

WATER PERMIT NO. 7617-3

Name of Applicant: **Brett Guthmiller**

Address: **28680 435th Ave, Menno SD 57045** Phone: **605 387-2392**

Amount of Water Claimed: **1.78 cfs** Total Acres: **119 acres**

Source of Water Supply: **groundwater (two wells)**

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

Type of Waste Disposal System:

Location: **5 miles east of Menno**

PRIORITY Date Received: **1-7-13** Application/License Fee: **\$950**

Corrected Application Received: Period of Annual Use: **May 1 – October 31**

Remarks:

Diversion Point: **center of SW 1/4 Sec 8-T97N-R56W**

Land to be Irrigated: **SW 1/4 Sec 8-T97N-R56W**

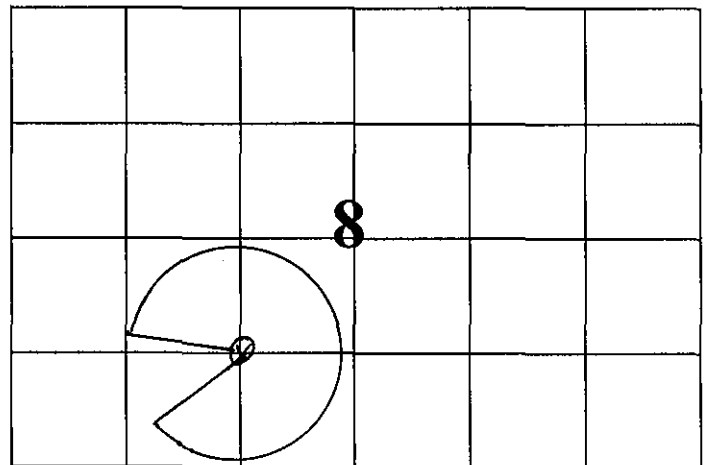
Depth of Well: **77 feet deep**

Well Driller: **Thein Well Co.**

Remarks:

Type of Map: **aerial**

Prepared by:



Reviewed and the Number Assigned on: **1-9-13**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SD Form - 0499LD V4

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>7617-3</u> (office use only)	Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	<u>605-925-7033</u>
	Newspaper <u>Freeman Courier, Box 950</u>	<u>57029</u>
	<u>Press & Dakotan</u>	<u>319 Walnut Yankton 57028</u>

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JAN - 7 2013

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 Brett Guthmiller
 (check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent
 (name and complete address if different than above name)

 Mailing Address 28680 435th Ave Menard SD 57045
 (Address) (City) (State) (Zip Code)

 Home Phone 387-242 Cell 660-1474 Email turbobrett23@hotmail.com

 2. Amount of water claimed 1.78 *CFS or 300 **GPM ***AF Total Acreage 119
 (*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply new well
 4. Location of point of diversion 1 or 2 wells in center of SW 1/4 Section 89N56W
 (example - 3 wells in SW 1/4 NE 1/4 section 12-11(4N-R53W))
County Hutchinson5. County or counties where water will be used Hutchinson6. Annual period during which water is to be used May 1 thru September 30
 7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
 (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SW 1/4 of SW 1/4	21		
SE 1/4 of SW 1/4	33.5		
NE 1/4 " "	33.5		
NW 1/4 " "	31		

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

I plan to drill 1 well to get 800 gpm to irrigate 119 acres. I would like to have the option to drill a second well if the first won't produce at least 600 gpm. I plan to irrigate ~~the~~ corn, soybeans, and alfalfa. As the map shows I cannot make a full circle because of my farm yard but will be able to partially bend around it. continued on paper

I, Brett Guthmiller, the applicant, certify that I have read this application, have examined the attached map, and that the matters stated are true.

**SOUTH DAKOTA
WATER PERMIT NO. 7617-3**

Date of first receipt of application January 7, 2013.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7617-3 to Brett Guthmiller, 28680 435th Ave, Menno SD 57045 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. 7617-3 appropriates 1.78 cubic feet of water per second from two wells to be completed into the Niobrara Aquifer (77 feet deep) located in the approximate center of the SW 1/4 Section 8 for irrigation of 119 acres located in the SW 1/4 Section 8; all in T97N-R56W.
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 January 7, 2013.
4. The date of approval of Permit No. 7617-3 is March 25, 2013.
5. One-fifth of the construction is to be completed on or before September 25, 2015.
6. All construction is to be completed on or before March 25, 2018.
7. Water is to be put to beneficial use on or before March 25, 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 wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 7617-3 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

MAY 20 2013

date



Form 2A
(Complete applicable portions only)

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 2 Have test holes been drilled ☒ Yes ☐ No Drilled by Thein Well Co
(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 77 Depth to Top of Water Bearing Material 57' Depth to Water from Surface 20'
- d) Distance to nearest existing domestic well:

On applicant's property 900 ft (not used) On property owned by others 2750 ft

2. Wastewater Disposal System Information

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

3. Dugout Information

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

4. Water Storage Dams

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

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

b) Freeboard

c) Crest Width

Crest Length

d) Height

e) Primary Outlet Capacity

If pipe, diameter

f) Secondary Spillway Capacity

Spillway Width

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

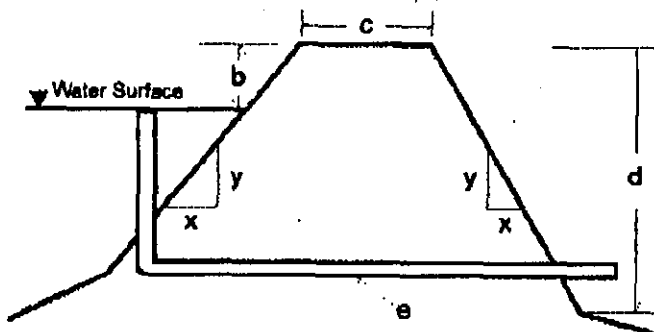
Upstream

Downstream

h) Surface Area of Impoundment

i) Storage Acre Feet

j) Drainage Area Above Dam Acres



Continued from #8 (description of project)

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WATER RIGHTS
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I would like to irrigate this year so I can guarantee enough feed for my cattle after last year's drought. I plan to have a test pumped well done in ~~the~~ February to know if I can get by with one well or not. Because we are drilling in chalk, I am being a little more vague than you probably like.

The soil on this land is a bit heavier than most irrigated fields. This is why I plan to rotate alfalfa and cover crops to use excess moisture and keep salts away.

