

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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6994-3</u> (office use only)
	Hydrologic Unit <u>10120101</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Plain Talk</u>

RECEIVED
FEB 27 2008
WATER RIGHTS
PROGRAM

Application

For Permit To

Appropriate Water For Irrigation

Type of Application: X New Vested Right Amendment/Correction to Permit No.
(Use predates Mar 2, 1955)

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

1. Name of Applicant Francis Heine Phone
(check one) Owner Tenant/lessee
Mailing Address 412 Sterling, Vermillion State SD 57501
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed No *CFS or **GPM ***AF Total Acreage 968 ac total
add'l 1000 46 add'l ac
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
3. Source of water supply Missouri: Elk Point Aquifer
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 6 wells: well #5 - SW1/4 SE1/4 and
well #6 - SW1/4 SW1/4 Sec 29; well #1 - NW1/4 NE1/4 and well #7 - NW1/4 SE1/4 Sec 31; well #2 - NE1/4
SW1/4 and well #4 - SE1/4 NE1/4 Sec 32; all in T92N-R51W County Clay
5. County or counties where water will be used Clay
6. Annual period during which water is to be used May 1 through September 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
See attached sheet.			

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

LC 2053-3 authorizes 10.22 cfs to irrigate 922 acres from 5 wells. This application is for 46 additional acres. Combined, 968 acres will be irrigated from 6 wells.

STATE OF SOUTH DAKOTA) SS
County of Union

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

Applicant's signature Francis Heine

Subscribed and sworn to before me this 25th day of February, 2008

Kathryn Heles
Notary Public signature
Com exp. Sept. 10, 2008



**SOUTH DAKOTA
WATER PERMIT NO. 6994-3**

Date of first receipt of application December 27, 2011.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6994-3 to Francis Heine, 412 Sterling, Vermillion SD 57069 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. 6994-3 authorizes irrigation of an additional 46 acres; one additional well to what is currently authorized by Water Right No. 2053-3 and clarifies legal descriptions. Water Right No. 2053-3 appropriates 10.22 cfs from five wells to irrigate 922 acres. The project as developed includes six wells completed into the Missouri: Elk Point Aquifer to irrigate a total of 968 acres all located in the W 12 A of Lot 2 and Lots 3 and 4, Accretion lying E & S Lots 2, 3 & 4 to Vermillion River Section 13; NE 1/4 NE 1/4 & Lot 1 Section 23; Lot 1 in NW 1/4 Section 24; Accretion to Section 24 lying E & S of Lot 1 to Section Line of Section 24; all in T32N, R04E Vermillion township; and Heckenlively Tract 110, only that portion W of Vermillion River of Lot 1 NW 1/4, and PT NW 1/4 SW 1/4; all in Section 33, T92N, R51W in Fairview Township. This permit and Water Right No. 2053-3 will authorize a total diversion rate of 10.22 cfs from 6 wells to irrigate 968 acres.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.
3. The date from which applicant may claim right is December 27, 2011 (additional 46 acres).
4. The date of approval of Permit No. 6994-3 is April 30, 2012.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

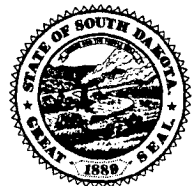
QUALIFICATIONS

1. The wells approved under 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

MAY 17 2012
date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

Same well as #3 using the old well

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

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

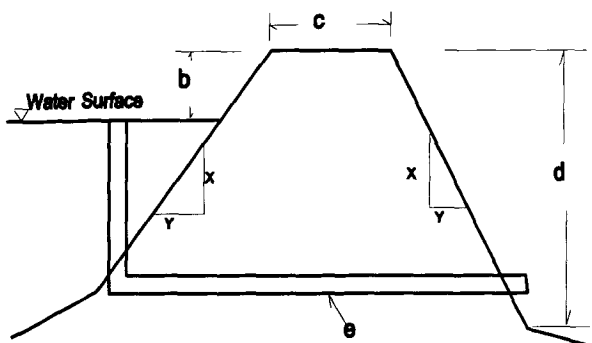
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

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



Acres irrigated under **2053-3** and additional acres on this application:

LEGAL:		ACRES
29-T92N-R51W	NW $\frac{1}{4}$ SW $\frac{1}{4}$	8
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	40
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	33
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	1
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	8
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	40
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	23
30-T92N-R51W	NE $\frac{1}{4}$ SE $\frac{1}{4}$	1
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	18
31-T92N-R51W	NE $\frac{1}{4}$ NE $\frac{1}{4}$	23
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	16
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	38
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	21
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	4
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	14
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	37
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	11
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	4
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	10
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	37
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	37
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	11
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	12
32-T92N-R51W	NE $\frac{1}{4}$ NE $\frac{1}{4}$	30
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	22
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	29
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	37
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	38
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	39
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	40
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	39
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	9
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	11
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	40
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	20
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	5
33-T92N-R51W	NW $\frac{1}{4}$ NW $\frac{1}{4}$	3
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	37
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	1
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	1
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	37
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	3
TOTAL ACRES		968

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WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 2/27, 20 08

RECEIVED OF FRANCIS J HEINE 412 STERLING ST VERMILLION SD 57069

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	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. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No.

