

WATER PERMIT NO. 6187-3

Name of Applicant: Dakota Air Spray

Address: 18100 US Hwy 281, Tulare SD 57476

Phone: 605 596-4200

Amount of Water Claimed: 35 gpm (0.078 cfs)

Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial use

County: Spink

Type of Waste Disposal System:

Location: east of Tulare

PRIORITY Date Received: 3-14-2000

Fee: \$50

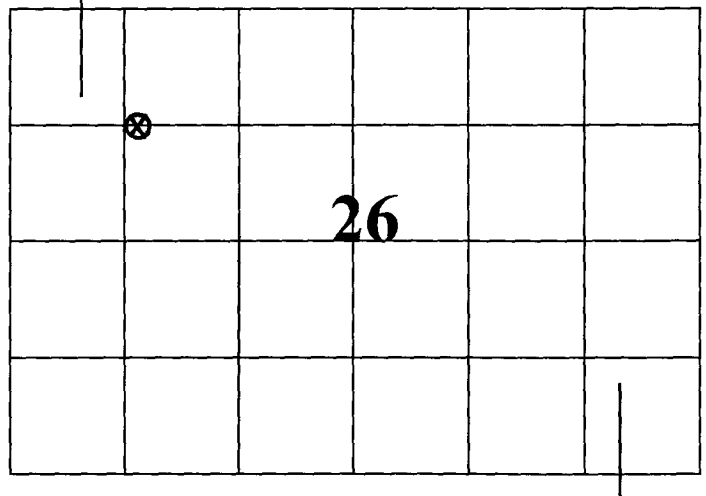
Corrected Application Received: 3-16-2000

Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: W ½ NW ¼ Sec 26-T115N-R64W

Land to be Irrigated: NA



Depth of Well: 40 feet

Well Driller: : Pullman Drilling, Inc.

Remarks:

Type of Map: aerial

Prepared by: Shane Jordan, NRCS

Reviewed and the Number Assigned on: XX

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 6187-3

Date of first receipt of application March 14, 2000.

Date of return to applicant for corrections, amendments or changes March 14, 2000.

Date of receipt of corrected application March 16, 2000.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6187-3 to Dakota Air Spray, 18100 US Highway 281, Tulare SD 57476 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. 6187-3 appropriates 0.078 cubic feet of water per second (35 gallons per minute) from one well (Tulare West Spink Aquifer) 40 feet deep located in the W ½ NW ¼ Section 26-T115N-R64W.
2. The water appropriated shall be used for the purpose of supplying water for commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 6187-3 is May 1, 2000.
5. The date from which applicant may claim right is March 14, 2000.
6. One-fifth of the construction is to be completed on or before November 1, 2002.
7. All construction is to be completed on or before May 1, 2005.
8. Water is to be put to beneficial use on or before May1, 2009.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

WATER MANAGEMENT BOARD

By: Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 05 2000

date



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6687-3</u>	(office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>Dances River</u>	
	Newspaper <u>The Redfield Press, Redfield, SD</u>	



Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal	☐ Suburban Housing	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal Heat
☐ Domestic (over 18 gpm)	☐ Industrial	☒ Other	

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one)
Place to Beneficial Use Water Reserved by Future Use Permit No. _____
Amendment/Correction to Permit No. _____

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

- Name of Applicant Dakota Air Spray Phone 605-596-4200
(check one) ☐ Owner ☒ Tenant/lessee
Mailing Address 18100 US Highway 281 Tulare State SD 57476
(Street, RR. or Box) (Zip Code)
- Amount of water claimed 0.078 *CFS or 35 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) W 1/2 NW 1/4 Sec. 26 - T115N-R64W
Spink County Spink
- County or counties where water will be used Spink - Hand - Beadle
- Annual period during which water is to be used Jan 1 - Dec 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

STATE OF SOUTH DAKOTA)

County of Spink SS

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, Butt Jens, 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.

Signed Butt Jens

Subscribed and sworn to before me this 13th day of March, 2000

Janette Domke
Notary Public

Supplemental Information

(type or print in ink)



1. Well Information - Proposed Construction

- a) Drill Hole Diameter 8 3/4" Depth 40 ft
- b) Casing Type PVC Diameter 5" Thickness 1/4"
- c) Screen Type manufactured slots Diameter 5" Thickness 1/4"
- d) Gravel Pack yes Length of Gravel Pack 19 ft
- e) Depth to Top of Water Bearing Material 18 ft
- f) Depth to Water (ground surface to water level) 6 ft
- g) Distance to nearest existing domestic well:

On applicants property _____

On property owned by others 500 ft

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System _____

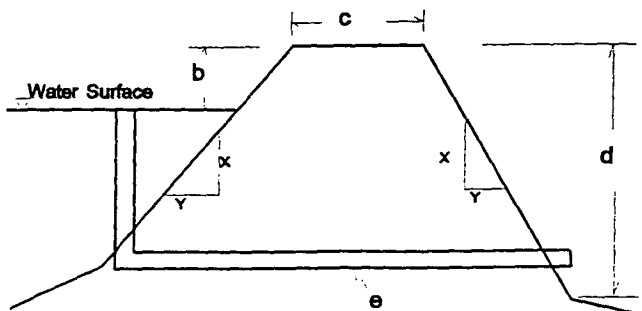
3. Dugout Information

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

07-92

Date:

