

**WATER PERMIT NO. 5601A-3**

Name of Applicant: **Matthew Van Buskirk**

Address: **18892 390<sup>th</sup> Avenue, Hitchcock SD 57438**

Phone: **605-350-5671**

Amount of Water Claimed: **No Add'l**

Total Acres: **No Add'l**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation**

County: **Beadle**

Type of Waste Disposal System:

Location: **Approx. 1/4 mile southwest of Hitchcock**

**PRIORITY** Date Received: **02-06-25**

Application/License Fee: **\$300.00**

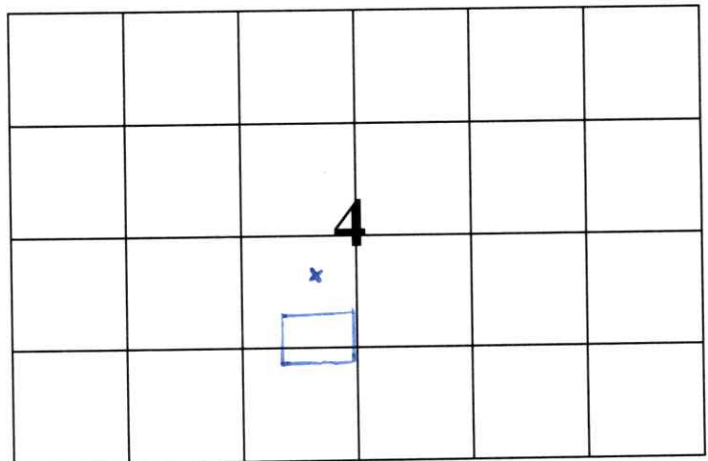
Corrected Application Received: **02-19-25**

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

Remarks: **Transferring 5 acres from WR 5601-3 to Sec 4-T113N-R63W. No increase in diversion rate or acres; using existing well.**

Diversion Point: **NE 1/4 SW 1/4 Sec 4-T113N-R63W**

Land to be Irrigated: **E 1/2 SW 1/4 Sec 4-T113N-R63W**



Depth of Well:

Well Driller:

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **02-06-25**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: \_\_\_\_\_

**SOUTH DAKOTA**  
**WATER PERMIT NO. 5601A-3**

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Date of first receipt of application February 6, 2025.

Date of return to applicant for corrections, amendments or changes February 10, 2025.

Date of receipt of corrected application February 19, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5601A-3 to Matthew Van Buskirk, 18892 390<sup>th</sup> Avenue, Hitchcock SD 57438, 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. 5601A-3 amends Water Right No. 5601-3 by transferring irrigated acres and diversion rate authority to a new location. Water Right No. 5601-3 appropriates 0.078 cubic feet of water per second (cfs) from one well completed into the Tulare: Western Spink Hitchcock Aquifer located in the SW 1/4 SW 1/4 Section 28 for irrigation of 5 acres located in the SW 1/4 SW 1/4 Section 28; all in T114N-R63W. This permit transfers the 5 irrigated acres to the E 1/2 SW 1/4 Section 4, using an existing well completed into the Tulare: Western Spink Hitchcock Aquifer (137 ft deep), located in the NE 1/4 SW 1/4 Section 4; all in T113N-R63W. This amendment does not authorize an increase in the 0.078 cfs diversion rate or number of irrigated acres authorized by Water Right No. 5601-3. This site is located approximately one-quarter mile south of Hitchcock SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period:  
January 1 – December 31.
3. The date from which applicant may claim right is December 2, 1991.
4. The date of approval of Permit No. 5601A-3 is May 19, 2025.
5. One-fifth of the construction is to be completed on or before November 19, 2027.
6. All construction is to be completed on or before May 19, 2030.
7. Water is to be put to beneficial use on or before May 19, 2034.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The well approved under Water Permit No. 5601A-3 is located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

**WATER MANAGEMENT BOARD**

By: \_\_\_\_\_

Mark Mayer, PE  
Director of Office of Water  
Department of Agriculture and Natural Resources

6/11/25  
date



RECEIVED

FEB 06 2025

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

OFFICE OF  
WATER

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FEB 06 2025  
**PAID**  
OFFICE OF  
WATER