63004

By

Leland Erbe
Chief Engineer

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/5, 20 08

RECEIVED OF Francis J Heine 412 Sterling St Vermillion SD 57069

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	100	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. _____	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	150 00

No.

03308

By

Samuel Erbe
Chief Engineer

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Section Lines

N



6,600

3,300

0

6,600 Feet

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3/2/2012

PARCEL	OWNER	CARE OF	ADDRESS	CITY, STATE	ZIP_CODE
12000-09251-333-00	BURGESS LYMAN	%FRANCIS HEINE	314 STERLING	VERMILLION SD	57069-0000
PT NW 1/4 SW 1/4 33-92-51 FAIRVIEW TWP					
12000-09251-332-06	HEINE FRANCIS		412 STERLING	VERMILLION SD	57069-0000
ONLY THAT PORTION W OF VERMILLION RIVER OF LOT 1 NW 1/4 33-92-51 FAIRVIEW TWP					
11000-03204-130-00	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
W 12 A OF LOT 2 & LOTS 3 & 4 13-32-04 VERMILLION TWP					
11000-03204-240-03	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
LOT 1 IN NW 1/4 24-32-04 VERMILLION TWP					
11000-03204-130-06	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
ACCRETION LYING E & S LOTS 2, 3 & 4 TO VERMILLION RIVER 13-32-04 VERMILLION TWP					
11000-03204-240-00	HEINE FRANCIS ETAL		412 STERLING	VERMILLION SD	57069-
ACCRETION TO SEC 24 LYING E & S OF LOT 1 TO SECTION LINE 24-32-04 VERMILLION TWP					
11000-03204-120-01	HEINE PARTNERSHIP		412 STERLING	VERMILLION SD	57069-
ISLAND FARM ADDN IN SEC 11 & 12-32-04 VERMILLION TWP					
11000-03204-130-18	HEINE TIMOTHY T & TODD F &	NICK J %BUD HEINI	412 STERLING	VERMILLION SD	57069-
PARCEL B OF LOT 1 SEC 12-32-04 & PARCEL C & E 1/2 LOT 1 SEC 13-32-04 VERMILLION TWP					
11000-03204-231-00	HEINE TIMOTHY T & TODD F &	NICK J %BUD HEINI	412 STERLING	VERMILLION SD	57069-
NE 1/4 NE 1/4 & LOT 1 23-32-04 VERMILLION TWP					
12000-09251-333-08	HEINE TIMOTHY T & TODD F &	NICK J %BUD HEINI	412 STERLING	VERMILLION SD	57069-
HECKENLIVELY TRACT 110 33-92-51 FAIRVIEW TWP					

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MAR - 7 2012

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CLAY COUNTY SD

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MAR - 7 2012

WATER RIGHTS
PROGRAM



CLAY COUNTY SD

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 14, 2011

Francis Heine
412 Sterling
Vermillion SD 57069

Dear Mr. Heine:

Thank you for stopping in the office to go over water right permitting on your operation by Vermillion. Based on what we discussed, I have put together partially completed applications for proposed new irrigation system and existing irrigation in place that are not currently covered by a water right. Below, I have put a summary of each application to assist in review. Possibly of greater help is the map accompanying each application intending to reflect exactly what each application is to accomplish.

First, enclosed is the map we looked at when you stopped in the office. You wondered where that map had gone. I believe it was provided to Lynn Beck when she conducted a site visit back in 2008. I have made a copy of the map for our records and am returning the original to you.

DRAFT APPLICATIONS

No.	Summary	Appl Filing Fee
1	NEW DEVELOPED IRRIGATION – develop the W ½ NW ¼ Section 15, T92N, R52W from one new well. Look at Supplemental Information form to insure proposed construction (especially well depth) is a fair representation. Application is for 500 gpm Review proposed well construction & SIGN APPLICATION	\$950
2	NEW DEVELOPED IRRIGATION over by Burbank – develop the NE ¼ Section 26, T92N, R51W. Requested diversion rate is the statutory limit for 160 acres Review proposed well construction & SIGN APPLICATION	\$1,050

3	Existing irrigated acres not covered & transfer of WR No. 977A-3 purchased from Karl Schenk (Svoboda property) Applying for new acres to let the southern most pivot make full rotation. Previously pivot only made $\frac{3}{4}$ rotation since you owned the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33. Now that you've purchased Schenk property, the pivot can make full rotation. SIGN APPLICATION & Transfer of Ownership form	Application \$700 Transfer \$ 50
4	Existing irrigated acres not covered and additional wells to WR No. 2947-3 to reflect the system and now configured. No. 2947-3 is for 1.9 cfs to irrigate 136 acres. Lynn Beck site visit found 2 wells irrigating 271 acres and you confirmed that is correct. Application is for 135 additional acres, one additional existing well in the W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23 and a proposed well that may or may not be developed so the pivots can operate independently SIGN APPLICATION	\$1050 \$300 was previously submitted Difference - \$750
5	Existing irrigated acres not covered to Water Right Nos. 5471-3 and 6059-3. You represented to me that the one pivot make a larger rotation than originally developed resulting in approximately 10 more acres. SIGN APPLICATION	\$700
6	Existing irrigated acres not covered to Water Right No. 6679-3. You represented to me that the one pivot make a larger rotation than originally developed resulting in more acres and that a small pivot next to the river makes a $\frac{1}{2}$ rotation (not sure if I've correctly represented the size or exact location of this small pivot- Does it utilize the same well as the other pivot?). Arrived at a total of 32 additional acres to what WP No. 6679-3 authorizes. SIGN APPLICATION	\$500 (licensing fee paid under No. 6679-3)
7	This application is for two pivots that make partial rotation at the confluence of the Vermillion River with the Missouri River. During Lynn Beck's visit in 2008 they hadn't been constructed but your 2007 map indicates they were planned and the 2010 FSA serial shows what appear to be pivots and a well so I presume they are completed. I can not find that a permit was ever obtained for this irrigation. Please let me know if I am wrong. Arrived at total irrigation of 115 acres and the application provides for the statutory limit of 737 gpm from the well for irrigating that many acres. I CAN NOT FIND A WELL COMPLETION REPORT ON FILE FOR THIS WELL SIGN APPLICATION & PROPOSED WELL CONSTRUCTION	\$950