1999

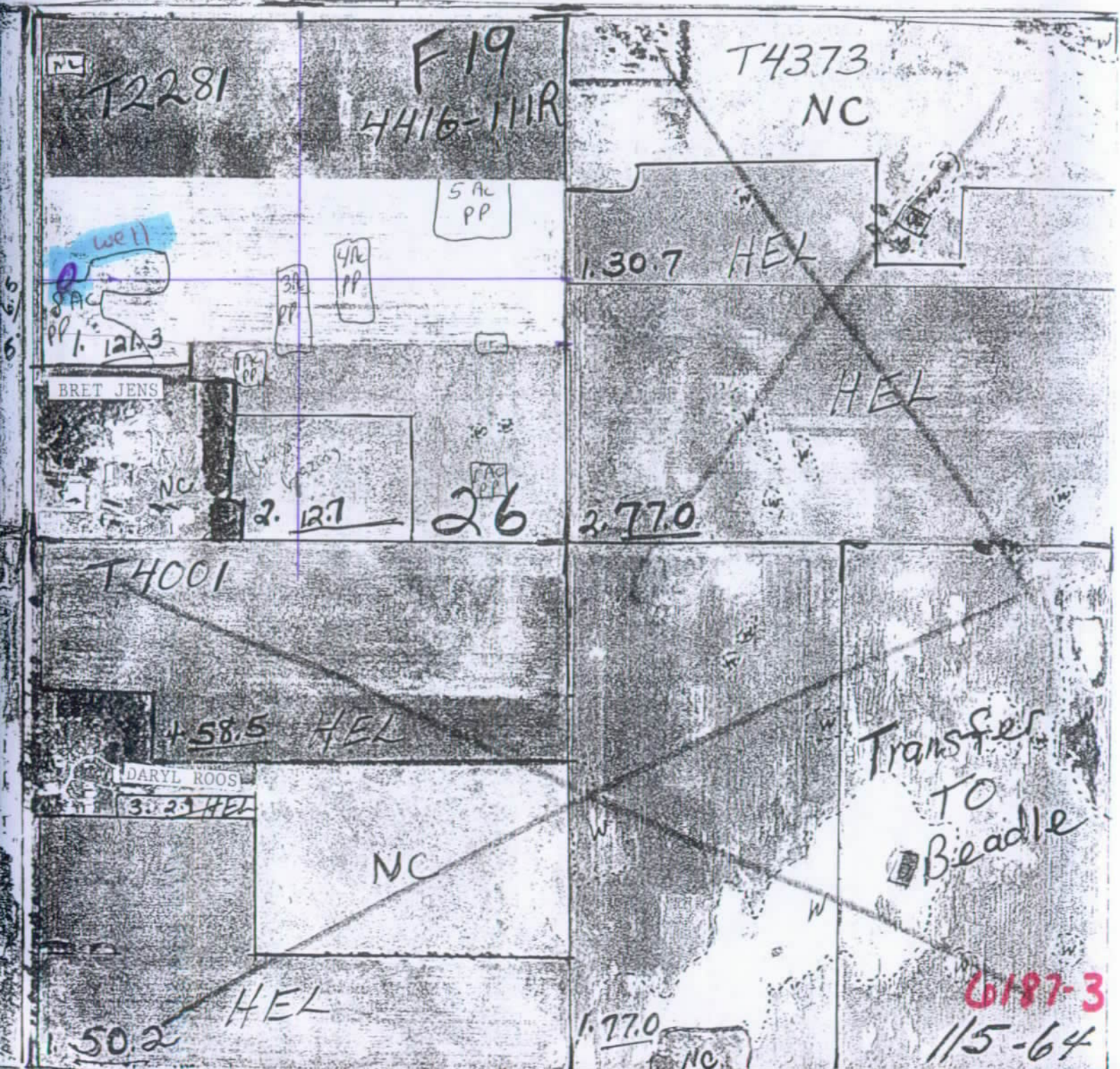
4376

MAP NOT TO SCALE
THIS IS NOT AN OFFICIAL WETLAND MAP

NW 1/4, Sec 26, Tulare Township, Spink Co.

Share
Jordan
DC-WRES

25.8



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N^o 416427

Pierre, March 16, 2000

RECEIVED OF Dakota Airspray, Inc., 18100 US Hwy. 281, Tulare, SD 57476
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>6187-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	50	00
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>6187-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	100 00

By David E. Erbe
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

December 28, 1999

Dakota Air Spray
PO Box 648
Huron SD 57350

Dear Sir:

I am writing in regard to a well driller's report filed by Pullman Drilling. The report shows a new well has been completed for Dakota Air Spray. Based on the information in the report, you may need a water permit for this water use.

1. According to state law, a water permit is needed for any water use except for reasonable, private domestic use. Examples of commercial uses that require a water rights permit are: truckstops; motels; restaurants; bars; clubs; tourist attractions; campgrounds or any other business operation.
2. Also, as a new well owner, you need to be aware of some of your responsibilities. Enclosed is a copy of "Well Owner Responsibilities". Please review these responsibilities to ensure you are complying with all of the requirements.

Enclosed are application forms and instruction sheet to apply for a water permit. The completed forms with the application fee and map can be returned to: Water Rights Program, 523 E. Capitol, Pierre, SD 57501. Please respond by February 1, 2000.

If you believe your water use does not require a water permit or that you have an existing permit, or if help is needed completing the application forms, please contact Ron Duvall or me at (605) 773-3352. We will be happy to assist you in any way possible.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 14, 2000



Dakota Air Spray, Inc.
18100 US Highway 281
Tulare SD 57476

Attn: Kristy

Thank you for submitting the *Application for a Permit to Appropriate Water* for commercial use. As stated in our phone conversation this morning, I am returning the check for \$150. The application filing fee is \$50 and the license fee is \$50 for a total fee of \$100.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

enclosure

March 23, 2000

Application No. 6187-3 proposes to appropriate 0.078 cfs (35 gpm) from one well approximately 40 feet deep located in the W 1/2 NW 1/4 of Section 26, T115N-R64W in Spink County. The water is for commercial use.

