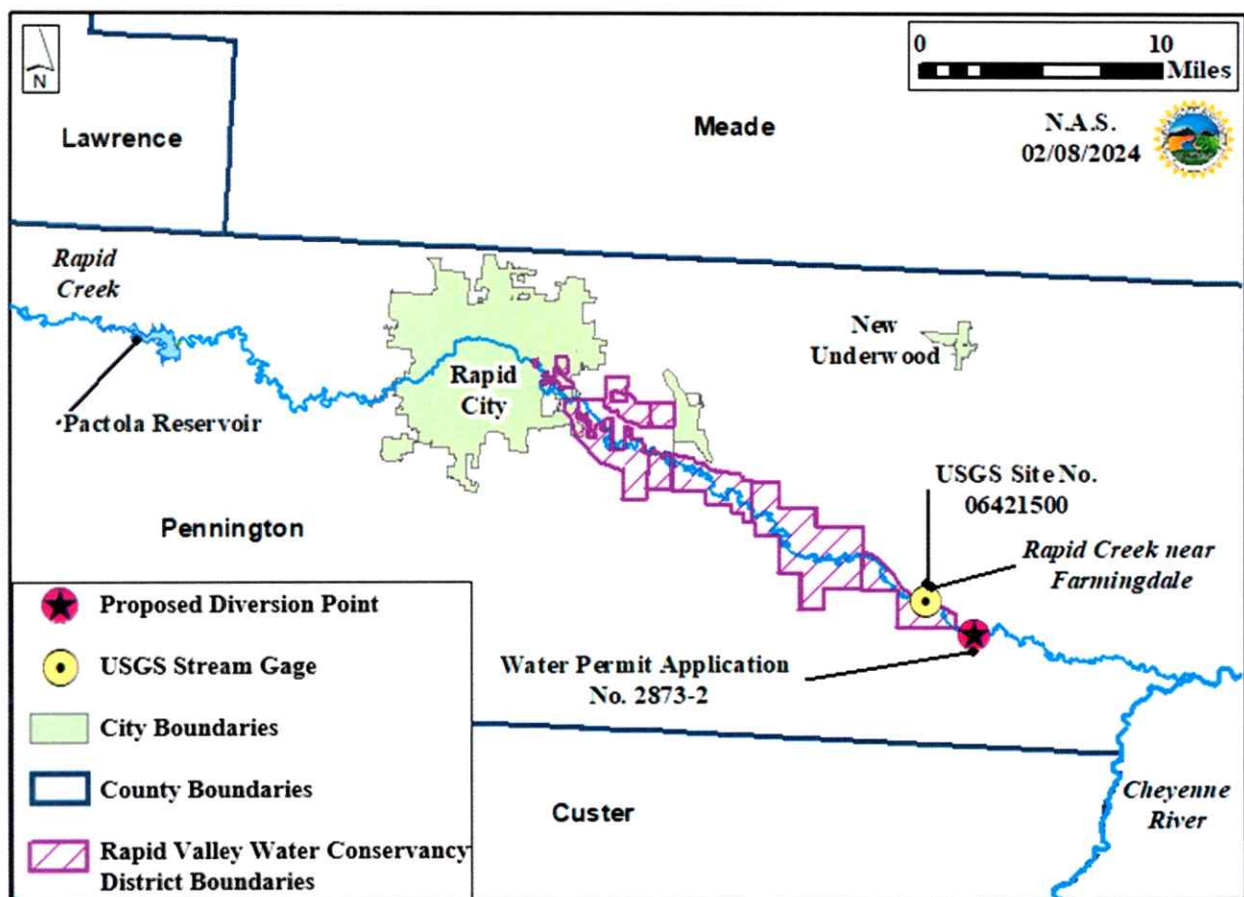


Figure 1. Area Map for Water Permit Application No. 2873-2 including the USGS stream gage at Farmingdale, and the Rapid Valley Water Conservancy District Boundaries (USGS, 2024)

Statistical terms, mean and median, have a similar role in understanding the central tendency of a set of statistical results. The mean value, often referred to as average, is calculated by dividing the sum of the data values by the sum of the number of data values. The disadvantage of using the mean value to describe flow is that the value can be drastically affected by any single value in the data set whether very high or very low compared to the rest of the data values. For example, in the analysis of long-term flow data, large flood event flow values increase the calculated mean value giving an unreasonable expectation of a higher flow value during a time period. The median (middle/50th percentile) value of flow data separates the higher half of the data set from the lower half. Median values tend to give a more representative measure of a mid-point value when analyzing river flow data. This is because large runoff events can cause the mean values to be much larger than median values, specifically in early spring and summer months.

Daily mean versus monthly median flow values for the USGS Stream Gage No. 06421500 on Rapid Creek near Farmingdale, SD are compared in Figure 2. The daily flow data collected by the USGS at that station was evaluated from 1964 to 2023, to coincide with the period after Pactola Reservoir filled in 1963 (USGS, 2024).

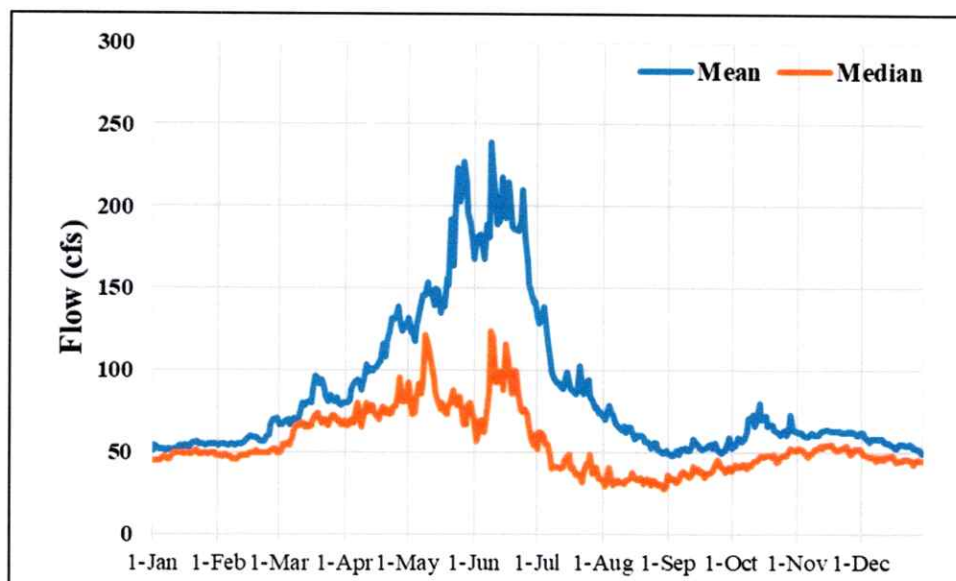


Figure 2. USGS Rapid Creek gaging station (No. 06421500) near Farmingdale, SD, 1964-2024 daily mean versus monthly median flow values, contributing drainage area: 603 sq. miles (USGS, 2024)

Hydrographs for the USGS gaging station on Rapid Creek upstream of the proposed diversion point, and the gaging stations on the Cheyenne River before and after the confluence of Rapid Creek downstream of the proposed diversion point were analyzed to determine flow values and seasonal tendencies of the creek within that reach, and of the Cheyenne River before and after the Rapid Creek contribution. The nearest gaging station upstream of the proposed diversion point is USGS Stream Gage No. 06421500 on Rapid Creek near Farmingdale, SD. The nearest gaging station downstream of the proposed diversion point on the Cheyenne River, before the confluence with Rapid Creek, is USGS Stream Gage No. 06408650 on the Cheyenne River near

Scenic, SD. The nearest gaging station downstream of the proposed diversion point on the Cheyenne River, after the confluence with Rapid Creek, is USGS Stream Gage No. 06423500 on the Cheyenne River near Wasta, SD.

USGS Stream Gage No. 06421500 on Rapid Creek near Farmingdale, SD, is located approximately four river miles upstream from the proposed diversion point and 23 river miles upstream from the confluence with the Cheyenne River. A hydrograph was constructed using the 10th, 25th, and 50th percentile flow level data measured at this stream gage (Figure 3).

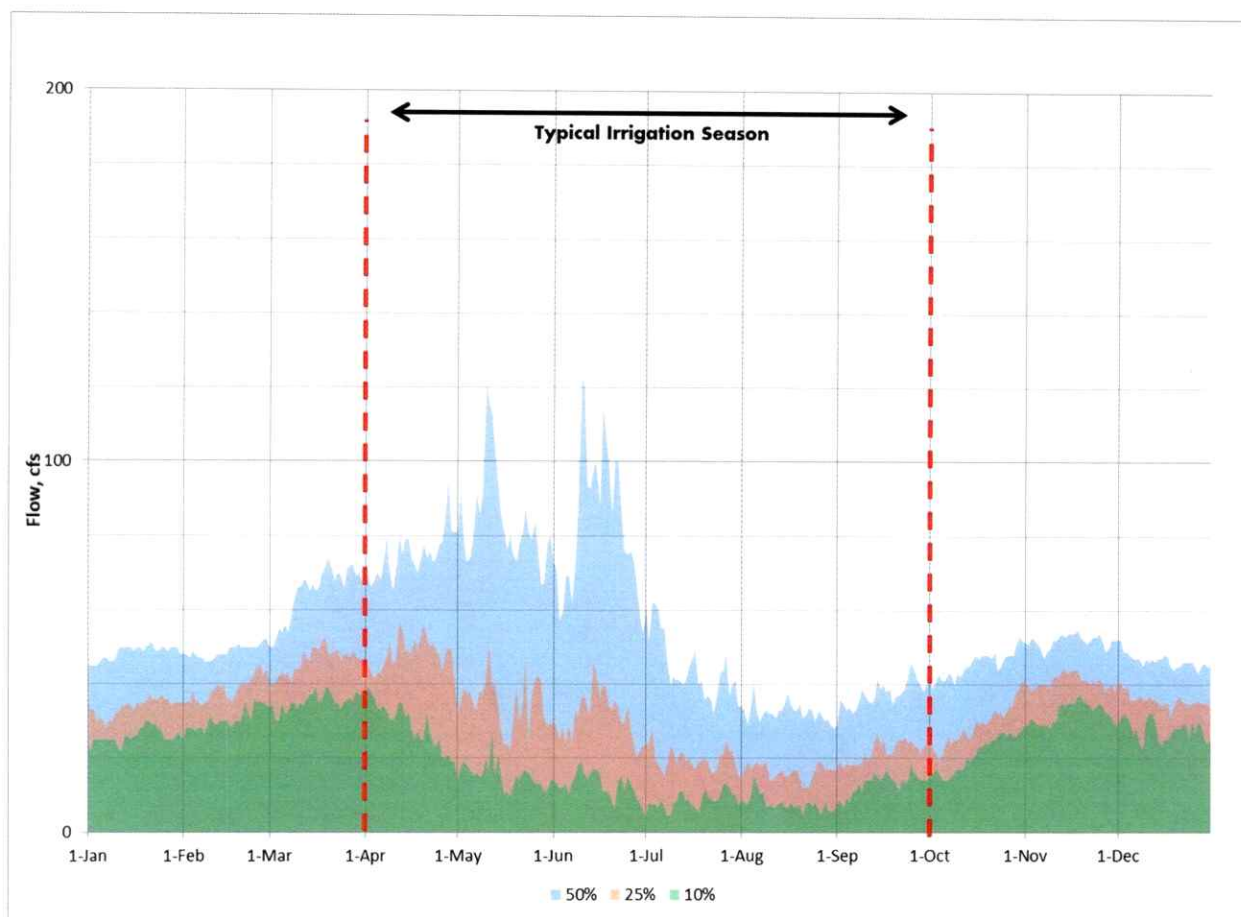


Figure 3. Daily percentile flow hydrographs for the USGS gage Rapid Creek near Farmingdale, SD, 1964-2023, contributing drainage area: 603 sq. miles (USGS, 2024)

The median (50th percentile) hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of two years. The hydrograph displays an increase in flow beginning in early March, due to spring snowmelt, then flow values remain steady (approximately 60 cfs to 120 cfs) with peaks during spring/summer rain events through June. Flow values decrease in July and level out to approximately 30 to 40 cfs for the remainder of the irrigation season.

The 25th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of four years. The hydrograph displays an increase in flow beginning early March, due to spring snowmelt, and a steady flow (approximately 20 to 40 cfs) with peaks

during spring/summer rain events until the end of June. August displays a low flow value of approximately 12 cfs, but then values remain steady (approximately 15 to 25 cfs) for the remainder of the irrigation season.

The 10th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of ten years. A similar trend of increasing flow values through the spring months before lowering in July and remaining steady (approximately 10 cfs to 15 cfs) for the remainder of the irrigation season.

USGS Stream Gage No. 06408650 on the Cheyenne River near Scenic, SD, is located approximately 19 river miles downstream from the proposed diversion point and one river mile upstream from the confluence with Rapid Creek. A hydrograph was constructed using the 10th, 25th, and 50th percentile flow level data measured at this stream gage (Figure 4).