8	This is the existing application for adding 46 acres to WR No. 2053-3 based on Lynn Beck's 2008 visit. WR No. 2053-3 is the large water right around the home place for 5 wells to irrigate 922 acres. Lynn found an additional well and 46 more acres being irrigated.	Fee already paid
	APPLICATION ON FILE AND READY TO BE PROCESSED	
		TOTAL - \$5,650

This has been my best effort to put together permit applications that reflect the irrigation systems that we discussed. Ultimately these are your applications and you know the irrigation systems better than anyone so please review the enclosed applications and maps carefully to insure they are correct. Each application will need to be signed and notarized and submitted along with the appropriate application filing fee. One check for the total amount for all applications is acceptable.

The goal is to have your water rights accurately reflect the systems that are in place. Again look over the enclosures carefully and contact me if you have any questions.

Sincerely,



Eric Gronlund

Water Rights Program, DENR

605 773-3352

eric.gronlund@state.sd.us

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

February 13, 2012

Francis Heine
412 Sterling
Vermillion SD 57069

Dear Mr. Heine:

The Water Rights Program has reviewed your eight water right permit applications for irrigation south of Vermillion. Two of the applications are for new irrigation to be development while the remaining intend to get proper permits in place to reflect existing irrigation as developed.

As you are undoubtedly aware, legal descriptions in this area do not follow normal quarter section designations due to the Missouri River. The sections are odd sizes and in the case of the old river channel there are not clear section designations.

A mainstay of the water right permitting process is public notice of the permit which includes the legal location of the diversion point and irrigated acres. Attached are two maps showing the section lines in the area the irrigation systems that are in question. One of the maps has the 2010 FSA aerial overlay while the other is just the section lines and outline of the irrigation systems.

The Water Rights Program needs you as the applicant to provide the proper legal descriptions for the irrigated acres shown and numbered 1 through 10. I assume these areas are listed with the Clay County Register of Deeds. Or another option is to use a local title company. I believe there is the Clay County Abstract and Meridan Title Company in your area.

Ultimately, these are your applications and there needs to be proper public notice to insure legal standing. If the legal descriptions are not correct in the public notice, at some future date someone could bring into question the validity of the water permit(s) due to inadequate notification in accordance with water rights law.

Please provide the proper legal descriptions for each referenced area and we'll proceed with public noticing the applications. If you have any questions, please contact me.

Sincerely,

COPY

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6994-3, Francis Heine**

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. 6994-3, Francis Heine, 412 Sterling, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 6994-3 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 qualifications:

1. The wells 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
April 5, 2012

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 6994-3
FEBRUARY 3, 2012

Water Permit Application No. 6994-3 proposes to authorize the irrigation of 46 acres which are currently being irrigated but are not covered under an existing water right/permit. This application also proposes to authorize diversions from a well that is currently in use but not covered under an existing water right/permit. The locations of the six wells and acres irrigated are shown in figure one.



Figure 1. Locations of the six wells and the acres irrigated that are to be authorized by Water Right No. 2053-3 and Permit No. 6994-3, if approved.

AQUIFER: Elk Point Management Unit of the Missouri aquifer (M:EP)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Missouri aquifer is an alluvium mantled glacial outwash deposit that is estimated to be 75-100 feet thick in this area (Stevens, 1967). The Elk Point management unit of the Missouri aquifer underlies approximately 74,500 acres of Clay County and extends into neighboring

Yankton and Union Counties (Hedges and others, 1982). The Missouri: Elk Point contains an estimated 1,117,500 ac-ft of recoverable water in storage in Clay County alone (Hedges and others, 1982). The aquifer is hydraulically connected to the Vermillion and Missouri Rivers. Ground water movement in the Elk Point management unit is from northwest to southeast and locally toward the rivers. The aquifer is under unconfined conditions in this area.

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address water availability and existing rights issues only.

WATER AVAILABILITY:

This application proposes to appropriate an additional 92 acre-feet annually from the Missouri: Elk Point aquifer. The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source."