FEB 06 2025

Ck# 5488

Rec't# \_\_\_\_\_

|                                                                                                               |                                                    |
|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| Mail to:<br><br>SD DANR, Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br><br>ph. (605) 773-3352 | No. <u>5601A-3</u> Hydrologic Unit <u>10160006</u> |
|                                                                                                               | Basin <u>James R</u>                               |
|                                                                                                               | Newspaper <u>Huron Plainsman</u>                   |
|                                                                                                               | (office use only)                                  |

## Application for Permit to Appropriate Water for Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 5601-3  
(Use predates Mar 2, 1955)

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

- Name to Appear on Irrigation Permit Matthew Van Buskirk  
 Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.  
 Mailing Address 18892 390<sup>th</sup> Avenue Pierre SD 57438 0098  
 (Address) (City) (State) (Zip Code)  
 Phone \_\_\_\_\_ Mobile 605 350 5671 Email \_\_\_\_\_
- Amount of water claimed 0.078 \*CFS or nvadd'l \*\*GPM nvadd'l \*\*\*AF Total Acreage 5 nvadd'l  
 (\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply TWSH existing well - NOT 5601-3 well
- Location of point of diversion January 1 - December 31  
 (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)  
NE1/4 SW1/4 Section 4, T113N, R63W County Beadle
- County or counties where water will be used Beadle
- Annual period during which water is to be used January 1 - December 31
- 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>SW1/4 NE1/4 NW1/4 Section 4, T113N, R63W</u> | <u>5</u> |                  |       |
|                                                 |          |                  |       |
|                                                 |          |                  |       |
|                                                 |          |                  |       |

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

- Transfer WR 5601-3 to new location better suited for planting sweet corn.
- No increase in diversion rate or acres irrigated.
- May use existing shop well to start but may drill a new well

I, Matthew Van Buskirk, the applicant, certify under  
 Name of Person Title (if applicable)

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

2021-08

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

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FEB 06 2025



## SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 NW 1/4 Sec 4 Twp 113 Rg 63

County

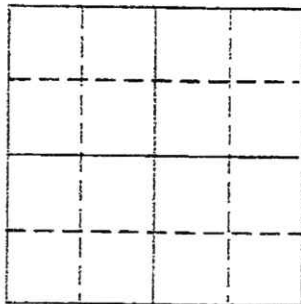
North

Beadle

Please mark well location with an "X"

W

E



1 Mile

Well Completion Date

6-15-13

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

? NONE ft. from \_\_\_\_\_ (Identify source)

## PROPOSED USE:

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

## METHOD OF DRILLING:

Mud Rotary

## CASING DATA:

☐ Steel
 ☒ Plastic
 ☒ Other

If other describe

Stainless Steel

| PIPEWEIGHT        | DIAMETER     | FROM          | TO            | HOLE DIAMETER   |
|-------------------|--------------|---------------|---------------|-----------------|
| <u>2.10 LB/FT</u> | <u>10 IN</u> | <u>0 FT</u>   | <u>107 FT</u> | <u>8 3/4 IN</u> |
| <u>5.5 LB/FT</u>  | <u>6 IN</u>  | <u>107 FT</u> | <u>137 FT</u> | <u>8 3/4 IN</u> |

## GROUTING DATA:

| Grout Type | No. of Sacks | Grout Weight  | From        | To            |
|------------|--------------|---------------|-------------|---------------|
| <u>#20</u> | <u>10</u>    | <u>Lb/gal</u> | <u>0 FT</u> | <u>100 FT</u> |

Describe grouting procedure

Tremie Pipe

## SCREEN:

☐ Perforated pipe
 ☒ Manufactured
Diameter 6 Inches Length 30 FeetMaterial Stainless SteelSlot Size 0.50 Set From \_\_\_\_\_ Feet to \_\_\_\_\_ Feet

Other information

## WAS A PACKER OR SEAL USED?

☒ Yes
 ☐ No
If so, what material? Envirol Plug

Describe packer(s) and location

above screen

## DISINFECTION: Was well disinfected upon completion?

☒ Yes, How?
Chlorine
☐ No, Why Not?

Lab sample sent to for water quality analysis

Well Owner:

Business Name:

Van Buskirk Farms

Address:

PO Box 72

City, State, Zip:

Hitchcock SD 57348

## WELL LOG:

DEPTH

FORMATION

FROM

TO

|                        |            |            |
|------------------------|------------|------------|
| <u>Top Soil</u>        | <u>0</u>   | <u>3</u>   |
| <u>Yellow Clay</u>     | <u>3</u>   | <u>18</u>  |
| <u>Blue Clay</u>       | <u>18</u>  | <u>100</u> |
| <u>Sand &amp; Coal</u> | <u>100</u> | <u>137</u> |

## STATIC WATER LEVEL

50

FEET

If flowing: closed in pressure

PSI

GPM flow

through

Inch pipe

Controlled by

☐ Valve

☐ Reducers

☐ Other

Reduced flow rate

GPM

Can well be completely shut in?

## WELL TEST DATA:

☒ Pumped

Describe:

Air
☐ Bailed

☐ Other

Pumping Level Below Land Surface

50

Ft. After

4

Hrs. pumped

100

GPM

Ft. After

Hrs. pumped

GPM

If pump installed, pump rate:

GPM

## REMARKS

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JUL 31 2013

WATER RIGHTS PROGRAM

This well was drilled under license #

722

And this report is true and accurate.

Drilling firm:

Stretens Well Service

Signature of License Representative:

Tom Stretens

Signature of Well Owner or Equitable Property Holder:

Patricia Van Buskirk

Date:

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OFFICE OF WATER

114N 63W  
Section: 29

114N 63W  
Section: 28

114N 63W  
Section: 27

114N 63W  
Section: 32

114N 63W  
Section: 33

114N 63W  
Section: 34

113N 63W  
Section: 05

10160006 Middle James

113N 63W  
Section: 04

James

113N 63W  
Section: 03

113N 63W  
Section: 08

113N 63W  
Section: 09

113N 63W  
Section: 10

113N 63W

113N 63W

113N 63W

# RECEIPT

## WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date February 10th 2025

RECEIVED OF Matthew Van Buskirk 18892 390<sup>th</sup> Avenue Hitchcock SD 57438-0098

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

|                                                                                                                         |                  |
|-------------------------------------------------------------------------------------------------------------------------|------------------|
| Fee for Application for Permit No. <u>5601A-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>5601A-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

Se

## **Water Rights Program - File Documentation**

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**NAME:** Matthew Van Buskirk

**ADDRESS:** 18892 390<sup>th</sup> Avenue, Hitchcock SD 57438

**DATE:** 02-19-25

**RE:** Letter sent on February 10, 2025

**COMMENTS:**

Matthew Van Buskirk called today regarding the letter I sent him on February 10, 2025. He stated that he would like the name on the permit to appear as "Matthew Van Buskirk". He also said that the 5 acres he was transferring were in fact, in the SW 1/4 Section 4-T113N-R63W.

*Rachel Rodriguez*

Rachel Rodriguez

Water Rights Program

605 773-3352

[rachel.rodriquez@state.sd.us](mailto:rachel.rodriquez@state.sd.us)



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

February 10, 2025

Matthew Van Buskirk  
18892 390<sup>th</sup> Avenue  
Hitchcock SD 57438-0098

Dear Mr. Van Buskirk:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Beadle County. To complete the application, the following are required:

- You signed the application Matthew Van Buskirk however, the “Name on Irrigation Permit” has Matthew Buskirk. Would you like me to change it to Van Buskirk?
- Based on the map you submitted, the 5 acres appears to be in the SW 1/4 Sec 4-T113N-R63W. However, the application states the NE 1/4 NW 1/4 Sec4-T113N-R63W. Would you like me to correct the application to state the E 1/2 SW 1/4 Sec 4-T113N-R63W?

Once I receive your response, I can begin processing your application.

Sincerely,

*Rachel Rodriguez*

Rachel Rodriguez  
Water Rights Program  
[rachel.rodriquez@state.sd.us](mailto:rachel.rodriquez@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 ACTING CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 5601A-3, Matthew Van Buskirk**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 5601A-3, Matthew Van Buskirk, 18892 390th Avenue, Hitchcock SD 57438.

The Acting Chief Engineer is recommending APPROVAL of Application No. 5601A-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 well approved under Water Permit No. 5601A-3 is located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Mark Mayer, PE  
Director of Office of Water  
April 28, 2025

Report to the Chief Engineer

On Water Permit Application No. 5601A-3

Matthew Van Buskirk

04/21/2025

Water Permit Application No. 5601A-3 proposes to amend Water Right No. 5601-3 by transferring the irrigated acreage to a new location. Water Right No. 5601-3 appropriates 0.078 cubic feet of water per second (cfs) from one well completed into the Tulare: Western Spink Hitchcock aquifer located in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 28 for irrigation of 5 acres located in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 28; all in T114N-R63W. This application proposes to transfer the 5 irrigated acres to the E  $\frac{1}{2}$  SW  $\frac{1}{4}$  Section 4, using an existing well completed into the Tulare: Western Spink Hitchcock aquifer (137 feet deep), located in the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 4; all in T113N-R63W, with no increase in the 0.078 cfs diversion rate authorized by Water Right No. 5601-3. This site is located in Beadle County approximately one-quarter mile south of Hitchcock, SD.

**AQUIFER:** Tulare: Western Spink Hitchcock (T:WSH)

**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."

This application is for the amendment of Water Right No. 5601-3. This report will not address water availability for Water Permit Application No. 5601A-3 because water availability was considered during the original review and recommendation of the Chief Engineer for Water Right No. 5601-3. This report will only address the potential for unlawful impairment of existing domestic water uses and water rights within the Tulare: Western Spink Hitchcock aquifer.

**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 with the application indicates that the transfer claims no additional water (0.078 cfs), or additional acreage (5 acres). The Tulare: Western Spink Hitchcock aquifer is approximately 37 feet thick and under confined conditions at the proposed location. This application, if approved, would retain the priority date of 12/02/1991 of Water License No. 5601-3.

**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. 5601-3 since 1992 (Water Rights, 2025a). However, from 1992 through 1998, it appears the permit holder was reporting irrigation under an incorrect water right that authorized the irrigation of 130 acres. Therefore, no reported water use from 1992 through 1998 will be included in Table 1. Water Right No. 5601-3 has gone through a series of ownership changes from 2012 to 2019. Original ownership of Water Right No. 5601-3 was held by Floyd Peterson and transferred to Jeb Peterson in 2012. In 2019 ownership was transferred to Matthew Van Buskirk and irrigation reporting resumed in 2020. From 2010 to 2019 the irrigation questionnaires reported that there was sufficient moisture and no need for pumping. Annual reported pumping for Water Right No. 5601-3 is listed below in Table 1.

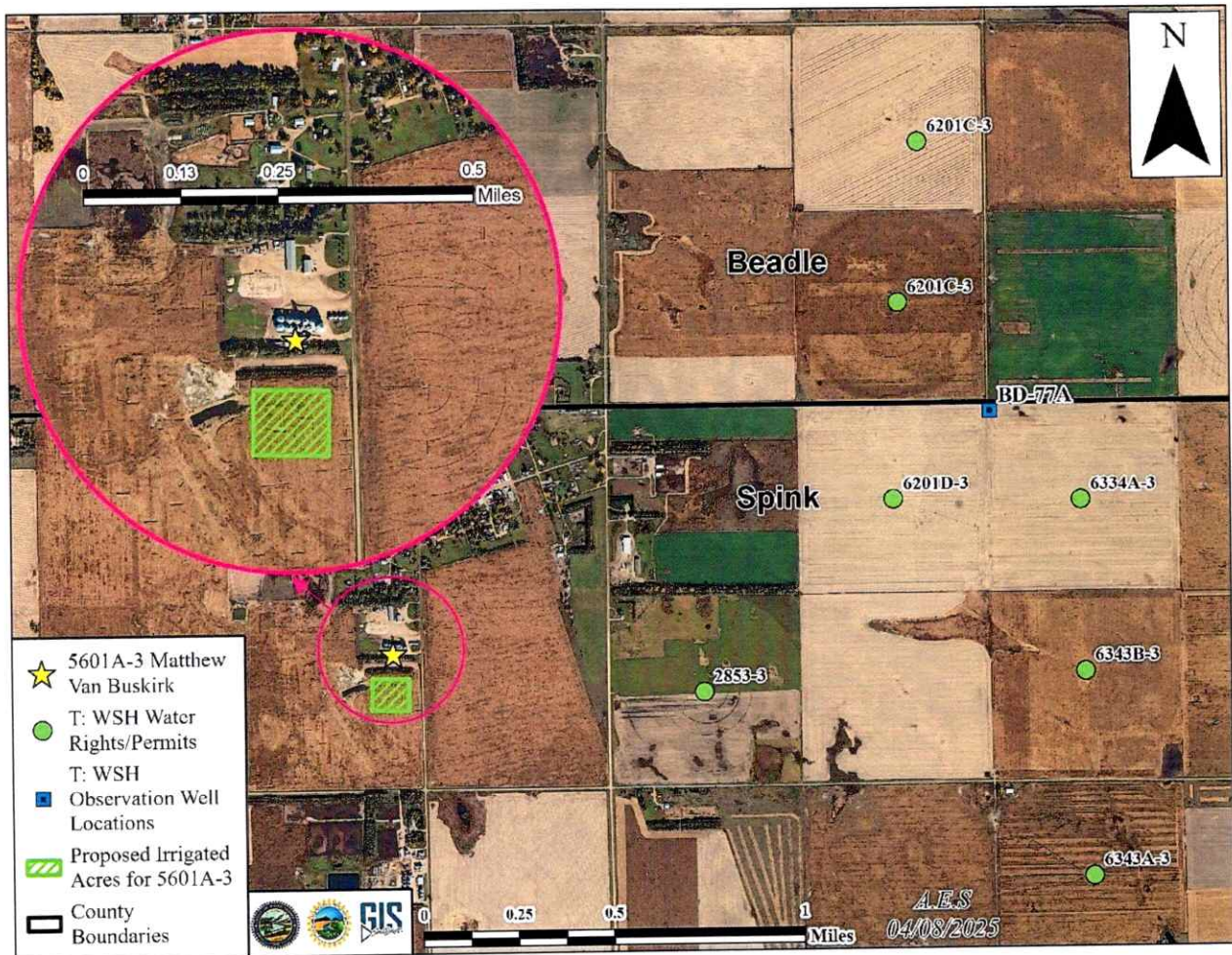
**Table 1.** Irrigation summary for annual usage for Water Right No. 5601-3 from 1999 to 2023 (Water Rights, 2025a).

| <b>Year</b> | <b>Reported Pumpage<br/>(acre-feet)</b> | <b>Year</b>            | <b>Reported<br/>Pumpage (acre-<br/>feet)</b> |
|-------------|-----------------------------------------|------------------------|----------------------------------------------|
| 1999        | 0                                       | 2013                   | 0                                            |
| 2000        | 0                                       | 2014                   | 0                                            |
| 2001        | 0                                       | 2015                   | 0                                            |
| 2002        | 1.68                                    | 2016                   | 0                                            |
| 2003        | 2.21                                    | 2017                   | 0                                            |
| 2004        | 0.75                                    | 2018                   | 0                                            |
| 2005        | 1.07                                    | 2019                   | 0                                            |
| 2006        | 2.98                                    | 2020                   | 6.96                                         |
| 2007        | 1.29                                    | 2021                   | 14.85                                        |
| 2008        | 0.60                                    | 2022                   | 0.54                                         |
| 2009        | 0.4                                     | 2023                   | 0.41                                         |
| 2010        | 0                                       | <b>Max</b>             | <b>14.9</b>                                  |
| 2011        | 0                                       | <b>Avg (1992-2023)</b> | <b>1.5</b>                                   |
| 2012        | 0.0                                     | <b>Avg (2014-2023)</b> | <b>2.28</b>                                  |

## POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 159 water rights/permits authorized to appropriate water from the Tulare: Western Spink Hitchcock aquifer (Water Rights, 2025c). The closest water right/permit to the proposed diversion point (not held by the applicant) is Water Right No. 2853-3, which is held by Larry Gordon. The diversion point for Water Right No. 2853-3 is located approximately 0.82 miles east of the new diversion point for this application (Figure 1) (Water Rights, 2025c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Tulare: Western Spink Hitchcock aquifer, with the closest domestic well on file (not held by the applicant) located approximately 0.7 miles north of the new diversion point (Water Rights, 2025d). There could potentially be other domestic wells completed into the Tulare: Western Spink Hitchcock aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program. The locations of domestic wells in the well completion report database maintained by the Water Rights Program are based on the location listed by the driller on the well completion report.

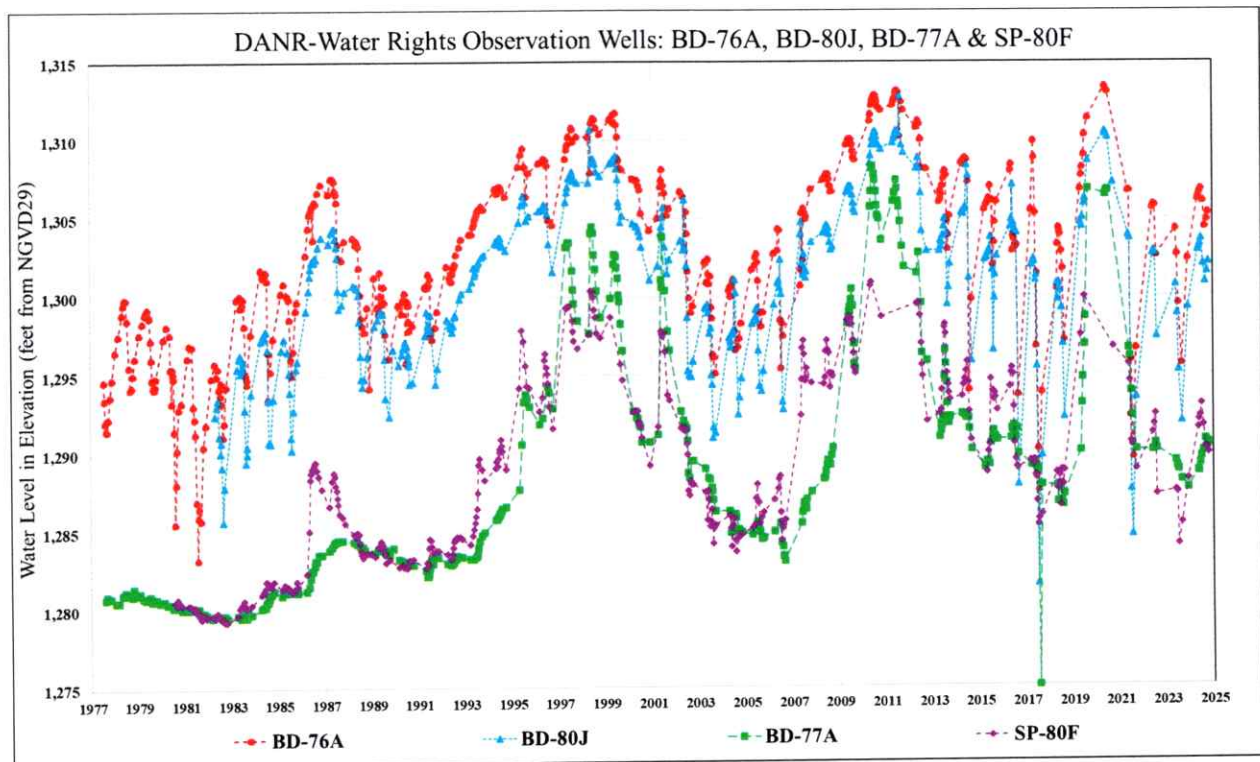


**Figure 1.** The location of the proposed diversion point for Water Permit No. 5601A-3 and the nearby T:WSH water rights/permits and observation wells (Water Rights, 2025b and 2025c)

This application proposes to use an existing well in the NE ¼ SW ¼ of Section 4, T113-R63W as the diversion point for this application. The original well associated with Water Right No. 5601-3 is authorized to pump at 0.078 cfs to irrigate 5 acres of trees and lawn and supplying water to two homes for household and domestic use. This application proposes to relocate the 0.078 cfs diversion rate authorized by Water Right No. 5601-3 to an existing well located in NE ¼ SW ¼ of Section 4, T113-R63W.

The original well for Water Right No. 5601-3 has been in use since the mid-1990s without impairing other users, and there have been no complaints in Spink County for well interference (Water Rights, 2025e).

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors 55 observation wells completed into the Tulare: Western Spink Hitchcock aquifer (Water Rights, 2025b). The four observation wells in order of proximity to the proposed diversion point are BD-76A (approximately 1.6 miles northwest), BD-80J (approximately 1.6 miles northwest), BD-77A (approximately 1.7 miles northeast), and SP-80F (approximately 2.7 miles north) (Water Rights, 2025b). The hydrographs for the observation wells are displayed in Figure 2 (Water Rights, 2025b). 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 which were then converted to elevation in feet from the NGVD29 datum.



**Figure 2.** A graph showing the elevation of water levels from datum NGVD29 for observation wells: BD-76A, BD-80J, BD-77A & SP-80F (Water Rights, 2025b)

The hydrographs for the observation wells displayed in Figure 2 show stable to increasing water levels over their respective periods of record. The hydrographs for the Tulare: Western Spink Hitchcock aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods and declining to a stable water level during drier periods. For example, the multi-year drought in the late 1970s and late 1980s, the wet period during the mid-to-late 1990s, another dry period in the early to mid-2000s, as well as flooding events that occurred in 2011 and 2019 are reflected in the hydrographs. Based on how the aquifer responds in the area from much higher rate pumping for larger irrigation operations, Water Permit Application No. 5601A-3's limited diversion rate should cause no impairment to nearby water right holders.

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, "general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable..." (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995).

The greatest risk of impairment from this amendment are to the applicant's own wells in the S  $\frac{1}{2}$  of Section 4, T113N-63W. Especially if the wells are pumped at the same time or pumped too frequently to where water levels do not recover. Preventing impairment of the applicant's own wells will also prevent impairment on the of the nearest wells not owned by the applicant. Based on the low diversion rate for this application, a history of use in the area without reported well interference issues, and the fact the nearest wells to the new well site are the applicant's own wells, there is a reasonable probability that this application can relocate acreage and change diversion rate authority to a new location without unlawfully impairing existing appropriative users or domestic users with adequate wells (Administrative Rule of South Dakota 74:02:04:20(6)).

## CONCLUSIONS:

1. Water Right No. 5601-3 appropriates a total of 0.078 cfs from one well completed into the Tulare: Western Spink Hitchcock SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 28-T114N-R63W to irrigate 5 acres in the same area. This application proposes to transfer the 5 irrigated acres to the E  $\frac{1}{2}$  SW  $\frac{1}{4}$  Section 4, using an existing well completed into the Tulare: Western Spink Hitchcock aquifer (137 ft deep), located in the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 4; all in T113N-R63W
2. The water has already been appropriated as authorized by Water Right No. 5601-3 and this application is to transfer acres, not to add irrigated acres, with no increase in the 0.078 cfs diversion rate. Therefore, water availability need not be considered.
3. The diversion point and acreage authorized by No. 5601-3 can be relocated and developed without unlawful impairment of existing domestic water uses and a water rights as allowed by SDCL 46-2A-12, 46-5-30.4 and 46-5-34.



Austin Settje  
Natural Resources Engineer I  
SD DANR - Water Rights Program



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

### References

- SDGS, 2025. South Dakota Geological Survey Lithologic Logs Database. Accessed April 9, 2025. <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, 2025a. "1979-2023 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2025b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2025c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2025d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2025e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

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

April 29, 2025

Matthew Van Buskirk  
18892 390<sup>th</sup> Avenue  
Hitchcock SD 57438

Dear Mr. Van Buskirk:

Water Permit Application No. 5601A-3 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 Plainsman printed in Huron SD (Ph # 605 353-7414). 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. 5601A-3 to Amend Water Right No. 5601-3

Notice is given that Matthew Van Buskirk, 18892 390<sup>th</sup> Avenue, Hitchcock SD 57438, has filed an application to amend Water Right No. 5601-3 by transferring irrigated acres and diversion rate authority to a new location. Water Right No. 5601-3 appropriates 0.078 cubic feet of water per second (cfs) from one well completed into the Tulare: Western Spink Hitchcock Aquifer located in the SW 1/4 SW 1/4 Section 28 for irrigation of 5 acres located in the SW 1/4 SW 1/4 Section 28; all in T114N-R63W. This application proposes to transfer the 5 irrigated acres to the E 1/2 SW 1/4 Section 4, using an existing well completed into the Tulare: Western Spink Hitchcock Aquifer (137 ft deep), located in the NE 1/4 SW 1/4 Section 4; all in T113N-R63W, with no increase in the 0.078 cfs diversion rate authorized by Water Right No. 5601-3. This site is located approximately one-quarter mile south of Hitchcock SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5601A-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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 19, 2025.

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

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 19, 2025.

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

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**From:** Rodriguez, Rachel  
**Sent:** Tuesday, April 29, 2025 8:53 AM  
**To:** rcrandall@plainsman.com  
**Subject:** 5601A-3 Matthew Van Buskirk - Public Notice  
**Attachments:** 5601A-3 public.short\_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 7, 2025.

Matthew Van Buskirk, 18892 390<sup>th</sup> Avenue, Hitchcock SD 57438, 605-350-5671, 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



RECEIVED

JUN 02 2025

OFFICE OF  
WATER

Proof Of Publication

Huron Plainsman  
49 3<sup>rd</sup> Street SE  
Huron, SD 57350  
605-353-7402  
Legal Notice Number: 3096

I, Shelly Ames, 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 Matthew Van Buskirk – Water No. 5601A-3 was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 5/07/2025. The full amount of the fee charged for publishing \$47.90 is to the benefit of the publisher of said newspaper; that no agreement or understanding of the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomever.

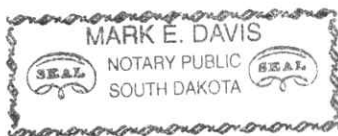
Shelly Ames

Subscribed and sworn to me before this date 5/29/25.

Mark E. Davis

Notary Public, South Dakota

My Term Expires 12/27/2030



F. P. 05-07-25

**NOTICE OF  
APPLICATION  
NO. 5601A-3 to  
Amend Water Right  
No. 5601-3**

Notice is given that Matthew Van Buskirk, 18892 390th Avenue, Hitchcock SD 57438, has filed an application to amend Water Right No. 5601-3 by transferring irrigated acres and diversion rate authority to a new location. Water Right No. 5601-3 appropriates 0.078 cubic feet of water per second (cfs) from one well completed into the Tulare: Western Spink Hitchcock Aquifer located in the SW 1/4 SW 1/4 Section 28 for irrigation of 5 acres located in the SW 1/4 SW 1/4 Section 28; all in T14N-R63W. This application proposes to transfer the 5 irrigated acres to the E 1/2 SW 1/4 Section 4, using an existing well completed into the Tulare: Western Spink Hitchcock Aquifer (137 ft deep), located in the NE 1/4 SW 1/4 Section 4; all in T13N-R63W, with no increase in the 0.078 cfs diversion rate authorized by Water Right No. 5601-3. This site is located approximately one-quarter mile south of Hitchcock SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5601A-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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of

the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by May 19, 2025.

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

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by May 19, 2025.

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

No. 3096 (adv.)

Published once at the total approximate cost of \$47.90 and may be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

Matthew Van Buskirk  
18892 390th Avenue  
Hitchcock SD 57438

Dear Mr. Van Buskirk:

Enclosed is Water Permit No. 5601A-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,

Mark Mayer, PE  
Director of Office of Water

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.:** 5601A-3

**Name of Applicant:** Matthew Van Buskirk

**Date of Posting:** 5/5/2025

**Date of Removal:** 6/11/2025

Ron Duvall, Engineer III

6/11/2025

Date

Subscribed and sworn to before me, a notary public, this 11<sup>th</sup> day of June, 2025.

Notary Public - South Dakota  
My commission expires:

**Rachel Rodriguez  
My Commission Expires  
May 16, 2029**

(SEAL)

