

WATER PERMIT NO. 3178B-3

Name of Applicant: **Mark LaBrie**

Address: **17275 SD Hwy, Frankfort SD 57440**

Phone: **605 460-1378**

Amount of Water Claimed: **no add'l (2 cfs)**

Total Acres: **no add'l (264 ac)**

Source of Water Supply: **groundwater (1 existing well)**

Water to be used for: **irrigation** County: **Spink**

Type of Waste Disposal System:

Location: **5 miles east of Frankfort SD**

PRIORITY Date Received: **4-6-22**

Application/License Fee: **\$ 300**

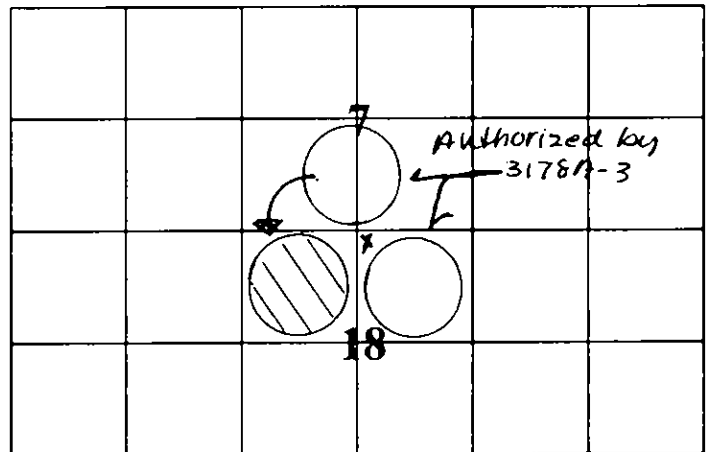
Corrected Application Received: **4-26-22**

Period of Annual Use: **May 1 – Sept 30**

Remarks: **Moving center pivot authorized by 3175A-3 one-half mile to the southwest**

Diversion Point: **NW 1/4 NE 1/4 Sec 18-T116N-
R61W**

Land to be Irrigated: **NW 1/4 Sec 18-T116N-
R61W**



Depth of Well: **83 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **4-26-22**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 3178B-3**

Date of first receipt of application April 6, 2022.

Date of return to applicant for corrections, amendments or changes April 6, 2022.

Date of receipt of corrected application April 25, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 3178B-3 to Mark LaBrie, 17275 SD Hwy 37, Frankfort SD 57440 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. 3178B-3 amends Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location. Water Right No. 3178A-3 appropriates 2.0 cubic feet of water per second from two wells located in the NW 1/4 NE 1/4 Section 18 to irrigate 264 acres located in the NE 1/4 Section 18 and E 1/2 SW 1/4, W 1/2 SE 1/4 Section 7; all in T116N-R61W. This permit will move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW 1/4 Section 18-T116N-R61W. The irrigated acreage in the NE 1/4 of Section 18 remains the same. The water source for this irrigation system is the Tulare:East James Aquifer. No increase in the diversion rate or number of acres irrigated is authorized by this permit. This site is located approximately 5 miles east of Frankfort SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is October 22, 1976 (established by Water Right No. 3178A-3).
4. The date of approval of Permit No. 3178B-3 is August 1, 2022.
5. One-fifth of the construction is to be completed on or before February 1, 2025.
6. All construction is to be completed on or before August 1, 2027.
7. Water is to be put to beneficial use on or before August 1, 2031.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under Water Permit No. 3178A-3 and 3178B-3 are 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The total diversion from the two wells authorized by Water Right No. 3178A-3 and Water Permit No. 3178B-3 may not exceed 2.0 cubic feet of water per second (900 gpm).

WATER MANAGEMENT BOARD

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

AUG 22 2022,
date



APR 06 2022

PAID

WATER RIGHTS PROGRAM

APR 6 2022

Rec't#

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

No. 3178B-3 (office use only)
Hydrologic Unit 10160006
Basin James R
Newspaper Redfield Press
Plainsman

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 3178A-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
Move 1 center pivot from S $\frac{1}{2}$ sec 7 116N-61W to NW $\frac{1}{4}$ sec 18 116N-61W

- Name of Applicant Mark LaBrie (check one) ☒ Owner ☐ Tenant/lessee Phone (605) 460-1378
Mailing Address 17275 SD Hwy 37 Frankfort State SD 57440
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed no add'l *CFS or no add'l **GPM ***AF Total Acreage no add'l
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Well labrie.mark@icloud.com
- Location of point of diversion (example - 3 wells in SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 12-T104N-R53W) County Spink
1 well NW corner of NE $\frac{1}{4}$ sec 18 116N-61W
See Map
- County or counties where water will be used Spink
- Annual period during which water is to be used May 1 - September 30
- 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>NW$\frac{1}{4}$ Sec 18-T116N-R61W</u>	<u>132</u>		

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

STATE OF SOUTH DAKOTA) SS
County of Spink

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

I, Mark LaBrie, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.



Applicant's signature Mark LaBrie

Subscribed and sworn to before me this 4th day of April 20 22

Samantha H. Smith
Notary Public signature

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, April 6, 2022 1:18 PM
To: labrie.mark@icloud.com
Subject: Water Permit Application

Mark,
I talked with Ron about your application. If you are the landowner of the NW ¼ Sec 18-T116N-R61W, the application is fine in your name. What we will need is a statement signed by your uncle (who I am assuming is MJT, Inc, Jerry Mason – name on Water Right No. 3178A-3) that he agrees with transferring the pivot from the E ¼ SW ¼, W ¼ SE ¼ Sec 7-T116N-R61W to NW ¼ Sec 18.

Is it correct to assume that the pivots will be operated on a rotating basis? If you have questions, let me know.

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



Called Mark 4/26/22

Mark said there is only one well
as marked on the map and they
will operate the pivots on a rotating
basis.

Schlaak, Karen

From: Jerry & Shiela <jsmason@nrctv.com>
Sent: Monday, April 25, 2022 5:11 PM
To: Schlaak, Karen
Subject: [EXT] transfer pivot

Karen,

I am Jerry Mason, President of MJT INC, Frankfort SD. and I am writing to you after my conversation with my nephew, Mark LaBrie, concerning transferring the pivot from Sec 7-116-61 to the NW 1/4 Sec 18-116-61.

We have discussed the transfer and I approve of doing it.

