

WATER PERMIT NO. 7364-3

Name of Applicant: Wipf Acres LP

Address: 17801 401 Ave, Frankfort SD 57440

Phone: 605 472-1690

Amount of Water Claimed: 1.93 cfs

Total Acres: 135 acres

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Spink

Type of Waste Disposal System:

Location: 8 miles southeast of Frankfort

PRIORITY

Date Received: 5-24-12

Application/License Fee: \$ 1050.00

Corrected Application Received: 6-4-12

Period of Annual Use: May 1 – October 31

Remarks:

Diversion Point: center of SE ¼ Sec 7-T115N-
R61W

Land to be Irrigated: SE ¼ Sec 7-T115N-R61W

Depth of Well: 100 feet deep

Well Driller:

Remarks:

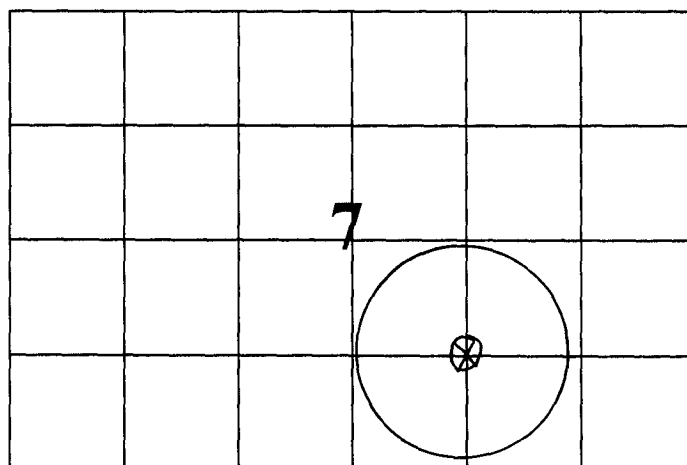
Type of Map: aerial

Prepared by: Russell Simon, Spink Co FSA

Reviewed and the Number Assigned on: 6-4-12

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



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>7364-3</u> (office use only)	Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>	<u>605-472-0822</u>
	Newspaper <u>Redfield Press PO Box 44057469</u>	
	<u>Plainman PO Box 1278 Huron 57350</u>	<u>605-352-6401</u>

RECEIVED
MAY 24 2012
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.)

- Name of Applicant Wipf Acres LP Phone 6054721690
 (check one) X Owner Tenant/lessee
 Mailing Address 12801 401 Ave Frankfort State SD 57440
 (Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.93 *CFS or 865 **GPM ***AF Total Acreage 135
 (*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)
1 well in Middle of SE 1/4 7-115-61
 County Spink
- County or counties where water will be used Spink
- Annual period during which water is to be used May 1 - Oct 31
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
 (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>SE 1/4 7-115-61</u>	<u>135</u>		

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

Install center Pivot with Drop nozzles - Low press

STATE OF SOUTH DAKOTA) SS
 County of Spink

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

I, Gary D. Wipf, 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 Gary D Wipf

Subscribed and sworn to before me this 23rd day of May 2012

my commission expires 7-20-2013
 KATHY LUDWIG
 SEAL NOTARY PUBLIC SEAL
 SOUTH DAKOTA

Kathy Ludwig
 Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 7364-3**

Date of first receipt of application May 24, 2012.

The Water Management Board approved Water Permit No. 7364-3 on December 6, 2012 for Wipf Acres LP, 17801 401 Ave, Frankfort SD 57440 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7364-3 appropriates 1.93 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (100 feet deep) located in center of SE 1/4 Section 7 for irrigation of 135 acres located in the SE 1/4 Section 7; all in T115N-R61W.
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 May 24, 2012.
4. One-fifth of the construction is to be completed on or before June 6, 2015.
5. All construction is to be completed on or before December 6, 2017.
6. Water is to be put to beneficial use on or before December 6, 2021.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under 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 well authorized by Permit No. 7364-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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

JAN 25 2013

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 25" Depth 100'
- b) Casing Type PVC Diameter 16" Thickness SDR21
- c) Screen Type Stainless Diameter 16" Thickness —
- d) Gravel Pack 4 1/2" Length of Gravel Pack 35'-40'
- e) Depth to Top of Water Bearing Material 40
- f) Depth to Water (ground surface to water level) 30
- g) Distance to nearest existing domestic well:
On applicants property _____ On property owned by others 1 mile

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 _____

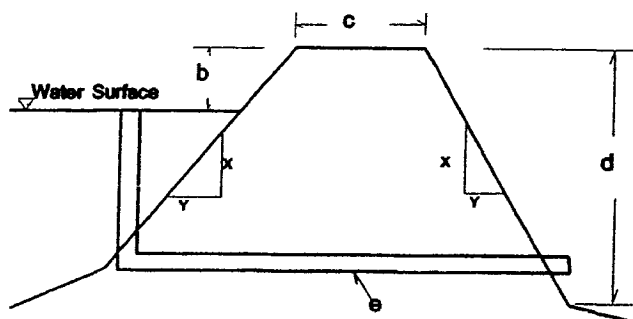
3. Dugout Information

- 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.

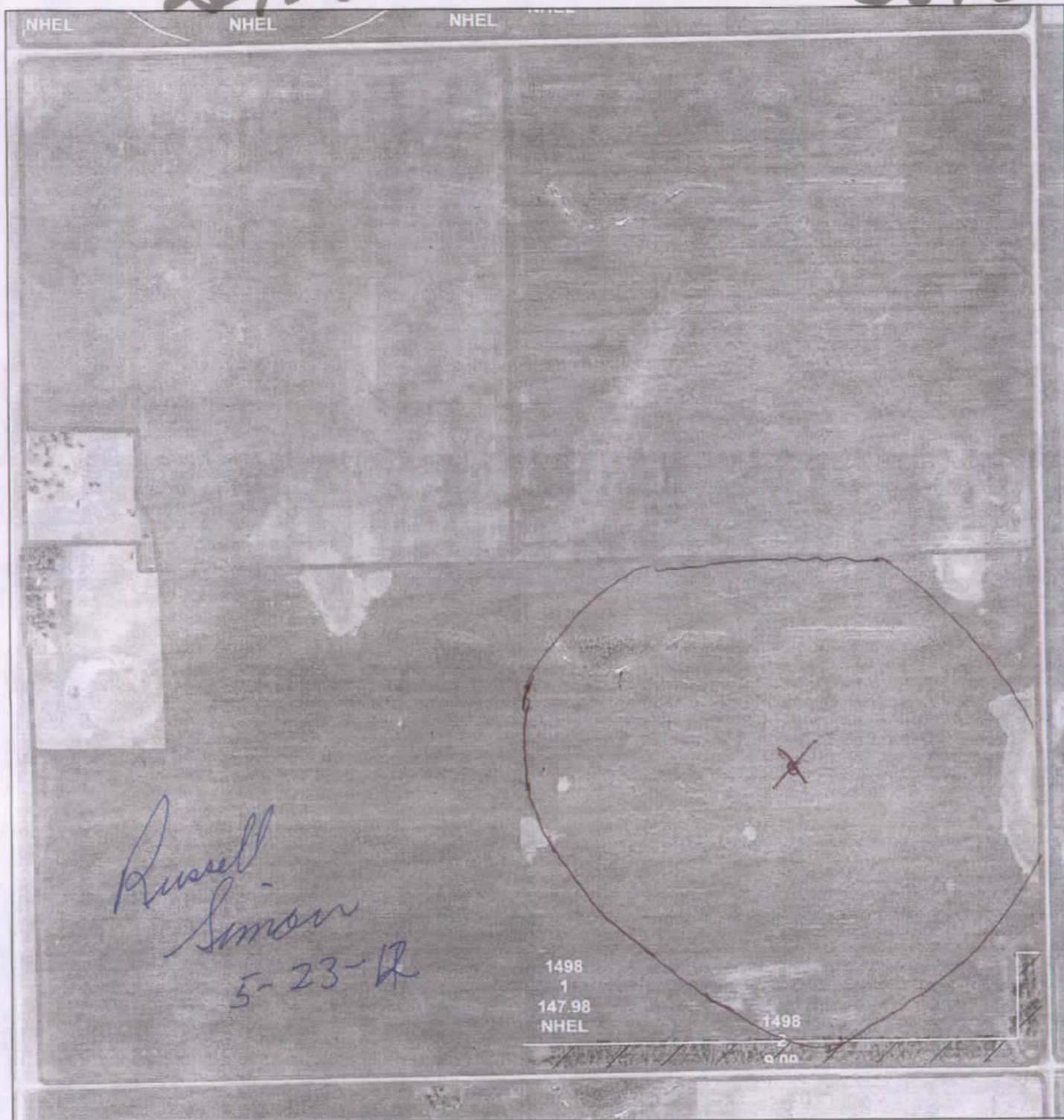
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- 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

2012

6875



United States Department of Agriculture
Farm Service Agency

January 13, 2011

PLSS: 7_115N_61W
Farm: 6875

Spink County, SD
1:8,154



Wetland Determination Identifiers
☒ Restricted Use
☐ Limited Restrictions
☐ Exempt from Conservation Compliance Provisions

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2010 Ortho-Photography - Not to Scale

RECEIVED

MAY 24 2012

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/29, 20 12

RECEIVED OF Gary D Wipf 17801 401st Ave Frankfort SD 57440

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

Fee for Application for Permit No. <u>7364-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	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>7364-3</u>	200	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	1050 00

No. **05446**

By Harold Erbe
Chief Engineer

To Water Board

RECEIVED

MAY 24 2012

WATER RIGHTS
PROGRAM

As our farming practices have changed thru the years - we have not applied as much water as our water permits allow.

Most pivots now have drop nozzels & run low pressure to reduce water loss. We also notill our irrigated ground.

My area has experienced very high water tables. - Some basements have seen more water problems in recent years. In 2011 when we started pumping in July it almost immediately rectified the basement problems.

We also had a couple observation wells squirting water out the top until we started irrigating.

My hope is the board would approve this application because we are using less water & our water table seems to be very high.

Thanks

Andy Wilf

460 1690



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 30, 2012

Wipf Acres LP
c/o Gary D Wipf
12801 401 Ave
Frankfort SD 57440

Dear Mr. Wipf:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Spink County. In order to complete the application the following is required.

- Enclosed is the aerial photo map submitted with the application. Please outline the acres to be irrigated and mark the proposed well location with an "X".

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@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

September 6, 2012

Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Floyd Peterson
209 27th Street NW
Huron SD 57350

Dear Lenny and Oscar:

As you are aware, DENR received a number of water permit applications seeking to appropriate water the Tulare:East James Aquifer in Spink and Beadle County for irrigation. The Chief Engineer has carefully reviewed the staff report on the applications and is recommending approval.

Please find enclosed the staff report, recommendations and public notice of hearing on these ten pending applications. The public notice is set to occur on September 12, 2012 scheduling a October 3, 2012 hearing before the Water Management Board. Petitions to intervene in the hearing process must be filed by September 24, 2012.

Please feel free to 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

September 6, 2012

Redfield Press
PO Box 440
Redfield SD 57469

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7364-3 to Appropriate Water. Please publish the notice once on September 12, 2012. 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 and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Wipf Acres LP, c/o Gary D Wipf, 17801 401st Ave., Frankfort SD 57440 (Ph # 605-472-1690).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 6, 2012

The Plainsman
PO Box 1278
Huron SD 57350

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 06, 2012 12:43 PM
To: 'office.redpress@midconetwork.com' (office.redpress@midconetwork.com)
Subject: FW: Notice of Hearing on Application No. 7364-3
Attachments: 7364-3generic public wmb.docx; 7364-3NEWS.docx

Attached is a Notice of Hearing to be published on September 12, 2012. Please send us the affidavit immediately following publication.

