

WATER PERMIT NO. 8162-3

Name of Applicant: **Don Schellpfeffer**

Address: **26912 Baker Park Place, Sioux Falls SD 57108**

Phone: **605 321-9798**

Amount of Water Claimed: **1.78 cfs**

Total Acres: **122.65**

Source of Water Supply: **groundwater (2 wells)**

Water to be used for: **irrigation**

County: **Clay**

Type of Waste Disposal System:

Location: **20 miles northwest of Vermillion**

PRIORITY

Date Received: **4-30-14**

Application/License Fee: **\$ 1050**

Corrected Application Received: **5-28-15**

Period of Annual Use: **June 1 – September 30**

Remarks: **Requesting a diversion rate greater than statutory limit**

Diversion Point: **approximate center of SW 1/4
and NW 1/4 SW 1/4 Sec 9-T94N-R53W**

Land to be Irrigated: **SW 1/4 Sec 9-T94N-R53W**

Depth of Well: **120 feet deep**

Well Driller: **Hammond-Wetmore Drilling**

Remarks:

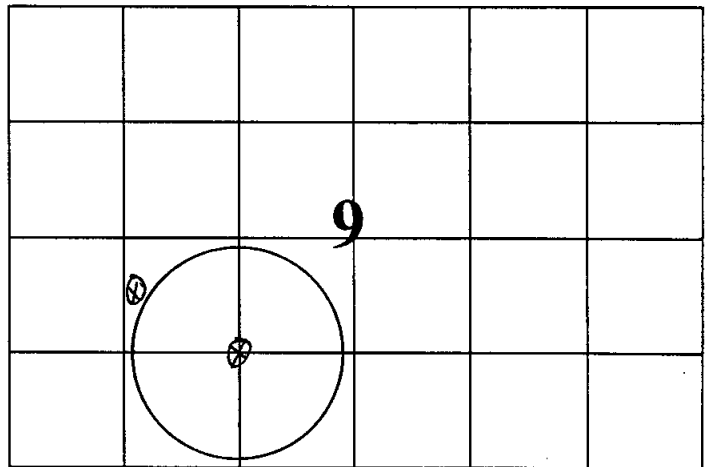
Type of Map: **topo**

Prepared by:

Reviewed and the Number Assigned on: **5-28-15**

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

No. 8162-3 (office use only)
Hydrologic Unit 10170102
Basin Vermillion River 605-624-2695
Newspaper Plain Talk, 201 W Cherry Vermillion
605-665-0781 57069
Press of Dakotan, 319 Walnut Yankton 57078

RECEIVED
APR 30 2014
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit Don Schellpfeffer
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent The Donschell Family LTD. Art. L.L.P.
(name and complete address if different than above name)
Mailing Address 26912 Baker Park Place Sioux Falls, SD 57108
(Address) (City) (State) (Zip Code)
Home Phone 605-331-3861 Cell 605 321-9778 Email DSchellpfeffer@SFSH.Com
2. Amount of water claimed _____ *CFS or 800 **GPM _____ ***AF Total Acreage 122.65
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Well
4. Location of point of diversion 2 wells SW 1/4 9-94-53
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
(approximate center SW 1/4 & NW 1/4 SW 1/4) County Clay
5. County or counties where water will be used Clay
6. Annual period during which water is to be used June 1 - September 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>SW 1/4 - Sec. 9-94-53</u>	<u>122.65</u>		

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

Install pivot in center of quarter
Requesting diversion rate greater than statutory limit

Donald Schellpfeffer, 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. 8162-3**

Date of first receipt of application April 30, 2014.

Date of return to applicant for corrections, amendments or changes April 30, 2014.

Date of receipt of corrected application May 28, 2015.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8162-3 to Don Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 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. 8162-3 appropriates 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Niobrara Aquifer (120 feet deep) located in the approximate center of the SW 1/4 and the NW 1/4 SW 1/4 Section 9 for irrigation of 122.65 acres located in the SW 1/4 Section 9; all in T94N-R53W.
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: June 1 – September 30.
3. The date from which applicant may claim right is May 28, 2015.
4. The date of approval of Permit No. 8162-3 is August 17, 2015.
5. One-fifth of the construction is to be completed on or before February 17, 2018.
6. All construction is to be completed on or before August 17, 2020.
7. Water is to be put to beneficial use on or before August 17, 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 wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights. Approval of this permit does not guarantee a maximum diversion rate of 1.78 cfs.
2. The wells authorized by Permit No. 8162-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8162-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 122.65 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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

AUG 27 2015
date



1. Well Information

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

- a) If new wells, how many 2 Have test holes been drilled ☒ Yes ☐ No Drilled by Heine Electric + Irr.
(if yes, please provide copies of logs)
- b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____
- c) Well Depth 120 Depth to Top of Water Bearing Material 47 Depth to Water from Surface 28
- d) Distance to nearest existing domestic well:
- On applicant's property na On property owned by others unknown, > 2,500'

2. Wastewater Disposal System Information

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

3. Dugout Information

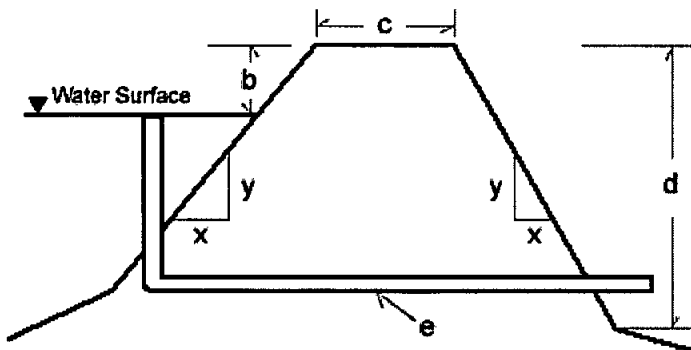
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

--



- b) Freeboard _____
- c) Crest Width _____
- Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
- If pipe, diameter _____
- f) Secondary Spillway Capacity _____
- Spillway Width _____
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
- Upstream _____
- Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

