

WATER PERMIT NO. 8134-3

Name of Applicant: **Heart Land HB Inc.**

Address: **2171 100 Ave, Lake Benton MN 56149**

Phone: **507 820-2457**

Amount of Water Claimed: **no additional**

Total Acres: **36 acres**

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

Water to be used for: **irrigation**

County: **Brookings**

Type of Waste Disposal System:

Location: **1 mile northeast of Elkton**

PRIORITY

Date Received: **2-11-2015**

Application/License Fee: **\$ 700**

Corrected Application Received: **3-4-2015**

Period of Annual Use: **May 1 – October 31**

Remarks: **Additional acres to Water Right No. 4213-3**

Diversion Point: **SW 1/4 SW 1/4 Sec 10-T109N-
R47W**

Land to be Irrigated: **SW 1/4, W 1/2 SE 1/4**

Depth of Well: **168 feet deep**

Well Driller:

Remarks:

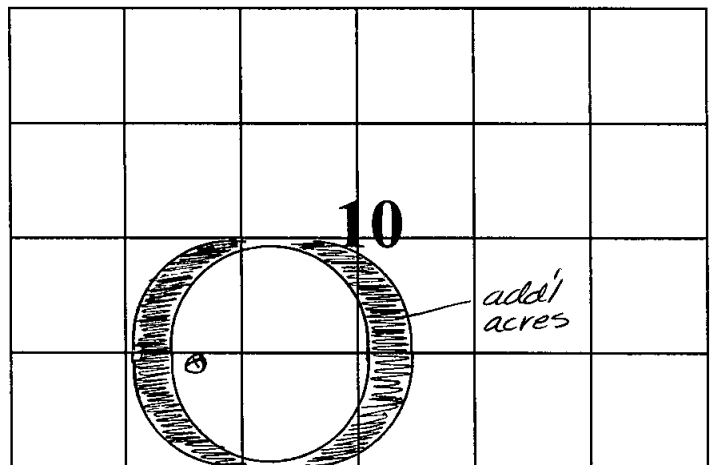
Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **3-4-15**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only)	
	No. <u>8134-3</u>	Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Brookings Register</u>	<u>P.O. Box 177</u>
		<u>Brookings 57006</u> <u>605-692-6271</u>

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FEB 11 2015

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. 4213-3

(Use predates Mar 2, 1955)

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

- Name to Appear on Irrigation Permit Heart Land H.B Inc.
 (check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent
 (name and complete address if different than above name)
 Mailing Address 2171 100 Ave B Lake Benton MN. 56149
 (Address) (City) (State) (Zip Code)
 Home Phone 507-368-9589 Cell 507-820-2457 Email no add
- Amount of water claimed _____ *CFS or 900 **GPM _____ ***AF Total Acreage 36 additional
 (*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Ground Water
- Location of point of diversion S-W quarter Sw 1/4 Sec 10
 (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
Sec 10 T109N R.47W County Brookings-S.D
- County or counties where water will be used Brookings S.D
- Annual period during which water is to be used 5-1-10-31 May 1 - October 31
- 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
<u>See attached file document</u>			

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

I, John W. Smith Jr., 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. 8134-3

Date of first receipt of application February 11, 2015.

Date of return to applicant for corrections, amendments or changes February 11, 2015.

Date of receipt of corrected application March 4, 2015.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8134-3 to Heart Land HB Inc., c/o John Wipf, Jr, 2171 100 Ave, Lake Benton MN 56149 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. 8134-3 authorizes irrigation of 36 new acres. Water Right No. 4213-3 appropriates 2.0 cubic feet of water per second from one well completed into the Rutland Aquifer (168 feet deep) located in the SW 1/4 SW 1/4 Section 10 for irrigation of 146 acres located in the SW 1/4 and W 1/2 SE 1/4 Section 10; all in T109N-R47W. This permit authorizes irrigation of 36 new acres located in the SW 1/4, W 1/2 SE 1/4 Section 10-T109N-R47W from the existing well. This permit does not authorize any increase in the developed diversion rate.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.
3. The date from which applicant may claim right is February 11, 2015.
4. The date of approval of Permit No. 8134-3 is May 26, 2015.
5. One-fifth of the construction is to be completed on or before November 26, 2017.
6. All construction is to be completed on or before May 26, 2020.
7. Water is to be put to beneficial use on or before May 26, 2024.
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 Water Right No. 4213-3 and Permit No. 8134-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

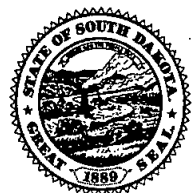
By: *Jeanne Goodman*

Jeanne Goodman, Chief Engineer
Water Rights Program

Department of Environment and Natural Resources

JUN 11 2015

date



No. 8134-3

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Application No. 8134-3, Heart Land H B Inc

ADDRESS: COUNTY: Brookings

DATE: June 11, 2015 TELEPHONE

RE: legal description breakdown of additional acres

Using ArcMap and 2014 FSA aerial imagery, the following is a best estimate of the additional acres by quarter-quarter section.

All in Section 10, T109N, R47W

NW ¼ SW ¼	9 acres
NE ¼ SW ¼	2 acres
SW ¼ SW ¼	9 acres
SE ¼ SW ¼	2 acres

NW ¼ SE ¼	7 acres
SW ¼ SE ¼	7 acres

TOTAL	36 acres
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NAME: Eric Humble

Sec 4
T109N
R47W

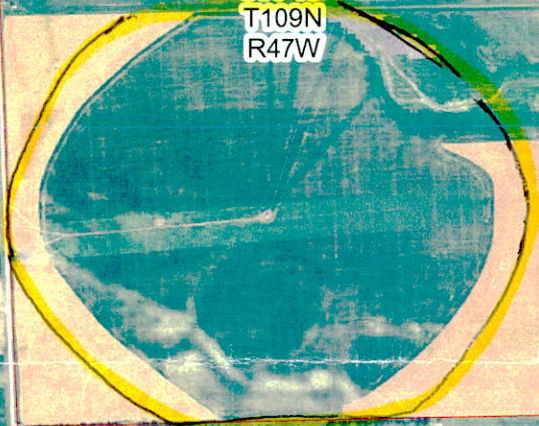
Sec 3
T109N
R47W

Sec 9
T109N
R47W

Sec 10
T109N
R47W

Sec 16
T109N
R47W

Sec 15
T109N
R47W



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/4, 20 15

RECEIVED OF Heartland Hutterian Brethren 2171 100th Ave Lake Benton MN 56149

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

Fee for Application for Permit No. <u>E134-3</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>8134-3</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. 07312

By

Jeanne Sandmen
Chief Engineer



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



No. 4213-3

December 3, 2014

John Wipf
Heartland HBI
2171 100th Ave
Lake Benton MN 56149

Dear Mr. Wipf:

Thank you for returning your 2014 irrigation questionnaire. A notation was made on the questionnaire indicating you "put in used center pivot with corner system".