AQUIFER - TULARE WESTERN SPINK (T-WS)

The Tulare Western Spink is predominantly a buried outwash (sand and gravel) which underlies 72,300 acres and contains an estimated 360,000 acre feet of recoverable water in storage in southern Spink County (Hedges, 1982). Ground water movement in this area is from west to east (Hamilton, 1996). At this site the aquifer may be under water table conditions or just slight artesian conditions. The log filed with the application indicates sandy clay from the surface to 18 feet followed by fine sand from 18 to 38 feet all below land surface. The well had a static water level of six feet below land surface and was capable of producing 60 gpm using air to develop. The well as built is constructed in accordance with SD Well Construction Standards.

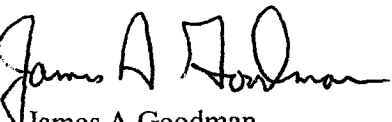
The Water Rights Program does monitor two observation wells completed into the Tulare Western Spink aquifer and located within one and one-half miles of this application. Water level records for these wells (SP-66M, SP-66K) show good correlation between climatic effects and water levels. Hydrographs for these two observation wells are included with this report. In general, the water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2000).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

The nearest existing water right is over one mile distant. Interference is not a concern. This application requests a small diversion rate which will not cause significant drawdown at the distance between wells. The application also indicates that the nearest domestic well is about 500 feet away. This diversion also should not adversely affect any domestic use in the area.

CONCLUSIONS

1. Water is available from the Tulare Western Spink aquifer.
2. The aquifer is under water table or slightly confined conditions at this site. Drawdown created by pumping at the relatively small rate of 35 gpm will not cause significant drawdown in the area. Interference is not a concern.
3. This well has been constructed and is built in accordance with SD Well Construction Standards.
4. The observation well records for the two wells indicate that water levels are presently near the highest level ever since the wells were drilled in 1966. This amounts to about 35 years of record.