Wipf Acres LP, 17801 401st Ave , Frankfort SD 57440 (ph #605 472-1690) is responsible for cost of publication.

Please acknowledge receipt of this email.

Thanks,

Karen Schlaak
Water Rights Program
Phone: 605 773-3352
Fax: 605 773-4068

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 06, 2012 12:41 PM
To: Ruby Crandall (rnewman.plainsman@midconetwork.com)
Subject: Notice of Hearing on Application No. 7364-3
Attachments: 7364-3generic public wmb.docx

Attached is a Notice of Hearing to be published on September 12, 2012. Please send us the affidavit immediately following publication.

Wipf Acres LP, 17801 401st Ave , Frankfort SD 57440 (ph #605 472-1690) is responsible for cost of publication.

Please acknowledge receipt of this email.

Thanks,

Karen Schlaak
Water Rights Program
Phone: 605 773-3352
Fax: 605 773-4068



**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 DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.

September 6, 2012

Wipf Acres LP
Gary D Wipf
17801 401st Ave
Frankfort SD 57440

Dear Mr. Wipf:

Water Permit Application No. 7364-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Redfield Press printed at Redfield SD (Ph # 605-472-0822) and the Plainsman printed at Huron SD (Ph # 605-352-6401). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

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.

Instruction to Newspaper – Publish the Notice on September 12, 2012. 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.

NOTICE OF HEARING on Application No. 7364-3 to Appropriate Water

Notice is given that Wipf Acres LP, 17801 401st Ave, Frankfort SD 57440 has filed an application for a water permit to appropriate 1.93 cubic feet of water per second from one well to be completed into the Tulare:East James Aquifer (100 feet deep) located in center of SE ¼ Section 7 for irrigation of 135 acres located in the SE ¼ Section 7; all in T115N-R61W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7364-3 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.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider this application at 10:30 a.m. (CDT) on October 3, 2012 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 September 24, 2012. The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The October 3, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by September 24, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Contact Eric Gronlund by September 24, 2012, at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 24, 2012. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of_____.

Affidavit of Publication
RECEIVED

STATE OF SOUTH DAKOTA,
County of Spink: ss.

SEP 20 2012

**WATER RIGHTS
PROGRAM**

I, Mark E. Davis, of said County & 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 Mark E. Davis, 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:

#554 Notice

A printed copy of which is hereto attached, was printed and published in said newspaper in 1 issue, to wit: The first publication being made on September 12th, that Fifty-three and .90/100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.



Subscribed and sworn to before me this 12th day of September, 2012.


Notary Public, South Dakota

My commission expires 04/06/2016.

Notice

#554

**NOTICE OF HEARING ON
APPLICATION NO. 7364-3 TO
APPROPRIATE WATER**

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hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

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Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 September 24, 2012. The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

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Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 24, 2012. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted

ed by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1; 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Steven M. Pirner, Secretary
Department of Environment and
Natural Resources

Published at an approximate cost of
\$53.90. (Sept 12)

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SEP 21 2012

WATER RIGHTS
PROGRAM
PRINTER'S AFFIDAVIT

STATE OF SOUTH DAKOTA,
COUNTY OF BEADLE: ss.

I, TRISHA NELSON, being duly sworn on oath, say that THE PLAINSMAN is a daily paper published at Huron, Beadle County, South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

SD ENVIRONMENTAL & NATURAL - WATER RIGHTS PERMIT - WIPF

was published for one day, in said newspaper, and not in any supplement of the said newspaper, the publication was of the 12TH day **SEPT 2012** That the full **SEVENTY-SEVEN & 99/000** dollars insures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whom so ever.

Trisha Nelson

Subscribed and sworn to before me this 20th day of SEPT. 2012.

William D. Neukarth
Notary Public, South Dakota

My term expires 10/25/17

Legal # 377

F.P. 09-12-12

**NOTICE OF HEARING
on Application
No. 7364-3 to
Appropriate Water**

Notice is given that Wipf Acres LP, 17801 401st Ave, Frankfort SD 57440 has filed an application for a water permit to appropriate 1.93 cubic feet of water per second from one well to be completed into the Tulare-East James Aquifer (100 feet deep) located in center of SE 1/4 Section 7 for irrigation of 135 acres located in the SE 1/4 Section 7; all in T115N-R61W. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7364-3 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.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider this application at 10:30 a.m. (CDT) on October 3, 2012 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 September 24, 2012. The petition may be informal, but shall be

in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The October 3, 2012 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by September 24, 2012. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

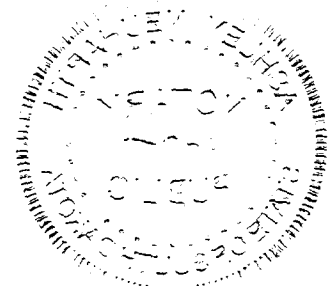
Contact Eric Gronlund by September 24, 2012, at the above Chief Engineer's address to request copies of the staff report, recommendation, application or other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is September 24, 2012. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46; 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Steven M. Pirner,
Secretary, Department
of Environment and
Natural Resources
No. 377 (adv.)

Published once at the
total approximate cost of
\$77.16.





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 17, 2012

Allen Wipf
40476 184th Street
Doland SD 57436

Dear Allen:

As per our phone conversation, please find the following enclosures.

The staff report on the recent Tulare:East James Aquifer applications.
The hydrograph for the observation well No. SP-77S
A map showing the location of observation well No. SP-77S

If you have questions regarding the staff report, please contact Ken Buhler at 605 773-3352.

Sincerely,
COPY
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

September 24, 2012

NOTICE

TO: William St. Clair
37644 184th Street
Tulare SD 57476

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Huron Hutterian Brethren
c/o Joey Waldner
40068 Huron Colony Lane
Huron SD 57350

Oscar Inc
c/o Floyd Peterson
209 27th Street NW
Huron SD 57350

Allen Wipf
40476 184th Street
Doland SD 57436

Van Buskirk Farms LLP
c/o Matt Van Buskirk
Box 73
Hitchcock SD 57348

Wipf Acres LP
c/o Gary Wipf
17801 401st Avenue
Frankfort SD 57440

Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Todd D. Wilkinson
Wilkinson & Wilkinson
P.O. Box 29
DeSmet SD 57231

FROM: *for*  Eric Erbele, Chief Engineer
Water Rights Program

SUBJECT: Automatic Delay of Hearing for Water Permit Application Nos. 7295-3, 7316-3, 7348-3, 7364-3 and 7365-3 through 7370-3

Petitions have been submitted opposing Water Permit Application Nos. 7295-3 (St. Clair), 7316-3 (Van Buskirk), 7348-3 (Sentell), 7364-3 (Wipf) and 7365-3 through 7370-3 (Huron Hutterian Brethren). In addition, a petition was submitted specific to Application No. 7364-3. These petitions were in response to the notice of hearing published September 12, 2012 in the Plainsman printed in Huron and/or the Redfield Press. All the petitions are enclosed. The petition filed by counsel for Peterson's also requests an automatic delay of the October 3, 2012 hearing on these water permit applications. Therefore, the hearings on all ten applications are automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on October 3, 2012.

DENR anticipates consolidating the applications for the purpose of conducting the hearing since all ten applications propose to appropriate water from the Tulare:East James Aquifer .

The hearing will be scheduled for the December 5 and 6, 2012, Water Management Board meeting tentatively to be held in Pierre. Future notice of the time and place of the hearing will be provided to parties of record.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

enclosures

c: Diane Best, Assistant Attorney General

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WATER RIGHTS
PROGRAM

Sept 20 2012

Eric Gronlund

Dear Eric

You have an application coming up on SE $\frac{1}{4}$ - 7 - 115-61 our well in SW $\frac{1}{4}$ 17 is on west side of the Quarter when we started that back in the 1960's the only place that we found any water was on the west side along the Road after 3 other Test holes in the Quarter we thought it was very good but after we started using it we ended up with the pump at the very bottom 139 ft and we can still pull it way down there after long pump ing periods - the wells on SE $\frac{1}{4}$ 17 + NE $\frac{1}{4}$ 20 - all 115 61 don't seem to make any difference if they are running or not. at times we have to leave that well on SW $\frac{1}{4}$ 17 115-61 Rest Then we can go again.

For some reason it doesn't follow the State well on the road east of Sec 7 115-61 - we just don't want to lose the flow of water we do have - we've been making it work fine the way it is.

Thank you
Allen W. Webb

WILKINSON & WILKINSON
ATTORNEYS AT LAW
103 JOLIET AVE., S.E. P.O. BOX 29
DE SMET, SOUTH DAKOTA 57231

TELEPHONE: 605 / 854-3378
TELEFAX: 605 / 854-9006

HARRY J. EGGEN (1922-1969)
ELLSWORTH F. WILKINSON (1955-2005)

TODD D. WILKINSON
MARCENE J. SMITH
GARY W. SCHUMACHER*

September 21, 2012

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SEP 24 2012
WATER RIGHTS
PROGRAM

* ALSO LICENSED IN MINNESOTA

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition**

Dear Mr. Erbele:

Our office represents Lenny Peterson and Oscar Inc., who are a land owners and operators, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform our office of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

We would request a twenty (20) day extension for the hearing. If possible, when rescheduling the hearing could you contact our office to coordinate schedules, that would be great appreciated.

Thank you.

Sincerely,

WILKINSON & WILKINSON

A handwritten signature in black ink, appearing to read 'Todd D. Wilkinson', with a long horizontal line extending to the right.

Todd D. Wilkinson

TDW: mo

Enclosures

cc: Lenny Peterson
Oscar Inc
William St. Clair
Van Buskirk Farms, LLP c/o Matt Van Buskirk
Michael Sentell
Wipf Acres, LP c/o Gary Wipf
Huron Hutterian Brethren c/o Joey Waldner

September 20, 2012

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WATER RIGHTS
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Kevin Marton
South Dakota Department of Transportation
700 East Broadway
Pierre, South Dakota 57501

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition**

Dear Mr. Marton and Mr. Erbele:

I, Lenny Peterson, as a land owner and operator, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform me of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lenny Peterson".

Lenny Peterson

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SEP 21 2012

WATER RIGHTS
PROGRAM

September 20, 2012

Kevin Marton
South Dakota Department of Transportation
700 East Broadway
Pierre, South Dakota 57501

Garland Erbele
Chief Engineer
Water Rights Program, SD DENR
Foss Building
523 East Capital
Pierre, South Dakota 57501

**RE: Irrigation application for Tulare: East James Aquifer
Water Permit Application Nos. 7316-3, 7348-3, 7364-3, 7365-3, 7366-3,
7367-3, 7368-3, 7369-3, and 7370-3
Petition in Opposition**

Dear Mr. Marton and Mr. Erbele:

Oscar, Inc., as a land owner and operator, affected by the issuance of any additional irrigation appropriation in connection with the Tulare: East James Aquifer. This letter is intended as and constitutes a petition in opposition to said Water Permit Application No. 7316-3, Water Permit Application No. 7348-3, Water Permit Application No. 7364-3, Water Permit Application No. 7365-3, Water Permit Application No. 7366-3, Water Permit Application No. 7367-3, Water Permit Application No. 7368-3, Water Permit Application No. 7369-3, and Water Permit Application No. 7370-3, also referred to the irrigation permit,; and is further intended as and constitutes a petition in opposition to the Chief Engineer's recommendation to allow any additional appropriation without consideration of previously filed applications for water appropriation.

In addition the averaging that was done to arrive at available water did not properly consider the Boards previous findings. That if the method is now going to be

changed, previous applications should be afforded notice and opposition to apply and not lose priority in filing.

That proposed development cannot be done without potentially impairing existing rights.

Please confirm receipt of this petition opposing said application and petition opposing the Chief Engineer's recommendation; and please inform me of the date, time, and location of the public hearing on said application; as well as any other information that needs to be submitted to your office(s) prior to the public hearing.

