

WATER PERMIT NO. 8040-3

Name of Applicant: Heine Electric & Irrigation Inc.

Address: 31585 460th Ave, Vermillion SD 57069

Phone: 605 670-9567

Amount of Water Claimed: 0.33 cfs

Total Acres: 3 acres

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Clay

Type of Waste Disposal System:

Location: 3 miles northwest of Vermillion

PRIORITY

Date Received: 8-20-14

Application/License Fee: \$ 700

Corrected Application Received:

Period of Annual Use: april 1 – October 31

Remarks: For watering the grass surrounding the business office/shop area dn occasional filing of water trucks for use in drilling nearby wells

Diversion Point: SE 1/4 SE 1/4 Sec 5-T92N-R52W

Land to be Irrigated: E 1/2 SE 1/4 Sec 5-T92N-R52W

Depth of Well: 80 feet

Well Driller: Hammond Wetmore Drilling

Remarks:

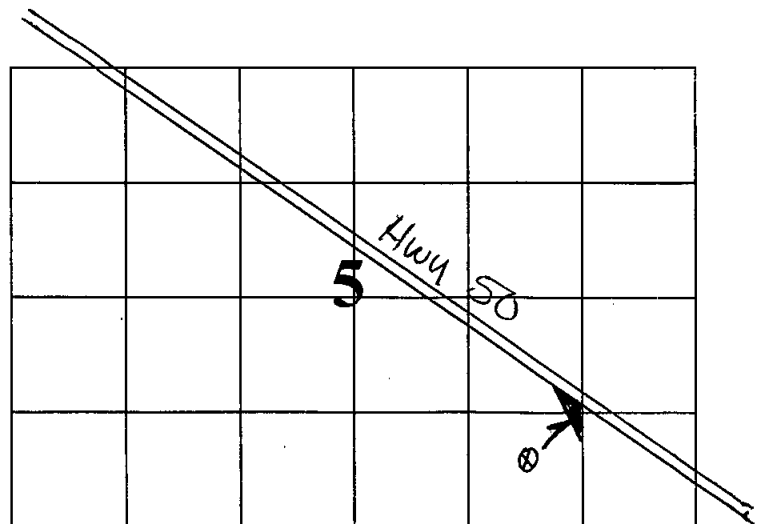
Type of Map:

Prepared by:

Reviewed and the Number Assigned on: 8-20-14

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



RECEIVED
AUG 20 2014
WATER RIGHTS
PROGRAM

Mail to:
PMB 2020
DENR - Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

(office use only)
No. 8040-3 Hydrologic Unit 10170102
Basin Vermillion River 605-624-2695
Newspaper Plain Talk, 201 W Cherry St., Vermillion 57069
8 605-665-7811
Pierre & Dakota, 319 Walnut, Yankton 57076

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 Heine Electric & Irrigation, Inc.

(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent

(name and complete address if different than above name)

Mailing Address 31585 460th Ave Vermillion SD 57069
(Address) (City) (State) (Zip Code)

Home Phone 605-670-9567 Cell _____ Email heineelectricverm@outlook.com

2. Amount of water claimed 0.33*CFS or 150 **GPM ***AF Total Acreage 3
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 1 well to the lower Vermillion-Missouri Aquifer

4. Location of point of diversion 1 well in the se of the se, section 5, T92n r52w

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Clay ☒

5. County or counties where water will be used Clay

6. Annual period during which water is to be used April-October (Irrigation) Jan 1 - Dec 31 (Commercial)

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
ne of se of se, sect 5, t92n, r52w	2.5		
se of ne of se, sect 5, t92n, r52w	.5		

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

irrigation of turfgrass surrounding Heine Electric's vermillion office/shop area AND occasional filling of water trucks for drilling wells in the immediate area.

I, Richard Hammond Richard Hammond, 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. 8040-3

Date of first receipt of application August 20, 2014.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8040-3 to Heine Electric & Irrigation, Inc. c/o Richard Hammond, 31585 460th Ave, Vermillion SD 57069 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. 8040-3 appropriates 0.33 cubic feet of water per second (150 gallons per minute) from one well completed into the Missouri:Elk Point Aquifer (80 feet deep) located in the SE 1/4 SE 1/4 Section 5 for irrigation of 3 acres of grass surrounding the business located in the E 1/2 SE 1/4 Section 5; all in T92N-R52W. The well water will also be used for commercial purposes.
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: April 1 – October 31 (irrigation) and January 1 – December 31 (commercial use).
3. The date from which applicant may claim right is August 20, 2014.
4. The date of approval of Permit No. 8040-3 is October 27, 2014.
5. One-fifth of the construction is to be completed on or before April 27, 2017.
6. All construction is to be completed on or before October 27, 2019.
7. Water is to be put to beneficial use on or before October 27, 2023.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

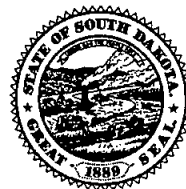
1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8040-3 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*
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