Test well log

Topsoil	0-3
Yellow clay	3-24
blue clay	24-40
blue shale	40-49
chalk	49-170

Attn: Brett Guthmiller
605-387-2441

5 pages



Reinke
MORE RIGHT THAN RAIN

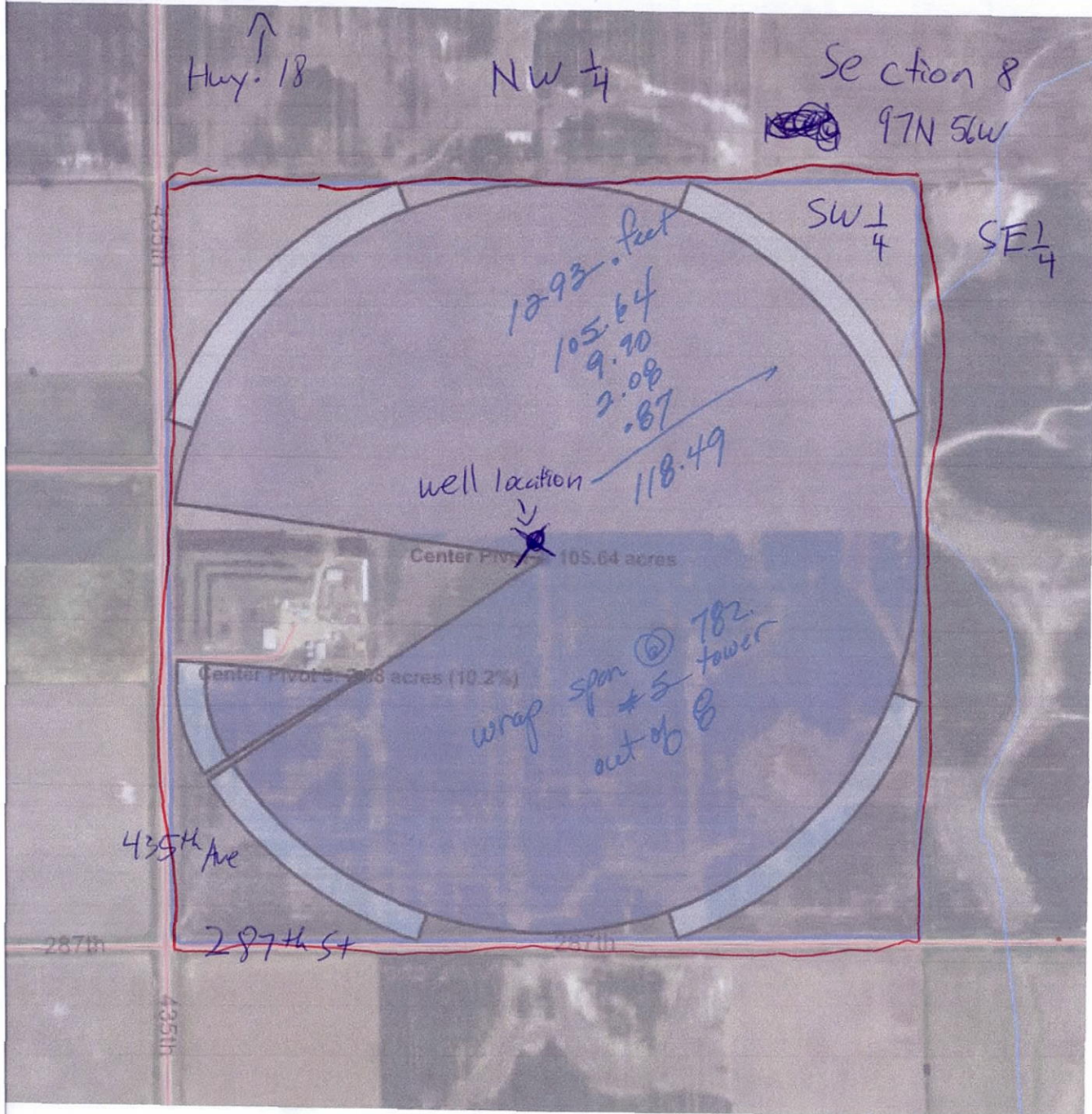
Anson Electric Inc. Ewing/Brunswick Nebraska

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WATER RIGHTS
PROGRAM

Grower: Brett Guthmiller



Sec 31
T098N
R56W

Sec 32
T098N
R56W

Sec 33
T098N
R56W

Sec 6
T097N
R56W

Sec 5
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Sec 21
T097N
R56W

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/9, 20 13

RECEIVED OF Brett Guthmiller 28680 435th Ave Menno SD 57045

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

Fee for Application for Permit No. <u>7617-3</u> to Appropriate Water, to construct and to put water to beneficial use	750	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>7617-3</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	950 00

No. **05920**

By

David Erbe
Chief Engineer



**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. 7617-3, Brett Guthmiller**

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. 7617-3, Brett Guthmiller, 28680 435th Avenue, Menno SD 57045.

The Chief Engineer is recommending APPROVAL of Application No. 7617-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 7617-3 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
March 4, 2013

REPORT TO THE CHIEF ENGINEER

WATER PERMIT APPLICATION NO. 7617-3

Brett Guthmiller

February 21, 2013

Water Permit Application No. 7617-3 proposes to appropriate 238 acre-feet per year (ac-ft/yr) at a maximum diversion rate of 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Niobrara aquifer. The wells are expected to be 77 feet deep and are to be located in the approximate center of the SW¼ of Section 8 to irrigate 119 acres located in the SW¼ of Section 8, T97N-R6W in Hutchinson County. The application proposes a diversion rate in excess of the statutory limit.

AQUIFER: Niobrara (NBRR)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Niobrara aquifer is a bedrock aquifer composed of fractured, calcareous marl, interbedded with calcareous claystone, and is referred as “chalkrock.” In Hutchinson and Turner Counties, the Niobrara aquifer underlies approximately 729 square miles, equating to 466,560 acres, and contains an estimated 6,998,000 acre-feet (ac-ft) of water in storage (Lindgren and Hansen, 1990).

The Niobrara is the uppermost bedrock aquifer in Hutchinson and Turner Counties, consisting of three noncontiguous areas. The formation often overlies the Carlile Shale and is overlain by glacial drift or the Pierre Shale. The average thickness of the Niobrara in Hutchinson and Turner Counties is 75 feet; however, the thickness of this formation can be highly variable (Lindgren and Hansen, 1990). A test hole report submitted with this application documents “chalk” (Niobrara) from 49 to 170 feet below ground surface. This agrees with maps of the bedrock in eastern South Dakota completed by Tomhave and Shulz (2004) and Lindgren and Hansen (1990). Water in the Niobrara generally flows from east to west in the area of the proposed well sites. Approximately one mile from the proposed well site, a well completion report for Water Permit No. 6708-3 had a March 2006 static water level of 5.3 feet below ground surface (Water Rights, 2013c).