Thank you.

Sincerely,
Oscar Inc. by Lloyd Peterson
OSCAR INC.

CERTIFICATION

I hereby certify that on September 24, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 24, 2012, regarding automatic delay of hearing on Water Right Permit Application Nos. 7295-3, 7316-3, 7348-3, 7364-3 and 7365-3 through 7370-3 with enclosures, as addressed below:

William St. Clair
37644 184th Street
Tulare SD 57476

Van Buskirk Farms LLP
c/o Matt Van Buskirk
Box 73
Hitchcock SD 57348

Michael Sentell
18690 398th Avenue
Hitchcock SD 57348

Wipf Acres LP
c/o Gary Wipf
17801 401st Avenue
Frankfort SD 57440

Huron Hutterian Brethren
c/o Joey Waldner
40068 Huron Colony Lane
Huron SD 57350

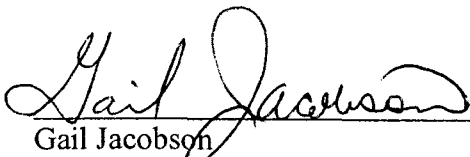
Lenny Peterson
19111 Maple Avenue
Hitchcock SD 57348

Oscar Inc
c/o Floyd Peterson
209 27th Street NW
Huron SD 57350

Todd D. Wilkinson
Wilkinson & Wilkinson
P.O. Box 29
DeSmet SD 57231

Allen Wipf
40476 184th Street
Doland SD 57436

Diane Best, Assistant Attorney General
317 N Main
Sioux Falls SD 57104

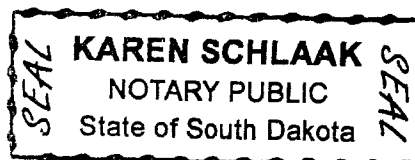

Gail Jacobson

Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 24th day of September, 2012.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**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. 7364-3, Wipf Acres LP**

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. 7364-3, Wipf Acres LP, c/o Gary Wipf, 17801 401st Avenue, Frankfort SD 57440.

The Chief Engineer is recommending APPROVAL of Application No. 7364-3 because 1) the Water Rights Program evaluated the availability of water in the aquifer and determined that there is a reasonably probability that there is unappropriated water available from the Tulare:East James Aquifer, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest to put water resources of the state to the fullest extent of which they are capable with 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 well authorized by Permit No. 7364-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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
September 6, 2012

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7295-3, WILLIAM F. ST. CLAIR
NO. 7316-3, VAN BUSKIRK FARMS LLP
NO. 7348-3, MICHAEL SENTELL
NO. 7364-3, WIPF ACRES LP
NO. 7365-3, HURON COLONY
NO. 7366-3, HURON COLONY
NO. 7367-3, HURON COLONY
NO. 7368-3, HURON COLONY
NO. 7369-3, HURON COLONY
AND
NO. 7370-3, HURON COLONY
AUGUST 23, 2012

Water Permit Application No. 7295-3 proposes to appropriate water at a maximum diversion rate of 1.78 cubic feet of water per second (cfs) from one well approximately 90 feet deep, to be completed into the Tulare: East James aquifer. The well is to be located in the NW¼ of Section 30, T117N-R61W and the water is to be used to irrigate 120 acres located in the NW¼ of Section 30, T117N-R61W. This application was deferred by the Water Management Board on March 7, 2012 to allow time to determine the availability of water from the Tulare: East James aquifer.

Water Permit Application No. 7316-3 proposes to appropriate water at a maximum diversion rate of 4.5 cfs from two wells, approximately 80 feet deep, to be completed into the Tulare: East James aquifer. The wells are to be located in the W½ of Section 12, T114N-R62W and the water is to be used to irrigate 272 acres located in the W½ of Section 12, T114N-R62W. This application was deferred by the Water Management Board on May 2, 2012 to allow time to determine the availability of water from the Tulare: East James aquifer.

Water Permit Application No. 7348-3 proposes to appropriate water at a maximum diversion rate of 5.33 cfs from a gravel pit completed into the Tulare: East James aquifer located in the NE¼ SW¼ of Section 14, T114N-R62W. The water is to be used to irrigate 440 acres located in the NW¼ of Section 13, and the NW¼, W½ SE¼, SE¼SW¼ of Section 14; all of T114N-R62W. The Chief Engineer originally recommended deferral of this application to allow time to determine the availability of water from the Tulare: East James aquifer.

Water Permit Application No. 7364-3 proposes to appropriate water at a maximum diversion rate of 1.93 cfs from one well, approximately 100 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SE¼ of Section 7, T115N-R61W and the water is to be used to irrigate 135 acres located in the SE¼ of Section 7, T115N-R61W.

Water Permit Application No. 7365-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SW¼ of Section 20, T113N-R61W and the water is to be used to irrigate 132 acres located in the SW¼ of Section 20, T113N-R61W.

Water Permit Application No. 7366-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the NW¼ of Section 20, T113N-R61W and the water is to be used to irrigate 132 acres located in the NW¼ of Section 20, T113N-R61W.

Water Permit Application No. 7367-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the NE¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the NE¼ of Section 19, T113N-R61W.

Water Permit Application No. 7368-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the NW¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the NW¼ of Section 19, T113N-R61W.

Water Permit Application No. 7369-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SW¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the SW¼ of Section 19, T113N-R61W.

Water Permit Application No. 7370-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well, approximately 95 feet deep, completed into the Tulare: East James aquifer. The well is to be located in the center of the SE¼ of Section 19, T113N-R61W and the water is to be used to irrigate 132 acres located in the SE¼ of Section 19, T113N-R61W.

AQUIFER: East James management unit of the Tulare aquifer (T:EJ)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Tulare East James aquifer is a system of interconnected sand and gravel layers that were deposited as outwash by meltwater from receding glaciers. The sands and gravels that make up the Tulare: East James aquifer were deposited on bedrock (Pierre Shale or Niobrara Formation), or on glacial till, and generally occur between 1,130 - 1,270 feet above mean sea level (msl). Wells completed into the aquifer are typically less than 130 feet deep (Water Rights 2012b; Water Rights 2012c). Although the saturated thickness of the Tulare: East James aquifer is estimated to be 37 feet in Spink County (Hamilton and Howells, 1996), the thickness of this outwash deposit is variable with a maximum exceeding 75 feet ("Lithologic Logs Database"; Water Rights, 2012b; Water Rights, 2012c). The aquifer underlies approximately 123,578 acres of Spink and Beadle Counties. Assuming an average thickness of 37 feet and a specific yield of 0.15, the aquifer contains approximately 685,857 acre-feet of recoverable water in storage. The Tulare: East James aquifer is buried over most of its area and is predominately under confined conditions. The water levels of wells completed into the Tulare: East James aquifer range from more than 50 feet below grade to above ground surface (i.e. free flowing wells). Based on the SD DENR-Water Rights Program observation well water level data (Water Rights, 2012a), groundwater movement in the aquifer is generally from east to west although there is northwest to southeast flow component in the northwest portion of the aquifer.

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.

WATER AVAILABILITY:

The probability of unappropriated water being available from the Tulare: East James 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."

In applying SDCL 46-6-3.1, the Sixth Judicial Circuit Court ruled in 2005 that if the Water Management Board uses average annual recharge, then it should also use average annual withdrawals to determine if unappropriated water is available from the aquifer (*Hines v. South Dakota Dept. of Environ. and Nat'l. Resources, Hughes County 04-37* (Memorandum Decision, April 29, 2005)).

The availability of unappropriated water from the Tulare: East James aquifer was evaluated based on observation well data and through consideration of a hydrologic budget for the aquifer.

OBSERVATION WELL DATA:

The analysis of observation well data provides a qualitative means of assessing the aquifer and provides the best information available to evaluate the Tulare: East James aquifer. In addition, 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 34 observation wells completed into the Tulare: East James aquifer (Water Rights, 2012a) (see figure 1). Hydrographs for four of these observation wells are shown in Figures 2-5. The hydrographs are representative for the Tulare: East James aquifer and show that the aquifer readily responds to climatic conditions, with rising water levels during wet years and declining water levels during dry years.

The analysis of the DENR-Water Rights Program observation well data provides the best information reasonably available to evaluate withdrawals from an aquifer as compared with recharge to the aquifer. Observation well data showing a steady, continual decline of the aquifer's water level or artesian pressure could indicate that withdrawals from an aquifer were exceeding recharge. In addition, water level fluctuations in an aquifer dominated by the influences of well withdrawals, or a change in the configuration of the potentiometric surface could indicate that well withdrawals are a significant component in the system relative to recharge and/or natural discharge. Examination of the observation well data to consider long term water level trends, any influences of well withdrawals and the configuration of the potentiometric surface of the aquifer are discussed below.

Observation well water level trends:

A rising water level in an aquifer indicates that recharge to the aquifer exceeds withdrawals from the aquifer and conversely a declining water level is indicative of withdrawals exceeding recharge. An equation for this relationship is:

$$\Delta S = R - D$$

Where: ΔS = change in the volume of water in storage in the aquifer

R= Recharge

D= Discharge

The observation well data for the Tulare: East James aquifer has documented upward trending water levels throughout the aquifer. The average slope of linear trend lines for observation well hydrographs over each well's period of record has been +0.000726 feet per day (+0.265 feet per year). The period of record extends back to 1967 for six observation wells and back to 1963 for two observation wells. With the exception of SP-82A and SP-82B which were installed in 1982, all of the observation wells have records from 1980 to present. The average slope of linear trend lines for observation well hydrographs for the 32 wells with records from 1980-2012 is +0.0008844 feet per day (+0.323 feet per year). The upward trending water levels indicate recharge to the Tulare: East James aquifer has likely been greater than the total of the discharges from the aquifer over the period of record.

