

WATER PERMIT NO. 7683-3

Name of Applicant: Roger Guthmiller

Address: 28752 435th Ave, Menno SD 57045

Phone: 605 660-0654

Amount of Water Claimed: 1.89 cfs

Total Acres: 134

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Hutchinson

Type of Waste Disposal System:

Location: 5 miles southeast of Menno

PRIORITY

Date Received: 1-28-13

Application/License Fee: \$ 1050

Corrected Application Received: 2-6-13

Period of Annual Use: May 1 – Sept 30

Remarks:

Diversion Point: center NW 1/4 Sec 17-T97N-
R56W

Land to be Irrigated: NW 1/4 Sec 17-T97N-R56W

Depth of Well: 120 feet deep

Well Driller:

Remarks:

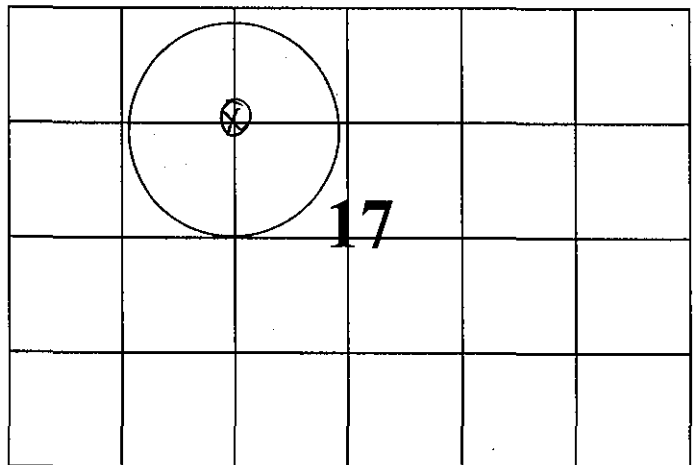
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 2-6-13

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>7683-3</u> (office use only) Hydrologic Unit <u>10160011</u>	
	Basin <u>James River</u>	<u>605-387-5158</u>
	Newspaper <u>Hutchinson Herald Box 506 Mennu 57045</u>	<u>605-665-7811</u>
	<u>Prairie Dakota 319 Walnut Yorkton 57078</u>	

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JAN 28 2013

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

 Mailing Address 28752 435th Ave. Mennu SD 57045
 (Address) (City) (State) (Zip Code)

 Home Phone 387-5719 Cell 660-0654 Email _____

 2. Amount of water claimed 1.78 *CFS or 850 GPM ***AF Total Acreage 134
 (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

 3. Source of water supply well

 4. Location of point of diversion _____
 (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
County Hutchinson
 5. County or counties where water will be used Hutchinson

 6. Annual period during which water is to be used May 1 - 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
NW 1/4 of NW 1/4 Section 17 97N15W	33.5		
SW 1/4 of NW 1/4	33.5		
SE 1/4 of NW 1/4	33.5		
NE 1/4 of NW 1/4	33.5		

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

I desire to irrigate corn and alfalfa to provide feed for my dairy herd. It is located across the road from my son Brett's potential project and since they found water there I am sending in the permit prior to the arrival of someone to do a test hole.

 I, Roger 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. 7683-3

Date of first receipt of application January 28, 2013.

Date of return to applicant for corrections, amendments or changes January 29, 2013.

Date of receipt of corrected application February 6, 2013.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7683-3 to Roger Guthmiller, 28752 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. 7683-3 appropriates 1.89 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (120 feet deep) located in the center of the NW 1/4 Section 17 for irrigation of 134 acres located in the NW 1/4 Section 17; 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 28, 2013.
4. The date of approval of Permit No. 7683-3 is April 15, 2013.
5. One-fifth of the construction is to be completed on or before October 15, 2015.
6. All construction is to be completed on or before April 15, 2018.
7. Water is to be put to beneficial use on or before April 15, 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. 7683-3 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



Supplemental Information

(type or print)

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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 _____
(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 120 Depth to Top of Water Bearing Material 30 Depth to Water from Surface 30

d) Distance to nearest existing domestic well:

On applicant's property _____ On property owned by others _____

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

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

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

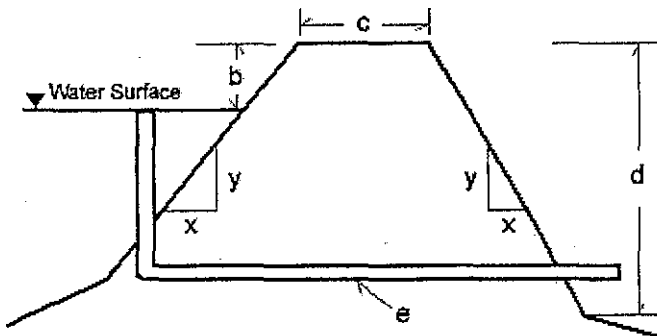
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



The well is planned for the center of the NW $\frac{1}{4}$.

~~Q~~ we could adjust our rate down to 850 gpm to obey with the statutes. Sorry, I was not aware of that statute.



United States Department of Agriculture
Farm Service Agency

December 28, 2010

Hutchinson County, SD

PLSS: 17_97N_56W
Farm: 6299

1:8,312

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Wetland Determination Identifiers
● Restricted Use
▽ Limited Restrictions
■ Exempt from Conservation Compliance Provisions

Common Land Units
/// Non Cropland

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

2008 Ortho-Photography - Not to Scale

Land Owners

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Clara Ulmer
901 Memory Lane
Yankton SD 57078

Esther Vasely
89331 518 Ave.
Niobrara NE 68760

Alfred Ulmer
43984 304 St
Yankton SD 57078

Ruby Schroeder
121 Wayne St
Yankton SD 57078

Lucille Pearson
347 450th St
Marcus IA 51035

Delores Moore
110 Jerry St.
Yankton SD 57078

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South Dakota Department of Environment and Natural Resources

Date 1/28, 20 13

RECEIVED OF Roger Guthmiller 28752 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>7683-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>7683-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1050 00

No. 06035

By

[Signature]
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 29, 2013

Roger Guthmiller
28752 435th Ave
Menno SD 57045

Dear Mr. Guthmiller:

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

- Enclosed is the Form 2A, Supplemental Information. Please complete Item No. 1. At the very least, we need to know c) the proposed well depth.
- Is the proposed well location the approximate center of the NW 1/4 Section 17-T97N-R56W?
- State Statutes limit diversions to 1 cubic feet of water per second (cfs) for each 70 acres irrigated. This would mean that you are allowed approximately 1.91 cfs or 859 gpm to irrigate the total 134 acres. We understand that in order to accommodate certain irrigation methods, a greater diversion rate is required. Your application requests 900 gpm. Please justify in writing your request for a diversion rate greater than the statutory limit (please explain diversion rate requirement for the project).

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosures

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and NATURAL RESOURCES**

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March 27, 2013

Clara Ulmer
901 Memory Lane
Yankton SD 57078

Esther Vasely
89331 518th Ave
Niobrara NE 68760

Alfred Ulmer
43984 304th St
Yankton SD 57078

Ruby Schroeder
121 Wayne St
Yankton SD 57078

Lucille Pearson
347 450th St
Marcus IA 51035

Delores Moore
110 Jerry St
Yankton SD 57078

Enclosed is the report, recommendation and public notice for Water Permit No. 7683-3 for Roger Guthmiller. He has listed you as landowners of the property that he is wanting to irrigate. If you have any questions regarding this Water Permit application, please contact Mr. Guthmiller at 605-660-0654 or 605-387-5719 or the Water Rights office at 605-773-3352.

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 7683-3, Roger 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. 7683-3, Roger Guthmiller, 28752 435th Avenue, Menno SD 57045.

The Chief Engineer is recommending APPROVAL of Application No. 7683-3 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. 7683-3 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 26, 2013

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 7683-3
ROGER GUTHMILLER
MARCH 13, 2013

Water Permit Application No. 7683-3 proposes to appropriate water from one well to be completed into the Niobrara aquifer at a maximum diversion rate of 1.89 cubic feet of water per second (cfs). The well will be located in the center of the NW ¼ of Section 17, T97N-R56W, Hutchinson County, and is expected to be approximately 120 feet deep. This application proposes to irrigate 134 acres located in the same quarter section as the well.

AQUIFER: Niobrara (NBRR)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Niobrara formation is a fractured, calcareous marl and claystone that is referred to as "chalkrock" by local drillers (Lindgren and Hansen, 1990). The aquifer underlies 729 square miles of Hutchinson and Turner Counties, and contains an estimated 6.998 million acre feet of water in storage (Lindgren and Hansen, 1990). There are three noncontiguous portions of the Niobrara in Hutchinson County; these are separated by bedrock channels that currently contain the Choteau, Lower James-Missouri, and Upper Vermillion-Missouri aquifers (Lindgren and Hansen, 1990). The proposed well location is within Area C of the aquifer as defined by Lindgren and Hansen (1990), a map of this area is included as Figure 1.

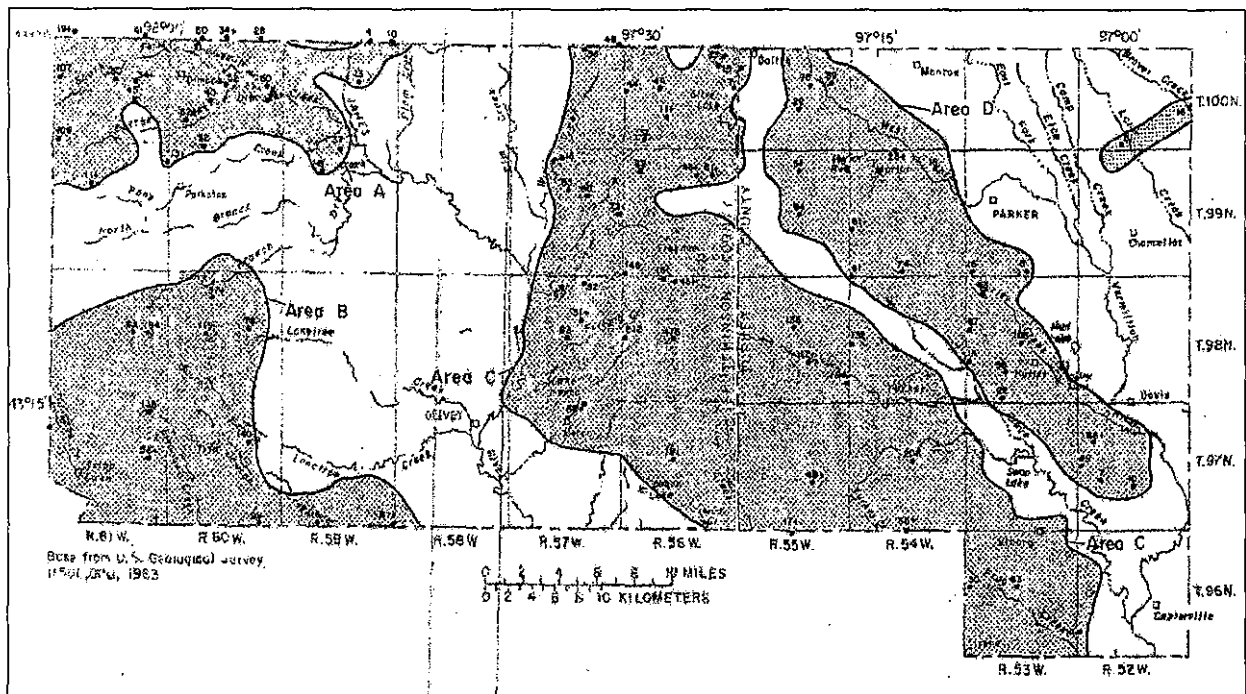


Figure 1. Location of Niobrara aquifer, Area C, as defined by Lindgren and Hansen (1990).