Recharge versus Withdrawals:

Recharge:

Recharge to the Elk Point management unit in Clay County occurs through direct penetration of precipitation, streamflow losses, upward leakage from the Dakota aquifer and subsurface inflow from adjacent areas. The quantity of recharge from each source is variable as "stream discharge, ground-water discharge, local departures from normal precipitation, and long-term climatic fluctuations all influence the amount of recharge received" (Stevens, 1967). Average annual recharge has not been quantified for the Missouri: Elk Point aquifer.

The importance of the surface water/groundwater connection probably cannot be overstated. When the water levels in the aquifer are below the stages of the rivers, the aquifer is recharged by streamflow losses. In other words, groundwater levels are maintained by surface water. As Stephens (1967) states: "much of the discharge of the Missouri river is potentially available to recharge the aquifer. Increased ground-water discharge by wells would induce additional recharge from the river." The Missouri: Elk Point aquifer in the Mulberry Point area is ideally suited for the maintenance of groundwater levels through recharge from the Missouri River.

Withdrawals:

The Missouri: Elk Point aquifer is heavily appropriated with 96 Water Permits, 50 Water Rights and five Future Use Permits appropriating water from the aquifer in Clay County alone. Non-irrigation appropriations include one domestic water permit (0.78 cfs); two water permits for Lewis & Clark RWS (22,165 ac-ft annually); and four Water Rights for the City of Vermillion (4.462 cfs plus 1,161 ac-ft annually). Future use permits from the Missouri: Elk Point reserve a total of 26,900 ac-ft annually. In 2010 there were 86 water rights/permits appropriating a total of

33,128.6 ac-ft annually for irrigation (Water Rights, 2011). The total amount of water pumped for irrigation from Clay County, in 2010 was reported to be 592.3 ac-ft (Water Rights, 2011).

Observation Well Data:

Administrative Rule of South Dakota Section 74:02:05:07 requires that “the Water Management Board shall rely upon the record of observation well measurements to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge to the aquifer”.

The DENR-Water Rights Program monitors 38 observation wells completed into the M:EP, including five in Clay County (Water Rights, 2012a). There are two Water Rights’ observation wells completed into the Missouri: Elk Point aquifer within approximately one mile of the irrigated acreage shown in figure 1. Hydrographs of the observation well data are shown in figures 2 and 3.

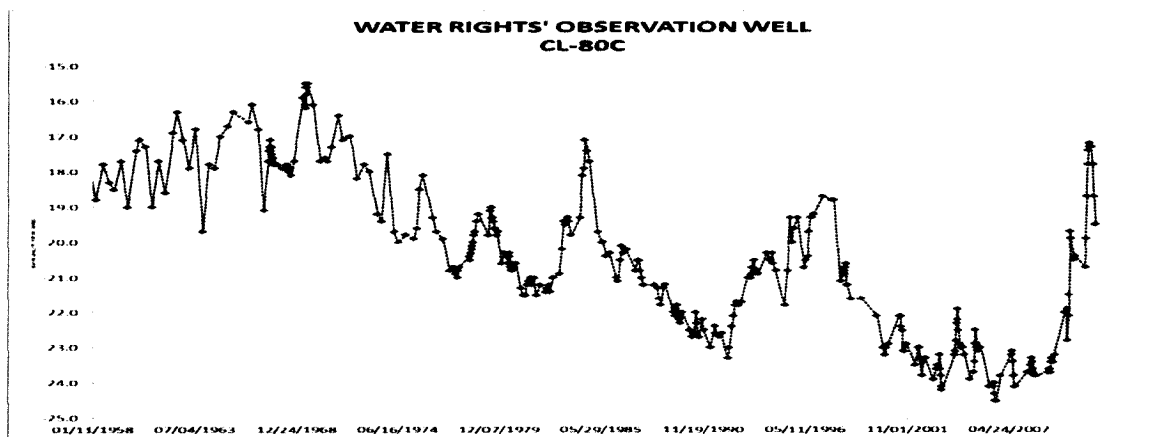


Figure 2. Hydrograph of DENR-Water Rights’ Observation Well CL-80C which is located approximately one-half mile west of the western edge of the irrigated acreage shown in figure 1.

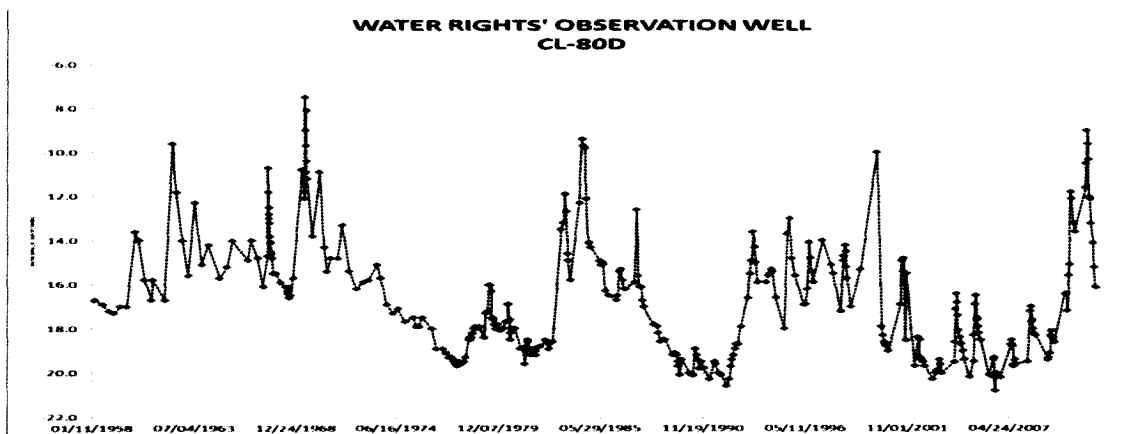


Figure 3. Hydrograph of Water Rights’ Observation Well CL-80D, located approximately one mile east of the eastern edge of the irrigated acreage shown in figure 1.