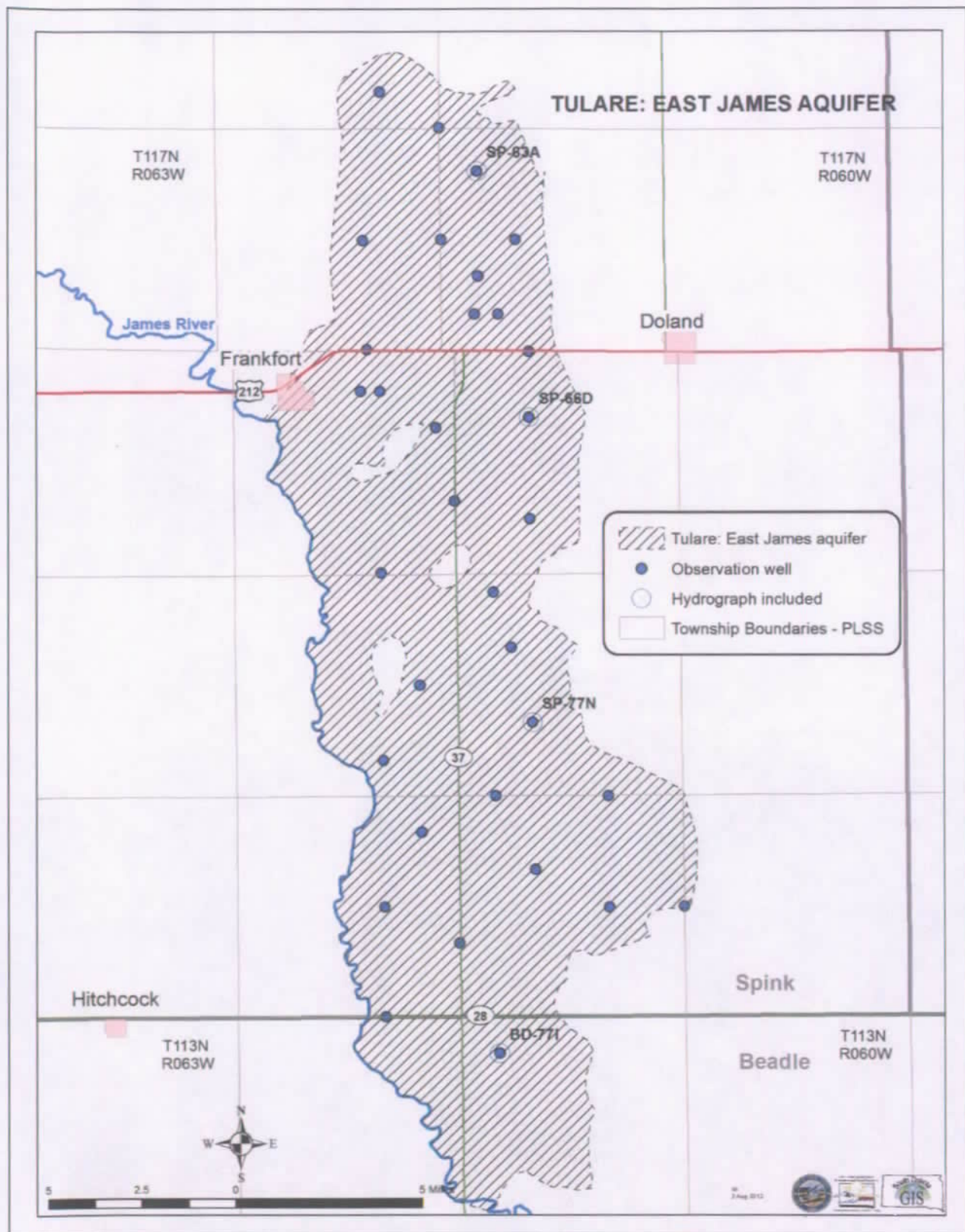


Figure 1. Location of the Tulare: East James aquifer

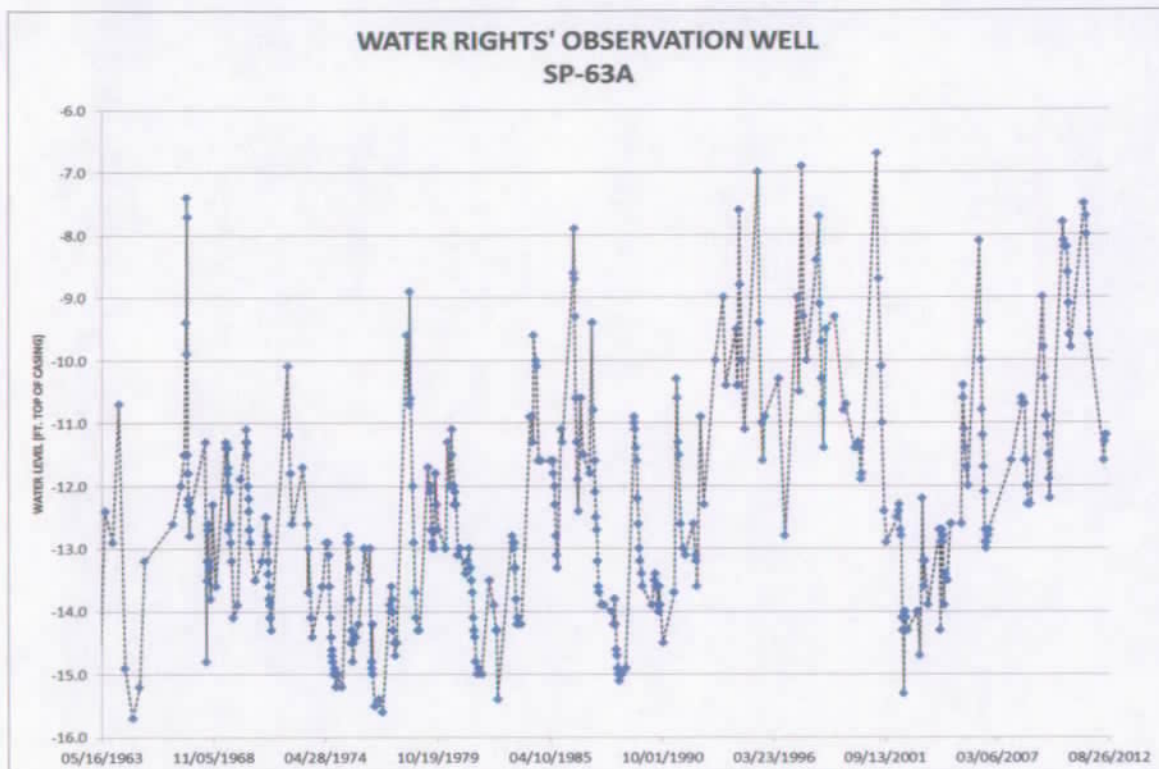


Figure 2. Hydrograph of DENR-Water Rights' observation well SP-63A. (see Figure 1 for location)

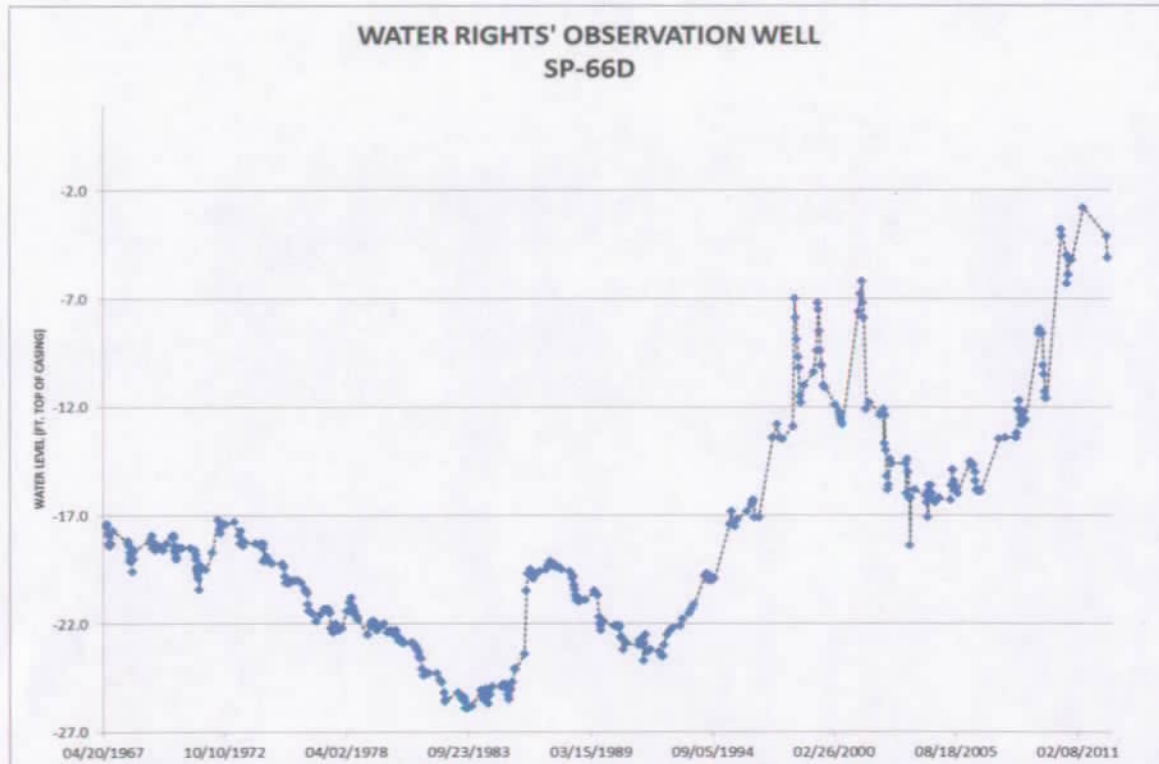


Figure 3. Hydrograph of DENR-Water Rights' observation well SP-66D (see Figure 1 for location)

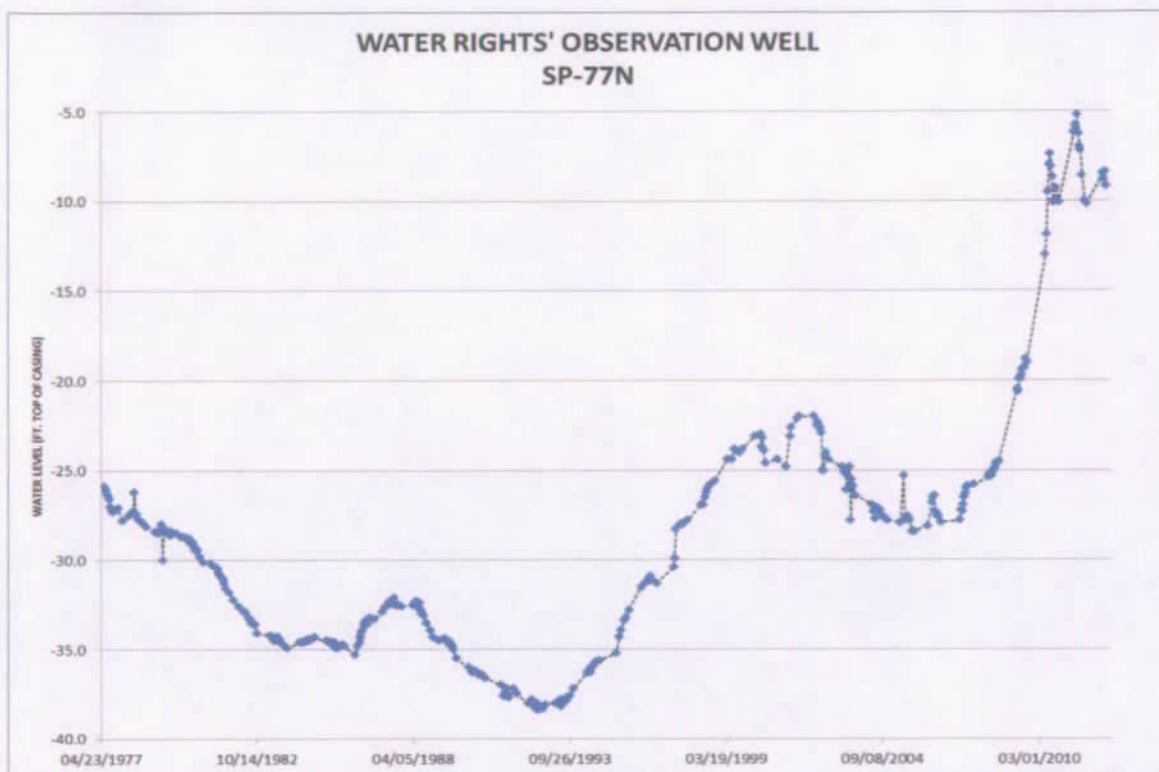


Figure 4. Hydrograph of DENR-Water Rights' observation well SP-77N (see Figure 1 for location)

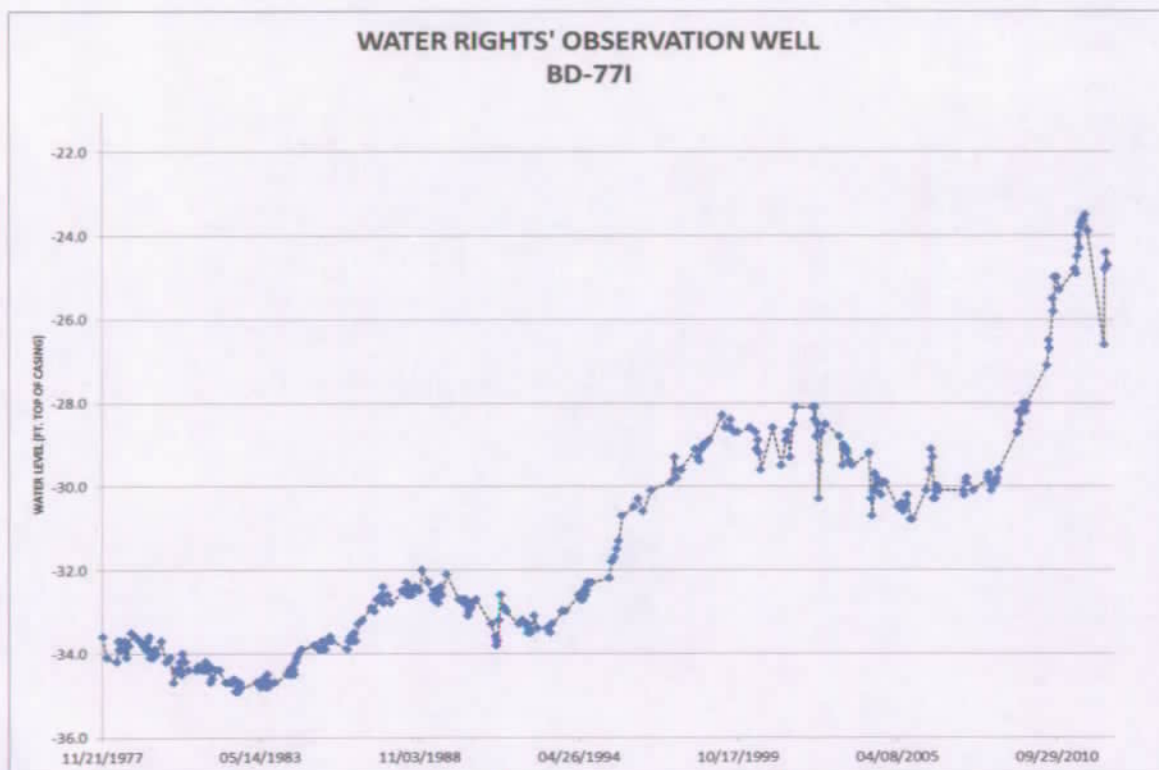


Figure 5. Hydrograph of DENR-Water Rights' observation well BD-77I (see Figure 1 for location)

An analysis of observation well hydrographs was used to quantify the change in volume of water in storage in the aquifer. The analysis involved identifying observation wells completed into the unconfined portion of the Tulare: East James aquifer and determining the change of the water level in each well for every year. The amount of water represented by a change in water level was determined by multiplying the water level change by the aquifer's specific yield (0.15) (Kuiper, 1984). The average change in storage was applied over the portion of the aquifer that is under unconfined conditions to determine the volume in acre-feet per year of the change in storage.

This analysis is restricted to observation wells completed into an area where the aquifer is under unconfined conditions. The hydrograph shown in Figure 6, for an observation well that is completed in a portion of the Tulare: East James aquifer that was under unconfined conditions from 1977-2009 but became confined in 2009 when the water level was -22.1 feet from the top of the casing. The hydrograph shows fairly well the difference between changes in the amount of water in storage in the aquifer (pre-2009) and changes of the "pressure" of the aquifer (post-2009).

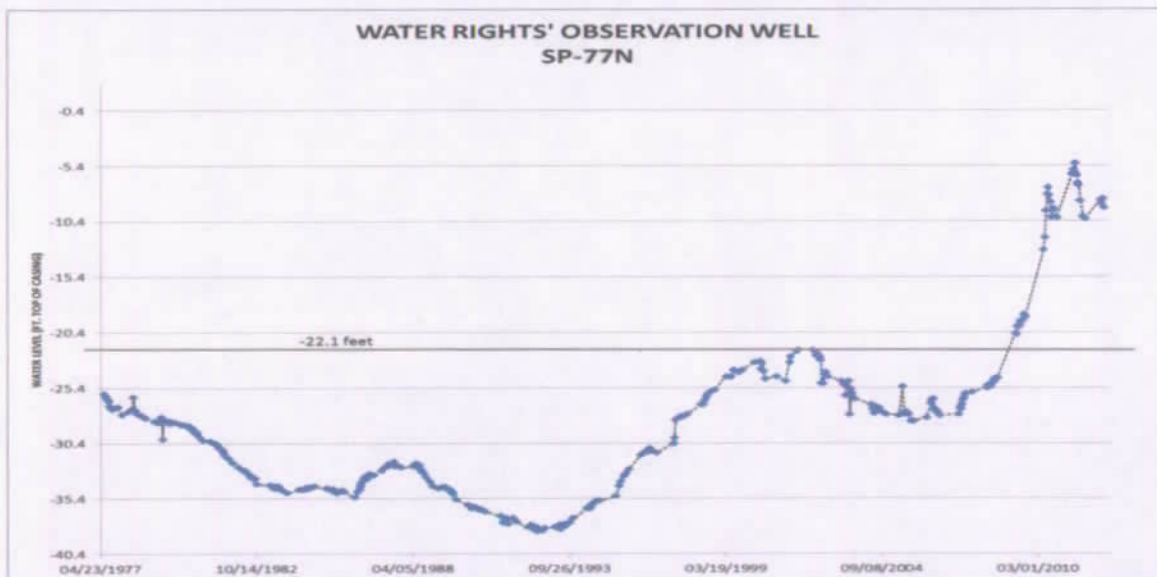


Figure 6. Hydrograph showing the difference between an unconfined aquifer and a confined aquifer.

Seven DENR-Water Rights' observation wells were used to analyze the Tulare: East James aquifer. These wells were chosen because they were in portions of the aquifer that remained unconfined for their entire period of record and the wells were determined to accurately reflect aquifer conditions. Although three of these observation wells have data older than 1980, the time period used for analysis was 1980-2011 to maximize the record-years of data. The results of the analysis are shown in Table 1.

WATER YEAR	ANNUAL WATER LEVEL CHANGE (ft) per OBSERVATION WELL							AVERAGE (ft/yr)
	SP-77J	SP-77P	SP-79G	SP-79H	SP-79K	SP-79O	SP-80K	
1980	-0.4	-0.3	-2.0	-0.8	-0.5	-0.1	-0.8	-0.7
1981	-0.9	-0.4	-1.3	-1.0	-0.3	-0.2	-0.9	-0.7
1982	-0.9	-0.4	0.7	-0.4	-0.3	0.3	-1.4	-0.3
1983	-0.5	0.0	0.6	-0.4	0.0	0.2	-0.9	-0.1
1984	0.6	0.6	1.4	0.7	0.7	0.8	-0.2	0.7
1985	0.7	0.1	0.0	0.3	0.0	-0.5	-0.2	0.1
1986	1.4	0.5	1.9	1.6	1.0	1.0	1.1	1.2
1987	0.5	0.2	-0.5	0.1	-0.4	-0.7	0.5	0.0
1988	-0.6	-0.1	-1.8	-0.6	-0.2	-0.2	-0.1	-0.5
1989	-1.0	-0.2	-0.4	-0.7	-0.2	0.0	-1.4	-0.6
1990	-0.9	-0.4	-0.4	-0.4	-0.4	-0.3	-1.2	-0.6
1991	-0.4	-0.2	0.5	-0.1	-0.1	0.1	-0.6	-0.1
1992	-0.5	-0.4	-0.1	-0.2	-0.1	-0.2	0.1	-0.2
1993	0.6	0.3	2.0	0.6	0.5	1.3	1.5	1.0
1994	0.4	0.4	1.2	1.3	0.4	-0.3	-0.3	0.4
1995	1.6	1.8	1.5	1.6	2.3	1.1	1.4	1.6
1996	1.0	1.0	-0.6	0.4	-0.4	-0.5	0.5	0.2
1997	1.9	1.5	2.8	2.2	2.0	1.1	2.2	2.0
1998	1.9	0.9	-0.4	0.9	0.1	-0.8	1.5	0.6
1999	1.9	0.5	0.0	0.9	0.2	-0.3	0.6	0.5
2000	-1.0	-1.2	-1.7	-0.1	-0.5	-2.2	-0.4	-1.0
2001	1.8	2.3	1.7	1.5	1.9	2.5	1.0	1.8
2002	-1.3	-0.1	-1.8	-0.8	-1.0	-1.1	-0.6	-1.0
2003	-0.9	-0.8	-1.9	-1.5	-0.8	-0.2	-0.4	-0.9
2004	-0.8	-0.8	0.1	-0.9	-0.6	-0.2	-0.3	-0.5
2005	-0.4	-0.5	-0.2	-0.9	-0.2	0.1	-0.5	-0.4
2006	-0.4	0.5	0.4	1.1	0.4	0.1	-0.2	0.3
2007	0.4	0.3	1.6	1.5	0.9	0.8	0.9	0.9
2008	0.2	0.2	0.3	0.6	-0.3	-0.3	0.5	0.2
2009	1.0	1.5	2.6	1.8	1.2	0.5	0.5	1.3
2010	2.6	3.8	2.6	5.0	4.4	1.5	2.0	3.1
2011	3.4	2.3	1.5	1.9	1.0	-0.1	1.4	1.6
<i>AVE</i>	<i>0.34</i>	<i>0.40</i>	<i>0.32</i>	<i>0.48</i>	<i>0.33</i>	<i>0.10</i>	<i>0.17</i>	<i>0.31</i>

Table 1. Water Level change per year per observation well

The average annual water level change for the seven observation wells for the period of 1980-2011 is +0.31 feet. Therefore, the water level for the unconfined portion of the aquifer increased an average of 0.31 feet per year from 1980-2011.

The areal extent of the Tulare: East James aquifer that has remained unconfined throughout the entire period of record was delineated by examining the logs of test holes ("Lithologic Logs Database"), domestic and irrigation wells (Water Rights, 2012b; Water Rights, 2012c) and observation wells (Water Rights, 2012a) as compared to a September 2011 potentiometric surface derived from DENR-Water Rights Observation Well Network. Approximately 22,477 acres were determined to be under unconfined conditions in September 2011.

Since 22,477 acres of the aquifer had an average annual water level rise of 0.31 feet, assuming a specific yield of 0.15, the annual change in volume of:

$$(22,477 \text{ acres} \times 0.31 \text{ feet} \times 0.15) = 1,045 \text{ acre feet}$$

Therefore the observation well data indicates that the annual recharge to the aquifer exceeded discharge from the aquifer by an average of 1,045 acre-feet per year for the period of 1980-2011.

Water level fluctuations due to well withdrawals:

Observation well data documents that the development that has occurred from the Tulare: East James aquifer has had an inconsequential effect on the aquifer over the long term. Figure 7 is a hydrograph for DENR-Water Rights Program observation well SP-66C. The water level record for this well extends back to June 9, 1967; a time span that includes most of the period of irrigation development from the aquifer. The observation well is located a short distance from several high capacity irrigation wells and the drawdown from the irrigation withdrawals is obvious. However, over the period of record of the hydrograph, the number of appropriations from the Tulare: East James aquifer increased from 25 to 113 and the number of acres authorized for irrigation increased from 4,210 to 15,571. The increased development is not apparent in the hydrograph.

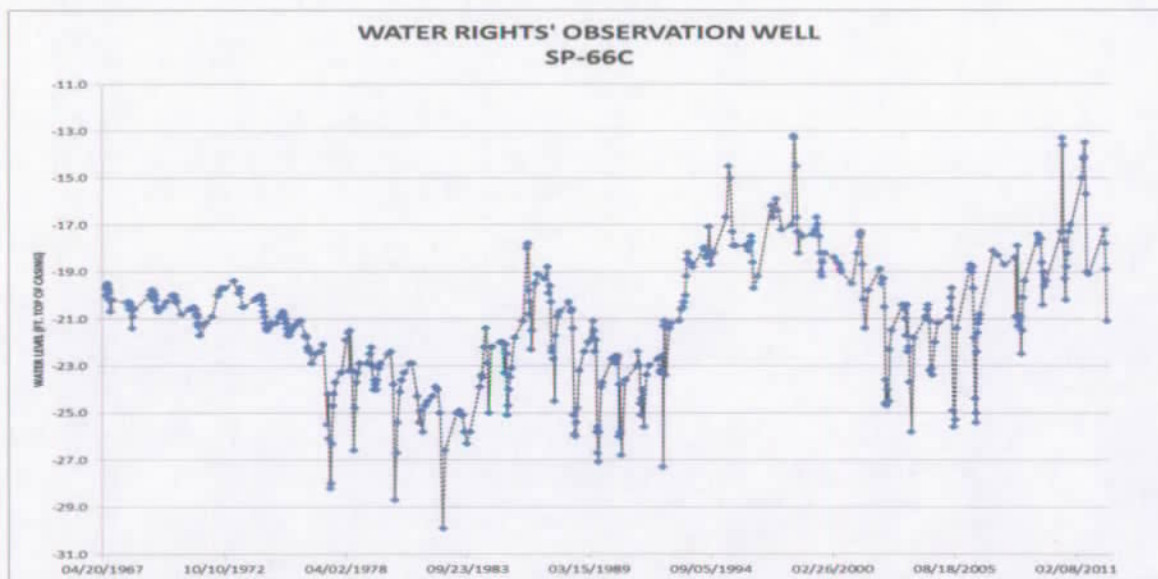


Figure 7. DENR-Water Rights' Observation well completed into the Tulare: East James aquifer, located near irrigation development

All of the observation well data shows that at the current level of development, climatic conditions greatly mask any temporal effects of well withdrawals. Therefore, the data shows that the combined recharge to and natural discharge from the Tulare: East James aquifer significantly exceeds long term well withdrawals.

Potentiometric Surface:

The potentiometric surface of the Tulare: East James aquifer was determined for two time periods based on the observation well measurements for September 1980 and for September 2011. A map showing the two potentiometric surfaces is shown in Figure 8.

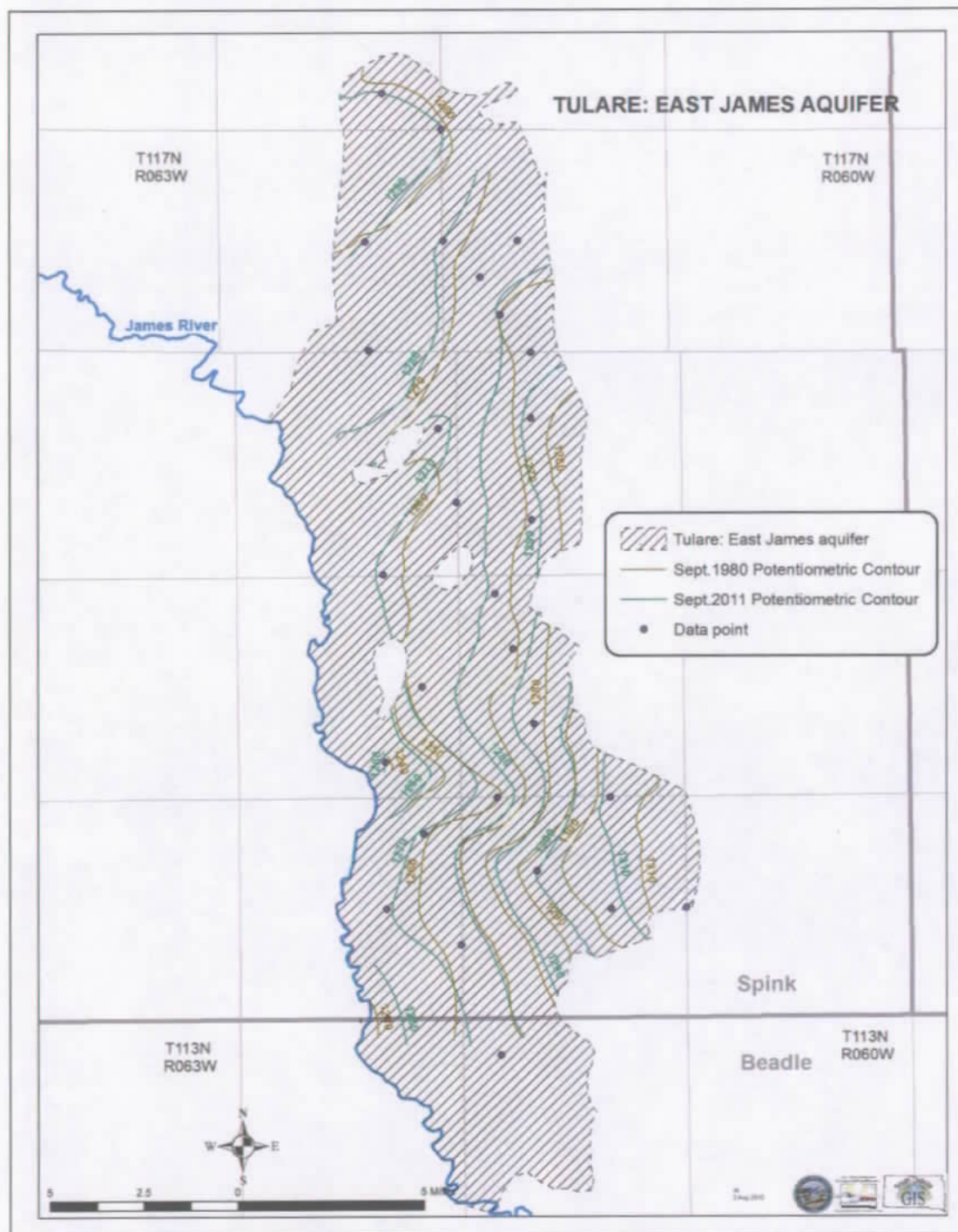


Figure 8. Comparison of the potentiometric surface of the Tulare: East James aquifer (September 1980 to September 2011)

Although the September 1980 water levels were generally lower than the September 2011 water levels, the configuration of the potentiometric surface has not changed significantly over time. It is clear that the amount of water in transient storage in the aquifer has not been significantly affected by increased appropriations and well withdrawals from the aquifer. The stress on the aquifer over time with increased appropriations is not evident in the records of water levels, therefore recharge to the aquifer and natural discharges from the aquifer significantly exceed well withdrawals.

HYDROLOGIC BUDGET:

SDCL 46-6-3.1 and the availability of unappropriated water from the Tulare: East James aquifer can be evaluated by considering a hydrologic budget for the aquifer which compares the recharge to and discharge from the aquifer.

Recharge:

Recharge to the Tulare: East James aquifer is primarily through infiltration of precipitation where the aquifer is at or near the surface. Timber Creek and some of its tributaries have incised into the Tulare: East James aquifer and streamflow provides recharge to the aquifer especially in the northern portion of the aquifer (Goodman, 1984). In addition, "...leakage through ruptured well casings or infiltration of uncontrolled discharge from flowing wells completed in bedrock may recharge aquifers in the glacial deposits" (Hamilton and Howells, 1996).

Recharge Estimates:

Previous Estimates:

Recharge to the Tulare: East James aquifer was estimated by Hedges and others (1985) using an observation well analysis to be 2.5 inches per year for the unconfined portion of the aquifer. Hedges and others (1985) used a regional flow-net analysis to estimate a recharge rate of 0.72 inches per year for the unconfined portion of the aquifer and 0.30 inches per year for the confined portion of the Tulare: East James aquifer. Average annual recharge to the Tulare: East James aquifer was also estimated by Kuiper (1984), using a digital groundwater model to be 0.38-1.52 inches per year with a "best fit" of 0.76 inches per year.

In the past the Water Management Board has accepted 0.76 inches per year as the best available recharge rate estimate, an areal extent equal to 125,600 acres and an average annual recharge volume of 7,950 acre-feet per year for the Tulare: East James aquifer (Water Management Board Findings dated 26 October, 2006 (Paragraph 8)). Assuming an areal extent of the aquifer 123,578 acres (see Figure 1), the average annual recharge to the Tulare: East James aquifer 7,827 acre-feet per year.

Regional Flow Net Analysis:

The recharge potential of the Tulare: East James aquifer was evaluated by interpreting a regional flow net analysis based on the September 2011 water level data from the DENR-Water Rights' Observation Well Network. A flow net analysis is a calculation of the amount of water flowing through the aquifer according to the equation:

$$Q = TIL$$

Where:

Q= flow in gallons per day

T= Transmissivity in gallons per day per foot
I= Hydraulic gradient in feet per mile
L= Cross sectional length in miles

The average hydraulic conductivity for the Tulare: East James aquifer was estimated based on the specific capacities of the 12 irrigation wells completed into the aquifer for which the data to allow these calculations was available (Water Rights, 2012b; Water Rights, 2012c). Transmissivity was calculated at each well using the wells' specific capacity ("Transmissivity from Specific Capacity"), and the transmissivity was divided by the aquifer thickness at the well. The average hydraulic conductivity was calculated to be 1,512.9 gallons per day per square foot (gpd/ft²). The average transmissivity of the Tulare: East James aquifer of a cross section through which all of the flow of the aquifer must flow was determined by multiplying the average thickness of the cross section (38.4 feet) times the average hydraulic conductivity for the aquifer (1,512.9 gallons per day per square foot) to be 58,095 gallons per day per foot.

The hydraulic gradient for the Tulare: East James aquifer was estimated to average 7.5 feet per mile based on data from the DENR-Water Rights' Observation Well Network.

The cross section length of the Tulare: East James aquifer was determined to be approximately 17 miles based on the current aquifer delineation.

The amount of water moving through the Tulare: East James aquifer is estimated as follows:

$$\begin{aligned} Q &= ((58,095 \text{ gpd/ft}) \times (7.5 \text{ ft/mile}) \times (17 \text{ miles})) / (325,851 \text{ gallons/ac-ft}) \\ &= 22.7 \text{ ac-ft/day} \\ &= \underline{8,285 \text{ ac-ft/yr}} \end{aligned}$$

In order to sustain this estimated volume of groundwater moving through the aquifer, the recharge rate in inches per acre per year based on an area of the aquifer of 123,578 acres would be 0.80 inches. This recharge rate cannot be considered "average annual recharge" since it used only 2011 data; however the estimate does show the reasonableness of the average annual recharge estimate from Kuiper (1984).

Discharge:

Discharge from the Tulare: East James aquifer is both natural (i.e. evapotranspiration and discharge to the James River) and through well withdrawals.

Well withdrawals:

Well withdrawals from the Tulare: East James aquifer occur through domestic use which does not requiring a water permit or right and uses from appropriative rights/permits.

Domestic water use:

There are 55 domestic water supply wells on file with the DENR-Water Rights (Water Rights, 2012c) that appear to be completed into the Tulare: East James aquifer. The volume of water used by these wells was estimated based on the average rural use for Mid Dakota RWS (i.e. 7,000 gallons per tap per month), (SD-Department of Environment and Natural Resources, 2012) to be approximately 14 acre-feet per year.

Appropriative water use

All of the water rights/permits appropriating water from the Tulare: East James aquifers are for irrigation use. The history of the development of irrigation in the Tulare: East James aquifer can be seen in Figures 9 and 10.