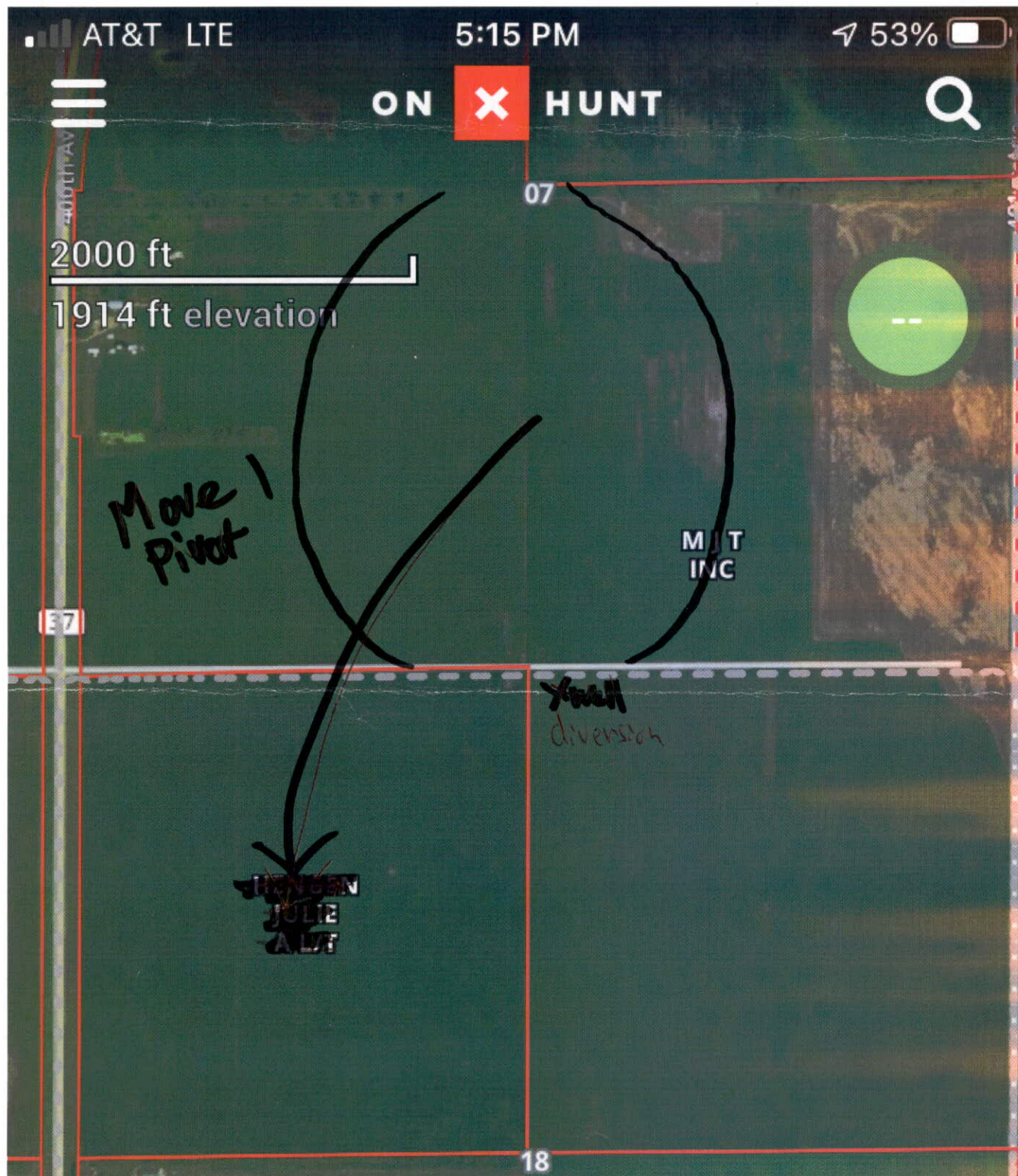
If you need anything further from me please email me at this address or call me at 605-450-6100.

Thank you,
Jerry Mason

From: Mark Labrie labrie.mark@icloud.com

Date: Apr 1, 2022 at 5:18:12 PM

To: Mark LaBrie labrie.mark@icloud.com



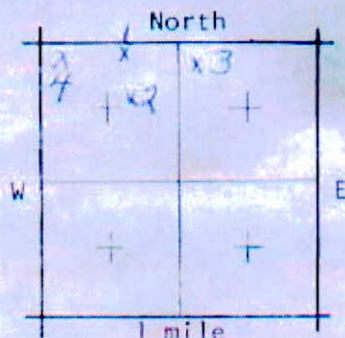
STATE OF SOUTH DAKOTA WELL DRILLERS REPORT

Location 50 1/2 W 1/2 Sec 17 Twp 16N Rg 6W

County

Spink

Please mark well location with an "X"



Well Completion Date 8-16-83

PROPOSED USE:

☐ Domestic ☐ Municipal ☒ Test Holes
☐ Irrigation ☐ Industrial ☐ Stock

Method of Drilling:

Forward Rotary

WELL CONSTRUCTION:

Diameter of hole 28 inches Depth 83 feet

Casing: ☐ Steel ☒ Plastic ☐ Other

Specify PVC

Pipe Weight Diameter From To
PVC lb/ft 16 inches 0 feet 63 feet
lb/ft inches feet feet

Was a well screen used? ☒ Yes ☐ No

If Not Specify

Screen Type stainless steel Slot Size 60

Length 20 ft Diameter 16"

Was Casing left open end? ☐ Yes ☒ No

Was a Packer or seal used? ☐ Yes ☒ No

If so what material?

Was well gravel packed? ☒ Yes ☐ No

Was well grouted? ☐ Yes ☒ No

Describe grouting procedure

To what depth? Feet

What was grouting material?

If cement, how many sacks?

Location of packer(s) and screen or perforated pipe

WAS WELL PLUGGED OR ABANDONED ☐ Yes ☒ No

If so how and with what material?

Well Owner:

Name Morris Mason

Address Frankfort, S.D.

Well Log:

Depth

Formation	From	To
<u>Top soil</u>	<u>0</u>	<u>7</u>
<u>Yellow clay</u>	<u>7</u>	<u>20</u>
<u>Yellow sand</u>	<u>20</u>	<u>34</u>
<u>gray med sand</u>	<u>34</u>	<u>40</u>
<u>gray med sand</u>	<u>40</u>	<u>60</u>
<u>med coarse sand to shale</u>	<u>60</u>	<u>68</u>
<u>Top soil</u>	<u>0</u>	<u>2</u>
<u>Yellow clay</u>	<u>2</u>	<u>23</u>
<u>blue clay</u>	<u>23</u>	<u>28</u>
<u>Coarse sand</u>	<u>28</u>	<u>40</u>
<u>med sand</u>	<u>40</u>	<u>60</u>
<u>Shale</u>	<u>68</u>	<u>80</u>
<u>Top soil & yellow clay</u>	<u>0</u>	<u>20</u>
<u>Yellow med gravel</u>	<u>20</u>	<u>30</u>
<u>med sand gravel, coal</u>	<u>30</u>	<u>40</u>
STATIC WATER LEVEL		Feet

If flowing: closed in pressure PSI

GPM flow through inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other; specify

Can well be completely shut off?

WELL TEST DATA:

☐ Pumped

☐ Bailed

Describe:

☐ Other

Pumping Level Below Land Surface

ft. After Hrs. pumped

ft. After Hrs. pumped

ft. After Hrs. pumped

Remarks: blue sand sand

coarse gravel

shale

Top soil

Yellow clay

med sand

blue clay

This well was drilled under license # 440

and this report is true and accurate.

Fullman Well Drilling, Inc.
Drilling Firm Signed by lth 11-16-83

8-16-83

Date fine sand

med sand

coarse med sand



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date April 6, 2022

RECEIVED OF Mark/Becky Labrie/Labrie Farms 1725 SD Hwy 37 Frankfort SD 57440

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

Fee for Application for Permit No. <u>3178B-3</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. <u>3178B-3</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>300.00</u>

By Eric Gronlund
Chief Engineer
Um



**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. 3178B-3, Mark LaBrie**

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. 3178B-3, Mark LaBrie, Operator, 17275 SD Hwy 37, Frankfort SD 57440.