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a 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 aquifer and the potential for impairment of existing rights.

WATER AVAILABILITY:

This application proposes to appropriate 238 ac-ft/yr from the Niobrara aquifer. If this application is approved, the actual water use will likely be less than the appropriation. The probability of unappropriated water available from an aquifer can be evaluated by considering

SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable 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.”

Hydrologic Budget:

Recharge to the Niobrara aquifer in Hutchinson and Turner Counties occurs due to direct infiltration of precipitation at the outcrop area, fractures in the Sioux Quartzite, and leakage from till. Discharge from the Niobrara aquifer in these counties occurs due to outflow to overlying and underlying aquifers, including the Lower James Missouri, Upper Vermillion Missouri, and Codell aquifers, outflow to Wolf Creek, and well withdrawals (Lindgren and Hansen, 1990).

Currently there are 59 water rights/permits appropriating water from the Niobrara aquifer in South Dakota authorizing a variety of uses, including irrigation, municipal, commercial, and institutional. There are currently six pending water permit applications for the Niobrara aquifer, all for irrigation use (Water Rights, 2013b). There are also many completion reports on file with the SD DENR-Water Rights Program for domestic wells that appear to be completed into the Niobrara aquifer (Water Rights, 2013c).

In addition to domestic wells, there are currently 14 water rights/permits appropriating water from the Niobrara aquifer in Hutchinson and Turner Counties. All six pending applications are also located in these counties. Lindgren and Hansen (1990) estimated that in 1985 total pumpage from the aquifer in Hutchinson and Turner Counties was 552 ac-ft. While irrigation appropriations have increased since then, municipal, domestic, and livestock use of the aquifer have largely been replaced by rural water systems. Therefore, current pumpage from the aquifer in these counties is expected to be similar to the 1985 pumpage rate (Buhler, 2012).

To balance the hydrologic budget of the aquifer in Hutchinson and Turner Counties, recharge must equal withdrawal. At the potential annual withdrawal suggested by Buhler (2012), plus the maximum withdrawal proposed by this application, recharge must equal 0.02 in/yr to balance the hydrologic budget. This required recharge rate is exceptionally small. This potential withdrawal accounts for 0.017 percent of the estimated volume of water in the aquifer in these counties. This is not to suggest that all the water within the Niobrara aquifer is available for this proposed appropriation, but to demonstrate that in general the Niobrara aquifer is a tremendous resource.

Consider also that according to Hedges and others (1985):

“The Niobrara Formation, Niobrara Sandstone, Inyan Kara Group, and Madison Group have such high storage and low use that it is unlikely that use is approaching or exceeding recharge. Furthermore, there is no evidence of significant head loss in any of these aquifers over the years that would suggest that use is exceeding recharge.”

Therefore, there is a reasonable probability that unappropriated water is available from the Niobrara aquifer for the proposed appropriation of 238 ac-ft/yr.

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 of the aquifer.”

The SD DENR-Water Rights Program monitors 55 observation wells completed into the Niobrara aquifer (Water Rights, 2013a). The nearest observation well, HT-83F, is located approximately eight miles north of the proposed well sites. The hydrograph of this observation well is shown in Figure 1.

The 10 to 15 foot increase in head pressure (the well becomes artesian when the water level is above 112 feet below ground surface) in 1996 can be attributed to the City of Freeman, holder of two licenses authorizing a total of 1.59 cfs, connecting to Bon Homme-Yankton Rural Water System. The recent decrease in head pressure, which is also shown in the hydrograph in Figure 1 for a well located relatively far from water rights/permits, can be attributed mostly to the recent dry conditions. Some decrease in head pressure could also be attributed in part to a new nearby water permit authorizing at maximum 5.33 cfs; this water permit is likely not completely constructed or completely in use (Water Rights, 2013b).

The observation well data documents cyclic conditions of water levels, recharging during wet years and declining during dry years. Temporal well withdrawal of the aquifer is masked by climatic conditions, indicating that recharge to and natural discharge from the aquifer greatly exceeds well withdrawal. Therefore, this hydrograph indicates that in general unappropriated water is available from the Niobrara aquifer to support the proposed appropriation of 238 ac-ft/yr.

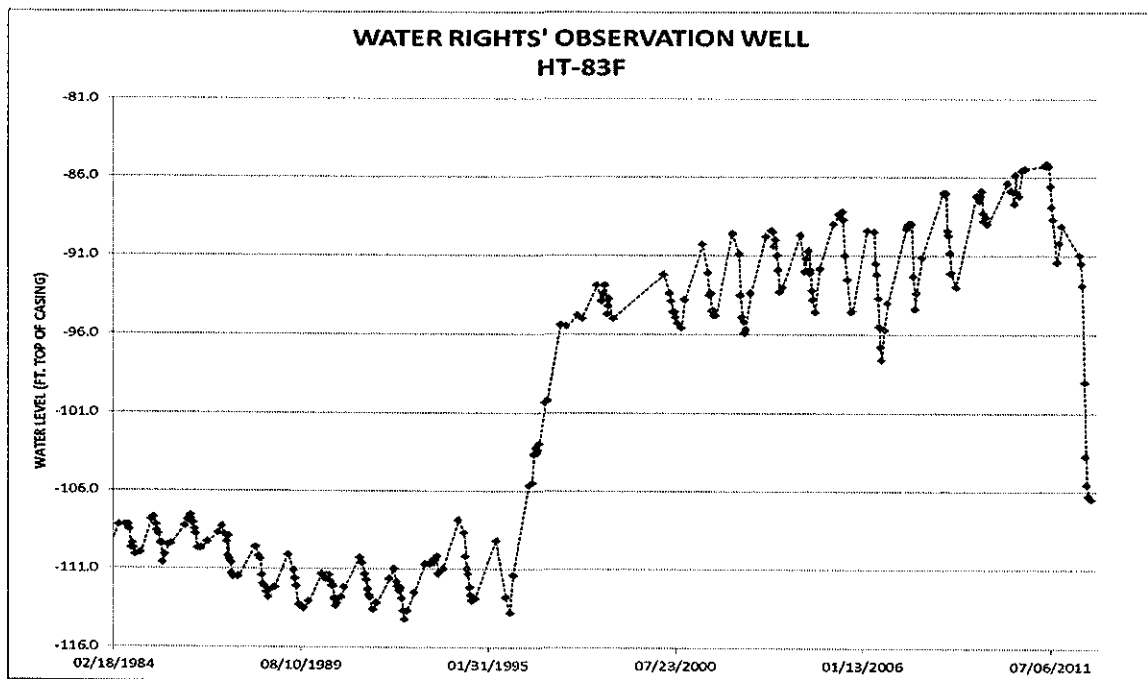


Figure 1: Hydrograph for SD DENR-Water Rights' observation well HT-83F (Water Rights, 2013a)

EXISTING WATER RIGHTS:

If approved, the well will be located near other wells that obtain water from the same aquifer. 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.”