The aquifer within this area generally lies below glacial till or Pierre Shale, and overlies the Carlile Shale or Sioux Quartzite (Lindgren and Hansen, 1990). The aquifer receives recharge

through direct infiltration of rainfall on outcrop areas, leakage from till, and possibly from fractures in the Sioux Quartzite (Lindgren and Hansen, 1990). The aquifer is generally under confined (artesian) conditions, and appears to be in artesian conditions in the area of the proposed well. Logs of nearby wells completed into the Niobrara formation indicate an average saturated thickness of 33 feet, as shown in Table 1.

Well Log Description	Saturated Thickness (ft)
Domestic Guthmiller	88
Domestic Guthmiller	32
Domestic Handel	20
Domestic Handel	42
Menno City Study	10
Well Log for WR No. 6708-3	25
Well Log for WR No. 6891-3	15

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

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 Niobrara aquifer, Area C.

WATER AVAILABILITY:

This application proposes to appropriate water from the Niobrara aquifer in Area C delineated by Lindgren and Hansen (1990). If this application is approved, it is likely that the actual water use will be less than 268 acre feet per year (ac-ft/yr). 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 Niobrara aquifer in Area C occurs through infiltration of precipitation falling on outcrop areas, leakage from the overlying till, and possibly from fractures in the Sioux Quartzite (Lindgren and Hansen, 1990). Recharge may also be provided by other aquifers in the area, such as the Lower James-Missouri or Turkey Ridge.

Discharge:

Discharge from the Niobrara aquifer in Area C is to Wolf Creek, the Lower James-Missouri aquifer, the Upper Vermillion-Missouri aquifer, and possibly the Turkey Ridge Creek aquifer, as well as withdrawal from wells (Lindgren and Hansen, 1990). There are a number of completion reports on file with the SD DENR-Water Rights Program for domestic use wells completed into the Niobrara aquifer (Water Rights, 2013b) and there are currently 19 water rights/permits

appropriating water from the Niobrara aquifer in Area C; 10 are in Hutchinson County alone (Water Rights, 2013c). The distribution of these appropriations for Area C of the aquifer and their types are shown in Table 2.

Water Rights/Permits	Number
Commercial	2
Institutional	1
Irrigation	13
Municipal	3

Table 2. Water Rights from the Niobrara aquifer (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.

The expected water use for non-irrigation purposes from the Niobrara aquifer, Area C, is less than 1,153 acre-feet per year (ac-ft/yr) based on current water appropriations. Hutchinson County accounts for less than 765 ac-ft/yr of this. Actual water use for non-irrigation purposes is likely to be less than the current appropriated amounts, due to the cities of Freeman and Irene disconnecting their water supplies from existing wells and tying in to the B-Y Rural Water System (Friedeman, 2013).

The annual reported water use from the Niobrara aquifer, Area C, for irrigation purposes is displayed in Table 3. The average pumpage reported over the 1979 to 2011 period of record was 14.05 ac-ft/yr, with 12.6 ac-ft/yr in Hutchinson County alone (Water Rights, 1980-2012).

The Niobrara is a large resource, and the current average irrigation use of 14.05 ac-ft/yr compared to the non-irrigation use of 1,153 ac-ft/yr is very small. Hedges and others (1985) stated,

“The Niobrara Formation, Codell 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.”

Approval of this application will not likely cause the average annual withdrawals from the Niobrara aquifer to exceed the average annual recharge to the aquifer.

YEAR	NO. OF PERMITS	APPROPRIATION (AC-FT/YR)	PUMPAGE REPORTED (AC-FT/YR)
1979	1	480.0	0.00
1980	1	480.0	0.00
1981	1	480.0	0.00
1982	0	0.0	0.00
1983	1	387.2	0.00
1984	0	0.0	0.00
1985	0	0.0	0.00
1986	1	387.2	0.00
1987	1	387.2	0.00
1988	1	387.2	0.00
1989	1	387.2	0.00
1990	1	387.2	0.00
1991	1	387.2	0.00
1992	1	387.2	0.00
1993	1	387.2	0.00
1994	0	0.0	0.00
1995	1	410.0	29.39
1996	3	326.0	6.63
1997	3	326.0	18.00
1998	3	326.0	0.00
1999	3	326.0	0.00
2000	2	246.0	0.00
2001	2	246.0	0.00
2002	2	246.0	25.19
2003	2	246.0	7.73
2004	2	246.0	0.00
2005	2	246.0	0.00
2006	3	806.0	84.85
2007	2	806.0	23.27
2008	2	806.0	49.50
2009	4	1926.0	28.28
2010	3	1286.0	0.00
2011	4	1926.0	190.91
MIN	0	0.0	0.00
MAX	4	1926.0	190.91
AVE	1.7	474.9	14.05

Table 3. Irrigation from the Niobrara aquifer in Area C (Water Rights, 1980-2012).

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 12 observation wells completed into the Niobrara aquifer in Area C. Three of these observation wells are located within 15 miles of the well site

proposed by this application (Water Rights, 2013a). Hydrographs for these wells are shown in Figures 2, 3, and 4.

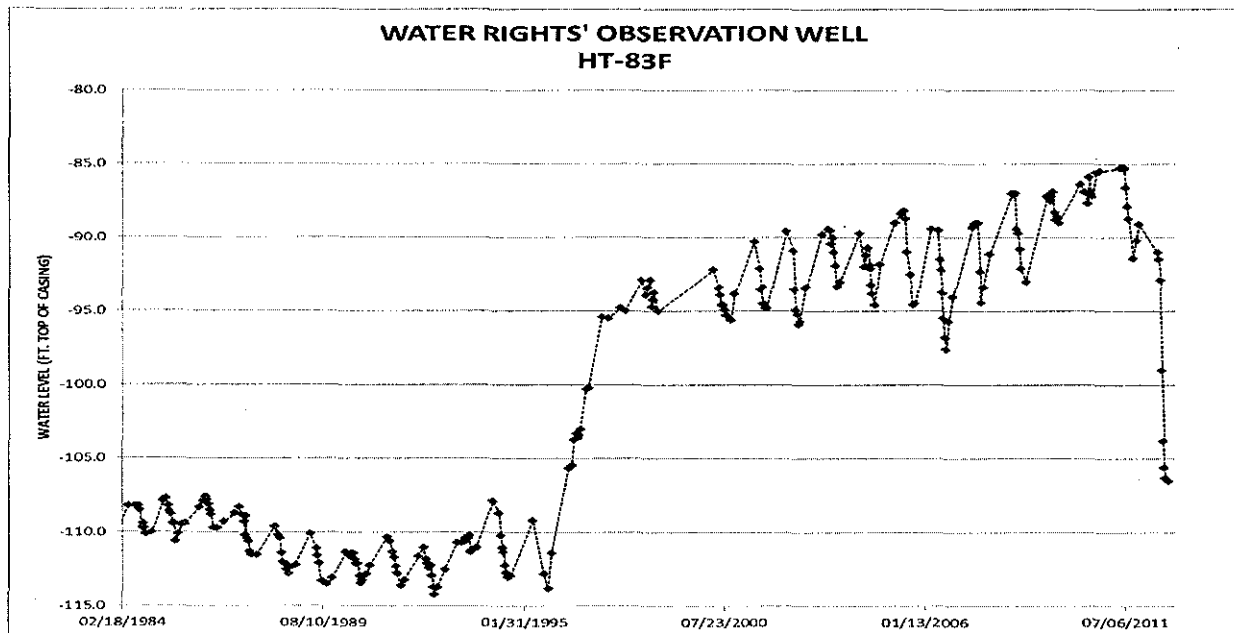


Figure 2. Hydrograph for DENR-Water Rights Observation Well HT-83F completed into the Niobrara aquifer, Area C, approximately 8.5 miles north-northeast of the well site proposed by Application No. 7683-3 (Water Rights, 2013b).

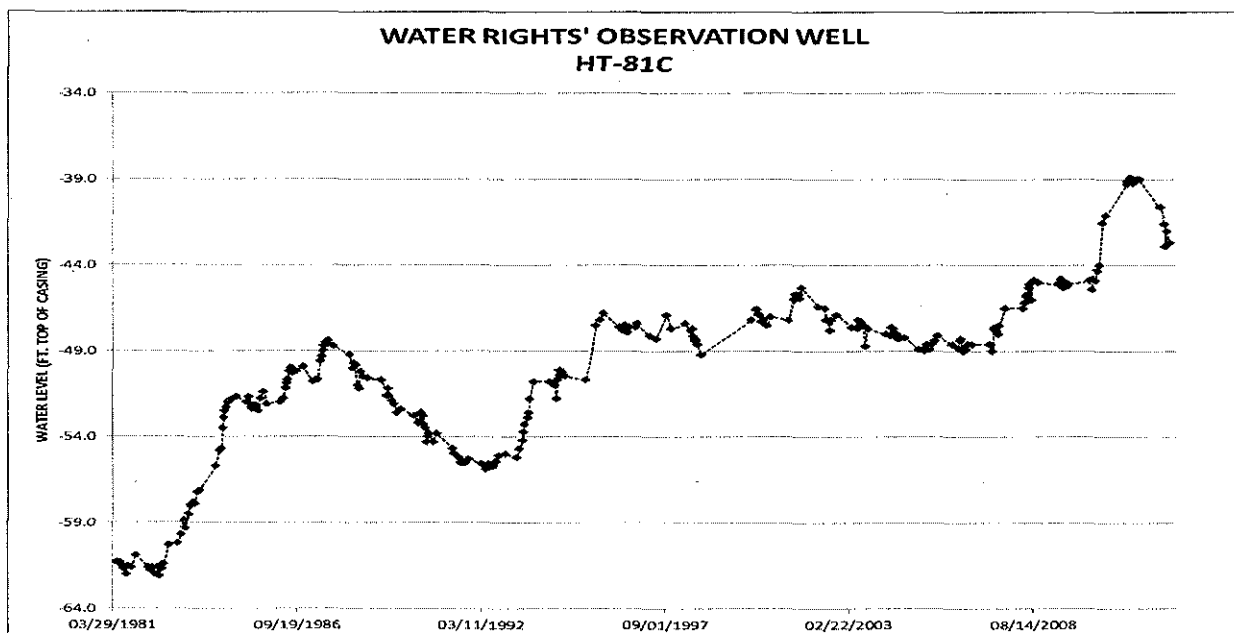


Figure 2. Hydrograph for DENR-Water Rights Observation Well HT-81C completed into the Niobrara aquifer, Area C, approximately 10.8 miles north-northwest of the well site proposed by Application No. 7683-3 (Water Rights, 2013b).