Clay County

W

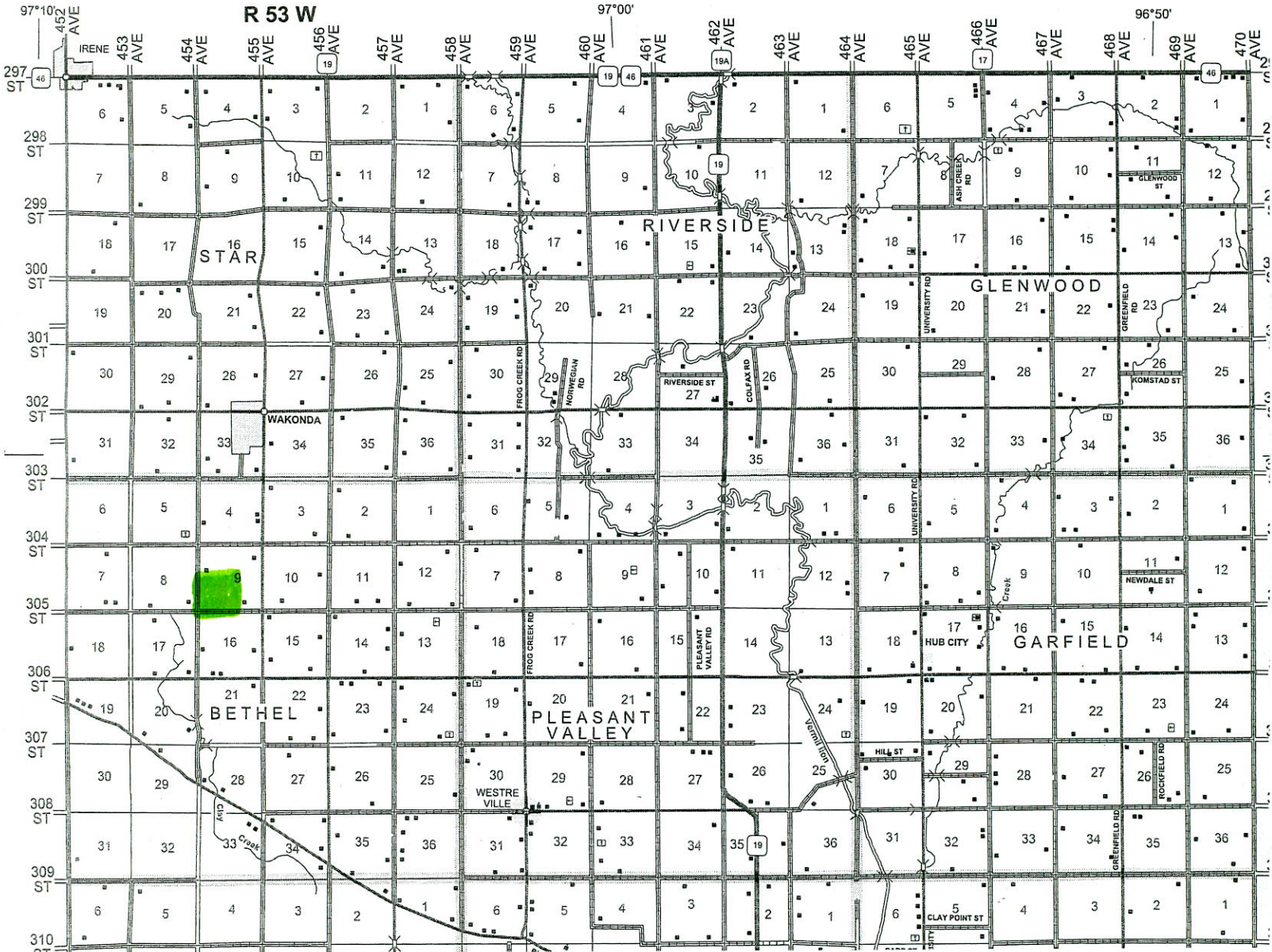
TURNER COUNTY

R 52 W

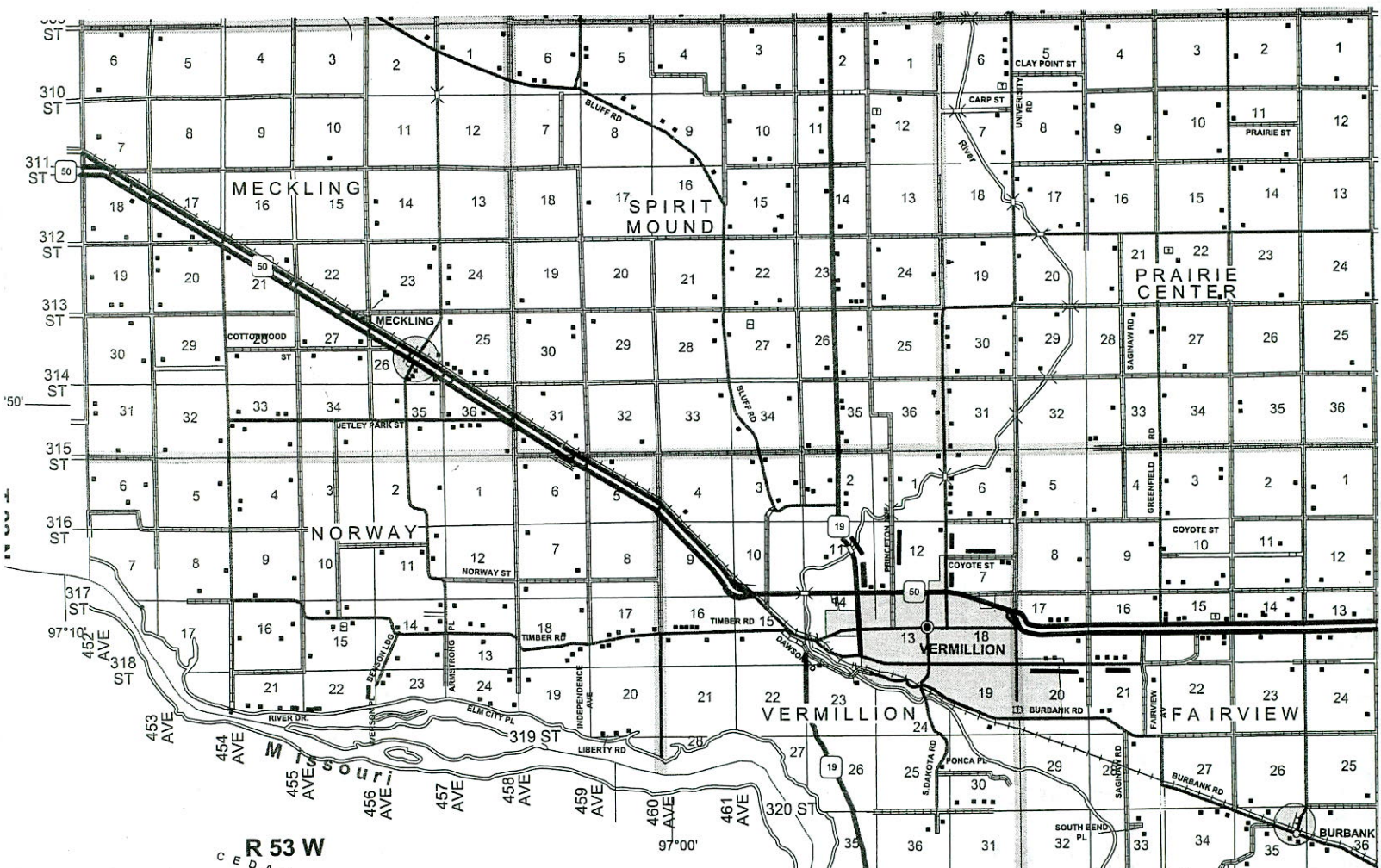
LINCOLN COUNTY

R 51 W

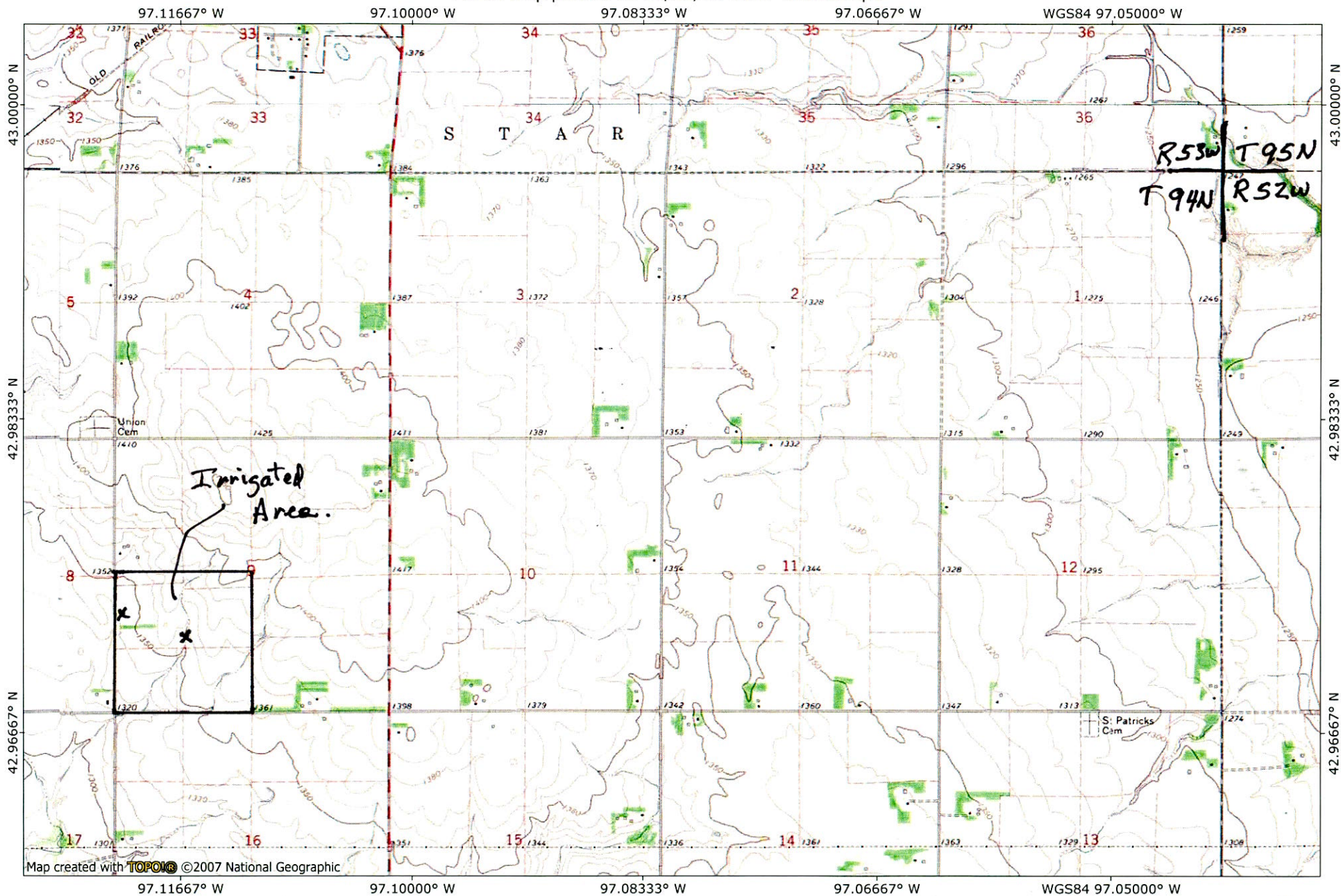
R 53 W



RECEIVED



TOPO! map printed on 05/22/15 from "Untitled.tpo"



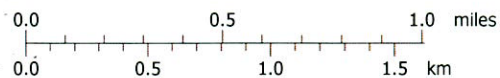
Map created with TOPO! © 2007 National Geographic



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MAY 28 2015

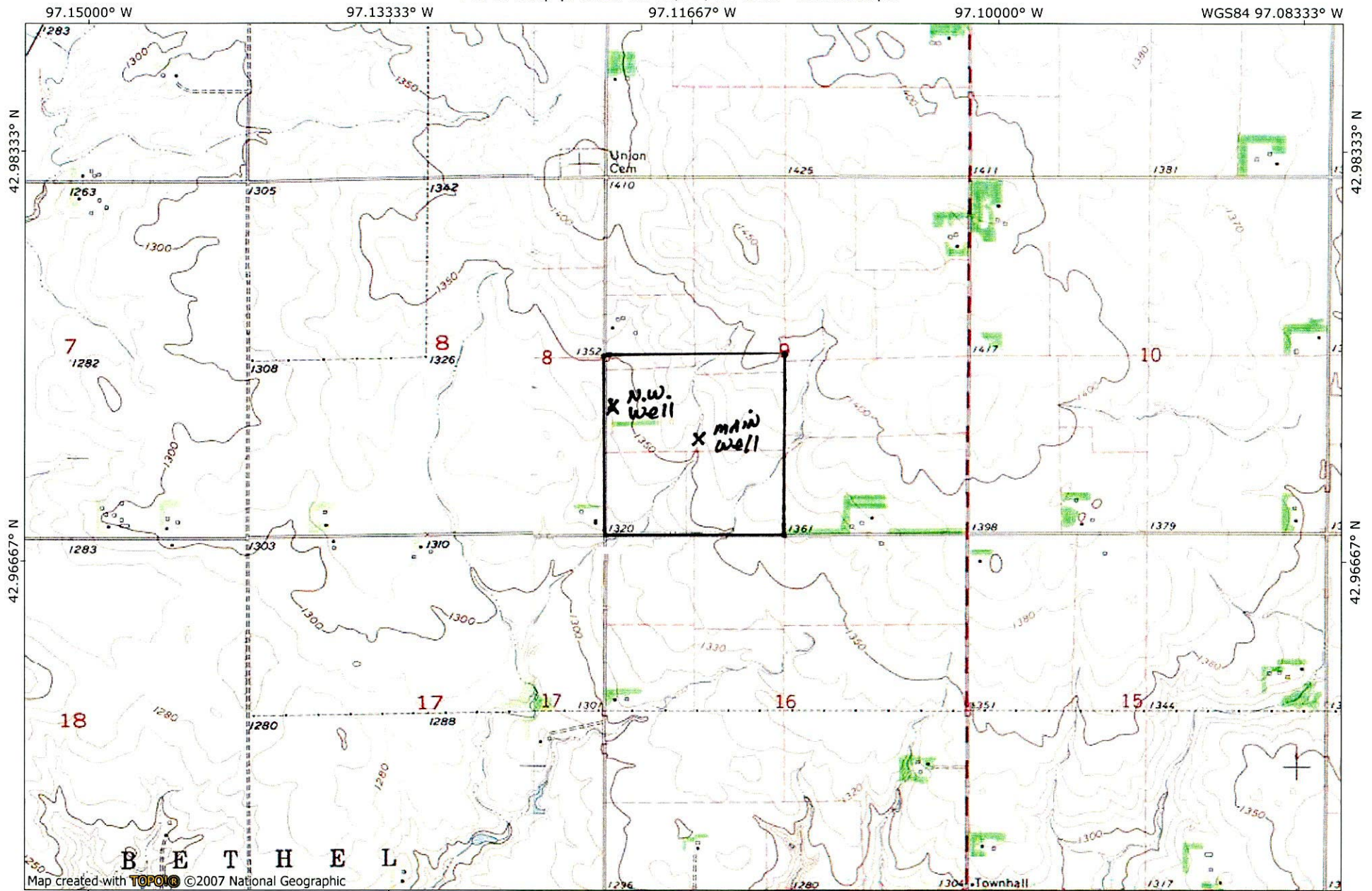
WATER RIGHTS
PROGRAM



TN MN
3 1/2°
05/22/15

RH Hand GPG 8272

TOPO! map printed on 05/22/15 from "Untitled.tpo"



Map created with TOPO! © 2007 National Geographic

NATIONAL GEOGRAPHIC
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MAY 28 2015

WATER RIGHTS

N.W. Well at 43° 58' 22.86"
97° 07' 15.34"
main well at 42° 58' 16.20"
97° 06' 58.95"

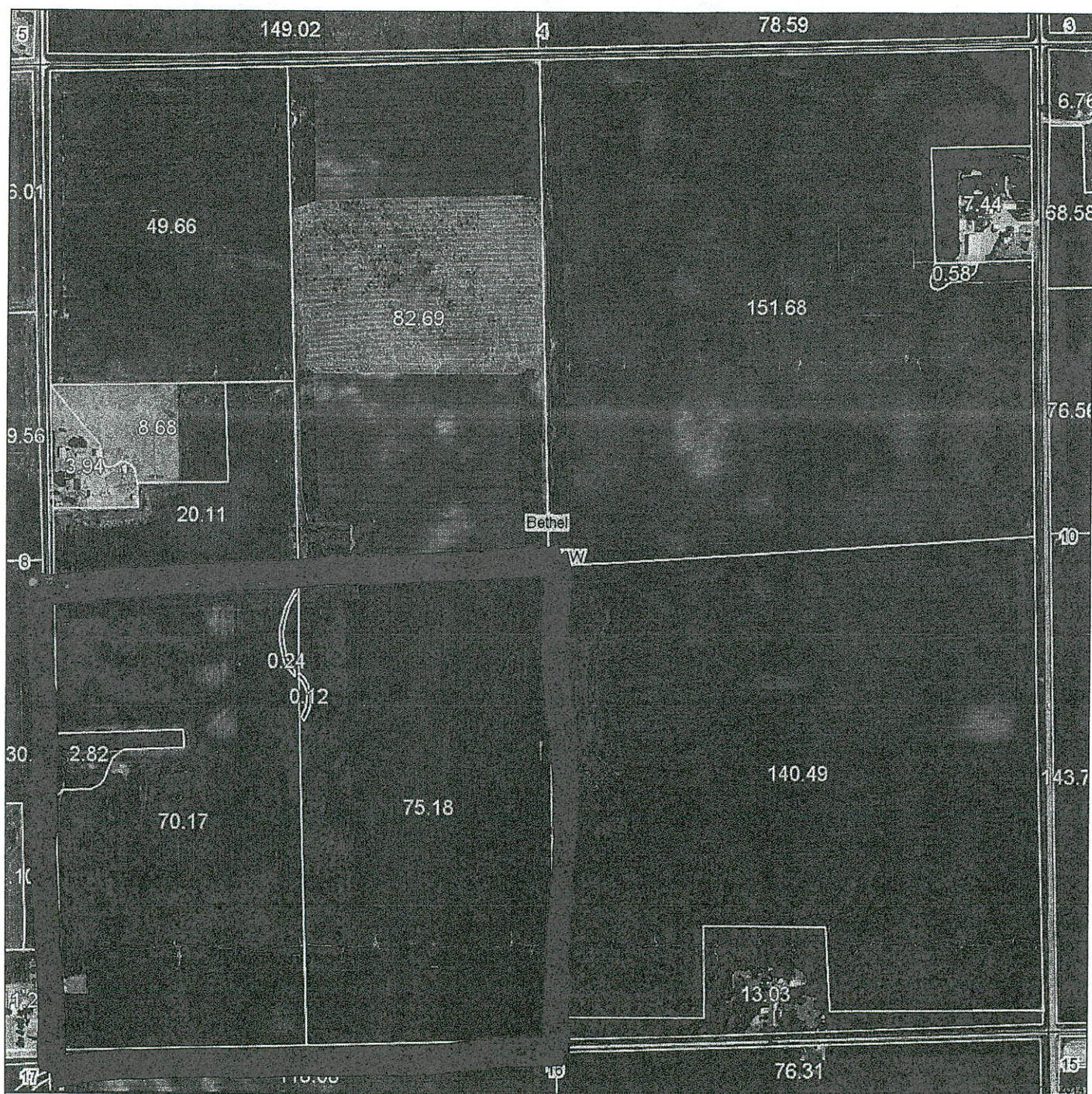
0.0 0.5 miles
0.0 0.5 1.0 km

outlined area is irrigated area
(SW 1/4 of T94N, R53W)

R. A. Hammond CP6 8272

TN MN
3 1/2°
05/22/15

Aerial Map



map center: 42° 58' 30.11, 97° 6' 41

scale: 9500

Maps Provided By:

surety
CUSTOMIZED ONLINE MAPPING
© AgriData, Inc. 2013 www.AgriDataInc.com

9-94N-53W
Clay County
South Dakota

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1/30/2014

Field borders provided by Farm Service Agency as of 5/21/2008. Aerial photography provided by Aerial Photography Field Office.

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WATER RIGHTS
PROGRAM

Lindsay Manufacturing Co.



2707 North 108th Street
Omaha, NE 68164
800 - 829 - 5300 office

Farm: Field1

Grower: Kelly O'Connor

1/29/2014

Systems:	Length	Spans	Total area including endgun
● Pivot 1	1237.92 ft	7 spans + 44 ft o.h.	122.65 acres



Test #1 (main well site)

SD EForm - 1621LD V1

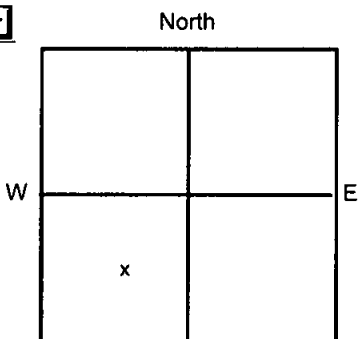
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location ne 1/4 sw 1/4 Sec 9 Twp 94n Rg 53w

County Clay

Please mark well location with an "X"



Well Completion Date

11/21/2014

1 Mile

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

<2500 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Direct Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other

If other describe none

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	4.5 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	4	9.4 Lb/gal	0 Ft	80 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: Don Schelpepper

Business Name: _____

Address: _____

City, State, Zip: Sioux Falls ☒ SD ☒

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, brown	0	3
Clay, brown, silty, pebbly	3	19
Clay, dk gray, silty, pebbly	19	47
Chalk, gray, hard	47	80
heavy water loss below 64 feet		

STATIC WATER LEVEL

20 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

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MAY 28 2015

WATER RIGHTS PROGRAM

This well was drilled under license # 666 and this report is true and accurate.

Drilling firm: Hammond Wetmore Drilling LLC

Signature of License Representative:

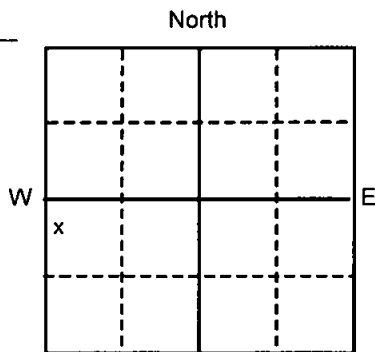
Richard H. Hammond

Signature of Well Owner or Equitable Property Holder:

Date: 11/27/2014

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location nw 1/4 SW 1/4 Sec 9 Twp 94n Rg 53wCounty ClayPlease mark well
location with an "X"

Well Completion Date

12/29/14

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

1,000.0 ft. from Septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Bucket method

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>16.00</u> IN	<u>0.0</u> FT	<u>45.0</u> FT	<u>20.00</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>bentonite</u>	<u>20</u>	<u>9.5</u> Lb/gal	<u>0.0</u> Ft	<u>40.0</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 16.00 Inches Length 75.0 FeetMaterial pvcSlot Size .085 Set From 45.0 Feet to 120.0 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? hth tablets
☐ No, Why Not?
Lab to which water
quality sample sent for analysisWell Owner: Don SchellpfefferBusiness Name: Don Schell Family LLPAddress: 26912 Baker Park PlaceCity, State, Zip: Sioux Falls SD 57108

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, dk brown	0	2
Clay, brown, pebbly, Till	2	20
Clay, gray, pebbly, till	20	45
Chalk, gray, wet	45	63
Chalk, gray, very hard, brittle	63	120

STATIC WATER LEVEL 18.0 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

99.0 Ft. After 5.0 Hrs. pumped 125.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: 100.0 GPM

REMARKS

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MAY 28 2015

WATER RIGHTS

PROGRAM

This well was drilled under license # _____ and this report is true and accurate.

Drilling firm: Hammond Wetmore Drilling, LLC.

Signature of License Representative:

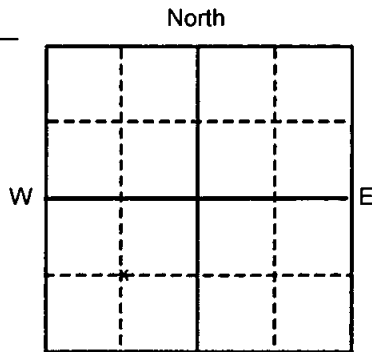
Signature of Well Owner or Equitable Property Holder:

Date:

12/30/2014

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location ne 1/4 SW 1/4 Sec 9 Twp 94n Rg 53wCounty ClayPlease mark well
location with an "X"

Well Completion Date

12/16/14

 Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,500.0 ft. from Septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Bucket method

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
	16.00	0.0	50.0	20.00

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
		Lb/gal	0.0 Ft	45.0 Ft
bentonite	25	9.5		

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 16.00 Inches Length 70.0 FeetMaterial pvcSlot Size .085 Set From 50.0 Feet to 120.0 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? hth tablets☐ No, Why Not?ab to which water
quality sample sent for analysisWell Owner: Don SchellpfefferBusiness Name: Don Schell Family LLPAddress: 26912 Baker Park PlaceCity, State, Zip: Sioux Falls SD 57108

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, dk brown	0	2
Clay, brown, pebbly, Till	2	25
Clay, gray, pebbly, till	25	48
Chalk, gray, wet	48	100
Chalk, gray, very hard, brittle	100	120

STATIC WATER LEVEL 28.0 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

70.0 Ft. After 5.0 Hrs. pumped 300.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: 250.0 GPM

REMARKS

RECEIVED

MAY 28 2015

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: 12/30/2014

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 4/30, 20 14

RECEIVED OF Donscheil Family LLP 26912 Baker Park Place Sioux Falls SD 57108

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

Fee for Application for Permit No. <u>81102-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>81102-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1050 00

No. **06848**

By Jessie Goodman
Chief Engineer

Entity Detail	File Annual Report	Statement of Change	Forms
Name	THE DONSCHELL FAMILY LIMITED PARTNERSHIP, L.L.P.		Obtain a Certificate of Good Standing
Corporate ID	FR000207		
Incorporation/Qualification Date	1/22/2010		
Home State	SOUTH DAKOTA		
Status	Good Standing		
Last Annual Report	2015		
Corporation Type	Foreign LLP		
Stock Info			
Registered Agent	Documents	Officers	
Registered Agent Name & Address			
DR. DONALD A. SCHELLPFEFFER			
29612 BAKER PARK PLACE			
SIOUX FALLS, SD 57108			



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



April 30, 2014

Don Schellpfeffer
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

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

- Enclosed is the aerial photo map submitted with the application. Please mark the proposed well location with an "X".
- Enclosed is the Form 2A, Supplemental Information. On Item No. 1 regarding the Well Information, please complete c) Well Depth with the proposed well depth. Your well driller should be able to give you an estimate depth for your proposed well location.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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



July 31, 2014

Don Schellpfeffer
Donschell Family Ltd Part LLP
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

On April 30, 2014, you submitted an *Application for Permit to Appropriate Water Within the State of South Dakota* for irrigation in Clay County. You were notified what additional information was required to complete the application. A copy of that letter is enclosed. To date, we have not received the required information.

Is it your intent to pursue this application? If so, please submit the required information.

Obtaining a water permit that accurately reflects your water use ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



December 2, 2014

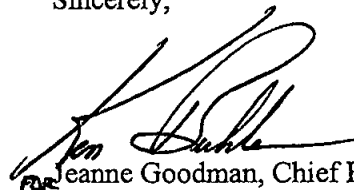
Richard Hammond
Hammond-Wetmore Drilling
415 Oakmont Drive
Vermillion, SD 57069

Dear Mr. Hammond:

As requested, pursuant to South Dakota Well Construction Standard 74:02:04:21, Hammond-Wetmore Drilling is authorized to construct and pump a test well for Don Schellpfeffer c/o Kris O'Connor approximately 80 feet deep prior to approval of a water permit. The test well will be located in the SW ¼ Section 9, T94N-R53W. All test wells must be constructed in accordance with the SD Well Construction Standards. Any test holes that are abandoned must be plugged pursuant to the SD Well Construction Standards.

Authorization must be obtained before water from the well can be used. Approval of this test well does not assure issuance of a water permit. Following review of a Water Permit Application; and assessing the availability of water, the potential impacts to existing users, the beneficial use, and the public interest of a permit, the Chief Engineer will make a recommendation to the Water Management Board regarding the application. The recommendation to approve, deny, or defer the application will be publicly noticed and an opportunity afforded for the public to intervene. A public hearing may be required to consider the water permit.

Sincerely,


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

Cc: Kris O'Connor
126 E. Cherry Street
Vermillion, SD 57069



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 20, 2015

Don Schellpfeffer
Donschell Family Ltd Part LLP
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

The Water Rights Program received an *Application for Permit to Appropriate Water Within the State of South Dakota for Irrigation* from you on April 30, 2014. You were notified what additional information was required to complete the application (copy enclosed).

August 11, 2014 you called indicating your plan was to have the test hole drilled, possibly this fall. Once the information listed in the enclosed letter is submitted, we can proceed with your application.

If you want to withdraw the application, the application filing fee of \$1,050.00 will be refunded to you. This does not prohibit you from refiling an application to irrigate this property in the future.

If you have any questions, please contact me.

Sincerely,

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

enclosure



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. 8162-3, Don Schellpfeffer**

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. 8162-3, Don Schellpfeffer, 26912 Baker Place, Sioux Falls SD 57108.

The Chief Engineer is recommending APPROVAL of Application No. 8162-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights. Approval of this permit does not guarantee a maximum diversion rate of 1.78 cfs.
2. The wells authorized by Permit No. 8162-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8162-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 122.65 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Thunlund
for Jeanne Goodman, Chief Engineer
July 27, 2015

NOTE: Based on the well completion reports on file for the two wells, DENR does not anticipate they are capable of producing the requested 1.78 cfs (800 gpm). If additional wells are needed, an amendment to the water permit will be needed.

Report to the Chief Engineer

Application Number 8162-3

Don Schellpfeffer

July 14, 2015

Water Permit Application Number 8162-3 proposes to appropriate water from the Niobrara aquifer at a maximum rate of 1.78 cubic feet per second (cfs). This application proposes to divert water from two 120 foot deep wells located in the approximate center of the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9 in T94N-R53W. The water is to be used for the irrigation of 122.65 acres located in the SW $\frac{1}{4}$ of Section 9 in T94N-R53W. The requested diversion rate is in excess of the statutory limit of 1 cfs per 70 acres.

Aquifer: Niobrara (NBRR)

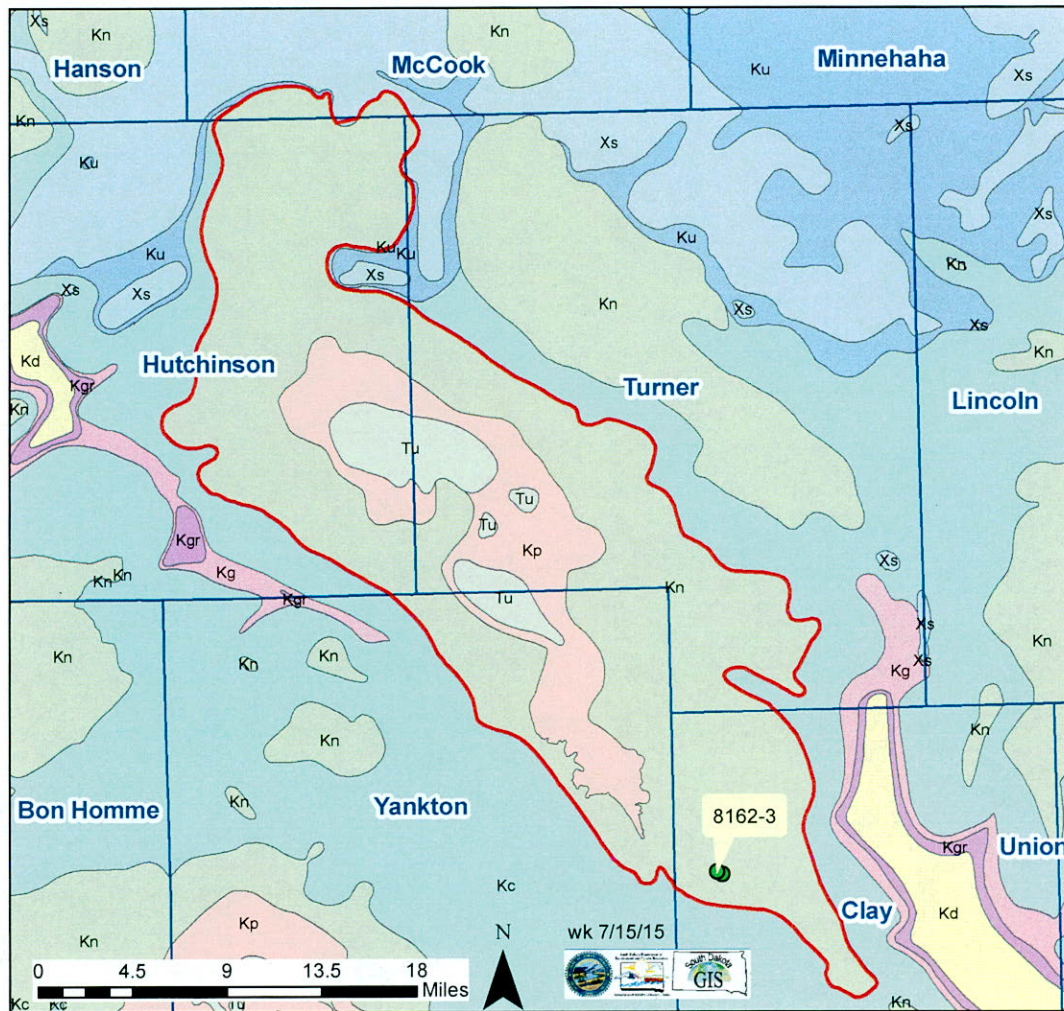
Aquifer Characteristics and Hydrogeology

The Niobrara Formation is a Cretaceous aged bedrock aquifer that underlies a large portion of South Dakota (Allen et al., 1985 and Hedges et al., 1982). It is composed of fractured, calcareous marl that is interbedded with calcareous claystone (Lindgren and Hansen, 1990). The Niobrara aquifer exists within the porous, permeable portions of the Niobrara Formation (Hedges et al., 1982). Various fractures, solution cavities, weathering, and glacial activity features occur throughout the aquifer and can impact water production from the Niobrara aquifer (Hedges et al., 1982).

In examining the Eastern South Dakota Bedrock Map by Tomhave and Schulz (2004) it appears that the well locations for this application are located in a large isolated portion of the Niobrara aquifer. This portion is shown in Figure 1. This portion of the Niobrara aquifer underlies about 340,672 acres of Clay, Hutchinson, Turner, Yankton, and McCook Counties. This portion of the Niobrara directly underlies either the Pierre Shale (shown in Figure 1) or glacial till in areas not underlying the Pierre Shale and overlies the Charlie Shale. Additionally this portion of the Niobrara outcrops in several areas.

Stephens (1967) notes that the Niobrara which underlies the Wakonda aquifer in northwestern Clay County and is in contact with the Wakonda in many locations throughout the area. Stephens (1967) also indicates, although not complete throughout the area, there is sufficient hydraulic continuity between the permeable glacial deposits and the Niobrara in this area that they generally function as a single aquifer and defines the Wakonda aquifer as such. However, they are considered to be separate aquifers by Hedges et al. (1982) and the SD-DENR Water Rights Program. The area where the two aquifers are in contact is located to the northwest of the well locations for this application and could serve as a recharge/discharge area for this isolated portion of the Niobrara aquifer in northwestern Clay county. The direction of groundwater movement varies locally throughout the aquifer; however in the area of the wells

for this application groundwater movement is likely toward the west or southwest (Stephens, 1967 and Bugliosi, 1986).



Legend

- Relevant Portion of the Niobrara County Boundaries - Census 2010

Bedrock - Eastern SD

- | | | |
|---|---|--|
| Tu (Tertiary, undifferentiated) | Kn (Niobrara) | Xcd (Corson Diabase) |
| Kc (Carlile Shale) | Kp (Pierre Shale) | Xs (Sioux Quartzite) |
| Kd (Dakota) | Ku (Cretaceous, undifferentiated) | Kg (Greenhorn) |
| Kgr (Graneros Shale) | | |

Figure 1: Bedrock map with the relevant portion of the of the Niobrara aquifer indicated(modified from Tomhave and Schulz, 2004)

The well completion report for the east well for this application indicates that “chalk, grey, wet” (Niobrara) was encountered from 48 to 100 feet below grade and “chalk, grey, very hard, brittle” (Niobrara) was encountered from 100 to 120 feet below grade. The completion

report for the west well indicates that “chalk, grey, wet” (Niobrara) was encountered at 45 to 63 feet below grade and “chalk, grey, very hard, brittle” (Niobrara) was encountered from 63 to 120 feet below grade. Both well completion reports show glacial till overlying the Niobrara. This is consistent with area lithological data and well completion reports (SDGS, 2015 and Water Rights, 2015c). The static water level at the time of completion (12/29/2014) in the west well was 18 feet below grade. In the east well the static water level at the time of completion (12/16/2014) was 28 feet below grade. The aquifer is under artesian conditions in the area of these wells. Based on the well completion reports, the pumps installed in the two wells are rated at 250 gpm (east well) and 100 gpm (west well). The applicant may require an additional well or wells to reach a capacity that matches the maximum diversion rate (800 gpm) requested by this application. Additionally this application, if approved, only authorizes two wells and an additional well would require authorization.

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 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 aquifer that are pertinent to this application.

Water Availability

Water Permit Application No. 8162-3 proposes to appropriate approximately 125 acre-feet of water per year from the Niobrara aquifer. 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 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 water distribution system has applied for a permit, the Board need not consider the recharge/withdrawal issue. Here, a water distribution system is not involved and the Niobrara aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered.

Hydrologic Budget

Withdrawals

Withdrawals from this portion of the Niobrara are from wells, outflow to other aquifers including the Upper Vermillion Missouri, Lower James Missouri, and the Codell, and discharge to Wolf Creek (Stephens, 1967; Lindgren and Hansen, 1990; and Bugliosi, 1986). There are 24 water rights/permits appropriating water from this portion of the Niobrara aquifer. Of these, five

are for non-irrigation uses, and 19 are for irrigation use. There are numerous domestic wells on file completed into this aquifer, however with the development of rural water in the area many are no longer utilized as primary water sources. Taking this into consideration, along with the relatively small withdrawal of domestic wells, the average annual water use from domestic wells would not be a significant portion of the hydraulic budget.

The non-irrigation water rights/permits in this portion of the Niobrara aquifer are for municipal (3), institutional (1), and commercial (1) use. The municipal use water rights are for the Town of Irene and the City of Freeman. Both of these municipalities have connected to B-Y Rural Water (Friedeman, 2015). Freeman maintains their wells for standby/emergency use (i.e. fire protection), and based on the last Drinking Water Survey for Irene, there is no power to their wells (Friedeman, 2015). The water rights/permits for commercial and institutional use is limited only by diversion rate; average annual water use for this permit can be estimated as 60% of the diversion rate or approximately 74 acre-feet per year.

The 19 irrigation water rights/permits in this portion of the Niobrara aquifer authorized the irrigation of a total of 3,455.5 acres. Fifteen of these irrigation water rights/permits have priority dates that are in 2012 or more recent. Six of the recent irrigation rights/permits were not constructed at the time of the 2014 Irrigation Questionnaires. It is unknown if these permits or the permit approved in early 2015 have yet to be developed. Irrigation rights/permits in this area of the state can be expected to have irrigation application rates of less than application rate of one foot per acre per year. Therefore, an estimate of about 3,456 acre-feet per year can serve as a conservative estimate of average annual irrigation use. Including the acres from this application results in an estimated average annual irrigation use of 3,579 acre-feet per year.

Balance

Recharge to this portion of the Niobrara aquifer is from direct infiltration of precipitation where the aquifer outcrops or is near land surface, inflow from the Lower James Missouri, leakage through the till, and leakage from overlying permeable surface deposits (Stephens, 1967; Lindgren and Hansen, 1990; and Bugliosi, 1986). Like many bedrock aquifers data is not available to calculate recharge to the Niobrara aquifer or this portion of it. In considering the estimated average annual withdrawal from this portion of the Niobrara (3,653 acre-feet) in relation to the area of the aquifer (340,672 acres) a required recharge rate of 0.13 inches per acre is needed to satisfy withdrawals. If only the area of this aquifer not underlying the Pierre Shale is considered, a recharge rate of 0.17 inches per year would be required. In comparison, for confined glacial aquifers Hedges et al. (1985) recommends utilizing a range of recharge rates from 0.15 to 0.60 inches per year for management and development programs to estimate recharge, so to assume that this portion of the Niobrara could receive at least 0.17 inches of recharge per year would be reasonable. However, although the Niobrara is a bedrock aquifer, this isolated portion of the Niobrara, where directly underlying the glacial till, is buried under similar conditions the confined aquifers of Hedges et al. (1985). Additionally of recharge to the Niobrara and several other bedrock aquifers, Hedges (1985) notes that “The Niobrara Formation,

Codell Sandstone, Inyan Kara Group, and Madison Group have such high storage and low use that it is unlikely that use is approaching or exceeding recharge. Furthermore, there is no evidence of significant head loss in any of these aquifers over the years that would suggest that use is exceeding recharge.” However the general nature of this evaluation of the recharge portion of the hydraulic budget emphasizes the importance of the consideration of observation well data in the examining water availability.

Observation Wells

In determining the availability of unappropriated water for a permit application Administrative Rule 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated annual recharge. Observation wells offer a picture of conditions in the aquifer over the period of record. When considered together observation wells can offer insight into the overall hydraulic conditions in an aquifer, and when considered single or in spatial groups, can offer insights into localized hydraulic conditions within the aquifer.

The SD-DENR Water Rights Program monitors 12 observation wells completed into this portion of the Niobrara aquifer. The nearest of which is observation well YA-80GA located about 5.6 miles to the northwest. The hydrograph for this observation well is shown in Figure 2. Also shown is YA-79I (approximately 14.4 miles north northwest) in Figure 3.

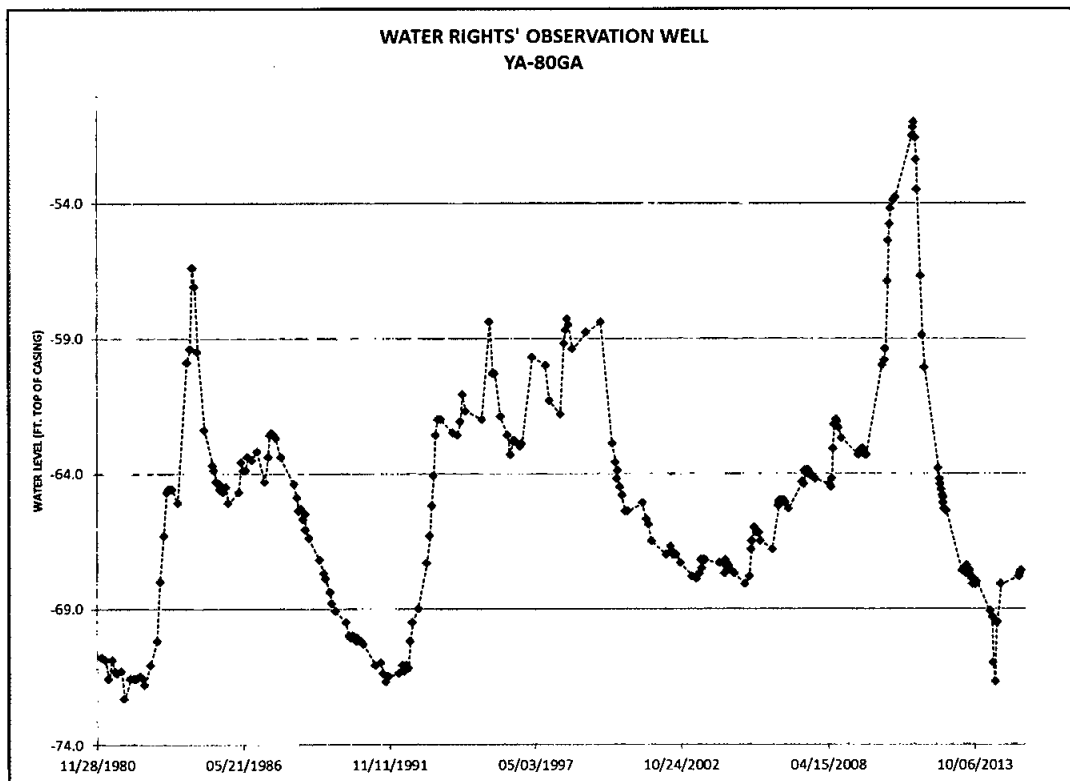


Figure 2: Hydrograph of Observation Well YA-80GA (Water Rights, 2015a)

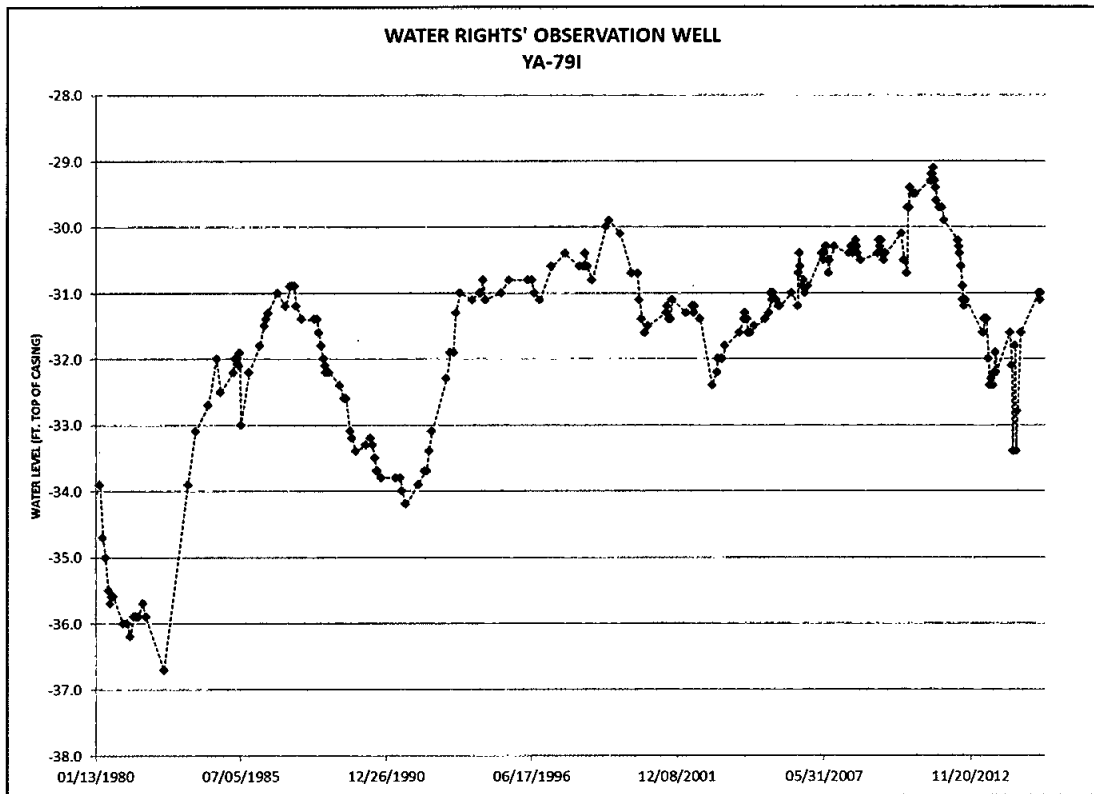


Figure 3: Hydrograph of Observation Well YA-79I (Water Rights, 2015a)

These hydrographs indicate that there is more water in storage now than at the beginning of the period of record. Currently the 2014 water level fluctuations (especially for observation well YA-79I) are being evaluated against the 2015 water level data (currently under collection) and the period of record to determine if the fluctuations recorded in 2014 were the result of measurement error. Observation well water levels show good response to climatic conditions. Water levels increase during wet periods and gradually decrease during dry periods. The temporal impacts of well withdrawals are masked by the effects of climatic conditions on water levels within the aquifer. Furthermore, although the water levels in the observation wells for this portion of the Niobrara aquifer fluctuate over their periods of record, there is no evidence of significant head loss in the aquifer. Since recharge to and natural discharge from the aquifer can be captured for pumping and natural conditions dominate the aquifer, there is a reasonable probability that water is available in the aquifer to meet the needs of this application.

Existing Rights

The location of area water rights/permits near the location for the wells of this application are shown in Figure 4. The nearest water right/permit to the wells of this application is Water Permit No. 8067-3. The proposed well location for Water Permit No. 8067-3 for Jerome Poeschl is approximately 0.44 miles southwest of the wells for this application. Water Permit No. 8067-3 is for one well and a maximum diversion rate of 1.56 cfs (700 gpm) and was not contested

(Water Rights, 2015b). Water Permit No. 7893-3 is located about 2.5 miles to the northwest and is for one well with a maximum diversion rate of 0.07 cfs for the irrigation of two acres. Select information for the aquifer from the well completion reports for this application and the test hole for Water Permit 8067-3 is shown in Table 1.

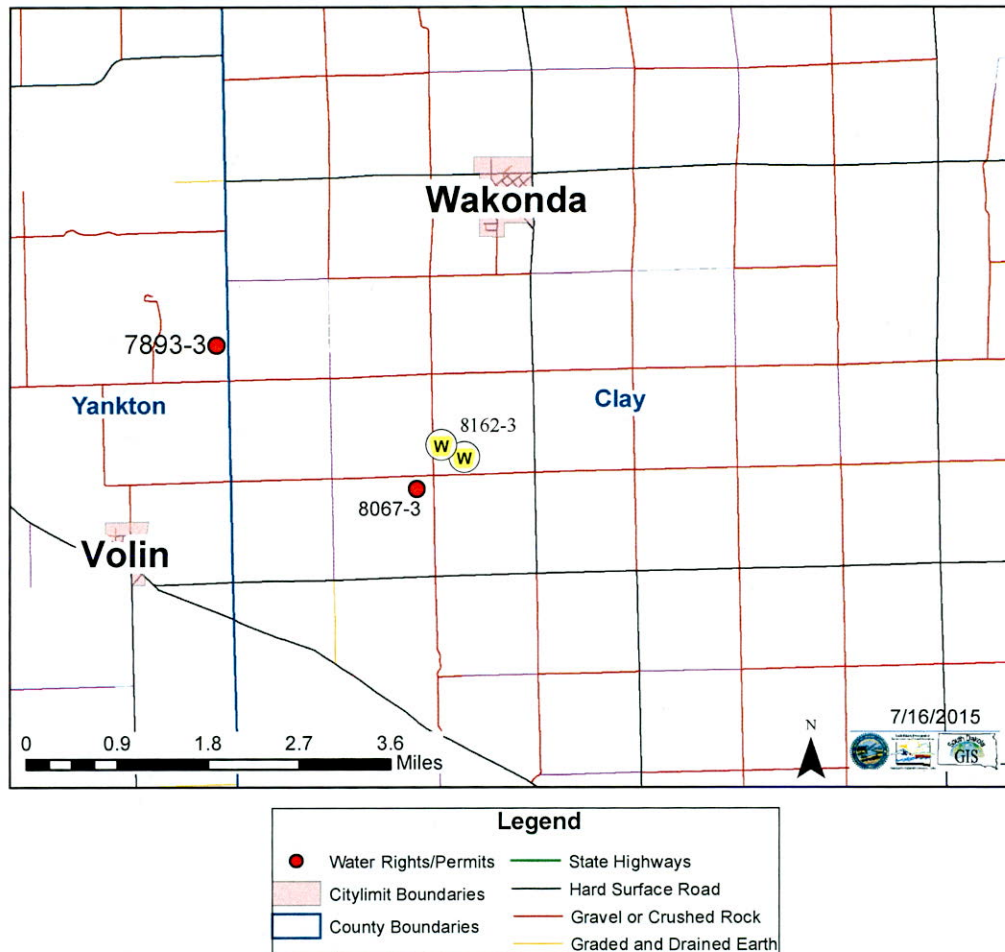


Figure 4: Approximate diversion points for Niobrara aquifer water rights/permits in the area of this application (canceled water rights not shown) (Water Rights, 2015b)

Table 1: Aquifer Information at Well and Proposed Well Locations (Water Rights, 2015)

	Artesian head pressure (ft.)	Approximate water elevation (ft. msl)	Thickness of Niobrara (at least ft.)
8162-3 East Well	20	1322	72
8162-3 West Well	30	1322	75
8067-3 Test Hole	10	1307	87

Well completion reports currently on file with the SDDENR-Water Rights Program within three miles of the proposed well location for this application that could be in this aquifer consist of test holes, monitoring wells, and geothermal heat pump completion reports. However

the wells for Water Permit No. 8067-3 and Water Permit No. 7893-3 would be located within this distance of the wells for this application. Additionally, wells for domestic or stock watering use in the area are still possible, since satellite imagery indicate farmsteads within two miles of this application. Since this aquifer is under confined conditions at the well location for this application, drawdown as a result of pumping will occur. The precise amount and radius of drawdown cannot be quantified without aquifer testing, especially considering the variability in aquifer characteristics in the Niobrara. However, well test data can be used to calculate specific capacity of the well, which can then be utilized to estimate transmissivity at the well site. In doing this, relatively low transmissivity values were calculated at these well sites, shown in Table 2 (Aqtesolv, 2014). If these relatively low estimates of transmissivity are reflective of conditions throughout this portion of the aquifer, estimated drawdown from this application would extend more than a mile from the well sites based on the estimated transmissivity values at the well sites (Utah, 2010). Drawdowns calculated with the Theis equation for both wells for this application at distances of less than a mile are shown in Table 3. The values for Table 3 were calculated based on the transmissivity values presented in Table 2, a 185 day time period since pumping began, a storativity of 0.0001, and rates and distances indicated in Table 3. Additionally, based on the mapped extent of this isolated portion of the Niobrara Formation by Tomhave and Schulz (2004) there are likely aquifer boundary conditions that would increase drawdown about 1.6 miles to the southwest of the well sites for this application.

Table 2: Well Test Data and Estimated/Calculated Well Site Characteristics (Aquatesolv, 2014)

	Test Pump Rate (gpm)	Drawdown (ft.)	Specific Capacity (gpm/ft.)	Transmissivity (gpd/ft.)	Transmissivity (ft ² /d)
East Well	300	42	7.143	14,286	1,909.90
West Well	125	81	1.543	3,086	412.6

Table 3: Drawdown values for the wells of this application
(Utah, 2010)

	East well	West well
rate	250 gpm	100 gpm
distance (mi)	drawdown (ft)	drawdown (ft)
0.1	20.57	32.39
0.2	17.79	27.24
0.3	16.16	24.23
0.4	15.01	22.1
0.5	14.11	20.45
0.6	13.38	19.1
0.7	12.76	17.96
0.8	12.23	16.7
0.9	11.76	16.1
1	11.34	15.33

In considering the potential impact of this application on Water Permit No. 8067-3, it is recognized that the wells for this application would first impact each other. Based on the

estimated drawdown for the wells of this application and the distance to the proposed well site of Water Permit No. 8067-3, drawdown from the wells of this application can be expected to extend to the proposed well location of Water Permit No. 8067-3. Given the artesian head pressure and aquifer thickness present in the area there is a reasonable probability that water will still be available in the aquifer at the proposed well location for Water Permit No. 8067-3. However, without more information whether the impacts of the wells of this application on the yet unconstructed well for Water Permit No. 8067-3 could be considered adverse or not is unknown. Therefore this application, if approved, should carry a qualification protecting prior water rights with adequate wells. Specifically this application may be required to reduce pumping to prevent adverse impacts to Water Permit No. 8067-3. The permit should note: a maximum diversion rate for this application cannot be guaranteed.

The Water Management Board has previously considered concerns around artesian head pressure and has promulgated rules that allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The board has defined an adversely impacted domestic well as “a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs.” Additionally, in the case of irrigation since reasonable domestic use must be insured first, the Water Management Board does need to give consideration to artesian head pressure. In the case of Water Permit Application No. 2313-2 for the Coca-Cola Bottling Company of the Black Hills the Water Management Board adopted findings that noted that if the increased costs or decreased production as a result of the impacts of legitimate users on artesian head pressure could be considered an adverse impact it would conflict with SDCL 46-1-4 (Water Rights, 1995). SDCL 46-1-4 requires the water resources of the state be put to beneficial use to the maximum extent of which they are capable (Water Rights, 1995).

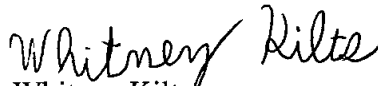
SDCL 46-5-6

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 or soil types so require. Water Permit Application No. 8162-3 proposes to divert up to 1.78 cfs for the irrigation of 122.65 acres, or the equivalent of 1.02 cfs per 70 acres.

Conclusions

1. Water Permit Application Number 8162-3 proposes to appropriate water from the Niobrara aquifer at a maximum rate of 1.78 cfs from two 120 foot deep wells located in the approximate center of the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9 in T94N-R53W for the irrigation of 122.65 acres located in the SW $\frac{1}{4}$ of Section 9 in T94N-R53W.

2. This application, if approved, is for two wells, and any additional wells would require authorization.
3. The requested diversion rate is in excess of the statutory limit of 1 cfs per 70 acres.
4. This application, if approved, should carry a qualification protecting prior water rights with adequate wells.
5. A maximum diversion rate for this application cannot be guaranteed, since this application may need to reduce pumping to protect prior water rights.


Whitney Kilts
SDDENR-Water Rights Program

Approved by


Ken Buhler
SDDENR-Water Rights Program

References:

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Water Rights. 2015b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2015c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

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PLAIN TALK

Don Schellpfeffer
26912 Baker Park Place
Sioux Falls, SD 57108

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. 8162-3 to Appropriate Water

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 7 DAY OF August 2015
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$27.47 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: 8/7/2015

FILED ON: 8/7/2015

NOTICE OF APPLICATION
NO. 8162-3 to Appropriate Water

Notice is given that Don Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Niobrara Aquifer (120 feet deep) located in the approximate center of the SW 1/4 and the NW 1/4 SW 1/4 Section 9 for irrigation of 122.65 acres located in the SW 1/4 Section 9; all in T94N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8162-3 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 August 17, 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. 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 \$27.47. Publish: August 7, 2015.

Tera O Schmidt

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10 DAY OF

August

2015

[Signature]
NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

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AUG 12 2015

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

Department of Environment and Natural Resources
Water Rights Program
523 E Capitol Ave
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
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
Notice on Application No 8162-3

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 7th DAY OF August 2015
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$27.31 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: 8/7/2015

FILED ON: 8/7/2015

SUBSCRIBED AND SWORN TO BEFORE ME THIS 7th DAY OF August

2015

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES

8/19/2015

8-7
NOTICE OF APPLICATION NO.
8162-3 to Appropriate Water

Notice is given that Don Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Niobrara Aquifer (120 feet deep) located in the approximate center of the SW 1/4 and the NW 1/4 SW 1/4 Section 9 for irrigation of 122.65 acres located in the SW 1/4 Section 9; all in T94N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8162-3 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 August 17, 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. 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 \$23.60

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 28, 2015 8:25 AM
To: classifieds@plaintalk.net
Subject: 8162-3, Don Schellpfeffer
Attachments: 8162-3public.short.docx; FORM8 FRM.doc

Attached is a notice to be published on August 7, 2015.

Don Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 (605 331-3861 or c 605 321-9798) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

Water Rights Program
523 E Capitol Ave
Pierre SD 57501
Phone: 605 773-3352

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 28, 2015 8:25 AM
To: 'Tera Schmidt'
Subject: 8162-3, Don Schellpfeffer
Attachments: 8162-3public.short.docx; FORM8 FRM.doc

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Please send the affidavit or return the attached Proof of Publication form ASAP.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

Water Rights Program
523 E Capitol Ave
Pierre SD 57501
Phone: 605 773-3352



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.**

July 27, 2015

Don Schellpfeffer
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

Water Permit Application No. 8162-3 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 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.

NOTICE OF APPLICATION NO. 8162-3 to Appropriate Water

Notice is given that Don Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Niobrara Aquifer (120 feet deep) located in the approximate center of the SW 1/4 and the NW 1/4 SW 1/4 Section 9 for irrigation of 122.65 acres located in the SW 1/4 Section 9; all in T94N-R53W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8162-3 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 August 17, 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. 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

AUG 27 2015

Don Schellpfeffer
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

Enclosed is Water Permit No. 8162-3 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

8162-3

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

Date 9/15/15

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED

SEP 18 2015

**WATER RIGHTS
PROGRAM**

FROM: Donald Schellpfeffer
(name)

26912 Baker Park Place
(address)

Sioux Falls, S.D., 57108
(city, state, zip)

605-321-9798 Cell
(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. 8162-3 states that the water use system is to be constructed by

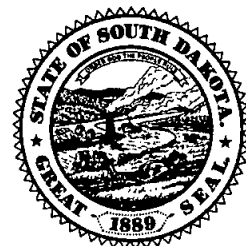
August 17, 2020, and water is to be put to beneficial use by August 17, 2024.
(date) (date)

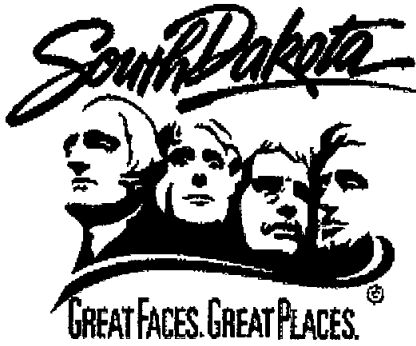
The water use system was completed on July 1, 2015.
(date)

Applying the water to beneficial use was completed on July 1, 2015.
(date)

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

Donald Schellpfeffer
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 21, 2015

8162-3

Donald Schellpfeffer
26912 Baker Park Pl
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

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

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

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

Sincerely,

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



8162-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 20, 2017

NOTICE

TO: DON SCHELLPFEFFER, 26912 BAKER PARK PLACE, SIOUX FALLS, SD 57108

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8162-3. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8162-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8162-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



8162-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 2, 2017

6923-3
8162-3

Donald Schell Family LLP
26912 Baker Park Place
Sioux Falls SD 57108

Dear Sir:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Permit Nos. 6923-3 and 8162-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8162-3

I have this day, June 29, 2023, made a thorough examination of the water use systems owned by Don Schellpfeffer, 26912 Baker Park Place, Sioux Falls, SD 57108, holder of Permit No. 8162-3, bearing the priority date of May 28, 2015. This permit authorizes the diversion of 1.78 cu. ft. per second of the waters of groundwater (Niobrara Aquifer) authorizing the irrigation of 122.65 acres located in Clay County.

Inspection contact: Don Schellpfeffer

A. Works used to divert the water:

West Well Information

- 1) Well Drilling Firm: Hammond Wetmore Drilling, LLC
- 2) No. of Wells: 1
- 3) Depth(s): 120 feet
- 4) Well log is available: Yes

Casing:

- 1) Diameter: 16 inches
- 2) Length: 45 feet
- 3) Type: Plastic

Screen:

- 1) Diameter: 16 inches
- 2) Length: 75 feet
- 3) Type: PVC
- 4) Static water level: 18 feet

Pump:

- 1) Make: Grundfos
- 2) Model: 85s75-6
- 3) Capacity: 85 GPM

Motor:

- 1) Make: Unknown
- 2) Model No: Unknown
- 3) Horsepower rating: Unknown hp

East Well Information

- 1) Well Drilling Firm: Hammond Wetmore Drilling, LLC
- 2) No. of Wells: 1
- 3) Depth(s): 120 feet
- 4) Well log is available: Yes

Casing:

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

Screen:

- 1) Diameter: 16 inches
- 2) Length: 70 feet
- 3) Type: PVC
- 4) Static water level: 28 feet

Pump:

- 1) Make: Grundfos
- 2) Model: 230s150-5b
- 3) Capacity: 250 GPM

Motor:

- 1) Make: Unknown
- 2) Model No.: Unknown
- 3) Horsepower rating: Unknown hp

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

- | | | |
|--------------------------|-----------------------|---|
| 1) Type: <u>PVC</u> | Size: <u>6</u> inches | Length: <u>1,390</u> feet (<u>west well to the pivot</u>) |
| 2) Type: <u>Aluminum</u> | Size: <u>6</u> inches | Length: <u>30</u> feet (<u>east well to the pivot</u>) |

C. Works used to apply water to beneficial use:

Center Pivot:

- 1) Make: Valley
- 2) Overall length: 1,230 feet
- 3) Number of towers: 7
- 4) End gun: Yes
- 5) Capacity: 330 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
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:
The west well is 1,930 feet north and 100 feet east of the southwest corner of Section 9-T94N-R53W (Latitude 42.97305, Longitude -97.12093– NW1/4 of the SW1/4).
The east well is 1,240 feet north and 1,320 feet east of the southwest corner of Section 9-T94N-R53W (Latitude 42.97115, Longitude -97.11637– S1/2 of the SW1/4).
- 2) The works are capable of diverting and conveying to the places of use 0.75 cu. ft. per second of water from the well which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

Section 9-T94N-R53W

<u>NW1/4SW1/4</u>	<u>29 acres</u>
<u>NE1/4SW1/4</u>	<u>29 acres</u>
<u>SW1/4SW1/4</u>	<u>32 acres</u>
<u>SE1/4SW1/4</u>	<u>32 acres</u>

comprising a total of 122 acres of land and the license should be issued for 0.75 cfs.

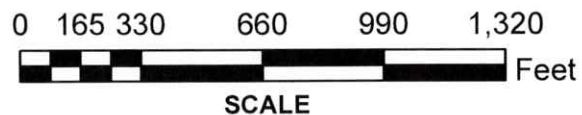
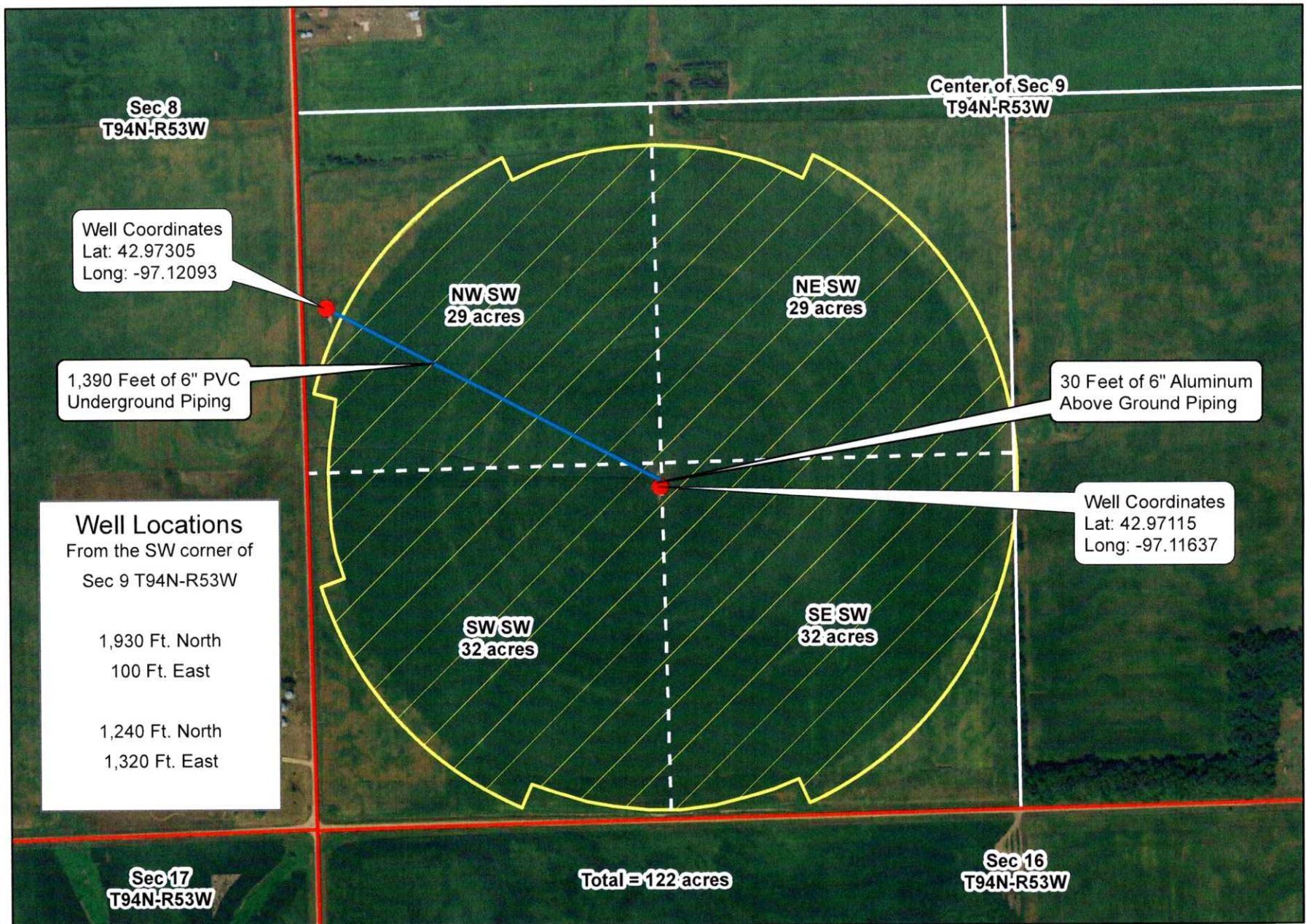
- 3) All structures, wells and lands on map: Yes

F. Comments or other permit(s) associated with the project: The well pump information was obtained from Heine Electric and Irrigation, Inc.

Keith DeJong, PE Ret.
Water Rights Inspector
DANR, Water Rights Program

Date report completed: July 20, 2023

Water Permit No. 8162-3



Keith DeJong
Keith DeJong, PE Ret.
Staff Engineer
June 29, 2023



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

JUL 24 2023

Don Schellpfeffer
26912 Baker Park Pl
Sioux Falls SD 57108

8162-3

Dear Mr. Schellpfeffer:

Enclosed is Water License No. 8162-3. 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

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8162-3**

(1) Don Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108, made Application No. 8162-3, April 30, 2014, for a water permit to divert 1.78 cubic feet of water per second from groundwater, two wells (Niobrara Aquifer), Clay County, South Dakota for irrigation purposes. Permit No. 8162-3, with a priority date of May 28, 2015, was approved August 17, 2015, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before August 17, 2020, and for the application to beneficial use of water on or before August 17, 2024.

(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 0.75 cubic feet of water per second for beneficial use. The locations of the diversion points are:

- West Well: 1,930 ft N & 100 ft E of the SW corner of Section 9, T94N, R53W (NW $\frac{1}{4}$ SW $\frac{1}{4}$) (Latitude 42.97305 Longitude -97.12093)
- East Well: 1,240 ft N & 1,320 ft E of the SW corner of Section 9, T94N, R53W (S $\frac{1}{2}$ SW $\frac{1}{4}$) (Latitude 42.97115 Longitude -97.11637)

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

Section 9, T94N, R53W			
NW $\frac{1}{4}$ SW $\frac{1}{4}$	29.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$	32.0 acres
NE $\frac{1}{4}$ SW $\frac{1}{4}$	29.0 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$	32.0 acres
TOTAL: 122.0 acres			

(4) Pursuant to South Dakota Water Law 46-5-30.1 Don Schellpfeffer, the holder and/or owner of Water Right No. 8162-3 is issued a license to appropriate water, the right to use 0.75 cubic feet of water per second from groundwater, two wells (Niobrara Aquifer), with a priority date of May 28, 2015, from the locations specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8162-3 and subject to the following qualifications:

1. The wells approved under Permit No. 8162-3 will be near domestic wells and other wells which may obtain water from the same aquifer. The well owner under Permit No. 8162-3 shall control their withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights. Approval of Permit No. 8162-3 does not guarantee a maximum diversion rate of 1.78 cfs.
2. The wells authorized by Permit No. 8162-3 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.

continued

3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if methos of irrigation, time constraints, or type of soils so requires, Water Right No. 8162-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 122.65 acres with an annual volume not to exceed 2 acre feet of water per acre per year. *(The diversion rate was reduced to 0.75 cfs and irrigated acres was reduced to 122.0 based on the system as it was developed.)*
4. 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 24 2023

date





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

January 19, 2024

NOTICE

TO: DON SCHELLPFEFFER, 1401 S SUGAR MAPLE DR, SIOUX FALLS, SD 57110

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8162-3 & 8304-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8162-3 & 8304-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8162-3 & 8304-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: BMLRYE**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 15, 2024

8162-3
8304-3

Don Schellpfeffer
1401 S Sugar Maple Dr
Sioux Falls SD 57110

Dear Mr. Schellpfeffer:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 8162-3 & 8304-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

cc: Brett Petersen, 45656 US HWY 18, Hurley SD 57036