The Chief Engineer is recommending APPROVAL of Application No. 3178B-3 because 1) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 2) the proposed use is a beneficial use and 3) 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 wells approved under Water Permit No. 3178A-3 and 3178B-3 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The total diversion from the two wells authorized by Water Right No. 3178A-3 and Water Permit No. 3178B-3 may not exceed 2.0 cubic feet of water per second (900 gpm)

See report on application for additional information.

Eric Gronlund, Chief Engineer
July 8, 2022

Report to the Chief Engineer
On Water Permit Application No. 3178B-3

Mark LaBrie

July 7, 2022

Water Permit Application No. 3178B-3 proposes to amend Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location. Water Right No. 3178A-3 appropriates 2.0 cubic feet of water per second (cfs) from two wells located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18 to irrigate 264 acres located in the NE $\frac{1}{4}$ Section 18 and E $\frac{1}{2}$ SW $\frac{1}{4}$, W1/2 SE $\frac{1}{4}$ Section 7; all in T116N-R61W. This application proposes to move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW $\frac{1}{4}$ Section 18-T116N-R61W. The water source for this irrigation system is the Tulare: East James Aquifer, no increase in the diversion rate or number of acres irrigated is authorized by this application. This site is located approximately 5 miles east of Frankfort SD.

AQUIFER: Tulare: East James (T:EJ)

South Dakota Codified Law (SDCL) 46-2A-12

Pursuant to SDCL 46-2A-12, "An amendment of an existing permit or license may be granted for a change in use, a change in point of diversion or other change only if the change does not unlawfully impair existing rights and is for a beneficial use and in the public interest."

The point of diversion is not changing location, thus Mr. LaBrie's application poses no unlawful impairment of existing rights.

SDCL 46-5-30.4

Pursuant to SDCL 46-5-30.4, "Subject to the limitations in §§ 46-5-33 and 46-5-34 governing changes in irrigation rights from one parcel of land to another, any water permit or right holder may apply for a change of use of the water, a change of location of the use or other amendment to the permit or right. Permits or rights may be amended pursuant to the procedure contained in chapter 46-2A. Priority shall be retained upon amendment. An amendment of a water permit or right may not increase the rate of diversion or increase the volume of water to be appropriated under the original water permit or right. The amendment may not impair existing rights."

Information provided on the application by Mr. LaBrie indicates that the transfer claims no additional water (2 cfs), or additional acreage (264 acres). The Tulare: East James aquifer is approximately 60 feet thick and under confined conditions at the existing and proposed locations. This application, if approved, would retain the priority date of 10/22/1976 of Water License No. 3178A-3.

South Dakota Codified Law (SDCL) 46-5-34

Pursuant to SDCL 46-5-34, "All water used in this state for irrigation purposes shall remain appurtenant to the land upon which it is used. However, if for any reason it should become impracticable to use all or any part of the water beneficially or economically for irrigation of any land to which the right of its use is appurtenant, all or any part of the right may be severed from the land and simultaneously transferred and become appurtenant to other land without losing priority of right previously established, subject to existing rights, upon approval of an application for an amended permit. No increase in total acres irrigated may be allowed under this section."

Irrigation questionnaires have been submitted for Water Right No. 3178-3 since 1968, however, irrigation questionnaire records prior to 1979 are not continuous. A summary of the reported annual usage for Water Right No. 3178-3 since 1979 is included below.

	Est Use. (Acre-Feet)
1979	198.9
1980	186.93
1981	388.82
1982	159.09
1983	157.32
1984	0
1985	183
1986	223
1987	327
1988	409.4
1989	565
1990	248
1991	92
1992	116
1993	60
1994	87.49
1995	103.41
1996	175
1997	91
1998	95.45
1999	132.58

	Est Use. (Acre-Feet)
2000	125.28
2001	131.25
2002	215.66
2003	202.84
2004	148.49
2005	155.11
2006	229.8
2007	149.15
2008	137.88
2009	84.85
2010	60.1
2011	189.73
2012	169.7
2013	214.77
2014	113.13
2015	65.98
2016	212.12
2017	95.45
2018	226.26
2019	0
2020	92.03

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 Tulare: East James aquifer.

This application is seeking to transfer existing irrigated acres and the associated diversion point to a different location while remaining in the same aquifer; the availability of unappropriated water does not need to be considered for this application. The potential for unlawful impairment on existing water rights and domestic users in the area of this proposed transfer of acres be addressed in this report.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 96 water rights/permits authorized to appropriate water from the Tulare: East James aquifer (Water Rights, 2022c). The closest water right/permit to the proposed diversion point is Water Permit No. 6724-3, for commercial use held in the name of Dairy Wise Builders SD LLC. The diversion point for this application is located approximately 0.71 miles southwest of the existing diversion point for this application (Figure 1) (Water Rights, 2022c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Tulare: East James aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.52 miles northwest of the existing diversion point (Water Rights, 2022d). There are two other domestic wells completed into the Tulare: East James Aquifer approximately 0.75 miles from Mr. LaBrie's application. There may be other domestic wells completed into the Tulare: East James Aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program.

Considering the location of the diversion point authorized under Water Right No. 3178A-3 and to be used for this application is not being changed and there is no increase in authorized diversion rate or acres to be irrigated, there is a reasonable probability this application can be approved without unlawfully impairing existing appropriative users or domestic users with adequate wells.

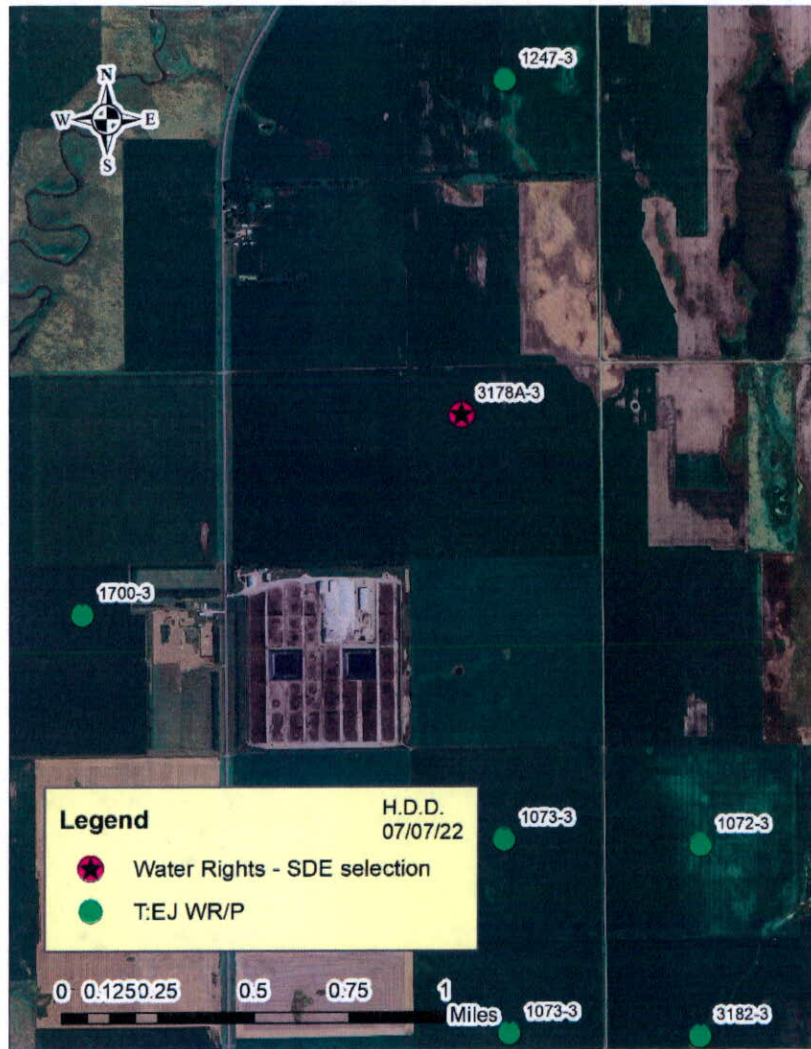


Figure 1: Section 18-T116N-R61W Application Project Area (Water Rights, 2022c)