A general downward trend of the water table of the Elk Point Management Unit of the Missouri aquifer can be seen in the data for observation wells. Inserting a linear trend line to the observation well hydrographs (see figure 4 and 5) clearly demonstrates this decline.

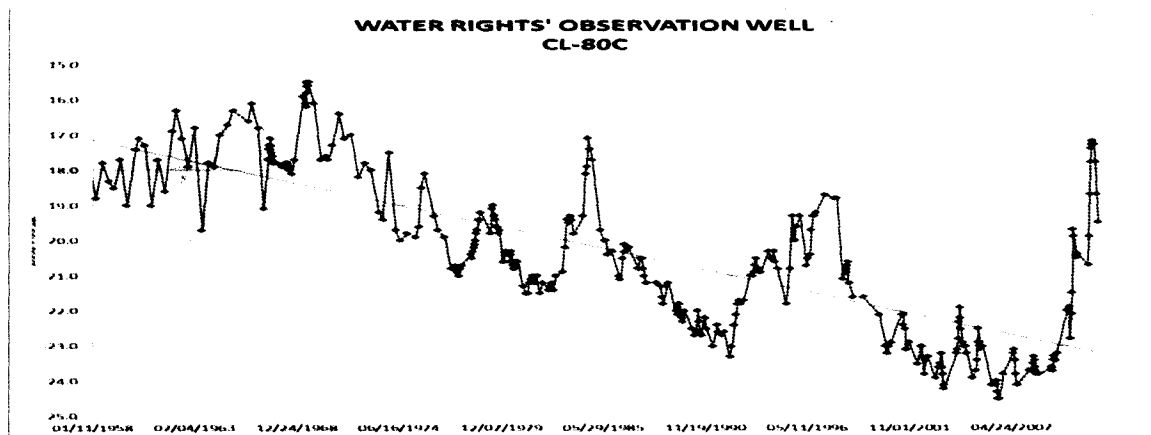


Figure 4. Hydrograph of DENR-Water Rights' Observation Well CL-80C, with linear trend line.

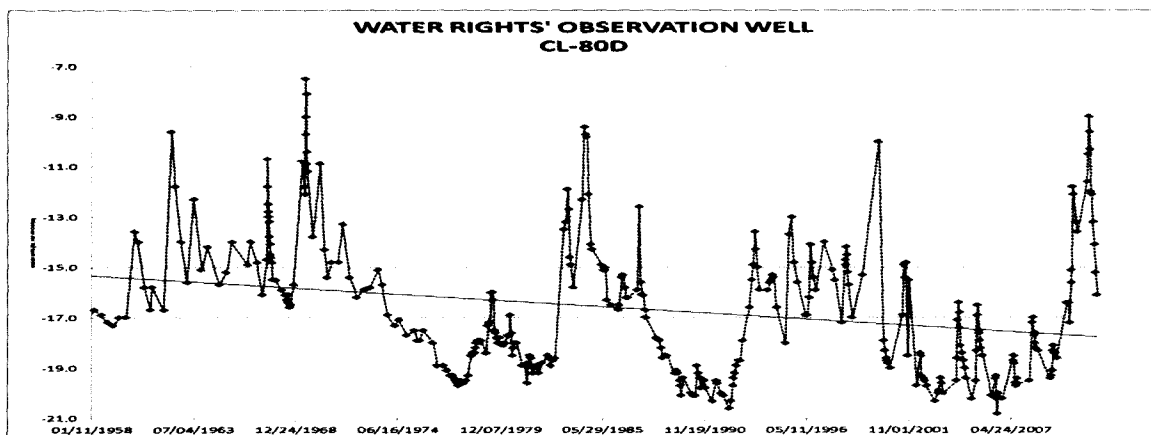


Figure 5. Hydrograph of Water Rights' Observation Well CL-80D, with linear trend line.

The lower water levels documented by the observation well data represent less water in storage in the aquifer. The gradual lowering of the water table has been attributed to: (a) the entrenching of the Missouri River (Goodman, 2007) or (b) controlled flows of the Missouri River eliminating flooding which used to inundate the entire floodplain and raise the water table to or above land surface (Stephens, 1967). The lower water levels that have occurred since the construction of Gavins Point Dam are probably caused by a combination of both factors cited above. Regardless of the cause, the declining water levels demonstrate the hydraulic connection between the aquifer and the Missouri River. The high flows in the Missouri River during the summer of 2011 are also very evident from the hydrograph. As stated earlier, groundwater levels are maintained by surface water. Increased groundwater discharge by wells would induce additional recharge from the rivers. The minimum discharge from Gavins Point dam is approximately 9,000 cfs (Rath). Even if all of the water appropriated from the Missouri: Elk Point aquifer was induced from the Missouri River it would be only a small percentage of the

Missouri River flows. Therefore unappropriated water can be considered available for this appropriation.