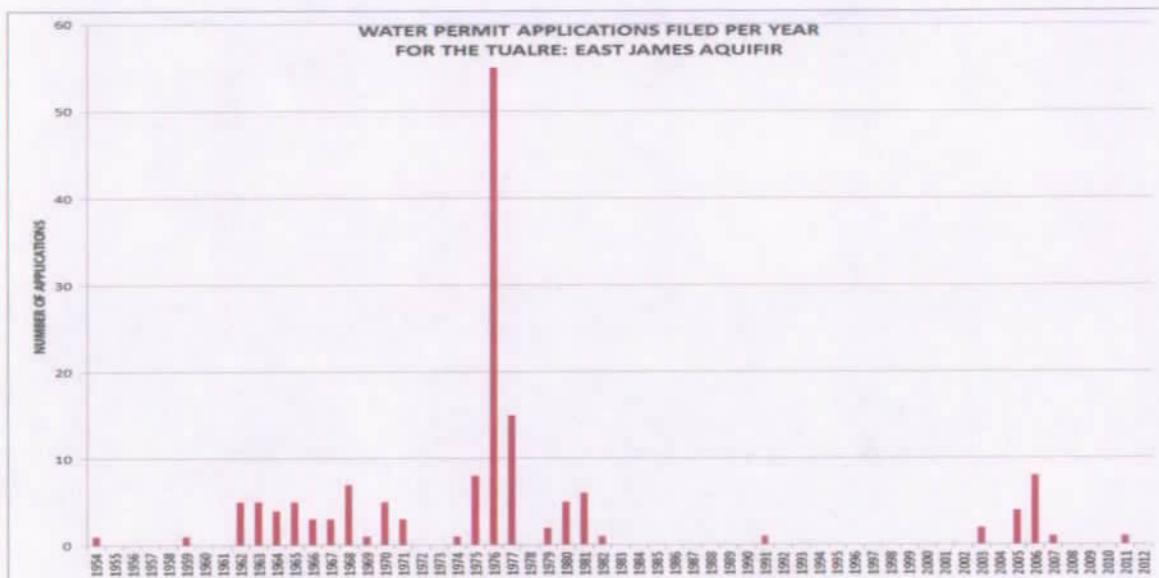


Figure 9. Water permit applications filed per year for the Tulare: East James aquifer

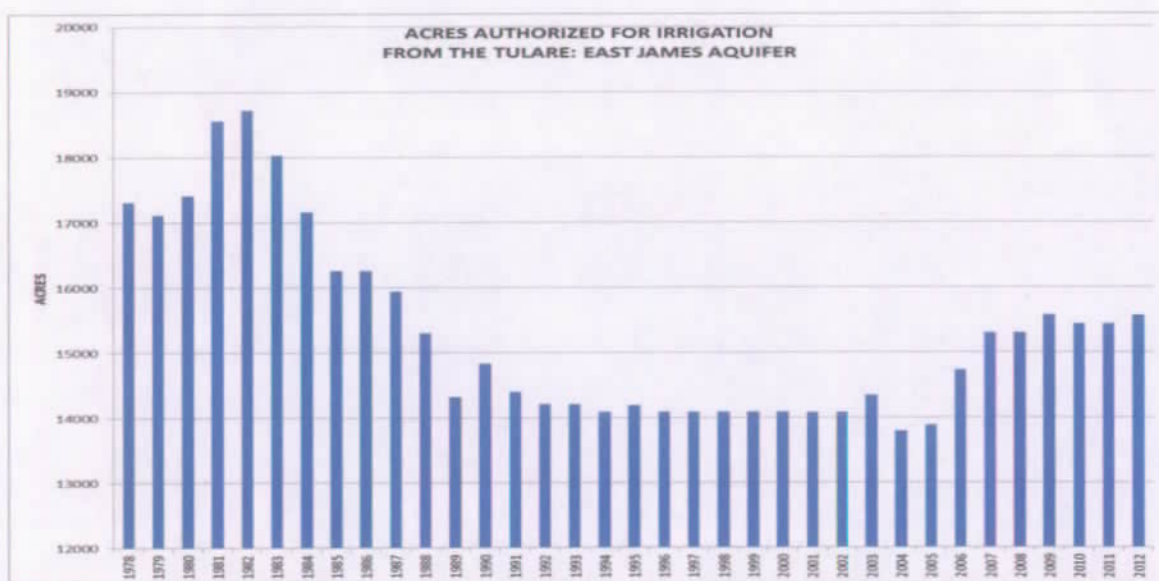


Figure 10. Acres authorized for Irrigation from the Tulare: East James aquifer

Examination of Figures 9 and 10 show that for practical purposes, irrigation development was essentially complete by 1979 or 1980. The number of appropriations and amount of water reported pumped from the aquifer (see Table 2) also suggest that the Tulare: East James aquifer should be considered fully developed as of about 1979 or 1980.

YEAR	NO. PERMITS	APPROPRIATION (acre-feet/year)	PUMPED (acre-feet/year)
1979	81	46,062.00	5,321.00
1980	82	46,326.00	7,348.00
1981	92	48,404.00	12,935.00
1982	80	44,931.30	6,873.68
1983	82	45,395.60	5,951.32
1984	81	42,131.20	4,236.80
1985	79	41,777.20	4,251.00
1986	80	41,741.20	4,940.00
1987	76	39,978.20	8,481.00
1988	75	41,043.20	11,106.20
1989	76	40,971.20	11,281.50
1990	75	40,716.20	6,928.00
1991	76	40,772.20	7,890.10
1992	76	40,220.20	3,224.40
1993	75	40,164.20	1,089.00
1994	76	40,510.35	3,897.29
1995	75	40,498.20	2,932.31
1996	75	40,498.20	7,389.13
1997	75	40,498.20	2,676.00
1998	75	40,498.20	3,475.85
1999	75	40,498.20	5,011.51
2000	75	40,498.20	7,690.37
2001	77	41,324.20	10,287.41
2002	78	42,020.20	13,668.09
2003	75	39,811.20	11,864.48
2004	77	39,288.20	7,372.58
2005	79	39,322.20	8,491.16
2006	84	40,986.20	11,746.21
2007	86	41,498.20	7,204.13
2008	85	40,974.20	3,900.71
2009	87	41,510.20	3,908.42
2010	88	41,246.20	2,414.41
2011	87	40,766.20	4,675.06
<i>MAX</i>	92	48,404.00	13,668.09
<i>MIN</i>	75	39,288.20	1,089.00
<i>AVE</i>	79.24	41,602.44	6,680.67

Table 2. Irrigation water use statistics for the Tulare: East James aquifer (Water Rights, 1980-2012)

The total well withdrawal from the aquifer including domestic use is expected to average less than 6,700 acre-feet/year. This total withdrawal from the Tulare: East James aquifer due to pumping is around 0.98% of the estimated recoverable water in storage in the aquifer (6,700 acre-feet pumped per year versus 685,857 acre-feet of recoverable water in storage).

A comparison of the estimated average well withdrawals from the Tulare: East James aquifer (6,700 acre-feet/year) with the estimated average annual recharge rate for the aquifer (7,827 acre-feet/year) shows that approximately 1,127 acre-feet of unappropriated water is available from the Tulare: East James aquifer.

In the past, the Water Management Board has considered the number of additional acres that can be permitted for irrigation given a volume of unappropriated water, as a function of the average irrigation application rate (i.e. inches of water applied per acre) for the aquifer.

The average annual application rate calculated from the total volume of water reported pumped and the total acres reported irrigated for the Tulare: East James aquifer for the period of 1979-2011 is 7.68 inches per year (see Table 3).

Year	Acres Permitted	Acres Irrigated	Irrigated/Permitted Percentage	Total Permits Reporting	Permits Pumping Water	Total Pumped (ac-ft)	Average Application Rate (in/ac/yr)
1979	17113.7	9231	53.94	84	56	5388.25	7.00
1980	17412.7	*	*	*	*	*	*
1981	18561.7	*	*	*	*	*	*
1982	18721.7	*	*	*	*	*	*
1983	18030.7	8441.5	46.82	87	55	6208.44	8.83
1984	17158.7	9032	52.64	87	58	4828.48	6.42
1985	16264.7	8863	54.49	83	56	4638.54	6.28
1986	16264.7	9123	56.09	80	63	5065.92	6.66
1987	15944.7	9385	58.86	77	62	8565.77	10.95
1988	15304.7	10023.5	65.49	76	68	11294.18	13.52
1989	14325	10317.8	72.03	76	59	11491.67	13.37
1990	14835	8969	60.46	75	50	6958.00	9.31
1991	14399	9612.6	66.76	77	60	7797.19	9.73
1992	14215	10717.8	75.40	77	64	3328.84	3.73
1993	14215	5614	39.49	77	34	1122.85	2.40
1994	14095	8113	57.56	67	49	3888.01	5.75
1995	14195	6118	43.10	67	31	2302.63	4.52
1996	14095	10059	71.37	67	59	7180.73	8.57
1997	14095	6885	48.85	67	40	2664.00	4.64
1998	14095	8321.8	59.04	67	51	3473.86	5.01
1999	14095	9610.8	68.19	67	58	4949.86	6.18
2000	14089	10274	72.92	68	62	7524.65	8.79
2001	14087	9984	70.87	69	61	9593.02	11.53
2002	14087	10760.8	76.39	71	62	12767.30	14.24
2003	14351	11684.8	81.42	75	66	11448.20	11.76
2004	13796	11999	86.97	75	71	7168.92	7.17
2005	13887	12083.4	87.01	82	67	8379.21	8.32
2006	14731	12718.8	86.34	86	72	11487.25	10.84
2007	15307	11518.4	75.25	83	66	7116.63	7.41
2008	15307	13533	88.41	84	73	3900.71	3.46
2009	15575	11547.3	74.14	87	63	3908.42	4.06
2010	15443	8161.2	52.85	88	46	2379.06	3.50
2011	15443	8789	56.91	87	49	4675.06	6.38
2012*	15571*						
MAX	18721.70	13533.00	88.41	88.00	73.00	12767.30	14.24
MIN	13796.00	5614.00	39.49	67.00	31.00	1122.85	2.40
AVE	15258.79	9716.38	65.34	77.10	57.70	6383.19	7.68

Table 3. Irrigation development from the Tulare: East James aquifer (*data not available), (modified from Mathiowetz, 2012a)

The analysis of observation well data indicates that the recharge to the Tulare: East James aquifer exceeded the withdrawals from the aquifer by an average of 1,045 acre feet per year from 1980-2011. A comparison of the estimated average annual recharge to the aquifer with the estimated average annual well withdrawals from the aquifer from 1979-2011 shows that 1,127 acre-feet of unappropriated water is available from the Tulare: East James aquifer. Assuming an average irrigation application rate of 7.68 inches per year, an average of 1,633 additional acres could have been irrigated based on the observation well analysis and an average of 1,761 additional acres could have been irrigated based on estimated average annual recharge.

EXISTING WATER RIGHTS:

There have been a total of 164 applications to appropriate water from the Tulare: East James aquifer. The status of the applications is shown in Table 4.

STATUS	NUMBER OF APPLICATIONS
LICENSED	69
PERMITTED	24
INCORPORATED	27
CANCELLED	29
DENIED	9
WITHDRAWN	6

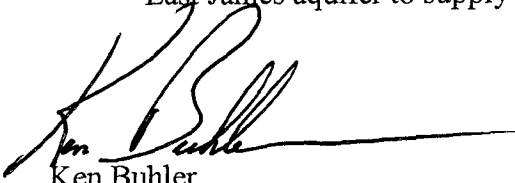
Table 4. Status of water permit applications from the Tulare: East James aquifer

Development from the Tulare: East James aquifer dates back to the mid 1950's and there are currently at least 137 irrigation wells producing from the aquifer. Well interference has never been an issue from the aquifer and it is likely that additional irrigation wells could be completed without unlawfully impairing existing water rights.