Water Permit No. 6708-3, David W Huber, is the nearest water right/permit appropriating from the Niobrara aquifer, located approximately one mile west of the proposed well sites. The next nearest water rights/permits appropriating from the Niobrara aquifer are located six or more miles from the proposed well sites (Water Rights, 2013b). There are several well completion reports on record with the SD DENR-Water Rights Program for domestic wells that appear to be completed into the Niobrara aquifer. The nearest are located approximately one mile from the proposed well sites (Water Rights, 2013c).

Because the proposed well sites are under artesian conditions, some drawdown due to pumping is likely. Precise drawdown cannot be quantified without aquifer testing. This is especially the case with the Niobrara aquifer due to the site specific and unpredictable characteristics. However, one nearby pump test can probably provide some insight. From the well test completed with the well completion report submitted for Water Permit No. 6807-3, the specific capacity of this well was approximately 530 gallons per minute per foot. However, consider also that other wells in the area completed into the Niobrara may produce no water. Assuming a storativity of 0.001, the transmissivity of the aquifer in this area for this well is approximately 106,000 gallons per day per foot (“Transmissivity from Specific Capacity”). Assuming the proposed well diverts water at the proposed rate of 1.78 cfs for 185 days, the estimated drawdown is approximately five feet at a distance of one mile from the proposed well sites (“Theis Equation Calculator”). While only an estimate, the drawdown determined indicates that the amount of possible head loss will likely be relatively minimal. Therefore, there is a reasonable probability that any well interference from the proposed appropriation will not adversely or unlawfully impair existing users.

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 Niobrara aquifer at the well sites, some existing well owners may need to lower their pumps to accommodate possible reduction of head pressure.

In the absence of adequate domestic wells in the area, the phrase in the qualification "...shall control his withdrawals so there is not a reduction of needed water supplies..." may be subject to interpretation.

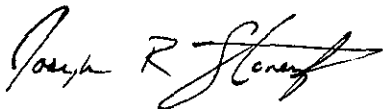
SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cubic foot of water per second for every seventy acres, or "the equivalent thereof." The statute provides that the Water Management Board may allow a greater diversion if the method of irrigation so requires.

This water permit application proposes to divert at a rate of 1.78 cfs per 119 acres, equaling 1.05 cfs per 70 acres. The application indicates that the proposed pivot will not make a full rotation. This requested diversion rate is probably an operational requirement of the equipment that is unrelated to the amount of rotation and subsequent area of land irrigated.

CONCLUSIONS:

1. The application proposes to appropriate 238 ac-ft/yr for irrigation from the Niobrara aquifer; however, the actual water used will likely be much less.
2. There is a reasonable probability that unappropriated water is available from the Niobrara aquifer to supply the proposed appropriation.
3. There is a reasonable probability that any possible well inference due to the proposed appropriation will not adversely or unlawfully impair existing users.
4. This application has requested an additional diversion rate in excess of one cfs per 70 acres.



Joseph R Stonesifer
SD DENR-Water Rights Program

Approved by



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Buhler, K. 2012. "Water Permit Application No. 7344-3 Report." SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Lindgren, R.J. and D.S. Hansen. 1990. Water Resources of Hutchinson and Turner Counties, South Dakota. Water-Resources Investigations Report 90-4093. U.S. Geological Survey, Huron, South Dakota.
- Hedges, L.S., Allen, J., and 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. South Dakota DENR-Geological Survey, Vermillion, South Dakota.
- "Theis Equation Calculator." I-calcul8 Calculators and Tools. 21 February 2013
< <http://www.icalcul8.com/theis.php>>
- Tomhave, D.W. and Shulz, L.D. 2004. Geologic Map Showing Configuration of the Bedrock Surface in South Dakota East of the Missouri River. SD DENR-Geological Survey, Vermillion, South Dakota.
- "Transmissivity from Specific Capacity." Aquifer Test Forum sponsored by HydroSOLVE, Inc. 21 February 2013 < <http://www.aqtesolv.com/forum/transcap.asp>>
- Water Rights, 1979-2013. "Irrigation Report Summaries." SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2013a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2013b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2013c. Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

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MAR 15 2013

WATER RIGHTS
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Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Hutchinson) SS

I, Linda Von Eye

certify that the attached printed Notice was
taken

from the Freeman Courier

printed and published in Freeman, SD

County of Hutchinson and

state of South Dakota. The notice was
published

in the newspaper on the following date:

March 13, 2013

Cost of Printing \$ 22.32

(Signature)

Office Manager
(Title)

3-13-13

(Date Signed)

Notice Of Application No. 7617-3 To Appropriate Water

Notice is given that Brett Guthmiller, 28880 435th Ave., Menno, SD 57045, has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells to be completed into the Niobrara Aquifer (77 feet deep) located in the approximate center of the SW 1/4 Section 8 for irrigation of 119 acres located in the SW 1/4 Section 8, all in T97N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7617-3 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, Ross 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 25, 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. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$22.32 1-49RC

EXP. 10-9-18

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MAR 18 2013

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AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

3+13

NOTICE OF APPLICATION
NO. 7617-3 to Appropriate Water

Notice is given that Brett Guthmiller, 28680 435th Ave, Menno SD 57045 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells to be completed into the Niobrara Aquifer (77 feet deep) located in the approximate center of the SW 1/4 Section 8 for irrigation of 119 acres located in the SW 1/4 Section 8; all in T97N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7617-3 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 25, 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 once at the total approximate cost of \$25.48.

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. 7617-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE NEWSPAPER ON THE 13th DAY OF March 2013 THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION OF SAID NOTICE TO WIT \$25.48 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: 3/13/2013

FILED ON: 3/14/2013

SUBSCRIBED AND SWORN TO BEFORE ME THIS 14th DAY OF March 2013

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

2013



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

March 4, 2013

Freeman Courier
PO Box 950
Freeman SD 57029

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7617-3 to Appropriate Water. Please publish the notice once on March 13, 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 Brett Guthmiller, 28680 435th Ave, Menno SD 57045 (Ph # 605-387-2392).

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

March 4, 2013

Press & Dakotan
319 Walnut
Yankton SD 57078

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7617-3 to Appropriate Water. Please publish the notice once on March 13, 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 Brett Guthmiller, 28680 435th Ave, Menno SD 57045 (Ph # 605-387-2392).