Water Right No. 4213-3 authorizes 2.00 cubic feet of water per second (900 gallons per minute) from one well located in the SW 1/4 SW 1/4 Section 10 to irrigate 146 acres located in the SW 1/4, W 1/2 SE 1/4 Section 10; all in T109N-R47W (copy enclosed).

The questionnaire indicates you now irrigate 178 acres. This increase in acres will require a new water permit application. Enclosed are the necessary forms to be completed and a map for the location. On the map, please outline the additional acres irrigated. If you are diverting more than 900 gpm, please include the additional amount of water on the application. The application/license fee is determined by the number of new acres irrigated. The fee for irrigation of 0 to 60 acres will be \$500 plus \$200 license fee for a total of \$700.

Obtaining a water permit that accurately reflects your water use ultimately benefits you by protecting your right to use water. If you have any questions, please contact Eric Gronlund or me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program, DENR
605 773-3352

enclosures

2014 Water Management Board Irrigation Questionnaire

Please fill out and return before **December 1, 2014**

REMEMBER! Return of this questionnaire is required whether or not you irrigated this year.

Return the completed form(s) to the Water Rights Program at 523 E Capitol, Pierre, SD 57501 3181 ph. (605) 773 3352 or send your form(s) electronically over the internet at <http://denr.sd.gov/iq.aspx>

Permit No. 4213-3

JOHN WIPF
HEARTLAND HBI
2171 100TH AVE
LAKE BENTON MN 56149

Any address/ownership corrections?

Email _____

Phone _____

1. Did you irrigate in 2014? *yes ☒ **no ☐

*If yes, number of acres irrigated? 178

**If no, check reason(s) for not irrigating acres covered by Permit No. 4213-3

sufficient moisture ☐ no water available ☐

system not constructed ☐ use abandoned ☐

enrolled in CRP ☐, through what year? _____

other ☐, please explain in the Comment Box:

Comment Box

2. If your answer to question No. 1 is "no," you are done! If you answered "yes," please complete Nos. 3, 4 & 5.

3. Did you apply chemicals or fertilizer through the system in 2014? yes ☐ no ☒

4. If more than one water source is listed below, circle each source used. (A) GROUNDWATER

5. Provide your water use on the back of this form.



NWNW	NENW	NWNE	NENE
<u>NW</u>		<u>NE</u>	
SWNW	SENW	SWNE	SENE
NWSW	NESW	NWSE	NESE
<u>SW</u>		<u>SE</u>	
SWSW	SESW	SWSE	SESE

1 square mile

Office use only

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Acreage permitted for irrigation under No. 4213-3

(see above section map for help reading legal descriptions)

sec 10-T109N-R47W, NW1/4SW1/4 - 26.00 acres

sec 10-T109N-R47W, NE1/4SW1/4 - 38.00 acres

sec 10-T109N-R47W, SW1/4SW1/4 - 26.00 acres

sec 10-T109N-R47W, SE1/4SW1/4 - 38.00 acres

sec 10-T109N-R47W, NW1/4SE1/4 - 9.00 acres

sec 10-T109N-R47W, SW1/4SE1/4 - 9.00 acres

Put in ~~used~~ center Pivot
with Corner System
John Wipf

Please provide your 2014 water use to irrigate the above acreage on the **REVERSE** side of this form.

Type of system used: center pivot ☒ towline ☐ big gun ☐ flood ☐ sprinklers ☐ other _____
(check all that apply)

If more room is needed, copies of this page may be made or complete blank pages and attach to this form.

MONTH IRRIGATED	CROP TYPE	*NUMBER OF ACRES IRRIGATED	PUMP RATE IN GALLONS PER MINUTE	DAYS PER MONTH WATER WAS APPLIED	AVERAGE HOURS PER DAY
MARCH					
APRIL					
MAY					
JUNE					
JULY	Corn	178	1000	12	24
AUGUST	Corn	178	1000	16	24
SEPTEMBER					
OCTOBER					

*Total number of acres irrigated should be the same as your answer in question No. 1 on reverse side of this form.



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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 11, 2015

Heart Land HB Inc.
c/o John Wipf Jr
2171 100th Ave
Lake Benton MN 56149

Dear Mr. Wipf:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation of 36 additional acres to what is authorized by Water Right No. 4213-3. In order to complete the application, the following is required.

- The filing fee for this application will be \$700.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

PAID
FEB 23 2014
BY: 4451

Jenny



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. 8134-3, Heart Land HB 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. 8134-3, Heart Land HB Inc., c/o John Wipf Jr, 2171 100th Avenue, Lake Benton MN 56149.

The Chief Engineer is recommending APPROVAL of Application No. 8134-3 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 Water Right No. 4213-3 and Permit No. 8134-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
May 5, 2015

REPORT TO THE CHIEF ENGINEER
WATER PERMIT APPLICATION NO. 8134-3
Heart Land H.B. Inc.
April 2, 2015

Water Permit Application No. 8134-3 proposes to appropriate water from the Rutland aquifer to irrigate an additional 36 acres from an existing well and pivot currently operating under Water Right No. 4213-3. Water Right No. 4213-3 currently appropriates water at a rate of 2.0 cubic feet per second (cfs) to irrigate 146 acres in the S ½ of Section 10, T109N-R47W. The additional 36 acres proposed by this application will also be located in the S ½ of Section 10, T109N-R47W. Although the applicant does not propose to increase the diversion rate, it is expected that up to 36 additional acre feet of water will be withdrawn annually from the existing well should this application be approved. The existing well was constructed in the SW ¼ of Section 10 to a depth of 168 feet. The section in question is located in Brookings County along the Minnesota border. Consequently, the section is less than one mile wide in the east-west direction and is small enough to be irrigated by a single pivot.

AQUIFER: Rutland aquifer (RUT)

GEOLOGY AND AQUIFER CHARACTERISTICS:

The Rutland aquifer is an “intermediate” (i.e. neither basal nor surficial) glacial outwash aquifer, composed mostly of fine to coarse sand and very fine to medium gravel. The Rutland aquifer occupies subsurface channels that occur roughly from 1400-1690 feet above mean sea level elevation, and water is under confined (artesian) conditions. The Rutland aquifer underlies approximately 240 square miles of Brookings County (Hamilton, 1989) and extends to parts of Deuel County to the north, Moody County to the south, and Lincoln County (MN) to the east. The thickness of the Rutland aquifer varies up to in excess of 40 feet, and the average thickness of the aquifer in Brookings County is estimated to be 15 feet (Hamilton, 1989). Flow within the portion of the aquifer in eastern Brookings County is to the southwest into T109N-R50W, where the Rutland aquifer discharges into the Big Sioux aquifer (Hamilton, 1989).

Water Right No. 4213-3 is licensed to withdraw water from a single well located in the SW ¼ of Section 10, T109N-R47W. Although a well completion report is not available for this well, supplemental information submitted with Water Permit Application No. 4213-3 indicates it was completed to a depth of approximately 168 feet, with the top of the aquifer encountered at 149 feet below ground surface. The static water level at the time of construction was seven feet below ground surface (Water Rights, 2015b). Records from the nearby well associated with Water Right No. 6414-3 show the aquifer is at approximately 145-160 feet below ground surface at that location (Water Rights, 2015b). This depth is consistent with the known characteristics of the existing well owned by the applicant.

SDCL 46-2A-9:

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

the availability of unappropriated water and existing rights from the Rutland aquifer that are pertinent to this application.

WATER AVAILABILITY:

The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.” 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. Here, a public water system is not involved. Therefore, withdrawal/recharge issue must be considered.

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 basically stated that data must be presented to show it is probable the average annual recharge exceeds the average annual discharge by at least the amount requested by the water permit application being considered (*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).

Recharge:

Recharge to the Rutland aquifer probably occurs by leakage of precipitation through glacial till and groundwater movement is generally from the northeast to the southwest. Hamilton (1989) states that “additional studies would be necessary to delineate areas and quantities of recharge.” However, Hamilton estimates the amount of subsurface outflow through the Rutland aquifer into Moody County to be approximately 6,000 acre-ft/yr. Since recharge to the Rutland aquifer must be more than or equal to outflow, 6,000 ac-ft/yr can be considered a minimum average recharge rate.

Discharge:

Discharge from the Rutland aquifer is known to occur as subsurface flow to the Big Sioux aquifer (Hamilton, 1989) and well withdrawals. There are currently 19 water rights/permits appropriating water from the Rutland aquifer (Water Rights, 2015b) including two commercial water rights, three domestic water rights/permits, and 14 irrigation water rights/permits. Withdrawals by non-irrigation water rights/permits can be estimated by assuming water is

withdrawn at the maximum diversion rate 60 percent of the time. Using this assumption, non-irrigation water rights/permits are estimated to withdraw approximately 716.7 ac-ft/year. Historic irrigation use for the Rutland aquifer is listed in Table 1. The average irrigation usage since development of the aquifer began is 413.9 ac-ft/yr. However, the level of development and the number of water permits/rights appropriating water from the aquifer has been steadily increasing since the Rutland aquifer was delineated and the first permit was approved in 1989. Although the Water Rights Program recognized water was being diverted from the Rutland aquifer in 1989, several water rights/permits were completed into the aquifer before this time but were permitted under the Big Sioux aquifer (notably Water Right Nos. 3047-3, 3876-3, and 4213-3). Their official source (the Rutland aquifer) was later recognized and updated in the mid 1990's.

The average ratio of water applied to irrigated land by water permits/rights appropriating water from the Rutland aquifer to the total volume appropriated averages 0.11 or 11 percent for those water rights/permits recognized as having wells completed into the aquifer. Using this average ratio of application vs. appropriation and the current level of appropriation in the Rutland aquifer, it can be expected that the rate of water withdrawn from the aquifer for irrigation use in future years will be closer to 714.2 ac-ft/yr. Combined with expected non-irrigation use, the total rate of withdrawal from the aquifer is expected to be approximately 1,430.9 ac-ft/yr.

YEAR	NO. OF PERMITS	APPROPRIATION (ac-ft/yr)	REPORTED WITHDRAWALS (ac-ft/yr)
1989	1	160	0
1990	1	160	26
1991	1	160	6
1992	1	160	12
1993	4	2342	19
1994	5	2738	266.87
1995	5	2738	1.77
1996	5	2738	160.86
1997	5	2738	311
1998	5	2738	596.69
1999	5	2738	296.36
2000	5	2738	600.47
2001	4	2434	367.68
2002	4	2434	317.68
2003	4	2434	464.46
2004	6	3034	281.43
2005	9	4428	190.9
2006	9	4428	498.36
2007	9	4860	901.93
2008	9	4860	1141.48
2009	11	5880	875
2010	11	5880	153.2
2011	11	5406	485.76
2012	11	5406	1183.3
2013	13	6486	781.5
2014	13	6486	822
<i>min</i>	<i>0</i>	<i>160</i>	<i>0</i>
<i>max</i>	<i>13</i>	<i>6486</i>	<i>1183.3</i>
<i>avg</i>	<i>6.4</i>	<i>3330.9</i>	<i>413.9</i>

Table 1: Historic water usage by irrigation permits/rights from the Rutland aquifer (Water Rights, 1990-2015).

Water Balance:

Total expected average annual withdrawals from the Rutland aquifer including irrigation and non-irrigation use equals 1,130.6 ac-ft/yr. However, given the increasing level of development over the period of record, annual withdrawals are expected to be closer to 1,430.9 ac-ft/yr. Both these withdrawal rates (the historic average and the estimate based on recent development) are below the estimated recharge rate based on Hamilton's (1989) estimated outflow rate of 6,000 ac-ft/yr. Therefore, there is a reasonable probability that unappropriated water is available from the Rutland aquifer for the use proposed in Water Permit Application No. 8134-3.

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 DENR-Water Rights Program monitors four observation wells in the Rutland aquifer, the hydrographs for which are shown in Figures 1 through 4. Of these wells, Observation Well BG-78E is the closest to the existing well site for Water Right No. 4213-3 and Water Permit Application No. 8134-3 at approximately 3.5 miles to the northwest (Water Rights, 2015a). The hydrograph for Observation Well BG-78E shows water levels with visible seasonal drawdown but which recover annually. Water levels in Observation Wells BG-78F and BG-80I also show strong seasonal drawdown but also show good annual recovery. Water levels in Observation Well BG-2005A do not display the same seasonal drawdown and appear to be entirely controlled by climatic conditions (Water Rights, 2015a). The water levels in three of the four observation levels (BG-2005A excluded) show declining trend lines over the period of record. However, despite increased seasonal drawdown in recent years, there has been good annual recovery and water levels are not appreciably lower now than when the wells were completed over 30 years ago.

Hamilton (1989) documents a connection between the Rutland and the overlying Big Sioux aquifer in the area. In addition, several wells initially thought to be completed into the Big Sioux aquifer (prior to 1989) have been reevaluated and are now are now recognized as having been completed into the Rutland. However, seasonal variation in observable water levels does not have a strong correlation with the rate of pumping from the Big Sioux aquifer as a whole or from those wells known to have been completed into the Rutland aquifer (but initially filed as pumping from the Big Sioux aquifer) over the first decade of observation well data. Consequently, it is assumed that historic (prior to 1989) seasonal variation is primarily the result of climatic conditions rather than the rate of pumping from the Rutland aquifer or hydraulically connected Big Sioux aquifer. Comparing Table 1 with Figure 3, however, shows that recent (since 2001) pumping from the Rutland aquifer has a strong correlation to seasonal variation in observation wells completed into that aquifer. In addition, Observation Well BG-80I has not been in close proximity to any high production wells over the period of record yet shows strong seasonal variation in water levels. Since similar variations in water levels can be seen in Observation Wells BG-78E and BG-78F, it is likely that recent observed annual fluctuations are indicative of an overall seasonal decrease in water levels in the aquifer and not the result of localized drawdown from individual wells. Because of the recent strong correlation between pumping and water levels, and the consistency in water levels in three of the four observation wells completed into the Rutland, it is likely that drawdown as a result of overall pumping over the last 15 years (which has reached an historic high) has eclipsed natural annual variation and is now the primary driver of seasonal fluctuation in water levels. Therefore, the recent unprecedented amplitude of annual variation is more likely the result of general (as opposed to local) pumping from the Rutland aquifer rather than natural climatic cycles.

Ultimately, observation well data shows good annual recovery and maximum water levels in the aquifer that respond primarily to climatic conditions on the long term, indicating natural recharge

and outflow eclipse anthropogenic discharge from the aquifer, even though recent annual drawdown is likely the result of pumping. Therefore, natural outflow is available for capture, meaning unappropriated water is available for the proposed use.

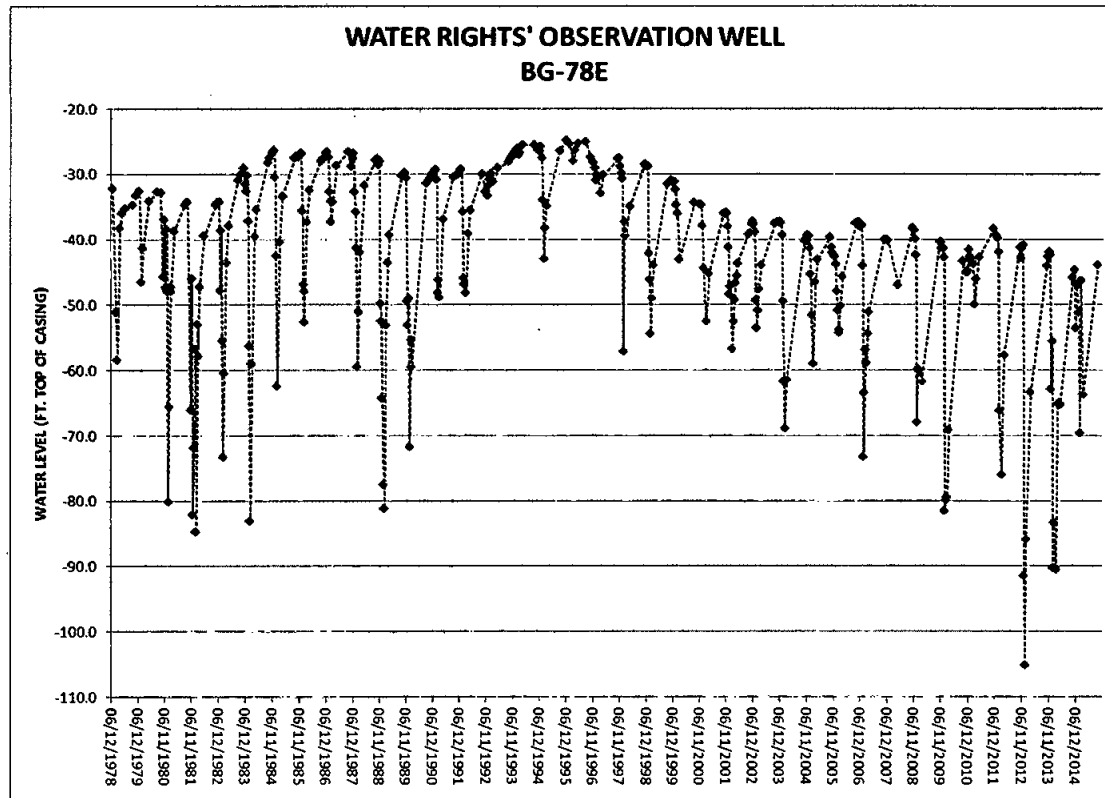


Figure 1: Historic water levels in Observation Well BG-78E (Water Rights, 2015a).

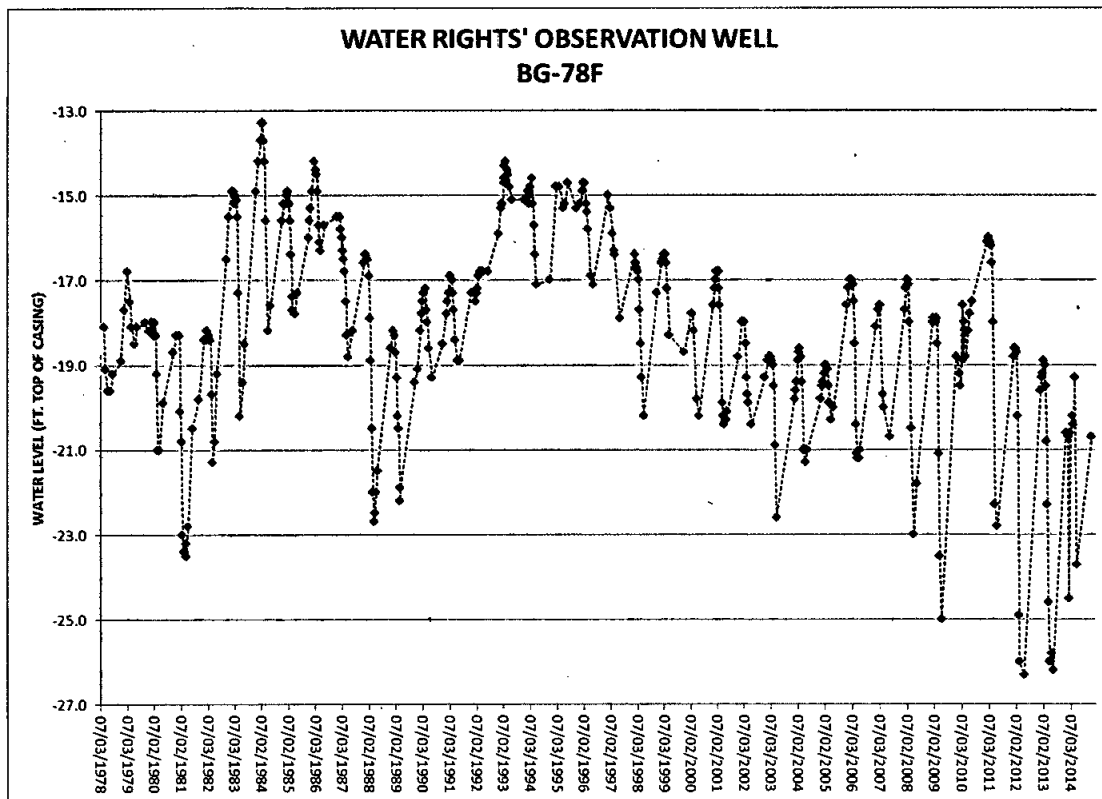


Figure 2: Historic water levels in Observation Well BG-78F (Water Rights, 2015a).

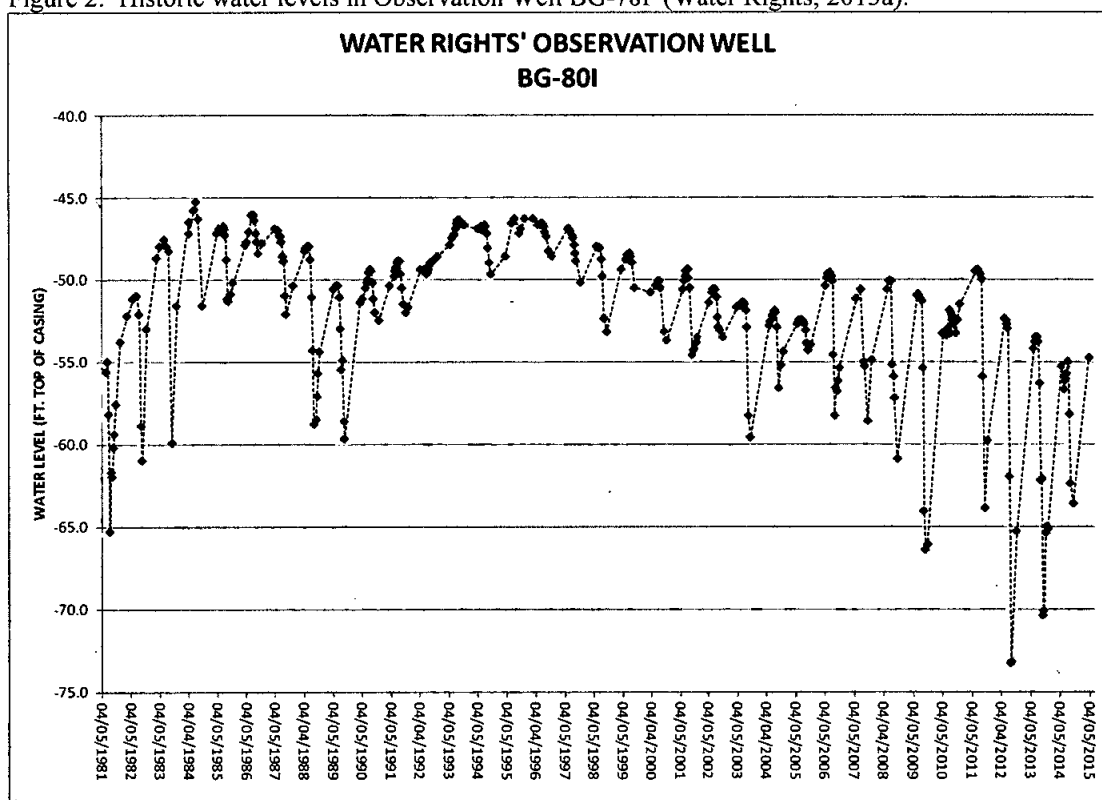


Figure 3: Historic water levels in Observation Well BG-80I (Water Rights, 2015a).

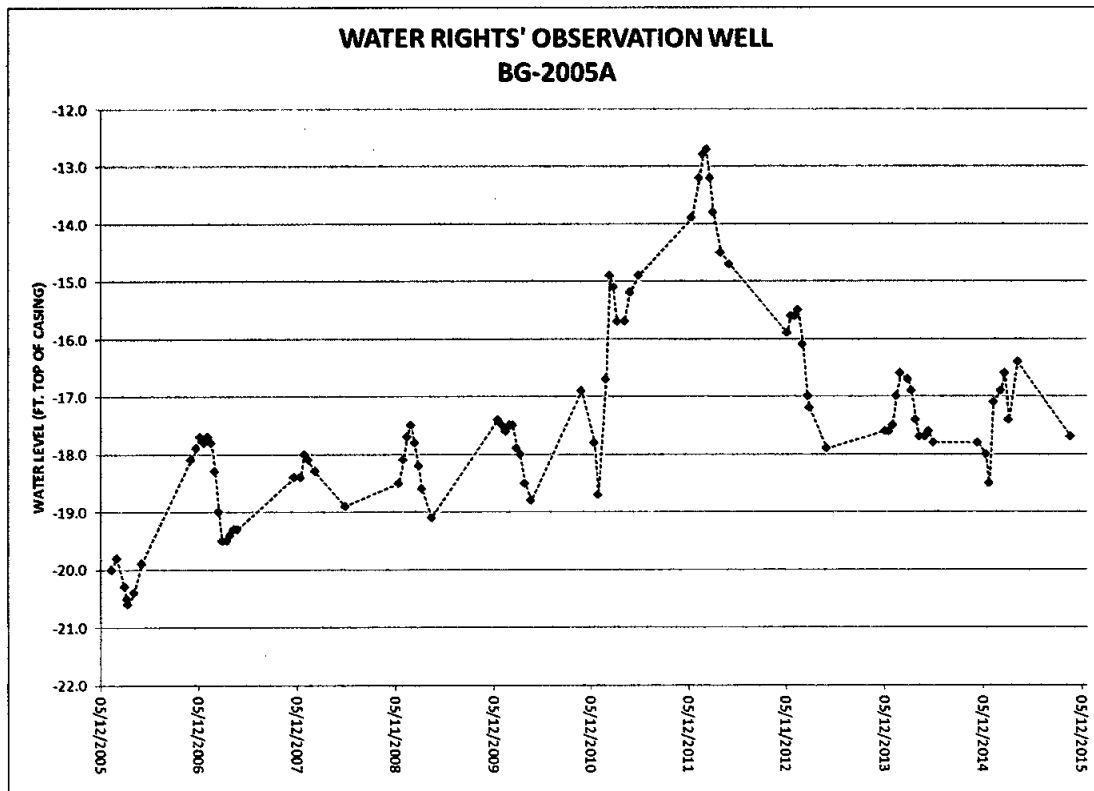


Figure 4: Historic water levels in Observation Well BG-2005A (Water Rights, 2015a).

EXISTING WATER RIGHTS:

Currently, there are 19 water permits/rights appropriating water from the Rutland aquifer (Water Rights, 2015b). Of these, the closest is Water Right No. 6414-3, located approximately 3,000 feet to the north of the existing well site. Assuming the applicant will apply approximately one acre-foot of water per irrigated acre, the addition of 36 acres to the land already being irrigated will be the equivalent of pumping an additional 0.10 cfs continuously over the irrigation season. With a transmissivity of approximately 38,000 gallons per day per foot (calculated from well logs submitted with Water Permit Application No. 7589-3) and an assumed storativity value of 0.0001, the drawdown at 3,000 feet from the proposed well (the distance to the nearest well) as a result of pumping at the proposed rate was calculated to be less than two feet over the irrigation season.

The Rutland aquifer is under confined conditions in this area. Consequently, drawdown from pumping affects the water level (i.e. artesian pressure) of the aquifer over a fairly large area. Hydrographs for DENR-Water Rights' observation wells document water level fluctuations in the Rutland aquifer of 10-20 feet due to seasonal pumping (see Figures 1-4) with the hydrograph for observation well BG-78E (Figure 1) showing over 50 feet of drawdown resulting from pumping of two nearby irrigation wells 2012. However, water levels recover annually and appear to be controlled on the long term primarily by climatic conditions.

In the area of the proposed well site, there is likely at least 50 feet of artesian head pressure (Water Rights, 2015c) in the aquifer. South Dakota Codified Law (SDCL) 46-6-6.1 does not protect artesian head pressure as a means of delivery, and the Water Management Board has

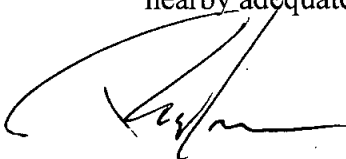
consistently recognized that to place water to maximum beneficial use a certain amount of drawdown may occur. South Dakota Supreme Court ruled that although SDCL 46-6-6.1 does not require irrigation to be regulated to absolutely protect artesian pressure for domestic uses, reasonable domestic use must be assured (*Fraser v. Water Rights Commission of Dept. of Natural Resource Development*, 1980, 294 N.W.2d 784). In order to balance interests between irrigation use and delivery of water by artesian pressure the Water Management Board 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"

Similarly, nearby adequately constructed domestic wells are not expected to be impaired if Water Permit Application No. 8134-3 is approved.

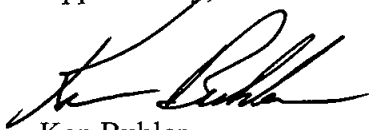
CONCLUSIONS:

1. Water Permit Application No. 8134-3 proposes to withdraw groundwater from an existing well held under Water Right No. 4213-3, completed into the Rutland aquifer. Water Permit Application No. 8134 proposes to use this existing well to irrigate an additional 36 acres beyond the 146 acres already irrigated under Water Right No. 4213-3, for a total of 182 acres in the S ½ of Section 10, T109N-R47W.
2. Water Permit Application No. 8134-3 does not propose to increase the diversion rate authorized by Water Right No. 4213-3. However, an addition of 36 irrigated acres is expected to increase the annual amount of water withdrawn from the existing well by 36 ac-ft.
3. There is a reasonable probability that unappropriated water is available from the Rutland aquifer to supply the proposed appropriation.
4. The increase in the annual volume of water pumped is not expected to adversely impair nearby adequate wells.



Bracken Capen
SD DENR-Water Rights Program

Approved by,



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Hamilton, L.J. 1989. Water Resources of Brookings and Kingsbury Counties, South Dakota. Water-Resources Investigations Report 88-4185, 82 p. USGS, Huron, South Dakota.
- In the Matter of Water Permit Application No. 7209-3, Longview Farms, LLP v. South Dakota DENR, South Dakota First Judicial Court Civ. No. 11-146 (Memorandum Decision, May 17, 2012).
- In the Matter of Water Permit Application No. 7239-3, Hanson County Dairy v. Robert Bender and Stace Nelson, South Dakota First Judicial Court Civ. No. 11-54 (Memorandum Decision, April 11, 2012).
- In the Matter of Water Permit Application No. 6431-3, Phillip W. Hines v. South Dakota DENR, South Dakota Sixth Judicial Court Civ. No. HU04-37 (Memorandum Decision, April 11, 2012).
- Water Rights. 1990-2015. "Annual Irrigation Summary by Aquifer": SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2015a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2015b. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2015c. Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

RECEIVED

JUN - 5 2015

WATER RIGHTS
PROGRAM

10/

Affidavit of Publication

State of South Dakota

ss

County of Brookings

Katherine Ishol of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

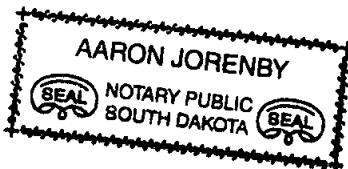
Leg#737 App No 8134-3 to Appropriate Water

same was published, is hereto attached marked Exhibit said newspaper for _____ 1 times, to-wit:

May 13, 2015

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Twenty six dollars and fifty five cents \$26.55



14th

day of

May

2015

Notary Public in and for the County of Brookings, South Dakota.

My Commission expires February 22, 2020.

Legal 737, 1x, 5/13
E> NOTICE OF APPLICATION NO. 8134-3 to Appropriate Water
Notice is given that Heart Land HB Inc., c/o John Wipf, Jr, 2171 100 Ave, Lake Benton MN 56149 has filed an application to irrigate 36 new acres. Water Right No. 4213-3 appropriates 2.0 cubic feet of water per second from one well completed into the Rutland Aquifer (168 feet deep) located in the SW 1/4 SW 1/4 Section 10 for irrigation of 146 acres located in the SW 1/4 and W 1/2 SE 1/4 Section 10; all in T109N-R47W. This application proposes to irrigate 36 new acres located in the SW 1/4, W 1/2 SE 1/4 Section 10-T109N-R47W from the existing well. This application, if approved, does not authorize any increase in the developed diversion rate. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8134-3 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 May 26, 2015.

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 Grontund 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 \$26.55.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

May 5, 2015

Brookings Register
PO Box 177
Brookings SD 57006

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 8134-3 to Appropriate Water. Please publish the notice once on May 13, 2015. 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 Heart Land HB Inc., c/o John Wipf, Jr, 2171 100 Ave, Lake Benton MN 56149 (Ph # 507-368-9589).

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

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

May 5, 2015

Heart Land HB Inc
John Wipf Jr
2171 100 Ave
Lake Benton MN 56149

Dear Mr. Wipf:

Water Permit Application No. 8134-3 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 Brookings Register printed at Brookings SD (Ph # 605-692-6271). 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 May 13, 2015. 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. 8134-3 to Appropriate Water

Notice is given that Heart Land HB Inc., c/o John Wipf, Jr, 2171 100 Ave, Lake Benton MN 56149 has filed an application to irrigate 36 new acres. Water Right No. 4213-3 appropriates 2.0 cubic feet of water per second from one well completed into the Rutland Aquifer (168 feet deep) located in the SW 1/4 SW 1/4 Section 10 for irrigation of 146 acres located in the SW 1/4 and W 1/2 SE 1/4 Section 10; all in T109N-R47W. This application proposes to irrigate 36 new acres located in the SW 1/4, W 1/2 SE 1/4 Section 10-T109N-R47W from the existing well. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8134-3 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 May 26, 2015.

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 _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JUN 11 2015

Heart Land HB Inc
John Wipf Jr
2171 100th Ave
Lake Benton MN 56149

Dear Mr. Wipf:

Enclosed is Water Permit No. 8134-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

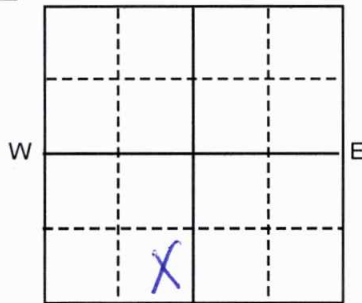
enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SE 1/4 SW 1/4 Sec 10 Twp 109 Rg 47County Brookings

North

Please mark well
location with an "X"

Well Completion Date

July 21, 2021

1 Mile

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

PROPOSED USE:

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

METHOD OF DRILLING:

MUD ROTARY

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	12.00 IN	0.0 FT	156.0 FT	17.50 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	38	Lb/gal	0.0 Ft	154.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure _____

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 12.00 Inches Length 15.0 FeetMaterial STAINLESS STEELSlot Size 60 Set From 156.0 Feet to 171.0 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?

IRRIGATION WELL ONLY

Lab to which water quality sample sent for analysis

Well Owner: HEARTLAND HUTTERITE COLONY

Business Name: _____

Address: 2171 100TH AVECity, State, Zip: LAKE BENTON MN 56149

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TOP SOIL	0	2
YELLOW CLAY	2	8
GRAVEL COARSE	8	12
YELLOW CLAY	12	23
COARSE GRAVEL	23	26
GRAY CLAY	26	153
SAND AND GRAVEL	153	173
SANDY YELLOW CLAY	173	180

STATIC WATER LEVEL 131.0 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: _____☐ Bailed☐ Other

Pumping Level Below Land Surface

145.8 Ft. After 6.0 Hrs. pumped 250.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

GPS N 44 15.476 W 96 27.737

This well was drilled under license # 475 and this report is true and accurate.Drilling firm: THEIN WELL COMPANY, INC

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

RECEIVED

AUG 09 2021

Date: _____

WATER RIGHTS
PROGRAM

Heartland Hutterite Colony

Legend

HH Test hole # 2 190'  n 44 16.2410 w 96 27.9880

215th St

14

 171' 12" well

 153' 12" well pulled out for non production

487th Ave

216th St

Google Earth

© 2021 Google

3000 ft



Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8134-3

I have this day, May 20, 2021, made a thorough examination of the water use system constructed by Heart Land HB Inc, 2171 100 Ave, Lake Benton, MN 56149 of Permit No. 8134-3, bearing the priority of March 4, 2015 authorizing the diversion of 2.0 cu. ft. per second of the waters of the Rutland Aquifer for irrigation purposes, in Brookings County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Thein Well Co
- 2) No. of Wells 1
- 3) Depth(s) 171 feet (new well drilled in July, 2021, original well plugged)
- 4) Well log is available Y See Section F

Casing:

- 1) Diameter 12 inches
- 2) Length 156 feet
- 3) Type plastic

Screen:

- 1) Type Manufactured - stainless steel
- 2) Length 15 feet
- 3) Static water level 131 feet

Pump:

- 1) Make, model and size unknown
- 2) Capacity 900 GPM

Motor: unknown

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

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Valley
- 2) Overall length 1300 feet
- 3) Number of towers 7
- 4) End gun Y/N – See Section F
- 5) Capacity 900 GPM

Chemigation Equipment: None

D. 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

E. Condition and Location:

1. The system is in good (See Section F) condition with the point(s) of diversion located as follows: From the SW corner of Sec 10 T109N-R47W 1320 ft N & 930 ft E Lat 44.25796 Long -96.46250 (SW ¼ SW ¼ Sec 10).
2. The works are capable of diverting and conveying to the place of use 2.0 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All land in Sec 10-T109N-R47WNW1/4 SW 1/4 - 36 acNE 1/4 SW 1/4 - 40 acSE 1/4 SW 1/4 - 40 acSW 1/4 SW 1/4 - 36 acNW 1/4 SE 1/4 -14 acSW 1/4 SE 1/4 - 14 ac

comprising a total of 180 acres of land and the license should be issued for 2.0 cfs.

3. All structures, wells and lands on map N

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

This Permit involves Water Right 4213-3. A visit with a representative of Heart Land HB (via telephone) indicated that the current center pivot machine does not have a corner leg because it is broken and residing at the edge of the field which was verified by this inspector during the site visit. He said that they are waiting for parts to repair the corner leg which will have a GPS tracking ability. So the pivot did not operate with the corner leg in 2020. Hopefully the pivot will have an operational corner leg in 2021. They are also planning to construct a new well within 50 feet of the current well this year as the current well is "getting old". The irrigated acres were determined by using FSA photos and ArcMAP software.



Darrell W DeBoer
Water Rights Inspector
DANR, Water Rights Program

Date report completed: May 24, 2021

Applicable portions of Water Right No. 4213-3 will be incorporated into Water License No. 8134-3. A priority date of January 6, 1978 will be retained for 2.00 cfs & 146 acres. A priority date of February 11, 2015, will be assigned to 34 acres.

Genny



0 0.125 0.25 0.5 0.75 1 Miles



Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program

8134-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

JUL 18 2022

8134-3
4213-3

John Wipf Jr
Heart Land HB Inc
2171 100th Ave
Lake Benton MN 56149

Dear Mr. Wipf:

Enclosed is Water License No. 8134-3. 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, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

enclosures

Note: Upon licensing, the applicable portions of Water Right No. 4213-3 were incorporated into Water License No. 8134-3.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 8134-3

(1) Heart Land HB Inc., 2171 100th Ave., Lake Benton MN 56149 made Application No. 8134-3, February 11, 2015, for a water permit to irrigate an additional 36 acres utilizing an existing well (Rutland Aquifer) authorized under Water Right No. 4213-3. The project is located in Brookings County, South Dakota. Permit No. 8134-3, with a priority date of February 11, 2015, was approved May 26, 2015, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 26, 2020, and for the application to beneficial use of water on or before May 26, 2024.

Water Right No. 4213-3 with a priority date of January 6, 1978, authorizes diversion of 2.00 cubic feet of water per second (cfs) from one well to irrigate 146 acres. No. 8134-3 increased the acreage but did not allow for an increase in the developed diversion rate.

The applicable portions of Water Right No. 4213-3 are incorporated into Water License No. 8134-3.

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

- 1,320'N & 930'E of the SW corner of Sec 10, T109N, R47W (SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 10)
Latitude 44.25796, Longitude -96.46250

(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:

T109N, R47W Section 10	NW $\frac{1}{4}$ SW $\frac{1}{4}$	36 acres	NW $\frac{1}{4}$ SE $\frac{1}{4}$	14 acres
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$	14 acres
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres		
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	36 acres		
Total 180 acres				

Priority dates: February 11, 2015 (34 acres) as established under No. 8134-3
January 6, 1978 (146 acres and 2.00 cfs) as established under No. 4213-3

(4) Pursuant to South Dakota Water Law 46-5-30.1 Heart Land HB Inc, 2171 100th Ave., Lake Benton MN 56149 the holder and/or owner of Incorporated Water Right No. 8134-3 is issued a license to appropriate water, the right to use 2.00 cubic feet of water per second from ground water, one well (Rutland Aquifer) with priority dates of January 6, 1978 and February 11, 2015, from the location specified in (2) of this license for irrigation purposes.

continued

This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Right No. 8134-3 and subject to the following qualifications:

- The well approved under this water right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this water right 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.
- This Water Right is approved subject to the irrigation water use questionnaire being submitted each year.

Eric Gronlund

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

JUL 18 2022

date