CONCLUSIONS:

1. The Tulare: East James aquifer is an extensive, primarily buried, generally confined glacial outwash aquifer.
2. The best information currently available indicates that the Tulare: East James aquifer underlies approximately 123,578 acres of Spink and Beadle Counties.
3. The best information currently available identifies an average annual recharge rate to the Tulare: East James aquifer as approximately 0.76 inches per year.
4. The volume of average annual recharge to the Tulare: East James aquifer based on an area of 123,578 acres and a recharge rate of 0.76 inches per year is approximately 7,827 acre-feet per year.
5. The average annual well withdrawal from the Tulare: East James aquifer is from 1979-2011 estimated to be 6,700 acre-feet per year.
6. The SD DENR-Water Rights Program observation well data documents that over the period of record the potentiometric surface of the Tulare: East James aquifer has averaged an upward trend.
7. The SD DENR-Water Rights Program observation well data documents that well withdrawals from the Tulare: East James aquifer have not had a long term effect on the amount of water in storage in the aquifer.
8. The SD DENR-Water Rights Program observation well data documents that the configuration of the potentiometric surface of the Tulare: East James aquifer has not changed significantly with time or increased development.

9. The SD DENR-Water Rights Program observation well data documents that recharge to the Tulare: East James aquifer has exceeded the discharge from the aquifer by an average of 1,045 acre-feet per year.
10. The average annual irrigation application rate for the Tulare: East James aquifer from 1979-2011 has been 7.68 inches per year.
11. Assuming an average application rate of 7.68 inches per year, an average of 1,761 additional acres could have been irrigated based on a comparison of average annual recharge and average annual well withdrawals
12. Assuming an average application rate of 7.68 inches per year, an average of 1,633 additional acres could have been irrigated based on the observation well analysis of the aquifer.
13. Well interference has never been a problem from the Tulare: East James aquifer and there is a reasonable probability that additional irrigation wells could be completed into the aquifer without adversely impacting existing users.
14. Water permit application Nos. 7295-3, 7316-3, 7348-3, 7364-3, 7365-3, 7366-3, 7367-3, 7368-3, 7369-3, 7370-3 propose to appropriate water to irrigate 1759 acres from the Tulare: East James aquifer.
15. There is a reasonable probability that unappropriated water is available from the Tulare: East James aquifer to supply water for these appropriations.



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Goodman, J.A., 1984, Report on Applications No. 5009-3 Duane Muxen, No. 3178A-3 M.J.T. Inc., and No. 2235A-3 Gary D. Wipf, DENR-Water Rights Program unpublished report in Water Permit Application File No. 5009-3
- Hamilton L.J., and Howells, L.W., 1996, Water Resources of Spink county, South Dakota, U.S. Geological Survey Water-Resources Investigations Report 96-4056, 68 p.
- Hines v. South Dakota Dept. of Environ. and Nat'l. Resources, Hughes County 04-37 (Memorandum Decision, April 29, 2005)
- Kuiper, L.K. 1984, Appraisal of the Water Resources of The Eastern Part of the Tulare Aquifer, Beadle, hand, and Spink Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 84-4078, 52 p.
- Mathiowetz, A.W. 2012. Unpublished data. Pierre, SD.: South Dakota Department of Environment and Natural Resources Water Rights Programs.

SD-Department of Environment and Natural Resources, 2012, 2011 Regional Water Rate Survey, SD-DENR, Joe Foss Bldg. Pierre, SD

“Transmissivity from Specific Capacity.” Aquifer Test Forum sponsored by HydroSOLVE, Inc.
1 August.2012< <http://www.aqtesolv.com/forum/transcap.asp>

Water Permit Application Nos. 6711-3, 6713-3, 6715-3 and 6728-3 (Water Management Board Findings of Fact, Conclusions of Law and Final Decision issued 26 October, 2006)

Water Rights, 1980-2012a, Irrigation Questionnaires 1980-2011, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 1980-2012b, “Annual 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAN 25 2013

Wipf Acres LP
Gary Wipf
17801 401st Ave
Frankfort SD 57440

Dear Mr. Wipf

Enclosed is Water Permit No. 7364-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

The water permit will be subject to cancellation if necessary works are not constructed within the five year period listed under Item No. 5 of the permit (December 6, 2017). In addition, water rights law provides that if one fifth (1/5) of the works authorized by this permit are not completed within 2 1/2 years of approval of the permit, the Water Management Board may accept and approve an application for the use of any water included in this water permit and the right to use the water under this permit be subject to cancellation for forfeiture. Since the Tulare:East James Aquifer is deemed fully appropriated by DENR, one fifth of construction will need to be completed by June 6, 2015 or the permit maybe subject to cancellation for forfeiture before the Board.

A 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 information 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

7364-3

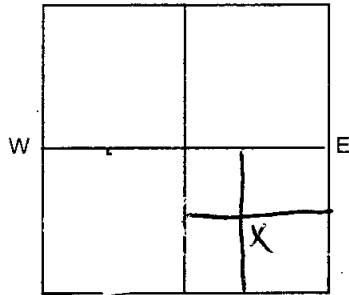
SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SF 1/4 SF 1/4 Sec 7 Twp 115 Rg 61County Spink

North

Please mark well
location with an "X"

Well Completion Date

07/26/2013

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
ft. from _____ (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Reverse

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
40 LB/FT	16 IN	0 FT	80 FT	24 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
VolClay	50	Lb/gal	0 Ft	76 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure _____

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 16 Inches Length 15 FeetMaterial Stainless SteelSlot Size .057 Set From 80 Feet to 95 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☒ Yes ☐ NoIf so, what material? PearockDescribe packer(s) and location
at 76ft

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?Lab to which water ☐ No, Why Not?
quality sample sent for analysis _____Well Owner: Gary Wipf

Business Name: _____

Address: 17801 401st AveCity, State, Zip: Frankfort ☒ SD ☒ 57440

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Yellow Clay	0	13
Yellow sand	13	45
White coarse sand	45	73
Gravel	73	95
Shale	95	

STATIC WATER LEVEL 12 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____
☐ Bailed
☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

RECEIVED

AUG 16 2013

WATER RIGHTS
PROGRAMThis well was drilled under license # 440 and this
report is true and accurate.Drilling firm: Ken PalmerSignature of License Representative: Ken Palmer

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

2-2-13

7364-3

RECEIVED

JUL 10 2014

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date

7-9-14

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Gary D. Wipf - Wipf Acres LP
(name)17801 401 Ave
(address)Frankfort SD 57440
(city, state, zip)605 472 1690
(phone)

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

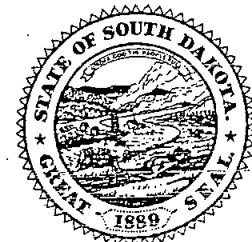
Water Permit No. 7364-3 states that the water use system is to be constructed by
12-6-17, and water is to be put to beneficial use by 12-6-17
(date) (date)

The water use system was completed on 7-8-14
(date)

Applying the water to beneficial use was completed on 7-8-14
(date)

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

Gary D Wipf
(signature)





**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



July 21, 2014

7364-3

Gary D Wipf
Wipf Acres LP
17801 401st Ave
Frankfort SD 57440

Dear Mr. Wipf:

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

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

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

Sincerely,

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

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7364-3

I have this day, November 3, 2015, made a thorough examination of the water use system constructed by Wipf Acres LP, 17801 401 Ave, Frankfort, SD of Permit No. 7364-3, bearing the priority of May 24, 2012 authorizing the diversion of 1.93 cu. ft. per second of the waters of Tulare: East James for irrigation purposes, in Spink County.

Inspection contact & relationship **Gary Wipf**
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 one
- 3) Depth 95 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 16 inches
- 2) Length 80 feet
- 3) Type plastic

Screen:

- 1) Type stainless steel
- 2) Length 15 feet
- 3) Static water level 12 feet

Pump:

- 1) Make submersible
- 2) Capacity 750 GPM

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

Comments: **Well is at pivot center**

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Zimmatic
- 2) Overall length 1301 feet
- 3) Number of towers 7

4) End gun Yes (range 96 ft)

5) Pressure: low (35 psi)

6) Capacity 750 GPM

Chemigation Equipment:

1) Does not chemigate

D. Compliance with Permit Requirements:

1) Permit qualifications being abided by Yes

If no, describe: n/a

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

List any extended period of nonuse: none

3) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in good condition with the point of diversion located as follows: Approximately 1,330 ft north and 1,310 ft west of the SE corner of Section 7-T115N-R61W (approximate center of SE ¼) (longitude 98.20594W and latitude 44.78100N).

2. The works are capable of diverting and conveying to the place of use 1.67 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

legal description/acreage

NW ¼ SE ¼ Sec. 7-T115N-R61W 34.5 acres

NE ¼ SE ¼ Sec. 7-T115N-R61W 34.5 acres

legal description/acreage

SE¼ SE ¼ Sec. 7-T115N-R61W 33 acres

SW¼ SE ¼ Sec. 7-T115N-R61W 33 acres

comprising a total of 135 acres of land and the license should be issued for 1.67cfs.

3. All structures, wells and lands on map Yes

If no, describe: trees in the SW ¼ SE ¼ were being removed at the time of inspection

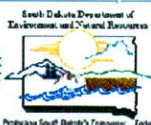
F. Comments or other permit(s) associated with the project:

none

Whitney Kilts
Whitney Kilts

Natural Resources Engineer
DENR, Water Rights Program

Date report completed: January 27, 2016



Completed by: Whitney Kilts
Whitney Kilts, Natural Resources Engineer
SD DENR, Water Rights Program

Diversion point(s) located using Garmin eTrex 10 GPS
Date: January 27, 2016

Water Right No. 7364-3

Entity Detail	File Annual Report	Statement of Change	Forms
Name	WIPF ACRES, LIMITED PARTNERSHIP		
Corporate ID	FP000721		
Incorporation/Qualification Date	10/3/2008		
Home State	MINNESOTA		
Status	Active		
Last Annual Report	2008		
Corporation Type	Foreign Limited Partnership		
Stock Info			
Registered Agent	Documents	Officers	

Registered Agent Name & Address

GARY WIPF
17801 401ST AVENUE
FRANKFORT, SD 57440-7303



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

FEB 23 2016

7364-3

Gary Wipf
Wipf Acres LP
17801 401st Ave
Frankfort SD 57440

Dear Mr. Wipf:

Enclosed is Water License No. 7364-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 7364-3, 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,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7364-3**

(1) Wipf Acres LP, 17801 401st Ave, Frankfort SD 57440 made Application No. 7364-3, May 24, 2012 for a water permit to divert 1.93 cubic feet of water per second from ground water, one well (Tulare:East James Aquifer), Spink County, South Dakota for irrigation purposes. Permit No. 7364-3, with a priority date of May 24, 2012 was approved December 6, 2012 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 6, 2017 and for the application to beneficial use of said water on or before December 6, 2021.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on July 10, 2014. The "*Notice*" stated the water use system was completed and the water placed to beneficial use on July 8, 2014.

(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 1.67 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 1,330 feet north and 1,310 feet west of the SE corner of Section 7, T115N, R61W (approximate center of the SE ¼).

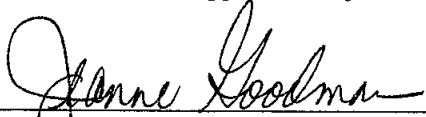
(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

T115N, R61W Section 7	NW ¼ SE ¼	34.5 acres
	NE ¼ SE ¼	34.5 acres
	SE ¼ SE ¼	33.0 acres
	SW ¼ SE ¼	33.0 acres
	Total	135.0 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Wipf Acres LP, 17801 401st Ave, Frankfort SD 57440 the holder and/or owner of Water Right No. 7364-3 is issued a license to appropriate water, the right to use 1.67 cubic feet of water per second from ground water, one well (Tulare:East James Aquifer) with a priority date of May 24, 2012 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 7364-3 and subject to the following qualifications:

- 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.
- The well authorized by Permit No. 7364-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *The well was completed in July, 2013 by Pullman Well Drilling. A copy of the well log is on file with the Water Rights Program.*
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.


Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

FEB 23 2016
date