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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

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

March 4, 2013

Brett Guthmiller
28680 435th Ave
Menno SD 57045

Dear Mr. Guthmiller:

Water Permit Application No. 7617-3 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 Freeman Courier printed at Freeman SD (Ph # 605-925-7033) 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 March 13, 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. 7617-3 to Appropriate Water

Notice is given that Brett Guthmiller, 28680 435th Ave, Menno SD 57045 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells to be completed into the Niobrara Aquifer (77 feet deep) located in the approximate center of the SW 1/4 Section 8 for irrigation of 119 acres located in the SW 1/4 Section 8; all in T97N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7617-3 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 25, 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 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

MAY 20 2013

Brett Guthmiller
28680 435th Ave
Menno SD 57045

Dear Mr. Guthmiller:

Enclosed is Water Permit No. 7617-3 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,

A handwritten signature in cursive script that reads 'Jeanne Goodman'.

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

enclosures

7617-3

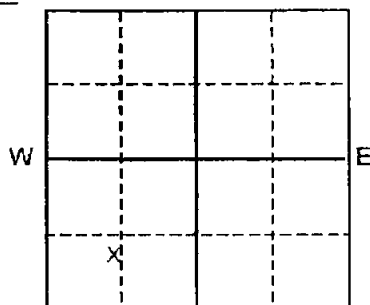
SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE 1/4 SW 1/4 Sec 8 Twp 97N Rg 56WCounty Hutchinson

North

Please mark well
location with an "X"

Well Completion Date

March 18, 2013

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

700.0 ft. from feedlot

(identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Direct Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ OtherIf other describe sch 40 PVC

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
16.1 LB/FT	16.00 IN	0.0 FT	50.0 FT	22.00 IN

LB/FT	IN	FT	FT	IN

LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Bent GRT	21	9.6 Lb/gal	0.0 Ft	49.0 Ft

Describe grouting procedure
tremie method

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information open completion, drilled out bottom with 12" bit

WAS A PACKER OR SEAL USED?

☒ Yes ☐ NoIf so, what material? plastic

Describe packer(s) and location

plastic external ring (shale trap at 50 feet)

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH in WaterLab to which water
quality sample sent for analysis ☐ No, Why Not?Well Owner: Brett Guthmiller

Business Name: _____

Address: 28680 435th aveCity, State, Zip: Menno SD 57045

WELL LOG:

DEPTH

FORMATION	FROM	TO
Top soil	0	4
Clay Brown	4	37
clay blue	37	50
Niobrara chalk	50	195
Shale	195	203

STATIC WATER LEVEL

25.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: Line shaft turbine and engine☐ Bailed☐ Other

Pumping Level Below Land Surface

74.0 Ft. After 2.0 Hrs. pumped 650.0 GPM81.0 Ft. After 2.0 Hrs. pumped 725.0 GPMIf pump installed, pump rate: 650.0 GPM

REMARKS

This well was drilled under license # 773 and this report is true and accurate.Drilling firm: Quality Well Service LLC

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

2-27-14

Water Permit No. 7617-3
James River - Water District

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

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

I have this day, September 30, 2014, made a thorough examination of the water use system constructed by Brett Guthmiller of 28680 435th Ave., Menno, SD 57045 holder of Permit No. 7617-3, bearing the priority of January 7, 2013 authorizing the diversion of 1.78 cu. ft. per second of water from the Niobrara Aquifer for Irrigation purposes, in Hutchinson County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Quality Well Service, LLC
- 2) No. of Wells 1
- 3) Depth(s) 203 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 16 inches
- 2) Length 50 feet
- 3) Type Plastic

Screen:

- 1) Type None (Open Completion)
- 2) Length 153 feet
- 3) Static water level 25 feet

Pump:

- 1) Make Hydroflo
- 2) Size 50 hp
- 3) Capacity 600 GPM

B. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Reinke
- 2) Number of towers 8

- 3) End gun Y
- 4) High or low pressure Low

Chemigation Equipment:

- 1) Does chemigate N

C. Compliance with Permit Requirements:

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

The system is in Good condition with the point(s) of diversion located as follows:

Approximately 1,315 feet north and 1,280 feet east of the SW corner of Section 8-T97N-R56W
(N 43.23054, W -97.49361) (SW ¼ SW ¼)

The works are capable of diverting and conveying to the place of use 1.34 cu. ft. per second of water which is to be used for Irrigation use. Water has been put to beneficial use to the maximum extent as follows:

Section 8-T97N-R56W

NW ¼ SW ¼ - 29.5 acres

NE ¼ SW ¼ - 33.5 acres

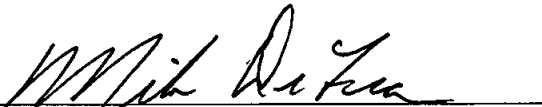
SW ¼ SW ¼ - 22.5 acres

SE ¼ SW ¼ - 33.5 acres

comprising a total of 119 acres of land and the license should be issued for 1.34 cfs.

All structures, wells and lands on map Y

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

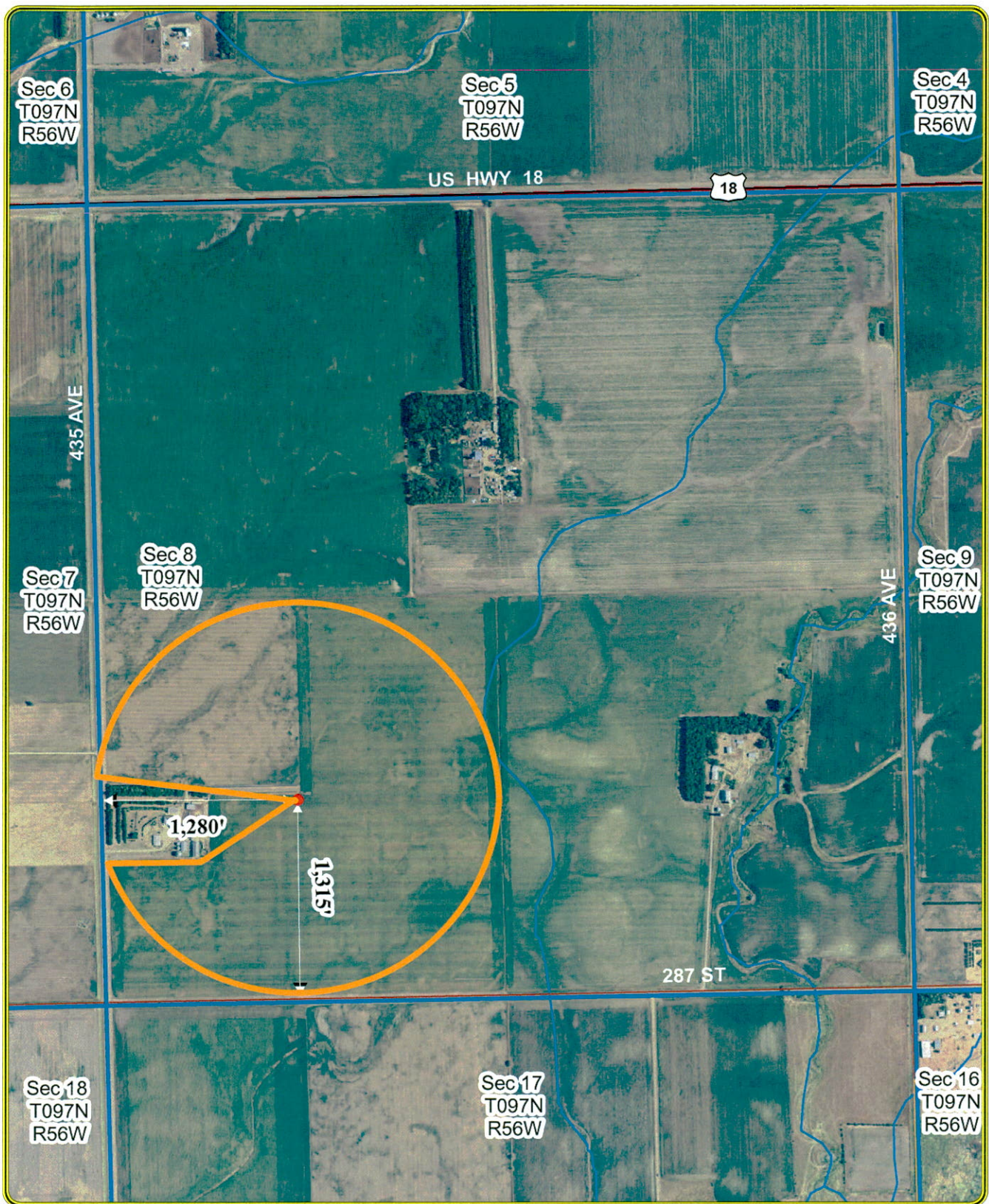


Mike DeFea

Natural Resources Engineer II
DENR, Water Rights Program

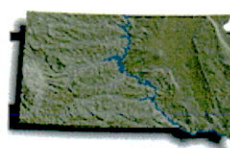
Date report completed: **October 8, 2014**

Brett Guthmiller
Water Permit No. 7617-3



0 0.125 0.25 0.5 Miles

Mike DeFea
Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
October 8, 2014



South Dakota
Department of Environment
& Natural Resources
Protecting SD's Tomorrow... Today



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



OCT 28 2014

7617-3

Brett Guthmiller
28680 435th Ave
Menno SD 57045

Dear Mr. Guthmiller:

Enclosed is Water License No. 7617-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 7617-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7617-3**

(1) Brett Guthmiller, 28680 435th Ave., Menno SD 57045 made Application No. 7617-3, January 7, 2013 for a water permit to divert 1.78 cubic feet of water per second from ground water (two wells, Niobrara Aquifer), Hutchinson County, South Dakota for irrigation purposes. Permit No. 7617-3, with a priority date of January 7, 2013 was approved March 25, 2013 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 25, 2018 and for the application to beneficial use of said water on or before March 25, 2022.

(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 1.34 cubic feet of water per second for beneficial use.

The location of the diversion point is approximately 1,315 feet north and 1,280 feet east of the SW corner of Section 8, T97N, R56W (SW ¼ SW ¼ - approximate center of the SW ¼).

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

Section 8, T97N, R56W	NW ¼ SW ¼	29.5 acres
	NE ¼ SW ¼	33.5 acres
	SW ¼ SW ¼	22.5 acres
	SE ¼ SW ¼	33.5 acres
	Total	119.0 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Brett Guthmiller, 28680 435th Ave., Menno SD 57045 the holder and/or owner of Water Right No. 7617-3 is issued a license to appropriate water, the right to use 1.34 cubic feet of water per second from ground water (one well, Niobrara Aquifer) with a priority date of January 7, 2013 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. 7617-3 and subject to the following qualifications:

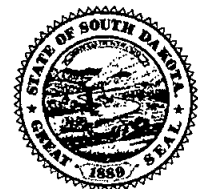
- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The well authorized by Permit No. 7617-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *The well was completed in March, 2013 by Quality Well Service LLC. A copy of the well log is on file with the Water Rights Program.*
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



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

OCT 28 2014

date



7617-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 8, 2022

Brett Guthmiller
28680 435th Avenue
Menno SD 57045

Dear Mr. Guthmiller:

Last September the Water Rights Program received a complaint that two domestic wells were being adversely impacted by irrigation pumping. These wells are located southwest of Freeman in Hutchinson County where you hold a water right for irrigation. The water source for the domestic wells and area irrigators is the Niobrara aquifer.

At that time, the Water Rights Program contacted several irrigators who willingly cooperated to shut off their irrigation system for a week in an effort to assess whether that provided relief for the domestic well owners. Timely rains and the end of the irrigation season meant many irrigation systems were not operated again.

As we approach another irrigation season, I want to make you aware of water rights law regarding impairment of adequate domestic wells and steps being taken to monitor the aquifer in your area.

Water Rights law states that the use of water for domestic purposes is the highest use of water and takes precedence over all appropriative rights. As such, water rights from groundwater, including yours, are issued with the following qualification.

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

The Water Management Board in prior rulings has stated that if pumping from a water source appropriated by a water right/permit results in adverse impairment of adequate domestic wells or adequate wells having prior rights, reduction of withdrawals or mitigation may be necessary. The Board has found that state law in giving preference to domestic use over appropriative rights does so without regard to 1) whether lowered ground water levels are due to drought, 2) the location of the domestic wells in the aquifer, or 3) the thickness of the water bearing material; subject to compliance with the minimum requirements for an adequate well as defined by the South Dakota well construction standards.

Based on the well completion reports, the two domestic wells in question meet the adequate well definition. Therefore, if water levels decline in the Niobrara aquifer such that the domestic wells cannot attain their needed water supply, appropriative water right holders may need to limit or cease their withdrawals.

To monitor the Niobrara aquifer's water levels in this area, the Water Rights Program is working in conjunction with the South Dakota Geological Survey to drill additional observation wells into the Niobrara aquifer in your area. Once in place, these observation wells will provide water level readings on how the aquifer fluctuates in response to pumping and climatic conditions.

While I am unable to predict the precipitation this upcoming year, we are currently dry in South Dakota. Therefore, I am reaching out to make you aware of this potential situation if the drought continues and the steps being taken to monitor the aquifer..