NOV 13 2014

date



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97°01'00" W

97°00'00" W

96°59'00" W

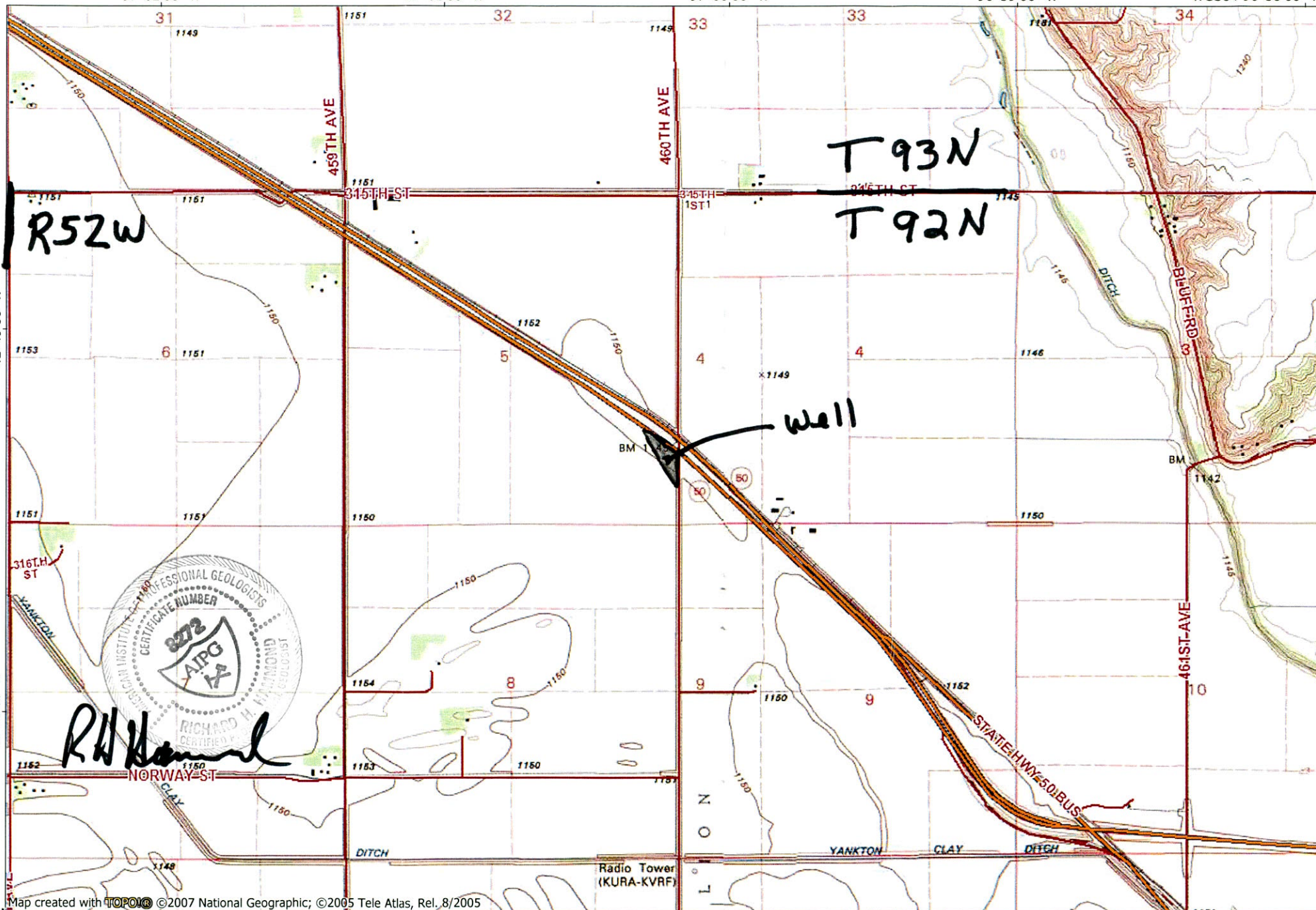
WGS84 96°58'00" W

42°49'00" N

42°48'00" N

42°49'00" N

42°48'00" N



Map created with TOPO! © 2007 National Geographic; © 2005 Tele Atlas, Rel. 8/2005

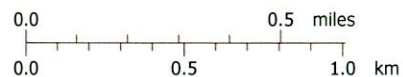
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97°00'00" W

96°59'00" W

WGS84 96°58'00" W



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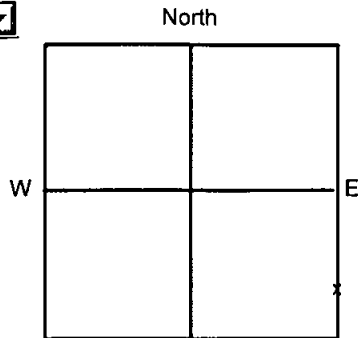
AUG 20 2014

WATER RIGHTS
PROGRAM

TN MN
3 1/2°
08/14/14

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location se ¼ se ¼ Sec 5 Twp 92n Rg 52wCounty clay ☐Please mark well
location with an "X"

Well Completion Date

6/6/2014

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
190 ft. from septic tank (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
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bentonite	7	9.5 Lb/gal	0 Ft	100 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie through rods

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter _____ Inches Length _____ Feet
 Material _____
 Slot Size _____ Set From _____ Feet to _____ Feet
 Other information _____
WAS A PACKER OR SEAL USED? ☐ Yes ☐ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____
☐ No, Why Not? _____
 Lab to which water quality sample sent for analysis _____
Well Owner: Heine Electric & Irrigation, Inc.

Business Name: _____

Address: 31585 460th aveCity, State, Zip: Vermillion ☐ sd ☐ 57069

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
sand, fine, silty	0	3
clay, gray, silty	3	60
gravel, coarse	60	80

STATIC WATER LEVEL 24 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____
☐ Bailed _____
☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

RECEIVED

AUG 20 2014

WATER RIGHTS
PROGRAMThis well was drilled under license # 666 and this report is true and accurate.Drilling firm: Hammond Wetmore Drilling, LLC

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/20, 20 14

RECEIVED OF Heine Electric & Irrigation 307 S Robinson Ave Hartington NE 68739

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

Fee for Application for Permit No. <u>8040-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8040-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	700 00

No. 06928

By

Jeanne Goodman
Chief Engineer

**Water Rights Program
File Documentation**

NAME OF PERSON OR FILE: Heine Electric & Irrigation, Inc.
Dick Hammond

DATE: 10/1/2014 TELEPHONE: (605) 670-2321

RE: Application in excess of diversion rate statutory limit

COMMENTS:

App. No. 8040-3 proposes to divert 0.33 cfs from the Missouri: Elk Point aquifer for the irrigation of 3 acres in Clay County and for filling water trucks for water well drilling. I called Mr. Hammond to verify the diversion rate and to get a reason for the request in excess of the statutory limit. He stated that the well was primarily for filling water trucks. They have two 3,000 gallon and one 1,700 gallon water tanker. He stated that if limited to statutory diversion rate it would take over 2.5 hours to fill one of the big tankers and almost 1.5 hours to fill the little tanker. Generally, it takes at more than one tank load for each well. The amount of time needed to fill the tank would be impractical and hinder their ability to drill wells.



Adam Mathiowetz
Natural Resources Engineer
DENR-Water Rights Program



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8040-3, Heine Electric & Irrigation Inc.**

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. 8040-3, Heine Electric & Irrigation Inc., c/o Richard Hammond, 31585 460th Avenue, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 8040-3 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 qualification:

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. 8040-3 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.

Jeanne Goodman, Chief Engineer
October 6, 2014

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8040-3
HEINE ELECTRIC & IRRIGATION INC
OCTOBER 3, 2014

Water Permit Application No. 8040-3 proposes to divert groundwater at a maximum rate of 0.33 cubic feet of water per second (cfs) from one well to be completed into the Elk Point management unit of the Missouri aquifer. The well is expected to be approximately 80 feet deep and is to be located in SE ¼ SE ¼ Section 5; T92N-R52W in Clay County. The water is to be used for irrigating 3 acres of lawn in the E ½ SE ¼ Section 5 and for commercial purposes.

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

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Elk Point management unit of the Missouri aquifer is an alluvium mantled outwash consisting of fine sand to very coarse gravel (Niehus, 1994; Stephens, 1967). The Missouri: Elk Point aquifer is located in southeastern South Dakota, underlying large portions of Yankton, Clay, and Union Counties. In total, the Missouri: Elk Point aquifer is estimated to underlie 210,100 acres and contain 3,287,100 acre feet (ac-ft) of recoverable water in storage (Hedges et. al, 1982). The aquifer connects to the Lower Vermillion Missouri and Lower James Missouri aquifers to the north, overlies and is often hydrologically connected to the Dakota aquifer, and is hydraulically connected to the Vermillion, Big Sioux, and Missouri Rivers. Water in the aquifer generally moves from the northwest to the southeast and towards the Missouri River (Stephens, 1967). The Missouri: Elk Point aquifer is predominantly under water table conditions.

The test hole log submitted with this application identified sand from ground surface to three feet below grade, silty clay from three to 60 feet below ground surface, and gravel from 60 to 80 feet below grade. The test hole had a static water level of 24 feet in June, 2014. The proposed well site is approximately three miles north of the Missouri River.

South Dakota Codified Law (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 this 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 and effects on existing rights from the aquifer that are pertinent to this application.

WATER AVAILABILITY:

This application proposes to appropriate water from the Missouri: Elk Point aquifer. The probability of unappropriated water available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older or lower than the Greenhorn Formation and a public water system has applied for a permit, the Board

need not consider the recharge/withdrawal issue. In this case, the aquifer is not stratigraphically lower than the Greenhorn Formation and the applicant is not a public water system.

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

A 2012 First Judicial Circuit Court's rulings ultimately stated that data must be present to show it is probable the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered (*Hanson County Dairy v. Robert Bender and Stace Nelson*) (Memorandum Decision, April 11, 2012).

Later in 2012, the First Judicial Circuit Court stated that in deciding whether or not it is probable that the quantity of water withdrawn will exceed the quantity of the average estimated annual recharge is to be based according to the best information reasonably available, and that nothing in South Dakota law requires a recharge study (*Longview Farms, LLP v. South Dakota Dept. of Environ. and Nat'l Resources*) (Memorandum Decision, May 17, 2012).

Hydrologic Budget:

The hydrologic budget of the Missouri: Elk Point aquifer was evaluated for groundwater appropriations as of June 24, 2013 (Stonesifer, 2013). Water rights/permits/future use permits are expected to use 81,108 ac-ft/yr, which includes "expected use by newer irrigation water permits (permits authorized between 2006 and June 24, 2013)" (Stonesifer, 2013). Recharge to the aquifer is estimated to be at least 91,964 ac-ft/yr, which considers recharge induced from the Missouri River by wells for Lewis and Clark Rural Water System. However, this recharge estimate does not account for the induced recharge by irrigation wells pumping near the river. Therefore, approximately 10,856 ac-ft/yr of unappropriated water was available at that stage of development (Stonesifer, 2013).

Since the completion of Stonesifer's (2013) report, 23 water permits have been approved, one permit has been re-instated (7074A-3), all for irrigation except Water Permit No. 8031-3 (Water Rights, 2014b). The 24 permits are shown in Table 1. Thus, the data used to calculate expected irrigation pumpage has been updated since completion of Stonesifer's (2013) report.

Stonesifer (2013) stated that water rights/permits withdrawing water from the Missouri: Elk Point aquifer for irrigation pump on average 13.7% of the total appropriation. However, after updating with 2013 irrigation data and recalculating, the proportion is now 14.0%. The methodology used to calculate this new percentage still follows Stonesifer's (2013). Therefore, it still accounts for the continuing development of irrigation from the Missouri: Elk Point aquifer, especially during the period of 2006 to 2013. This was accomplished by only considering the pumpage compared to appropriation of water rights/permits that were past the end of their respective construction period (five years after approval).

Applying that proportion, 14.0%, to the new appropriations and the reinstatement that are authorized for irrigation purposes, estimated expected use is 785 ac-ft/yr. The estimated average

annual use by a non-irrigation appropriation is based on pumping at the maximum permitted diversion rate for 60% of the time. That equates to an annual estimated pumpage of 96 ac-ft/yr for Water Permit No. 8031-3.

Consequently, there is approximately 9,975 ac-ft/yr of recharge in excess of average annual withdrawal. Therefore, there is a reasonable probability that unappropriated water is available for this proposed appropriation.

Permit No.	Name	County	Priority Date	Permitted CFS	Permitted Acres	Permitted Appropriation (ac-ft)
7848-3	Missouri Valley Farms Inc.	Union	05/31/2013	3.04	213	426
7856-3	Mike & Steve Allard	Union	07/01/2013	1.78	129.3	258.6
7895-3	Todd Hansen	Union	09/09/2013	1.89	180	360
7898-3	James Orr	Clay	09/12/2013	1.56	132	264
7899-3	Justin Orr	Clay	09/12/2013	1.56	97	194
7904-3	Craig S. McInerney	Union	09/23/2013	1.78	160	320
7933-3	Doug Bye	Clay	12/12/2013	0.89	80	160
7936-3	Donald Johnson	Yankton	12/17/2013	1.39	83	166
7938-3	Russell M. Hall	Union	01/02/2014	n/a	53	106
7941-3	Joseph F. Chicoine	Union	01/14/2014	1	37.69	75.8
7074A-3*	Calvin Hanson	Clay	01/21/2014	1.78	162	324
7951-3	Allen Pace	Union	01/24/2014	1.78	150	300
7955-3	Karl M. Schenk	Yankton	02/03/2014	1.78	140	280
7971-3	Barry Van Osdel	Yankton	02/20/2014	1.11	68	136
7980-3	Francis Heine	Clay	02/24/2014	0	5	10
7987-3	Francis M. Armstrong Living Trust	Clay	03/17/2014	1.78	102	204
8010-3	Ryan Rusher	Yankton	04/28/2014	0.1	2.5	5
8016-3	Amelia Bertrand Trust	Union	05/12/2014	1.67	66	132
8022-3	Redwood Holdings LLP	Clay	06/06/2014	1.91	134	268
8023-3	Redwood Holdings LLP	Clay	06/06/2014	4.14	290	580
8024-3	Redwood Holdings LLP	Clay	06/06/2014	3.36	235.2	470.4
8025-3	Redwood Holdings LLP	Clay	06/06/2014	3.82	267.2	534.4
8029-3	Dakota Dunes Community Improvement District	Union	06/13/2014	0.78	17.8	35.6
8031-3**	Dakota Protein Conversion	Clay	06/18/2014	0.22	N/A	N/A

* This permit is a re-instatement of Permit No. 7074-3, ** This permit is for commercial purposes

Table 1- Approved water permits from the Missouri Elk: Point aquifer since June 10, 2013 (Water Rights, 2014b)

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 Water Rights Program monitors 37 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2014a). The nearest of these wells, CL-80A, CL-80B, and CL-80C, are located approximately five miles north-northwest, five miles west-southwest, and 5.8 miles southeast of the proposed well site, respectively. A hydrograph showing the water level of the aquifer in these three observation wells is shown in Figure 1. The observation well data documents cyclic conditions of water levels, recharging during wet years and declining during dry years. The hydrograph also shows the effects or lack thereof of nearby pumping on the aquifer. Observation well data indicates that at the current level of development temporal well

withdrawal is greatly masked by climatic conditions, indicating that recharge to and natural discharge from the aquifer greatly exceeds well withdrawal.

In general, hydrographs of observation wells completed into the Missouri: Elk Point aquifer show a slight decline in the water table. This has been attributed to entrenching of the Missouri River and a strong hydraulic connection between the river and the aquifer (Goodman, 2007; Stephens, 1967). The Missouri River stage near the City of Yankton has decreased approximately ten feet since the Gavin's Point Dam was completed, as shown in Figure 2. Since the drought in 2012, water levels in many observation wells completed into the Missouri: Elk Point aquifer have not yet returned to previous elevations. Also shown in the hydrograph in Figure 1 is Missouri River water levels near the City of Yankton. The trends in water levels between groundwater and surface water are very similar. This indicates that a strong hydraulic connection exists, where groundwater levels are to some extent dependent on the Missouri River stage. Therefore, water levels in the aquifer are not decreasing due to well withdrawal, and unappropriated water is available. The Missouri River gage site, nearby observation wells, and the proposed well sites are shown in Figure 3.

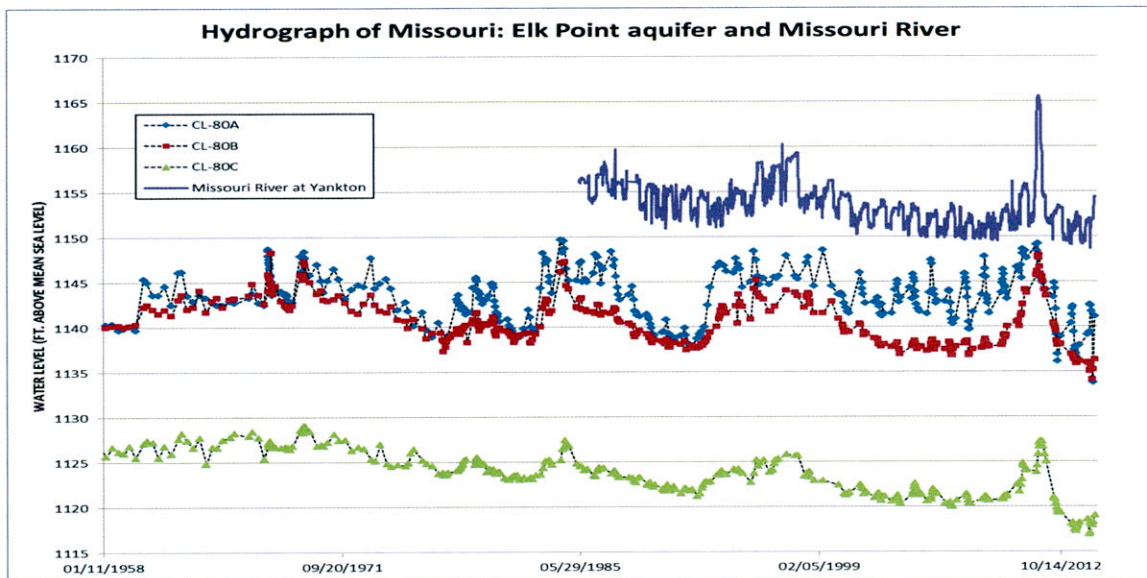


Figure 1- Hydrograph for observation wells CL-80A, CL-80B, and CL-80C, and the Missouri River stream gage near the City of Yankton (USGS, 2014; Water Rights, 2014a)

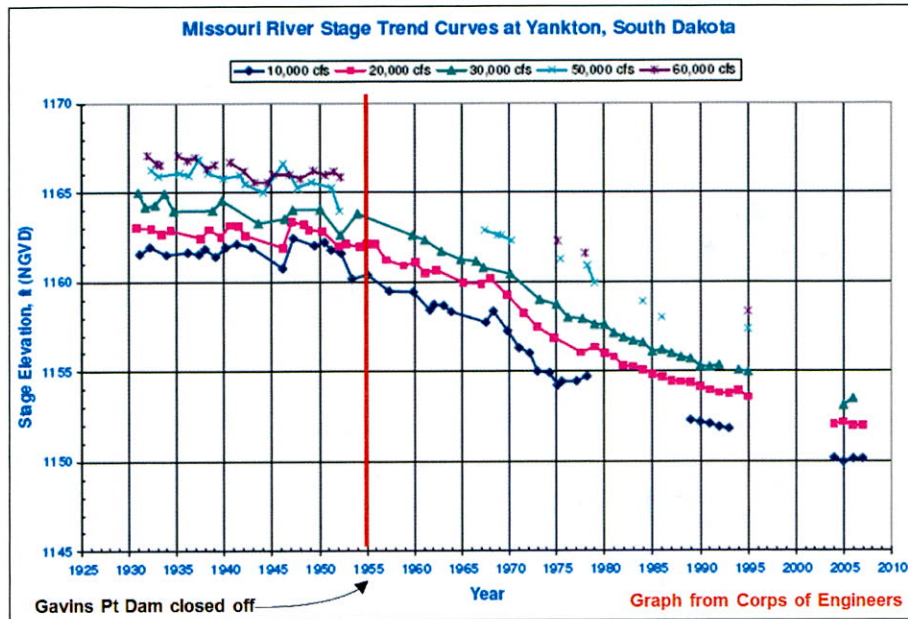


Figure 2- Missouri River Stage Trend Curves at Yankton, South Dakota (Cowman, 2014)

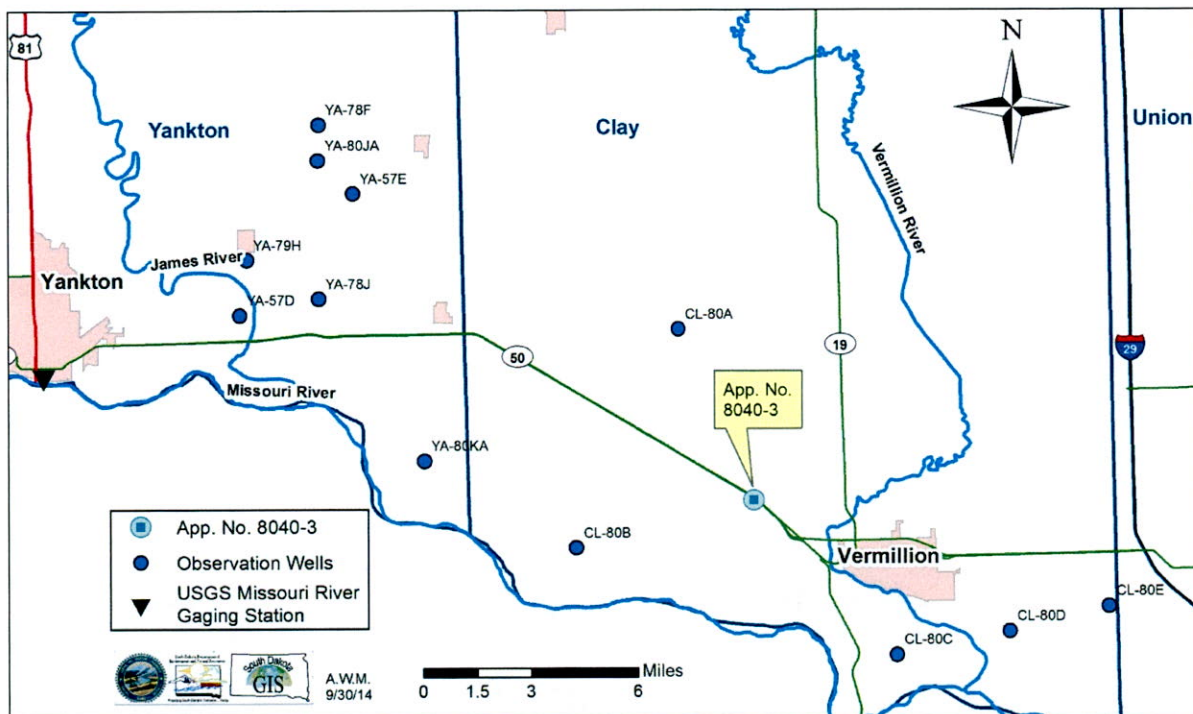


Figure 3- Map of observation wells and USGS Missouri River gaging station near App No. 8040-3 (USGS, 2014; Water Rights, 2014a)

EXISTING WATER RIGHTS:

There are seven water rights/permits authorizing wells within approximately one mile of the proposed well site (Water Rights, 2014b). The nearest well authorized by a water right/permit is approximately one-half mile away from the proposed well site (Water Rights, 2014b). There are a number of domestic wells completed into the Missouri: Elk Point aquifer. However, there are

no domestic wells on file with the DENR-Water Rights Program within approximately one mile of the proposed well site (Water Rights, 2014c).

The water table conditions of the Missouri: Elk Point aquifer, combined with the relatively large saturated thickness and high transmissivity, indicate the effects of drawdown due to pumpage would be minimal. This is illustrated by the proliferation of high capacity wells in the area with no history of well interference issues. However, precise drawdown cannot be quantified without aquifer testing. The Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. Therefore, nearby adequate wells, as defined in ARSD 74:02:20(6), are not expected to be adversely or unlawfully impaired due to the proposed wells.

SPECIAL CONSIDERATIONS

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs for every 70 acres, or "the equivalent thereof." The statute does provide that the Water Management Board may allow a greater diversion rate if the method of irrigation so requires. Water Permit Application No. 8040-3 proposes to divert 0.33 cfs from the Missouri: Elk Point aquifer for the irrigation of 3 acres, or the equivalent of 7.7 cfs per 70 acres. The applicant stated that the well is to be used primarily for filling water tankers for drilling wells. The applicant has two 3,000 gallon and one 1,700 gallon tanker. It would take more than 2.5 hours to fill one of the large tankers and just under 1.5 hours to fill the small tanker if the diversion rate was limited to the statutory rate. The applicant further stated that it often requires more than one tanker to drill a well. Being limited to the statutory limit would be impractical and hinder the applicant's ability to drill water wells. These reasons are acceptable for the request in excess of the statutory limit.

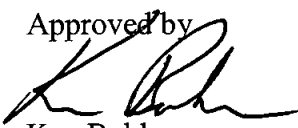
CONCLUSIONS:

1. The water permit application proposes to withdraw groundwater at a maximum diversion rate of 0.33 cfs from one well to be completed into the Missouri: Elk Point aquifer for the irrigation of three acres and for commercial use in a water well drilling business.
2. Unappropriated water is available from the Missouri: Elk Point aquifer to supply the proposed appropriation.
3. This proposed diversion is not expected to adversely or unlawfully impair existing appropriative or domestic users.
4. The applicant is requesting a diversion rate in excess of the statutory limit for irrigation. However, the well is to be primarily used for filling water tankers for drilling water wells. The reasons given for the request are reasonable.



Adam Mathiowetz
SD DENR-Water Rights Program

Approved by



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Circuit Court of South Dakota, First Judicial Circuit, 2012, May 17, 2012 Memorandum Decision re: Longview Farms, LLP v. South Dakota Dept. of Environ. and Nat'l. Resources.
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- Goodman, J.A. 2007. Report on Water Permit Application No. 6869-3 for Lewis and Clark RWS: SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
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- Water Rights. 2014b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
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OCT 23 2014

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

PLAIN TALK

Heine Electric & Irrigation Inc.
Richard Hammond
31585 460th Ave.
Vermillion, SD 57069

STATE OF SOUTH DAKOTA
COUNTY OF CLAY

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

Notice of Application No. 8040-3 to Appropriate Water

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 17 DAY OF October 2014
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$28.47 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: 10/17/2014

FILED ON: 10/17/2014

Notice is given that Heine Electric & Irrigation Inc., 31585 460th Ave. Vermillion SD 57069 has filed an application for a water permit to appropriate 0.33 cubic feet of water per second (150 gallons per minute) from one well completed into the Missouri:Elk-Point Aquifer (80 feet deep) located in the SE 1/4 SE 1/4 Section 5 for irrigation of 3 acres of grass surrounding the business located in the E 1/2 SE 1/4 Section 5; all in T92N-R52W. The well water will also be used for commercial purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8040-3 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 October 27, 2014.

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. Information concerning this application is available at <http://denr.sd.gov/public>. 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 \$28.47.

Tera A Schmidt
SUBSCRIBED AND SWORN TO BEFORE ME THIS 20 DAY OF October 2014
[Signature]
NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 8/19/2015

RECEIVED

OCT 24 2014

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
523 East Capitol
Pierre, SD 57501

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT HE IS THE MANAGING EDITOR OF, YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
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PUBLISHED ON: 10/17/2014

FILED ON: 10/20/2014

SUBSCRIBED AND SWORN TO BEFORE ME THIS 20th DAY OF October

2014

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES 8/19/2015

10+17
NOTICE OF APPLICATION
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DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



October 6, 2014

Plain Talk
210 W Cherry St
Vermillion SD 57069

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 8040-3 to Appropriate Water. Please publish the notice once on October 17, 2014. 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 Heine Electric & Irrigation Inc., c/o Richard Hammond, 31585 460th Ave, Vermillion SD 57069 (Ph # 605-670-9567).

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

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



October 6, 2014

Press & Dakotan
319 Walnut
Yankton SD 57078

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Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



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

October 6, 2014

Heine Electric & Irrigation Inc
Richard Hammond
31585 460th Ave
Vermillion SD 57069

Dear Mr. Hammond:

Water Permit Application No. 8040-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plain Talk printed at Vermillion SD (Ph # 605-624-2695) and the 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 October 17, 2014. 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. 8040-3 to Appropriate Water

Notice is given that Heine Electric & Irrigation Inc., 31585 460th Ave, Vermillion SD 57069 has filed an application for a water permit to appropriate 0.33 cubic feet of water per second (150 gallons per minute) from one well completed into the Missouri:ElkPoint Aquifer (80 feet deep) located in the SE 1/4 SE 1/4 Section 5 for irrigation of 3 acres of grass surrounding the business located in the E 1/2 SE 1/4 Section 5; all in T92N-R52W. The well water will also be used for commercial purposes.

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Published once at the total approximate cost of _____.