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 DANR-Water Rights Program monitors 39 observation wells completed into the Tulare: East James aquifer (Water Rights, 2022b). The four closest observation wells to the existing well site are SP-80K and SP-80KR (both approximately 1.41 miles W), SP-77J (approximately 2.0 miles SW), and SP-66D (approximately 1.41 miles NE) (Water Rights, 2022b). Observation well SP-80KR was installed in 2021 and has only had three measurements taken. Since the well is so new, it does not yet have enough data to provide insight into the aquifer and is subsequently not included in this report. The hydrographs for these observation wells in closest proximity to Mr. LaBrie's application are displayed in Figures 2-4 (Water

Rights, 2022b). 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 DANR Water Rights Observation Well.

Figure 2: DANR Water Rights Observation Well SP-77J (Water Rights 2022b)

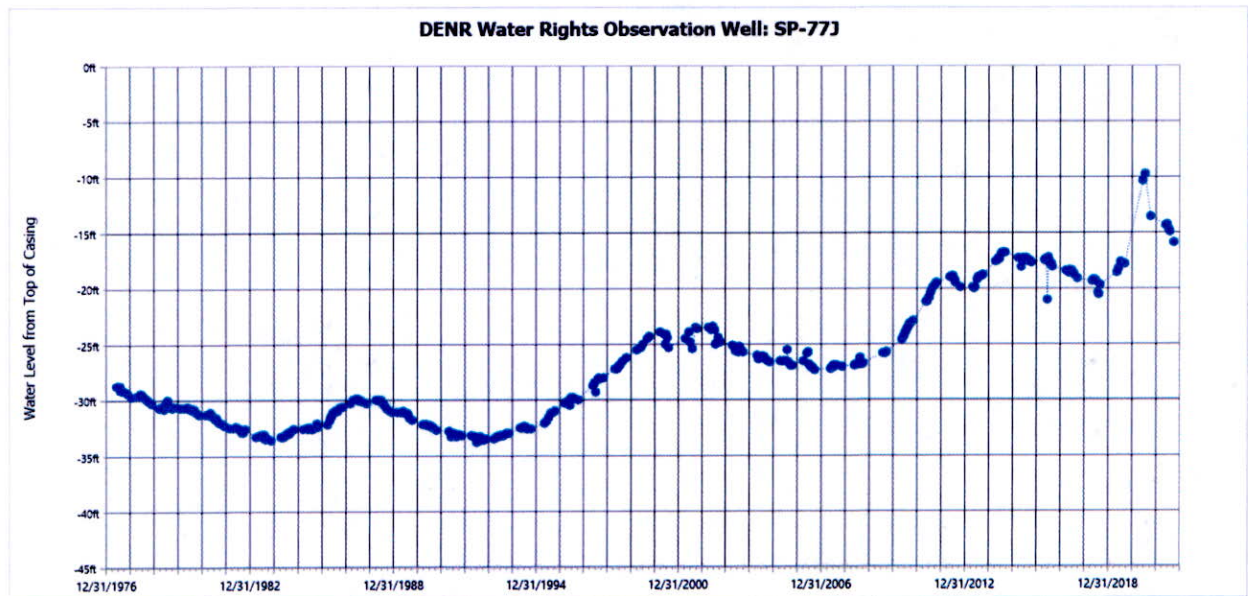


Figure 3: DANR Water Rights Observation Well SP-80K (Water Rights 2022b)

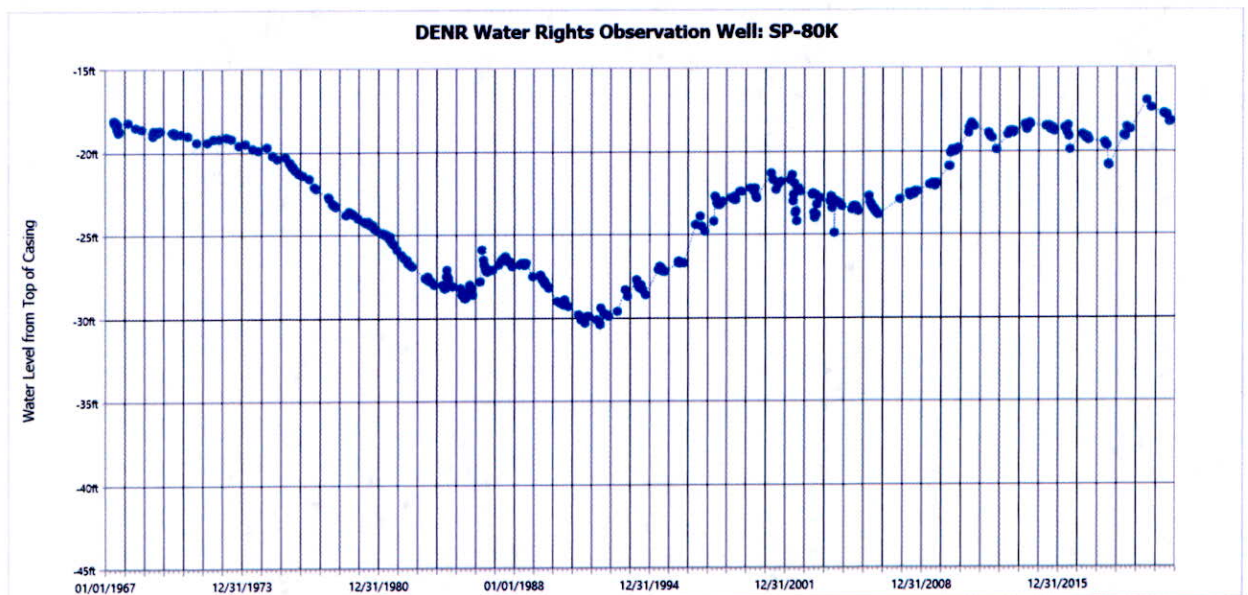
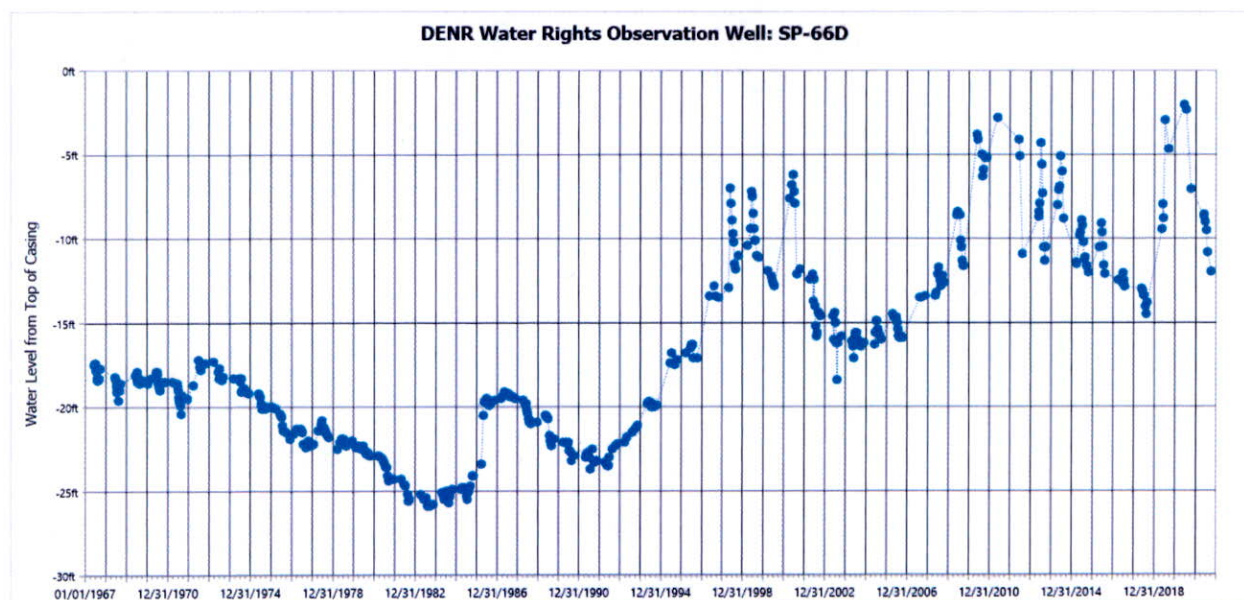