Please feel free to contact me if you have questions.

Sincerely,



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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 20, 2022

NOTICE OF SHUTOFF ORDER

TO: Brett Guthmiller
28680 435th Ave
Menno, SD 57045

FROM:  Eric Gronlund, Chief Engineer
SD DANR, Water Rights Program

SUBJECT: Niobrara Aquifer Shutoff Order for Water Right No. 7617-3

Pursuant to South Dakota Codified Law (SDCL) 46-1-5(1), use of water for domestic purposes is the highest use of water and takes precedence over all appropriative rights. Consequently, your appropriative permit to use groundwater for irrigation was issued with the following qualification.

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

We were notified on July 20, 2022, that two domestic wells located southwest of Freeman in Hutchinson county are no longer able to produce water from the Niobrara aquifer. These wells meet the adequate well definition and are afforded protection as domestic water use wells.

As noted in a letter to you dated, February 8, 2022, observation wells have been put into place to monitor water levels in the Niobrara aquifer near these domestic wells. Measurements from these monitoring wells confirm a significant decline in water level in the aquifer since measuring began in late June.

To protect this domestic use of water, the department is issuing you, and other nearby irrigators, shutoff orders. Specifically, your shutoff order pertains to Water Right No. 7617-3 for irrigation of 119 acres located in the SW ¼ Section 8 in T97N-R56W. Effective immediately at 2:15 pm on July 20, 2022 and as discussed during your 2:15 pm July 20, 2022 phone call with Water Rights Staff Engineer Adam Mathiowetz, no diversions of water under this Permit will be allowed for the remainder of the 2022 irrigation season unless notified otherwise by the Chief Engineer. This Order is being issued pursuant to SDCL 46-2-18 to ensure compliance with the above permit qualification.

If you have any questions, please contact me at (605) 773-3352. Thank you for your cooperation in this matter.

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on July 20, 2022, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated July 20, 2022 regarding Notice of Shutoff Order addressed as stated below:

WR No. 7344-3
MICHAEL SCHULTZ
43721 281ST STREET
FREEMAN SD 57029

WR No. 7700-3
DAVID HUBER
28419 431ST AVE
MENNO SD 57045

WR No. 7448-3
ROBERT HECKENLAIBLE
43380 285TH ST
FREEMAN SD 57029

WR No. 7683-3
ROGER GUTHMILLER
28752 435th AVE
MENNO SD 57045

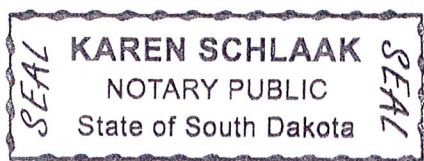
WR No. 7617-3
BRETT GUTHMILLER
28680 435TH AVE
MENNO SD 57045


Vickie Maberry
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 20 day of July, 2022.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2025





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 27, 2022

RESCISSION OF SHUTOFF ORDER

TO: Brett Guthmiller
28680 435th Avenue
Menno SD 57045

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*
SD DANR, Water Rights Program

SUBJECT: Recission of Niobrara Aquifer Shutoff Order for Water Right No. 7617-3

On July 20, 2022, a shutoff order was issued for Water Right No. 7617-3 to protect two adequate domestic wells located southwest of Freeman in Hutchinson County that were no longer able to produce water from the Niobrara aquifer. The domestic well owners rescinded their complaint on July 27th since agreement was reached in which they will be supplied water for the remainder of the 2022 irrigation season or until they are connected to rural water.

Therefore, the shutoff order is rescinded and you may resume irrigation as authorized by Water Right No. 7617-3.

The Water Rights Program intends to continue monitoring the two observation wells installed this spring. If there are additional domestic well complaints, the Water Rights Program will investigate. Please be aware future shutoff orders may be issued, if warranted, to protect the use of water for domestic purposes.

If you have any questions, please contact me at (605) 773-3352. Thank you for your cooperation in this matter.

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice dated July 27, 2022, was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on July 27, 2022.

Michael Schultz 43721 281 st Street Freeman SD 57029	David Huber 28419 431 st Avenue Menno SD 57045
Robert Heckenlaible 43380 285 th Street Freeman SD 57029	Roger Guthmiller 28752 435 th Avenue Menno SD 57045
Brett Guthmiller 28680 435 th Avenue Menno SD 57045	Kerry Hofer Email: khofer@hotmail.com

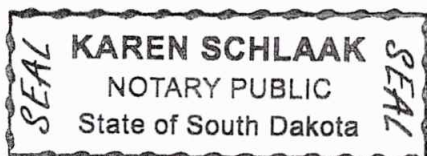
Above also Sent Inter-office to: Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry
Vickie Maberry
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of July, 2022.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2025



7-26-22

RECEIVED

JUL 27 2022

OFFICE OF
WATER

I Dale Mehlhaf of 43465 283rd St. Freeman, SD 57029 and Twyla mehlhaf of 43543 284th. St. Freeman, SD 57029 are rescinding our complaints about the 2 domestic wells in question. Robert Heckenlaible is going to supply water for our needs for the rest of the 2022 irrigation season or until we have rural water hooked up, whichever comes first.

Dale Mehlhaf

7-26-22

Robert Heckenlaible

7-26-22

Twyla Mehlhaf

7-26-2022



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 28, 2022

Michael Schultz
43721 281st Street
Freeman SD 57029

Robert Heckenlaible
43380 285th Street
Freeman SD 57029

Roger Guthmiller
28752 435th Avenue
Menno SD 57045

Brett Guthmiller
28680 435th Avenue
Menno SD 57045

David Huber
28419 431st Avenue
Menno SD 57045

Gentlemen:

Hope you all are having a productive harvest! This letter is intended to discuss the past two irrigation seasons regarding drawdown from irrigation pumping adversely impacting two domestic wells in the area.

On July 20, 2022, shutoff orders were issued to water rights holders, including yourself, to protect two adequate domestic wells that were no longer able to produce water from the Niobrara aquifer in your area. The shutoff order was rescinded on July 27, 2022, upon agreement between the domestic well owners and local irrigators in which the domestic well owners were supplied water for the remainder of the 2022 irrigation season. Hauling water was viewed as a short term solution until a long term solution is in place.

The Water Rights Program monitored water levels in these two observation wells throughout the 2022 irrigation season. Attached is a hydrograph that shows water levels in the aquifer from June 22, 2022, through October 26, 2022. Also, attached is a map. Drawdown from irrigation pumping can be seen as well as water level recovery to the area once irrigation pumping ceased. Monitoring of water levels in these observation wells will continue.