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



NOV 13 2014

Heine Electric & Irrigation Inc
Richard Hammond
31585 460th Ave
Vermillion SD 57069

Dear Mr. Hammond:

Enclosed is Water Permit No. 8040-3 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

8040-3

SD EForm - 1311LD V1

Form 10

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

MAIL TO: PMB 2020

Date 10-30-17

DENR - Water Rights Program

523 E Capitol Ave

Pierre, SD 57501-3182

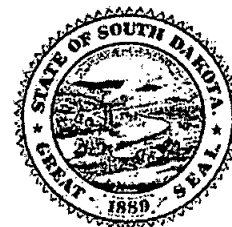
ph. (605) 773-3352

FROM: Heine Electric & Irrigation, Inc
(name)31505 460th Ave
(address)Vermillion
(city)SD
(state)57069
(zip)605-670-9567
(phone)

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

Water Permit No. 8040-3 states that the water use system is to be constructed byOctober 27, 2019, and water is to be put to beneficial use by October 27, 2023
(date) (date)The water use system was completed on Sept 17, 2014
(date)Applying the water to beneficial use was completed on March 30, 2015
(date)

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



Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8040-3

I have this day, October 30, 2017, made a thorough examination of the water use system constructed by Heine Electric & Irrigation, 31585 460th Ave, Vermillion SD 57069 of Permit No. 8040-3, bearing the priority of August 20, 2014 authorizing the diversion of 0.33 cu. ft. per second of the waters of Missouri:Elk Point Aquifer for lawn irrigation of 3 acres and commercial purposes, in Clay County.

Inspection contact & relationship **Richard Hammond, permit holder**
to permit holder, if applicable:

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Hammond-Wetmore Drilling, LLC
- 2) No. of Wells 1
- 3) Depth(s) 80 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 16 inches
- 2) Length 60 feet
- 3) Type PVC

Screen:

- 1) Type PVC Perforated
- 2) Length 20 feet
- 3) Static water level 24 feet

Pump:

- 1) Make Grundfos Submersible
- 2) Model 300-S-75-2
- 3) Capacity 150 GPM

Motor:

- 1) Make Franklin Submersible
- 2) Model No. Unknown
- 3) Horsepower rating 7.5 hp

C. Works used to apply water to beneficial use:

Lawn Watering & Well Drilling Tanker Fill:

- 1) Make 1" garden hose for lawn watering and 4" flex hose piping for tanker filling
- 2) Capacity 150 GPM

Chemigation Equipment:

- 1) Does chemigate No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes, began irrigating in 2015.

List any extended period of nonuse: None.

- 3) Exceptions to compliance are: None.

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: West 200', North 930' from SE Corner of Sec 5-T92N-R52W; Lat 42.81063/Long -97.00367; SE ¼ SE ¼ Sec 5-T92N-R52W.
2. The works are capable of diverting and conveying to the place of use 0.33 cfs or 150 gpm of water which is to be used for lawn watering and commercial purposes. Water has been put to beneficial use to the maximum extent as follows:

All land is located in Sec 5-T92N-R52W.
SE ¼ SE ¼ - 1 ac

comprising a total of 1 acres of land and the license should be issued for 0.33 cfs or 150 gpm.

3. All structures, wells and lands on map Yes

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

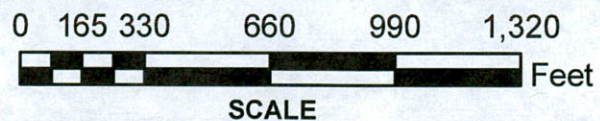
Water Permit 8040-3 also provides water to fill tankers for well drilling.

Harold Holoch

Harold Holoch, PE
Staff Engineer
DENR, Water Rights Program

Date report completed: May 14, 2018

8040-3



Harold Holoch
Harold Holoch, PE
Staff Engineer
May 14, 2018



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAY 29 2018

8040-3

Richard Hammond
Heine Electric & Irrigation Inc
31585 460th Ave
Vermillion SD 57069

Dear Mr. Hammond:

Enclosed is Water License No. 8040-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

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. 8040-3

(1) Heine Electric & Irrigation Inc., 31585 460th Ave., Vermillion SD 57069 made Application No. 8040-3, August 20, 2014 for a water permit to divert 0.33 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer), Clay County, South Dakota for irrigation and commercial purposes. Permit No. 8040-3, with a priority date of August 20, 2014 was approved October 27, 2014 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 27, 2019 and for the application to beneficial use of said water on or before October 27, 2023.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on October 30, 2017. The "*Notice*" stated the water use system was completed in September, 2014 and the water placed to beneficial use in March, 2015.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.33 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 200'W and 930'N of the SE Corner of Section 5, T92N, R52W (SE ¼ SE ¼)
Latitude 42.81063, Longitude -97.00367

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use for irrigation and commercial purposes described below:

- T92N, R52W, Section 5 SE ¼ SE ¼ 1 acre
- Water is also diverted to fill tankers for well drilling purposes

(4) Pursuant to South Dakota Water Law 46-5-30.1 Heine Electric & Irrigation Inc., 31585 460th Ave., Vermillion SD 57069 the holder and/or owner of Water Right No. 8040-3 is issued a license to appropriate water, the right to use 0.33 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer) with a priority date of August 20, 2014 from the location specified in (2) of this license for irrigation and commercial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8040-3 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. 8040-3 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 drilled in June, 2014 by Hammond Wetmore Drilling LLC. A copy of the well completion report is on file with the Water Rights Program.***

continued

- 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

MAY 29 2018

date