James A Goodman
Natural Resources Engineer

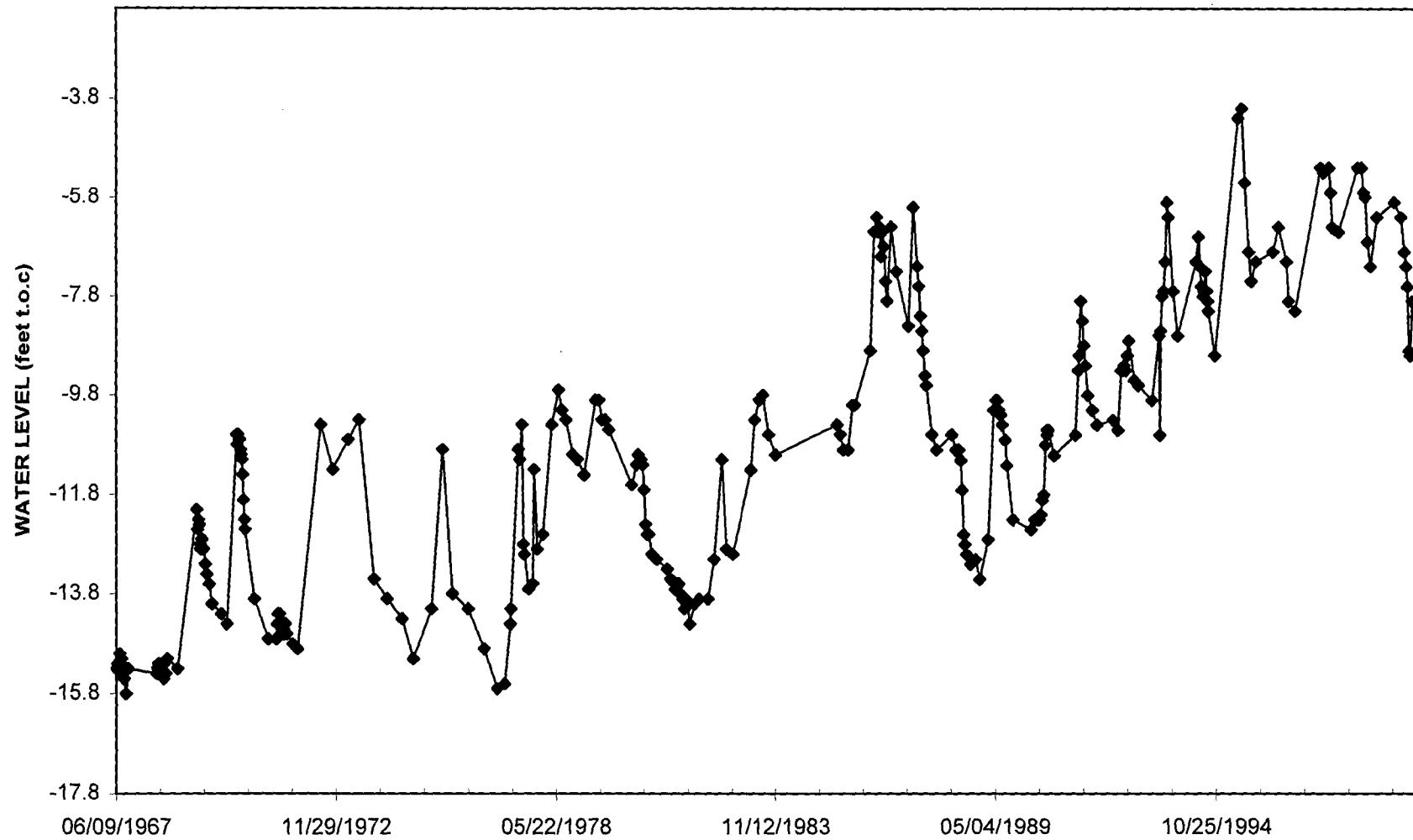
BIBLIOGRAPHY

Hedges, L.S., et al, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

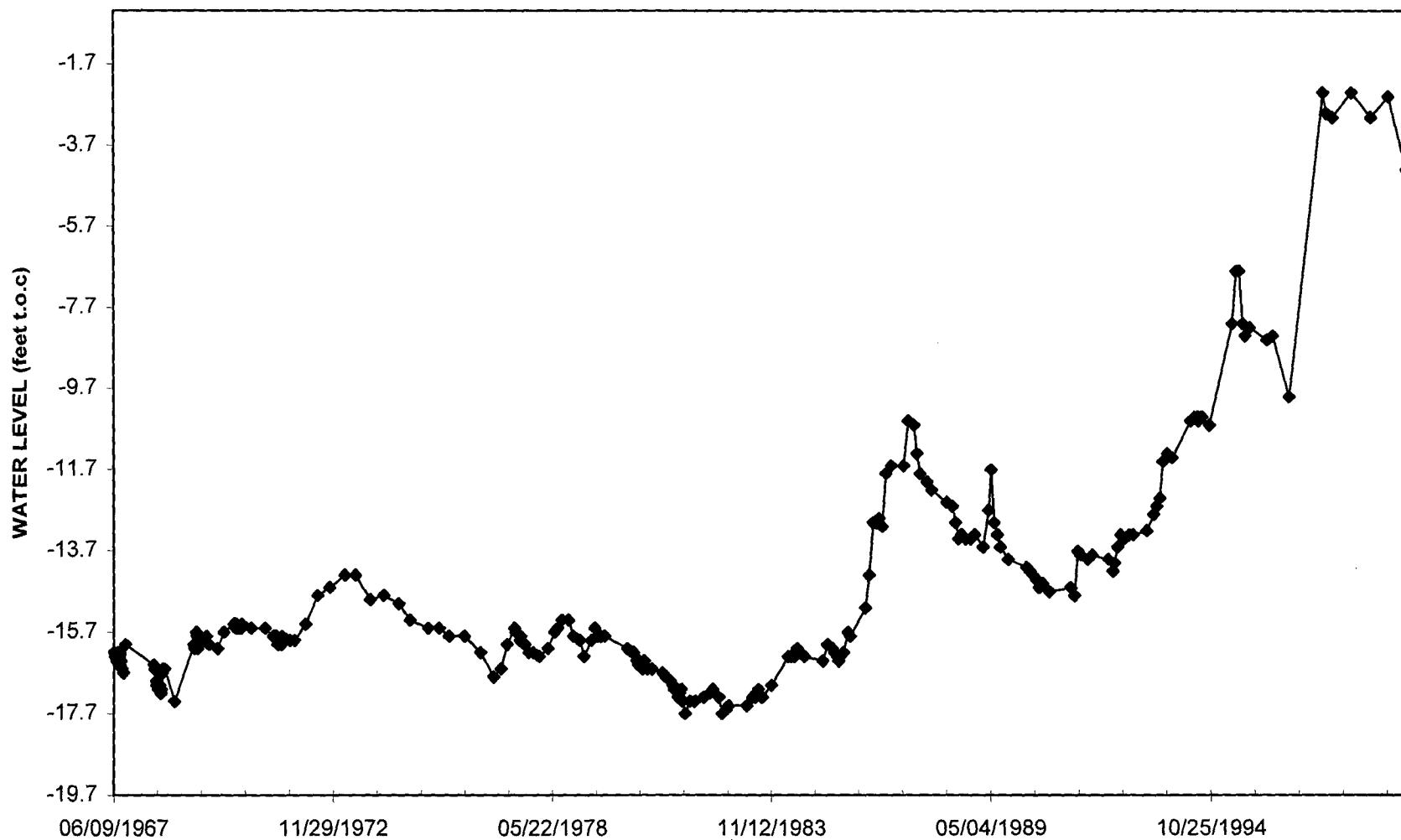
Hamilton, L.J., L.W. Howells, 1996, Water Resources of Spink County, South Dakota, Water-Resources Investigations Report 96-4056, USGS, Rapid City, SD, 57702.

Water Rights, 2000, Unpublished Observation Well Data for Spink County, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

**WATER RIGHTS' OBSERVATION WELL
SP-66M**



**WATER RIGHTS' OBSERVATION WELL
SP-66K**



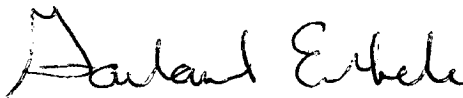
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6187-3, Dakota Air Spray**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 6187-3, Dakota Air Spray, c/o Brett Jens, 18100 U.S. Highway 281, Tulare, SD 57476.

The Chief Engineer is recommending APPROVAL of Application No. 6187-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualification:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Garland Erbele". The signature is fluid and cursive, with the first name "Garland" being more prominent than the last name "Erbele".

Garland Erbele, Chief Engineer
March 30, 2000



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

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

March 31, 2000

Dakota Air Spray
%Brett Jens
18100 US Hwy. 281
Tulare, SD 57476

Dear Mr. Jens:

Water Permit Application No. 6187-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Redfield Press printed at Redfield, SD (Ph # (605) 472-0822). For your information, a copy of the notice, the recommendation of the Chief Engineer and a 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 of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 31, 2000

The Redfield Press
Box 440
Redfield, SD 57469-0440

ATTENTION: Legal Public Notice

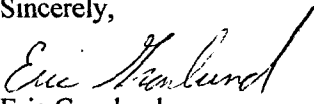
Enclosed is a Notice of Hearing on Application No. 6187-3 to Appropriate Water to be published twice. Please publish the first notice on April 5, 2000, with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Dakota Air Spray, %Brett Jens, 18100 US Hwy. 281, Tulare, SD 57476 (Ph # (605) 596-4200).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CU T HERE-----

No. 6187-3

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of March 31, 2000, enclosing Notice of Hearing to Appropriate Water by Application No. 6187-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

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

April 4, 2000

Dakota Air Spray
%Brett Jens
18100 US Hwy. 281
Tulare, SD 57476

Dear Mr. Jens:

I am writing to advise you that the notice for Water Permit Application No. 6187-3, Dakota Air Spray was not published on April 5, 2000. The Redfield Press indicated they did not receive the notice in time for it to be included in the April 5th paper.

