

WATER PERMIT NO. 7442-3

Name of Applicant: Gary E or Julie A Peterson

Address: 45913 299th St, Centerville SD 57014

Phone: 605 563-2346

Amount of Water Claimed: no add'l

Total Acres: 40 acres

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Clay

Type of Waste Disposal System:

Location: 5 miles southwest of Centerville

PRIORITY

Date Received: 9-26-12

Application/License Fee: \$ 700

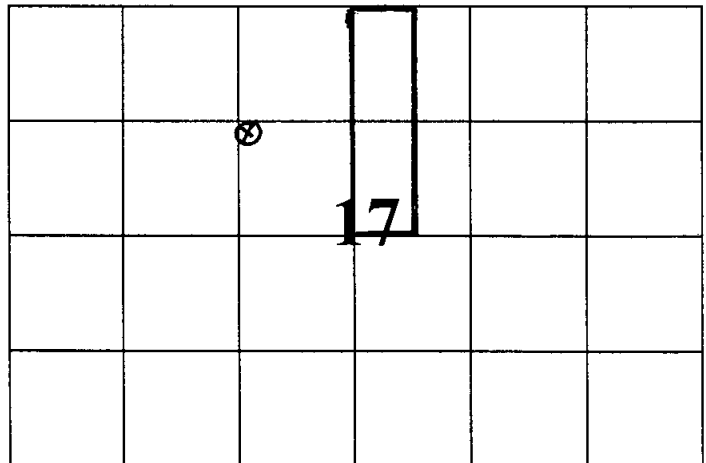
Corrected Application Received:

Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: SE 1/4
center NW 1/4 Sec 17-T95N-
R52W

Land to be Irrigated: W 1/2 NE 1/4 Sec 17-T95N-
R52W



Depth of Well: 165 feet deep

Well Driller: Wetmore Drilling

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 9-26-12

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7442-3</u> (office use only)	Hydrologic Unit <u>10 170102</u>
	Basin <u>Vermillion River</u>	
	Newspaper <u>Plain Talk Vermillion</u>	
	<u>Press & Debate</u> <u>Yankton</u>	

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SEP 26 2012

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 5982-3
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
add 40 acres of adjacent land to irrigated acres permitted.

- Name of Applicant Gary E. or Julie A. Peterson Phone 605-563-2346
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 45913 299th Street Centerville sd 57014
(Address) (City) (State) (Zip Code)
- Amount of water claimed 0 *CFS or 0 **GPM 0 ***AF Total Acreage 40 addition
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Lower Vermillion-Missouri Aquifer
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County clay
existing well in SE 1/4, NW 1/4 section 17, T95N, R52W
- County or counties where water will be used Clay
- Annual period during which water is to be used May-September, annually May 1 - September 30
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	T-95	Acres	Acres	Land Description	Acres
W 1/2 of the NW 1/4 of the NE 1/4 Sec 17 N	52W	15			
W 1/2 of the SW 1/4 of the NE 1/4 Sec 17 N	52W	15			
	T-95				

- Give a description of the project. (Attach sheet if more space is needed)
add 40 acre tract of irrigateds land on the east side of property previously permitted

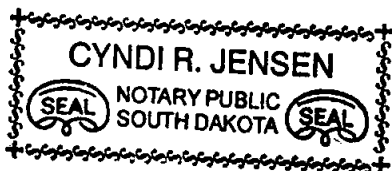
STATE OF SOUTH DAKOTA)
County of Clay) SS

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

I, Gary Peterson, 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 Peterson

Subscribed and sworn to before me this 24th day of September 20 12



Cyndi R. Jensen
Notary Public Signature
My Commission Expires: 8/27/18

**REISSUED
SOUTH DAKOTA
WATER PERMIT NO. 7442-3 FOR IRRIGATION**

Date of first receipt of application September 26, 2012.

The Water Management Board approved Water Permit No. 7442-3 on March 6, 2014 for Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 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. 7442-3 authorizes irrigation of 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well completed into the South Management Unit of the Upper Vermillion Missouri Aquifer (165 feet deep) located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The permit authorizes irrigation of an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This permit does not authorize any increase in the developed diversion rate.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is September 26, 2012.
4. One-fifth of the construction is to be completed on or before September 6, 2016.
5. All construction is to be completed on or before March 6, 2019.
6. Water is to be put to beneficial use on or before March 6, 2023.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

The following qualifications supersede the interim conditions placed on Permit No. 7442-3 issued June 21, 2013.

1. The well approved under Water Right No. 5982-3 and this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 

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

APR 11 2014

date



SOUTH DAKOTA
WATER PERMIT NO. 7442-3 FOR IRRIGATION

Date of first receipt of application September 26, 2012.

The Water Management Board approved Water Permit No. 7442-3 on May 2, 2013 for Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 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. 7442-3 authorizes a change in the location of acres under Water Right No. 5982-3. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well completed into the Upper Vermillion Missouri Aquifer (165 feet deep) located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. This permit authorizes a change in location of the 115 acres to include the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This permit does not authorize any increase in the developed diversion rate.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is February 27, 1997 (change of acres).
4. One-fifth of the construction is to be completed on or before November 2, 2015.
5. All construction is to be completed on or before May 2, 2018.
6. Water is to be put to beneficial use on or before May 2, 2022.
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 Water Right No. 5982-3 and this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Water Permit No. 7442-3 shall be limited to the existing diversion rate authority of 1.64 cfs for irrigation of 115 acres authorized by Water Right No. 5982-3. The issuance of this Permit is for the sole purpose of allowing a change in the location of acres irrigated to include the W 1/2 NE 1/4 Section 17, T95N, R52W. No more than 115 acres may be irrigated under Water Permits 7442-3 and 5982-3 combined.
4. The deferred portion of this permit for additional acres will be brought back before the Water Management Board when information is available to determine if there is a reasonable probability that there is unappropriated water available for the applicant's proposed use

(continued)

5. Although this Permit would require the Applicant to refrain from irrigating some acreage authorized under Water Permit No. 5982-3 in order to irrigate additional acres in W ½ NE ¼ Section 17, T95N, R52W, the change does not abandon or forfeit any acreage under Water Permit No. 5982-3 at this time. When the deferred portion of Permit No. 7442-3 is addressed before the Board there may be insufficient water available to satisfy the remaining acreage requested under Water Permit No. 7442-3 and if that occurs the Applicant would need to identify the specific 115 acres it will irrigate under Water Permit Nos. 7442-3 and 5982-3 combined and the remaining acreage for either of those permits would be subject to denial (7442-3) or abandonment (5982-3) at that time.

WATER MANAGEMENT BOARD

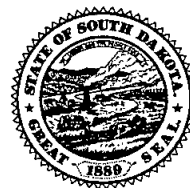
By: 
Jeanne Goodman, Chief Engineer

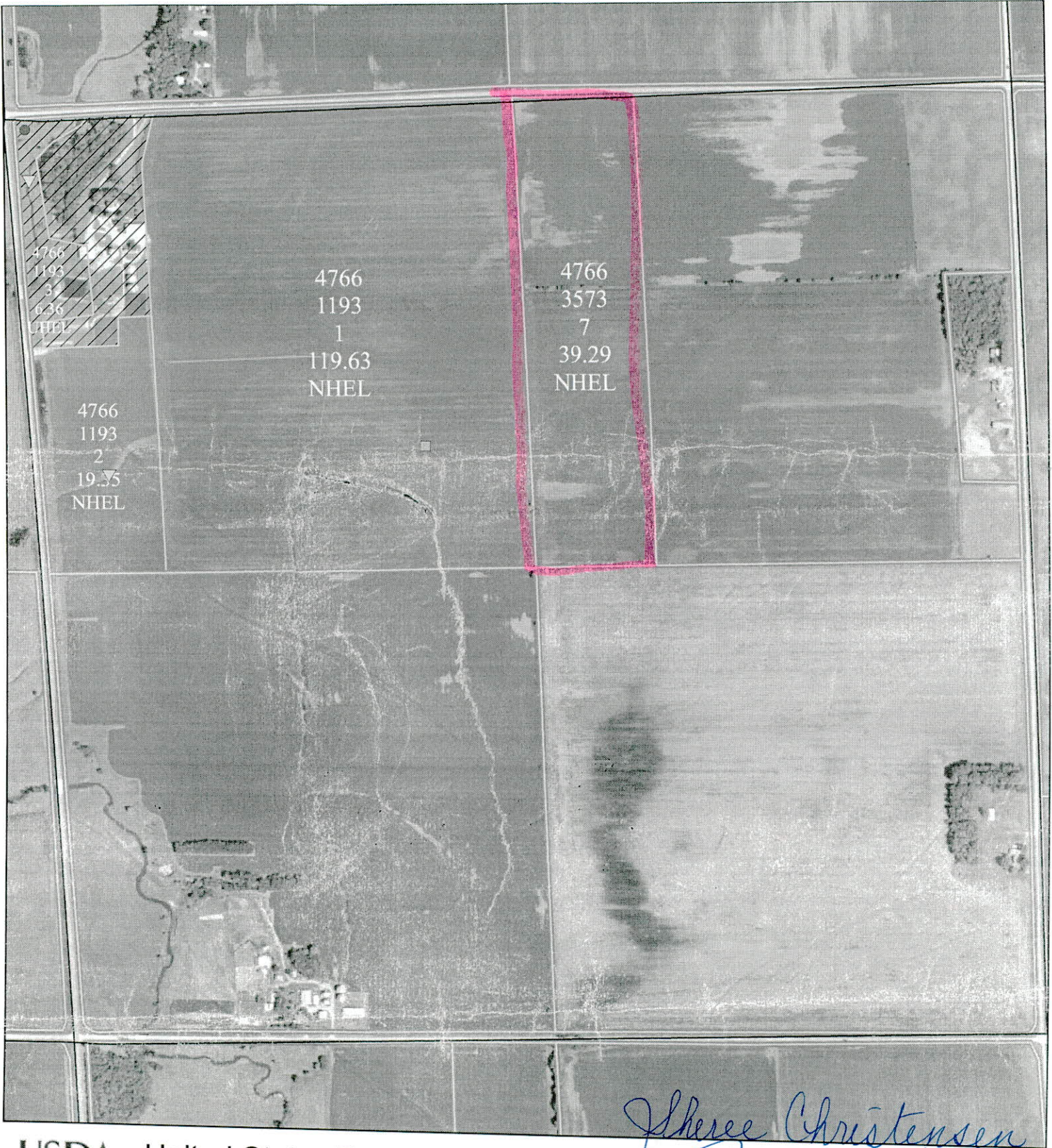
Water Rights Program

Department of Environment and Natural Resources

JUN 21 2013

date





United States Department of Agriculture
Farm Service Agency

PLSS: 17_95N_52W
Farm: 4766

Clay County, SD

1:8,788

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SEP 26 2012



WATER RIGHTS
PROGRAM

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Common Land Units

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.

2008 Ortho-Photography - Not to Scale

Sheree Christensen
Program Tech.
January 10, 2011

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 9/26, 20 12

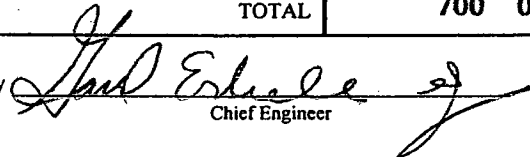
RECEIVED OF Cary Peterson 45913 299th St Centerville SD 57014

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

Fee for Application for Permit No. <u>7442-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	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>7442-3</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	700 00

No. **05588**

By


Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

January 30, 2013

Gary Peterson
45913 299th Street
Centerville SD 57014

Dear Mr. Peterson:

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

1. Summary of water use reporting for Water Right No. 5982-3
2. A composite map of eastern South Dakota and a blow-up from this map showing the line separating the Upper Vermillion Missouri Aquifer and Lower Vermillion Missouri Aquifer. The staff report on your applications also shows the boundary of the UVM Aquifer.

You also asked about the number of applications pending from the UVM Aquifer. There are currently 7 applications that have been public noticed for deferral and another 11 applications pending from the aquifer which I anticipate a deferral recommendation.

I hope this information is helpful.

Sincerely,

Eric Gronlund

Water Rights Program, DENR

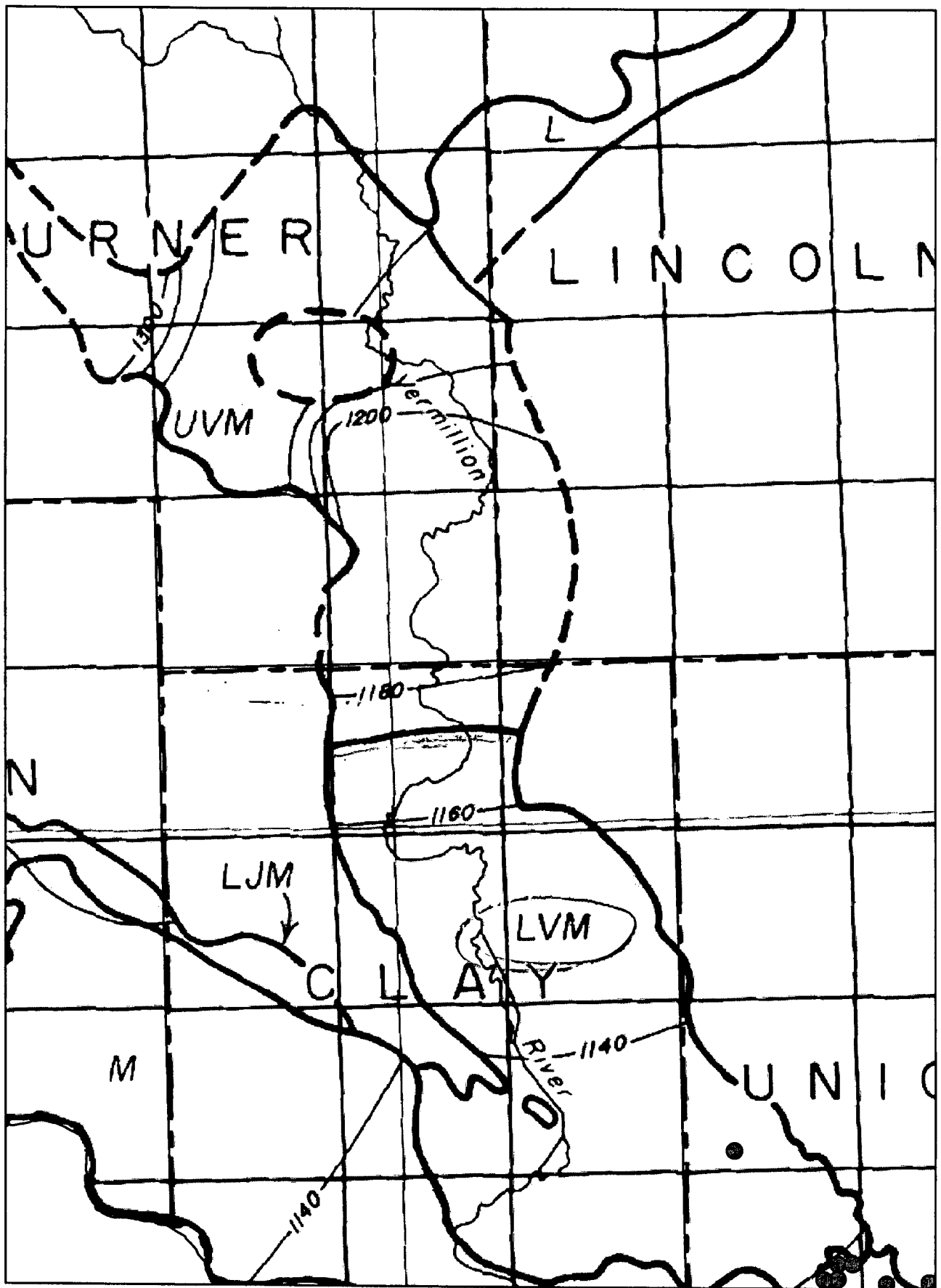
605 773-3352

Eric.gronlund@state.sd.us

enclosures

SUMMARY OF IRRIGATION QUESTIONNAIRES
WATER RIGHT NO. 5982-3 – GARY PETERSON
1997-2012

Year	Authorized Annual Appropriation (Acre-Feet)	Acre Feet of Water Reported
1997	320	35.00
1998	320	19.49
1999	320	38.98
2000	320	48.72
2001	320	61.71
2002	320	51.97
2003	320	33.43
2004	230	50.75
2005	230	53.43
2006	230	43.85
2007	230	83.80
2008	230	34.11
2009	230	0
2010	230	0
2011	230	35.40
2012	230	151.04



Gary – below is a list of application currently being sent for public notice with a deferral recommendation from the Upper Vermillion Missouri Aquifer.

2 applications

Gary or Julie Peterson
45913 299th Street
Centerville SD 57014

Cleland Hagen Trust
c/o Bruce Hagen
1300 W Murphy Drive
Sioux Falls SD 57108

1 application

Bethel Hagen Trust
c/o Bruce Hagen
1300 W Murphy Drive
Sioux Falls SD 57108

Jerome Hult
45958 Hwy 18
Davis SD 57021

Donald D Benson
45067 284th Street
Hurley SD 57036



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 11, 2013

NOTICE

TO: Dr Bruce Hagen Nos. 7466-3 Jerome Hult No. 7452-3
38736 Nasturtium Way 7467-3 45958 Hwy 18
Palm Desert, CA 92211 7468-3 Davis SD 57021

Donald D Benson No. 7535-3 Gary and Julie Peterson Nos. 7441-3
45067 284th Street 7442-3
Hurley SD 57036 Centerville SD 57014

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Change of Hearing Date and Time for Water Permit Applications from the Upper
Vermillion:Missouri Aquifer

The hearing on water permit applications proposing to appropriate water from the Upper Vermillion: Missouri Aquifer were public noticed for 9:00 AM, March 7, 2013. Since the time of public notice in January, there have been additional applications filed to irrigate from this aquifer. In order to provide time to consider all the applications from this aquifer at the same time, the hearing date and time is being changed to the afternoon of Wednesday, March 6, 2013. The Water Management Board's agenda will be dedicated solely that afternoon to consideration of the pending applications from the Upper Vermillion:Missouri Aquifer.

The Water Management Board will consider Water Permit Application Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7467-3, 7468-3 and 7535-3 at 1:00 PM, Wednesday, March 6, 2013 meeting in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.

Applicable provisions of the notice for each application published in area newspapers still apply at this hearing. This hearing is an adversarial proceeding. Parties have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

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 these applications: 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 74:02:01:24.01.

Questions regarding the hearing process may be directed to Eric Gronlund at (605) 773-3352 or email at eric.gronlund@state.sd.us. In addition, 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.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 11, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 11, 2013, regarding scheduling of hearing on Water Right Permit Application Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7467-3, 7468-3 and 7535-3, as addressed below:

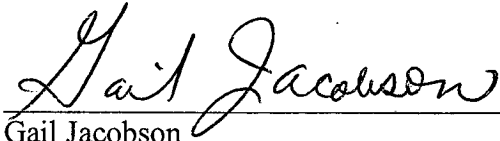
Dr Bruce Hagen
38736 Nasturtium Way
Palm Desert, CA 92211.

Gary and Julie Peterson
45913 299th Street
Centerville SD 57014

Donald D Benson
45067 284th Street
Hurley SD 57036

Jerome Hult
45958 Hwy 18
Davis SD 57021

Diane Best, Assistant Attorney General
300 N. Dakota Avenue, Suite 403
Sioux Falls SD 57104



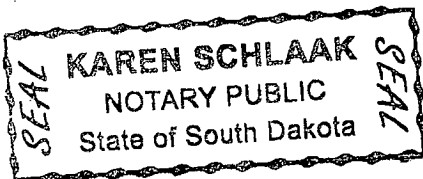
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of February, 2012.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



**PETERSON, STUART,
RUMPCA & RASMUSSEN**
Attorneys at Law
Prof. LLC

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FEB 25 2013

WATER RIGHTS
PROGRAM

February 21, 2013

Dept. of Environment & Natural Resources
PMB 2020 – Joe Foss Building
523 East Capitol
Pierre, SD 57501

Re: Water Permit Applications Nos. 7441-3 & 7442.3, Gary or Julie Peterson

To Whom It May Concern:

Enclosed please find an original Notice of Appearance with regard to the above-referenced matter. This is intended as service by mail upon you. Thank you.

With best regards, I am

Yours very truly,


A. Jason Rumpca
jason.petersonstuart@gmail.com

AJR:jao

Enclosure

cc: Gary & Julie Peterson

Phillip O. Peterson • David A. Stuart* • A. Jason Rumpca • Rachel R. Rasmussen

103 N. 3rd St. • Beresford, SD 57004
Phone: (605) 763-5024 • Fax: (605) 763-8034

* also licensed in Iowa

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FEB 25 2013

WATER RIGHTS
PROGRAM

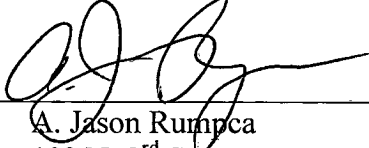
**IN THE MATTER OF THE
WATER PERMIT APPLICATIONS
FROM THE UPPER VERMILLION: MISSOURI AQUIFER
WATER PERMIT APPLICATION NOS. 7441-3 & 7442-3,
GARY OR JULIE PETERSON**

NOTICE OF APPEARANCE

The law firm of Peterson, Stuart, Rumpca & Rasmussen, Prof. LLC, hereby gives notice of its appearance in the above-described proceeding as counsel for Gary and Julie Peterson. All further documents, notices, pleadings, orders and other papers required or permitted by applicable law to be served upon Gary or Julie Peterson should be served upon the undersigned.

Dated at Beresford, South Dakota, this 21st day of February, 2013.

PETERSON, STUART, RUMPCA
& RASMUSSEN, PROF. L.L.C.

By: 

A. Jason Rumpca
103 N. 3rd Street
Beresford, SD 57004
Phone: (605)763-5024
Fax: (605)763-8034
jason.petersonstuart@gmail.com
Attorneys for Applicants,
Gary and Julie Peterson

CERTIFICATE OF SERVICE

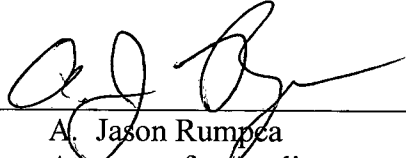
The undersigned hereby certifies that a true and correct copy of the Notice of Appearance in the above-entitled matter was served upon:

Dept. of Environment & Natural Resources
PMB 2020 – Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

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

by regular US mail, postage prepaid, on this 21st day of February, 2013.

PETERSON, STUART, RUMPCA
& RASMUSSEN, PROF. L.L.C.

By: 

A. Jason Rumpca
Attorneys for Applicants,
Gary and Julie Peterson

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FEB 27 2013

WATER RIGHTS
PROGRAM

February 25, 2013

Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

PETITION IN OPPOSITION TO APPLICATIONS TO APPROPRIATE WATER

Re: WATER PERMIT APPLICATIONS NOS.
7441-3 & 7442-3, Gary or Julie Peterson
7452-3, Jerome Hult
7466-3, Bethel Hagen Trust
7467-3 & 7468-3, Cleland Hagen Trust
7535-3, Donald D. Bensen

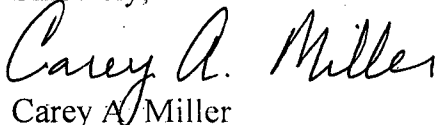
Greetings:

We each own real property located at Swan Lake. Swan Lake is located squarely within the Upper Vermillion Missouri aquifer. As residents of Swan Lake, we have observed downward trending water levels at the lake that mirror the downward trending water levels from the observation wells discussed in the Report to the Chief Engineer.

We support of the Chief Engineer's Recommendation that each of the above listed applications be deferred pending further research. Based on existing information, there does not appear to be unappropriated water available to fill these applications. The Chief Engineer's Recommendation wisely indicates a need for further study of the effects of the rural water system withdrawals on the aquifer. We believe additional research must be completed to ensure that the requirements of SDCL §§ 46-2A-9 and 46-6-3.1 are met and to protect all of the South Dakotans served by the Upper Vermillion Missouri aquifer.

Our addresses and contact information follow our signatures below. The Applicants and/or their counsel of record will be served by copy of this Petition. Thank you.

Sincerely,



Carey A. Miller
Woods Fuller Shultz & Smith P.C.
300 S. Phillips Ave., Suite 300
Sioux Falls, SD 57104



Todd C. Miller
Attorney at Law
141 N. Main Ave., Suite 504
Sioux Falls, SD 57104

**SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
WATER MANAGEMENT BOARD**

In re: Application Nos. 7441-3 and 7442-3 (Gary or Julie Peterson)
Application No. 7452-3 (Jerome Hult)
Application No. 7466-3 (Bethel Hagen Trust)
Application No. 7535-3 (Donald D. Benson)
Application Nos. 7467-3, 7468-3 and 7558-3 (Cleland Hagen Trust)

RECEIVED

FEB 27 2013

**WATER RIGHTS
PROGRAM**

I hereby certify that on the 25th day of February, 2013, I sent by United States first-class mail, postage prepaid, a true and correct copy of a Petition in Opposition to Applications to Appropriate Water to the following:

Mr. Jason Rumpca
Peterson, Stuart, Rumpca & Rasmussen
103 North 3rd Street
Beresford, SD 57004
Attorneys for Gary and Julie Peterson

Jerome Hult
45958 Hwy 18
Davis, SD 57021

Bethel Hagen Trust
c/o Bruce Hagen
1300 West Murphy Drive
Sioux Falls, SD 57108

Cleland Hagen Trust
c/o Bruce Hagen
1300 West Murphy Drive
Sioux Falls, SD 57108

Donald D. Benson
45067 284th Street
Hurley, SD 57036

Mr. Garland Erbele, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol
Pierre, SD 57501

Dated this 25th day of February, 2013.

WOODS, FULLER, SHULTZ & SMITH P.C.

By Carey A. Miller
Carey A. Miller
300 South Phillips Avenue, Suite 300
Post Office Box 5027
Sioux Falls, South Dakota 57117-5027
(605) 336-3890

0-0

NOTICE OF APPEARANCE

0-0

Dated this 4th day of March, 2013.

By:

Attorneys for Petitioners in Opposition

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2013, I caused to be served by United States first-class mail, postage prepaid, and by email a true and correct copy of the foregoing Notice of Appearance upon the following:

Mr. Jason Rumpca
Peterson, Stuart, Rumpca & Rasmussen
103 North 3rd Street
Beresford, SD 57004
Attorneys for Gary and Julie Peterson

Jerome Hult
45958 Hwy 18
Davis, SD 57021

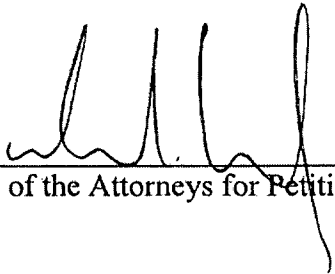
Bethel Hagen Trust
c/o Bruce Hagen
1300 West Murphy Drive
Sioux Falls, SD 57108

Cleland Hagen Trust
c/o Bruce Hagen
1300 West Murphy Drive
Sioux Falls, SD 57108

Donald D. Benson
45067 284th Street
Hurley, SD 57036

Mr. Garland Erbele, Chief Engineer
Water Rights Program
Foss Building
523 East Capitol
Pierre, SD 57501

Ms. Diane Best
Office of the Attorney General
1302 E Hwy 14, Suite 1
Pierre SD 57501-8501



One of the Attorneys for Petitioners in Opposition



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 12, 2013

NOTICE

denr.sd.gov

TO: A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
Jeremiah Welsh, 29217 460th Avenue, Centerville SD 57014
Brad Farrar, 28795 452nd Avenue, Viborg SD 57070
Darrell Osborn, 28838 463rd Avenue, Centerville SD 57014
Michael D Stevens, 28916 458th Avenue, Viborg SD 57070
Paul Peterson, 45610 282nd Street, Hurley SD 57036
Dr Bruce Hagen, 1300 W Murphy Drive, Sioux Falls SD 57108
Dr Bruce Hagen, 38736 Nasturtium Way, Palm Desert, CA 92211

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed Diane Best to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of the Deferral of Water Permit Application Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7535-3, 7467-3, 7468-3, 7558-3, 7587-3, 7588-3, 7600-3, 7601-3, 7602-3, 7603-3, 7623-3, 7633-3, 7653-3. The Board will consider adoption of Findings, Conclusions and Final Decision at 8:30 AM, on Thursday, May 2, 2013, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD. Notice will be provided if there is a change in the hearing date or time.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member, applicants and the petitioner by April 9, 2013. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) and parties of record by April 19, 2013. Board counsel requests that the draft findings or alternative findings be provided in a WORD format file via email to jeff.hallem@state.sd.us.

At the Board's discretion, oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on May 2, 2013. The public hearing was completed on March 6 - 7, 2013. No additional testimony will be received.

If you have questions about the findings process, please contact Diane Best at (605) 367-5880.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General

2013 WATER MANAGEMENT BOARD MEMBERS

Chad Comes **Vice-Chairman**
PO Box 308
Madison SD 57042

Leo Holzbauer
PO Box 877
Wagner SD 57380

Rodney Freeman Jr **Chairman**
PO Box 176
Huron SD 57350

Peggy Dixon
3311 Hogan Court
Rapid City SD 57702

Everett Hoyt
4422 Carriage Hills Dr
Rapid City SD 57702

Tim Bjork **Secretary**
112 W Oak St
Pierre SD 57501

Jim Hutmacher
802 E 7th Street
Oacoma SD 57365

BOARD ATTORNEY

Jeff Hallem, Assistant Attorney General
Natural Resources Section
Office of Attorney General
George S Mickelson Criminal Justice Center
1302 E Hwy 14, Suite 1
Pierre, SD 57501

WATER RIGHTS PROGRAM

Department of Environment and
Natural Resources
Garland Erbele Chief Engineer
Water Rights Program
523 East Capitol Ave
Pierre SD 57501-3181

STAFF ATTORNEY

Diane Best - Assistant Attorney General
Office of Attorney General
Natural Resources Section
317 N Main
Sioux Falls SD 57104-6004

CERTIFICATION

I hereby certify that on March 12, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 12, 2013, regarding preparation of findings of fact, conclusions of law and final decision in the matter of Water Right Permit Application Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7535-3, 7467-3, 7468-3, 7558-3, 7587-3, 7588-3, 7600-3, 7601-3, 7602-3, 7603-3, 7623-3, 7633-3, 7653-3., as set forth below:

A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
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Paul Peterson, 45610 282nd Street, Hurley SD 57036
Dr Bruce Hagen, 1300 W Murphy Drive, Sioux Falls SD 57108
Dr Bruce Hagen, 38736 Nasturtium Way, Palm Desert, CA 92211
Diane Best, Assistant Attorney General, 317 N Main Avenue, Sioux Falls SD 57104

Sent Inter-Office

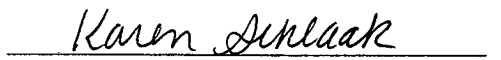
Jeff Hallem, Assistant Attorney General
George S Mickelson Criminal Justice Center
1302 E Hwy 14, Suite 1
Pierre SD 57501

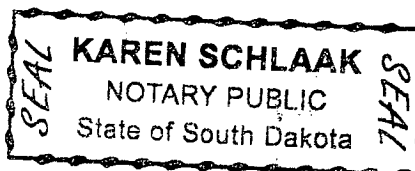


Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of March, 2013


Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Gronlund, Eric

From: Gary & Julie Peterson <gjpete@hcinet.net>
Sent: Wednesday, April 03, 2013 11:50 AM
To: Gronlund, Eric
Subject: Re: 115 ACRE MAP

Good morning Eric,

The option you gave me of having the chief engineer recommend the change in our permit to the water board is surely acceptable to me here if that works with you folks there. We are quickly moving toward planting time as this farm will be corn in 2013 so please let me know if that will work out so I have time to move equipment if it does not before we plant.

Thanks, Gary

----- Original Message -----

From: Gronlund, Eric
To: 'Gary & Julie Peterson'
Sent: Monday, March 25, 2013 4:26 PM
Subject: RE: 115 ACRE MAP

Gary – I received your email.

What kind of wheel drive does the center pivot have? Is it functionally possible to shut down the nozzles and still power the wheel's if it is water driven? I assume Farmer's Implement is able to do so or else that would not have been an option you put forth.

After giving some thought - the statutes do not give DENR authority to change acres to allow acres outside the licensed area without getting an approved permit. In this case that would be the W ½ NE ¼ of Section 17. However, a possible solution would be to bring your present deferred application back before the Board at their May 2nd meeting where the Chief Engineer recommends approval of irrigation of in the W ½ NE ¼ without an increase in acres authorized by Water Right No. 5982-3 AND leave the additional acres on deferred status until the study is done. This would legally allow this "change in acres" which was public noticed while preserving your application for additional acres should the study result in water being available for appropriation.

Eric

From: Gary & Julie Peterson [<mailto:gjpete@hcinet.net>]
Sent: Monday, March 25, 2013 3:49 PM
To: Gronlund, Eric
Subject: Fw: 115 ACRE MAP

Please find the attached map drawn by Cody at Farmers Implement and Irrigation. I am requesting permission to reduce the effective length of the pivot as constructed by turning off the end gun and plugging the amount of overhang nozzles to only irrigate 115 acres as allowed on my current water permit. This would save the costs involved in moving the pivot point back to the original site and taking off 1 span from the irrigator.

If you have any questions please feel free to call me at 605-563-2346.

Thanks for your time to consider this option.