A long term solution needs to be in place prior to the 2023 irrigation season or depending on weather and drawdown conditions of the aquifer shutoff orders may again need to be issued to protect the domestic wells. In addition, three pending water applications in the area seek to appropriate water from the Niobrara aquifer. One of the criteria to approve

an application is that the diversion can be developed without unlawful impairment of existing domestic water uses and water rights. Given the potential impact to these two domestic wells, this criteria can not currently be met in order to make a favorable recommendation until this situation is resolved.

The long term solution will take an effort on all your part to be successful. Please let the Water Rights Program know steps being taken and your progress to resolve this situation.

Sincerely,



Eric Gronlund, Chief Engineer

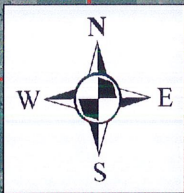
Water Rights Program, DANR

605 773-3352

eric.gronlund@state.sd.us

enclosure

c: Kerry Hofer, 27633 431st Avenue, Freeman SD 57029
Schultz Bros Dairy, c/o John Schultz, 28031 436th Avenue, Freeman SD 57029



98N 57W
Section: 01

98N 56W
Section: 06

7344-3
MICHAEL
SCHULTZ

7344-3
MICHAEL
SCHULTZ

7344-3
MICHAEL
SCHULTZ

HT-2022A

7700-3
DAVID
HUBER

7448-3
ROBERT
HECKENLAIBLE

HT-2022B

6708-3
DAVID
HUBER

6708-3
DAVID
HUBER

7617-3
BRETT
GUTHMILLER

7683-3
ROGER
GUTHMILLER

Menno

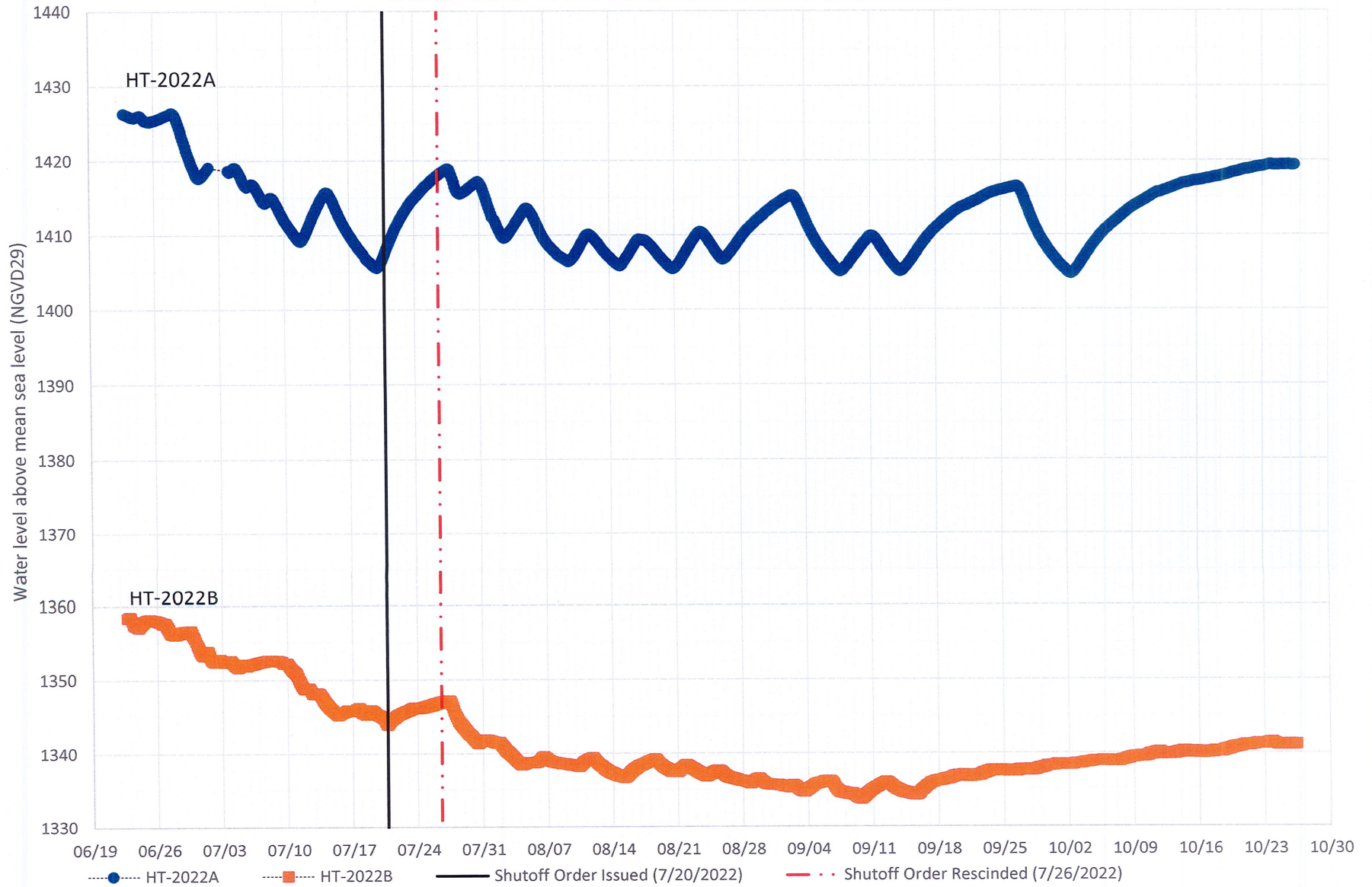
18

0 0.5 1 2 Miles



A.W. Mathiowetz
Oct. 27, 2022

DANR-Water Rights Program Niobrara Aquifer
Observation Wells Between Freeman and Menno





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 4, 2023

Michael Schultz
43721 281st Street
Freeman SD 57029

Robert Heckenlaible
43380 285th Street
Freeman SD 57029

Roger Guthmiller
28752 435th Avenue
Menno SD 57045

Brett Guthmiller
28680 435th Avenue
Menno SD 57045

David Huber
28419 431st Avenue
Menno SD 57045

Gentlemen:

The enclosed letter was sent to all of you on October 28, 2022, regarding the progress to resolve the situation that occurred in your area during the past two irrigation seasons when irrigation pumping adversely impacted two domestic wells. To date, I have not received a response.

The Water Rights Program desires to have a solution in place prior to the 2023 irrigation season. If there is not a solution in place it is likely that shut off orders will again need to be issued.

Please let the Water Rights Program know steps being taken to resolve this situation.

Sincerely,

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

enclosure

c: Kerry Hofer, 27633 431st Avenue, Freeman SD 57029
Schultz Bros Dairy, c/o John Schultz, 28031 436th Avenue, Freeman SD 57029