Therefore, another notice of has been sent to the Redfield Press (Ph # (605) 472-0822) to be published on April 12th and 19th. As stated in our previous correspondence, please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the newspaper to authorize publication of your Notice of Application and to arrange for payment. Early contact with the paper can eliminate delays.

If you have any questions, please contact me.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

April 4, 2000

The Redfield Press
Box 440
Redfield, SD 57469-0440

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6187-3 to Appropriate Water to be published twice. Please publish the first notice on April 12, 2000, with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Dakota Air Spray, %Brett Jens, 18100 US Hwy. 281, Tulare, SD 57476 (Ph # (605) 596-4200).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CU T HERE-----

No. 6187-3

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of April 4, 2000 enclosing Notice of Hearing to Appropriate Water by Application No. 6187-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on April 12, 2000, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6187-3 to Appropriate Water

Notice is given that Dakota Air Spray, 18100 US Hwy 281, Tulare SD 57476 has filed an application for a water permit to appropriate 0.078 cubic feet of water per second (35 gallons per minute) from one well (Tulare West Spink Aquifer) 40 feet deep located in the W ½ NW ¼ Section 26-T115N-R64W. The water is for commercial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. number because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. 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 the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 1, 2000.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Spink

SS



Notice of Application appropriate water

No. 80

NOTICE OF APPLICATION NO. 6187-3 to Appropriate Water.

Notice is given that Dakota Air Spray, 18100 US Hwy 281, Tulare SD 57476 has filed an application for a water permit to appropriate 0.078 cubic feet of water per second (35 gallons per minute) from one well (Tulare West Spink Aquifer) 40 feet deep located in the W1/2 NW 1/4 Section 26-T115N-R64W. The water is for commercial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. number because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. 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 the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 1, 2000.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

(April 12, 19)

I, Billy G. Hanson, of said County and State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal 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, and has been such newspaper during the time hereinafter mentioned, and that I Billy G. Hanson, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

Applicant

a printed copy of which is hereto attached, was printed and published in said newspaper in 34.46 successive issues, to wit:

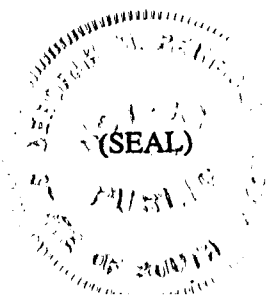
The first publication being made on April 12 2000
2nd April 19 2000 5th 20
3rd 20 6th 20
4th 20 7th 20

that the full amount of the fee charged for publishing the same to-wit: the sum of \$, 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.

Billy G. Hanson

Subscribed and sworn to before me this 28th day of April, 2000.

Deborah M Reinbold
Notary Public, Spink County, South Dakota



66 x 29 = 1914 x 80% = 1532



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

JUN 05 2000

Dakota Air Spray
%Brett Jens
18100 US Hwy. 281
Tulare, SD 57476

Dear Mr. Jens:

Enclosed is Water Permit No. 6187-3 authorizing construction of your 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,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Permit No. 6187-3
James River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, 6/5/2006, made a thorough examination of the water use system constructed by Dakota Air Spray of 18100 US Hwy 281, Tulare SD holder of Permit No. 6175-3, bearing the priority of March 14, 2000 authorizing the diversion of 0.078 cu. ft. per second of the waters of the Tulare: Western Spink Aquifer for commercial purposes, in Spink County.

Inspection contact & relationship Brett Jens
to permit holder, if applicable:

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 38 feet
- 4) Well log is available Y
- 5) Comment:

Casing:

- 1) Diameter 5 inches
- 2) Length 21 feet
- 3) Type PVC

Screen:

- 1) Type Manufactured PVC
- 2) Length 19 feet
- 3) Static water level 6 feet

Pump:

- 1) Make Goulds
- 2) Model 18GS
- 3) Size 4 inches
- 4) Capacity 18 GPM

Motor:

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

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

- 1) Type PVC
- 2) Size 2 inches
- 3) Length 900 feet

Report of Examination of Works

Permit No. 6175-3

The system is in good condition with the point(s) of diversion located as follows: **90 ft East and 1500 ft North of the W¼ corner of Section 26, T115N-R64W (N 44.74577 W -98.50343)**. The works are capable of diverting and conveying to the place of use **0.04** cu. ft. per second of water which is to be for **commercial** use. Therefore, the license should be issued for **0.04** cu. ft. per second.

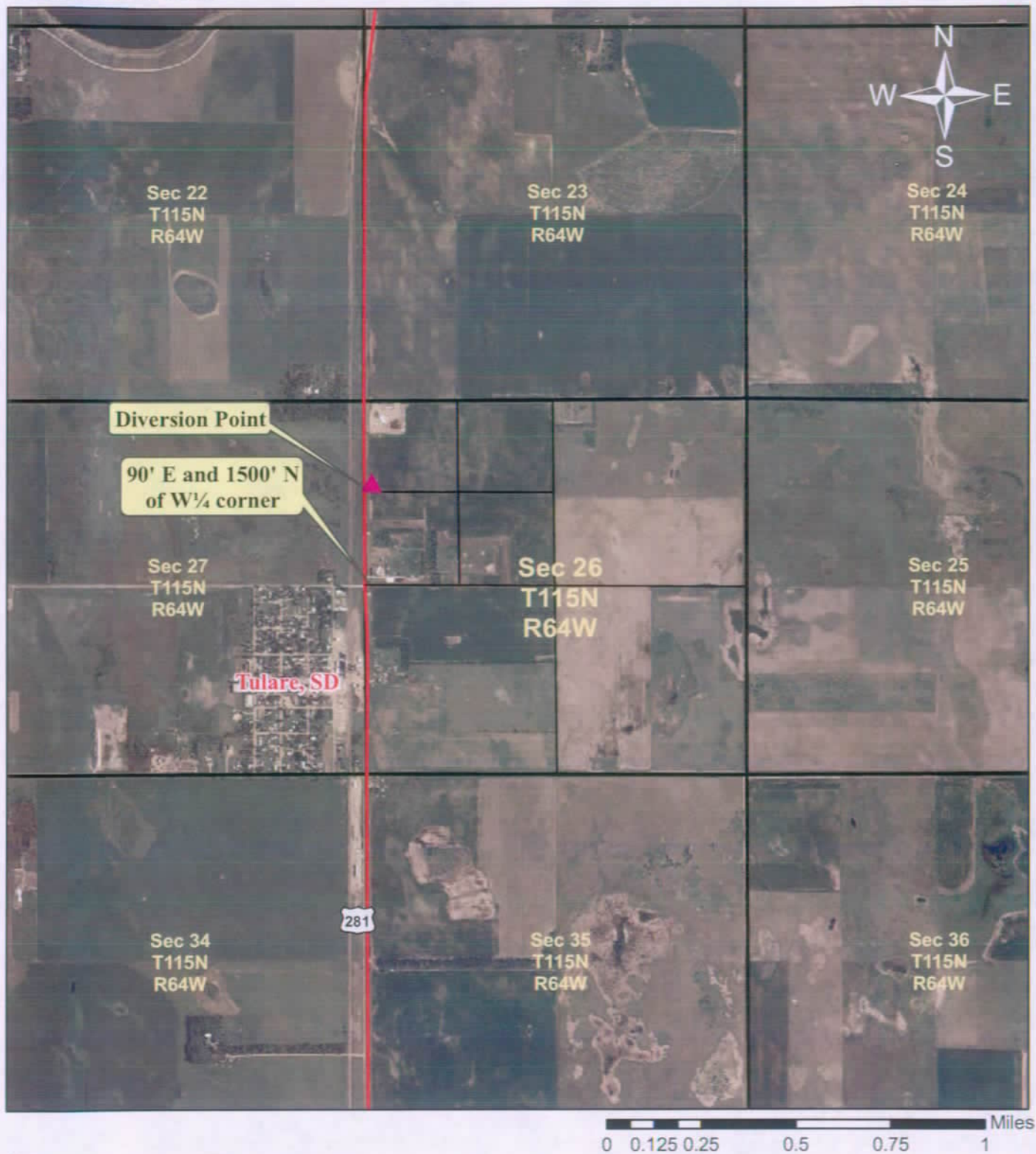
Aaron A. Tieman

Aaron Tieman

Natural Resources Project Engineer
DENR, Water Rights Program

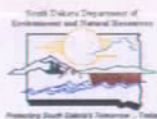
Date report completed: **10/23/2007**

Dakota Air Spray
18100 US Hwy 281
Tulare, SD - Spink County
Water Permit No. 6187-3



Aaron A. Tieman

Aaron Tieman
Natural Resources Project Engineer
DENR Water Rights Program
10/23/2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 30 2007

6187-3

Dakota Air Spray
18100 US Hwy 281
Tulare SD 57476

Dear Sir:

Enclosed is your Water License No. 6187-3. This is the final water right document completing your process of obtaining a Water Right. Also included with the license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6187-3, 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.

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6187-3

(1) Dakota Air Spray, 18100 US Hwy 281, Tulare SD 57476 made Application No. 6187-3, March 14, 2000 for a water permit to divert 0.078 cubic feet of water per second (35 gallons per minute) from ground water (one well – Tulare Western Spink Aquifer), Spink County, South Dakota for commercial purposes. Permit No. 6187-3, with a priority date of March 14, 2000 was approved May 1, 2000 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 1, 2005 and for the application to beneficial use of said water on or before May 1, 2009.

(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 is entitled to divert 0.04 cubic feet of water per second (18 gallons per minute) for beneficial use.

The location of the diversion point is 90 feet east and 1,500 feet north of the W ¼ corner of Section 26, T115N, R64W (NW ¼ NW ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Dakota Air Spray, 18100 US Hwy 281, Tulare SD 57476 the holder and/or owner of Water Right No. 6187-3 is issued a license to appropriate water, the right to use 0.04 cubic feet of water per second (18 gallons per minute) from ground water (one well – Tulare Western Spink Aquifer) with a priority date of March 14, 2000 from the location specified in (2) of this license for commercial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6187-3 and subject to the following qualification:

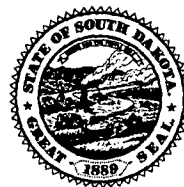
- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.



Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 30 2007

date



Water Rights Program File Documentation

WATER RIGHT NOS.: 5550-3 SD Wheat Growers 6187-3 Dakota Air Spray

DATE: July 29, 2025

RE: Non-irrigation water use reporting qualifications

COMMENTS:

It is reasonable to add an annual non-irrigation reporting qualification to the following water rights as shown in Table 1. Both water rights are authorized to withdraw water from the Tulare: Western Spink-Hitchcock (T:WSH) aquifer.

Table 1- T:WSH aquifer non-irrigation water rights

Water Right No.	Name	County	Priority Date	Use Type	CFS
5550-3	SD Wheat Growers	Spink	04/26/1991	Commercial	0.056
6187-3	Dakota Air Spray	Spink	03/14/2000	Commercial	0.04

The Water Management Board has determined the T:WSH aquifer to be fully appropriated and has a held permit application waiting list. Currently, Water Rights Program staff is currently conducting the second 5-year review of the potential for unappropriated water being available to present to the Water Management Board.

Water Right Nos. 5550-3 and 6187-3 are the only non-irrigation appropriations from the aquifer and neither are currently required to report annual withdrawals. While these two water rights have limited diversion rate and thus limited average annual withdrawals, having reported withdrawals from these two water rights allows for a more accurate average annual withdrawal calculation. Better average annual withdrawal calculation allows more accurate determination of the potential for unappropriated water to be available. Thus, more accurate and reliable management of the aquifer.



Adam Mathiowetz
Natural Resources Engineer
DANR-Water Rights Program

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Wilbur-Ellis Air LLC, 18100 Us Highway 281, Tulare, Sd 57476-7111

TELEPHONE: 605-596-4200

RE: Commercial water use under WR No. 6187-3

COMMENTS:

WR Bo. 6187-3 is currently held in the name of Dakota Air Sprayers. After senior groundwater engineer Adam Mathiowetz recommended having the WMB add a qualification to mandate reporting under that water right, since the source (T:WSH) is fully appropriated, I attempted to make contact with the water right holder, prior to sending a Notice.

In calling, I found that Dakota Air Spray in Tulare SD was bought out by Wilbur Ellis Air LLC. I was directed to one of their employees (Phil Gilbert) who had worked for Dakota Air Spray prior to the buyout. Phil confirmed that he was aware of the T:WSH well and reported that the business had been connected to Mid Dakota Rural Water, stating the water quality from the well "was not great".

Wilbur Ellis, and previously Dakota Air Spray, have ceased all use of the well authorized by WR No. 6187-3 and agreed to cancellation of the water right. The well is not being maintained for backup. However, the well head is located on property not owned by the company. Per Phil (confirmed by Regrid.com) the well is located on property owned by Brett & Robin Jens, 38663 182nd St, Tulare SD 57476.

I spoke with Brett Jens, who was persistent that he wanted Water Right No. 6187-3 transferred to himself for commercial use, to water cattle. I informed him that if the prior water right holder had not been placing water to beneficial use, the water right may be subject to cancellation, pursuant to SDCL 46-5-37. He argued that he had seen "them" using the well as recent as July 2023.

With abandonment or forfeiture not being obvious, I am sending "transfer of ownership" paperwork to Brett's email (JensFamily@venturecomm.net). I also informed him that the Water Rights Program would be pursuing the addition of a mandatory reporting qualification for water use under Water Right No. 6187-3, which he was agreeable to.

Brett Jens # 605-450-0316

Phil Gilbert # 605-450-0440



Amanda Dewell
Water Rights Program
07/30/2025

Dewell, Amanda

From: Dewell, Amanda
Sent: Wednesday, July 30, 2025 11:28 AM
To: jensfamily@venturecomm.net
Subject: Water Right No. 6187-3
Attachments: Notice of Transfer of Ownership_6187-3.pdf

Brett,

Per our conversation, I have attached a partially completed Notice of Transfer of Ownership form, with highlighted portions requiring your attention. Once the form is complete, you may return it to myself via email. There is a \$50 fee required for the transfer process. Payment may be made over the phone by calling our Fiscal Office (605) 773-5559, or by mailing a check (payable to SD Water Rights) to: DANR – Water Rights, 523 E Capitol Ave, Pierre SD 57501.

As discussed, due to the Tulare: Western Spink Hitchcock Aquifer being fully appropriated, the Water Rights Program will be recommending the addition of a qualification requiring annual reporting of water use under this water right. A Notice of Hearing will need to be mailed to you, scheduling that hearing for the Water Management Board's October meeting. Unless you plan to oppose addition of the mandatory reporting qualification, no action would be required on your part. I've found an address for you of 38663 182nd St, Tulare SD 57476. Can you confirm that is an appropriate address?

Thank you,

Amanda Dewell

DANR - Water Rights Program
Permitting Administrator
Main Phone: 605 773-3352
Website: danr.sd.gov



RECEIVED

AUG 07 2025

OFFICE OF
WATER

6187-3
PAID

AUG 07 2025

Ck# 3724

Rec't#

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: SD DANR, Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 6187-3

Date: 8-5-25

I/We request that Water Right/Permit No. 6187-3 formerly owned by:

Dakota Air Spray - Tulare SD

be transferred to:

New Owner Name:

Brett Jens

Address:

38663 182nd St

mobile:

605-450-0316

City, State, Zip

Tulare SD 57476

email:

jensfamily@venturecomm.net

Title to the following described land(s)/property has been transferred as described above:

0.04 cfs (18 gpm) from 1 well (T:WSH) located in the NW 1/4 NW 1/4
Section 26-T115N-R64W for commercial use

☒ I understand that the validity of Water Right/Permit No. 6187-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Brett Jens, the new owner, certify that the above information is true and correct.

Brett Jens
(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five-year construction period has expired. Once a water permit is developed, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three-year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 7th, 2025

RECEIVED OF Brett Jens & Robin Jens 38663 182nd St Tulare SD 57476

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form #6187-3	\$50.00
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
	\$50.00

By Mark Mayke
Chief Engineer



6187-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 11, 2025

NOTICE OF HEARING

TO: Brett Jens
38663 182nd St, Tulare SD 57476

FROM: Mark Mayer, PE *MM*
SD DANR, Director of Office of Water

SUBJECT: Notice Scheduling Hearing Regarding Addition of a Qualification Requiring
Annual Water Use Reporting for Water Right No. 6187-3

Water Right No. 6187-3, held by Brett Jens, appropriates 0.04 cubic feet of water per second (18 gpm) from one well completed into the Tulare: Western Spink Hitchcock Aquifer for commercial use.

Water Right No. 6187-3 is one of two water rights authorizing appropriations from the fully appropriated Tulare: Western Spink Hitchcock Aquifer for non-irrigation purposes; neither of which currently report annual water use. Water Rights Program staff believe adding a qualification mandating annual water use reporting, would be beneficial to management of the hydrologic budget for the fully appropriated aquifer.

As acting Chief Engineer, I am recommending adding a qualification that would require annual water use reporting for Water Right No. 6187-3, based on a staff review (copy enclosed), dated July 19, 2025. The qualification would read as follows:

The permit holder shall report to the Chief Engineer annually, the amount of water withdrawn from the Tulare: Western Spink Hitchcock Aquifer, and how the water was used.

The Water Management Board will conduct a hearing to consider addition of the mandatory reporting qualification to Water Right No. 6187-3 at **10:45 AM, on October 1, 2025 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Ave, Pierre SD 57501 (*the agenda time is an estimate, and actual time of hearing may be later*).

The recommendation of the acting Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) add the qualification as recommended, 2) delay action, or 3) take no action on Water Right No. 6187-3 based upon facts presented at the public hearing.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-14; 46-2-5, 46-2-9, 46-2-11; and Board Rules ARSD 74:02:01:14. This is a contested case pursuant to procedures contained in SDCL 1-26.

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

Prior to August 21, 2025, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed qualification addition; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the acting Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by August 21, 2025.

Questions regarding the hearing process may be directed to Amanda Dewell, Permitting Administrator, Water Rights Program, at (605) 773.3352 or amanda.dewell@state.sd.us

Water Rights Program File Documentation

WATER RIGHT NOS.: 5550-3 SD Wheat Growers 6187-3 Dakota Air Spray

DATE: July 29, 2025

RE: Non-irrigation water use reporting qualifications

COMMENTS:

It is reasonable to add an annual non-irrigation reporting qualification to the following water rights as shown in Table 1. Both water rights are authorized to withdraw water from the Tulare: Western Spink-Hitchcock (T:WSH) aquifer.

Table 1- T:WSH aquifer non-irrigation water rights

Water Right No.	Name	County	Priority Date	Use Type	CFS
5550-3	SD Wheat Growers	Spink	04/26/1991	Commercial	0.056
6187-3	Dakota Air Spray	Spink	03/14/2000	Commercial	0.04

The Water Management Board has determined the T:WSH aquifer to be fully appropriated and has a held permit application waiting list. Currently, Water Rights Program staff is currently conducting the second 5-year review of the potential for unappropriated water being available to present to the Water Management Board.

Water Right Nos. 5550-3 and 6187-3 are the only non-irrigation appropriations from the aquifer and neither are currently required to report annual withdrawals. While these two water rights have limited diversion rate and thus limited average annual withdrawals, having reported withdrawals from these two water rights allows for a more accurate average annual withdrawal calculation. Better average annual withdrawal calculation allows more accurate determination of the potential for unappropriated water to be available. Thus, more accurate and reliable management of the aquifer.



Adam Mathiowetz
Natural Resources Engineer
DANR-Water Rights Program

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated August 11, 2025 & staff report dated July 29, 2025, regarding Water Right No. 6187-3, Brett Jens, was served upon the following by enclosing the same in an envelope with first class postage prepaid, and depositing said envelope in the United States mail on August 11, 2025.

Brett Jens
38663 182nd St
Tulare SD 57476

Above Sent Inter-office to:

Assistant Attorney General's Office
c/o Jennifer Verleger's successor
Mickelson Building, Suite 1


Shannon Konst
Water Rights Program, DANR

[illegible]

Sworn to, before me, this 11th day of Aug, 2025.

Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

OCT 03 2025

6187-3

Brett Jens
38663 182nd St
Tulare SD 57476

Dear Mr. Jens:

Enclosed is Reissued Water License No. 6187-3. This license has been reissued based on a decision by the South Dakota Water Management Board that mandatory water use reporting under Water Right No. 6187-3 is necessary.

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 Amanda Dewell, Water Rights Permitting Administrator (605) 773-3352.

Sincerely,

Mark Mayer, PE
Director of the Office of Water
(605) 773-3352

enclosure

STATE OF SOUTH DAKOTA
REISSUED WATER LICENSE NO. 6187-3

(1) Water Right No. 6187-3 is being reissued based on a decision by the South Dakota Water Management Board to require annual water use reporting.

(2) It is certified that the water right holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.04 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,500 ft N & 90 ft E of the W $\frac{1}{4}$ corner Section 26, T115N, R64W (NW $\frac{1}{4}$ NW $\frac{1}{4}$)
(Latitude 44.74577 & Longitude -98.50343)

(3) The water is to be used during the following described annual period: January 1 – December 31.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Brett Jens, 38663 182nd St, Tulare SD 57476, the holder and/or owner of Water Right No. 6187-3 is reissued a license to appropriate water, the right to use 0.04 cubic feet of water per second from groundwater, one well (Tulare: Western Spink Hitchcock Aquifer), with a priority date of March 14, 2000, from the location specified in (2) of this license for commercial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6187-3 and subject to the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually, the amount of water withdrawn from the Tulare: Western Spink Hitchcock Aquifer, and how the water was used. *(The qualification was added by the South Dakota Water Management Board on October 1, 2025.)*



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

10/3/25
date