EXISTING WATER RIGHTS:

Existing water rights/permits within approximately one mile of the irrigation project this application proposes to authorize are shown in table 1 and figure 6.

PERMIT NO	NAME	STATUS	SOURCE	USE	CFS	ACRES
1006-3	FRANCIS M ARMSTRONG	LC	G	IRR	2.9	204.2
1034-3	DR FRANCIS ARMSTRONG	LC	G	IRR	1.72	120.9
1624-3	MIKE ISAACSON	LC	G	IRR	1.14	80
2053-3	FRANCIS (BUD) HEINE	LC	G	IRR	10.22	922
5538-3	NELS J SORENSEN	LC	G	IRR	3.34	276
5539-3	NELS J SORENSEN	LC	G	IRR	1.78	148
5540-3	NELS J SORENSEN	LC	G	IRR	1.78	148
5541-3	NELS J SORENSEN	LC	G	IRR	3.6	251
6679-3	FRANCIS HEINE	LC	G	IRR	2.23	140
977A-3	FRANCIS HEINE	LC	B	IRR	3.64	255
977B-3	MIKE ISAACSON	LC	B	IRR	2.36	165
5471-3	FRANCIS HEINE	PE	G	IRR	0.54	38
5639-3	FRANCIS J HEINE	PE	G	IRR	1.5	105
6059-3	FRANCIS HEINE	PE	G	IRR	1.84	129
LC= Water Right, PE= Water Permit, G= Groundwater, B= Both Surface Water and Groundwater, IRR= Irrigation						

Table 1. Water Rights/Permits within approximately one mile of 6994-3



Figure 6. Water Rights/Permits within approximately one mile of 6994-3

Although this application does not request any additional diversion rate, the appropriation of an additional 92 ac-ft/yr from a well would be equivalent to an increased diversion rate of 0.3032cfs over the 153 day irrigation season (May1-Oct 1). High specific capacity wells can be anticipated in this area and drawdown should not be substantial. Since the Missouri: Elk Point aquifer is under unconfined conditions, the drawdown cone will not be significant very far from the pumped well. The distance between the wells associated with Application No. 6994-3 and wells supplying existing water rights/permits are sufficient to ensure that any well interference will not be adverse.

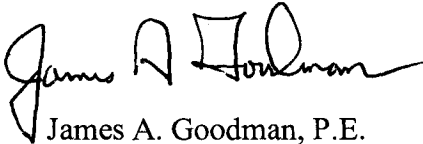
In addition to the existing water rights/permits shown in table 1 and figure 6, the western most irrigation well associated with this project is located approximately 1.2 miles east of the area reserved for future use for Lewis & Clark RWS with Future Use Permit No. 5823-3. The distance is sufficient that approval of Application No. 6994-3 should not inhibit Lewis & Clark's ability to develop their future use permit.

CONCLUSIONS:

1. This application proposes to authorize the irrigation of 46 additional acres and the use of an existing well to those authorized by Water Right No. 2053-3.
2. Approval of this application will result in the appropriation of an additional 92 ac-ft annually from the Missouri: Elk Point aquifer, although the actual amount of water that will be used will be much less than appropriated.
3. There is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer for this proposed appropriation.
4. The additional diversion represented by this appropriation should not adversely impact existing water rights.



Ken Buhler
SD DENR-Water Rights Program
Approved by



James A. Goodman, P.E.
SD DENR-Water Rights Program

REFERENCES:

- Goodman, J.A., 2007, Report on Water Permit Application No. 6869-3 for Lewis and Clark RWS: SD DENR-Water Rights Program
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Rath, Mark. Natural Resources Engineering Specialist, SD DENR-Water Rights Program. Personal communication. 16 Aug. 2006
- Stephens, J.C., 1967, Geology and Hydrology of Clay County South Dakota, South Dakota, Part II: Water Resources, SD Geological Survey Bulletin 19, 62 p.
- Water Rights, 2011, "2010 Irrigation Summary by Aquifer": SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Water Rights, 2012a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2012b, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss
Bldg, Pierre, SD.

Water Rights, 2012c, Well Completion Report Files, SD DENR-Water Rights Program, Joe Foss
Bldg, Pierre, SD.

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APR 25 2012

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

PLAIN TALK

DENR

Division of Environmental Services

Office of Air Quality Program

523 East Capitol Ave, Joe Foss Building

Pierre, SD 57501

STATE OF SOUTH DAKOTA

COUNTY OF CLAY

HEATHER HEIMES BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE CLASSIFIED MANAGER OF YANKTON
MEDIA INC., A CORPORATION, THE PRINTER AND THE
PUBLISHER OF THE PLAIN TALK, A LEGAL
WEEKLY NEWSPAPER PRINTED AND PUBLISHED IN THE CITY OF VERMILLION,
SAID COUNTY AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF
THE SAID COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE
ANNEXED NOTICE OF APPLICATIONS TO APPROPRIATE WATER
FRANCES HEINE - VERMILLION, SD

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 20 DAY OF APRIL 2012
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$138.35 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND 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.