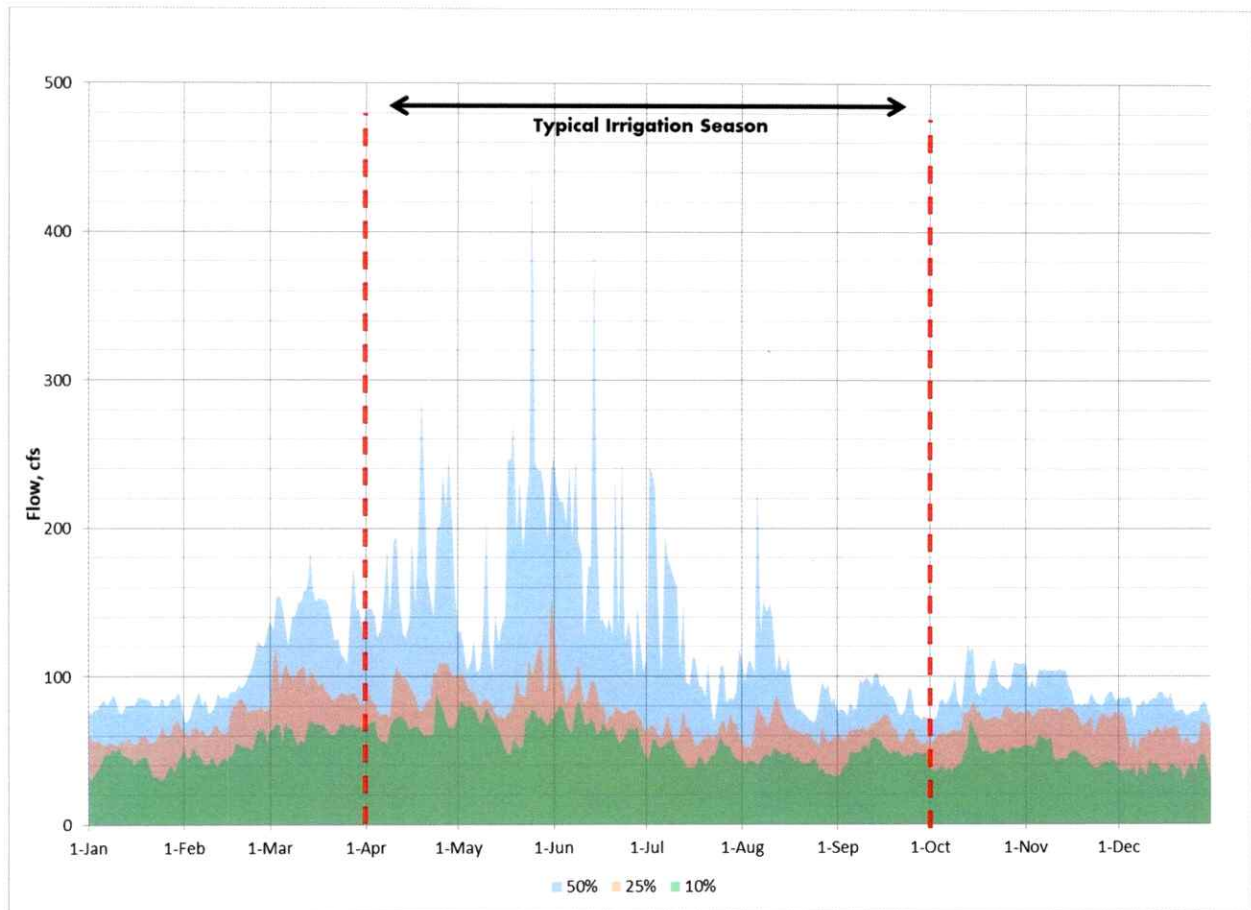


Figure 4. Daily percentile flow hydrographs for the USGS gage on the Cheyenne River near Scenic, SD, 2008-2023, contributing drainage area: 11,208 sq. miles (USGS, 2024)

The median (50th percentile) hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of two years. The hydrograph displays an increase in flow beginning in March, due to spring snowmelt, then flow values remain steady (approximately 100

cfs to 450 cfs) with peaks during spring/summer rain events through June. Flow values decrease in July and level out to approximately 70 to 100 cfs for the remainder of the irrigation season.

The 25th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of four years. The hydrograph displays an increase in flow beginning early March, due to spring snowmelt, and a steady flow (approximately 60 to 100 cfs) with peaks during spring/summer rain events until the end of June. August displays a low flow value of approximately 50 cfs, but then values remain steady (approximately 50 to 80 cfs) for the remainder of the irrigation season.

The 10th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of ten years. A similar trend of increasing flow values through the spring months before lowering in July and remaining steady (approximately 30 cfs to 60 cfs) for the remainder of the irrigation season.

USGS Stream Gage No. 06423500 on the upper Cheyenne River near Wasta, SD, is located approximately 45 river miles downstream from the proposed diversion point and 26 river miles downstream from the confluence with Rapid Creek. A hydrograph was constructed using the 10th, 25th, and 50th percentile flow level data measured at this stream gage (Figure 5).

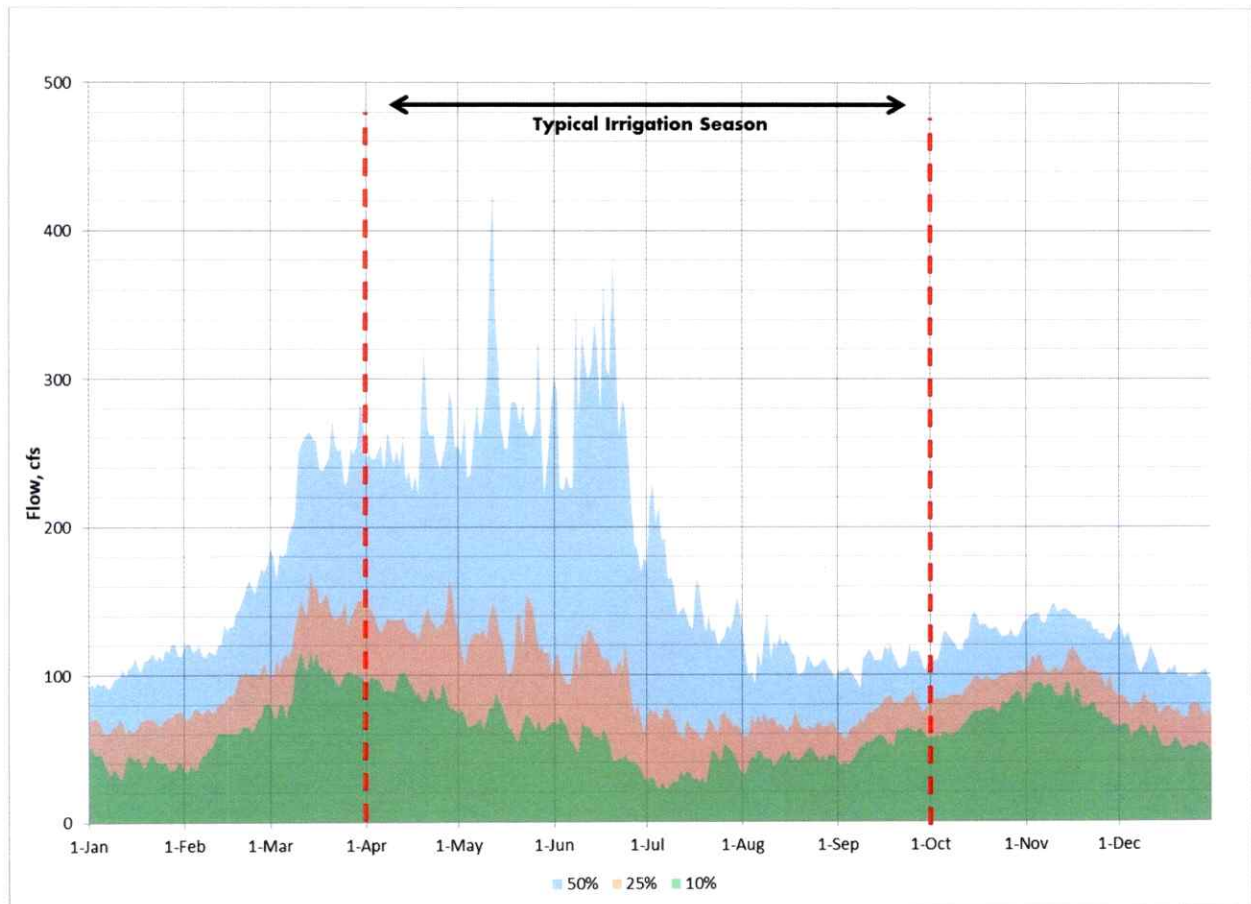


Figure 5. Daily percentile flow hydrographs for the USGS gage on the Cheyenne River near Wasta, SD, 1964-2023, contributing drainage area: 12,679 sq. miles (USGS, 2024)

The median (50th percentile) hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of two years. The hydrograph displays an increase in flow beginning early March, due to spring snowmelt, then flow values remain steady (approximately 150 cfs to 400 cfs) with peaks during spring/summer rain events through June. Flow values decrease in July and level out to approximately 90 to 140 cfs for the remainder of the irrigation season.

The 25th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of four years. The hydrograph displays an increase in flow beginning early March, due to spring snowmelt, and a steady flow (approximately 60 to 150 cfs) with peaks during spring/summer rain events until the end of June. July displays a low flow value of approximately 50 cfs, but then values remain steady (approximately 50 to 90 cfs) for the remainder of the irrigation season.

The 10th percentile hydrograph curve exhibits the daily flow values at or below the indicated level on average one out of ten years. A similar trend of increasing flow values through the spring months before lowering in July and remaining steady (approximately 30 cfs to 60 cfs) for the remainder of the irrigation season.

Review of Existing Water Rights, Discussion, and Recommendation

Currently there are two water rights for irrigation between the USGS Stream Gage No. 06421500 on Rapid Creek near Farmingdale, SD and the confluence with the Cheyenne River. The proposed diversion point for this application is requested to be located between the two existing water rights downstream of the Farmingdale stream gage, as shown in Figure 6. Water Right No. 395-2A authorizes a diversion rate of 2.2 cfs (upstream of proposed diversion point) and Water Right No. 2452-2 authorizes a diversion rate of 1.72 cfs (downstream of proposed diversion point) (Water Rights, 2024b). Several cancelled permits due to non-construction exist between the USGS stream gage on Rapid Creek near Farmingdale, SD and the confluence with the Cheyenne River (Water Rights, 2024b).

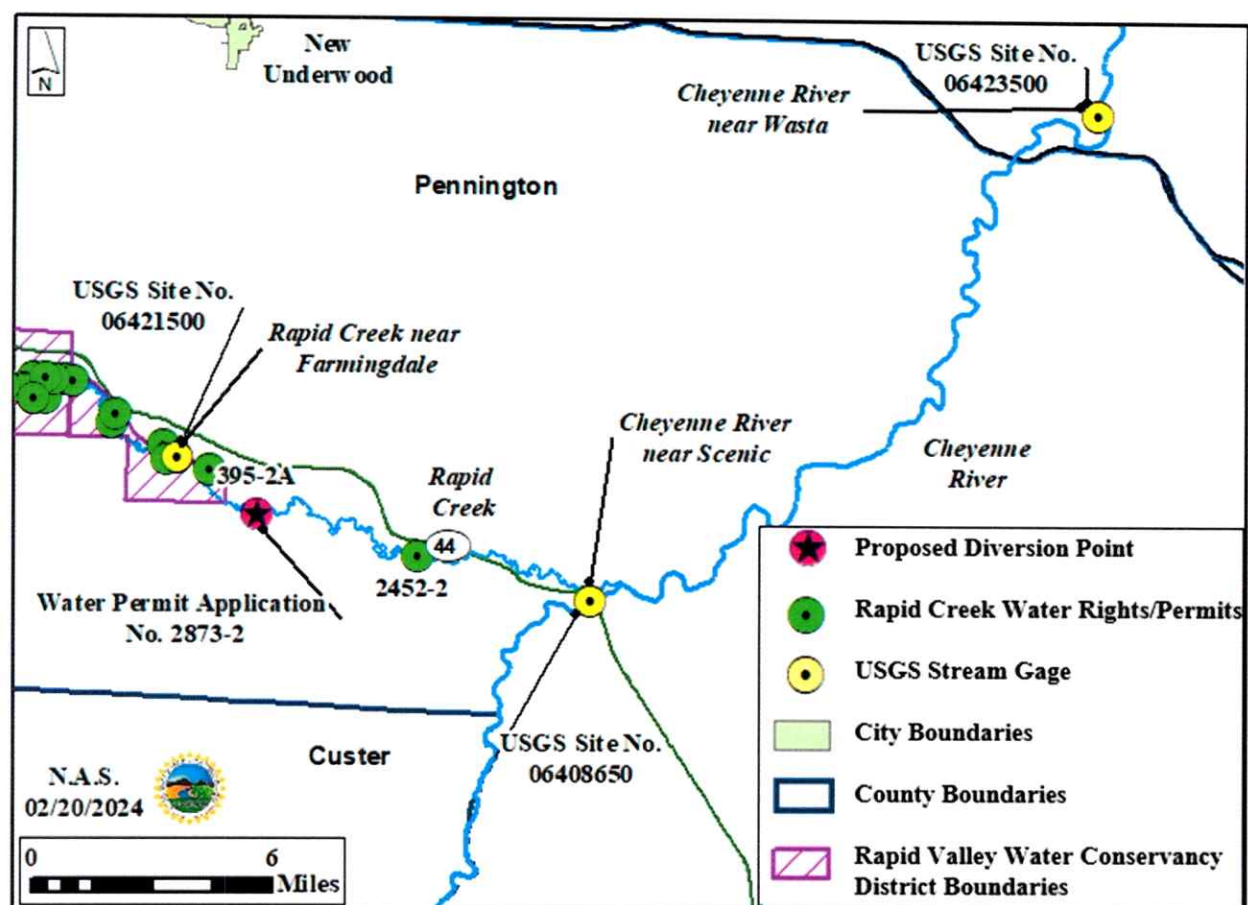


Figure 6. Area map for Water Permit Application No. 2873-2 including USGS stream gages at Farmingdale, Scenic, and Wasta, and the Rapid Creek water rights/permits (USGS, 2024; Water Rights, 2024b)

A 15-cfs bypass qualification measured at the Farmingdale stream gage is in effect along this Rapid Creek reach for downstream domestic use. Downstream of this application's proposed diversion point from the Rapid Creek-Cheyenne River confluence to Wasta, SD, there are five prior appropriations authorizing 9.94 cfs from the Cheyenne River. Review of the hydrograph for the Cheyenne River at Scenic indicates there is sufficient flow in the river to supply the 9.94 cfs authorized diversion located downstream from the stream gage at Scenic, and above the stream gage on the Cheyenne River at Wasta, SD.

The median (50th percentile) hydrograph for Rapid Creek at Farmingdale, SD indicates on average one out of two years flow values remain steady (approximately 60 cfs to 120 cfs) through June, with flow values decreasing in July and levelling out to approximately 30 to 40 cfs for the remainder of the irrigation season. The 25th percentile hydrograph for Rapid Creek at Farmingdale, SD indicates on average one out of four years flow values remain steady (approximately 20 to 40 cfs) through June. August displays a low flow value of approximately 12 cfs, but then values remain steady (approximately 15 to 25 cfs) for the remainder of the irrigation season. Review of the 10th percentile hydrograph indicates there may be times 15 cfs is not available in Rapid Creek at the Farmingdale stream gage.

In 2006 and 2007, the Chief Engineer issued shutoff orders due to low flow conditions to users with priority dates following January 1, 1970, and are authorized divert water from the Cheyenne River below Angostura Dam (Water Rights, 2024b). Given that, if drier climatic conditions occur causing low flow values, the applicant may be restricted in the amount of water allowed for diversion to protect downstream domestic use, including livestock watering and prior water rights/permits from unlawful impairment. If this permit is approved, it is recommended a qualification be included to address low flow conditions by allowing the Chief Engineer to issue orders to the permit holder restricting diversion.

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...” Water Permit Application No. 2873-2 proposes to divert water at a maximum rate of 4.45 cfs for the irrigation of 225 acres, from April 1 to September 30. The request by the applicant is practical for filling the off-stream storage dam when Rapid Creek flows allow for it and it will likely not cause unlawful impairment to domestic use, including livestock watering, and prior water rights/permits, based on a reasonable probability there is unappropriated water from Rapid Creek available.

Conclusions:

1. Water Permit Application No. 2873-2 proposes to divert water at a maximum instantaneous diversion rate of 4.45 cfs from Rapid Creek and runoff into a storage dam with a capacity of 6.5 acre-feet to irrigate 225 acres. Water diverted from Rapid Creek may either be used directly for irrigation or be diverted into the storage dam and then the acreage irrigated from the storage dam.
2. The site of interest is located in Pennington County approximately twelve miles south of New Underwood, SD. Water Permit Application No. 2873-2 specified a period of annual use for diversion beginning April 1 through September 30. The applicant is requesting a diversion rate greater than the statutory limit of 1.0 cfs per 70 acres.
3. An analysis of existing historical flow data for Rapid Creek and the Cheyenne River demonstrates the creek and river are reliable sources of surface water.
4. Based upon an assessment of the historical flow data and a review of reported use, there is a reasonable probability that there is unappropriated water available for the applicant's proposed use.
5. If drier climatic conditions cause a considerable reduction in flow of Rapid Creek, use by the applicant should be restricted to protect downstream domestic use, including livestock watering and prior water rights/permits from unlawful impairment.
6. If this application is approved, it should contain the following qualification:

- Low flows as needed for downstream domestic use, including livestock watering and prior water rights/permits must be by-passed. Diversions under this Permit shall be in accordance with any written orders by the Chief Engineer.
- 7. This application's diversion should only be authorized when 15 cfs or greater of water is flowing past the USGS Farmingdale stream gage for downstream domestic use and senior water rights.
- 8. If approved, this application is qualified to be subject to Cheyenne River shut off orders.

Nakaila Steen

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

Reviewed by:

Mark Rath

Mark Rath
Natural Resources Engineer III
SD DANR -Water Rights Program

References

- USGS. 2024. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
- Water Rights, 2024a. “1979-2022 Irrigation Summaries by Surface Water”: SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, South Dakota.
- Water Rights, 2024b. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, South Dakota.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

March 1, 2024

Joseph Kuhlman
16235 E Hwy 44
Caputa SD 57725

Dear Mr. Kuhlman:

Water Permit Application No. 2873-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Rapid City Journal printed in Rapid City SD (Ph # 307-266-0554). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 2873-2 to Appropriate Water

Notice is given that Joseph Kuhlman, 16235 E Hwy 44, Caputa SD 57725 has filed an application for a water permit to appropriate 4.45 cubic feet of water per second (cfs) from Rapid Creek and runoff into a storage dam with a capacity of 6.5 acre-feet to irrigate 225 acres. Water diverted from Rapid Creek may either be used directly for irrigation or be diverted into the storage dam and then the acreage irrigated from the storage dam. The Rapid Creek diversion point and storage dam are both to be located in the NE 1/4 NW 1/4 Section 33-T1S-R11E. The area to be irrigated is located in the S 1/2 S 1/2 Section 28; N 1/2 N 1/2 Section 33; all in T1S-R11E. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 12 miles south of New Underwood SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2873-2 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 March 18, 2024.

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

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by March 18, 2024.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, February 29, 2024 2:43 PM
To: RCY Legals
Subject: 2873-2 Joseph Kuhlman - Public Notice
Attachments: 2873-2 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on March 7, 2024.

Joseph Kuhlman, 16235 E Hwy 44, Caputa SD 57725, 605-484-3045 has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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



*** Proof of Publication ***

STATE OF INDIANA)

County of Lake)

SS:

RECEIVED

MAR 25 2024

S.D. DANR - GROUND WATER

OFFICE OF
WATER

523 E CAPITOL AVE
PIERRE SD 57501

ORDER NUMBER 65346

I, Kami Terrell, 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 on the following dates:

3/7

Kami Terrell

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 03/07/2024

TOTAL AD COST: 75.40

FILED ON: 3/7/2024

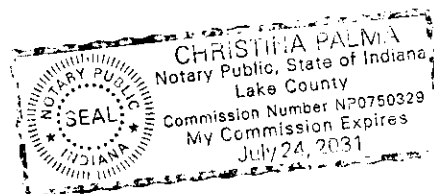
Subscribed and sworn to before me this 11 day of

March, 20 24.

Christina Palma Notary Public

My commission expires

 , 20



*** Proof of Publication ***

NOTICE OF APPLICATION NO. 2873-2 to Appropriate Water

Notice is given that Joseph Kuhlman, 16235 E Hwy 44, Caputa SD 57725 has filed an application for a water permit to appropriate 4.45 cubic feet of water per second (cfs) from Rapid Creek and runoff into a storage dam with a capacity of 6.5 acre-feet to irrigate 225 acres. Water diverted from Rapid Creek may either be used directly for irrigation or be diverted into the storage dam and then the acreage irrigated from the storage dam. The Rapid Creek diversion point and storage dam are both to be located in the NE 1/4 NW 1/4 Section 33-T1S-R11E. The area to be irrigated is located in the S 1/2 S 1/2 Section 28; N 1/2 N 1/2 Section 33; all in T1S-R11E. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 12 miles south of New Underwood SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2873-2 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 Duvali 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 March 18, 2024.

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

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by March 18, 2024.

***** Proof of Publication *****

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 March 7, 2024 for a total approximate cost of \$75.40 and may be viewed for free at www.sdpublishnotices.com)
Legal No: 63346

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, March 1, 2024 2:26 PM
To: Joe Kuhlman
Subject: 2873-2 Joseph Kuhlman - Public Notice
Attachments: 2873-2 Rec.pdf; 2873-2 Ltr.pdf; 2873-2 PubNotice.pdf

Good afternoon,

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

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

Thank you,

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

MAR 26 2024

Joseph Kuhlman
16235 E Hwy 44
Caputa SD 57725

Dear Mr. Kuhlman:

Enclosed is Water Permit No. 2873-2 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
Posting on DANR Website**

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

Application No.: 2873-2

Name of Applicant: Joseph Kuhlman

Date of Posting: 3/4/2024

Date of Removal: 3/26/2024



Ron Duvall, Engineer III

3/26/2024

Date

Subscribed and sworn to before me, a notary public, this 26th day of March, 2024.



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



(SEAL)