Gary Peterson

----- Original Message -----

From: Cody Dritz

To: GARY PETERSON
Sent: Monday, March 25, 2013 3:13 PM
Subject: 115 ACRE MAP

Thanks

Farmers
Implement and Irrigation
Brookings, SD

East Highway 14 Bypass

Office 605-692-6153

Cell 605-690-9007

1-800-658-5447

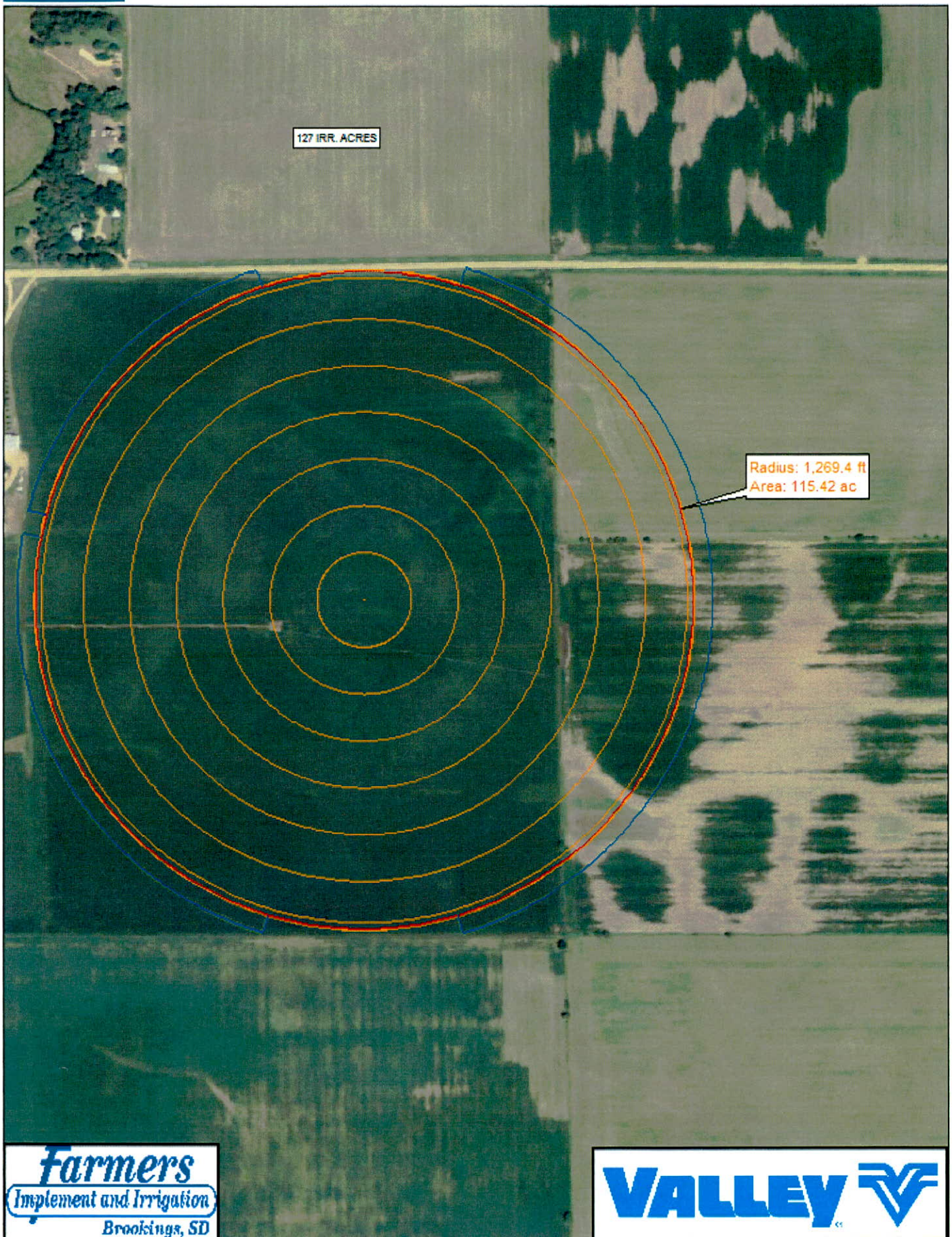
cdritz@swiftnet.net
www.farmersil.com

CODY DRITZ
IRRIGATION SPECIALIST



The Leader in Precision Irrigation

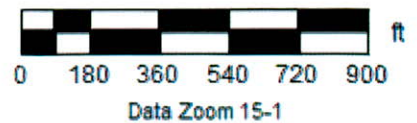
NEW HOLLAND	FARM KING
EZEE-ON	KINZE
GRASSHOPPER	KRAUSE
HARVEST INT'L	REM
M.D.S.	VERMEER
WESTFIELD	WIL-RICH



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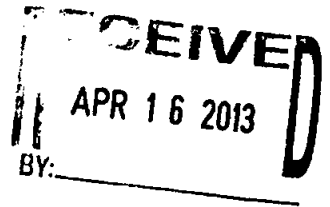
www.delorme.com



PETERSON, STUART,
RUMPCA & RASMUSSEN

Attorneys at Law

Prof. LLC



April 12, 2013

Diane Best
Attorney General's Office
317 N. Main Ave.
Sioux Falls, SD 57104

RECEIVED
APR 18 2013
WATER RIGHTS
PROGRAM

Re: *Water Permit Application No.. 7442-3, Gary or Julie Peterson
Stipulation and Order*

Dear Diane:

Enclosed please find an original Stipulation and Order signed by Gary and Julie Peterson. I trust you will provide the same to Jeanne Goodman for signature and present to the Board for signature.

With Best Regards, I am

Yours Very Truly,



A. Jason Rumpca
Jason.petersonstuart@gmail.com

AJR
Encl.

Phillip O. Peterson • David A. Stuart* • A. Jason Rumpca • Rachel R. Rasmussen

103 N. 3rd St. • Beresford, SD 57004
Phone: (605) 763-5024 • Fax: (605) 763-8034

* also licensed in Iowa

RECEIVED

APR 18 2013

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

WATER PERMIT APPLICATION NO.)
7442-3, GARY OR JULIE PETERSON)
) STIPULATION
) AND ORDER

STIPULATION

Applicants Gary and Julie Peterson ("Petersons") and the Department of Environment and Natural Resources, Water Rights Program and its Chief Engineer (jointly referred to as "DENR") hereby agree as follows:

1. The above entitled application proposes to irrigate 40 additional acres that would complement, but not change, Water Right No. 5982-3. Water Right No. 5982-3 appropriates 1.64 cfs from one well completed into the Upper Vermillion Missouri Aquifer (165 feet deep) located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The above entitled application proposes to irrigate an additional 40 acres in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well.

2. The application was heard by the South Dakota Water Management Board on March 7, 2013, and the Board deferred consideration of the application pending a study to be conducted concerning the Upper Vermillion Missouri Aquifer.

3. The parties agree that until the study is completed, the Petersons should be granted the right to use water to irrigate land within the 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W, so long as the total

acreage from Water Right No. 5982-3 and Water Permit No. 7442-3 does not exceed 115 acres.

4. Consistent with this agreement, the Chief Engineer has revised the recommendation which is attached herewith and incorporated herein.

5. The Water Management Board has final authority to approve Application No. 7442-3 as set forth herein and this Stipulation is not binding on the Board. Further, this Stipulation is not binding on the parties until Approved by the Board. DENR will schedule this matter for hearing on May 2, 2013.

6. As part of this Stipulation, Petersons agree that they will not appeal the deferral of Water Permit No. 7442-3.

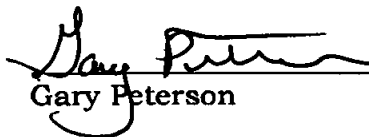
7. This Stipulation is without prejudice to any position either party may make regarding the appropriation of a total of more than 115 acres for the above referenced permits when the Board reconsiders the matter following the study.

8. This Stipulation is without prejudice to any legal arguments that may be made by either party before the Board or the courts regarding any other permits or proposed permits.

Dated this ____ day of April, 2013

Jeanne Goodman, Chief Engineer
DENR Water Rights Program

Dated this 11th day of April, 2013


Gary Peterson

Dated this 11th day of April, 2013

Julie Peterson
Julie Peterson

ORDER

The foregoing stipulation is hereby approved and the permit may be issued as set forth in the Chief Engineer's revised recommendation attached to the Stipulation.

BY THE BOARD:

Dated this ____ day of May, 2013

Rodney Freeman, Chairman

RECEIVED

APR 25 2013

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

WATER PERMIT APPLICATION NO.	)	
7442-3, GARY OR JULIE PETERSON	)	STIPULATION
	)	AND ORDER

STIPULATION

Applicants Gary and Julie Peterson ("Petersons") and the Department of Environment and Natural Resources, Water Rights Program and its Chief Engineer (jointly referred to as "DENR") hereby agree as follows:

1. The above entitled application proposes to irrigate 40 additional acres that would complement, but not change, Water Right No. 5982-3. Water Right No. 5982-3 appropriates 1.64 cfs from one well completed into the Upper Vermillion Missouri Aquifer (165 feet deep) located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The above entitled application proposes to irrigate an additional 40 acres in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well.

2. The application was heard by the South Dakota Water Management Board on March 7, 2013, and the Board deferred consideration of the application pending a study to be conducted concerning the Upper Vermillion Missouri Aquifer.

3. The parties agree that until the study is completed, the Petersons should be granted the right to use water to irrigate land within the 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W, so long as the total

acreage from Water Right No. 5982-3 and Water Permit No. 7442-3 does not exceed 115 acres.

4. Consistent with this agreement, the Chief Engineer has revised the recommendation which is attached herewith and incorporated herein.

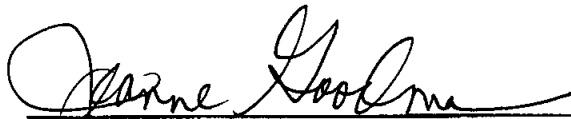
5. The Water Management Board has final authority to approve Application No. 7442-3 as set forth herein and this Stipulation is not binding on the Board. Further, this Stipulation is not binding on the parties until Approved by the Board. DENR will schedule this matter for hearing on May 2, 2013.

6. As part of this Stipulation, Petersons agree that they will not appeal the deferral of Water Permit No. 7442-3.

7. This Stipulation is without prejudice to any position either party may make regarding the appropriation of a total of more than 115 acres for the above referenced permits when the Board reconsiders the matter following the study.

8. This Stipulation is without prejudice to any legal arguments that may be made by either party before the Board or the courts regarding any other permits or proposed permits.

Dated this 17th day of April, 2013


Jeanne Goodman, Chief Engineer
DENR Water Rights Program

Dated this 17th day of April, 2013


Gary Peterson

Dated this 11th day of April, 2013

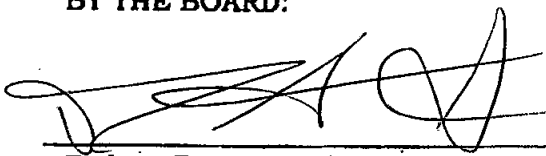

Julie Peterson

ORDER

The foregoing stipulation is hereby approved and the permit may be issued as set forth in the Chief Engineer's revised recommendation attached to the Stipulation.

BY THE BOARD:

Dated this 2 day of May, 2013


Rodney Freeman, Chairman



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

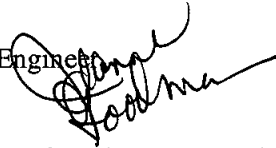
denr.sd.gov

April 17, 2013

NOTICE

TO: A Jason Rumpca
103 N 3rd Street
Beresford SD 57004

Donald McCarty
PO Box 78
Brookings SD 57006

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Scheduling of Hearing on Deferred Water Permit Application No. 7442-3, Gary or Julie Peterson

Water Permit Application No. 7442-3 proposes to irrigate 40 additional acres. Water Right No. 5982-3 appropriates 1.64 cubic feet of water per second from one well completed into the Upper Vermillion Missouri Aquifer (165 feet deep) located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application proposes to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. The center pivot is to be enlarged and moved to the east to accommodate full rotation of a standard quarter section pivot capable of irrigating at least 132 acres. On March 6 – 7, 2013, the Water Management deferred this application until information is available to determine if there is a reasonable probability that there is unappropriated water available from the aquifer.

On March 25, 2013, a request was filed to allow the pivot to shift eastward such that a portion of the W 1/2 NE 1/4 of Section 17 will be irrigated as long as no more than 115 acres are irrigated until the study is completed and the deferred application for additional acres is brought back before the Board.

Enclosed is the Chief Engineer's revised recommendation on Deferred Application No. 7442-3 and signed stipulation. The recommendation is to allow for the acres to be irrigated in the W 1/2 NE 1/4 Section 17 that result when the center pivot is moved to the east. The portion of the application dealing with the 40 new acres to be irrigated will remain deferred until the study is completed to determine if there is a reasonable probability that unappropriated water is available for the applicant's proposed use.

The Water Management Board will consider Deferred Application No. 7442-3 at 9:00 AM on Thursday, May 2, 2013, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. Parties will be provided written notice if there is a change to the hearing time or date. 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 after it reaches a conclusion based on the facts presented at the public hearing.

If you have questions about the findings process, please contact Diane Best at (605) 367-5880.

Enclosure

c: Diane Best, Assistant Attorney General



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR DEFERRED WATER PERMIT
APPLICATION NO. 7442-3, Gary E or Julie A Peterson**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning DEFERRED Water Permit Application No. 7442-3, Gary E or Julie A Peterson, 45913 299th Street, Centerville SD 57014.

The Chief Engineer is recommending APPROVAL of Application No. 7442-3 for inclusion of the irrigating acreage in the W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 17, T95N, R52W and continuing DEFERRAL of the additional acres above the 115 total acres authorized by Water Right No. 5982-3 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under Water Right No. 5982-3 and this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Water Permit No. 7442-3 shall be limited to the existing diversion rate authority of 1.64 cfs for irrigation of 115 acres authorized by Water Right No. 5982-3. The issuance of this Permit is for the sole purpose of allowing a change in the location of acres irrigated to include the W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 17, T95N, R52W. No more than 115 acres may be irrigated under Water Permits 7442-3 and 5982-3 combined.
4. The deferred portion of this application for additional acres will be brought back before the Water Management Board when information is available to determine if there is a reasonable probability that there is unappropriated water available for the applicant's proposed use.
5. Although this Permit would require the Applicant to refrain from irrigating some acreage authorized under Water Permit 5982-3 in order to irrigate additional acres in W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 17, T95N, R52W, the change does not abandon or forfeit any acreage under Water Permit No. 5982-3 at this time. When the deferred portion of Application 7442-3 is addressed before the Board there may be insufficient water available to satisfy the remaining acreage requested under Water Permit 7442-3 and if that occurs the Applicant would need to identify the specific 115 acres it will irrigate under Water Permits 7442-3 and 5982-3 combined and the remaining acreage for either of those permits would be subject to denial (7442-3) or abandonment (5982-3) at that time.

Jeanne Goodman, Chief Engineer

April 17, 2013

NOTE: The existing full quarter section center pivot shall be modified as set forth in the Applicant's March 25, 2013, email to Eric Gronlund which is part of the administrative record. Specifically, the end gun and nozzles on the end span will be turned off or disabled such that only a total of 115 acres are capable of being irrigated. DENR Water Rights Program staff intends to conduct a compliance check in the summer of 2013 to insure the system is irrigating no more than the authorized number of acres.

CERTIFICATION

I hereby certify that on April 17, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 17, 2013, regarding Water Right Permit Application No. 7442-3, as set forth below:

A Jason Rumpca
103 N 3rd Street
Beresford SD 57004

Donald McCarty
PO Box 78
Brookings SD 57006

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



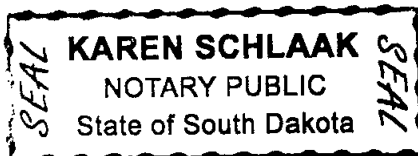
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 17th day of April, 2013



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





**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. 7442-3, Gary E or Julie A Peterson**

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. 7442-3, Gary E or Julie A Peterson, 45913 299th Street, Centerville SD 57014.

The Chief Engineer is recommending DEFERRAL of Application No. 7442-3 because at this time it is not possible to conclude that unappropriated water is available from the Upper Vermilion Missouri aquifer to satisfy this proposed appropriation. Significant portions of the aquifer have experienced long term downward trending water levels. New appropriations from the aquifer should be deferred until it can be determined if water levels in these areas will stabilize under steady withdrawals. Pursuant to SDCL 46-2A-9, a permit to appropriate water may only be approved if there is a reasonable probability that unappropriated water is available.

See report on application for additional information.

Garland Erbele, Chief Engineer
December 18, 2012

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NOS. 7441-3 & 7442-3, GARY OR JULIE PETERSON
WATER PERMIT APPLICATION NO. 7452-3, JEROME HULT
WATER PERMIT APPLICATION NO. 7466-3, BETHEL HAGEN TRUST
WATER PERMIT APPLICATION NOS. 7467-3 & 7468-3, CLELAND HAGEN TRUST
WATER PERMIT APPLICATION NO. 7535-3, DONALD D BENSON
DECEMBER 11, 2012

Water Permit Application No. 7441-3 proposes to appropriate up to 280 acre-feet of per year (ac-ft/yr) at a maximum diversion rate of 1.79 cubic feet of water per second (cfs) from one well to be completed into the Upper Vermillion Missouri aquifer. The well is expected to be approximately 175 feet deep and is to be located in the center of the SE¼ of Section 8, T95N-R52W. This application proposes to irrigate 140 acres located in the SE¼ of Section 8, T95N-R52W.

Water Permit Application No. 7442-3 proposes to appropriate up to 80 ac-ft/yr to irrigate 40 acres located in the W½ NE¼ Section 17, T95N-R52W using an existing well which is authorized by Water Right No. 5982-3. Water Right No. 5982-3 appropriates up to 320 ac-ft/yr at a maximum diversion rate of 2.28 cfs from one well 165 feet deep completed into the Upper Vermillion Missouri aquifer, located in the center of the NW¼ of Section 17, T95N-R52W. This application does not propose to increase the diversion rate authorized for this well.

Water Permit Application No. 7452-3 proposes to appropriate up to 220 ac-ft/yr at a maximum diversion rate of 1.78 cfs from one well to be completed into the Upper Vermillion Missouri aquifer. The well is expected to be approximately 190 feet deep and is to be located in the SW¼ NE¼ of Section 32, T98N-R52W. This application proposes to irrigate 110 acres located in the W ½ NE¼, SE¼ NE¼ of Section 32, T98N-R52W. This application is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Water Permit Application No. 7466-3 proposes to appropriate up to 304 ac-ft/yr at a maximum diversion rate of 1.78 cfs from one well to be completed into the Upper Vermillion Missouri aquifer. The well is expected to be approximately 169 feet deep and is to be located in the approximate center of the NE¼ of Section 5, T96N-R51W. This application proposes to irrigate 152 acres located in the NE¼ of Section 5, T96N-R51W.

Water Permit Application No. 7467-3 proposes to appropriate up to 304 ac-ft/yr at a maximum diversion rate of 1.78 cfs from one well to be completed into the Upper Vermillion Missouri aquifer. The well is expected to be approximately 134 feet deep and is to be located in the approximate center of the NW¼ of Section 13, T96N-R51W. This application proposes to irrigate 152 acres located in the NW¼ of Section 5, T97N-R52W.

Water Permit Application No. 7468-3 proposes to appropriate up to 304 ac-ft/yr at a maximum diversion rate of 1.78 cfs from one well to be completed into the Upper Vermillion Missouri aquifer. The well is expected to be approximately 134 feet deep and is to be located in the

approximate center of the NE¼ of Section 26, T96N-R51W. This application proposes to irrigate 152 acres located in the NE¼ of Section 5, T98N-R52W.

Water Permit Application No. 7535-3 proposes to appropriate up to 130 ac-ft/yr at a maximum diversion rate of 1.78 cfs from one well to be completed into the Upper Vermillion Missouri aquifer. The well is expected to be approximately 220 feet deep and is to be located in the SW¼ NW¼ of Section 30, T98N-R53W. This application proposes to irrigate 65 acres located in the NW¼ of Section 30, T98N-R53W. This application is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

AQUIFER: Upper Vermillion Missouri aquifer (UVM)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Upper Vermillion Missouri aquifer is a buried glacial outwash deposit that consists of fine sand to medium-pebble gravel. The aquifer underlies approximately 204,832 acres of Hutchinson, Turner, Lincoln and Clay Counties (see Figure 1). The Upper Vermillion Missouri aquifer blends into the Lower Vermillion Missouri aquifer in northern Clay County. The average thickness of the outwash is estimated to be 68 feet in Turner County (Lindgren and Hansen, 1990) and is estimated to be 100-150 feet thick in the areas proposed by these applications (Stephens, 1967). The aquifer contains an estimated 1.8 million acre feet (ac-ft) of water in storage in Turner and Hutchinson Counties (Lindgren and Hansen, 1990) and an estimated 317,180 ac-ft of recoverable water in storage in Clay and Lincoln Counties (Hedges and others, 1982). The aquifer is primarily under confined conditions although unconfined conditions do occur over a small area where the outwash is at or near ground surface in T96N-R52W at the Clay-Turner County line (Lindgren and Hansen, 1990). Groundwater movement in the aquifer is to the south-southeast at a gradient that Lindgren and Hansen (1990) estimated at approximately four feet per mile (ft/mi). However, based on DENR-Water Rights' observation wells the gradient was 4.3- 4.6 ft/mi in May 2012 (Water Rights, 2012a). The outwash generally overlies the Carlile Shale although Sioux quartzite directly underlies the aquifer in northern portion of the aquifer (Lindgren and Hansen, 1990). The Upper Vermillion Missouri aquifer overlies the Niobrara Formation in western Turner County. The aquifer is generally buried by glacial till; however, in places it is overlain by and is hydraulically connected to the surficial Parker Centerville aquifer.

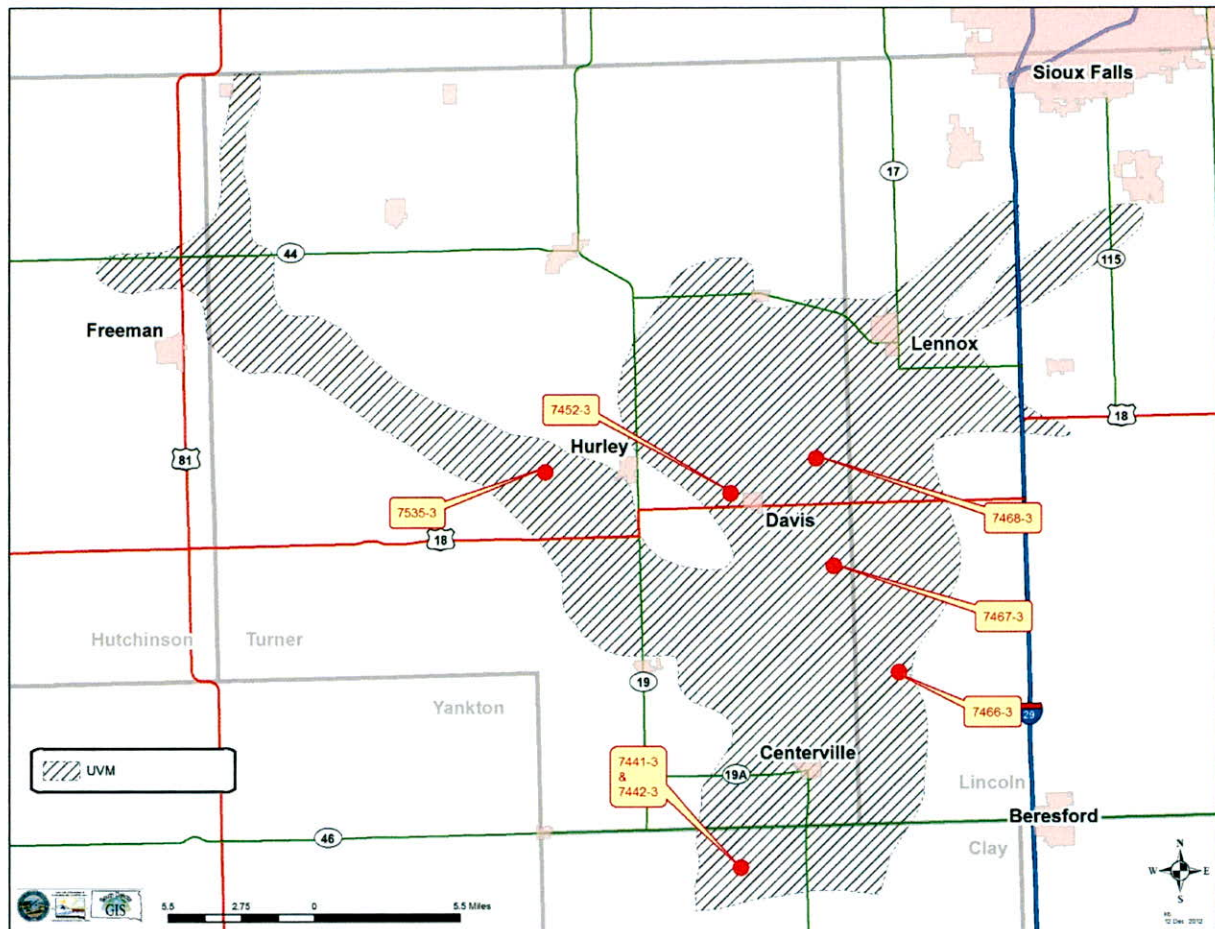


Figure 1. Areal extent of the Upper Vermillion aquifer modified from (Lindgren and Hansen, 1990; Hedges and others, 1982; and Niehus, 1994), and the locations of well sites proposed by Water Permit Application Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7467-3, 7468-3 and 7535-3.

SDCL 46-2A-9

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

WATER AVAILABILITY:

Water Permit Application Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7467-3, 7468-3, and 7535-3 proposes to appropriate up to 1,622 acre-feet annually from the Upper Vermillion Missouri aquifer. The actual water use if these applications are approved will likely be less than the appropriations. The probability of unappropriated water available from the aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is

probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.”

Recharge versus Discharge:

Recharge:

Recharge to the Upper Vermillion Missouri aquifer occurs through: 1) direct infiltration of precipitation in areas where the aquifer is at or near ground surface; 2) inflow from fractures in the Sioux Quartzite; and 3) inflow from the Niobrara aquifer.

Previous Estimates:

Hedges and others (1985) estimated a recharge rate to the Upper Vermillion Missouri aquifer of 0.25 inches per year calculated from regional flow net analysis. However, Hedges and others (1985) noted:

“It should be noted that recharge rates calculated using flow-net analysis are suspect and conclusions based on this method are questionable”

Given a recharge rate of 0.25 inches per year, average annual recharge to the Upper Vermillion Missouri aquifer is 4,267 ac-ft/yr.

2012 Flow net analysis

The recharge potential of the Upper Vermillion Missouri aquifer was evaluated by interpreting a regional flow net analysis based on the May 2012 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 transmissivity for the Upper Vermillion Missouri aquifer was estimated based on the transmissivity calculated from the specific capacities of irrigation wells completed into the aquifer where the data to allow these calculations was available (Water Rights, 2012b; Water Rights, 2012c) (“Transmissivity from Specific Capacity”). These transmissivity values are shown in Table 1.

Permit No.	Type	Drawdown (ft)	Yield (gpm)	Specific Capacity (gpm/ft)	Transmissivity (g/d/ft)
1930-3	A	15	1200	80.0	160000
3784-3	A	92	900	9.8	19600
3901-3	A	9	1000	111.1	222200
4265-3	A	25	900	36.0	72000
4560-3	A	83	800	9.6	19200
5259-3	A	6	1400	233.3	466600
5352-3	WT	20	2100	105.0	157500
5371-3	A	45	860	19.1	38200
5425-3	A	22	1100	50.0	100000
5632-3	A	24	800	33.3	66600
5886-3	A	9	800	88.9	177800
5899-3	A	25	800	32.0	106600
5982-3	A	27	800	29.6	92400
6054-3	A	25	900	36.0	72000
6301-3	A	16	1100	68.8	137600
6810-3	A	6	750	125.0	250000
6868-3	A	10	900	90.0	180000
6922-3	A	11	810	73.6	147200
6968-3	A	11	840	76.4	152800
6984-3	A	7	1200	171.4	342800
7002-3	WT	10.5	720	68.6	102900
7128-3	A	15	750	50.0	100000
<i>Min</i>		6	720	9.64	19200
<i>Max</i>		92	2100	233.33	466600
<i>Average</i>		23	974	72.62	144727

Table 1. Irrigation well data from the Upper Vermillion Missouri aquifer

The hydraulic gradient for the Upper Vermillion Missouri aquifer was estimated to average 4.5 feet per mile based on data from the DENR-Water Rights' Observation Well Network (Water Rights, 2012c).

The cross section length of the Upper Vermillion Missouri aquifer was determined to be approximately eight miles based on the current aquifer delineation.

The amount of water moving through the Upper Vermillion Missouri aquifer is estimated as follows:

$$\begin{aligned}
 Q &= ((144,727 \text{ gpd/ft}) \times (4.5 \text{ ft/mile}) \times (8 \text{ miles})) / (325,851 \text{ gallons/ac-ft}) \\
 &= 15.99 \text{ ac-ft/day} \\
 &= \underline{5,836 \text{ ac-ft/yr}}
 \end{aligned}$$

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 204,832 acres would be 0.34 inches. This recharge rate cannot be considered "average annual recharge" since it used only 2012 data; however the estimate does agree with the average annual recharge estimate from Hedges and others (1985).

The recharge rates estimated for the Upper Vermillion Missouri aquifer should be considered reflective of "existing conditions". Lindgren and Hansen (1990) identified that approximately the southern 19.5 miles of the western boundary of the Upper Vermillion Missouri aquifer in

Turner County is hydraulically connected to and receives recharge from the Niobrara aquifer. Increased recharge will be induced from the Niobrara aquifer with increased pumping from the Upper Vermillion Missouri aquifer.

Discharge:

Discharge for the Upper Vermillion Missouri aquifer occurs through groundwater outflow to the Lower Vermillion Missouri aquifer and by well withdrawals. There are a number of completion reports on file with the DENR-Water Rights Program for domestic use wells that appear to be completed into the Upper Vermillion Missouri aquifer (Water Rights, 2012b); however withdrawals from domestic users are not expected to be significant. There are currently 100 water rights/permits appropriating water from the Upper Vermillion Missouri aquifer. Appropriations authorize municipal, commercial, rural water system and irrigation uses.

Municipal use:

Municipal use appropriations include water rights for: 1) the City of Viborg, 2) the City of Centerville, and 3) the Town of Davis. At this time, Viborg and Davis are supplied completely by TM Rural Water System (Friedeman). The City of Centerville receives 70% of its 64,000 gallons per day average from Lewis and Clark Rural Water System and 30% from the Upper Vermillion Missouri aquifer (Kittay) Therefore the average municipal water use from the Upper Vermillion Missouri aquifer is 21.5 ac-ft/yr.

Commercial use:

There are two water rights appropriating water from the aquifer for commercial use. Water Right No. 6662-3, Vannorsdel's Inc., appropriates water for a concentrated animal feeding operation permitted for 1,800 head of beef cattle (Roth). Assuming an average use of 18 gallons per animal unit per day, the average water use by the permit is estimated to be 36 ac-ft/yr. Water Right No. 5833-3, Advanced Prescription Fertilizer Inc, appropriates water for a fertilizer plant. The average annual use through this appropriation is estimated to be under 1,000,000 gallons per year (i.e. 3.07 ac-ft/yr) (Nelson). Estimated average annual use for commercial use from the Upper Vermillion Missouri aquifer therefore is 40 ac-ft/yr.

Rural Water System Use:

Two rural water systems are supplied by the Upper Vermillion Missouri aquifer: TM Rural Water System and South Lincoln Rural Water System. The water use of the rural water systems as reported to the DENR-Water Rights Program is shown in Table 2.

	TM Rural Water District	South Lincoln RWS
2011	1146	1108
2010	1184	1095
2009	950	987
2008	776	779
2007	2	607
2006	3	599
2005	1	611
2004	12	583
2003	17	354

Table 2. Reported water use in acre-feet per year from TM RWS and South Lincoln RWS (Water Rights 2003-2012)

Irrigation Use:

The majority of the water pumped from the Upper Vermillion Missouri aquifer is for irrigation use. The irrigation water use from the aquifer as reported to the DENR-Water Rights Program is shown in Table 3.

YEAR	NO. OF PERMITS	APPROPRIATION (ac-ft/yr)	PUMPAGE REPORTED (ac-ft/yr)
1979	56	28081.0	3247
1980	54	28081.0	5082
1981	61	30455.0	4159
1982	52	25589.6	3778.57
1983	51	25025.6	2983.12
1984	59	29867.6	2791.00
1985	57	28643.6	2479.00
1986	57	28067.6	3544.00
1987	55	26561.6	3781.00
1988	54	26072.6	6753.10
1989	55	26492.6	5758.60
1990	61	27977.6	6626.20
1991	59	27469.0	6220.00
1992	61	27723.0	1793.20
1993	58	25021.0	534.50
1994	55	23792.0	4313.79
1995	55	23792.0	4484.34
1996	59	24403.6	4672.19
1997	59	24642.6	5408.00
1998	62	24842.6	5343.85
1999	62	25062.6	5056.06
2000	62	25938.6	6181.55
2001	62	25938.6	6195.66
2002	64	26498.6	7169.69
2003	64	26195.6	5930.90
2004	62	25747.6	7414.06
2005	61	25369.6	6856.39
2006	64	26071.6	7906.32
2007	69	27293.6	6983.20
2008	76	28890.2	7467.98
2009	77	28856.9	3878.92
2010	79	29280.9	150.49
2011	79	29280.9	5615.12
Max	79	30455	7906.32
Min	31	23792	150.49
Average	60	26758	4865.42

Table 3. Irrigation from the Upper Vermillion Missouri aquifer (Water Rights, 1980-2012)

Future Use Permits:

A future use permit is a reservation of water and does not authorize withdrawals. However, in theory future use permits can be completely developed. Future use permits reserving water from the Upper Vermillion Missouri aquifer are shown in table 4.

Future Use Permit No.	Name	Amount of water remaining reserved
5358-3	TM Rural Water District	530 ac-ft/yr
6705-3	TM Rural Water District	210 ac-ft/yr

Table 4. Future Use Permits from the Upper Vermillion Missouri aquifer (Water Rights, 2012c)

Recharge versus Discharge Summary:

The total of well withdrawals from the Upper Vermillion Missouri aquifer plus the amount of water that can be developed from future use permits is estimated to be approximately 7, 900 acre-feet per year assuming average municipal, commercial, and irrigation use; 2,250 ac-ft/yr rural water system use; and 740 ac-ft/yr from future use permits. The estimated average annual recharge currently is estimated to be approximately 5,836 ac-ft/yr. Therefore the current estimated average annual withdrawal from the Upper Vermillion Missouri aquifer appears to exceed the estimated average annual recharge to the aquifer.