Figure 4: DANR Water Rights Observation Well SP-66D (Water Rights 2022b)



The hydrographs for the observation wells display stable to increasing water levels over their respective periods of record. The hydrographs for the Tulare: East James aquifer indicate that the aquifer responds well to climatic conditions- water levels are rising during wetter periods and declining to a stable water level during drier periods. Additionally, 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 Tulare: East James aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate that unappropriated water is available for the proposed appropriation. The observation well hydrographs show that locally there are not significant impacts caused by well drawdown. Furthermore, the well the applicant intends to use has existed and been in use for a number of years without any complaints filed with the DANR-Water Rights Program (Water Rights, 2022e). Therefore, there is a reasonable probability this application can be approved without unlawfully impairing existing appropriative users and domestic users with adequate wells.

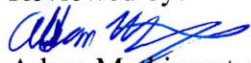
CONCLUSIONS:

1. Water Permit Application No. 3178B-3 proposes to amend Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location.
2. Water Right No. 3178A-3 appropriates 2.0 cfs from two wells to irrigate 264 acres. This application proposes to move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW ¼ Section 18-T116N-R61W.
3. The Tulare: East James aquifer is considered fully appropriated. However, this application is not requesting any increase in the appropriation, and therefore, there is no need to consider if unappropriated water is available from the aquifer.
4. SDCL 46-2A-12, 46-5-30.4, and 46-5-34 allows for the transfer of acres authorized for irrigation. There is reasonable probability that the diversion will not unlawfully impair existing appropriative water rights or domestic users with adequate wells.



Hannah Denman
SD DANR- Water Rights Program

Reviewed by:



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

References

- SDGS, 2022. South Dakota Geological Survey Lithologic Logs Database. Accessed May 11, 2022. <http://cf.sddanr.net/lithdb/>.
- Water Rights, 1995. Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. DANR-Water Rights Program file for Water Right No. 2313-2. Pierre, SD.
- Water Rights, 2022a. "1979-2020 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2022b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2022c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2022d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2022e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, July 8, 2022 9:03 AM
To: Mark Labrie
Subject: Water Permit Application No. 31788-3
Attachments: 3687.pdf

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

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



RECEIVED

AUG 18 2022

OFFICE OF
WATER

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Talaya Purcell, being duly sworn on oath, say that THE REDFIELD PRESS is a weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS. I, Talaya Purcell, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#6492 NOTICE OF APPLICATION

was printed and published in said newspaper in 1 issue, to wit: The first publication being made on JULY 20TH 2022. FORTY and .48/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, 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.

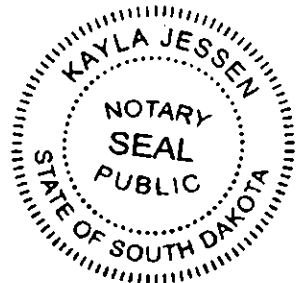
Talaya Purcell

Subscribed and sworn to before me this 13TH day of July, 2022

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2024



Notice of Application

#8492

NOTICE OF APPLICATION NO. 3178B-3

Notice is given that Mark LaBrie, Operator, 17275 SD Hwy 37, Frankfort SD 57440 has filed an application to amend Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location. Water Right No. 3178A-3 appropriates 2.0 cubic feet of water per second from two wells located in the NW 1/4 NE 1/4 Section 18 to irrigate 264 acres located in the NE 1/4 Section 18 and E 1/2 SW 1/4, W 1/2 SE 1/4 Section 7; all in T116N-R61W. This application proposes to move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW 1/4 Section 18-T116N-R61W. The irrigated acreage in the NE 1/4 of Section 18 remains the same. The water source for this irrigation system is the Tulare-East James Aquifer. No increase in the diversion rate or number of acres irrigated is authorized by this application. This site is located approximately 5 miles east of Frankfort SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 3178B-3 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) 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 August 1, 2022.

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

Any interested person may file a comment on the application with

the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by August 1, 2022.

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

Published once at the total approximate cost of \$40.48 and may be viewed free of charge at www.sdpublicnotices.com. (July 20)

RECEIVED

JUL 25 2022

OFFICE OF
WATER

Proof Of Publication

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

Legal Notice Number: 1512

I, Cadee Schelske, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: Mark LaBrie-Water No. 3178 B-3 was published for one day, in said newspaper and not in any supplement of the said newspaper; the publication was on 7/20/2022. That the full amount of the fee charged for the publishing \$ 47.90 insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

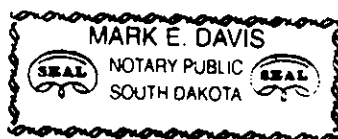
Cadee Schelske

Subscribed and sworn to me before this date 7/20/22.

[Signature]

Notary Public/South Dakota

My Term Expires 12/27/2024



F. P. 07-20-22
**NOTICE OF
APPLICATION
NO. 3178B-3**

Notice is given that Mark LaBrie, Operator, 17275 SD Hwy 37, Frankfort SD 57440 has filed an application to amend Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location. Water Right No. 3178A-3 appropriates 2.0 cubic feet of water per second from two wells located in the NW 1/4 NE 1/4 Section 18 to irrigate 264 acres located in the NE 1/4 Section 18 and E 1/2 SW 1/4, W 1/2 SE 1/4 Section 7; all in T116N-R61W. This application proposes to move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW 1/4 Section 18-T116N-R61W. The irrigated acreage in the NE 1/4 of Section 18 remains the same. The water source for this irrigation system is the Tulare-East James Aquifer. No increase in the diversion rate or number of acres irrigated is authorized by this application. This site is located approximately 5 miles east of Frankfort SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 3178B-3 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) 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.