PUBLISHED ON: 4/13/12, 4/20/12

FILED ON: 4/13/12, 4/20/12

Heather Heimes
SUBSCRIBED AND SWORN TO BEFORE ME THIS

22nd

DAY OF

April

Benjamin S. Schell
NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES

8-19-2015

NOTICE OF APPLICATIONS
TO APPROPRIATE WATER

Notice is given that Francis Heine, 412 Sterling, Vermillion SD 57069 has filed the following applications for a water permit. The area is generally located south of Vermillion.

Application No. 6993-3 proposes to appropriate an additional 1.97 cfs, irrigate 135 additional acres and add two additional wells to what is currently authorized by Water Right No. 2947-3. Water Right No. 2947-3 appropriates 1.9 cubic feet of water per second (cfs) from one well located in the SE 1/4 SW 1/4 Section 23 to irrigate 136 acres located in the E 1/2 SW 1/4, W 1/2 SE 1/4 Section 23; all in T92N-R52W. This application proposes to appropriate an additional 1.97 cfs from two additional wells to be completed into the Missouri:Elk Point Aquifer (98 and 103 feet deep) located in the SW 1/4 NW 1/4 Section 23 and NW 1/4 NE 1/4 Section 26; all in T92N-R52W. The 135 additional acres to be irrigated are located in SW 1/4 NW 1/4, SW 1/4, W 1/2 SE 1/4 Section 23 and NE 1/4 NW 1/4, NW 1/4 NE 1/4 Section 26; all in T92N-R52W. This application, if approved and Water Right No. 2947-3 will authorize a total diversion rate of 3.87 cfs for irrigation of 271 acres and will allow all three pivots to operate simultaneously.

Application No. 6994-3 proposes to irrigate an additional 46 acres; one additional well to what is currently authorized by Water Right No. 2053-3 and clarifies legal descriptions. Water Right No. 2053-3 appropriates 10.22 cfs from five wells to irrigate 922 acres. The project as developed includes six wells completed into the Missouri: Elk Point Aquifer to irrigate a total of 968 acres all located in the W 12 A of Lot 2 and Lots 3 and 4, Accretion lying E & S Lots 2, 3 & 4 to Vermillion River Section 13; NE 1/4 NE 1/4 & Lot 1 Section 23; Lot 1 in NW 1/4 Section 24; Accretion to Section 24 lying E & S of Lot 1 to Section Line of Section 24; all in T32N, R04E Vermillion township; and Heckenlively Tract 110, only that portion W of Vermillion River of Lot 1 NW 1/4, and PT NW 1/4 SW 1/4; all in Section 33, T92N, R51W in Fairview Township. This application, if approved, and Water Right No. 2053-3 will authorize a total diversion rate of 10.22 cfs from 6 wells to irrigate 968 acres.

Application No. 7297-3 proposes to appropriate 1.11 cfs from one well to be completed into the Missouri:Elk Point Aquifer (100 feet deep) located in SW 1/4 NW 1/4 Section 15 for irrigation of 80 acres located in the W 1/2 NW 1/4 Section 15; all in T92N-R52W.

Application No. 7298-3 proposes to appropriate 2.28 cfs from one well to be completed into the Missouri:Elk Point Aquifer (175 feet deep) located in the center of the NE 1/4 Section 26 to irrigate 160 acres located in the NE 1/4 Section 26; all in T92N-R51W.

Application No. 7299-3 proposes to irrigate an additional 38 acres and specify the location of wells. Water Right No. 977A-3 appropriates 3.64 cfs from two wells completed into the Missouri:Elk Point Aquifer to irrigate 255 acres located in the SE 1/4 Section 28 and the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 33; all in T92N-R51W. This application seeks to authorize the location of the wells currently used by Water Right No. 977A-3 and proposed to be used by Application No. 7299-3 as being located near the center of the SE 1/4 Section 28 and near the center of the SE 1/4 Section 33, T92N, R51W. This application also proposes to irrigate 38 additional acres located in the NW 1/4 SE 1/4 Section 33 which will allow the pivot in this quarter section to make a full rotation. This application, if approved, does not authorize any increase in the developed diversion rate from the existing well.

Application No. 7300-3 proposes to irrigate an additional 10 acres. Water Permit No. 6059-3 appropriates 1.84 cfs from two wells completed into the Missouri:Elk Point Aquifer to irrigate 129 acres located in the NE 1/4 SE 1/4, SE 1/4 NE 1/4 Section 25-T92N-R52W and W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 30-T92N-R51W. This application proposes to irrigate an additional 10 acres located in the Island Farm addition in Section 11 and 12, T32N, R04E, Vermillion Township. This application, if approved does not increase the diversion rate authorized by Water Right No. 6059-3.