As stated earlier, the recharge rates estimated for the Upper Vermillion Missouri aquifer should be considered reflective of “existing conditions”. Increased recharge will be induced from the Niobrara aquifer with increased pumping from the Upper Vermillion Missouri aquifer.

Observation Well Data:

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

The DENR-Water Rights Program monitors 29 observation wells completed into the Upper Vermillion Missouri aquifer. The observation well data shows seasonal fluctuations in water levels corresponding to recharge and discharge. The aquifer responds well to climatic conditions with rising water levels during wet years and gradually declining water levels during dry years.

Hydrographs for two observation wells completed into the Upper Vermillion Missouri aquifer are shown in Figures 2 and 3.

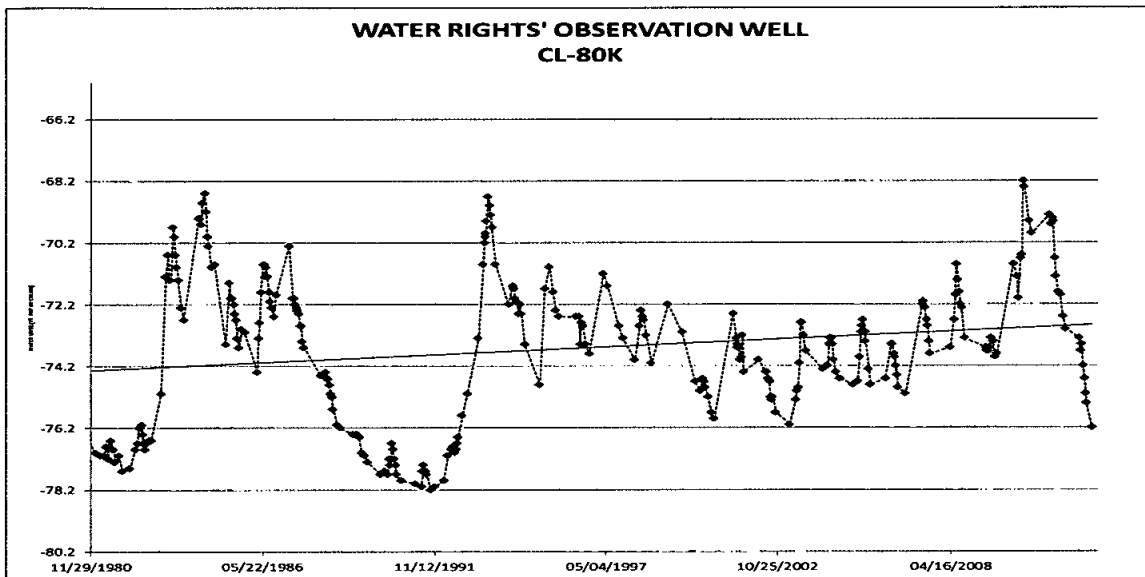


Figure 2. Hydrograph with an upward trending linear trend line for an observation well completed into the Upper Vermillion Missouri aquifer

The hydrograph for CL-80K documents that in the area of the observation well, there is currently more water in storage in the aquifer than when the well was completed and the linear trend line for the data shows a positive slope, indicating that in general, recharge has exceeded discharge in this area over the period of record.

Other observation wells completed into the Upper Vermillion Missouri aquifer document downward trending water levels, such as the hydrograph for TU-77F (see figure 3).

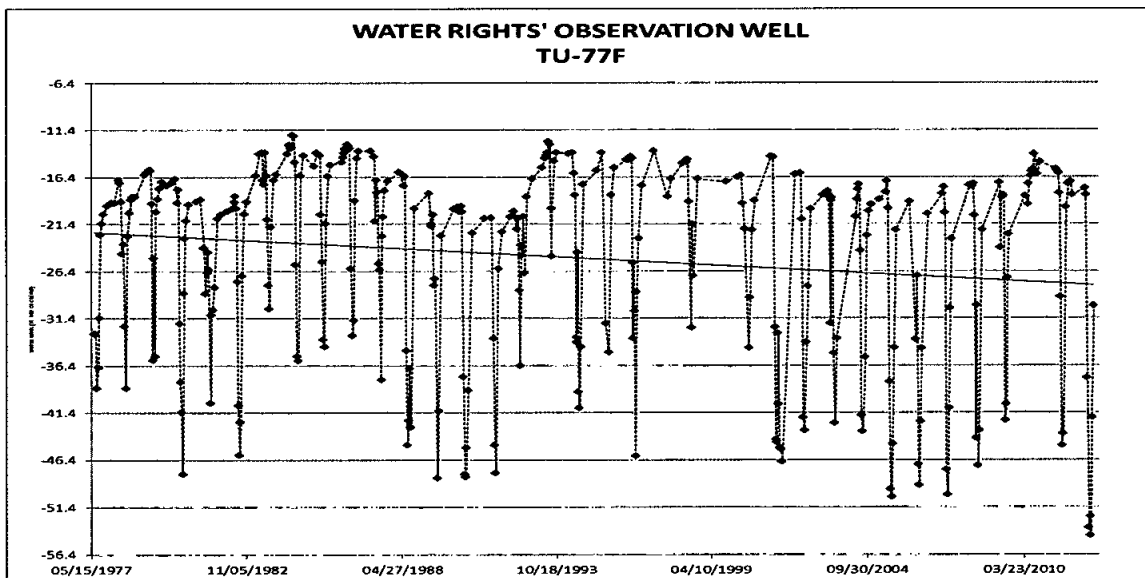


Figure 3. Hydrograph with a downward trending linear trend line for an observation well completed into the Upper Vermillion Missouri aquifer

The slope of the linear trend lines for observation wells completed into the Upper Vermillion Missouri aquifer are shown in Table 5.

OBSERVATION WELL	SLOPE (FT/YR)
CL-80K	0.0365
HT-81A	1.2045
LN-78B	0.073
LN-78E	0.073
MC-83G	-0.219
MC-83JR	-0.292
TU-77B	-0.1095
TU-77D	-0.00183
TU-77F	-0.146
TU-77G	-0.1095
TU-77H	-0.01825
TU-77I	-0.073
TU-77L	0.073
TU-77M	0.073
TU-77P	-0.146
TU-77S	0.3285
TU-77T	0.073
TU-77U	-0.146
TU-77V	0.1095
TU-77W	-0.073
TU-77X	0.1095
TU-77Y	-0.00183
TU-77Z	0.2555
TU-78B	0.0365
TU-80H	0.073
TU-80I	0.03285
TU-82A	-0.657
TU-83A	-0.292
TU-90A	-0.949

Table 5. Slope of the linear trend lines of observation wells completed into the Upper Vermillion Missouri aquifer

From Table 5 it can be seen that the slope of the trend lines for 15 of the 29 observation wells completed into the Upper Vermillion aquifer is negative (i.e. downward sloping). The observation wells with downward trending water levels are concentrated in two areas: an area in the north-central portion of the aquifer and an area in the northwest portion of the aquifer (see Figure 4). The first area is in the vicinity of South Lincoln Rural Water System wells and the second area is in the vicinity of TM Rural Water District wells.

The water use from the two areas of declining water levels has steadily increased (see Table 2). At this time, data is not available to determine if the water levels in these areas will stabilize under steady rural water system withdrawals.

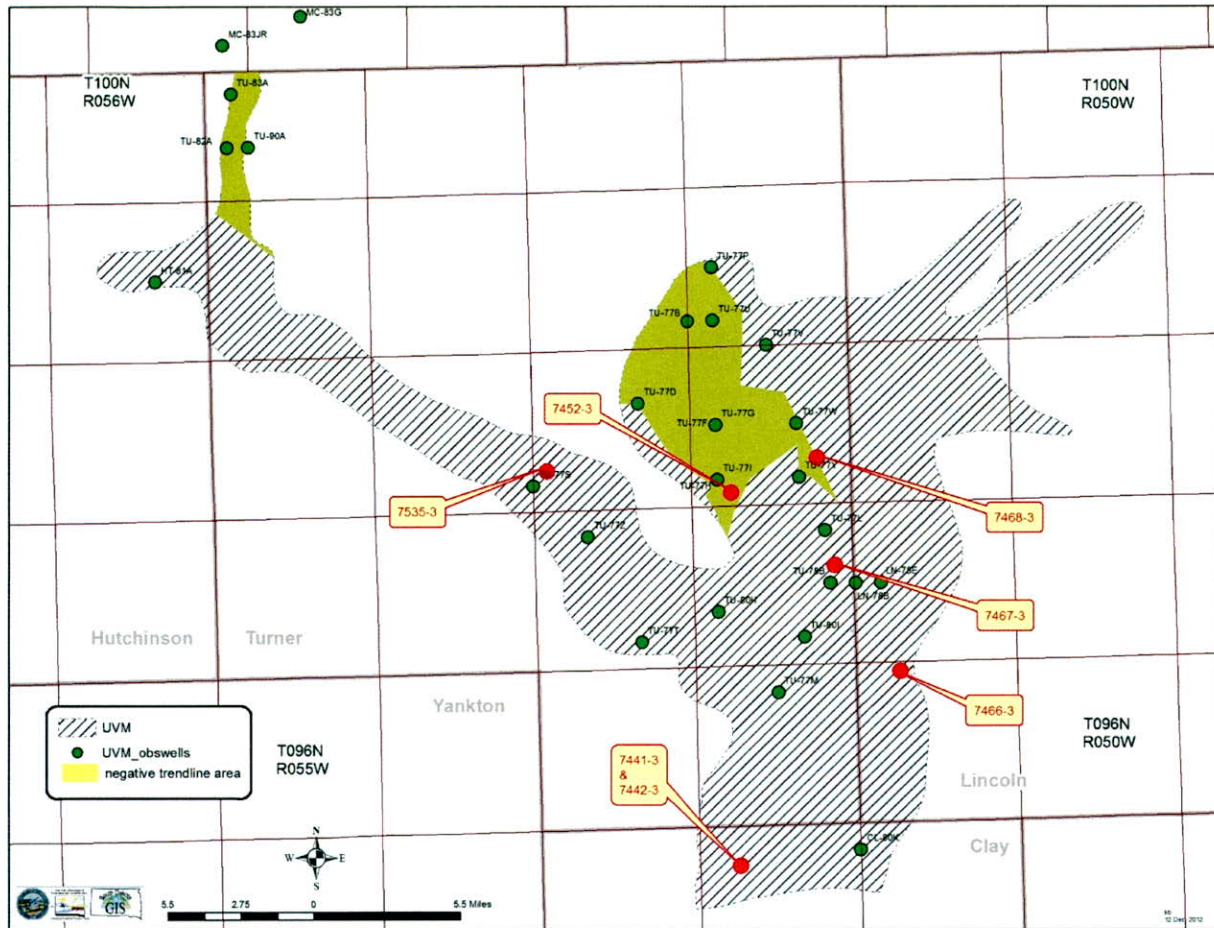


Figure 4. Upper Vermillion Missouri aquifer, locations of the applications discussed in this report, location of DENR-Water Rights' observation wells completed into the Upper Vermillion Missouri aquifer and the areas where water levels trend downward

CONCLUSIONS:

1. Water Permit Application No. 7441-3 proposes to appropriate up to 280 acre-feet per year from the Upper Vermillion Missouri aquifer.
2. Water Permit Application No. 7442-3 proposes to appropriate up to 80 acre-feet per year from the Upper Vermillion Missouri aquifer.
3. Water Permit Application No. 7452-3 proposes to appropriate up to 220 acre-feet per year from the Upper Vermillion Missouri aquifer.
4. Water Permit Application No. 7466-3 proposes to appropriate up to 304 acre-feet per year from the Upper Vermillion Missouri aquifer.
5. Water Permit Application No. 7467-3 proposes to appropriate up to 304 acre-feet per year from the Upper Vermillion Missouri aquifer.
6. Water Permit Application No. 7468-3 proposes to appropriate up to 220 acre-feet per year from the Upper Vermillion Missouri aquifer.
7. Water Permit Application No. 7535-3 proposes to appropriate up to 130 acre-feet per year from the Upper Vermillion Missouri aquifer.

8. The Upper Vermillion Missouri aquifer is a buried glacial outwash that underlies approximately 204,832 acres of Hutchinson, Turner, Lincoln and Clay Counties.
9. Recharge to Upper Vermillion Missouri aquifer is through infiltration of precipitation, inflow from the Sioux Quartzite, and leakage from the Niobrara aquifer.
10. The average annual recharge to the Upper Vermillion Missouri aquifer has been estimated to be 0.25 inches per year (4,267 ac-ft/yr).
11. A recharge rate based on a regional flow net analysis of 2012 observation well data was estimated to be approximately 5,836 ac-ft/yr.
12. Average annual discharge from the Upper Vermillion Missouri aquifer is estimated to be approximately 7,260 ac-ft/yr.
13. Future use permits reserve 740 ac-ft/yr from the Upper Vermillion Missouri aquifer which in theory can be fully developed.
14. Anticipated average annual withdrawal under current appropriations is expected to exceed average annual recharge estimates.
15. Since a source of recharge to the Upper Vermillion Missouri aquifer is leakage from the Niobrara aquifer, increased withdrawal from the Upper Vermillion Missouri aquifer will induce additional recharge from the Niobrara aquifer.
16. The amount of recharge that can be induced from the Niobrara aquifer has not been quantified.
17. Data from DENR-Water Rights Program observation wells documents downward trending water levels in 15 of the 29 observation wells completed into the Upper Vermillion Missouri aquifer.
18. Downward trending observation wells are currently concentrated in two areas corresponding to areas of TM Rural Water System pumping and South Lincoln Rural Water System pumping.
19. At this time, data is not available to determine if the water levels in these areas will stabilize under steady withdrawals.



Ken Buhler
DENR-Water Rights Program

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Air Quality Program

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STATE OF SOUTH DAKOTA

COUNTY OF CLAY

TERA SCHMIDT BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT SHE IS THE CLASSIFIED MANAGER OF YANKTON
MEDIA INC., A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED
IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF THE
OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS
AFFIDAVIT; THAT THE ANNEXED
NOTICE OF APPLICATION FOR AIR QUALITY CONSTRUCTION PERMIT

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 4 DAY OF JANUARY 2013
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$78.28 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 1/4/13

FILED ON: 1/4/13

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____ 2013

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

**NOTICE OF HEARING on Ap-
plication Nos. 7441-3 and 7442-3
to Appropriate Water**

Notice is given that Gary E or
Julie A Peterson, 45913 299th St,
Centerville SD 57014 have filed
the following applications for a
water permit.

Application No. 7441-3 pro-
poses to appropriate 1.78 cubic
feet of water per second (cfs)
from one well to be completed
into the Upper Vermillion Mis-
souri Aquifer (175 feet deep) lo-
cated in the center of the SE 1/4
Section 8 for irrigation of 140
acres located in the SE 1/4 Sec-
tion 8; all in T95N-R52W.

Application No. 7442-3 pro-
poses to irrigate 40 additional
acres. Water Right No. 5982-3
authorizes 1.64 cfs from one well
completed into the Upper Vermil-
lion Missouri Aquifer (165 feet
deep) located in the SE 1/4 NW
1/4 Section 17 to irrigate 115
acres located in the NW 1/4 Sec-
tion 17; all in T95N-R52W. The
application is proposing to irrigate
an additional 40 acres located in
the W 1/2 NE 1/4 Section
17-T95N-R52W from the existing
well. This application, if approved

does not authorize any increase in
the developed diversion rate.

Pursuant to SDCL 46-2A-2, the
Chief Engineer recommends DE-
FERRAL of Application Nos.
7441-3 and 7442-3 because at this
time it is not possible to conclude
that unappropriated water is avail-
able from the Upper Vermillion
Missouri aquifer to satisfy these
proposed appropriations. Signifi-
cant portions of the aquifer have
experienced long term downward
trending water levels. New appro-
priations from the aquifer should
be deferred until it can be deter-
mined if water levels in these ar-
eas will stabilize under steady
withdrawals. Pursuant to SDCL
46-2A-9, a permit to appropriate
water may only be approved if
there is a reasonable probability
that unappropriated water is avail-
able.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the applications are received, the Chief Engineer shall act on the applications pursuant to the Chief Engineer's recommendations 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 these applications presents important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 9:00 a.m. on March 7, 2013 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 applications 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 recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 25, 2013. 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 March 7, 2013 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 applications. The request for an automatic delay must be filed by February 25, 2013. 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 February 25, 2013, at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 January 14, 2013. 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 pro-

2010

Legal and Public Notices

vides 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 74:02:02:01:25.02; 74:02:01:35:01.

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

Published once at the total approximate cost of \$78.28.

Published: January 4, 2012

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JAN 11 2013

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Application Nos. 7441-3 and 7442-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 4th DAY OF January 2013
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$74.97 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 1/4/2013

FILED ON: 1/4/2013

SUBSCRIBED AND SWORN TO BEFORE ME THIS 4th DAY OF January

2013

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

174
NOTICE OF HEARING on
Application Nos. 7441-3 and
7442-3 to Appropriate Water

Notice is given that Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 have filed the following applications for a water permit.

Application No. 7441-3 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Upper Vermillion Missouri Aquifer (175 feet deep) located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cfs from one well completed into the Upper Vermillion Missouri Aquifer (165 feet deep) located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 7441-3 and 7442-3 because at this time it is not possible to conclude that unappropriated water is available from the Upper Vermillion Missouri aquifer to satisfy these proposed appropriations. Significant portions of the aquifer have experienced long term downward trending water levels. New appropriations from the aquifer should be deferred until it can be determined if water levels in these areas will stabilize under steady withdrawals. Pursuant to SDCL 46-2A-9, a permit to appropriate water may only be approved if there is a reasonable probability that unappropriated water is available.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the applications are received, the Chief Engineer shall act on the applications pursuant to the Chief Engineer's recommendations 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 these applications presents important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these applications at 9:00 a.m. on March 7, 2013 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 applications 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 recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 25, 2013. 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 March 7, 2013 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 applications. The request for an automatic delay must be filed by February 25, 2013. 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 February 25, 2013, at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 January 14, 2013. 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 \$74.97.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

December 19, 2012

Plain Talk
201 W Cherry St
Vermillion SD 57069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 7441-3 and 7442-3 to Appropriate Water. Please publish the notice once on January 4, 2013. 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 Gary E or Julie A Peterson, 45913 299th St., Centerville SD 57014 (Ph # 605-563-2346).

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

December 19, 2012

Daily Press & Dakotan
319 Walnut
Yankton SD 57078

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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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.

December 19, 2012

Gary E or Julie A Peterson
45913 299th St
Centerville SD 57014

Dear Petersons:

Water Permit Application Nos. 7441-3 and 7442-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plain Talk printed at Vermillion SD (Ph # 605-624-2695) and the Daily Press & Dakotan printed at Yankton (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. The Chief Engineer's recommendation is for DEFERRAL and the notice schedules a hearing before the Water Management Board. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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(s) has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

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 applications.

Instruction to Newspaper – Publish the Notice on January 4, 2013. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

JUN 21 2013

Gary E or Julie A Peterson
45913 299th St
Centerville SD 57014

Dear Mr. Peterson:

Enclosed is Water Permit No. 7442-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

1442-3
RECEIVED

JUL 10 2013

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 7-8-13TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

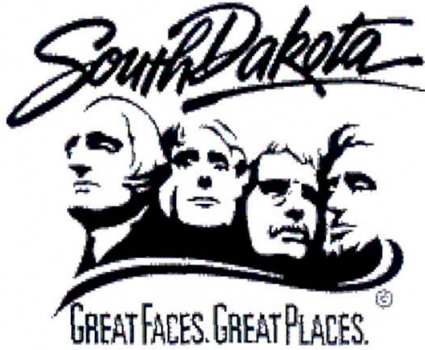
Gary Peterson
(name)45913 299th ST
(address)Centerville SD 57014 605-563-2346
(city, state, zip) (phone)

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. 7442-3 states that the water use system is to be constructed byMay 2, 2018, and water is to be put to beneficial use by May 2, 2022
(date) (date)The water use system was completed on June 17, 2013
(date)Applying the water to beneficial use was completed on June 24, 2013
(date)

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

Gary Peterson
(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

July 10, 2013

7442-3

Gary Peterson
45913 299th St
Centerville SD 57014

Dear Mr. Peterson:

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,

A handwritten signature in cursive script that reads "Genny McMath".

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



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



**REVISED RECOMMENDATION OF CHIEF ENGINEER
FOR DEFERRED PORTION OF WATER PERMIT
APPLICATION NO. 7442-3, Gary E or Julie A Peterson**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning the deferred portion of Water Permit Application No. 7442-3, Gary E or Julie A Peterson, 45913 299th Street, Centerville SD 57014.

The Chief Engineer is recommending APPROVAL of Application No. 7442-3 for an additional 40 acres because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

The following qualifications supersede the interim conditions placed on Permit No. 7442-3 issued June 21, 2013.

1. The well approved under Water Right No. 5982-3 and this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
February 7, 2014

REPORT TO THE CHIEF ENGINEER ON
21 WATER PERMIT APPLICATIONS
FROM THE UPPER VERMILLION MISSOURI AQUIFER
FEBRUARY 1, 2014

HISTORY

Twenty one water permit applications proposing to appropriate water from the Upper Vermillion Missouri (UVM) aquifer were filed with the DENR-Water Rights Program since the fall of 2012. The Chief Engineer recommended deferral of 18 of the applications because at the time it was not possible to conclude that unappropriated water was available from the aquifer to satisfy the appropriations. The Water Management Board considered the permit applications along with the Chief Engineer's recommendation and concluded that "In light of the evidence presented, it is not possible to conclude that unappropriated water is available from the UVM to satisfy the proposed appropriations. Significant portions of the aquifer have experienced long-term downward trending water levels. New appropriations from the aquifer should be deferred until it can be determined if water levels in these areas will stabilize under steady withdrawals" (Water Permit Application Nos. 7441-3, et al, Conclusion of Law 15). Three additional applications were filed after February 25, 2013 and were recommended for deferral.

UPPER VERMILLION MISSOURI AQUIFER (UVM)

The Upper Vermillion Missouri aquifer is located in portions of Lincoln, Turner and Clay Counties. An index map for the area is shown in Figure 1.

Previous Investigations

The Upper Vermillion Missouri aquifer consists of a glacial outwash deposit that generally occurs in bedrock low areas. As delineated by Hedges and others (1982), the aquifer extends over an area of approximately 132,900 acres in Clay, Lincoln and Turner Counties. Subsequent investigations for Lincoln, Turner, and Hutchinson Counties (Lindgren and Hansen, 1990; and Niehus, 1994) interpreted the area hydrogeology in a manner that resulted in the configuration of the Upper Vermillion Missouri aquifer encompassing over 204,800 acres (see Figure 2).

2014

A study of the Upper Vermillion Missouri aquifer conducted by the DENR-Geological Survey in 2013-2014 established new boundaries for the main body of the aquifer in Turner County (see Figure 3). Although the southern boundary has not been delineated at this time, data shows that it extends south several miles from the original border as it merges with or transitions into the Lower Vermillion Missouri aquifer. The areal extent of the main body of the Upper Vermillion Missouri aquifer defined by these new boundaries is at least 117,000 acres. A channel deposit extending to the northwest from the main body of the Upper Vermillion Missouri aquifer may be hydrologically connected to the aquifer.

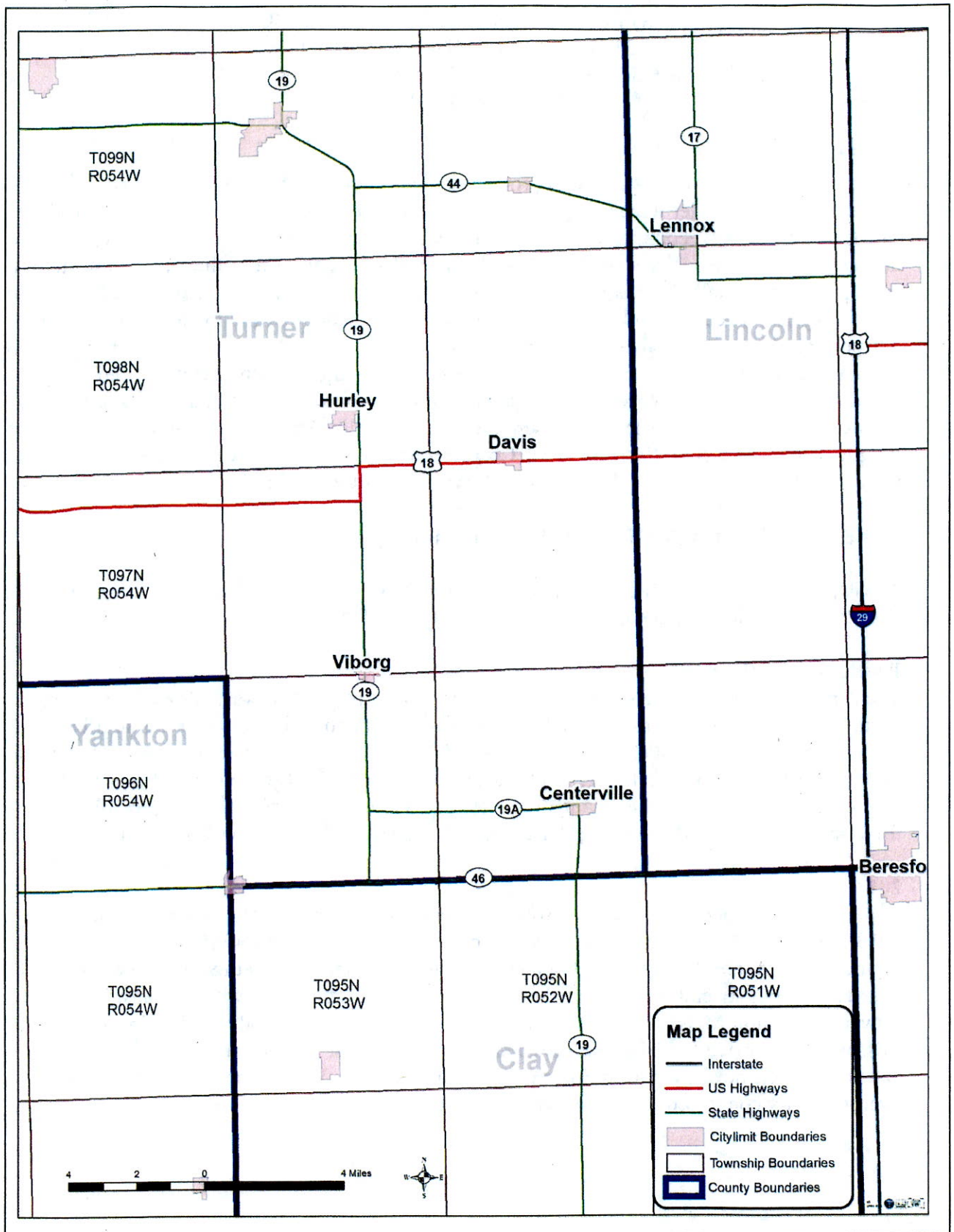


Figure 1. Index map for the area

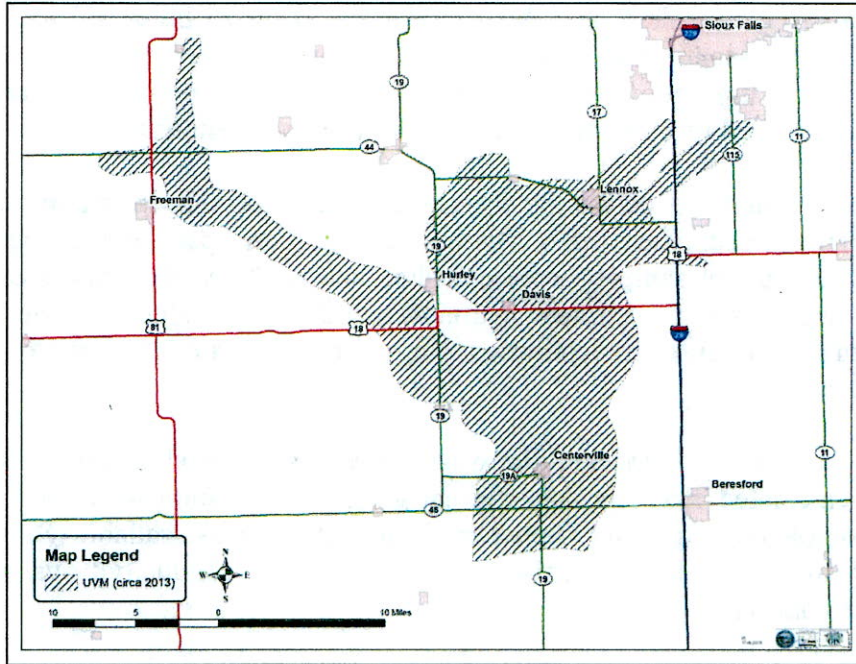


Figure 2. Areal extent of the Upper Vermillion Missouri aquifer considered in 2013 (Buhler, 2012)

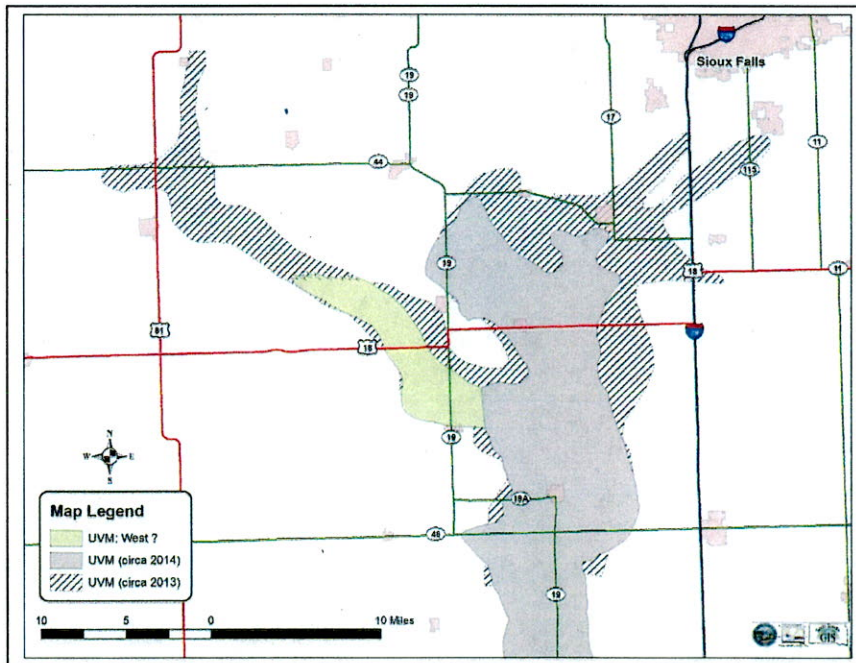


Figure 3. 2014 delineation of the Upper Vermillion Missouri aquifer with areal extent of the Upper Vermillion Missouri aquifer considered in 2013 (Buhler, 2012; modified from DENR-Geological Survey, in progress)

The Upper Vermillion Missouri aquifer occupies portions of a bedrock channel that generally trends north-south. The elevation of the aquifer varies along the length of the channel, but it is primarily below 1,200 feet mean sea level elevation (msl) and above 975 feet msl. The aquifer is

primarily buried by glacial drift, and the top of the aquifer can be over 150 feet below grade. The aquifer is predominantly under confined conditions, and the static water levels of wells in the aquifer typically range from 10-90 feet below grade. The potentiometric surface of the main body of the aquifer (see Figure 4) indicates a north to south groundwater flow direction.

Limited data is available to determine the aquifer characteristics (hydraulic conductivity and storativity) for the Upper Vermillion Missouri aquifer. As part of the ongoing Geological Survey study, sand/gravel samples were collected and analyzed for grain size. Results of the sieve analyses were used to estimate hydraulic conductivity values for the sieved samples. Reported hydraulic conductivity estimates range from 592 to 2,657 ft/day (SD-Geological Survey, in progress).

The hydraulic conductivity for the aquifer was also estimated based on aquifer thickness and the transmissivity calculated from the specific capacities of irrigation wells and two rural water system wells completed into the aquifer where sufficient data was available (Buhler, 2012; Water Rights, 2014b; and Water Rights, 2014c). These hydraulic conductivity values are shown in Table 1, Figure 5 and Figure 6.

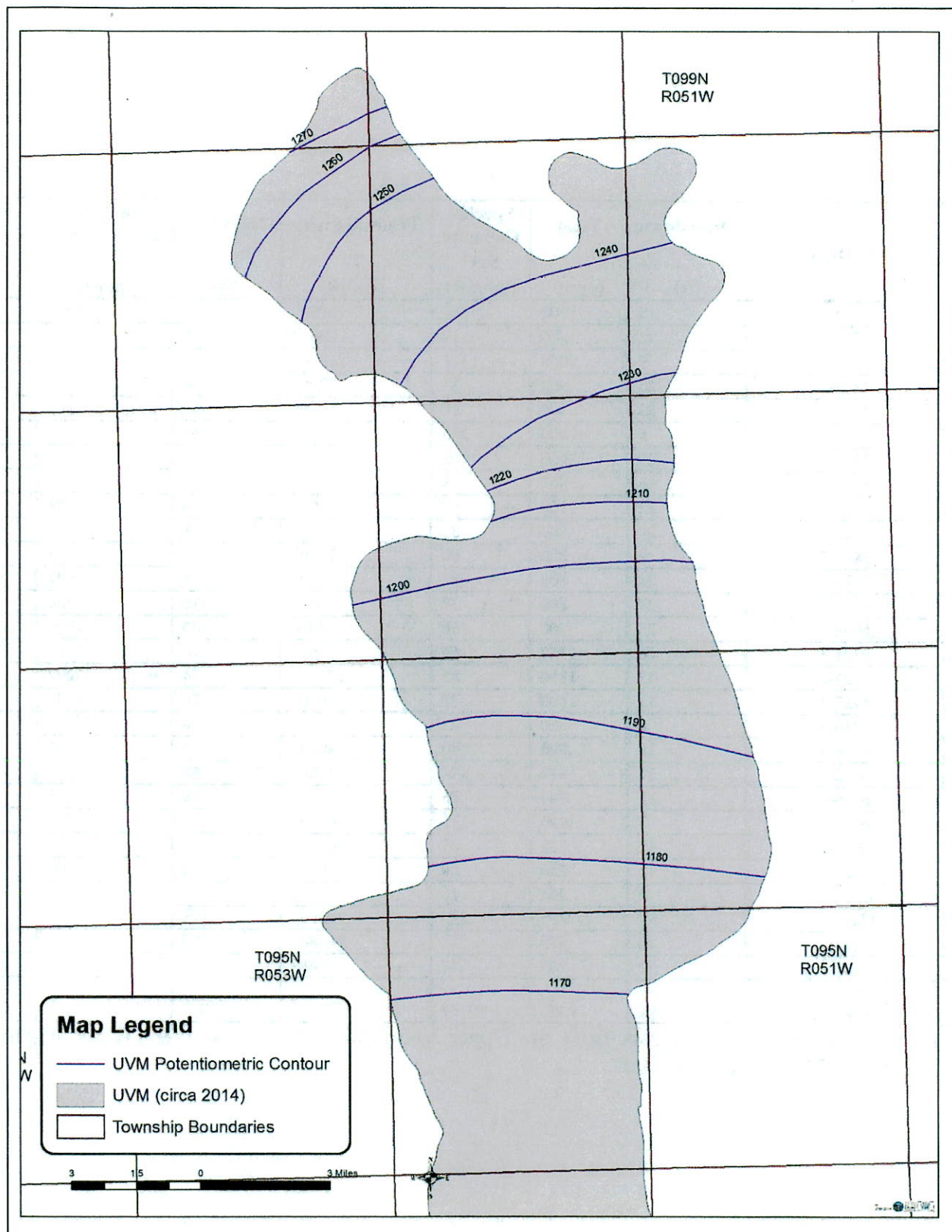


Figure 4. January 21, 2014, potentiometric surface of the main body of Upper Vermillion Missouri aquifer in feet above mean sea level (SD-Geological Survey, in progress)

Permit/Right No.	Drawdown (ft)	Yield (gpm)	Specific Capacity SpC (gpm/ft)	Transmissivity T (gpd/ft)	Thickness b (ft)	Hydraulic Conductivity k (gpd/ft ²)	Hydraulic Conductivity k (ft/d)
1930-3	15	1200	80	160000	65	2462	329
3784-3	92	900	10	19600	45	436	58
3901-3	9	1000	111	222200	70	3174	424
4265-3	25	900	36	72000	40	1800	241
4560-3	83	800	10	19200	50	384	51
5259-3	6	1400	233	466600	116	4022	538
5352-3	20	2100	105	157500	178	885	118
5371-3	45	860	19	38200	28	1364	182
5425-3	22	1100	50	100000	48	2083	279
5632-3	24	800	33	66600	48	1388	185
5886-3	9	800	89	177800	55	3233	432
5899-3	25	800	32	106600	63	1692	226
5982-3	27	800	30	92400	73	1266	169
6054-3	25	900	36	72000	40	1800	241
6301-3	16	1100	69	137600	70	1966	263
6727-3	13	1100	85	170000	74	2297	307
6727-3	15	1100	73	146667	74	1982	265
6810-3	6	750	125	250000	66	3788	506
6868-3	10	900	90	180000	36	5000	668
6922-3	11	810	74	147200	87	1692	226
6968-3	11	840	76	152800	88	1736	232
6984-3	7	1200	171	342800	101	3394	454
7002-3	11	720	69	102900	115	895	120
7128-3	15	750	50	100000	94	1064	142
<i>Min</i>	6	720	10	19200	28	384	51
<i>Max</i>	92	2100	233	466600	178	5000	668
<i>Average</i>	23	985	73	145861	72	2075	277
<i>Std Dev</i>	22	289	50	98483	32	1143	153
<i>Std Dev/Average</i>	98.4%	29.4%	69.0%	67.5%	44.9%	55.1%	55.1%

Table 1. Production well data from the Upper Vermillion Missouri aquifer (Water Rights, 2014b; and Water Rights 2014c)

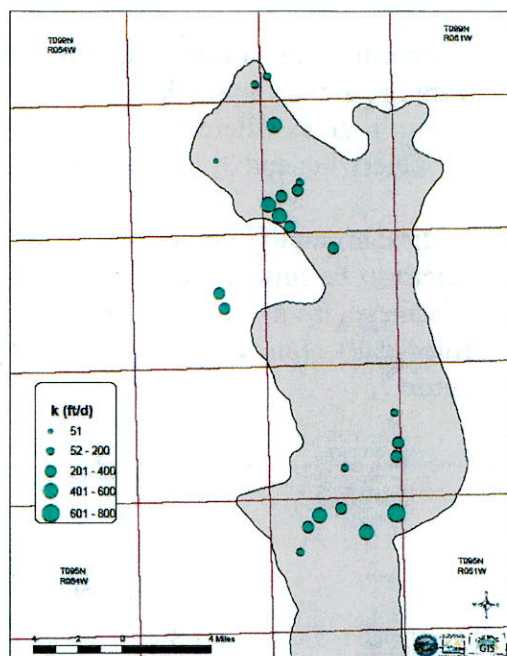


Figure 5. Location of production wells used to calculate hydraulic conductivity

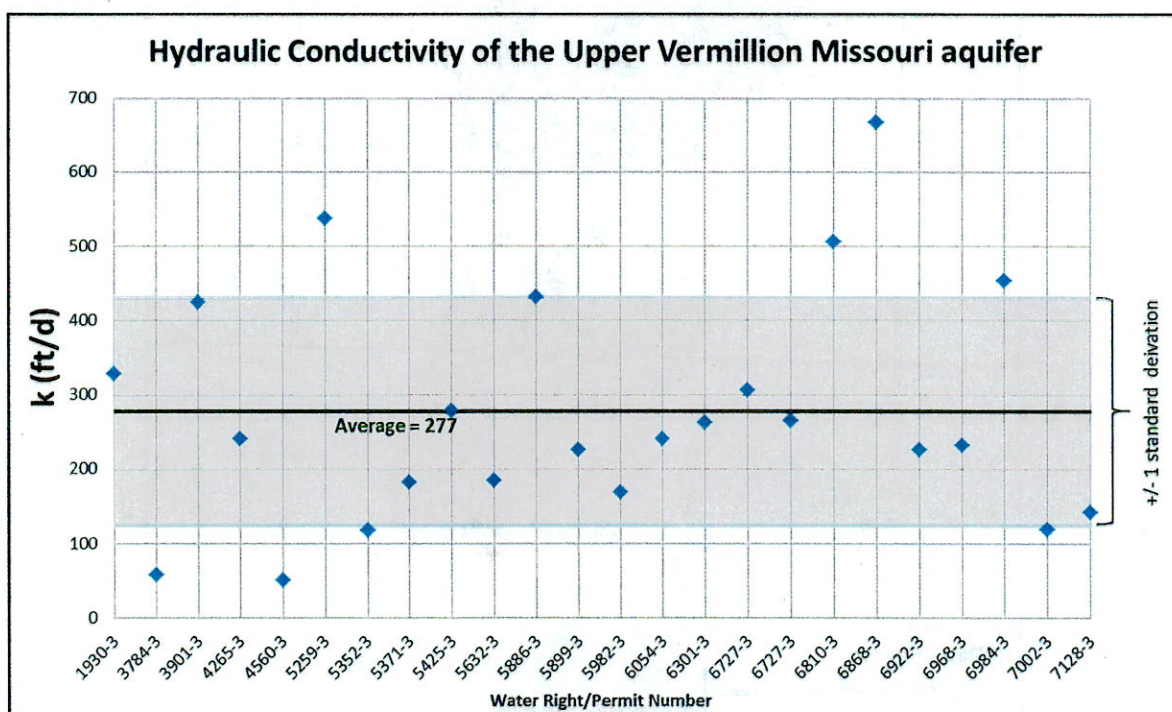


Figure 6. Chart showing the hydraulic conductivities, average hydraulic conductivity and one standard deviation of the Upper Vermillion Missouri aquifer at production wells where data is available (Water Rights, 2014b; and Water Rights 2014c).

Recharge:

Recharge to the Upper Vermillion Missouri aquifer has not been quantified. Lindgren and Hansen (1990) postulated that recharge to the Upper Vermillion Missouri aquifer occurs through: 1) direct infiltration of precipitation in areas where the aquifer is at or near ground surface; 2) inflow from fractures in the Sioux Quartzite; and 3) inflow from the Niobrara aquifer.

Although the Upper Vermillion Missouri aquifer appears to be in contact with the quartzite and Niobrara aquifer, these areas appear to be limited. The likely source of recharge to the Upper Vermillion Missouri aquifer is leakage from the overlying Parker Centerville aquifer (PAC) where the two aquifers are hydrologically connected. Areas of potential interconnection between the two aquifers are shown in Figure 7.

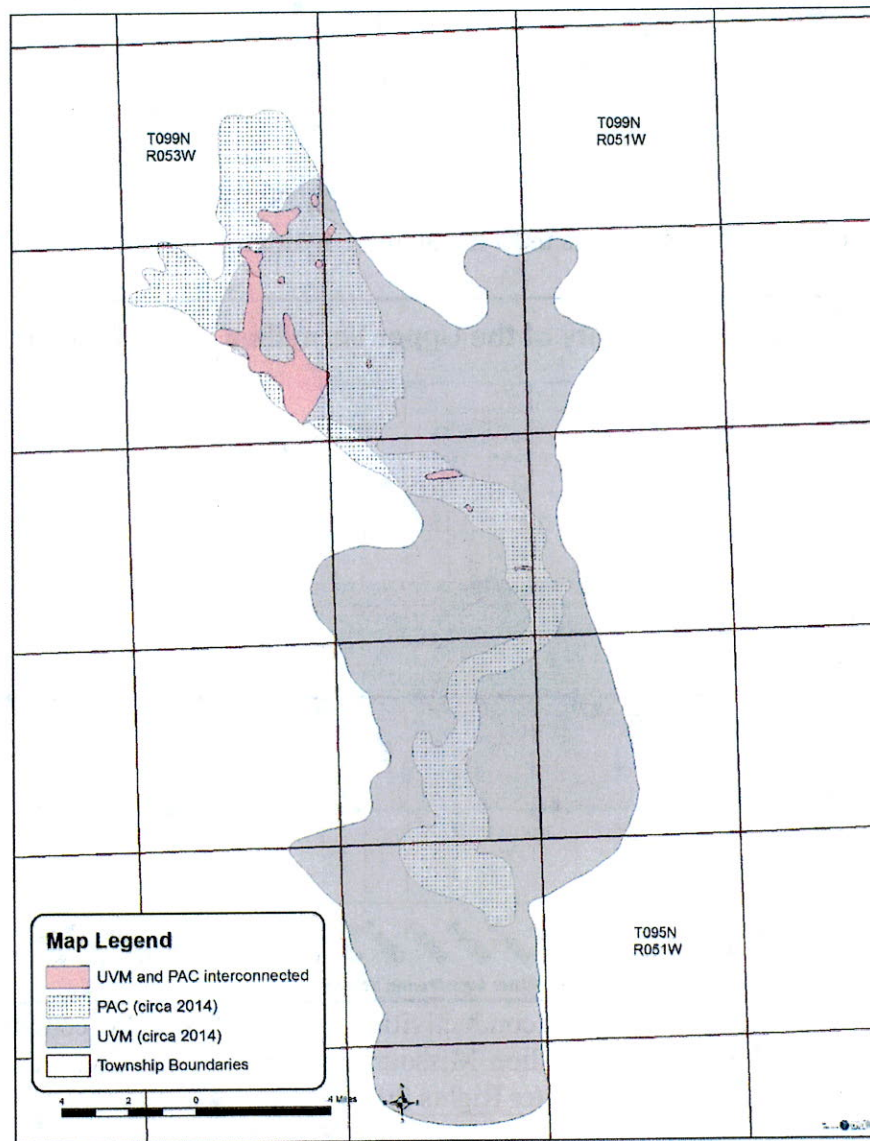


Figure 7. Areal extent of the Upper Vermillion Missouri (UVM) aquifer, the Parker Centerville (PAC) aquifer, and areas where the two aquifers are potentially interconnected (SD-Geological Survey, in progress).

MANAGEMENT UNITS

A system of aquifer and management unit designations for South Dakota was designed to establish a bookkeeping framework of hydrologic data (Hedges and others, 1982). The aquifer and management unit boundaries were chosen to coincide with hydrogeologic boundaries that are “identifiable and which can be documented.” Actual boundaries between units were based on one or more of the following criteria:

1. Thinning and/or constriction of the aquifer or management unit.
2. Facies change from high to low permeability of aquifer material.
3. Change from water-table to artesian conditions and vice versa.
4. Ground-water divide.
5. Ground-water discharge point such as stream or lake.
6. Presence of streamflow gaging station.

Although previous aquifer delineations (Hedges and others, 1982; and Lindgren and Hansen, 1990) both identified areas with anomalous gradients of the potentiometric surfaces, they considered the Upper Vermillion Missouri aquifer a single unit.

As the result of work done by the DENR- Geological Survey in 2013-2014, identifiable geologic and hydrologic data suggests two boundaries establishing three management units within the Upper Vermillion Missouri aquifer. Proposed management units are shown in Figure 8.

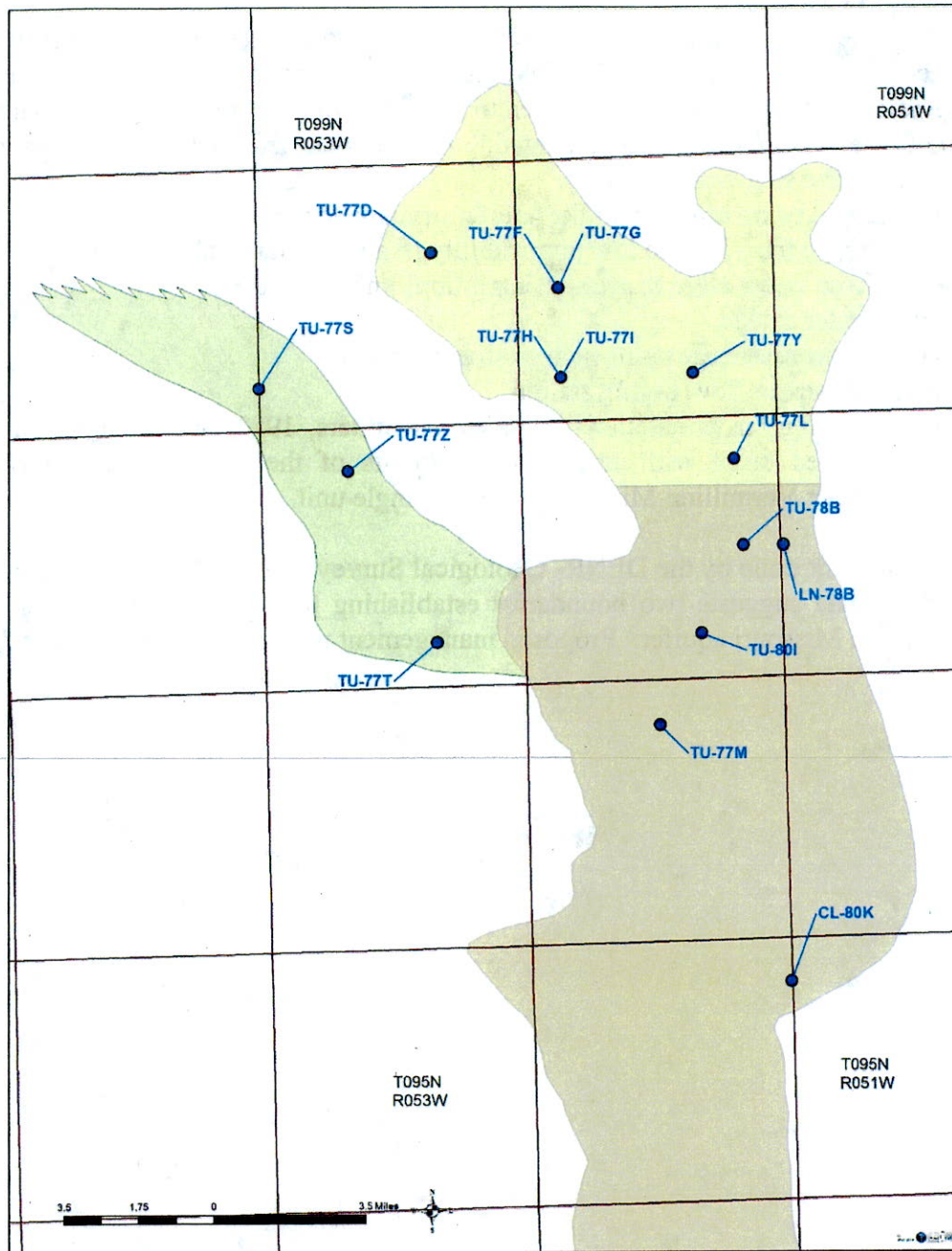


Figure 8. Proposed management units for the Upper Vermillion Missouri aquifer

South Management Unit/West Management Unit Boundary:

In the southeastern portion of T097N-R053W or the southwestern portion of T097N-R052W, three sets of data (i.e. bedrock topography, outwash lithology and aquifer potentiometric surface) identify a boundary between the West management unit and the South management unit of the aquifer.

Bedrock Topography:

Near the confluence of the bedrock channel that enters from the west with the channel that contains the main body of the Upper Vermillion Missouri aquifer, the western channel below 1,100 feet msl constricts by over 20% within three miles (see Figures 9, 10 and 11).

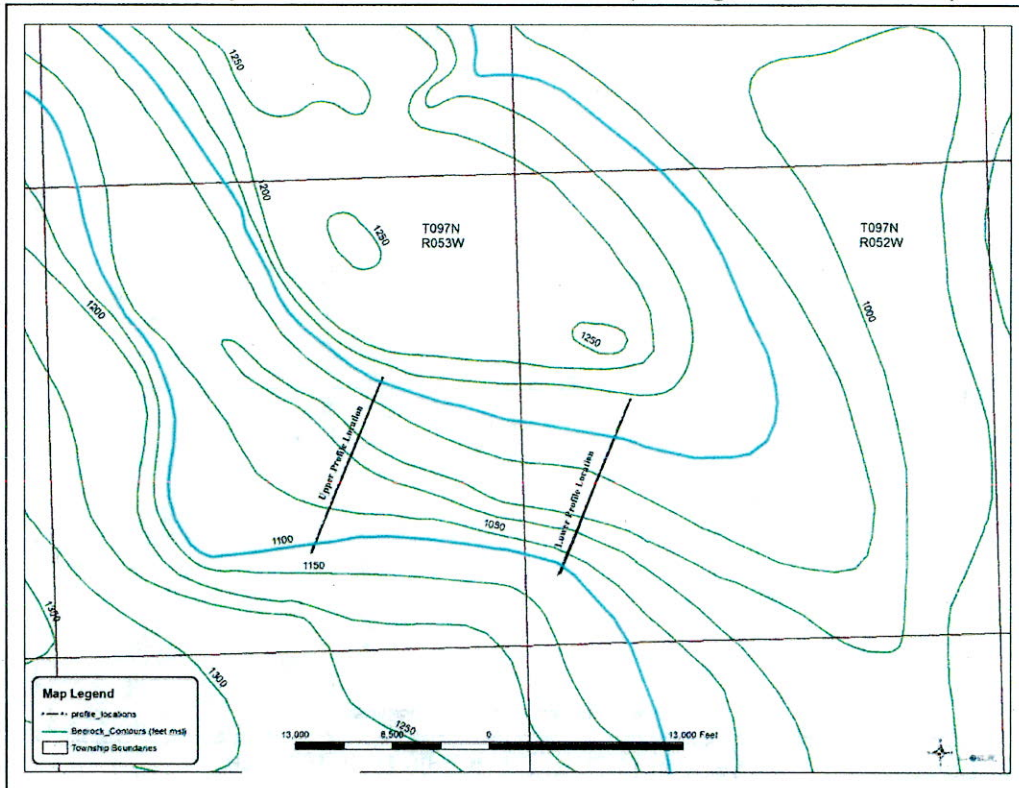


Figure 9. Location of bedrock channel profiles (modified from SD-Geological Survey, in progress)

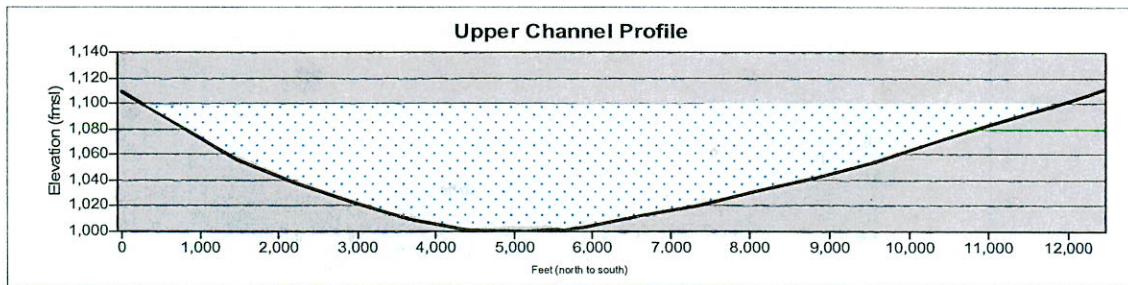


Figure 10. Upper Channel Profile

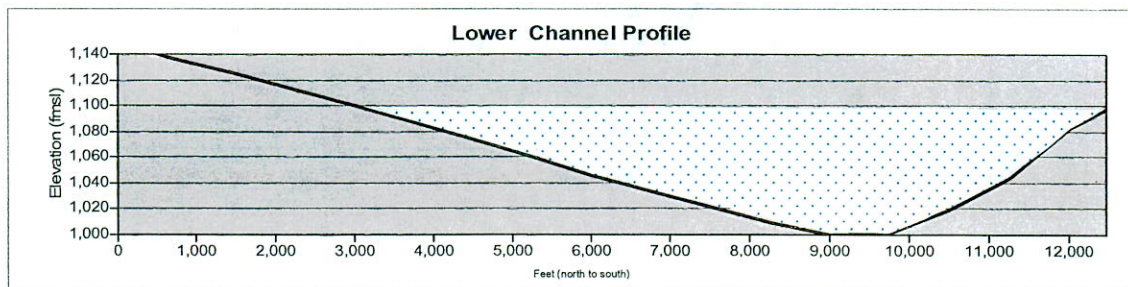


Figure 11. Lower Channel Profile

Lithology:

A west to east cross section through this area indicates the outwash in the western channel thins from approximately 100 feet thick to approximately 50 feet thick across this confluence area. In addition, geologists' logs identify the outwash as "very clayey" in the vicinity of a test hole drilled in the SE¼ of Section 24, T97N-R53W (see Figures 12 and 13).

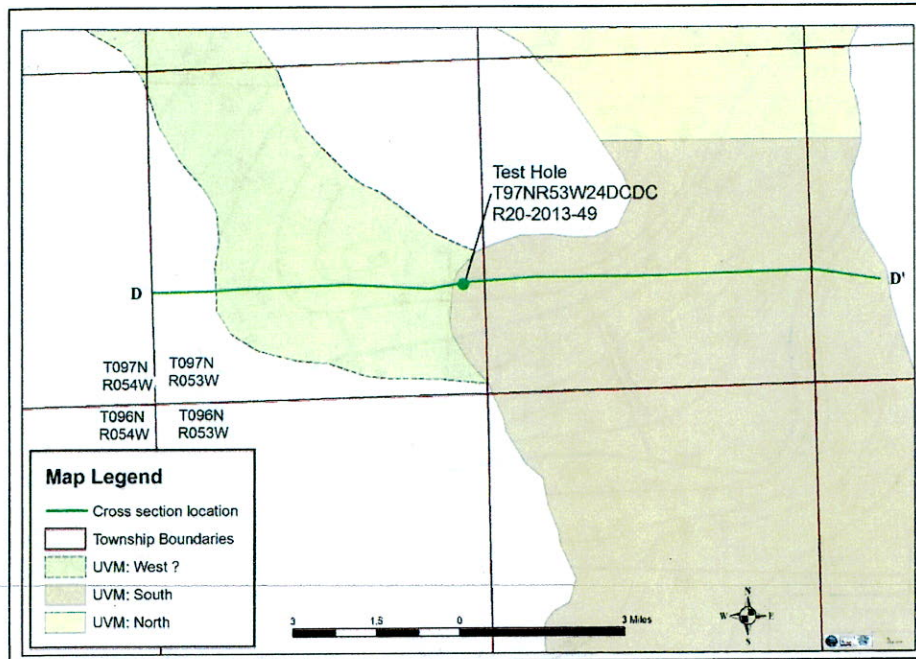


Figure 12. Location of cross Section D-D' and test hole R20-2013-49

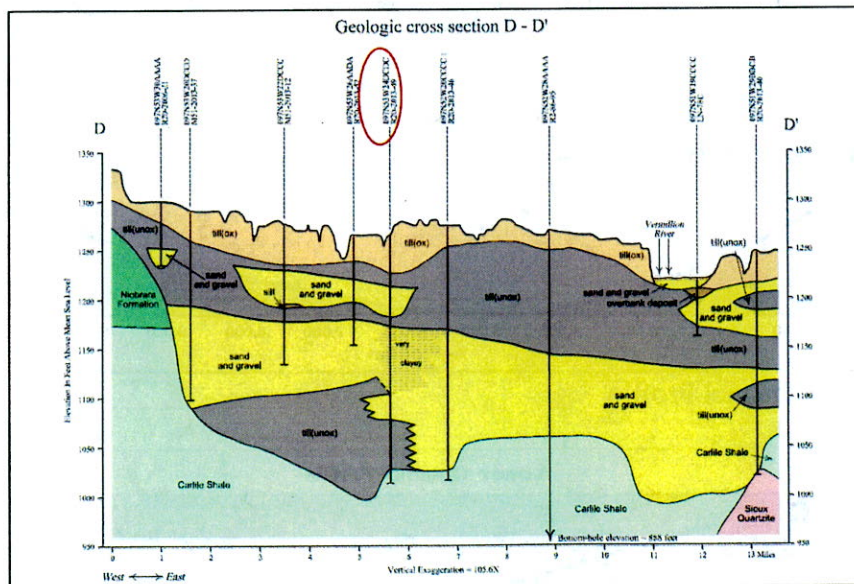


Figure 13. Cross section D-D' (modified from SD-Geological Survey, in progress)

Potentiometric Surface:

A profile of the potentiometric surface near the confluence of the west bedrock channel with the main bedrock channel containing the Upper Vermillion Missouri aquifer identifies a change in the gradient in the area (see Figures 14 and 15). This suggests a lower permeability area that would create a boundary condition.

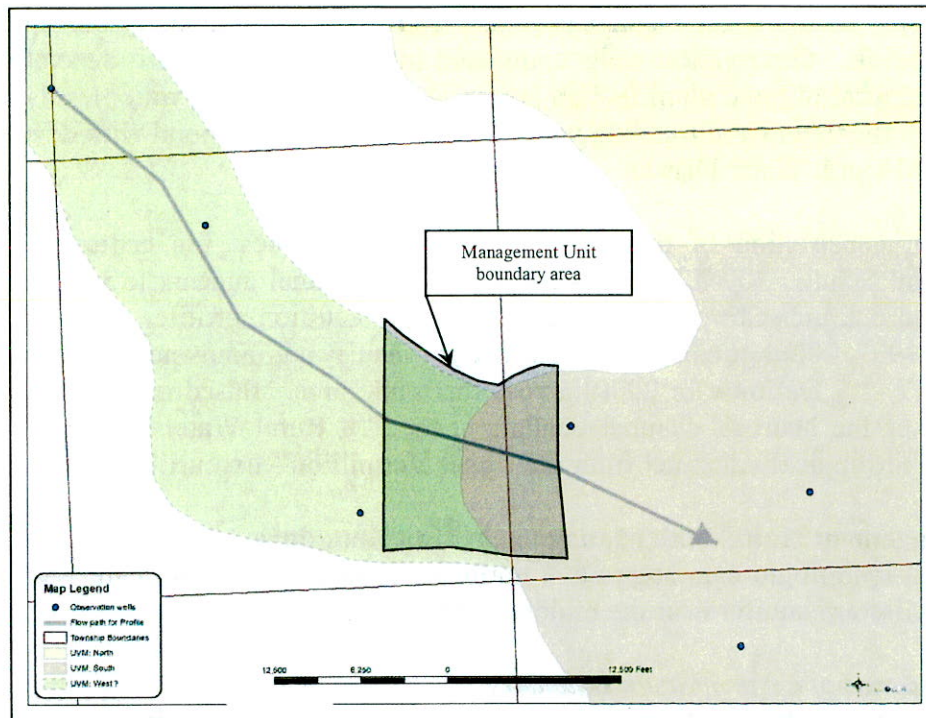


Figure 14. Location of Flow path for Potentiometric Surface Profile

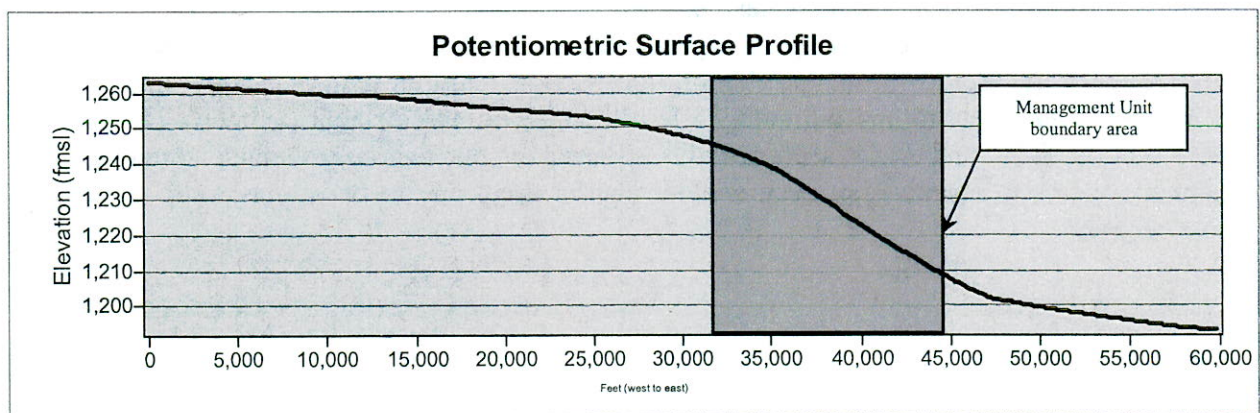


Figure 15. Potentiometric surface profile showing the boundary between the west and south management units of the Upper Vermillion Missouri aquifer

West Management Unit/Northwest Management Unit Boundary:

The West management unit of the Upper Vermillion Missouri aquifer appears to extend northwest beyond the limit used for this report. Data is not available to determine the areal extent of this management unit.

A basal outwash deposit occupies a southeast trending bedrock channel that originates approximately 30 miles northwest of the minimal northwest limit of the proposed West management unit (Tomhave and Schulz, 2004). Past delineations of the Upper Vermillion Missouri aquifer included this outwash deposit as part of the aquifer beginning approximately 18 miles beyond the known northwest limit of the proposed West management unit (see Figures 2 and 8). Water levels of observation wells completed into this basal outwash approximately 15 miles northwest of the West management unit appear to approximately correspond to UVM: West water levels. Observation wells completed into the basal outwash deposit approximately 15 miles northwest of have identified an area of downward trending water levels. The area and chronology of the downward trending water levels appear to correspond with development of the aquifer by TM Rural Water District.

A significant constriction of this bedrock channel exists near the center of T100N-R55W (Tomhave and Schulz, 2004). The narrowing of the channel appears to be located in an area where the bedrock incised by the channel changes. In addition, profiles of the pre-development (circa 1990, 1995, 2000) potentiometric surface all identify a groundwater flow gradient decrease from (e.g. 3.7 -1.5 feet/mile in 2000) across this same area. Based on this available data, the northern tip of the bedrock channel containing the TM Rural Water District wells should be considered hydrologically distinct from the Upper Vermillion Missouri: West aquifer.

South Management Unit/North Management Unit Boundary:

Geologic and hydrologic data suggests a north/south boundary in the main body of the Upper Vermillion Missouri aquifer near the middle of T97N-R52W.

Geologic evidence of a North/South Boundary:

The bedrock topography identifies a narrowing of the channel containing the Upper Vermillion Missouri aquifer near the middle of T97N-R052W. Geologic cross sections constructed near this area and their location are shown in Figures 16, 17, and 18. The cross sectional area of the Upper Vermillion Missouri aquifer has been outlined in blue in Figures 17 and 18, and the area reported by the DENR-Geological Survey (in progress) is labeled for each cross section. The data indicates the area of the Upper Vermillion Missouri aquifer contracts from approximately 3.3 million square feet to approximately 2.8 million square feet or approximately 15% between cross section B-B' and cross section C-C'. Based on the bedrock channel topography, the channel appears to narrow (i.e. even smaller aquifer area) one to two miles south of the C-C' cross section.