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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 August 1, 2022.

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No. 1512 (adv.)
Published one time at the total approximate cost of \$47.90 and may be viewed free of charge at www.sdpublicnotices.com.

Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, July 8, 2022 9:00 AM
To: Talaya Zens-Purcell
Subject: 3178B-3, Mark LaBrie
Attachments: 3178B-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on ^{July} June 20, 2022.

Mark LaBrie, 17275 SD Hwy 37, Frankfort SD 57440 (605 460-1378) has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Friday, July 8, 2022 9:01 AM
To: 'rcrandall@plainsman.com'
Subject: 3178B-3, Mark LaBrie
Attachments: 3178B-3public.short_final.docx; FORM8.FRM.doc

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

Karen Schlaak

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

July 8, 2022

Mark LaBrie
17275 SD Hwy 37
Frankfort SD 57440

Dear Mr. LaBrie:

Water Permit Application No. 3178B-3 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 Redfield Press printed at Redfield (Ph # 605 472-0822) and the Plainsman printed at Huron (Ph # 605 353-7414). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 3178B-3

Notice is given that Mark LaBrie, Operator, 17275 SD Hwy 37, Frankfort SD 57440 has filed an application to amend Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location. Water Right No. 3178A-3 appropriates 2.0 cubic feet of water per second from two wells located in the NW 1/4 NE 1/4 Section 18 to irrigate 264 acres located in the NE 1/4 Section 18 and E 1/2 SW 1/4, W 1/2 SE 1/4 Section 7; all in T116N-R61W. This application proposes to move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW 1/4 Section 18-T116N-R61W. The irrigated acreage in the NE 1/4 of Section 18 remains the same. The water source for this irrigation system is the Tulare-East James Aquifer. No increase in the diversion rate or number of acres irrigated is authorized by this application. This site is located approximately 5 miles east of Frankfort SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 3178B-3 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) 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.

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Published once at the total approximate cost of _



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

AUG 22 2022

Mark LaBrie
17275 SD Hwy 37
Frankfort SD 57440

Dear Mr. LaBrie:

Enclosed is Water Permit No. 3178B-3 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.: 3178B-3

Name of Applicant: Mark LaBrie

Date of Posting: 7/18/2022

Date of Removal: 8/22/2022



Ron Duvall, Water Rights Permitting Administrator

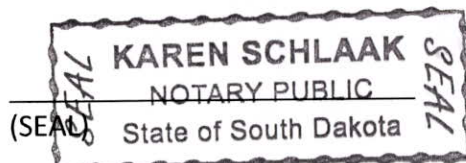
8/22/22

Date

Subscribed and sworn to before me, a notary public, this 22 day of August, 2022.



Notary Public - South Dakota
My commission expires: 4-1-2025



3178B-3
RECEIVED

AUG 29 2022

OFFICE OF
WATERNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 8-24-2022TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Mark LaBrie

(name)

17275 SD Hwy 37

(address)

Frankfort SD 57440

(city, state, zip)

(605) 460-1378

(phone)

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

Water Permit No. 3178B-3 states that the water use system is to be constructed by8-1-2027

(date)

, and water is to be put to beneficial use by 8-1-2031

(date)

The water use system was completed on 8-1-2022

(date)

Applying the water to beneficial use was completed on 8-1-2022

(date)

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

Mh

(signature)



WATER PERMIT NO. 3178B-3

Name of Applicant: Mark LaBrie

Address: 17275 SD Hwy, Frankfort SD 57440

Phone: 605 460-1378

Amount of Water Claimed: no add'l (2 cfs)

Total Acres: no add'l (264 ac)

Source of Water Supply: groundwater (1 existing well)

Water to be used for: irrigation County: Spink

Type of Waste Disposal System:

Location: 5 miles east of Frankfort SD

PRIORITY Date Received: 4-6-22

Application/License Fee: \$ 300

Corrected Application Received: 4-26-22

Period of Annual Use: May 1 – Sept 30

Remarks: Moving center pivot authorized by 3175A-3 one-half mile to the southwest

Diversion Point: NW 1/4 NE 1/4 Sec 18-T116N-
R61W

Land to be Irrigated: NW 1/4 Sec 18-T116N-
R61W

Depth of Well: 83 feet deep

Well Driller:

Remarks:

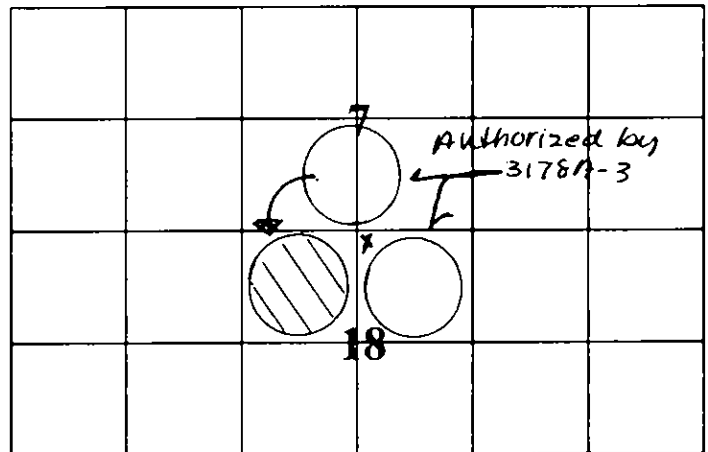
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 4-26-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 3178B-3**

Date of first receipt of application April 6, 2022.

Date of return to applicant for corrections, amendments or changes April 6, 2022.

Date of receipt of corrected application April 25, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 3178B-3 to Mark LaBrie, 17275 SD Hwy 37, Frankfort SD 57440 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. 3178B-3 amends Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location. Water Right No. 3178A-3 appropriates 2.0 cubic feet of water per second from two wells located in the NW 1/4 NE 1/4 Section 18 to irrigate 264 acres located in the NE 1/4 Section 18 and E 1/2 SW 1/4, W 1/2 SE 1/4 Section 7; all in T116N-R61W. This permit will move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW 1/4 Section 18-T116N-R61W. The irrigated acreage in the NE 1/4 of Section 18 remains the same. The water source for this irrigation system is the Tulare:East James Aquifer. No increase in the diversion rate or number of acres irrigated is authorized by this permit. This site is located approximately 5 miles east of Frankfort SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is October 22, 1976 (established by Water Right No. 3178A-3).
4. The date of approval of Permit No. 3178B-3 is August 1, 2022.
5. One-fifth of the construction is to be completed on or before February 1, 2025.
6. All construction is to be completed on or before August 1, 2027.
7. Water is to be put to beneficial use on or before August 1, 2031.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under Water Permit No. 3178A-3 and 3178B-3 are 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The total diversion from the two wells authorized by Water Right No. 3178A-3 and Water Permit No. 3178B-3 may not exceed 2.0 cubic feet of water per second (900 gpm).