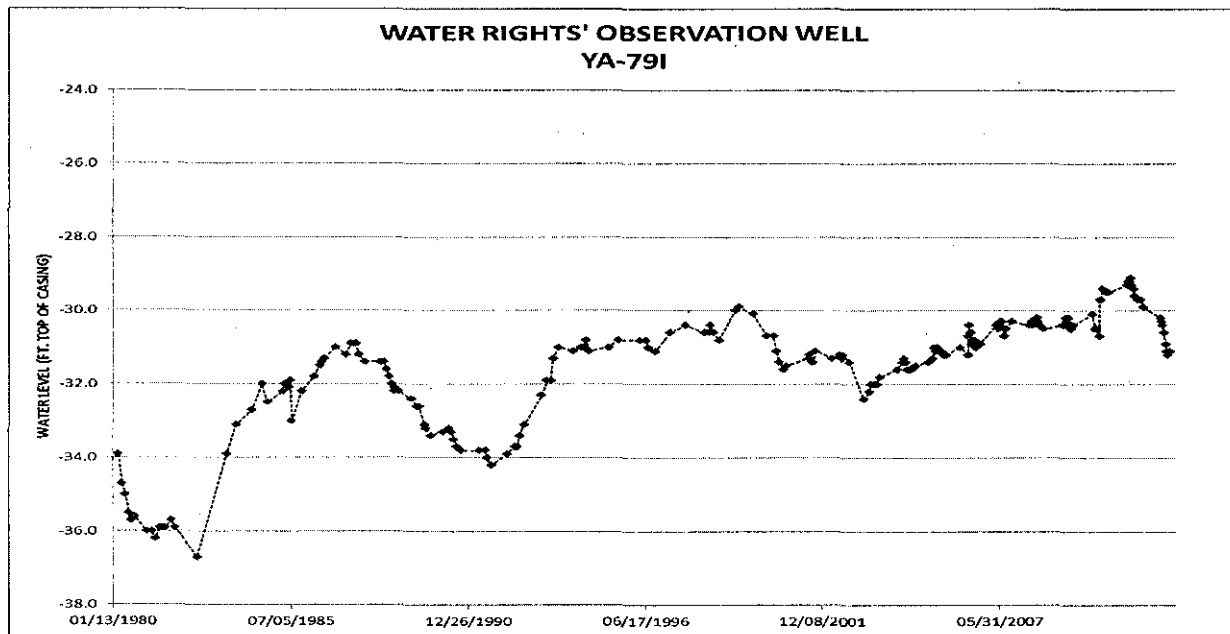


Figure 3. Hydrograph for DENR-Water Rights Observation Well YA-79I completed into the Niobrara aquifer approximately 14.3 miles east-southeast of the well site proposed by Application No. 7683-3 (Water Rights, 2013b).

The observation well data shows the aquifer responds well to climatic conditions with rising water levels during wet years and gradually declining water levels during dry years; and that at the current level of development, climatic conditions mask the temporal effects of well withdrawals. The observation well data also documents that the water level in the Niobrara aquifer, Area C, has been rising.

Because of the obvious rise in water levels in the Niobrara aquifer, Area C, there is a reasonable probability that unappropriated water is available from the aquifer to support this appropriation.

EXISTING WATER RIGHTS:

The well site proposed by this application is located approximately nine miles east of the James River and 24 miles west of the Vermillion River, in a portion of the Niobrara aquifer that extends up to 15 miles between the Lower James-Missouri and Upper Vermillion-Missouri aquifers (see Figure 1). There are three water rights authorizing wells in the Niobrara aquifer, Area C, within a five mile radius of the proposed well site (Water Rights, 2013a and 2013b), these are listed in Table 4.

Permit No.	Name	Status	Type	CFS	Acres
6708-3	David W Huber	PE	IRR	2.44	280
6891-3	Munkvold Land & Cattle Co	PE	COM	0.333	0
7448-3	Robert Heckenlaible	PE	IRR	6.67	560
PE = Water Permit, COM= Commercial, IRR = Irrigation					

Table 4. Water rights / permits located complete in the Niobrara aquifer, Area C, within five miles of the well site proposed by Water Permit No. 7683-3 (Water Rights, 2013c).

The amount of drawdown that occurs in a nearby well when a new one is developed is dependent on whether an aquifer is confined or unconfined, as well as other aquifer characteristics. Because the Niobrara aquifer is under confined conditions in this area, and the Niobrara aquifer characteristics are highly variable, it is not possible to quantify the potential effect of the proposed well without aquifer testing. However, it is likely that drawdown caused by the proposed well will be measurable in nearby wells. There are four domestic wells on file with the DENR – Water Rights Program that could have measureable drawdown as well; these wells vary from 0.4 to 1.4 miles from the proposed well site. 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 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”

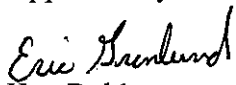
In reality, the assurance of reasonable domestic use provided by SDCL 46-6-6.1 and ARSD 74:02:04:20(7) generally ensures that interference will not be adverse to domestic well users and those with existing appropriative rights. Depending on the characteristics of the Niobrara aquifer at the proposed well site, some existing well owners may need to lower their pumps to accommodate for lower water levels. When considering SDCL 46-6-6.1 and ARSD 74:02:04:20(7) in combination with observation well measurements, the proposed increase in diversion rate is not likely to lead to significant interference or adversely affect existing wells.

CONCLUSIONS:

1. This application proposes to appropriate water at a maximum diversion rate of 1.89 cfs for irrigation from Area C of the Niobrara aquifer.
2. There is a reasonable probability that unappropriated water is available from the Niobrara aquifer, Area C, to supply this proposed appropriation.
3. The Niobrara aquifer is under confined (artesian) conditions in this area, and drawdown from pumping could be significant at the production well.
4. There is a reasonable probability that the well proposed by this application will not adversely impact existing water rights or domestic users.


Dan Gerhardt
SD DENR-Water Rights Program

Approved by


for Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

Friedeman, Barbara. Environmental Scientist, SD DENR-Drinking Water Program. Personal correspondence. 18 March 2013.

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

Lindgren, Richard J., Hansen, Donald S., 1990, Water Resources of Hutchinson and Turner Counties, South Dakota; U.S. Geological Survey, Huron, SD.

Water Rights, 1980-2012, 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

APR - 5 2013

WATER RIGHTS
PROGRAM

County of Hutchinson)

) ss.

State of South Dakota)

Tim L. Waltner, of said county and state, being duly sworn his oath, deposes and says: That the Hutchinson Herald weekly newspaper of general circulation and a legal newspaper as required by law, printed and published in the town in said county and state by Tim L. Waltner, and has been a newspaper during the time hereinafter mentioned: That Tim L. Waltner, the undersigned, am publisher of said newspaper in charge of the advertising department thereof, and have knowledge of all the facts stated in this affidavit, and the advertisement headed Appropriate Water-Guthmiller

a printed copy of which is hereto attached, was printed and published in the said newspaper for one successive issue:

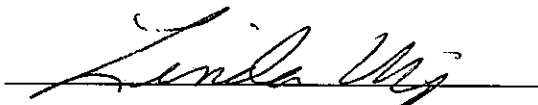
The first publication on:
April 3, 2013

the second publication on:
and the third publication on:

That the full amount of the fees charged for publishing this affidavit: The sum of \$21.95 insures solely to the benefit of the publisher of the Hutchinson Herald, that no agreement or understanding for any division thereof has been made with any other person whomsoever, and the amount of \$21.95 is for publishing legal notices.



Subscribed and sworn to before me this 3rd day of April 2013.



Notary Public
Commission expires: 10/9/18

Publication fee: \$21.95
Notary fee:
Total: \$21.95

NOTICE OF APPLICATION NO. 7683-3 to Appropriate Water

Notice is given that Roger Guthmiller, 28752 435th Ave, Menno SD 57045 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (120 feet deep) located in the center of the NW 1/4 Section 17 for irrigation of 134 acres located in the NW 1/4 Section 17; all in T97N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7683-3 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 April 15, 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.
Printed once at an approximate cost of \$21.95

1-01HLL

RECEIVED

APR - 8 2013

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources

PMB 2020

Joe Foss Building

523 East Capitol

Pierre, SD 57501-3182

STATE OF SOUTH DAKOTA

COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Notice of Application No. 7683-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 3rd DAY OF April 2013
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$25.49 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 4/3/2013

FILED ON: 4/3/2013

SUBSCRIBED AND SWORN TO BEFORE ME THIS 3rd DAY OF April

2013

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

4+3

NOTICE OF APPLICATION
NO. 7683-3 to Appropriate Water

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water is available, 2) existing
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water, and 4) it is in the public in-
terest. In accordance with SDCL
46-2A-23, the Chief Engineer will
act on this application, as recom-
mended, unless a petition is filed
opposing the application or the
applicant files a petition contest-
ing the Chief Engineer's recom-
mendation. 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
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petition.

Any person interested in opposing
or supporting this application or
recommendation must file a writ-
ten petition with BOTH the appli-
cant and Chief Engineer. The ap-
plicant must file a petition if con-
testing the Chief Engineer's rec-
ommendation. The Chief Engi-
neer'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 inter-
ested person or the applicant must
be filed by April 15, 2013.

The petition may be informal, but
must include a statement describ-
ing the petitioner's interest in the
application, the petitioner's rea-
sons for opposing or supporting
the application, and the signature
and mailing address of the peti-
tioner or the petitioner's legal
counsel, if legal counsel is ob-
tained. Contact Eric Gronlund at
the above Water Rights Program
address to request copies of infor-
mation pertaining to this applica-
tion. Steven M. Pimer, Secretary,
Department of Environment and
Natural Resources.

Published once at the total ap-
proximate cost of \$25.49.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

March 27, 2013

Hutchinson Herald
PO Box 506
Menno SD 57045

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7683-3 to Appropriate Water. Please publish the notice once on April 3, 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 Roger Guthmiller, 28752 435th Ave, Menno SD 57045 (Ph # 605-387-5719).

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 27, 2013

Press & Dakotan
319 Walnut
Yankton SD 57078

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Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

Instruction to Newspaper - Publish the Notice on April 3, 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. 7683-3 to Appropriate Water

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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

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

March 27, 2013

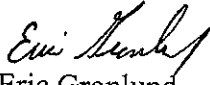
Roger Guthmiller
28752 435th Ave
Menno SD 57045

Dear Mr. Guthmiller:

Water Permit Application No. 7683-3 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 Hutchinson Herald printed at Menno SD (Ph # 605-387-5158) 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.



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

Roger Guthmiller
28752 435th Ave
Menno SD 57045

Dear Mr. Guthmiller:

Enclosed is Water Permit No. 7683-3 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

7683-3

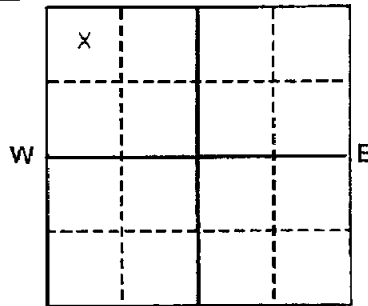
SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SE 1/4 NW 1/4 Sec 17 Twp 97N Rg 56WCounty HUTCHINSON

North

Please mark well
location with an "X"

Well Completion Date

6-13-2013

← 1 Mile →

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,600.0 ft. from FEEDLOT (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

ROTARY

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
160.0 LB/FT	16.00 IN	0.0 FT	50.0 FT	24.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
CEMENT	21	Lb/gal	0.0 Ft	49.0 Ft
		Lb/gal	Ft	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" BITWAS A PACKER OR SEAL USED? ☒ Yes ☐ NoIf so, what material? PLASTIC

Describe packer(s) and location

PLASTIC EXTERNAL RING (SHALE TRAP) AT 50'

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? CHLORINE TABLETSLab to which water
quality sample sent for analysis ☐ No, Why No? _____Well Owner: ROGER GUTHMILLER

Business Name: _____

Address: 28682435TH AVECity, State, Zip: MENNO SD 57045

WELL LOG:

DEPTH

FORMATION	FROM	TO
TOP SOIL	0	4
SILTY BROWN CLAY	4	32
BLUE CLAY	32	47
NIOBARRA CHALK	47	160

STATIC WATER LEVEL 27.0 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: TURBINE PUMP AND ENGINE☐ Bailed☐ Other

Pumping Level Below Land Surface

35.0 Ft. After 2.0 Hrs. pumped 650.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If 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. 7683-3

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 Roger Guthmiller of 28752 435th Ave., Menno, SD 57045 holder of Permit No. 7683-3, bearing the priority of January 28, 2013 authorizing the diversion of 1.89 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) 160 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 110 feet
- 3) Static water level 27 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 1,345 feet south and 1,315 feet east of the NW corner of Section 17-T97N-R56W
(N 43.22304, W -97.49344) (SW ¼ NW 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 17-T97N-R56W

NW ¼ NW ¼ - 33.5 acres

NE ¼ NW ¼ - 33.5 acres

SW ¼ NW ¼ - 33.5 acres

SE ¼ NW ¼ - 33.5 acres

comprising a total of 134 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:

The well construction information listed above is from a well completed into the Niobrara aquifer in 2013. At the time of the licensing inspection, a new well had just been completed next to the original well authorized by this permit. The applicant stated the original well had collapsed and a new well had to be constructed. He stated the new well is also constructed into the Niobrara aquifer at the same approximate depth as the original well.



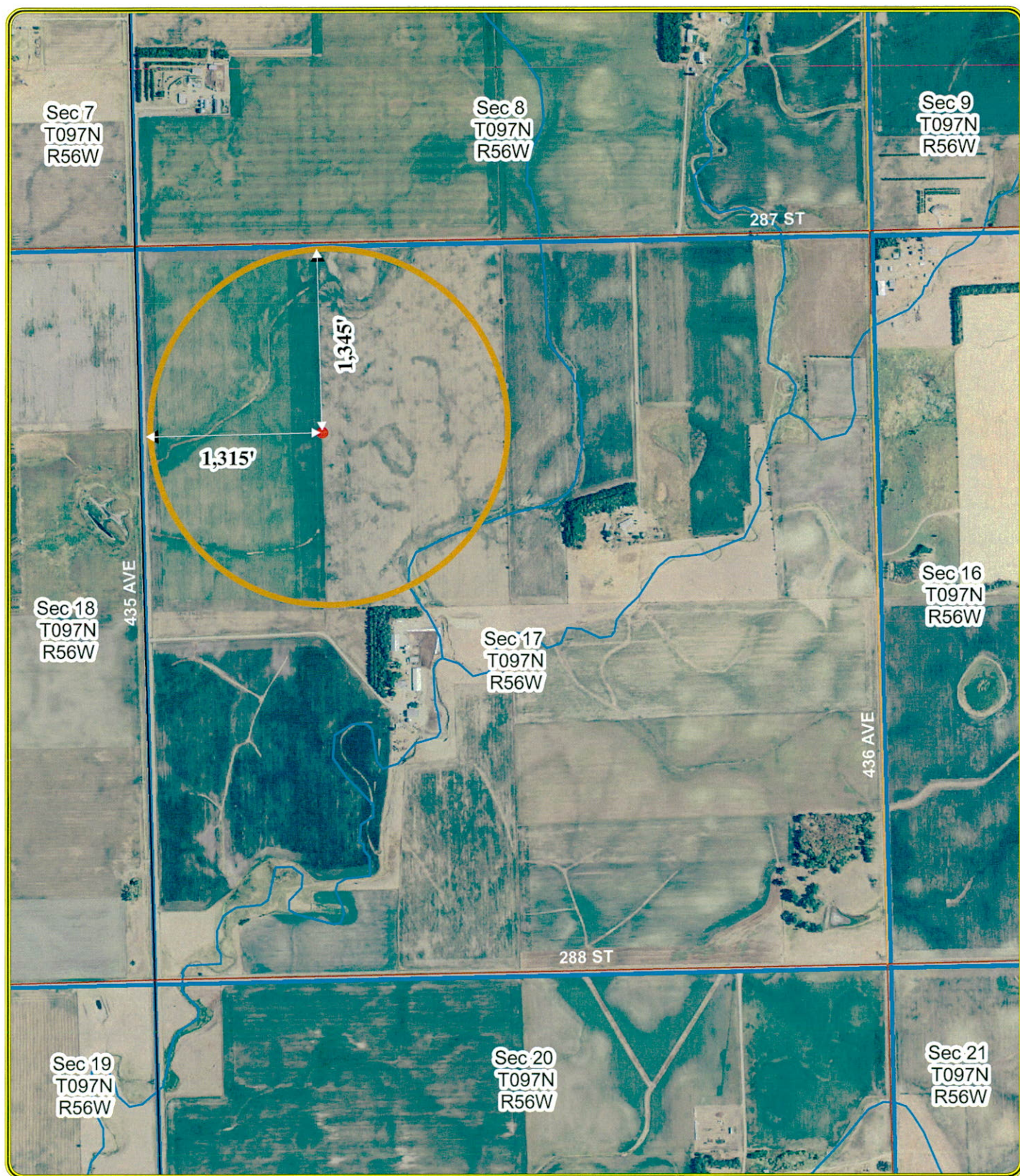
Mike DeFea

Natural Resources Engineer II
DENR, Water Rights Program

Date report completed: October 6, 2014

Roger Guthmiller

Water Permit No. 7683-3



0 0.125 0.25 0.5 Miles

Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
October 2, 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

7683-3

Roger Guthmiller
28752 435th Ave
Menno SD 57045

Dear Mr. Guthmiller:

Enclosed is Water License No. 7683-3. 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. 7683-3, 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,

A handwritten signature in black ink, reading "Jeanne Goodman". The signature is fluid and cursive, with the first name "Jeanne" being more prominent than the last name "Goodman".

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 7683-3**

(1) Roger Guthmiller, 28752 435th Ave., Menno SD 57045 made Application No. 7683-3, January 28, 2013 for a water permit to divert 1.89 cubic feet of water per second from ground water (one well, Niobrara Aquifer), Hutchinson County, South Dakota for irrigation purposes. Permit No. 7683-3, with a priority date of January 28, 2013 was approved April 15, 2013 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before April 15, 2018 and for the application to beneficial use of said water on or before April 15, 2022.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion 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 1,345 feet south and 1,315 feet east of the NW corner of Section 17, T97N, R56W (SW ¼ NW ¼).

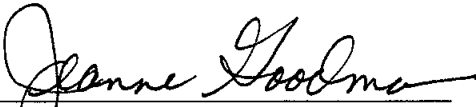
(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 17, T97N, R56W	NW ¼ NW ¼	33.5 acres
	NE ¼ NW ¼	33.5 acres
	SW ¼ NW ¼	33.5 acres
	SE ¼ NW ¼	33.5 acres
	Total	134.0 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Roger Guthmiller, 28752 435th Ave., Menno SD 57045 the holder and/or owner of Water Right No. 7683-3 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 28, 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. 7683-3 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. 7683-3 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.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

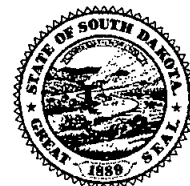

Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

OCT 28 2014

date





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 8, 2022

Roger Guthmiller
28752 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, appropriate 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: Roger Guthmiller
28752 435th Ave
Menno, SD 57045

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

SUBJECT: Niobrara Aquifer Shutoff Order for Water Right No. 7683-3

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. 7683-3 for irrigation of 134 acres located in NW ¼ Section 17 in T97N-R56W. Effective immediately, 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: Brett Guthmiller; 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

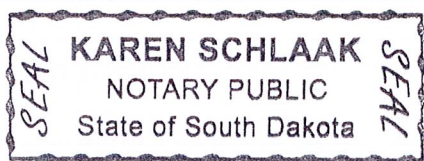
WR No. 7617-3
BRETT GUTHMILLER
28680 435TH AVE
MENNO SD 57045

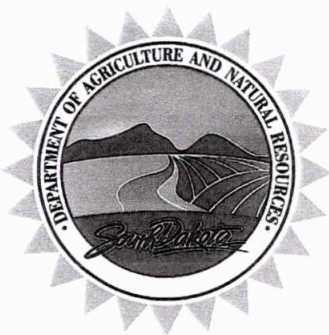

Vickie Maberry
Senior Secretary-Water Rights

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: Roger Guthmiller
28752 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. 7683-3

On July 20, 2022, a shutoff order was issued for Water Right No. 7683-3 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. 7683-3.

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

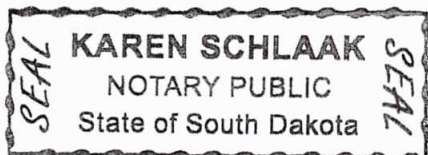
Above also Sent Inter-office to: Ann Mines Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

Vickie Maberry
Vickie Maberry
Water Rights Program, DANR

[illegible]

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

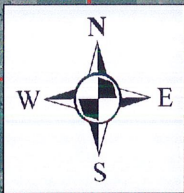
Water Rights Program, DANR

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

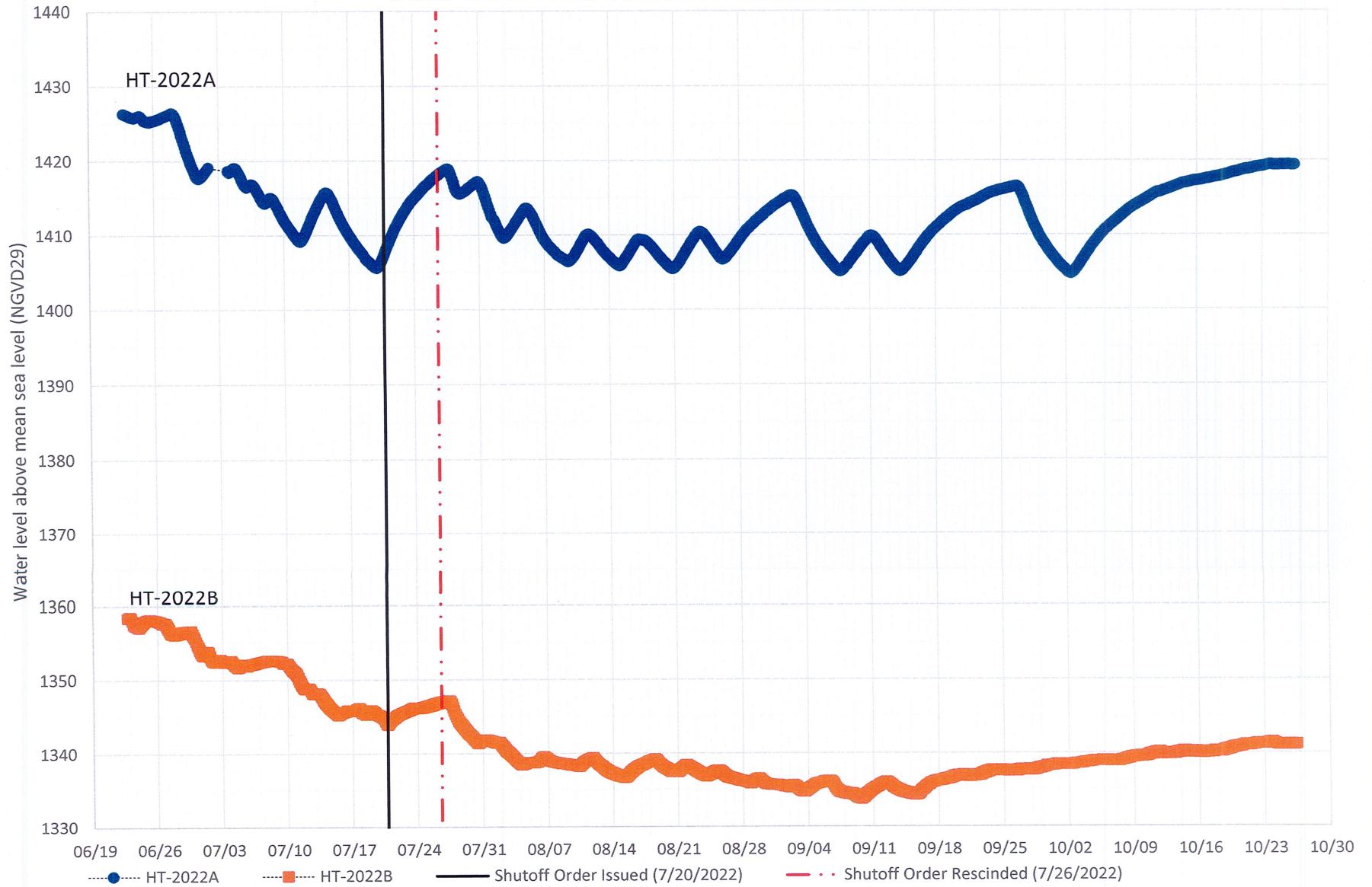
18

0 0.5 1 2 Miles



A.W. Mathiowetz
Oct. 27, 2022

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





7344-3, 7700-3, 7448-3, 6708-3, 7617-3, 7683-3

**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