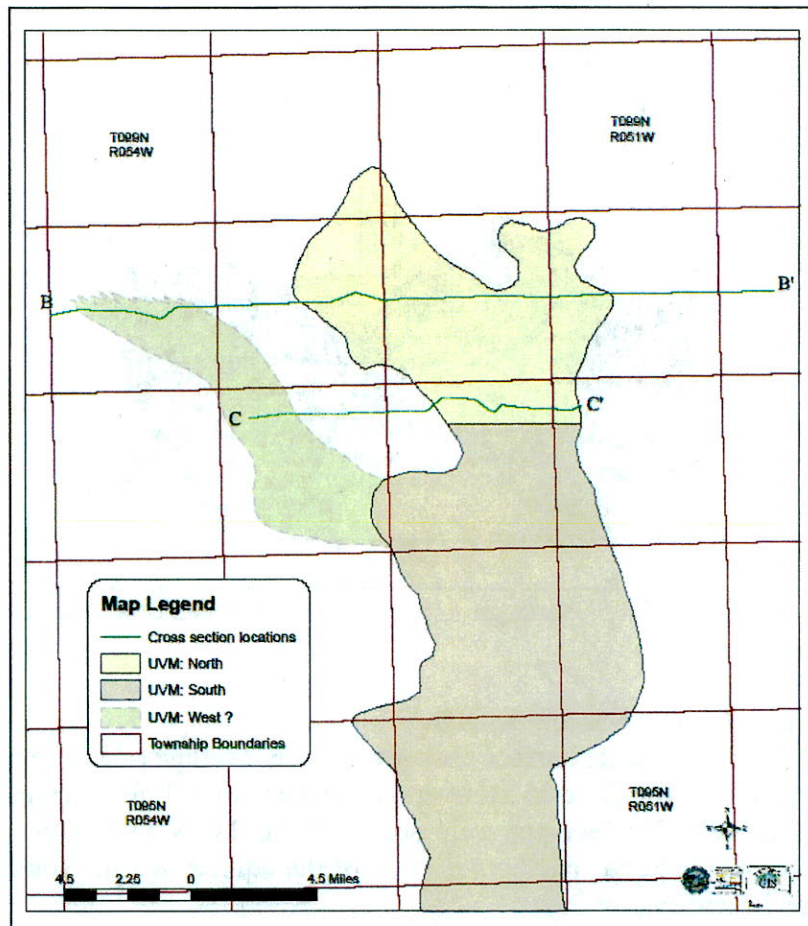


Figure 16. Cross section locations for Figures 17 and 18.

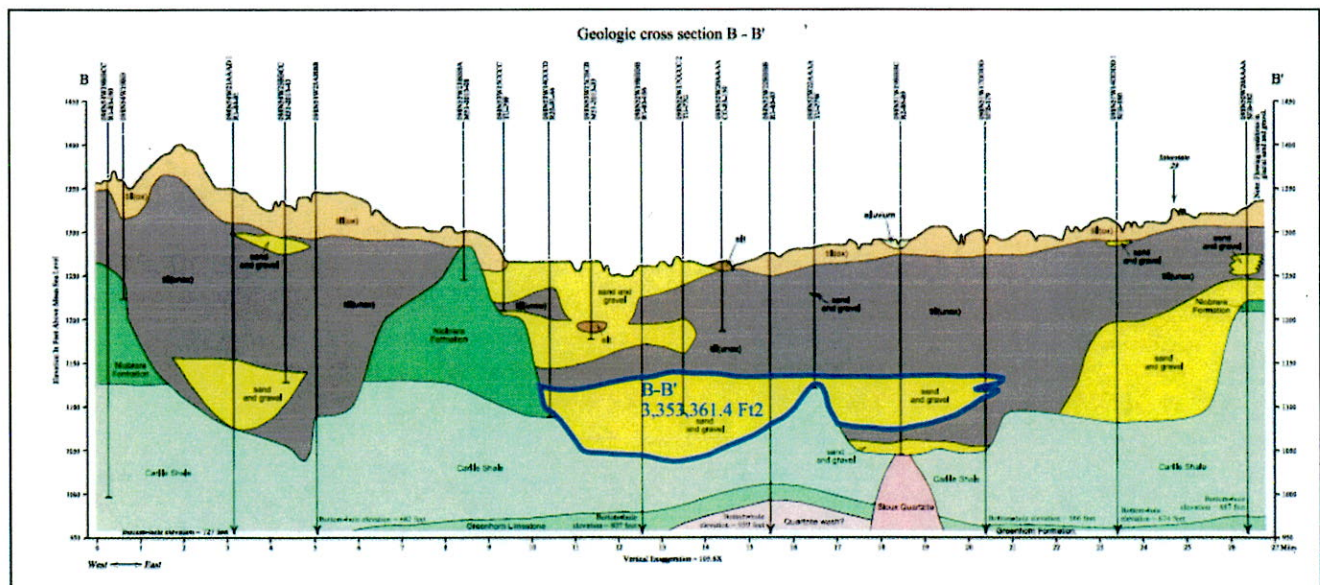


Figure 17. Cross section B-B' through Upper Vermillion Missouri aquifer (SD-Geological Survey, in progress)

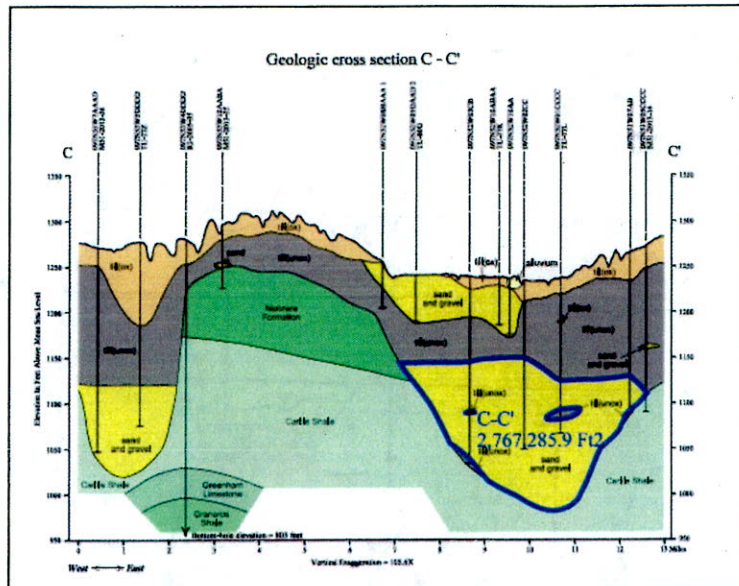


Figure 18. Cross Section C-C' through Upper Vermillion Missouri aquifer (SD-Geological Survey, in progress)

Hydrologic evidence of a North/South Boundary:

The gradient of the potentiometric surface changes from an average of approximately 4.2 feet per mile north of the T97N-T98N line to an average gradient of 9.1 feet per mile in T97N to an average of approximately 3.0 feet per mile south of the T97N-T98N line. This suggests a hydrologic boundary between the northern portion of the aquifer and the southern portion of the aquifer (see Figure 19 and Figure 20).

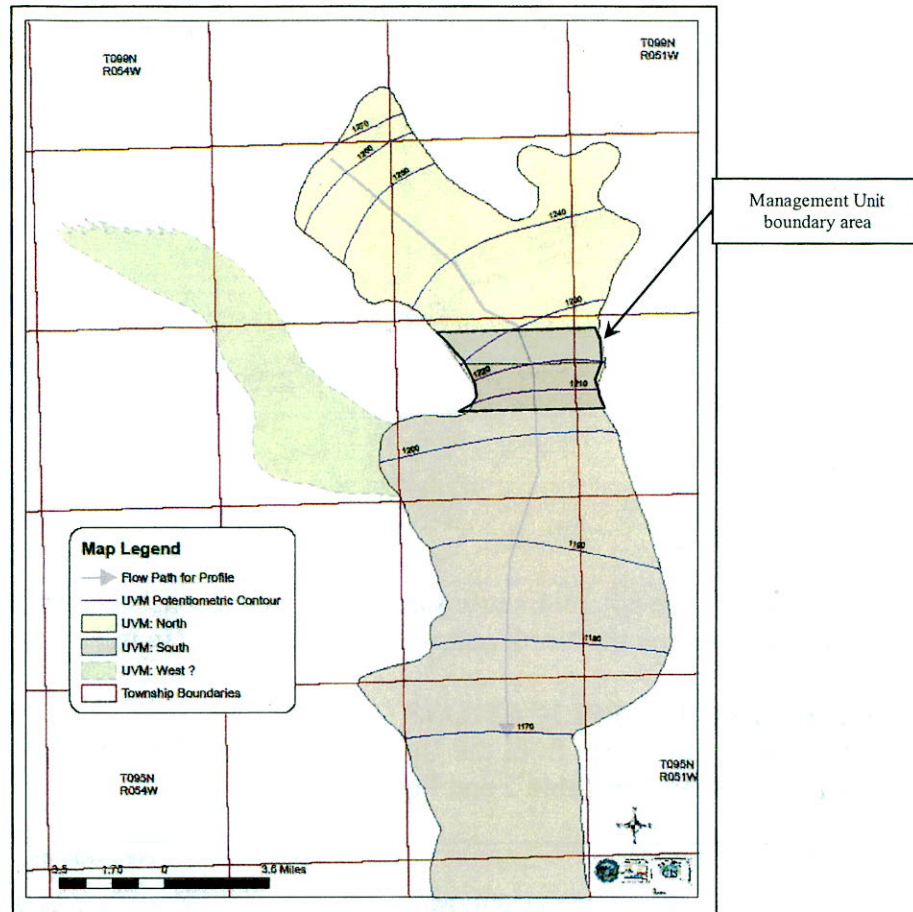


Figure 19. Location of Flow path for potentiometric surface profile

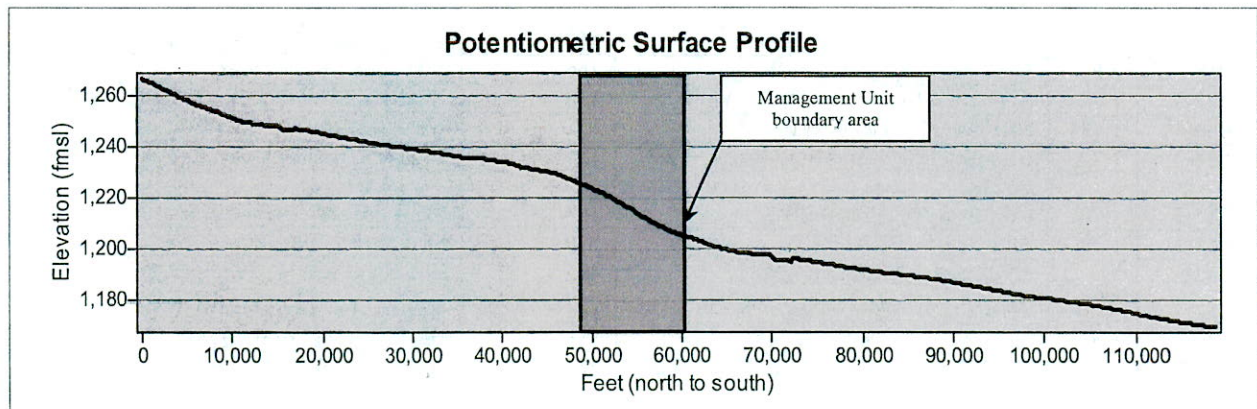


Figure 20. Potentiometric surface profile showing boundary between the north and south management units of the Upper Vermillion Missouri aquifer

The gradient change appears to exist regardless of the climatic conditions or variations in recharge and withdrawal from the aquifer (see Figure 21).

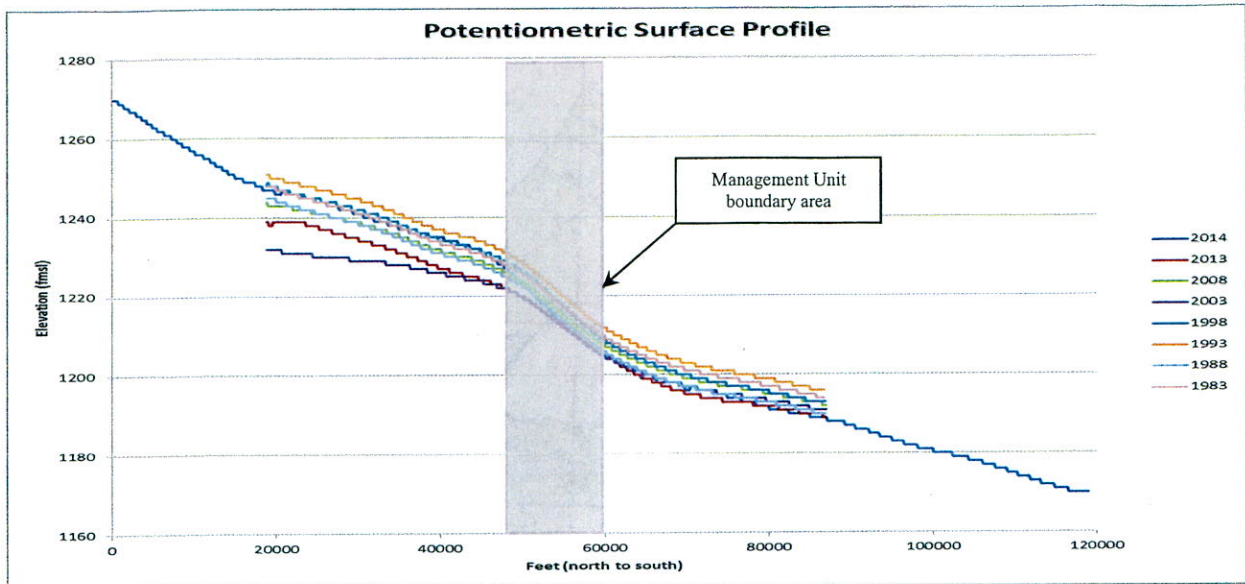


Figure 21. Profile of the potentiometric surface showing a consistent gradient change at the boundary between the North and South Management Units.

DEFERRED PERMIT APPLICATIONS

The water permit applications from the Upper Vermillion Missouri aquifer that are currently in deferred status are shown in Table 2 and Figure 22.

Permit No.	CFS	Well Location	Acres	Acre Location
7535-3	1.78	SW¼ NW¼ Sec. 30, T98N-R53W	65	NW¼ Sec. 30, T98N-R53W
7588-3	1.78	SW¼ Sec. 19, T98N-R53W	160	SW¼ Sec. 19, T98N-R53W
7602-3	1.89	Between NW¼ & NE¼ Sec. 34, T97N-R53W	132	E½NW¼, W½NE¼ Sec. 34, T97N-R53W
7633-3	1.78	SW¼ Sec. 32, T98N-R53W	152	SW¼ of Sec. 32, T98N-R53W
7715-3	2.22	SW¼ Sec. 16, T97N-R53W	156	SW¼ Sec. 16, T97N-R53W
7452-3	1.78	SW¼NE¼ Sec. 32, T98N-R52W	110	W½NE¼, SE¼NE¼ Sec. 32, T98N-R52W
7468-3	1.78	NE¼ Sec. 26, T96N-R51W	152	NE¼ Sec. 26, T96N-R51W
7558-3	1.78	Between NW¼ & SW¼ Sec. 1, T98N-R52W	120	N½SW¼, S½NW¼ Sec. 1, T98N-R52W
7587-3	1.78	SE¼ Sec. 10, T98N-R53W	160	SW¼ Sec. 10, T98N-R53W
7441-3	1.79	SE¼ Sec. 8, T95N-R52W	140	SE¼ Sec. 8, T95N-R52W
7442-3	No add'l	NW¼ Sec. 17, T95N-R52W	40	W½ NE¼ Sec. 17, T95N-R52W
7466-3	1.78	NE¼ Sec. 5, T96N-R51W	152	NE¼ Sec. 5, T96N-R51W
7467-3	1.78	NW¼ Sec. 13, T97N-R52W	152	NW¼ Sec. 13, T97N-R52W
7600-3	3.56	NE¼NW¼ & SW¼ Sec. 12, T96N-R52W (2 wells)	180	NW¼, N½SW¼ Sec. 12, T96N-R52W
7601-3	1.89	NE¼ Sec. 25, T-97N-R53W	132	NE¼ Sec. 25, T97N-R53W
7603-3	1.78	NE¼ Sec. 33, T97N-R52W	120	NE¼ Sec. 33, T97N-R52W
7623-3	1.89	SE¼NW¼ Sec. 24, T97N-R52W	140	NW¼, W½NE¼ Sec 24, T97N-R52W
7653-3	1.67	SW¼ Sec. 8, T96N-R52W	85	W½SW¼, NE¼SW¼ Sec. 8, T96N-R52W
7690-3	1.78	NE¼ Sec. 29, T96N-R52W	160	NE¼ Sec. 29, T95N-R52W
7900-3	1.89	NW¼NE¼ Sec.6, T95N-R51W	136	NE¼ Sec. 6, T95N-R51W
7919-3	1.83	NE¼ Sec. 9, T95N-R52W	83.83	NE¼ Sec. 9, T95N-R52W

Table 2. Deferred Water Permit Applications from the Upper Vermillion Missouri aquifer

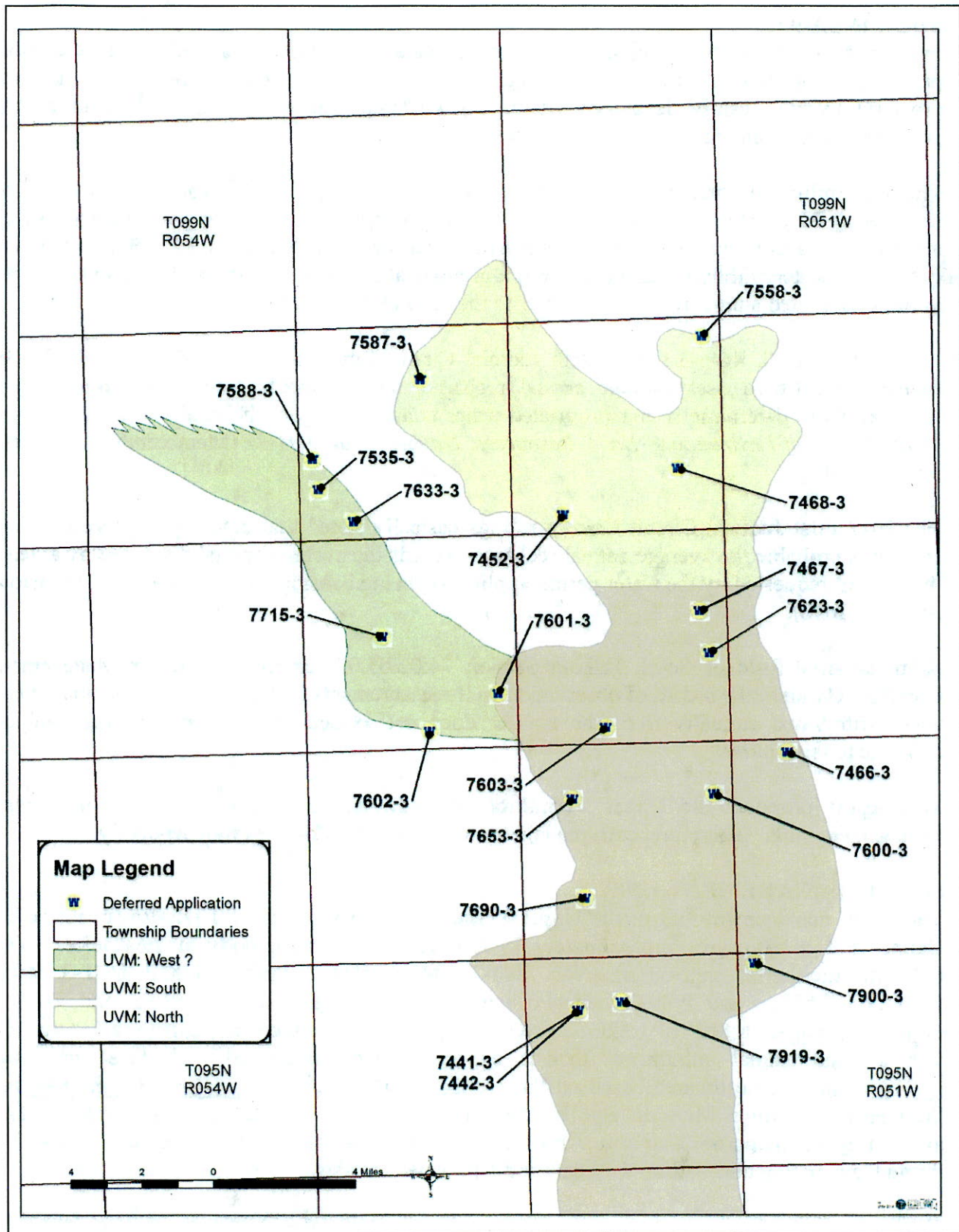


Figure 22. Location of deferred water permit applications and suggested management units of the Upper Vermillion Missouri aquifer

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.

The probability of unappropriated water available from the 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 2012 First Judicial Circuit Court's rulings basically stated that data must be presented to show it is probable the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered (Memorandum Decision, April 11, 2012).

Administrative Rule of South Dakota Section 74:02:05:07 requires the Water Management Board to 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.

This report proposes the Upper Vermillion Missouri aquifer can be separated into three management units. Therefore, each management unit will be addressed independently.

SOUTH MANAGEMENT UNIT:

The South management unit of the Upper Vermillion extends south of T97N-R52W into Clay County and encompasses approximately 78,820 acres of the main body of the aquifer. Ten deferred water permit applications (Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, and 7900-3) and two new permit applications (Nos. 7690-3, and 7919-3) propose to irrigate a total of 1,520.83 acres from the South management unit (See Figure 22). The average annual withdrawal that is expected to be associated with these proposed appropriations was estimated based on the *average application rate per permitted acreage* for the Upper Vermillion Missouri aquifer (from Table 3) to be 760.4 acre-feet per year. The availability of unappropriated water from this unit was assessed in terms of SDCL 46-6-3.1 through evaluating observation well data and a flow net analysis.

Year	Permitted Acres	Pumpage (ac-ft)	Rate (in/ac)
1979	10350.3	3247	3.764529
1980	9550.3	5082	6.385559
1981	9954.3	4159	5.013713
1982	9878.2	3778.57	4.590193
1983	9815.2	2983.12	3.647143
1984	9815.2	2791	3.412259
1985	9935.2	2479	2.994202
1986	9935.2	3544	4.280538
1987	9848.2	3781	4.607136
1988	9854.2	6753.1	8.22362
1989	10157.2	5758.6	6.803371
1990	10828.7	6626.2	7.342931
1991	10725.7	6220	6.958986
1992	10807.9	1793.2	1.990988
1993	9677.9	534.5	0.662747
1994	9284.9	4313.79	5.575233
1995	9704.9	4484.34	5.544836
1996	9820.2	4672.19	5.709281
1997	9755.2	5408	6.652452
1998	9855.2	5343.85	6.506839
1999	9863.2	5056.06	6.151423
2000	9863.2	6181.55	7.520744
2001	9863.2	6195.66	7.537911
2002	10143.2	7169.69	8.482163
2003	10143.2	5930.9	7.016602
2004	9823.2	7414.06	9.057
2005	9981.2	6856.39	8.243165
2006	10139.2	7906.32	9.35733
2007	10482.5	6983.2	7.994124
2008	11224.5	7467.98	7.983942
2009	11319.6	3878.92	4.112075
2010	11399.3	150.49	0.15842
2011	11399.3	5615.12	5.911016
2012	11458.3	13229.64	13.85508
Min	9284.9	150.49	0.15842
Max	11458.3	13229.64	13.85508
Avg	10195.8	5111.4	6.0

Table 3. Irrigation application rate **per permitted acre** for the Upper Vermillion Missouri aquifer (Water Rights, 1980-2013)

Observation well Data:

The DENR-Water Rights Program monitors five observation wells completed into the South management unit of the Upper Vermillion Missouri aquifer (see Figure 8 for locations). Hydrographs for the observation wells (Figures 23-27) all show upward trending water levels over their periods of record. Hydrographs for the observation wells document changes in climatic conditions along with temporal impacts of pumping. Since climatic conditions mask temporal impacts, well withdrawals from this management unit are not stressing the system to the extent where natural discharge is impacted. Therefore, groundwater outflow is available for “capture.” The observation wells in this management unit document unappropriated water is available for appropriation.

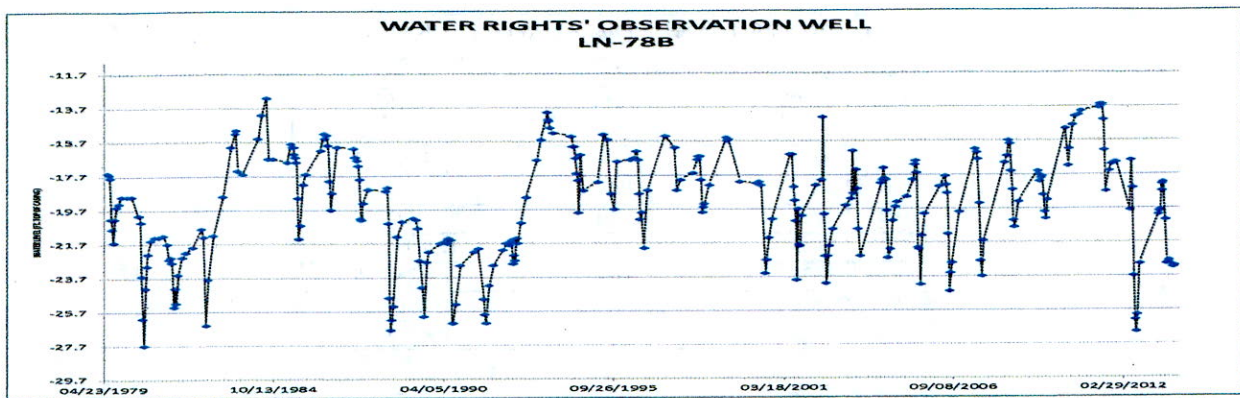


Figure 23. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

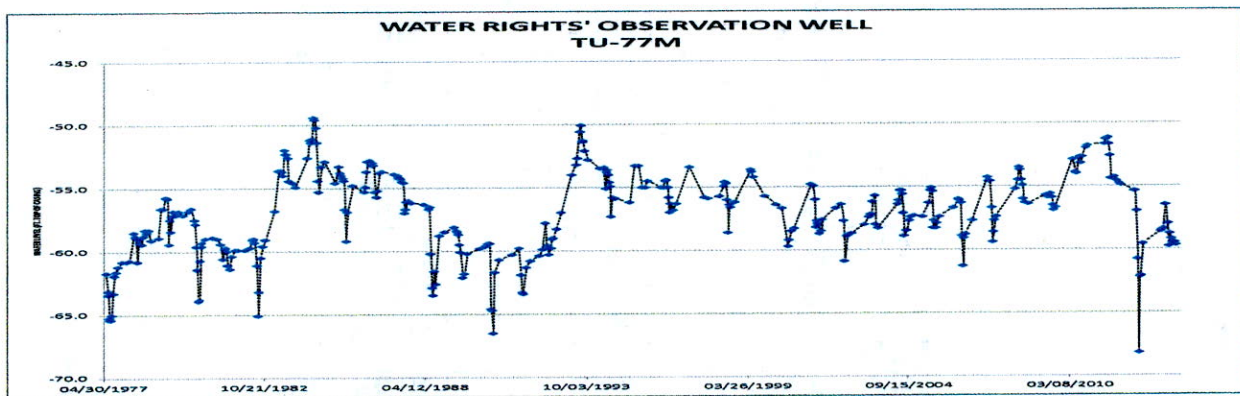


Figure 24. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

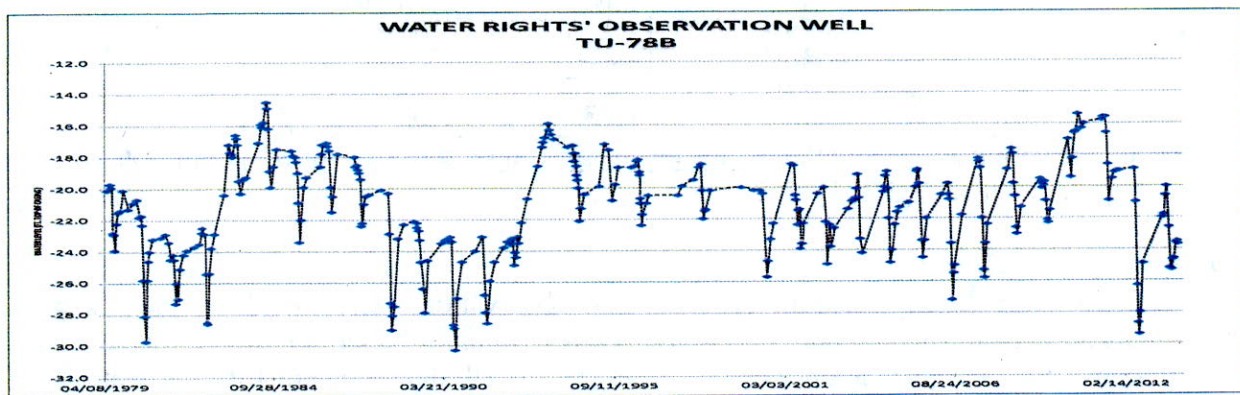


Figure 25. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

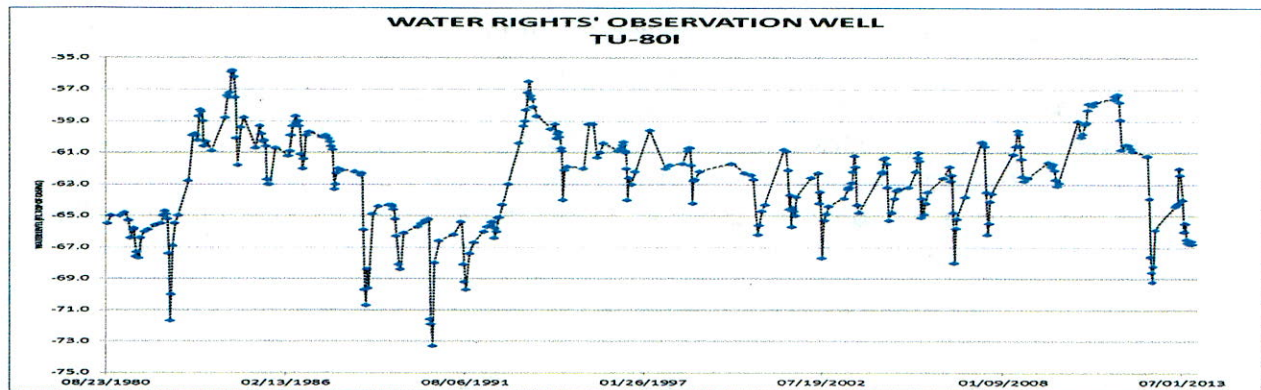


Figure 26. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

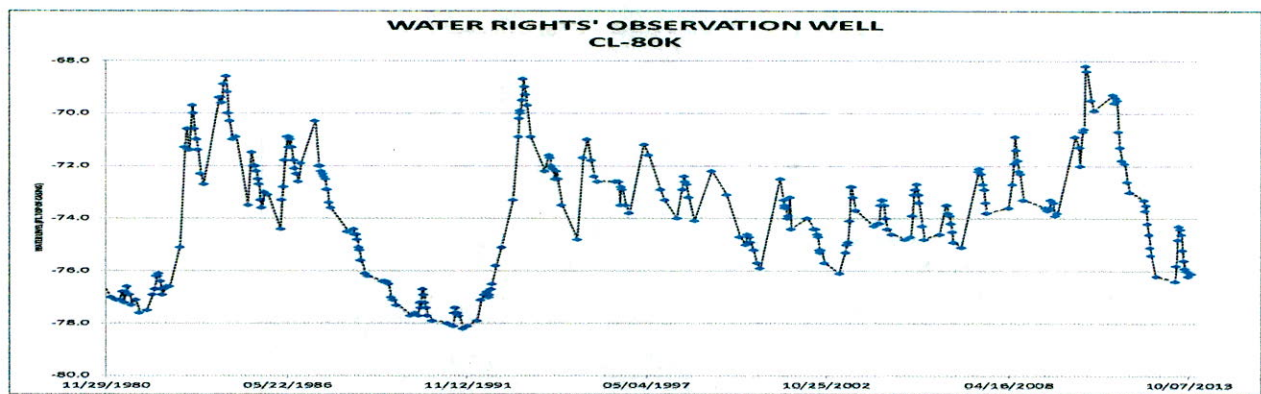


Figure 27. Hydrograph for an observation well completed into the UVM: South (Water Rights, 2014a)

2014 Flow Net Analysis:

Inflows to and outflows from the South management unit of the Upper Vermillion Missouri aquifer were evaluated by interpreting a regional flow net analysis based on the January 21, 2014, water level data from the aquifer. A flow net analysis is a calculation of the amount of water flowing through the aquifer according to the equation:

$$Q = kAI \cdot .0084$$

Where:

Q= flow (ac-ft/yr)

k= Hydraulic Conductivity (ft/d)

A= Area (ft²)

I= Hydraulic gradient (ft/ft)

.0084= conversion constant

The average hydraulic conductivity from Table 1 (277 ft/d) was applied over the entire aquifer. The cross sectional area reported by the DENR-Geological Survey (in progress) for each cross section (see values in blue on the cross sections) was used in the calculations. The gradient of the potentiometric surface on January 21, 2014, at each cross section was used for the hydraulic gradient. The amount of groundwater outflow from a management unit represents the volume of

water recharging the unit that exceeds discharges from the unit. Groundwater flow was calculated at two locations near the southern extent of the South management unit at cross sections F-F' and G-G' (see Figures 28, 29, 30). The flow calculation data is shown in Table 4. The flow net analysis indicates that there is at least 5,673 acre-feet of water leaving this management unit through groundwater outflow. Therefore, there is a reasonable probability that unappropriated water is available to supply the 760.4 acre-feet per year expected to be used by these twelve applications.

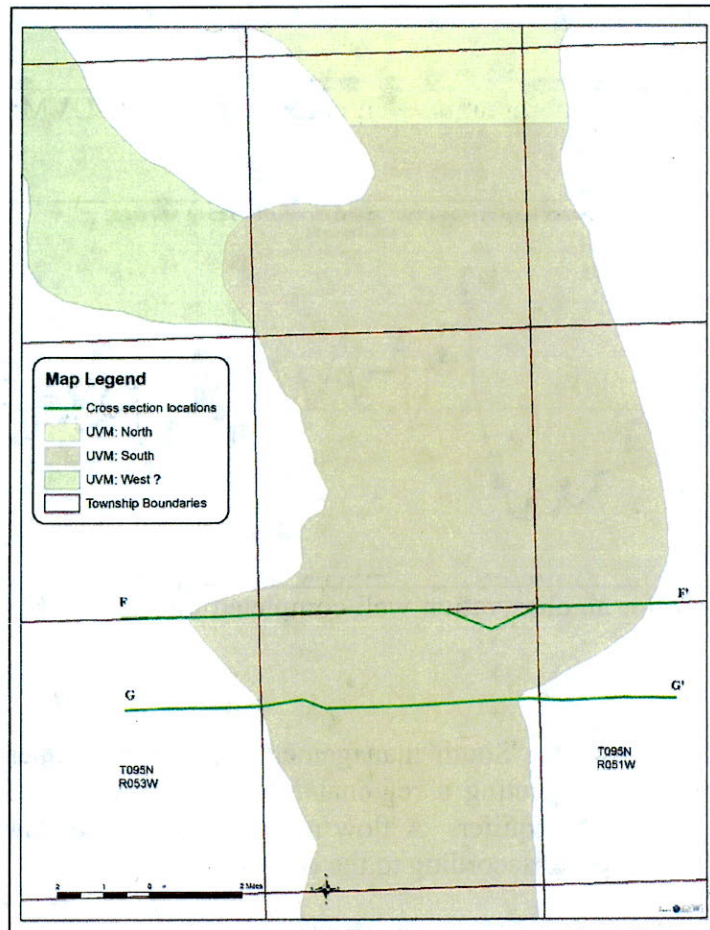


Figure 28. Map showing the location of cross Sections F-F' and G-G'

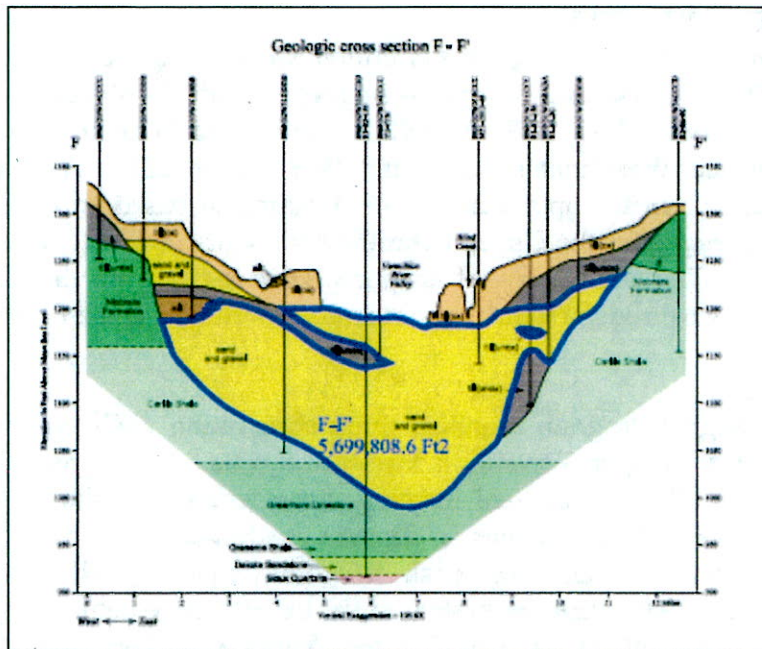


Figure 29. Geologic cross section at F-F' (SD-Geological Survey, in progress)

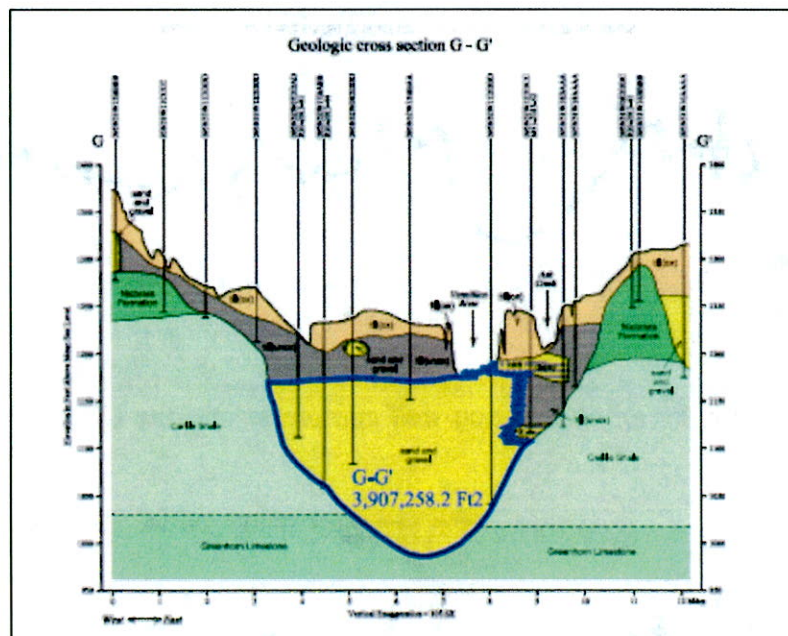


Figure 30. Geologic cross section at G-G' (SD-Geological Survey, in progress)

Cross Section	Area (ft ²)	Hydraulic Gradient (ft/ft)	K (ft/day)	Q (ft ³ /day)	Q (ac-ft/yr)
F-F'	5,699,809	0.00062	277	978,885	<u>8,223</u>
G-G'	3907258	0.00062	277	671,033	<u>5,637</u>

Table 4. Groundwater flow at southern portion of the South management unit

WEST MANAGEMENT UNIT:

The West management unit of the Upper Vermillion Missouri aquifer extends west from T97N-R53W to at least T98N-R54W and encompasses an estimated 22,750 acres. Five deferred water permit applications (Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7433-3) propose to irrigate a total of 665 acres from the West management unit (see Figure 22). The expected withdrawal associated with these proposed appropriations was estimated based on the *average application rate per permitted acreage* for the Upper Vermillion Missouri aquifer (from Table 3) to be 332.5 acre-feet per year. The availability of unappropriated water from this unit was assessed in terms of SDCL 46-6-3.1 through evaluating observation well data and a flow net analysis.

Observation well data

The DENR-Water Rights Program monitors three observation wells completed into the West management unit of the Upper Vermillion Missouri aquifer. Hydrographs for the observation wells (Figures 31-33) all show upward trending water levels over the period of record. The observation wells clearly show changes in climatic conditions along with temporal impacts of pumping. Since climatic conditions mask temporal impacts, well withdrawals from this management unit are not stressing the system to the extent where natural discharge is impacted. Therefore groundwater outflow is available for “capture”. The observation wells in this management unit document that unappropriated water is available for appropriation.

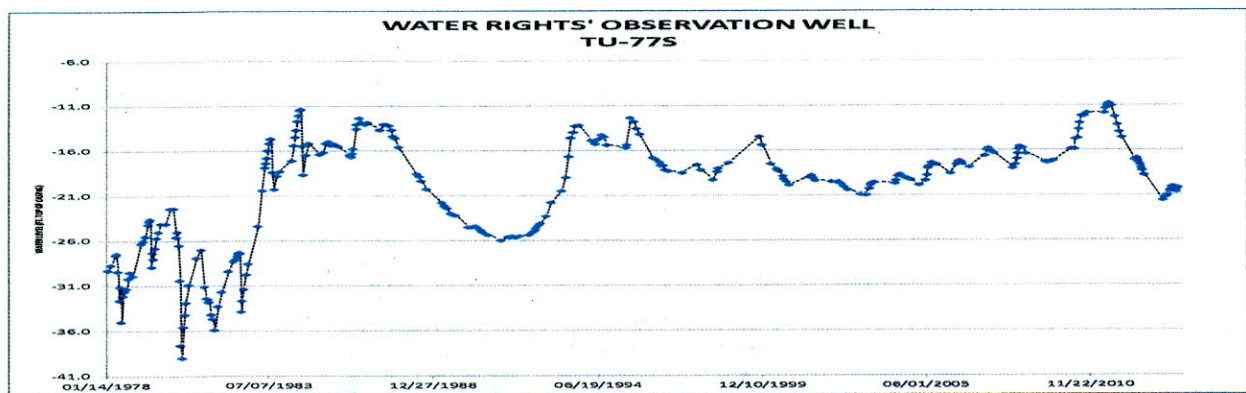


Figure 31. Hydrograph for an observation well completed into the UVM: West (Water Rights, 2014a)

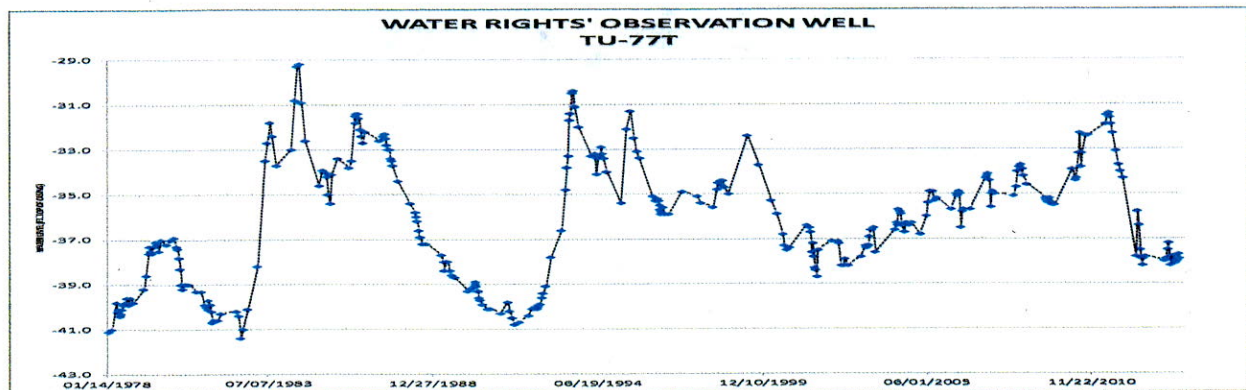


Figure 32. Hydrograph for an observation well completed into the UVM: West (Water Rights, 2014a)

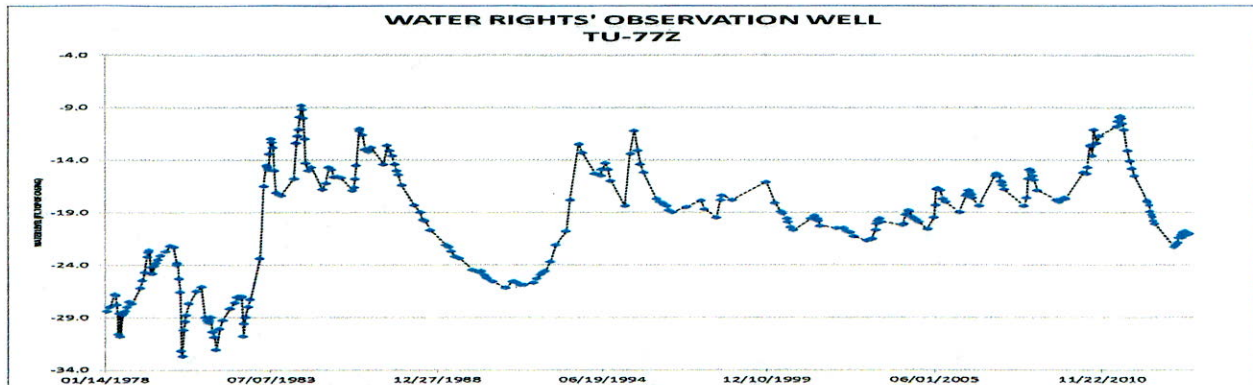


Figure 33. Hydrograph for an observation well completed into the UVM: West (Water Rights, 2014a)

2014 Flow Net Analysis:

The amount of groundwater outflow from the management unit represents the volume of recharge water exceeding withdrawals. Flow was calculated at the location where cross section AA-AA' bisects outwash (See Figures 34 and 35). The calculated flow, using the same equation discussed earlier for the South management unit, is shown in Table 5. The flow net analysis indicates that there is at least 2,681 acre-feet of water leaving this management unit through groundwater outflow. Therefore, there is a reasonable probability that unappropriated water is available to supply the 332.5 acre-feet per year expected to be used by these five applications.

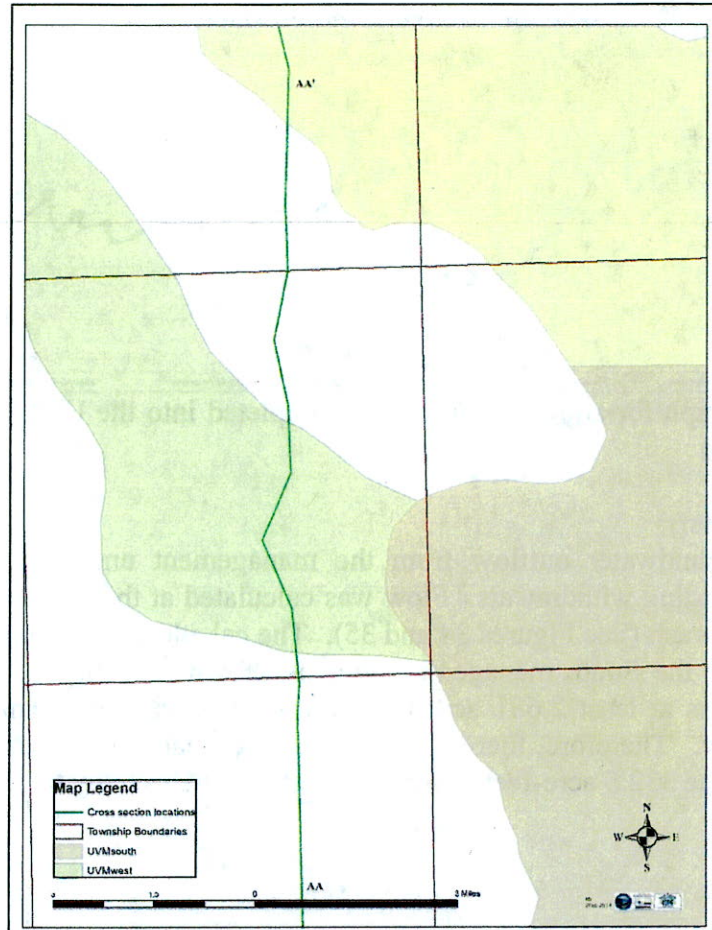


Figure 34. Map showing the location of cross section AA-AA'

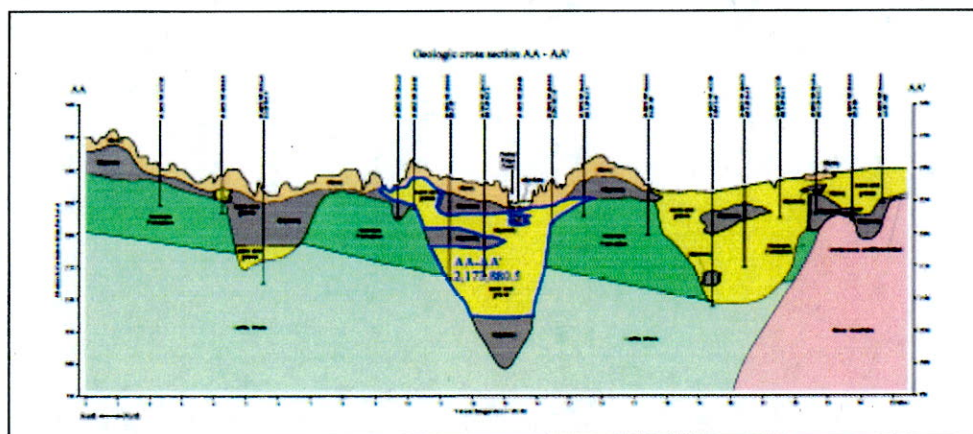


Figure 35. Geologic Cross Section at AA-AA' (SD-Geological Survey, in progress)

Cross Section	Area (ft ²)	Hydraulic Gradient (ft/ft)	K (ft/day)	Q (ft ³ /day)	Q (ac-ft/yr)
AA-AA'	2,173,880	0.00053	277	319,147	2,681

Table 5. Groundwater flow at eastern portion of the West management unit

NORTH MANAGEMENT UNIT:

The North management unit of the Upper Vermillion Missouri aquifer extends north of T97N-R52W and encompasses an estimated 38,110 acres. Four deferred water permit applications (Nos. 7452-3, 7468-3, 7558-3, 7587-3) propose to irrigate a total of 542 acres from the West management unit (See Figure 22). The expected withdrawal associated with these proposed appropriations was estimated based on the *average application rate per permitted acreage* for the Upper Vermillion Missouri aquifer (from Table 3) to be 271 acre-feet per year. The availability of unappropriated water from this unit was assessed in terms of SDCL 46-6-3.1 through evaluating observation well data.

Observation well Data:

The DENR-Water Rights Program monitors seven observation wells completed into the North management unit of the Upper Vermillion Missouri aquifer (see Figure 8 for locations). Hydrographs for the observation wells (see Figures 36-42) all show downward trending water levels (blue trend line on hydrographs) over the period of record. Trend lines for the minimum annual water levels (green trend lines on hydrographs) are also all trending downward. Except for observation well TU-77F, the maximum annual water level trend (red line on hydrographs) has shown an upward trend.

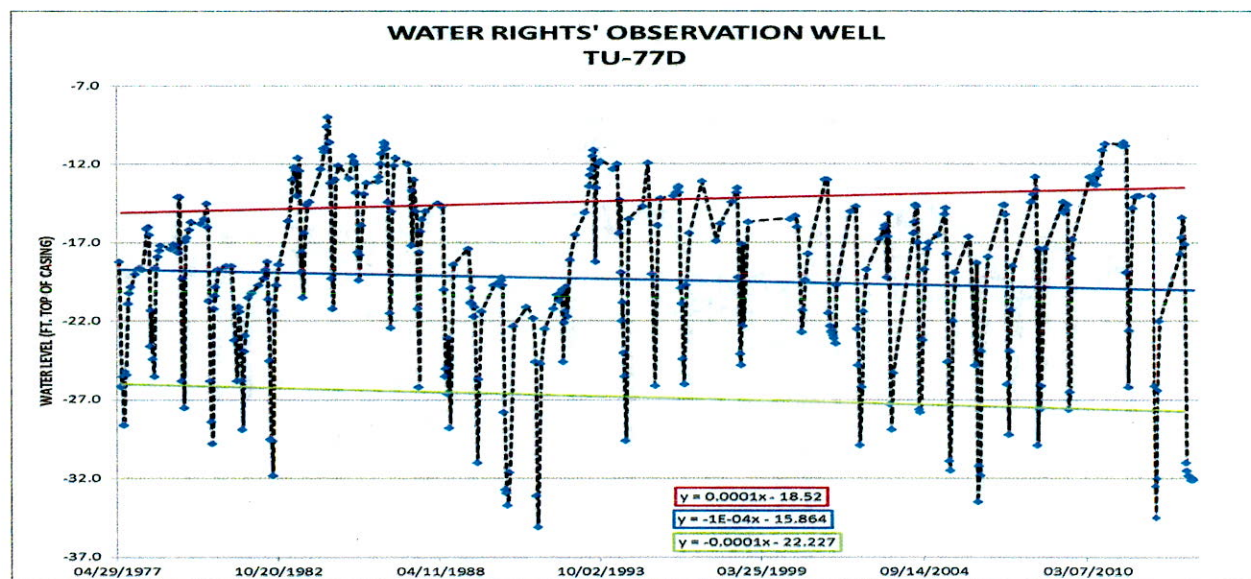


Figure 36. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual overall water level trend line (red) (Water Rights, 2014a).

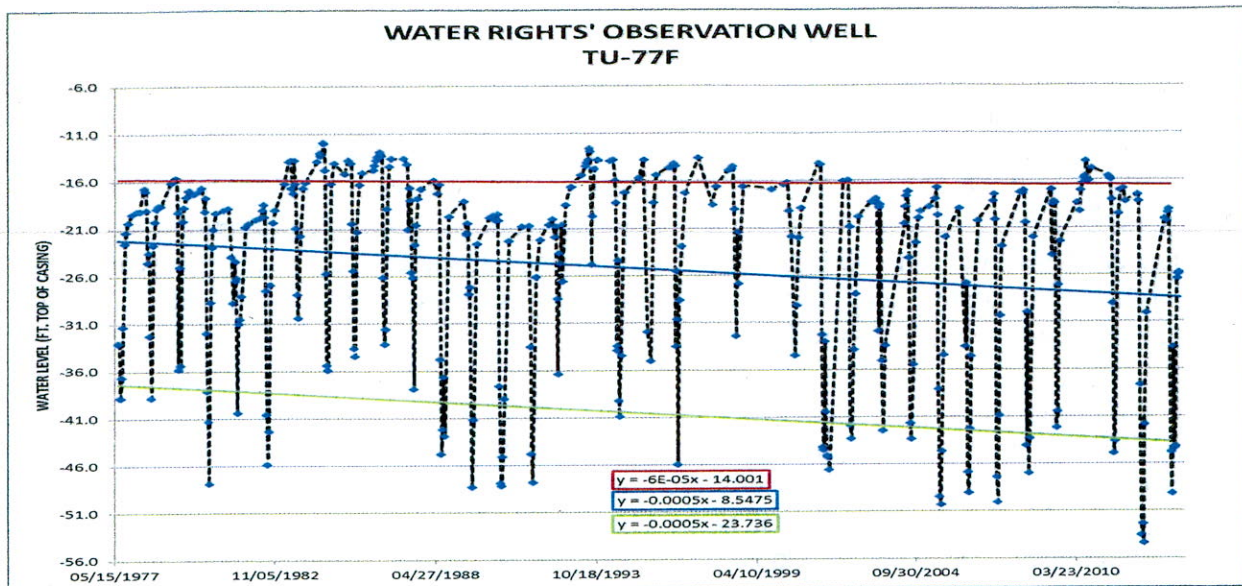


Figure 37. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual overall water level trend line (red) (Water Rights, 2014a).

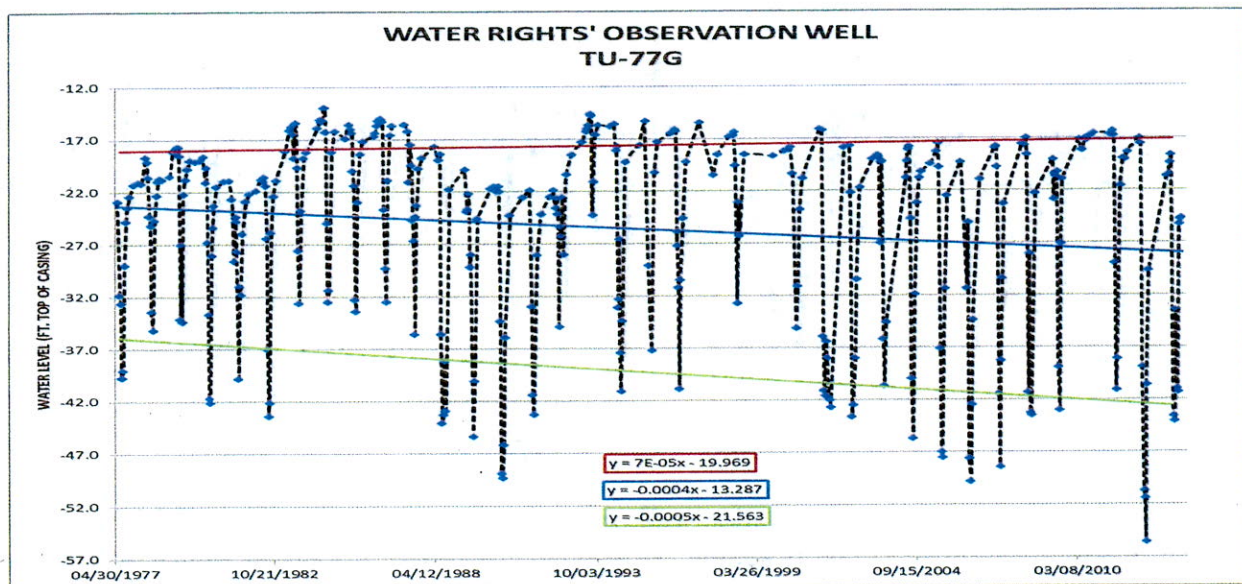


Figure 38. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual overall water level trend line (red) (Water Rights, 2014a).

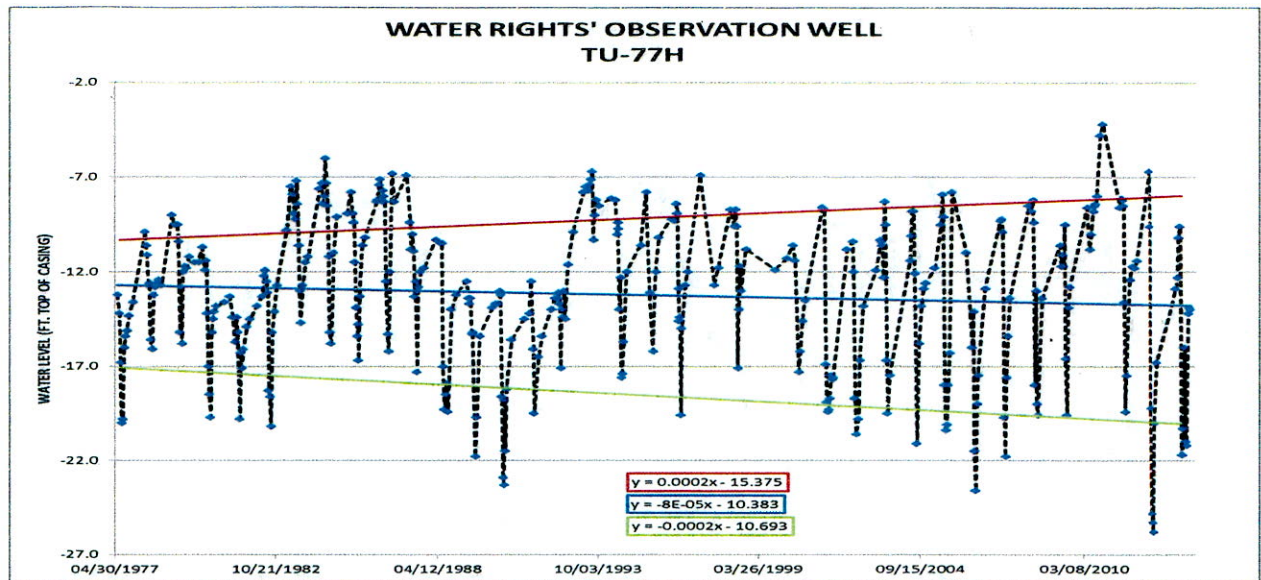


Figure 39. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual water level trend line (red) (Water Rights, 2014a).

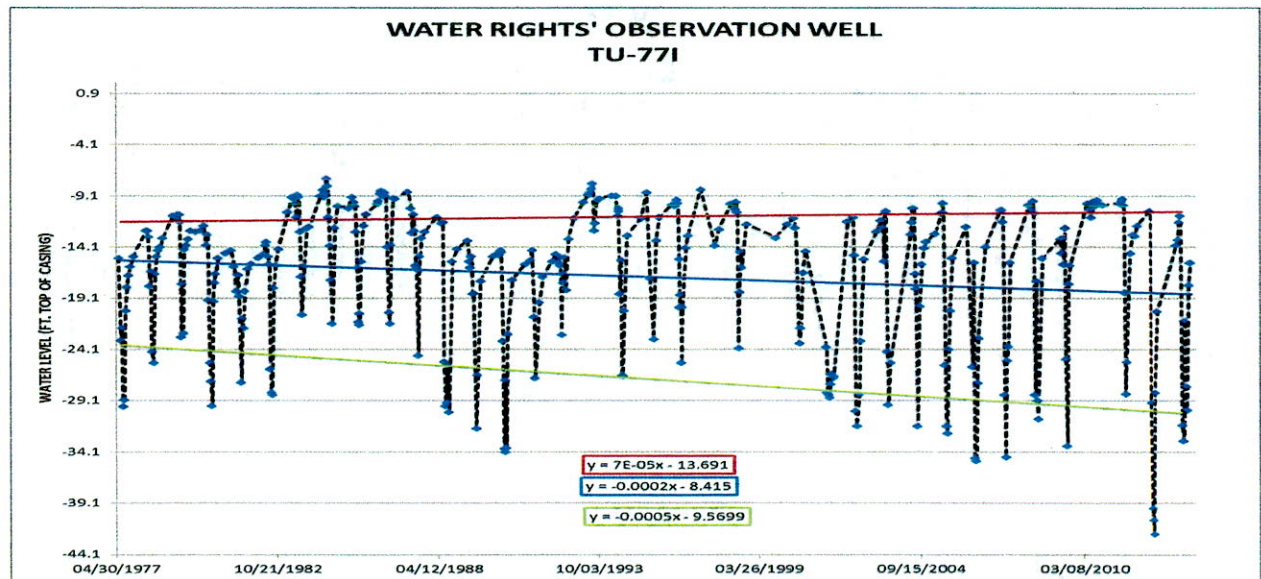


Figure 40. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual water level trend line (red) (Water Rights, 2014a).

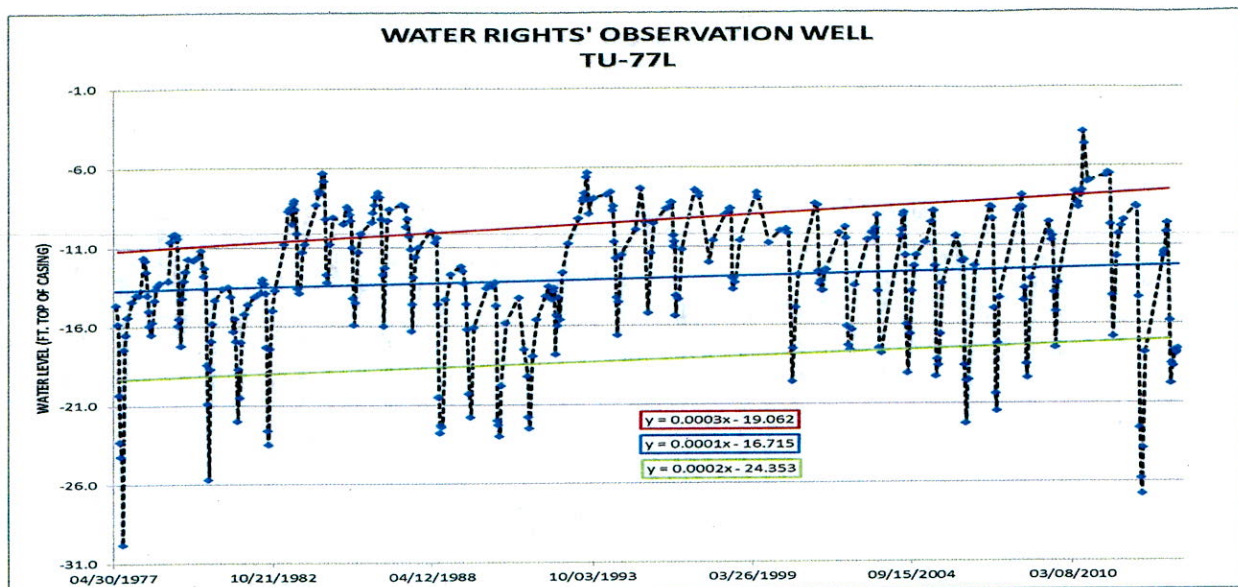


Figure 41. Hydrograph of an observation well completed into the North management unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and maximum annual water level trend line (red) (Water Rights, 2014a).

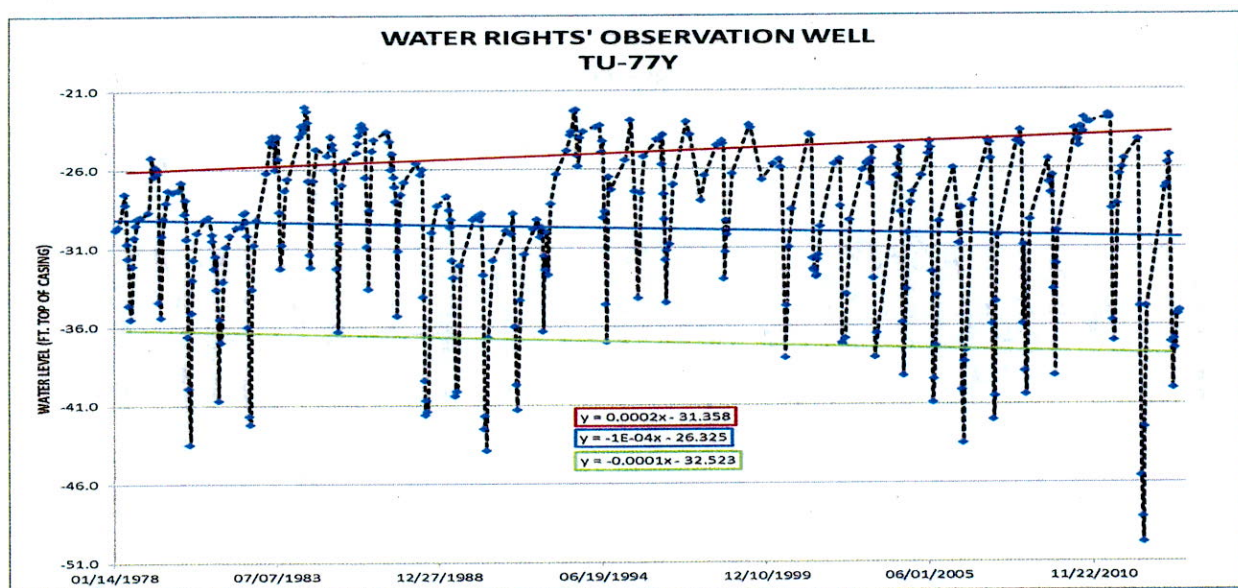


Figure 42. Hydrograph of observation well completed into the North Management Unit of the Upper Vermillion Missouri aquifer with trend line (blue), minimum annual water level trend line (green), and Maximum annual water level trend line (red) (Water Rights, 2014a).

Profiles of the potentiometric surface along a flow path crossing the southern boundary of the North management unit of the Upper Vermillion Missouri aquifer (see Figures 43 and 44) documents that the gradient of the potentiometric surface decreases from 0.000459 ft/ft (2.42 ft/mile) to 0.000228 ft/ft (1.20 ft/mile) when pumping is at a maximum.

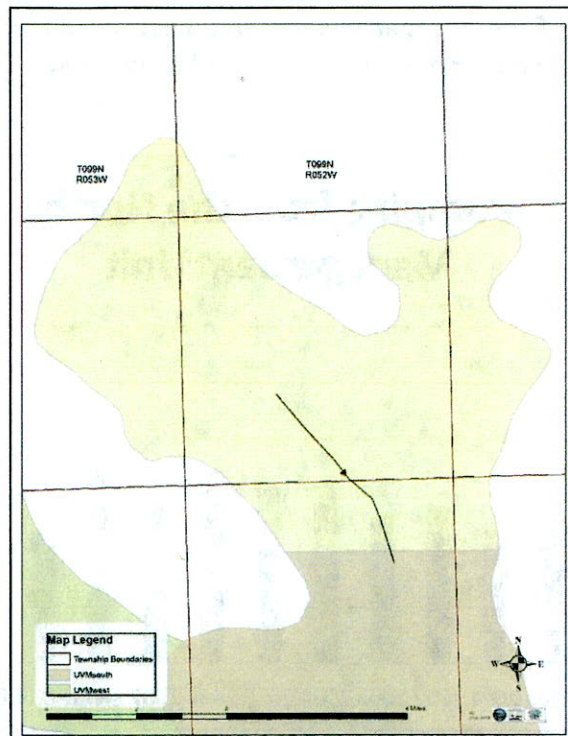


Figure 43. Map showing location of potentiometric surface profile.

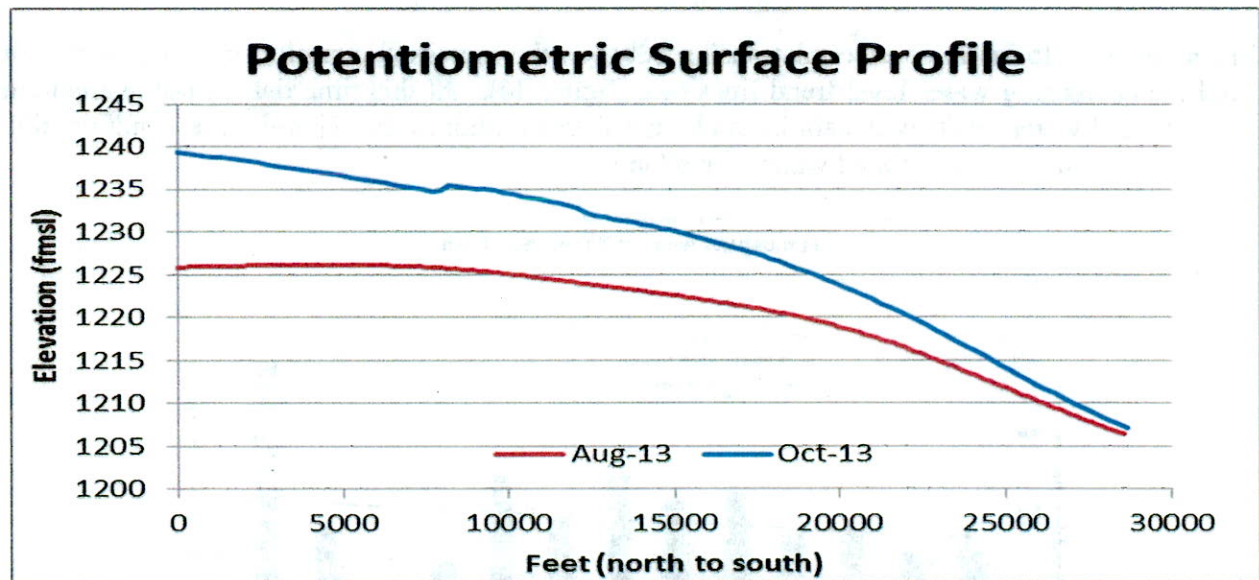


Figure 44. Profile of the potentiometric surface showing stress in North management unit.

The change in slope demonstrates that this portion of the aquifer is being stressed by well withdrawals to the extent that temporal effects are no longer masked by climatic conditions. Unlike the other management units of the Upper Vermillion Missouri aquifer, it is not possible to conclude that unappropriated water is available from this area based on observation well data.

Reported well withdrawals from this management unit have steadily increased in recent years (see Figure 45). The reported pumping from this unit has increased at an average of 80 ac-ft/yr since 2000.

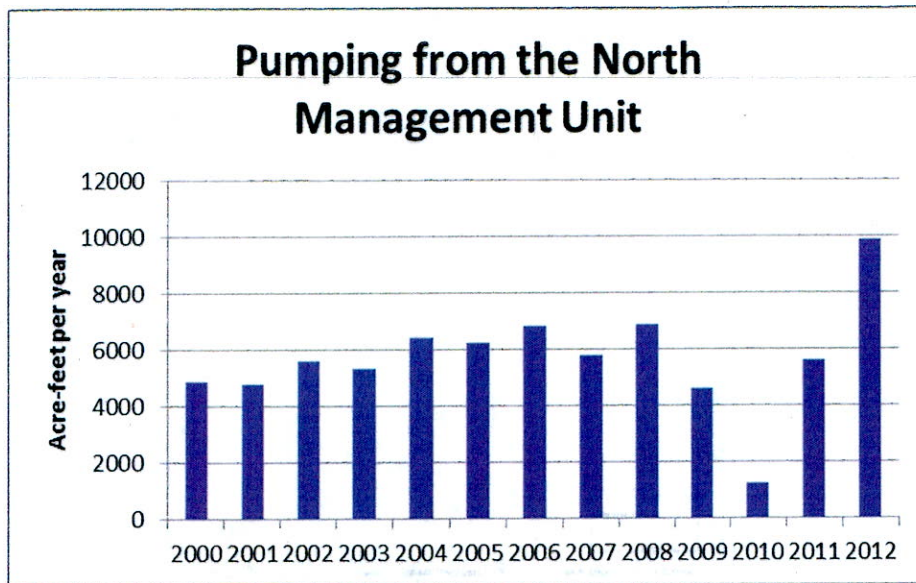


Figure 45. Pumping from the North management unit of the Upper Vermillion Missouri aquifer (Water Rights 1980-2013; Water Rights 2000-2013).

There appears to be an inverse relationship between the increased pumping from the north unit and the decreasing water level trend lines (see Figure 46). At this time data is not available to determine if water levels will stabilize under consistent withdrawals. Therefore, it is not possible to conclude that unappropriated water is available.

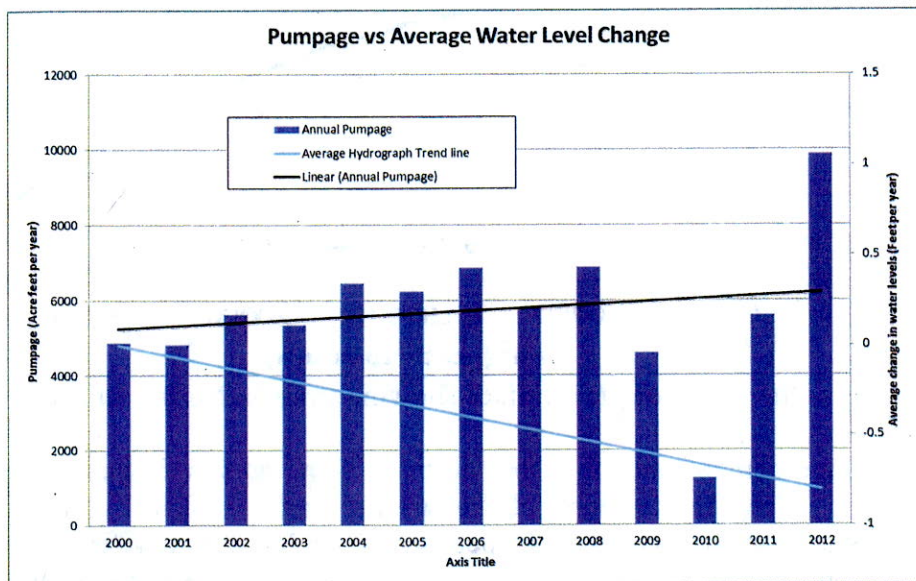


Figure 46. Pumping from the North management unit of the Upper Vermillion Missouri aquifer with trend line plotted with observation well water level trend line data. (Water Rights 1980-2013; Water Rights 2000-2013 and Water Rights 2014a)

Since the observation well data does not support “that the quantity of water withdrawn annually from the aquifer does not exceed average annual recharge to the aquifer” as required by ARSD 74:02:05:07 further evaluation of water availability from North management unit, including a flow net analysis was not performed.

IMPAIRMENT OF EXISTING RIGHTS

Since the Upper Vermillion Missouri aquifer is primarily under artesian conditions, drawdown due to pumping may be fairly large near an individual production well. Drawdown measured in pumping tests of irrigation wells (see Table 1) ranged from 6-92 feet. Well interference has historically not been a problem from the aquifer. Figures 47 and 48 show the location of selected DENR-Water Rights observation wells in relation to concentrations of irrigation wells. Hydrographs for the observation wells (Figures 37, 38, 39, 40 and 24) document drawdown of 5-25 feet. Considering the artesian pressure of the aquifer and natural water level fluctuations, drawdown of that magnitude should not be considered significant.

The Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. SDCL 46-6-6.1 does not require protection of artesian head pressure as a means of groundwater delivery. However, reasonable domestic use must be assured before irrigation use is allowed. Therefore, when considering irrigation projects, the Water Management Board must give consideration to maintaining artesian head pressure as a method of delivery for domestic wells. To balance interests between irrigation use and delivery of groundwater by artesian pressure, ARSD 74:02:04:20(7) defines an adversely impacted domestic well as:

“a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

Depending on the specific characteristics of the Upper Vermillion Missouri aquifer at the proposed well sites, some existing well owners may need to lower their pumps to accommodate possible reduction of head pressure. Therefore, there is a reasonable probability that any well interference from the proposed appropriation will not adversely or unlawfully impair existing nearby wells.

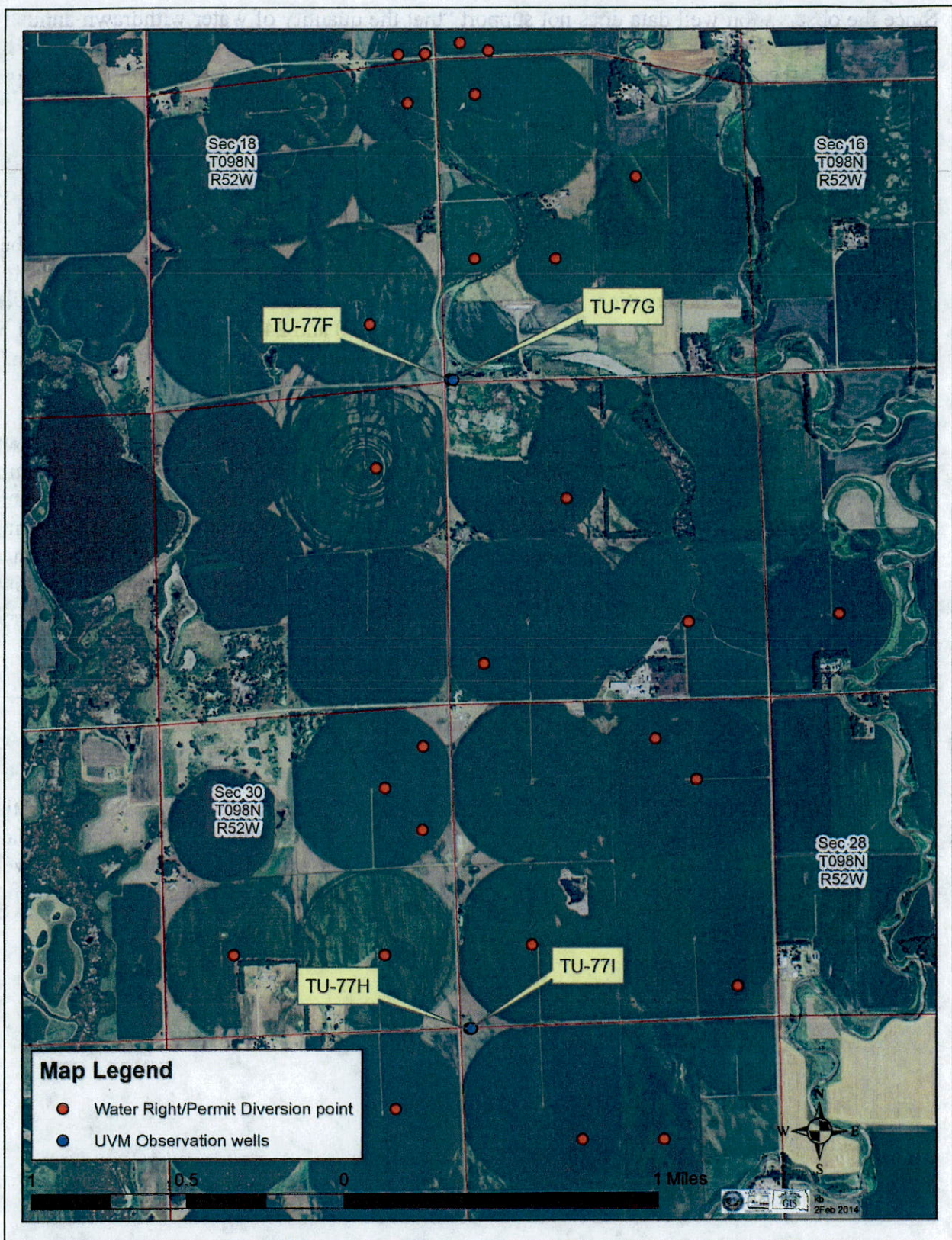


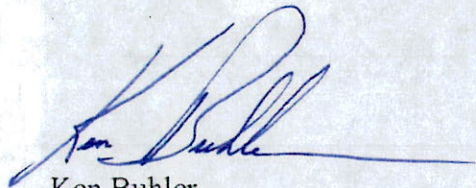
Figure 47. Location of DENR-Water Rights' observation wells TU-77F, G, H, I in relation to irrigation diversion points.



Figure 48. Location of DENR-Water Rights' observation well TU-77M in relation to irrigation diversion points.

CONCLUSIONS:

1. The Water Management Board deferred 18 water permit applications from the Upper Vermillion Missouri aquifer in 2013, because portions of the aquifer have experienced long-term downward trending water levels.
2. Since the Board's initial action to defer the original applications for further study, one additional application has been deferred and two applications are public noticed for deferral.
3. At the time the Board considered the applications, information was not available to distinguish management units within the aquifer.
4. Data is now available to consider three management units of the Upper Vermillion Missouri aquifer.
5. There is a reasonable probability that unappropriated water is available to accommodate the appropriations proposed from the South and West management units of the Upper Vermillion Missouri aquifer (Water Permit Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7609-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3; and Water Permit Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3.)
6. There is a reasonable probability that the proposed appropriations from the South and West management units can be made without adversely impacting existing water rights.
7. Data is not available at this time to conclude that unappropriated water is available from the North management unit of the Upper Vermillion Missouri aquifer.



Ken Buhler
DENR-Water Rights Program

REFERENCES

Buhler, K.A., 2012, Report to the Chief Engineer on Water Permit Application No. 7441-3 & 7442-3, Gary or Julie Peterson; Water Permit Application No. 7452-3, Jerome Hult; Water Permit Application No. 7466-3, Bethel Hagen Trust; Water Permit Application No. 7467-3 & 7468-3, Cleland Hagen Trust; and Water Permit Application No. 7535-3 Donald D Benson, December 11, 2012: SD DENR- Water Rights Program

Circuit Court of South Dakota, Sixth Judicial Circuit, 2005, April 29, 2005 Memorandum Decision re: HU04-37 Hines v. SD Department of Environment and Natural Resources

Circuit Court of South Dakota, First Judicial Circuit, 2012, April 12, 2012 Memorandum Decision re: Hanson County Dairy v. Robert Bender and Stace Nelson

Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185

In the Matter of Water Permit Application Nos. 7441-3, et al (South Dakota Water Management Board, Findings of Fact issued May 2, 2013) (Conclusion of Law 15)

Lindgren, R.J., Hansen, D.S., 1990, Water Resources of Hutchinson and Turner Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 90-4093, 100 p.

Niehus, C.A., 1994, Water Resources of Lincoln and Union counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 93-4195, 57 p.

SD Geological Survey, in progress, Hydrogeologic study of the Upper Vermillion Missouri aquifer

Tomhave, D.W., Schulz, L.D., 2004, Bedrock Geologic Map Showing Configuration of the Bedrock Surface in South Dakota East of the Missouri River, DENR-Geological Survey General Map 9, Scale 1:500,000

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Water Rights, 2000-2013, "Non-Irrigation Reported Water Use": SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2014a, Observation Well Data, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2014b, Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2014c, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



February 7, 2014

Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

Enclosed is a NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM
MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER.

Please publish the notice once on February 13, 2014.

The text of the notice has been emailed to your paper. If you have questions, please contact Karen Schlaak at
(605) 773-3352.

The Water Rights Program will pay the cost of this publication.

Please return an affidavit or the enclosed Proof of Publication form immediately following publication.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

Enclosure



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and NATURAL RESOURCES**

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February 7, 2014

Argus Leader
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Sioux Falls SD 57117

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Natural Resources Engineer
605 773-3352

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February 7, 2014

Plain Talk
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Vermillion SD 57069

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Natural Resources Engineer
605 773-3352

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Lennox Independent
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Lennox SD 57039

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosure



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and NATURAL RESOURCES**

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February 7, 2014

Viborg Enterprise/Hurley Leader
PO Box H
Centerville SD 57014

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Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosure



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February 7, 2014

Centerville Journal
PO Box H
Centerville SD 57014

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Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosure



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February 7, 2014

The New Era
PO Box 579
Parker SD 57053

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The Water Rights Program will pay the cost of this publication.

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosure

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM
MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos. 7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 - 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at <http://denr.sd.gov/des/wr/pubnotice.aspx> or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the

approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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 a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervenor retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 February 24, 2014. 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 _____.

CUSTOMER NUMBER:	078340	Argus Leader P.O. Box 677349, Dallas, TX 75267-7349
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RUN DATES	2/13, 2014	AMOUNT DUE: \$392.57

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WATER RIGHTS
PROGRAM

Department of Environment and Natural Resources
Attn: Karen Schlaak
Water Rights Program
523 E Capitol Ave., Joe Foss Building
Pierre, SD 57501

PAYMENT DUE UPON RECEIPT

DETACH THIS STUB AND RETURN WITH PAYMENT

NOH appropriate water

AFFIDAVIT OF PU 078340
Customer Number: 1435497
Invoice Number:

Department of Environment and Natural Resources

Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA } ss

Linda Schulte being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper as defined by SDCL 17-2-21, as amended published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Thursday, the 13 day of February 2014,
_____, the _____ day of _____ 2014,
_____, the _____ day of _____ 2014,
_____, the _____ day of _____ 2014,
_____, the _____ day of _____ 2014,
_____, the _____ day of _____ 2014,
_____, the _____ day of _____ 2014,

and that \$392.57 was charged for publishing the same

Linda Schulte

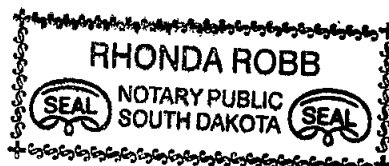
Subscribed and sworn to before me 2/13/2014

[Signature]

Notary Public, South Dakota

My Commission expires December 22, 2015

12/20



aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos. 7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 - 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has reviewed the recommendations to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at sds.dakota.gov/dea/waterboards/2014 or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is pro-

posing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3. Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 168 feet deep located in the approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shuback authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrom, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

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gal counsel is obtained. The party that previously petitioned as an intervenor retains party status. 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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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 74:02:01:02.

Steven M. Pinner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of \$392.57. 1435497 Feb. 13, 2014

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the

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WATER RIGHTS
PROGRAM

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YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
Water Rights Program - Joe Foss Building
523 East Capitol
Pierre, SD 57501

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Notice of Hearing on Applications

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 13th DAY OF February 2014
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$190.99 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 2/13/2014

FILED ON: 2/13/2014

SUBSCRIBED AND SWORN TO BEFORE ME THIS 13th DAY OF February

2014

Murrel R. Platt
NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 6/11/2019

2+13

NOTICE OF HEARING ON
APPLICATIONS TO
APPROPRIATE WATER FROM
MANAGEMENT UNITS OF
THE UPPER VERMILION
MISSOURI AQUIFER

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Two other applications
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The South Dakota Geologic Sur-
vey (SDGS) conducted work in
2013 - 2014 which established
new boundaries for the main body
of the aquifer. This work done by
the SDGS has been analyzed by

the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at <http://denr.sd.gov/des/wr/pubnotice.aspx> or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE

1/4 Section 17 T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4 N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 712833 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12 T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater

than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4 W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4 NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50-90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4 E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4 SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr, Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4 S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer

fer (Approval Recommendation)

Application No. 7535-3 filed by Donald D. Benson, 45067 284th St, Hurley SD 57036, proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30, for irrigation of 65 acres located in the NW 1/4 Section 30, all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3, filed by Paul Petersen, 45610 282nd St, Hurley SD 57036, proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19, all in T98N-R53W.

Application No. 7602-3, filed by Michael D. Stevens, 28916 458th Ave, Viborg SD 57070, proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34, all in T97N-R53W.

Application No. 7633-3, filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070, proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32, all in T98N-R53W.

Application No. 7715-3, filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070, proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16, all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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 a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave, Pierre SD. The agenda item is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervenor retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 February 24, 2014. 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, 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 thru 74:02:01:25.02; 74:02:01:35.01.

Steven M. Pimer, Secretary, Department of Environment and Natural Resources
Published once at an approximate cost of \$190.99.

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FEB 21 2014

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

PLAIN TALK

DENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501

STATE OF SOUTH DAKOTA
COUNTY OF CLAY

*Plain Talk
201 W Cherry St
Vermillion 57069*

TERA SCHMIDT BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT SHE IS THE CLASSIFIED MANAGER OF YANKTON
MEDIA INC., A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED
IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF THE
OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN THIS
AFFIDAVIT; THAT THE ANNEXED
Applications to Appropriate Water

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 14 DAY OF February 2014
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$190.99 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 2/14/14

FILED ON: 2/13/14

Tera A Schmidt

SUBSCRIBED AND SWORN TO BEFORE ME THIS 18th DAY OF February

[Signature]
NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 8/19/2015

**NOTICE OF HEARING ON
APPLICATIONS TO
APPROPRIATE WATER FROM
MANAGEMENT UNITS OF
THE UPPER VERMILLION
MISSOURI AQUIFER**

Twenty one applications propos-
ing to appropriate water for irriga-
tion from the Upper Vermillion
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ize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

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SEAN

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ceived, 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervenor retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 February 24, 2014. 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 \$190.99.

Published February 14, 2014.

RECEIVED

FEB 21 2014

WATER RIGHTS
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Lincoln) SS

I, Rebecca Schmitt

certify that the attached printed Notice was taken

from the Lennox

Independent

printed and published in Lennox

County of Lincoln and

state of South Dakota. The notice was published

in the newspaper on the following date:

2-13-14

Cost of Printing \$159.25

Rebecca Schmitt
(Signature)

Publisher
(Title)

2-18-14
(Date Signed)

NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos. 7690-3 and 7919-3) are currently public; noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 and 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at <http://dwd.sd.gov/des/wr/pubnotice.aspx> or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Oeland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the SW 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of

85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4; E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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 a specific 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 these applications present important issues of

public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 A.M. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervenor retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 February 24, 2014. 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. Pimer, Secretary, Department of Environment and Natural Resources.

Published once at an approximate cost of \$159.25.

RECEIVED

FEB 24 2014

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF TURNER

I, Robin Schneider of the City of Parker, County of Turner, State of South Dakota being first duly sworn on oath, deposes and says: The New Era is a weekly legal newspaper of general circulation, printed and published in the City of Parker, in said County of Turner, by The New Era, New Century Press, publishers, and has been such legal newspaper during the times hereinafter mentioned; that the said newspaper has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, The affiant, is the Office Manager of the said newspaper, in charge of the advertisement department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed:

#5760 Notice of Hearing on Applications to Appropriate Water From
Management Units of the Upper Vermillion Missouri Aquifer

_____ printed copy of hereto attached, is printed and published in the said newspaper for one successive weeks, one each week and on the same day of the week, on the following dates, to wit:

On Thursday, the 13th day of Feb. , 2013

That \$160.53 being the full amount of the fees for publication of the attached notices insures solely for the benefits of the publishers of the said newspaper, that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

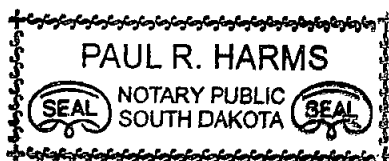
see attached

Robin Schneider
Subscribed and sworn to before me this 19th

Day of February 2014
Paul R. Harms
Notary Public, Turner County, South Dakota

My Commission Expires: March 20, 2018

Publication Fee \$
Notary Fees \$
Total \$160.53



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APPLICATIONS
TO APPROPRIATE WATER FROM
MANAGEMENT UNITS OF THE
UPPER VERMILLION MISSOURI
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Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief

Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos. 7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis, SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls, SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert, CA 92211 has filed an application for a water permit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley, SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use.

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley, SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley, SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg, SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg, SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg, SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer

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 a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 a.m. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre, SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who in-

tends to participate in the hearing shall file a petition to oppose or support specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by Feb. 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervener retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by Feb. 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by Feb. 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 Feb. 24, 2014. 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 the total approximate cost of \$160.53.

(#5760,02/13/14, The New Era)

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)

:SS

COUNTY OF TURNER)

Allyson M. Hill, being first duly sworn, on oath says the CENTERVILLE JOURNAL is a WEEKLY newspaper published in CENTERVILLE in said county of TURNER, State of South Dakota; and that she is authorized to and does make this affidavit on behalf of said CENTERVILLE JOURNAL; that affiant has personal knowledge of all facts stated in this affidavit; that said newspaper is a legal newspaper as defined by SDCL 17-2-2.1 through 17-2-2.4 inclusive as amended, has a bona fide circulation of at least two hundred copies WEEKLY, has been published in the English language within said county and has been admitted to the United States mail under the second class mailing privilege, for at last one year continuously next prior to the publication of the notice herein mentioned and was and is printed wholly or in part in an office maintained at said place of publication; that said notice, a printed copy of which taken from the paper in which the same was published is hereto attached and is made part of this affidavit, was published in said newspaper

1 time(s) as follows: that the first publication of said

notice in said newspaper aforesaid was on Thursday

the 13 day of February, 2014,

and that the succeeding publications were severally

on Thursday, the ____ day of _____, 2014;

on Thursday, the ____ day of _____, 2014;

on Thursday, the ____ day of _____, 2014;

on Thursday, the ____ day of _____, 2014;

Affiant further says that the full amount of the fees charged for the publication of said notice inures to the benefit of the publishers of said newspaper; that no agreement of understanding for the division thereof has been made with any other person, that no part therefore has been agreed to be paid to any person whomsoever; and that the fees charged for the publication thereof are:

DOLLARS (\$) 147³⁸

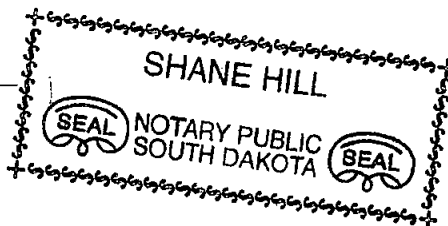
(x) Allyson M. Hill Allyson M. Hill

Subscribed and sworn to before me this 27 day of

February, 2014

Notary Public

My commission expires 11/14/2018.



NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen

of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos. 7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 - 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at <http://lenr.sd.gov/des/wr/pubnotice.aspx> or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday,

March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the

SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approxi-

mate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

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Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres

located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

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Any interested person who intends to participate in the hearing shall file a petition to oppose or support specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a state-

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\$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 \$147.38

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)

:SS

COUNTY OF TURNER)

Allyson M. Hill, being first duly sworn, on oath says the VIBORG ENTERPRISE is a WEEKLY newspaper published in VIBORG in said county of TURNER, State of South Dakota; and that she is authorized to and does make this affidavit on behalf of said VIBORG ENTERPRISE; that affiant has personal knowledge of all facts stated in this affidavit; that said newspaper is a legal newspaper as defined by SDCL 17-2-2.1 through 17-2-2.4 inclusive as amended, has a bona fide circulation of at least two hundred copies WEEKLY, has been published in the English language within said county and has been admitted to the United States mail under the second class mailing privilege, for at last one year continuously next prior to the publication of the notice herein mentioned and was and is printed wholly or in part in an office maintained at said place of publication; that said notice, a printed copy of which taken from the paper in which the same was published is hereto attached and is made part of this affidavit, was published in said newspaper

1 time(s) as follows: that the first publication of said

notice in said newspaper aforesaid was on Thursday

the 13 day of February, 2014,

and that the succeeding publications were severally

on Thursday, the ____ day of _____, 2014;

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Affiant further says that the full amount of the fees charged for the publication of said notice inures to the benefit of the publishers of said newspaper; that no agreement of understanding for the division thereof has been made with any other person, that no part therefore has been agreed to be paid to any person whomsoever; and that the fees charged for the publication thereof are:

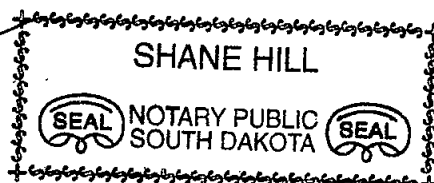
DOLLARS (\$) 147³⁸
(x) Allyson M. Hill, Allyson M. Hill

Subscribed and sworn to before me this 27 day of

February, 2014

Notary Public

My commission expires 11/14/2018



NOTICE OF HEARING ON APPLICATIONS TO APPROPRIATE WATER FROM MANAGEMENT UNITS OF THE UPPER VERMILLION MISSOURI AQUIFER

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed in 2012 and 2013. The Chief Engineer recommended deferral because at the time it was not possible to conclude that unappropriated water was available from the aquifer. Nineteen of the applications were formally deferred by the Water Management Board pending study of the UVM aquifer. Two other applications (Nos. 7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 - 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries establishing three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West management units of the UVM aquifer. Observation well data and a flow net analysis has been conducted on each management unit to determine whether unappropriated water is available.

All UVM applications are now scheduled before the Water Management Board for consideration. The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and the West Management Unit. The Chief Engineer recommends that applications within the North Management Unit remain deferred. The report to the Chief Engineer and the recommendations are available at <http://denr.sd.gov/des/wr/pubnotice.aspx> or by contacting the Water Rights Program at (605) 773-3352.

This notice schedules a hearing before the Water Management Board beginning at 10:30 AM, on Thursday, March 6, 2014, in the

Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. Listed below is a description of each application, the Chief Engineer's recommendation, and the procedure to file a petition to intervene in the hearing process.

South Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7441-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to appropriate 1.78 cubic feet of water per second (cfs) from one well to be approximately 175 feet deep located in the center of the SE 1/4 Section 8 for irrigation of 140 acres located in the SE 1/4 Section 8; all in T95N-R52W.

Application No. 7442-3 filed by Gary E or Julie A Peterson, 45913 299th St, Centerville SD 57014 proposes to irrigate 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well that is 165 feet deep located in the SE 1/4 NW 1/4 Section 17 to irrigate 115 acres located in the NW 1/4 Section 17; all in T95N-R52W. The application is proposing to irrigate an additional 40 acres located in the W 1/2 NE 1/4 Section 17-T95N-R52W from the existing well. This application, if approved does not authorize any increase in the developed diversion rate. The Water Management Board did authorize a change in the location of acres without an increase in the diversion rate authority or acres authorized by Water Right No. 5982-3.

Application No. 7466-3 filed by Bethel Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 169 feet deep located in approximate center of the NE 1/4 Section 5 for irrigation of 152 acres located in the NE 1/4 Section 5; all in T96N-R51W.

Application No. 7467-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well to be approximately 134 feet deep located in the approximate center of the NW 1/4 Section 13 for irrigation of 152 acres located in the NW 1/4 Section 13; all in T97N-R52W.

Application No. 7600-3 filed by Michael D Stevens, 28916 458th

Ave, Viborg SD 57070 proposes to appropriate 3.56 cfs from two wells to be approximately 200 feet deep located in the NE 1/4 NW 1/4 and the approximate center of the SW 1/4 Section 12 for irrigation of 180 acres located in the NW 1/4, N 1/2 SW 1/4 Section 12; all in T96N-R52W. The applicant is proposing to locate a pivot in the center of SW 1/4 Section 12 to irrigate the entire SW 1/4. A portion of Water Permit No. 7128-3 held by Paul Shubeck authorizes irrigation of the S 1/2 SW 1/4 Section 12-T96N-R52W.

Application No. 7601-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 200 feet deep located in the approximate center of the NE 1/4 Section 25 to irrigate 132 acres located in the NE 1/4 Section 25; all in T97N-R53W.

Application No. 7603-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 150 feet deep located in the approximate center of the NE 1/4 Section 33 to irrigate 120 acres located in the NE 1/4 Section 33; all in T97N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7623-3 filed by Darrell Osborn, 28838 463rd Ave, Centerville SD 57014 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the SE 1/4 NW 1/4 Section 24 for irrigation of 140 acres located in the NW 1/4, W 1/2 NE 1/4 Section 24; all in T97N-R52W.

Application No. 7653-3 filed by Jeremiah Welsh, 29217 460th Ave, Centerville SD 57014 proposes to appropriate 1.67 cfs from one well to be approximately 180 feet deep located in the approximate center of the SW 1/4 Section 8 for irrigation of 85 acres located in the W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 8; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7690-3 filed by Tim or David Ostrem, 45924 300 St, Wakonda SD 57073 proposes to appropriate 1.78 cfs from one well to be approximately 50 - 90 feet deep located in the center of the NE 1/4 Section 29 for irrigation of 160 acres

located in the NE 1/4, E 1/2 NW 1/4 Section 29; all in T96N-R52W.

Application No. 7900-3 filed by Leon Thompson, 401 S 11th St, Beresford SD 57004 proposes to appropriate 1.89 cfs from one well to be approximately 151 feet deep located in the NW 1/4 NE 1/4 Section 6 for irrigation of 136 acres located in the NE 1/4 Section 6; all in T95N-R51W.

Application No. 7919-3 filed by Larry & Marlene Erickson, 29859 461st Ave, Centerville SD 57014 proposes to appropriate 1.83 cfs from one well to be approximately 75 feet deep located in the approximate center of the NE 1/4 Section 9 for irrigation of 83.83 acres located in the NE 1/4 Section 9; all in T95N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7441-3, 7442-3, 7466-3, 7467-3, 7600-3, 7601-3, 7603-3, 7623-3, 7653-3, 7690-3, 7900-3 and 7919-3 from the South Management Unit of the Upper Vermillion Missouri Aquifer 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.

North Management Unit of the Upper Vermillion Missouri Aquifer (Deferral Recommendation)

Application No. 7452-3 filed by Jerome Hult, 45958 Hwy 18, Davis SD 57021 proposes to appropriate 1.78 cfs from one well to be approximately 190 feet deep located in SW 1/4 NE 1/4 Section 32 for irrigation of 110 acres located in the W 1/2 NE 1/4, SE 1/4 NE 1/4 Section 32; all in T98N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7468-3 filed by Cleland Hagen Trust, c/o Bruce Hagen, 1300 W Murphy Dr. Sioux Falls SD 57108 proposes to appropriate 1.78 cfs from one well approximately 134 feet deep located in the approximate center of the NE 1/4 Section 26 for irrigation of 152 acres located in the NE 1/4 Section 26; all in T98N-R52W.

Application No. 7558-3 filed by Cleland Trust, 38736 Nasturtium Way, Palm Desert CA 92211 has filed an application for a water per-

mit to appropriate 1.78 cfs from one well to be approximately 275 feet deep located in the approximate center between the NW 1/4 and the SW 1/4 Section 1 for irrigation of 120 acres located in the N 1/2 SW 1/4, S 1/2 NW 1/4 Section 1; all in T98N-R52W.

Application No. 7587-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 100 feet deep located in the approximate center of the SE 1/4 Section 10 for irrigation of 160 acres located in the SW 1/4 Section 10; all in T98N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends continuing DEFERRAL of Application Nos. 7452-3, 7468-3, 7558-3 and 7587-3 from the North Management Unit of the Upper Vermillion Missouri Aquifer until information is available to determine if there is reasonable probability that there is unappropriated water available for the applicant's proposed use. Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available.

West Management Unit of the Upper Vermillion Missouri Aquifer (Approval Recommendation)

Application No. 7535-3 filed by Donald D Benson, 45067 284th St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 220 feet deep located in the SW 1/4 NW 1/4 Section 30 for irrigation of 65 acres located in the NW 1/4 Section 30; all in T98N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Application No. 7588-3 filed by Paul Petersen, 45610 282nd St, Hurley SD 57036 proposes to appropriate 1.78 cfs from one well to be approximately 145 feet deep located in the approximate center of the SW 1/4 Section 19 to irrigate 160 acres located in the SW 1/4 Section 19; all in T98N-R53W.

Application No. 7602-3 filed by Michael D Stevens, 28916 458th Ave, Viborg SD 57070 proposes to appropriate 1.89 cfs from one well to be approximately 140 feet deep located in the approximate center between the NW 1/4 and the NE 1/4 Section 34 for irrigation of 132 acres

located in the E 1/2 NW 1/4 and the W 1/2 NE 1/4 Section 34; all in T97N-R53W.

Application No. 7633-3 filed by Brad Farrar, 28795 452nd Ave, Viborg SD 57070 proposes to appropriate 1.78 cfs from one well to be approximately 205 feet deep located in the center of the SW 1/4 Section 32 for irrigation of 152 acres located in the SW 1/4 Section 32; all in T98N-R53W.

Application No. 7715-3 filed by Allen Vannorsdel, 45515 288th St, Viborg SD 57070 proposes to appropriate 2.22 cfs from one well to be approximately 160 feet deep located in the center of the SW 1/4 Section 16 for irrigation of 156 acres located in the SW 1/4 Section 16; all in T97N-R53W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 7535-3, 7588-3, 7602-3, 7633-3 and 7715-3 from the West Management Unit of the Upper Vermillion Missouri Aquifer 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 a specific 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 these applications present important issues of public interest that should be heard.

The Water Management Board will consider these applications beginning at 10:30 AM. on Thursday, March 6, 2014, in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. The agenda time is an estimate. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications 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 specific applications 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 on their applications. 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 are given above. A petition filed by either an interested person or the applicant must be filed by February 24, 2014. The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in any of the applications, the petitioner's reasons for opposing or supporting specific applications, and the signature and mailing address of

the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The party that previously petitioned as an intervener retains party status. 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 March 6, 2014, 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 of an above listed application. The request for an automatic delay must be filed by February 24, 2014. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicants and to all petitioners regarding the time, date and location.

Contact Eric Gronlund by February 24, 2014 at the above Chief Engineer's address to request copies of the staff report, recommendations, applications 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 February 24, 2014. 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 \$147.38.*

February 18, 2014

PAYMENT REQUEST FORM

PAYEE: Argus Leader
PO Box 677349
Dallas TX 75267-7349

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing for UVM Aquifer permits # 1435497

AMOUNT: \$392.57

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

Nail Jackson 2-18-14

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

February 19, 2014

PAYMENT REQUEST FORM

PAYEE: Daily Press & Dakotan
319 Walnut
Yankton SD 57078

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Public notice for UVM hearing

AMOUNT: \$190.99

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

Gail Jacobson 2-19-14

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

February 21, 2014

PAYMENT REQUEST FORM

PAYEE: Plain Talk
201 W Cherry St
Vermillion SD 57069

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Public notice for UVM hearing

AMOUNT: \$190.99

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

Gail Jackson 2-21-14

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

February 21, 2014

PAYMENT REQUEST FORM

PAYEE: Lennox Independent
PO Box 76
Lennox SD 57039

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Public notice for UVM hearing #2286

AMOUNT: \$159.25

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

Gail Jackson 2-21-14

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

February 24, 2014

PAYMENT REQUEST FORM

PAYEE: New Century Press (New Era)
PO Box 28
Rock Rapids IA 51246

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Public notice for UVM hearing # 5760

AMOUNT: \$160.53

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION: *Gail Jacobson - 2-24-14*

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

March 4, 2014

PAYMENT REQUEST FORM

PAYEE: Star Publishing
PO Box H
Centerville SD 57014

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Public notice for UVM hearing--Viborg & Centerville papers
#'s02132245 & 0212260 (\$147.38 each)

AMOUNT: \$294.76

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:

Gail Jackson 3-4-14

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

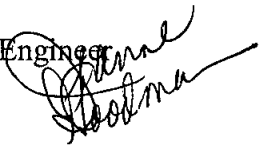
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



February 10, 2014

NOTICE

TO: A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Gary or Julie Peterson, 45913 299th Street, Centerville SD 57014
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
Jeremiah Welsh, 29217 460th Avenue, Centerville SD 57014
Brad Farrar, 28795 452nd Avenue, Viborg SD 57070
Darrell Osborn, 28838 463rd Avenue, Centerville SD 57014
Michael D Stevens, 28916 458th Avenue, Viborg SD 57070
Paul Peterson, 45610 282nd Street, Hurley SD 57036
Dr Bruce Hagen, 1300 W Murphy Drive, Sioux Falls SD 57108
Dr Bruce Hagen, 38736 Nasturtium Way, Palm Desert, CA 92211
Allen Vannorsdel, 45515 288th Street, Viborg SD 57070
Leon Thompson, 401 S 11th Street, Beresford SD 57004
Tim or David Ostrem, 45924 300 St, Wakonda SD 57073
Larry and Marlene Erickson, 29859 461st Avenue, Centerville SD 57014

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Scheduling Hearing before Water Management Board on Deferred Applications for Irrigation from the Upper Vermillion Missouri Aquifer

Twenty one applications proposing to appropriate water for irrigation from the Upper Vermillion Missouri (UVM) aquifer were filed between the fall of 2012 through 2013. The Chief Engineer recommended deferral of the applications because at the time it was not possible to conclude that unappropriated water is available from the aquifer. Nineteen of the applications have been formally deferred by the Water Management Board until study of the UVM aquifer is completed. Two other applications (Nos. 7690-3 and 7919-3) are currently public noticed for a March 6, 2014, hearing with a recommendation of deferral.

The South Dakota Geologic Survey (SDGS) conducted work in 2013 and early 2014 which established new boundaries for the main body of the aquifer. This work done by the SDGS has been analyzed by the Water Rights Program and provides identifiable geologic and hydrologic data documenting two boundaries which if implemented, establish three management units within the UVM aquifer. The Water Rights Program is proposing designating North, South and West Management Units of the UVM aquifer. Each management unit was analyzed to determine the availability of unappropriated water. Enclosed is the staff report to the

Chief Engineer that provides 1) the basis for designation of the three management units, and 2) an evaluation of water availability for each unit.

The Chief Engineer has revised the recommendation to approval for those applications within the boundary of the South Management Unit and West Management Unit. Attached is a table that provides a listing of the proposed applications, the applicant and the management location where each application is located. Revised recommendations are enclosed to each applicant specific to the applications they have pending. For those applicants in the North Management Unit, the original recommendation for deferral remains in place. Those desiring to view all the revised recommendations may find them on-line at <http://denr.sd.gov/des/wr/pubnotice.aspx>.

This notice schedules a hearing before the Water Management Board on these applications beginning at 10:30 AM, on Thursday, March 6, 2014, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items.

A notice of hearing on the applications setting forth the management unit boundaries, the Chief Engineer's revised recommendations, and scheduling a March 6th hearing before the Water Management Board will be published the week of February 10, 2014, in accordance with SDCL 46-2A-4. Enclosed is the public notice.

If you have any questions regarding the report, revised recommendation, public notice or the water permitting process, please contact Eric Gronlund or Ken Buhler at (605) 773-3352.

Enclosures

c: Diane Best, Assistant Attorney General
Ann Mines, Assistant Attorney General

Pending Applications from the Upper Vermillion Missouri Aquifer Designated by Management Units

West Management Unit – recommend for approval

North Management Unit – recommend continued deferral

South Management Unit – recommend for approval

Permit No.	Applicant	Management Unit of UVM Aquifer	CFS	Well Location	Acres	Acre Location
7535-3	Donald Benson	West	1.78	SW¼ NW¼ Sec. 30, T98N-R53W	65	NW¼ Sec. 30, T98N-R53W
7588-3	Paul Peterson	West	1.78	SW¼ Sec. 19, T98N-R53W	160	SW¼ Sec. 19, T98N-R53W
7602-3	Michael Stevens	West	1.89	Between NW¼ & NE¼ Sec. 34, T97N-R53W	132	E½NW¼, W½NE¼ Sec. 34, T97N-R53W
7633-3	Brad Farrar	West	1.78	SW¼ Sec. 32, T98N-R53W	152	SW¼ Sec. 32, T98N-R53W
7715-3	Allen Vannorsdel	West	2.22	SW ¼ Section 16, T97N- R53W	156	SW ¼ Sec. 16, T97N-R53W
7452-3	Jerome Hult	North	1.78	SW¼NE¼ Sec. 32, T98N-R52W	110	W½NE¼, SE¼NE¼ Sec. 32, T98N-R52W
7468-3	Cleland Hagen Trust	North	1.78	NE¼ Sec. 26, T98N-R52W	152	NE¼ Sec. 26, T98N-R52W
7558-3	Cleland Hagen Trust	North	1.78	Between NW¼ & SW¼ Sec. 1, T98N-R52W	120	N½SW¼, S½NW¼ Sec. 1, T98N-R52W
7587-3	Paul Peterson	North	1.78	SE¼ Sec. 10, T98N-R53W	160	SW¼ Sec. 10, T98N-R53W
7441-3	Gary/Julie Peterson	South	1.79	SE¼ Sec. 8, T95N-R52W	140	SE¼ Sec. 8, T95N-R52W
7442-3	Gary/Julie Peterson	South	no add'l	NW¼ Sec. 17, T95N-R52W	40	W½ NE¼ Sec. 17, T95N-R52W
7466-3	Bethel Hagen Trust	South	1.78	NE¼ Sec. 5, T96N-R51W	152	NE¼ Sec. 5, T96N-R51W
7467-3	Cleland Hagen Trust	South	1.78	NW¼ Sec. 13, T97N-R52W	152	NW¼ Sec. 13, T97N-R52W
7600-3	Michael Stevens	South	3.56	NE¼NW¼ & SW¼ Sec. 12, T96N-R52W (2 wells)	180	NW¼, N½SW¼ Sec. 12, T96N-R52W
7601-3	Michael Stevens	South	1.89	NE¼ Sec. 25, T-97N-R53W	132	NE¼ Sec. 25, T97N-R53W
7603-3	Michael Stevens	South	1.78	NE¼ Sec. 33, T97N-R52W	120	NE¼ Sec. 33, T97N-R52W
7623-3	Darrel Osborn	South	1.89	SE¼NW¼ Sec. 24, T97N-R52W	140	NW¼, W½NE¼ Sec 24, T97N-R52W
7653-3	Jeremiah Welsh	South	1.67	SW¼ Sec. 8, T96N-R52W	85	W½SW¼, NE¼SW¼ Sec. 8, T96N-R52W
7690-3	Tim/David Ostrem	South	1.78	NE¼ Sec. 29, T96N-R52W	160	NE¼ Sec. 29, T95N-R52W
7900-3	Leon Thompson	South	1.89	NW¼NE¼ Sec.6, T95N-R51W	136	NE¼ Sec. 6, T95N-R51W
7919-3	Larry/Marlene Erickson	South	1.83	NE¼ Sec. 9, T95N-R52W	83.83	NE¼ Sec. 9, T95N-R52W

CERTIFICATION

I hereby certify that on February 11, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated February 11, 2014 regarding scheduling a hearing in the matter of Water Right Permit Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7535-3, 7467-3, 7468-3, 7558-3, 7587-3, 7588-3, 7600-3, 7601-3, 7602-3, 7603-3, 7623-3, 7633-3, 7653-3, 7690-3, 7715-3, 7900-3, and 7919-3 as set forth below:

A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Gary or Julie Peterson, 45913 299th Street, Centerville SD 57014
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
Jeremiah Welsh, 29217 460th Avenue, Centerville SD 57014
Brad Farrar, 28795 452nd Avenue, Viborg SD 57070
Darrell Osborn, 28838 463rd Avenue, Centerville SD 57014
Michael D Stevens, 28916 458th Avenue, Viborg SD 57070
Paul Peterson, 45610 282nd Street, Hurley SD 57036
Dr Bruce Hagen, 1300 W Murphy Drive, Sioux Falls SD 57108
Dr Bruce Hagen, 38736 Nasturtium Way, Palm Desert, CA 92211
Allen Vannorsdel, 45515 288th Street, Viborg SD 57070
Leon Thompson, 401 S 11th Street, Beresford SD 57004
Tim or David Ostrem, 45924 300 St, Wakonda SD 57073
Larry and Marlene Erickson, 29859 461st Avenue, Centerville SD 57014
Diane Best, Assistant Attorney General, 317 N Main Ave, Sioux Falls SD 57104

Sent Interoffice to:

Ann Mines, Assistant Attorney General, 1302 E Hwy 14, Suite 1, Pierre SD 57501



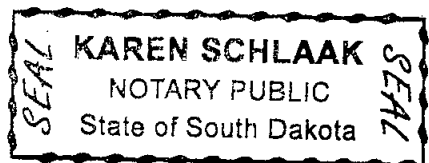
Gail Jacobson
Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of February, 2014.



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



March 17, 2014

NOTICE

TO: A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Gary or Julie Peterson, 45913 299th Street, Centerville SD 57014
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
Jeremiah Welsh, 29217 460th Avenue, Centerville SD 57014
Brad Farrar, 28795 452nd Avenue, Viborg SD 57070
Darrell Osborn, 28838 463rd Avenue, Centerville SD 57014
Michael D Stevens, 28916 458th Avenue, Viborg SD 57070
Paul Peterson, 45610 282nd Street, Hurley SD 57036
Dr Bruce Hagen, 1300 W Murphy Drive, Sioux Falls SD 57108
Dr Bruce Hagen, 38736 Nasturtium Way, Palm Desert, CA 92211
Allen Vannorsdel, 45515 288th Street, Viborg SD 57070
Leon Thompson, 401 S 11th Street, Beresford SD 57004
Tim or David Ostrem, 45924 300 St, Wakonda SD 57073
Larry and Marlene Erickson, 29859 461st Avenue, Centerville SD 57014

FROM:

for Jeanne Goodman, Chief Engineer *Eric Henderson*
Water Rights Program

SUBJECT: Order

This is to notify applicants of the Water Management Board's Order in the matter of water permit applications from the Upper Vermillion Missouri Aquifer considered at hearing before the Water Management Board on March 6, 2014.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts to the extent that they constitute final agency decisions. Any appeals from decisions of the South Dakota Water Management Board must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General
Ann Mines, Assistant Attorney General

RECEIVED

MAR 14 2014

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

WATER PERMIT APPLICATION NOS.)
7441-3 & 7442-3(GARY OR JULIE)
PETERSON); 7452-3 (JEROME HULT);)
7466-3 (BETHEL HAGEN TRUST);)
7467-3 & 7468-3 (CLELAND HAGEN)
TRUST); 7535-3(DONALD D)
BENSON); 7558-3 (CLELAND HAGEN)
TRUST); 7587-3 & 7588-3 (PAUL)
PETERSEN); 7600-3, 7601-3, 7602-3)
& 7603-3 (MICHAEL D. STEVENS);)
7623-3 (DARRELL OSBORN);)
7633-3(BRAD FARRAR); 7653-3)
(JEREMIAH WELSH); 7690-3 (TIM OR)
DAVID OSTREM); 7715-3 (ALLEN)
VANNORSDEL); 7900-3 (LEON)
THOMPSON); and 7919-3 (LARRY AND)
MARLENE ERICKSON))

FINAL ORDER

Hearing on the above entitled applications was held on March 6, 2014 before Board members Jim Hutmacher, Rodney Freeman, Tim Bjork, Chad Comes (Chairman), Everett Hoyt, and Leo Holzbauer pursuant to Notice dated February 10, 2014 . No applicants were present. At the hearing the Department of Natural Resources Water Rights Program presented evidence and argument for the Board's consideration.

The Board, having considered the testimony, exhibits and legal argument and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters its ruling as follows:

1. The Board incorporates the Ken Buhler report dated February 1, 2014, as its Findings of Fact.

2. The Board finds that the Upper Vermillion Missouri aquifer should be divided into three management units as presented in the Buhler report; and hereby adopts this finding for purposes of these and future water permit applications.

3. The Board concludes, with respect to the South and West Management Units, that the legal standard has been met to grant water permits under SDCL §§ 46-2A-9 and 46-6-3.1.

4. With respect to the North Management Unit, there is insufficient evidence to determine, with a reasonable probability, whether the withdrawals would exceed recharge if the permits were granted. Additional study is warranted.

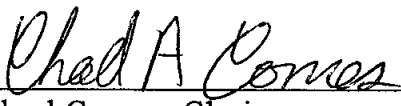
5. The Board hereby grants all permits to the Applicants from the West and South Units as recommended by the Chief Engineer on February 7, 2014, except that the acre feet limitation on permits 7603-3, 7535-3, 7653-3, and 7919-3 may not exceed 2 acre feet of water per acre per year. The permit applications granted are: 7441-3 & 7442-3 (Gary or Julie Peterson); 7466-3 (Bethel Hagen Trust); 7467-3 (Cleland Hagen Trust); 7535-3 (Donald D. Benson); 7588-3 (Paul Peterson); 7600-3, 7601-3, 7602-3 & 7603-3 (Michael D. Stevens); 7623-3 (Darrell Osborn); 7633-3 (Brad Farrar); 7653-3 (Jeremiah Welsh); 7690-3 (Tim or David Ostrem); 7715-3 (Allen Vannorsdel); 7900-3 (Leon Thompson); and 7919-3 (Larry and Marlene Erickson)

6. The Board further defers permits 7452-3 (Jerome Hult), 7468-3 (Cleland Hagen Trust), 7558-3 (Cleland Hagen Trust), and 7587-3 (Paul Peterson)

from the North Management Unit of the Upper Vermillion Missouri Aquifer for one year. This ruling on these 4 permits is not final; DENR is directed to notice this matter after one year. Accordingly, the applications, if ultimately granted, would hold priority dates relating back to the date of application under SDCL § 46-2A-15.

Dated this 10th day of March, 2014.

BY THE BOARD:



Chad Comes, Chairman
South Dakota Water Management Board

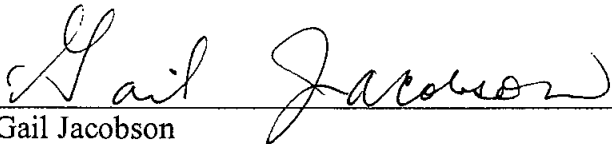
CERTIFICATION

I hereby certify that on March 17, 2014, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 17, 2014, regarding the order in the matter of Water Right Permit Application Nos. 7441-3, 7442-3, 7452-3, 7466-3, 7535-3, 7467-3, 7468-3, 7558-3, 7587-3, 7588-3, 7600-3, 7601-3, 7602-3, 7603-3, 7623-3, 7633-3, 7653-3, 7715-3, 7900-3, 7690-3 and 7919-3 as set forth below:

A. Jason Rumpca, 103 N 3rd Street, Beresford SD 57004
Donald McCarty, PO Box 78, Brookings SD 57006
Jerome Hult, 45958 Hwy 18, Davis SD 57021
Donald Benson, 45067 284th Street, Hurley SD 57036
Jeremiah Welsh, 29217 460th Avenue, Centerville SD 57014
Brad Farrar, 28795 452nd Avenue, Viborg SD 57070
Darrell Osborn, 28838 463rd Avenue, Centerville SD 57014
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Tim or David Ostrem, 45924 300 St, Wakonda SD 57073
Larry and Marlene Erickson, 29859 461st Avenue, Centerville SD 57014
Diane Best, Assistant Attorney General, 317 N Main Avenue, Sioux Falls SD 57104

Sent Interoffice to:

Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501
Ann Mines, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501


Gail Jacobson

Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 17th day of March, 2014.


Karen Schlaak

Notary Public

My Commission expires April 1, 2019



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



APR 11 2014

Gary E or Julie A Peterson
45913 299th St
Centerville SD 57014

Dear Sir:

Enclosed is Reissued Water Permit No. 7442-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

7442-3
RECEIVED
SEP 10 2014
WATER RIGHTS
PROGRAM

**NOTICE OF COMPLETION OF WORKS AND
 APPLICATION OF WATER TO BENEFICIAL USE**

Date 5-12-14

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

*Please change my mailing
 address in your records*

to: Gary & Julie Peterson
 30156 471st Ave
 Beresford SD 57004

FROM: Gary Peterson
 (name)

45913 29th ST
 (address)

Centerville SD 57014
 (city, state, zip)

605-957-5229
 (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.

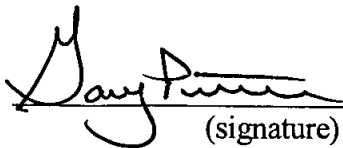
Water Permit No. 7442-3 states that the water use system is to be constructed by

3-6-19, and water is to be put to beneficial use by 3-6-23.
 (date) (date)

The water use system was completed on 5-2-14.
 (date)

Applying the water to beneficial use was completed on 7-18-14.
 (date)

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


 (signature)



7442-3

The land which this irrigation system
is on has been sold, so these two permits
5982-3 and 7442-3

Need to be transferred in to the name
of: Leah Johnson

45-259-290 51

Viborg SD 57070



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

December 3, 2015

5982-3

7442-3

Leah Johnson
45259 290th St
Viborg SD 57070

Dear Ms. Johnson:

I am in receipt of the 2015 irrigation questionnaires for Water Right No. 5982-3 and Water Permit No. 7442-3 along with the notation concerning the need for an ownership change.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing an ownership change. Please review the forms and make any necessary corrections. Upon completion, please sign and return the forms to our office with a required filing fee of \$50.00 each (total of \$100). The check or money order for the fee can be made payable to the Water Rights Program.

I have included a copy of both Nos. 5982-3 and 7442-3 for your records. If you have any questions, please contact me.

Sincerely,

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

enclosures

RECEIVED

DEC 28 2015

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 7442-3

Date: 12-11-15

I/We request that Water Permit No. 7442-3

formerly owned by: Gary or Julie Peterson

be transferred to: (name & address) Leah Johnson
45259-290 St
U.6019 SD 57070 Telephone No. 605-326-5338

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

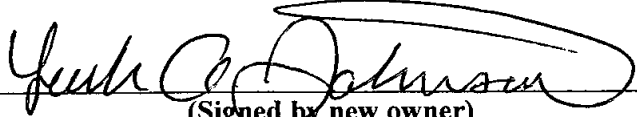
40 acres - W 1/2 NE 1/4 Section 17, T95N, R52W

I/We understand that the validity of Water Permit No. 7442-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Leah Johnson, the new owner, certify that the above information is true and correct.


(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/4, 20 16

RECEIVED OF Lowell L Johnson 45259 290th St Viborg SD 57070

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>7442-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 07590

By

J. am. Hoelman
Chief Engineer



7442-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 5, 2016

5982-3
7442-3

Leah Johnson
45259 290th St
Viborg SD 57070

Dear Ms. Johnson:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for changing ownership of Water Right No. 5982-3 and Water Permit No. 7442-3. The ownership changes have been completed. The above listed water right and water permit are now listed in your name.

Enclosed for your records are Receipt Nos. 07589 and 07590 in the amounts of \$50 each. If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 2, 2024

7442-3 & 5982-3

Leah Johnson
45259 290th St
Viborg SD 57070

Dear Mr. Johnson:

I am writing in regard to Water Right No. 5982-3 and Permit No. 7442-3. The water right authorizes diversion 1.64 cfs (approx. 735 gpm) of water from groundwater, one well, completed into the Upper Vermillion Missouri Aquifer. Water Permit No. 7442-3, with the diversion rate authority of Water Right No. 5982-3, authorizes the irrigation of 40 acres in the W ½ NE ¼ Section 17, T95N, R52W, Clay County.

In reviewing your 2023 irrigation questionnaire, we have found discrepancies in the amount of water used and have some concerns. Enclosed is a copy of your questionnaire for reference purposes.

Water Permit No. 7442-3 allows you to use up to 2 acre-feet (ac-ft) (24 inches) of water, per acre, per year. On the questionnaire you reported substantially more water use. The following information is what was reported and what is authorized:

- 40 acres irrigated
- Reported water use – 135.2 ac-ft of water (approximately 40.5 inches)
- Authorized water use – 80 acre-feet (40 acres x 2 ac-ft per year)

We realize that water use depends greatly on climactic conditions and may vary year to year. However, it is very rare that irrigators come close to the 24 inches per acre that is authorized. Typical water use is between 8 and 12 inches per acre. The information we receive each year from irrigators across the state is very valuable. The water use data supplied by irrigators is one of the tools we use to help determine whether an aquifer or stream is nearing full appropriation.

If you do in fact apply as much water as claimed on your questionnaire, you are exceeding the limits of your water right and will have to reduce your discharge to stay within the authorized limit. If you simply estimated your water use, we ask that you please ensure the information reported is as accurate as possible. As stated before, the information you provide to us is very valuable. If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

NOTE: Water Right No. 5982-3 authorizes a diversion rate of 1.64 cubic feet of water per second (approx. 735 gallons per minute). The 2023 irrigation questionnaire you submitted lists a pump rate of 900 gpm. A new permit would be required to increase the rate of diversion from 1.64 cfs to 2.0 cfs.

enclosure

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 7442-3

I have this day, September 9, 2024, made a thorough examination of the water use system owned by Leah Johnson, 45259 290th Street, Viborg, SD 57070, holder of Permit No. 7442-3, bearing the priority date of September 26, 2012. This permit authorizes the irrigation of 40 additional acres. Water Right No. 5982-3 authorizes 1.64 cubic feet of water per second (cfs) from one well completed into the South Management Unit of the Upper Vermillion Missouri Aquifer (165 feet deep) located in the SE1/4 NW1/4 Section 17 to irrigate 115 acres located in the NW1/4 Section 17; all in T95N-R52W. The permit authorizes irrigation of an additional 40 acres located in the W1/2 NE1/4 Section 17-T95N-R52W from the existing well. This permit does not authorize any increase in the developed diversion rate. The site is located in Clay County.

Inspection contacts: Bonnie Johnson and Brad Farrar

A. Works used to divert the water:

Well Information

- 1) Well Drilling Firm: Wetmore Drilling
- 2) No. of Wells: 1
- 3) Depth(s): 165 feet
- 4) Well log is available: Yes

Casing

- 1) Diameter: 16 inches
- 2) Length: 105 feet
- 3) Type: Plastic

Screen

- 1) Diameter: 16 inches
- 2) Length: 60 feet
- 3) Type: PVC
- 4) Static water level: 60 feet

Pump

- 1) Make: Custom Pipe & Fabrication Inc.
- 2) Model No.: 11RKM0
- 3) Serial No.: 0500193
- 4) Capacity: 800 gpm

Engine

- 1) Make: John Deere
- 2) Model No.: C110HP4

Gear Drive

- 1) Make: Amarillo
- 2) Serial No.: S60A203571
- 3) Horsepower rating: 60 hp

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

- 1) Type: PVC Size: 8 inches Length: 320 feet

C. Works used to apply water to beneficial use:

Center Pivot:

- 1) Make: Valley
- 2) Overall length: 1,262 feet
- 3) Number of towers: 7
- 4) End gun: Yes Range: 104 feet
- 5) Capacity: 800 gpm

Chemigation Equipment:

- 1) Does chemigate: No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Yes
- 3) Exceptions to compliance are: None

E. Condition and Location:

- 1) The system is in good condition with the point(s) of diversion located as follows:
The well is 1,350 feet south and 1,660 feet east of the northwest corner of Section 17-T95N-R52W (Latitude 43.04995, Longitude -97.01744— SE1/4 of the NW1/4).
- 2) The works are capable of diverting and conveying to the places of use 1.78 cu. ft. per second of water from the well which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows: All in

<u>Section 17-T95N-R52W</u>	
<u>NW1/4NW1/4</u>	<u>15 acres</u>
<u>NE1/4NW1/4</u>	<u>39 acres</u>
<u>SW1/4NW1/4</u>	<u>12 acres</u>
<u>SE1/4NW1/4</u>	<u>16 acres</u>
<u>NW1/4NE1/4</u>	<u>40 acres</u>
<u>SW1/4NE1/4</u>	<u>11 acres</u>

comprising a total of 133 acres of land and the license should be issued for 1.64 cfs.

- 3) All structures, wells and lands on map: Yes

F. Comments or other permit(s) associated with the project: This permit adds acres to existing Water Right No. 5982-3 without increasing the diversion rate. This was accomplished by replacing the old pivot with a longer pivot and by moving the pivot base to the north and east. Water Right No. 5982-3 and Water Permit No. 7442-3 should be combined into one water right. A portion of the land irrigated by Water Right No. 5982-3 is no longer irrigated.



Keith DeJong, PE Ret.
 Water Rights Inspector
 DANR, Water Rights Program

Date report completed: September 10, 2024

[illegible]

Keith DeJong

Keith DeJong, PE Ret.
Staff Engineer
September 9, 2024



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

OCT 22 2024

5982-3
7442-3

Leah Johnson
45259 290th St
Viborg SD 57070

Dear Ms. Johnson:

Enclosed is Water License No. 7442-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

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

Sincerely,

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

NOTES: The applicable portions of Water Right No. 5982-3 have been incorporated into Water Right No. 7442-3.

The investigation found your irrigation system to be capable of diverting 1.78 cfs, which is equivalent to approximately 800 gallons per minute. Water Right No. 5982-3 limited diversion to 1.64 cfs (equivalent to 740 gpm). Diversion of water under this water license is limited to 1.64 cfs.

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7442-3**

(1) Water Right No. 5982-3, held by Leah Johnson, bearing a priority date of February 21, 1997, authorizes the appropriation of 1.64 cubic feet of water per second from groundwater, one well (South Management Unit of the Upper Vermillion Missouri Aquifer), Clay County, for irrigation of 115 acres. The applicable portions of Water Right No. 5982-3 have been incorporated into this license.

Gary E or Julie A Peterson made Application No. 7442-3, September 26, 2012, for a water permit to irrigate an additional 40 acres, to what was already authorized by Water Right No. 5982-3, with no increase to the rate of diversion. Permit No. 7442-3, with a priority date of September 26, 2012, was approved by the Water Management Board March 6, 2014, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 6, 2019, and for the application to beneficial use of water on or before March 6, 2023.

Ownership of Water Permit No. 7442-3 was transferred to Leah Johnson, 45259 290th St, Viborg SD 57070, on December 28, 2015.

(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 1.64 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,350 ft S & 1,660 ft E of the NW corner Section 17, T95N, R52W (SE $\frac{1}{4}$ NW $\frac{1}{4}$)
(Latitude 43.04995 & Longitude -97.01744)

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

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

Section 17, T95N, R52W	
NW $\frac{1}{4}$ NE $\frac{1}{4}$	12 acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$	11 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$	39 acres
NW $\frac{1}{4}$ NW $\frac{1}{4}$	15 acres
SW $\frac{1}{4}$ NW $\frac{1}{4}$	16 acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$	40 acres
TOTAL: 133 acres	

(5) Pursuant to South Dakota Water Law 46-5-30.1 Leah Johnson, the holder and/or owner of Water Right No. 7442-3 is issued a license to appropriate water, the right to use 1.64 cubic feet of water per second from groundwater, one well (Southern Management Unit of the Upper Vermillion Missouri Aquifer), with priority dates of February 21, 1997 (115 acres & 1.64 cfs) and September 26, 2012 (18 acres), 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. 7442-3 and subject to the following qualifications:

QUALIFICATIONS

The following qualifications supersede the interim conditions placed on Permit No. 7442-3, issued June 21, 2013.

1. The well approved under Water Right No. 5982-3 and 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 their withdrawals so there is not a reduction of needed water supplied in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Eric Gronlund

Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

OCT 22 2024

date