WATER MANAGEMENT BOARD

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

AUG 22 2022,
date



APR 06 2022

PAID

WATER RIGHTS
PROGRAM

Ck#

Rec't#

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

No. 3178B-3 (office use only)
Hydrologic Unit 10160006
Basin James R
Newspaper Redfield Press
Plainsman

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 3178A-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
Move 1 center pivot from S $\frac{1}{2}$ sec 7 116N-61W to NW $\frac{1}{4}$ sec 18 116N-61W

- Name of Applicant Mark LaBrie (check one) ☒ Owner ☐ Tenant/lessee Phone (605) 460-1378
Mailing Address 17275 SD Hwy 37 Frankfort State SD 57440
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed no add'l *CFS or no add'l **GPM no add'l ***AF Total Acreage no add'l
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Well labrie.mark@icloud.com
- Location of point of diversion (example - 3 wells in SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 12-T104N-R53W) County Spink
1 well NW corner of NE $\frac{1}{4}$ sec 18 116N-61W
See Map
- County or counties where water will be used Spink
- Annual period during which water is to be used May 1 - September 30
- 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)

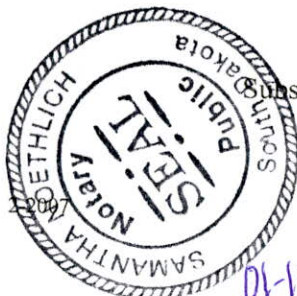
Land Description	Acres	Land Description	Acres
<u>NW$\frac{1}{4}$ Sec 18-T116N-R61W</u>	<u>132</u>		

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

STATE OF SOUTH DAKOTA) SS
County of Spink

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

I, Mark LaBrie, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.



Applicant's signature Mark LaBrie

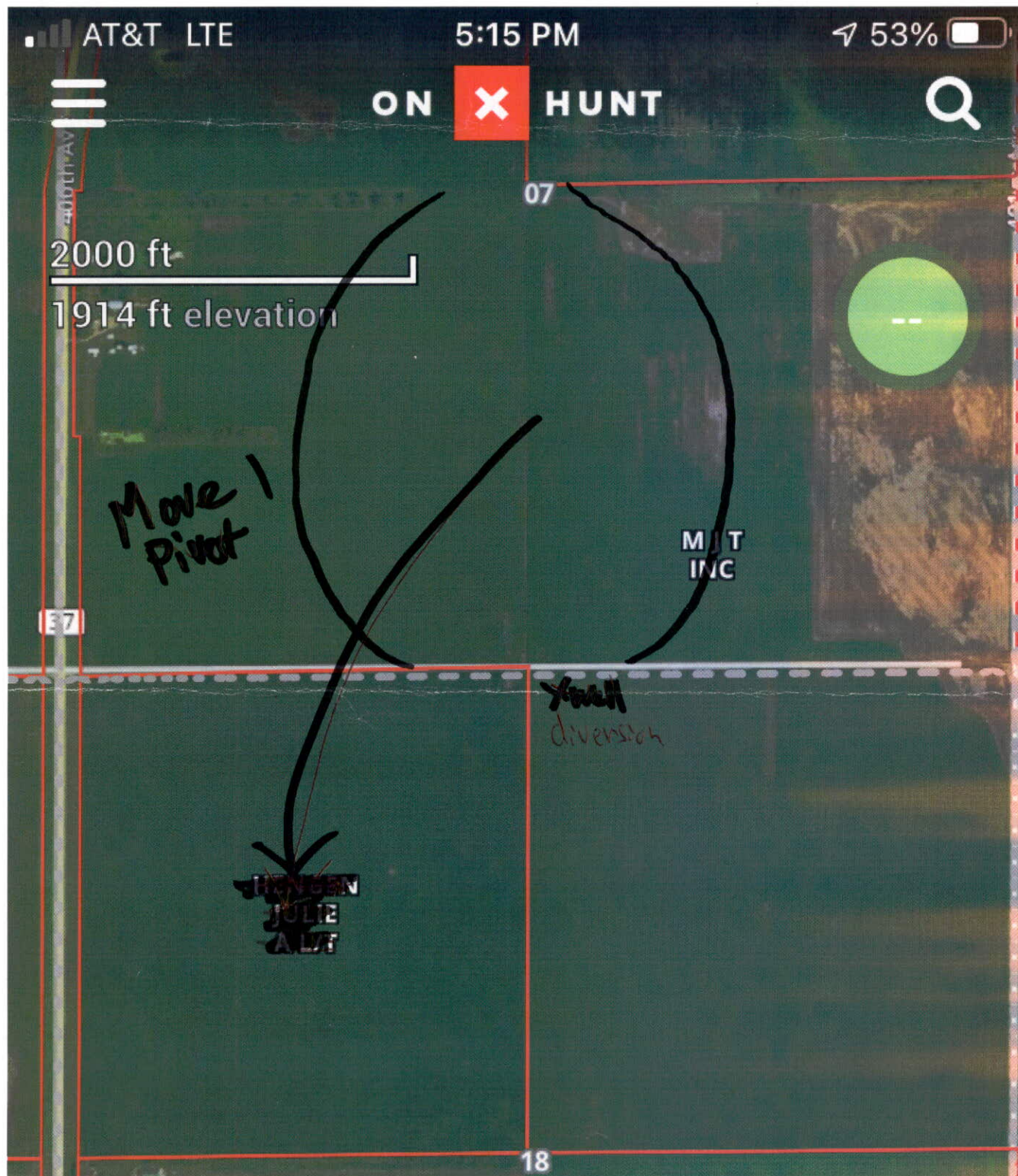
Subscribed and sworn to before me this 4th day of April 20 22

Notary Public signature Samantha H. Smith

From: Mark Labrie labrie.mark@icloud.com

Date: Apr 1, 2022 at 5:18:12 PM

To: Mark LaBrie labrie.mark@icloud.com



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Notice is given that Mark LaBrie, Operator, 17275 SD Hwy 37, Frankfort SD 57440 has filed an application to amend Water Right No. 3178A-3, held by MJT Inc by transferring a portion of the irrigated acreage to a new location. Water Right No. 3178A-3 appropriates 2.0 cubic feet of water per second from two wells located in the NW 1/4 NE 1/4 Section 18 to irrigate 264 acres located in the NE 1/4 Section 18 and E 1/2 SW 1/4, W 1/2 SE 1/4 Section 7; all in T116N-R61W. This application proposes to move the center pivot located in Section 7 approximately one-half mile to irrigate 132 acres located in the NW 1/4 Section 18-T116N-R61W. The irrigated acreage in the NE 1/4 of Section 18 remains the same. The water source for this irrigation system is the Tulare-East James Aquifer. No increase in the diversion rate or number of acres irrigated is authorized by this application. This site is located approximately 5 miles east of Frankfort SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 3178B-3 with qualifications because 1) existing domestic water uses and water rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) 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 August 1, 2022.

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

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by August 1, 2022.

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

Published once at the total approximate cost of _



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

AUG 22 2022

Mark LaBrie
17275 SD Hwy 37
Frankfort SD 57440

Dear Mr. LaBrie:

Enclosed is Water Permit No. 3178B-3 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



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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.: 3178B-3

Name of Applicant: Mark LaBrie

Date of Posting: 7/18/2022

Date of Removal: 8/22/2022



Ron Duvall, Water Rights Permitting Administrator

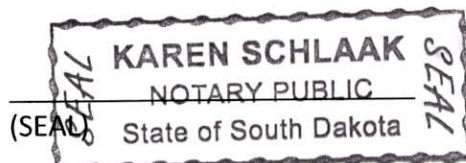
8/22/22

Date

Subscribed and sworn to before me, a notary public, this 22 day of August, 2022.



Notary Public - South Dakota
My commission expires: 4-1-2025



3178B-3
RECEIVED

AUG 29 2022

OFFICE OF
WATERNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 8-24-2022TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Mark LaBrie

(name)

17275 SD Hwy 37

(address)

Frankfort SD 57440

(city, state, zip)

(605) 460-1378

(phone)

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

Water Permit No. 3178B-3 states that the water use system is to be constructed by8-1-2027

(date)

, and water is to be put to beneficial use by 8-1-2031

(date)

The water use system was completed on 8-1-2022

(date)

Applying the water to beneficial use was completed on 8-1-2022

(date)

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

Mh

(signature)





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 12, 2022

3178B-3

Mark LaBrie
17275 SD Hwy 37
Frankfort SD 57440

Dear Mr. LaBrie:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system.

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

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

Sincerely,

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

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 3178B-3

I have this day, June 26, 2024, made a thorough examination of the water use system constructed by Mark La Brie of 17275 SD Hwy 37, Frankfort SD 57440 holder of Permit No. 3178B-3, bearing the priority of October 22, 1976 authorizing the diversion of 2.0 cu. ft. per second of the waters of groundwater Tulare: East James Aquifer for irrigation use purposes, in Spink County.

Inspection contact & relationship Mark LaBrie, owner

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 83 feet
- 4) Well log is available Y If no, explain in comments

Comments: Well and diversion rate shared with WR No. 3178A-3

Casing:

- 1) Diameter 16 inches
- 2) Length 63 feet
- 3) Type plastic

Screen:

- 1) Type stainless steel
- 2) Length 20 feet
- 3) Static water level NA feet

Pump:

- 1) Make Grundfos
- 2) Model submersible
- 3) Capacity 750 GPM

Motor:

- 1) Make Grundfos
- 2) Model No. submersible
- 3) Horsepower rating 45 hp

B. Works used to transport water to place of use:

- 1) Type PVC
 - 2) Size 8 inches
 - 3) Length 1850 feet
- Comments: none

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Zimmatic
- 2) Overall length 1280 feet

- 3) Number of towers 7
- 4) End gun Y
- 5) Capacity 750 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
If no, describe: N/A

- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y

List any extended period of nonuse: none

- 3) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: from the NE corner of Sec 18 T116N-R61W 2550 ft W and 30 ft S, latitude of 44.86408 and longitude of -98.21054, NW ¼ NE ¼.
2. The works are capable of diverting and conveying to the place of use 1.67 cu. ft. per second of water which is to be used for irrigation use. Water has been put to beneficial use to the maximum extent as follows: All land is located in Sec 18 T116N-R61W
NW ¼ NW ¼ - 32 ac NE ¼ NW ¼ - 34 ac SE ¼ NW ¼ - 34 ac SW ¼ NW ¼ - 32 ac
comprising a total of 132 acres of land and the license should be issued for 1.67 cfs.
3. All structures, wells and lands on map Y
If no, describe: none

F. Comments or other permit(s) associated with the project:

WR No. 3178A-3 and WP No. 3178B-3 share diversion rate of up to 2.0 cfs see qualification No 3.
WR No. 3178A-3 authorized 2 wells. Wells divert water to 3178A-3 & 3178B-3 pivot systems
independently and water from wells does not mix. Pivots are operated on rotation.



Mark D Rath
Natural Resources Engineer
DANR, Water Rights Program

Date report completed: July 16, 2024



0.5 0.25 0 0.5 Miles



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

SEP 30 2024

3178B-3

Mark LaBrie
17275 SD Hwy 37
Frankfort SD 57440

Dear Mr. LaBrie:

Enclosed is Water License No. 3178B-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

NOTE: Water Right No. 3178B-3 shares diversion authority with Water Right No. 3178A-3. Cumulative diversion from both systems may not exceed 2.0 cfs (900 gpm) at any given time.

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 3178B-3**

(1) Mark LaBrie, 17275 SD Hwy 37, Frankfort SD 57440, made Application No. 3178B-3, April 6, 2022, for a water permit to amend Water Right No. 3178A-3, transferring a portion of the irrigated acres to a new location and utilizing the appropriate authority of Water Right No. 3178A-3, authorizing the diversion of 2.0 cubic feet of water per second (cfs) from groundwater, two wells (Tulare: East James Aquifer), Spink County. Permit No. 3178B-3, with a priority date of October 22, 1976 (established by 3178A-3), was approved August 1, 2022, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before August 1, 2027, and for the application to beneficial use of water on or before August 1, 2031.

The permit holder submitted a Notice of Completion of Works and Application of Water to Beneficial Use form on August 24, 2022. The Notice stated the diversion system was completed and the water was placed to beneficial use on August 1, 2022.

Based on land ownership, Water Right No. 3178A-3 is held in the name of MJT Inc. and Water Right No. 3178B-3 is held in the name of Mark LaBrie. The diversion rate of 2.0 cfs originated under Water Right No. 3178-3 which was incorporated into Water Right No. 3178A-3 in 1988. Water Permit No. 3178B-3 was approved to transfer a portion of the acreage (132 acres) without an increase in the diversion rate or number of acres irrigated.

The inspection of Water Permit No. 3178B-3 found that each irrigation system is supplied independently from one of the wells and that the systems are operated in rotation. As set forth in qualification No. 3 on Water Permit No. 3178B-3 the combined instantaneous diversion from the two wells authorized by Water Right Nos. 3178A-3 and 3178B-3 may not exceed 2.0 cubic feet of water per second (900 gpm).

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and may utilize up to 2.0 cubic feet of water per second, from what is authorized by Water Right No. 3178A-3, for beneficial use. The location of the diversion point authorized under Water Right No. 3178B-3 is:

- 2,550 ft W & 30 ft S of the NE corner of Section 18, T116N, R61W (NW ¼ NE ¼)
(Latitude 44.86408 & Longitude -98.21054)

(3) The amount of appropriation may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate to following land:

	Section 18, T116N, R61W	
NE ¼ NW ¼	34 acres	SW ¼ NW ¼ 32 acres
NW ¼ NW ¼	32 acres	SE ¼ NW ¼ 34 acres
	TOTAL: 132 acres	

continued

(5) Pursuant to South Dakota Water Law 46-5-30.1 Mark LaBrie, the holder and/or owner of Water Right No. 3178B-3 is issued a license authorizing use of water up to 2.0 cubic feet of water per second from groundwater, one well (Tulare: East James Aquifer), authorized under Water Right No. 3178A-3, with a priority date of October 22, 1976, from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 3178B-3 and subject to the following qualifications:

1. The wells approved under Water Permit Nos. 3178A-3 & 3178B-3 are 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. The total diversion from the two wells authorized by Water Right No. 3178A-3 and Water Permit No. 3178B-3 may not exceed 2.0 cubic feet of water per second (900 gpm).

Eric Gronlund

Eric Gronlund, Chief Engineer

Water Rights Program

Department of Agriculture and Natural Resources

SEP 30 2024

date