Application No. 7301-3 proposes to irrigate an additional 32 acres. Water Right No. 6679-3 appropriates 2.23 cfs from one well completed into the Missouri:Elk Point Aquifer to irrigate 140 acres located in the SE 1/4, E 1/2 SW 1/4 Section 30 and NW 1/4 SW 1/4 Section 29; all in T92N-R51W. This application proposes to irrigate an additional 32 acres located in the Island Farm addition in Section 11 and 12; and Parcel B of Lot 1 Section 12; and E 1/2 Lot 1 Section 13; all

in T32N, R04E, Vermillion Township. This application, if approved, does not increase the diversion rate authorized by Water Right No. 6697-3.

Application No. 7302-3 proposes to appropriate 1.64 cfs from one well completed into the Missouri:Elk Point Aquifer located in the SW 1/4 SE 1/4 Section 32-T92N-R51W to irrigate 115 acres located in the Accretion to Section 24 lying E & S of Lot 1 to Section line 24, T32N, R04E, Vermillion Township.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of each of the above Applications 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 these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. 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 April 30, 2012.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, 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 these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published twice at the total approximate cost of \$138.35.

Estimated publishing cost per published copy \$1.487

Published: April 13 & 20, 2012



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

April 5, 2012

Plain Talk
201 W Cherry St
Vermillion SD 57069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3 to Appropriate Water to be published twice. Please publish the first notice on April 13, 2012 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Frances Heine, 412 Sterling, Vermillion SD 57069 (Ph # 605-624-2405).

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

-----CUT HERE-----

Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3

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

Date _____

We are in receipt of your letter of April 5, 2012 enclosing Notice to Appropriate Water by Application Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3 which was first published in our issue of _____.
ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

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

April 5, 2012

Frances Heine
412 Sterling
Vermillion SD 57069

Dear Mr. Heine:

Water Permit Application Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 & 7302-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Plain Talk printed at Vermilion SD (Ph # 605-624-2695). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports 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, the publisher has been instructed to publish your notice once each week for two consecutive weeks. 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,

A handwritten signature in cursive script that reads "Eric Gronlund".

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
eric.gronlund@state.sd.us

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 applications.

Instruction to Newspaper - Publish first Notice on April 13, 2012 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

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T32N, R04E, Vermillion Township. This application, if approved does not increase the diversion rate authorized by Water Right No. 6059-3.

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of each of the above Applications 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 these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

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The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, 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 these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published twice at the total approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

MAY 17 2012

Francis Heine
412 Sterling
Vermillion SD 57069

Dear Mr. Heine:

Enclosed are Water Permit Nos. 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3 and 7302-3. The permits authorize construction of your water diversion systems and the beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed for the three systems that are not completed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued for each permit, 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



6994-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2015

NOTICE

TO: FRANCIS HEINE, 412 STERLING, VERMILLION, SD 57069

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaires

Our records indicate your 2014 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 671-3, 977A-3, 977B-3, 1624-3 2053-3 & 2947-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 671-3, 977A-3, 977B-3, 1624-3 2053-3 & 2947-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 4, 2015** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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

6994-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182

February 24, 2015

Francis Heine
412 Sterling
Vermillion SD 57069

RE: Water Permit and Water Right Nos. 671-3, 977A-3, 977B-3, 1624-3 2053-3, 2947-3, 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3

Dear Mr. Heine:

I am writing to acknowledge receipt of your 2014 irrigation questionnaires for the above listed water permits and water rights.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for your water permits and water rights. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

PAID

MAR 27 2023

NOTICE OF TRANSFER OF OWNERSHIP

Ck# 44663

Rec't# _____

To: Chief Engineer
Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181

No. 6994-3

Date: _____

I/We request that Water Permit No. 6994-3

formerly owned by: Francis Heine

be transferred to: (name & address) See below

Telephone No. _____

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

46 acres within the project developed under Water Right No. 2053-3 located in the following description S ½ Section 29; E ½ SE ¼ Section 30; Section 31, Section 32, W ½ Section 33, all in T92N, R51W

I/We understand that the validity of Water Permit No. 6994-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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 required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Todd Heine
1020 E. 320th St.
Vermillion, SD 57060, the new owner, certify that the above information is true and correct.



(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 and the water used, the permit becomes a right. A water right may be lost for three 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.

RECEIVED

MAR 27 2023

OFFICE OF
WATER

6994-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date March 27, 2023RECEIVED OF Francis J Doris/Tim, Todd & Nick Heine 412 Sterling St., Vermillion SD 57069

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 <u>6994-3</u>	<u>\$50.00</u>
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>\$50.00</u>

By Eric Gronlund
Chief Engineerzm



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 14, 2023

Todd Heine
1020 E 320th St
Vermillion SD 57069

Dear Mr. Heine:

I am writing to acknowledge receipt of the transfer forms and filing fees for all water permits and water rights listed under Francis Heine.

The ownership changes have been completed. Water Permit/Right Nos. 671-3, 977A-3, 977B-3, 1006-3, 1034-3, 1624-3, 2053-3, 2947-3, 5435-3, 5471-3, 5639-3, 6057-3, 6059-3, 6679-3, 6993-3, 6994-3, 7297-3, 7298-3, 7299-3, 7300-3, 7301-3, 7302-3, 7577-3, 7578-3, 7579-3, 7580-3 & 7980-3 are now listed in your name.

Enclosed are receipts for the filing fees you paid. If you have any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosures