

WATER PERMIT NO. 7576-3

Name of Applicant: **Keith D and Janice L Howard**

Address: **162 Brookline Trail, Dakota Dunes SD 57049**

Phone: **605 232-4627**

Amount of Water Claimed: **3.33 cfs** Total Acres: **400**

Source of Water Supply: **groundwater (one well)**

Water to be used for: **irrigation** County: **Union**

Type of Waste Disposal System:

Location: **1 1/2 miles east of Jefferson**

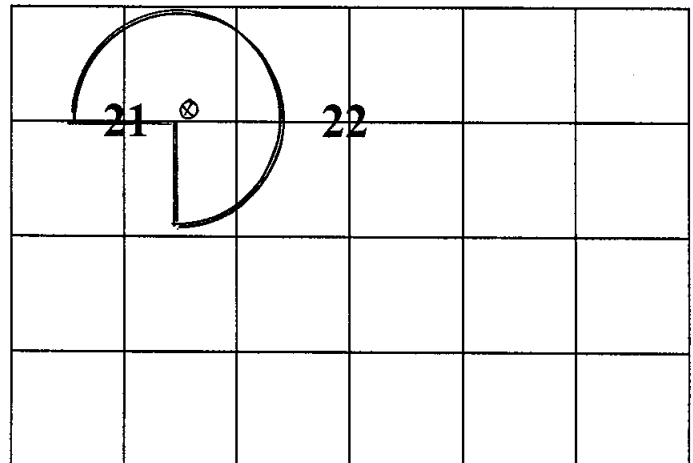
PRIORITY Date Received: **12-21-12** Application/License Fee: **\$ 1450**

Corrected Application Received: Period of Annual Use: **May 1 – September 30**

Remarks: **Water Right No. 452-3 covers irrigation of the N 1/2 Sec 21**

Diversion Point: **SE 1/4 NE 1/4 Sec 21-T90N-R48W**

Land to be Irrigated: **NE 1/4, E 1/2 NW 1/4, E 1/2 SE 1/4 Sec 21, NW 1/4, SW 1/4 Sec 22; all in T90N-R48W**



Depth of Well: **118 feet deep**

Well Driller: **Vernon Vakoc**

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **12-28-12**

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	(office use only)	
	No. <u>7576-3</u>	Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri River</u> <u>605-356-2632</u>	
	Newspaper <u>Leader-Observer Box 310 Elk Point 57025</u> <u>605-665-7811</u> <u>Press & Dakotan 319 Walnut Yankton 57028</u>	

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DEC 21 2012

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit Keith D. and Janice L. Howard
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent
(name and complete address if different than above name)

Mailing Address 162 Brookline Trail Dakota Dunes S.D. 57049
(Address) (City) (State) (Zip Code)

Home Phone 605-232-4627 Cell 712-259-0152 Email Keith@dakotadunes.com

2. Amount of water claimed 3.33 *CFS or 1500 **GPM ***AF Total Acreage 400
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Irrigation well in sand + gravel aquifer

4. Location of point of diversion 1 well in SE 1/4 of the NE 1/4 of Sec 21, T90N, R48W,
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
Fifth P.M. Union County, South Dakota, USA County Union

5. County or counties where water will be used Union

6. Annual period during which water is to be used Summer May 1 - Sept. 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres

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

100 horse power electric motor on well, shaft driven impeller, 16" casing,
118ft deep to run water through a center pivot irrigator 2600 ft long.
Electricity = 3 phase underground

I, Keith D. Howard and Janice L. Howard, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

separate
sheet

SOUTH DAKOTA
WATER PERMIT NO. 7576-3

Date of first receipt of application December 21, 2012.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7576-3 to Keith D and Janice L Howard, 162 Brookline Trail, Dakota Dunes SD 57049 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. 7576-3 appropriates 3.33 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (118 feet deep) located in the SE 1/4 NE 1/4 Section 21 for irrigation of 400 acres located in the E 1/2 NW 1/4, NE 1/4, E 1/2 SE 1/4 Section 21, and lots 1,2,3,4 (W 1/2) Section 22; all in T90N-R48W.
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 December 21, 2012.
4. The date of approval of Permit No. 7576-3 is March 4, 2013.
5. One-fifth of the construction is to be completed on or before September 4, 2015.
6. All construction is to be completed on or before March 4, 2018.
7. Water is to be put to beneficial use on or before March 4, 2022.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

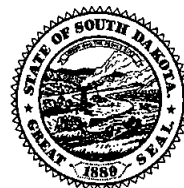
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7576-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

APR 12 2013

date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)

a) If new wells, how many 1 Have test holes been drilled ☒ Yes ☐ No Drilled by Vernon VaRoc
(if yes, please provide copies of logs)

b) If existing wells, how many Provide copy of log(s), if available. Drilled by

c) Well Depth 118' Depth to Top of Water Bearing Material 55' Depth to Water from Surface 21'

d) Distance to nearest existing domestic well:

On applicant's property NONE On property owned by others more than 1/4 mile

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field)

b) System Capacity (gallons) Year Constructed

c) Connected to the City of Sanitary System

3. Dugout Information

a) Surface Dimensions Depth

b) Depth to water (ground surface to water level)

4. Water Storage Dams

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

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

b) Freeboard

c) Crest Width

Crest Length

d) Height

e) Primary Outlet Capacity

If pipe, diameter

f) Secondary Spillway Capacity

Spillway Width

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

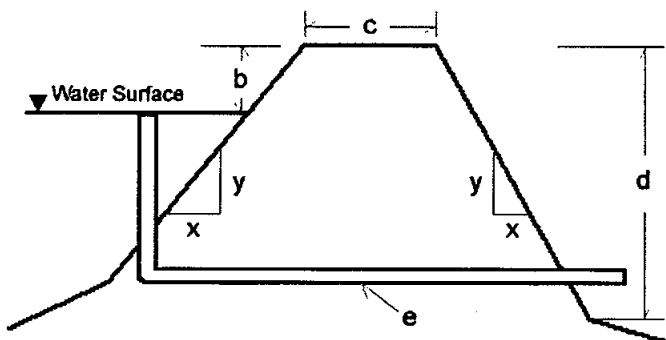
Upstream

Downstream

h) Surface Area of Impoundment

i) Storage Acre Feet

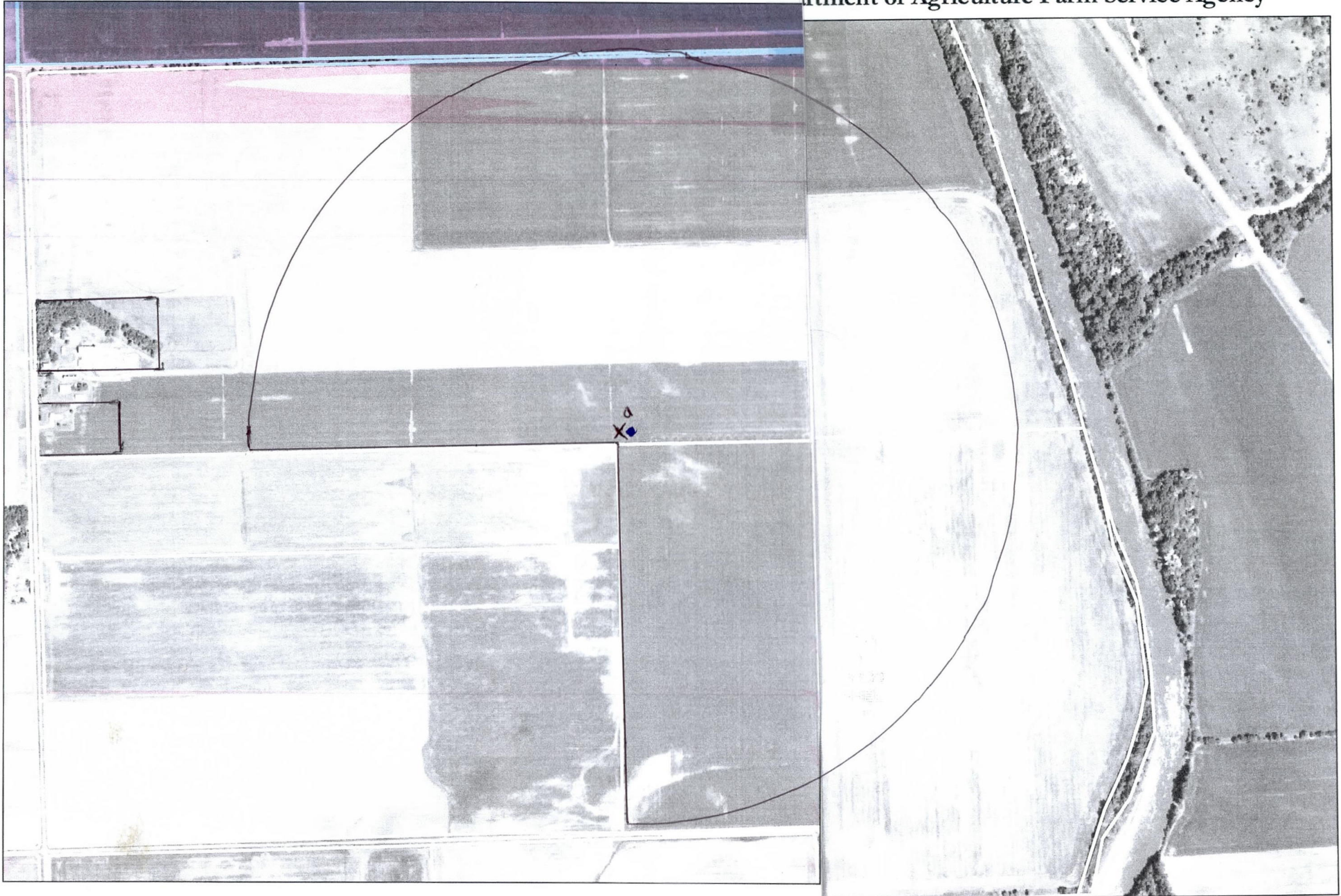
j) Drainage Area Above Dam Acres





United States Department of Agriculture Farm Service Agency

United States Department of Agriculture Farm Service Agency

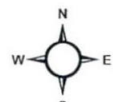


South Dakota
Union County

Farm Number
4678

Township-Range-Section
90N48W21

- Legend
- Restricted Use
 - ▽ Limited Restrictions
 - Exempt from Conservation Compliance Provisions
- CLU Field Boundary
Tract Boundary



1:8,363

USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or the 2008 ortho rectified imagery for South Dakota. The producer accepts the data 'as is' and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs. 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.

Apr 15, 2009

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WATER RIGHTS
PROGRAM

Farm Number
4678

Township-Range-Section
90N48W22

- Legend
- Restricted Use
 - ▽ Limited Restrictions
 - Exempt from Conservation Compliance Provisions
- CLU Field Boundary
Tract Boundary

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Apr 15, 2009

Farm Number 46782

3725
2
112.44
NHSL

1360
1
368.27
NHSL

375 acres
+ 25 acres Encl. in
400 acres

1371
1
181.6
NHSL

3798
1
40.03
NHSL

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Well Log -- Keith Howard

0 – 27'	Dark, heavy clay
27' – 30'	Wet grey clay
30' – 55'	Brown clay
55' – 57'	Sandy
57' – 118'	Course gravel
118' – 135'	Dark, hard shale

Application For Water Permit For Irrigation

this information to be attached to Form 2

- c) New well location (x), SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec 21,
T90N, R48W, Fifth P.M. Union County, South Dakota, USA

the pivot is to be 2600 Ft. Long. 14 towers

Question 1. Form 2

Question 2. Map a) 2 maps included with (x) diversion Point

b) this $\frac{3}{4}$ turn of the Pivot will be 400 acres

Same land owned by Keith D. and Janice L. Howard (applicants)

c) above

Question 3. Form 2A attached.

Well Log attached completed By Vernon Vakoc

Question 4. Fee \$1450.00 for 400 acres with Inspection Fee

Question 5. newspaper publishing

Form 2 question 7. Land Description

SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ = 40 acres

SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ = 40 acres

SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ = 38 acres

NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ = 17.3 acres

NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ = 38 acres

NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ = 38 acres

NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ = 40 acres

SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ = 38 acres

all in Sec 21
T90N, R48W of
the 5th P.M.

SW part of Lot 4 of the NW $\frac{1}{4}$ = 17.3 acres

SW part of Lot 3 of the NW $\frac{1}{4}$ = 38 acres

NW part of Lot 2 of the SW $\frac{1}{4}$ = 38 acres

NW part of Lot 1 of the SW $\frac{1}{4}$ = 17.3 acres

all in Sec 22
T90N, R48W,
W. of the 5th P.M.

Total 400 acres

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12-28, 20 12

RECEIVED OF Janice and Keith Howard, 162 Brookline Trl, Dakota Dunes SD 57049

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

Fee for Application for Permit No. <u>7576-3</u> to Appropriate Water, to construct and to put water to beneficial use	1250	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>7576-3</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	1450.00

No. **05802**

By Garland Erbeley
Chief Engineer 1/55



**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. 7576-3, Keith D and Janice L Howard**

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. 7576-3, Keith D and Janice L Howard, 162 Brookline Trail, Dakota Dunes SD 57049.

The Chief Engineer is recommending APPROVAL of Application No. 7576-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 7576-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 12, 2013

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7576-3
KEITH D AND JANICE L HOWARD
February 12, 2013

Water Permit Application No. 7576-3 proposes to appropriate up to 800 acre-feet annually (ac-ft/yr) at a maximum diversion rate of 3.33 cubic feet of water per second (cfs) from one well to be completed into the Missouri: Elk Point aquifer. The well will be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, T90N-R48W and is expected to be approximately 118 feet deep. This application proposes to irrigate 400 acres located in the E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 21 and Lots 1, 2, 3 and 4 in Section 22 all in T90N-R48W in Union County.

AQUIFER: Elk Point management unit of the Missouri Aquifer (M: EP)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Elk Point management unit of the Missouri aquifer is a surficial aquifer composed of unconsolidated glacial outwash material ranging from fine sand to coarse gravel (Niehus, 1994). The aquifer generally lies below the flood plains of the Missouri and Big Sioux Rivers in the southern part of Union County (Niehus, 1994). This proposed well site is approximately 0.42 miles west of the Big Sioux River and 9.3 miles east of the Missouri River. The aquifer directly overlies and is hydraulically connected to the Dakota aquifer, and is hydraulically connected to the Big Sioux aquifer in the northeast and the Lower Vermillion-Missouri aquifer in the north (Niehus, 1994). The aquifer is primarily under water-table conditions in Union County, but is under artesian conditions in the area of this application. The Elk Point management unit of the Missouri aquifer encompasses regions of Clay, Union, and Yankton Counties. The Missouri: Elk Point aquifer underlies approximately 99,600 acres of Union County alone and contains an estimated 1,494,600 acre-feet of recoverable water in storage in the county (Hedges and others, 1982). Niehus estimated that the aquifer underlies approximately 115,200 acres of Union County and contains an estimated 1.5 million acre-feet of water in storage (1994). The maximum thickness of the Missouri aquifer is 146 feet with an average thickness of 84 feet (Niehus, 1994). There is approximately 21 feet of artesian head pressure available, and the well log submitted with the application shows a saturated thickness of 63 feet. Lithologic logs and observation wells in the area show a similar saturated thickness as shown in Table 1.

Observation Well/Lithologic Log	Saturated Thickness (ft)
Observation Well UN-87A	41
Observation Well UN-87B	84
Lithologic Log 21BBC	113
Lithologic Log 17CCCC	40
Lithologic Log 19DDD	97

Table 1. Saturated thickness for nearby observation wells and lithologic logs (Water Rights, 2013a).

SDCL 46-2A-9

In accordance with SDCL 46-2A-9, a permit may be issued to appropriate water 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 review the availability of unappropriated water and existing rights within the Missouri: Elk Point aquifer.

WATER AVAILABILITY:

This application proposes to appropriate 800 ac-ft/yr from the Missouri: Elk Point aquifer. If this application is approved, it is likely that the actual water use will be less than the appropriated amount. The probability of unappropriated water available from the aquifer can be evaluated using 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 Missouri: Elk Point aquifer occurs through infiltration and percolation of precipitation falling in areas where the aquifer is near land surface (Niehus, 1994). Recharge is also provided to the aquifer from the Big Sioux, Lower Vermillion-Missouri, and Dakota aquifers as well as during times of high flow and stage from the Missouri River (Niehus, 1994). The average annual recharge rate to the Missouri: Elk Point aquifer is an estimated 3.8 in/yr based on observation well analysis (Hedges and others, 1985). Given the area of the management unit in Union County of 115,200 acres by Niehus, average annual recharge to the aquifer in Union County alone is estimated to be 36,480 ac-ft/yr.

Discharge:

Discharge from the Missouri: Elk Point aquifer is by evapotranspiration, discharge to the Big Sioux and Missouri Rivers during low flow and to the underlying Dakota aquifer, and withdrawal from wells (Niehus, 1994). There are a number of completion reports on file with the SD DENR-Water Rights Program for domestic use wells completed into the Missouri: Elk Point aquifer (Water Rights, 2013b) and there are currently 507 water rights/permits appropriating water from the Missouri: Elk Point aquifer (Water Rights, 2013c). There are 297 water rights/permits appropriating water from this aquifer in Union County alone (Water Rights, 2013c). The distribution of these appropriations and their types are shown in Table 2.

Water Rights/Permits	Number
Commercial	3
Domestic	1
Industrial	2
Irrigation	286
Municipal	4
Recreational	1

Table 2. Water rights/permits from the Missouri: Elk Point aquifer in Union County (Water Rights, 2013c).

The amount of water that can be expected to be withdrawn through water rights/permits authorizing water use for non-irrigation purposes at the current appropriation level can be estimated by assuming:

1. Water rights/permits limited by an annual volume will pump the entire volume appropriated.
2. Water rights/permits limited only by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time.
3. Future use permits can be fully developed.

The expected water use for non-irrigation purposes, from the Missouri: Elk Point aquifer in Union County is less than 5,700 ac-ft/yr based on current water appropriations.

The annual reported water use from the Missouri: Elk Point aquifer for irrigation purposes is displayed in Table 3.

YEAR	NO. OF PERMITS	APPROPRIATION (AC-FT/YR)	PUMPAGE REPORTED (AC-FT/YR)
2011	431	159700.8	12107.55
2010	419	155905.4	2723.87
2009	410	155245.4	6120.97
2008	396	151130.4	16261.88
2007	366	139826.6	30482.84
2006	353	136491.6	27974.54
2005	335	130046.6	23964.5
2004	322	126955.8	23862.25
2003	314	125379.8	26734.67
2002	315	125555.8	23547.22
2001	313	125537.4	19071.88
2000	309	124852.2	26640.12
1999	308	125225.6	14748.02
1998	313	127862.6	11127.24
1997	305	126518.2	17182
1996	296	124606.2	9412.78
1995	292	121644.25	18320.24
1994	295	122975.05	10221.43
1993	298	125576.3	1475.2
1992	295	125256.68	1881.95
1991	300	126471.68	18798.6
1990	297	127965.68	19425
1989	292	126354.68	25651.9
1988	282	123601.48	28184.55
1987	281	123601.68	13163.7
1986	286	125320.68	6252.1
1985	282	124546.68	13718.5
1984	281	126221.56	9194.3
1983	273	121483.08	10834.04
1982	269	122297.78	18822.35
1981	297	134477.62	13096
1980	262	124404.88	14586
1979	259	122980.02	9859
MIN	259	121483.08	1475.20
MAX	431	159700.80	30482.84
AVE	313.52	129879.40	15922.64

Table 3. Irrigation from the Missouri: Elk Point aquifer (Water Rights, 1979-2011)

Comparison of the estimated average annual withdrawal from the entire Missouri: Elk Point aquifer with the estimated average annual recharge for the aquifer in Union County alone indicated that in general the average annual withdrawals from the aquifer do not exceed the average annual recharge to the aquifer and unappropriated water is available from the Missouri: Elk Point aquifer. Specifically, unappropriated water is available for the 800 acre-feet appropriation proposed by this application.

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 37 observation wells completed into the Missouri: Elk Point aquifer with three of these observation wells located within two miles of the well site proposed by this application (Water Rights, 2013b). Hydrographs for the nearest two of these wells are shown in Figures 1 and 2.

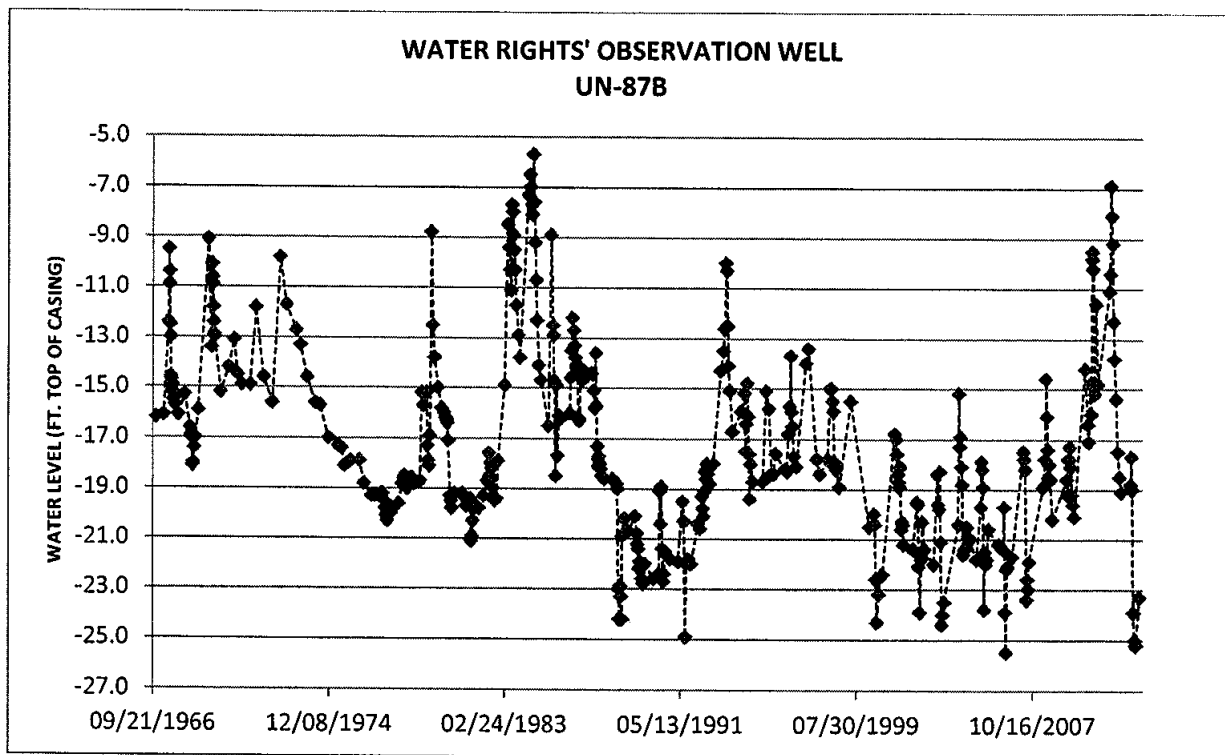


Figure 1. Hydrograph for DENR-Water Rights Observation Well UN-87B completed into the Missouri: Elk Point aquifer approximately one and one half miles northwest of the well site proposed by Application No. 7576-3 (Water Rights, 2013a).

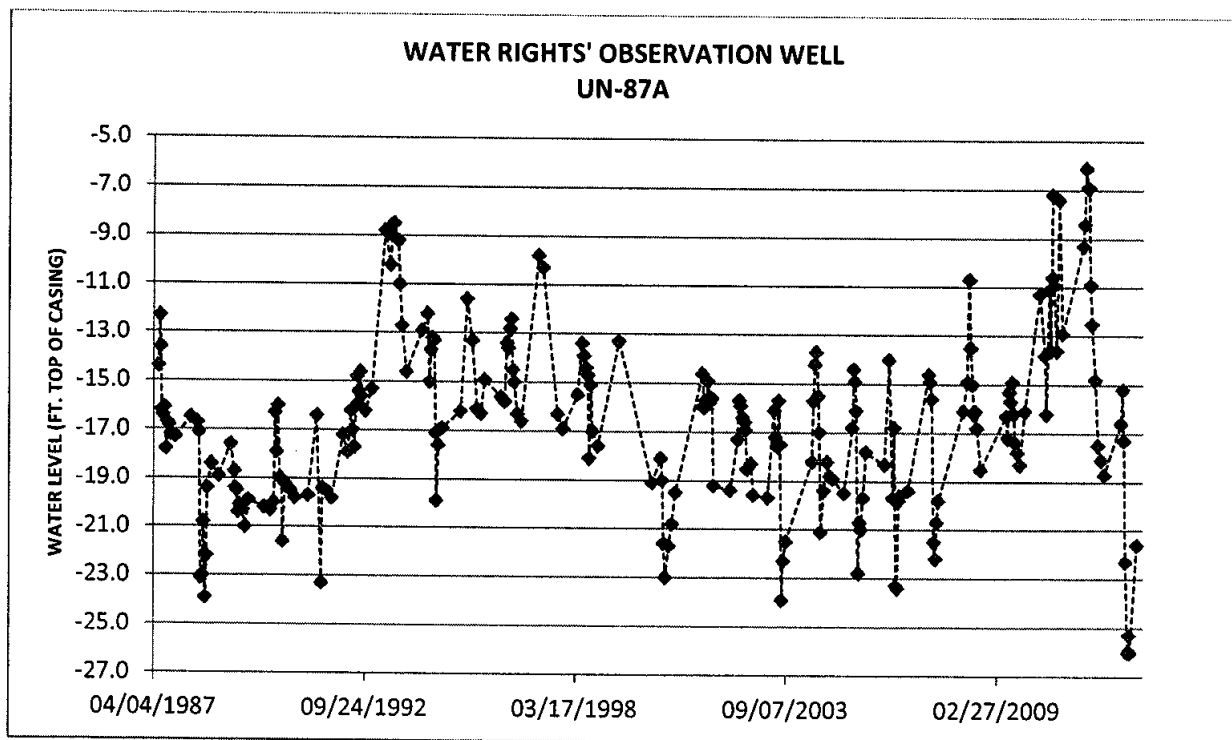


Figure 2. Hydrograph for DENR- Water Rights Observation Well UN-87A completed into the Missouri: Elk Point aquifer approximately two miles north of the well site proposed by Application No. 7576-3 (Water Rights, 2013a).

The observation well data shows the aquifer generally responds well to climatic conditions with rising water levels during wet years and gradually declining water levels during dry years. The water level data shows that over the period of record, in general discharge has not exceeded recharge. The observation well data shows that at the current level of development, climatic conditions mask the temporal effects of well withdrawals. Therefore, recharge to and natural discharge from the Missouri: Elk Point aquifer significantly exceeds pumping. Recognizing that natural discharge from the aquifer can be captured for pumping. The hydrographs document that there is unappropriated water available from the aquifer to support this appropriation.

EXISTING WATER RIGHTS:

The well site proposed by this application is located approximately 9.3 miles east of the Missouri River in a portion of the Missouri: Elk Point aquifer that extends east of the Missouri River for approximately 9.75 miles to the edge of the aquifer at the Big Sioux River. There are five water rights/permits that have diversion points within a one mile radius from the proposed well site. The nearest water right/permit is Water Permit No. 6630-3, for Lynn R. Mollet, located over 1,050 feet southwest and down-gradient from the proposed well site.

Observation well UN-87B is within 650 feet of Water Permit No. 518-3, for Dale Bosse, which diverts at a rate of 2.14 cfs, and the hydrograph, shown in Figure 1, reports minimal drawdown at this distance due to pumping. Figure 2 shows that drawdown due to pumping is expected, but is not expected to be significant. The precise drawdown cannot be quantified without aquifer

testing. With that in mind, a standard permit qualification to most groundwater permits/rights states that:

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

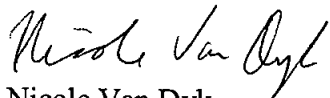
SDCL 46-6-6.1 does not protect artesian head pressure as a means of delivery and the Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. To balance interests between irrigation use and delivery of water by artesian pressure, the Water Management Board has defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) 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”

In reality, the assurance of reasonable domestic use provided by SDCL 46-6-6.1 and ARSD 74:02:04:20(7) generally ensures not only that interference will not be adverse to domestic well users but also in existing appropriative rights (i.e. in most cases, the protection afforded to adequate domestic wells by water law, would lead to enforcement of the “standard permit qualification” before there is a reduction of needed water supplies to appropriative rights). Although drawdown is expected to be minimal, as shown by the observation well hydrographs, some drawdown will occur. Depending on the extent of drawdown, some existing well owners may need to lower their pumps to accommodate for deeper water levels. However, when considering the statute and rule, there is a reasonable probability that any well interference from these proposed applications will not be adverse to adequate domestic wells.

CONCLUSIONS:

1. This application proposes to appropriate up to 800 acre-feet annually for irrigation from the Missouri: Elk Point aquifer.
2. There is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer to supply this proposed appropriation.
3. The Missouri: Elk Point aquifer is under artesian conditions in this area, and drawdown from pumping is not expected to adversely impact existing water rights.



Nicole Van Dyk
SD DENR-Water Rights Program

Approved by



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- jHedges, 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
- Hedges, L.S., Allen, J., Holly D.E., 1985, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- 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.
- Water Rights, 1979-2011, Irrigation Questionnaire Summaries 1979-2011, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2013a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2013b, Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2013c, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

AFFIDAVIT OF PUBLICATION

RECEIVED State of South Dakota)

FEB 25 2013

:ss

County of Union)

WATER RIGHTS
PROGRAM

Kelly Kruthoff,

an employee of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Notice of Application No. 7576-3

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 21 day of February, 2013

and that the succeeding publications were

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 26.78, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Kelly Kruthoff

Subscribed and sworn to before me

this 21 day of February, 2013

My commission expires 6-21-17

Susan Odson

SUSAN ODSON
NOTARY PUBLIC
SOUTH DAKOTA

Notary Public

NOTICE OF APPLICATION NO. 7576-3

TO APPROPRIATE WATER

Notice is given that Keith D and Janice L Howard, 162 Brookline Trail, Dakota Dunes SD 57049 have filed an application for a water permit to appropriate 3.33 cubic feet of water per second from one well to be completed into the Missouri-Elk Point Aquifer (118 feet deep) located in the SE 1/4 NE 1/4 Section 21 for irrigation of 400 acres located in the E 1/2 NW 1/4, NE 1/4, E 1/2 SE 1/4 Section 21, lots 1,2,3,4 and (W 1/2) Section 22; all in T90N-R48W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7576-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605.773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 4, 2013.

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

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

Published February 21, 2013

Published once at the total approximate cost of \$26.78

8-11-72

RECEIVED

FEB 25 2013

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

24-21

NOTICE OF APPLICATION
NO. 7576-3 to Appropriate Water

Notice is given that Keith D and Janice L Howard, 162 Brookline Trail, Dakota Dunes SD 57049 have filed an application for a water permit to appropriate 3.33 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (118 feet deep) located in the SE 1/4 NE 1/4 Section 21 for irrigation of 400 acres located in the E 1/2 NW 1/4, NE 1/4, E 1/2 SE 1/4 Section 21, lots 1,2,3,4 and (W 1/2) Section 22; all in T90N-R48W.

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Published once at the total approximate cost of \$26.15.

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 **Notice of Application No. 7576-3**

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 21st DAY OF February 2013 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID **NOTICE** TO WIT **\$26.15** 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: 2/21/2013

FILED ON: 2/22/2013

SUBSCRIBED AND SWORN TO BEFORE ME THIS 22nd DAY OF February 2013

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 13, 2013

Leader Courier
PO Box 310
Elk Point SD 57025

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7576-3 to Appropriate Water. Please publish the notice once on February 21, 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 Keith D and Janice L Howard, 162 Brookline Trail, Dakota Dunes SD 57049 (Ph # 605-232-4627).

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

February 13, 2013

Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

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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

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

February 13, 2013

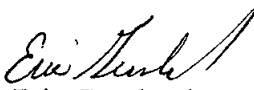
Keith D & Janice L Howard
162 Brookline Trail
Dakota Dunes SD 57049

Dear Sir & Madam:

Water Permit Application No. 7576-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Leader Courier printed at Elk Point SD (Ph # 605-356-2632) and the Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

Instruction to Newspaper - Publish the Notice on February 21, 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.

NOTICE OF APPLICATION NO. 7576-3 to Appropriate Water

Notice is given that Keith D and Janice L Howard, 162 Brookline Trail, Dakota Dunes SD 57049 have filed an application for a water permit to appropriate 3.33 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (118 feet deep) located in the SE 1/4 NE 1/4 Section 21 for irrigation of 400 acres located in the E 1/2 NW 1/4, NE 1/4, E 1/2 SE 1/4 Section 21, lots 1,2,3,4 and (W 1/2) Section 22; all in T90N-R48W.

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Published once at the total approximate cost of_____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

APR 12 2013

Keith D and Janice L Howard
162 Brookline Trail
Dakota Dunes SD 57049

Dear Mr. & Mrs. Howard:

Enclosed is Water Permit No. 7576-3 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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

7576-3

07-92

Location SE 1/4 NW 1/4 Sec 21 Twp 90N Rg 48W
County _____

North

Please mark well location with an "X"

W

X

E

Well-Completion Date

11-19-12

1 Mile

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 1500 ft. from Septic (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Mud RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>5.40</u> LB/FT	<u>16</u> IN	<u>0</u> FT	<u>118</u> FT	<u>24</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Bentonite</u>	_____	_____ lb./gal	<u>30</u> ft	<u>10</u> ft
_____	_____	_____ lb./gal	_____ ft	_____ ft

Describe grouting procedure _____

Pumped from bottomSCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 16 IN Length 60 FEETMaterial PVCSlot Size .60 Set From 58 Feet to 118 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

YES, How: _____

Laboratory sent to for water quality analysis

☒ NO, Why Not? _____IrrigationWell Owner: Keith Howard

Business Name: _____

Address: 162 Brookline Trail
Dakota Dunes, SD 57049

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Dark, heavy clay</u>	<u>0</u>	<u>27</u>
<u>Wet, gray clay</u>	<u>27</u>	<u>30</u>
<u>Brown clay</u>	<u>30</u>	<u>55</u>
<u>Sandy</u>	<u>55</u>	<u>57</u>
<u>Course gravel</u>	<u>57</u>	<u>118</u>
<u>Dark, hard shale</u>	<u>118</u>	<u>135</u>

STATIC WATER LEVEL 21 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: Not completed at
☐ Bailed this time
☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate Not installed GPM

REMARKS

RECEIVED

FEB 11 2013

WATER RIGHTS PROGRAM

This well was drilled under license # 667

And this report is true and accurate.

Drilling firm Dakota Drilling & Backhoe, Inc

Signature of License Representative:

Charles Vukob

Signature of Well Owner or Equitable Property Holder:

Date: _____

7576-3
RECEIVED

SEP 30 2013

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate September 26, 2013TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Keith D. and Janice L. Howard
(name)1162 Brookline Trail
(address)Dakota Dunes, S.D. 57049
(city, state, zip)605-232-4627
(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.

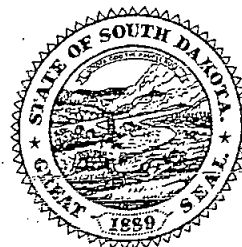
Water Permit No. 7576-3 states that the water use system is to be constructed by March 4, 2018, and water is to be put to beneficial use by March 4, 2022.
(date) (date)

The water use system was completed on July 2, 2013.
(date)

Applying the water to beneficial use was completed on August 30, 2013.
(date)

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

Keith D. Howard
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 30, 2013

7576-3

Keith D & Janice L Howard
162 Brookline Trail
Dakota Dunes SD 57049

Dear Mr. & Mrs. Howard:

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

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

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

Sincerely,

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



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



November 3, 2014

452-3
7576-3

Keith D & Janice L Howard
112 Teton Pines Ct
Dakota Dunes SD 57049 5445

Dear Mr. & Mrs. Howard:

Enclosed is a "Notice" dated October 17, 2014 concerning the 2014 irrigation questionnaire.

The notice was originally mailed to 162 Brookline Trail, Dakota Dunes. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures