

WATER PERMIT NO. 8189-3

Name of Applicant: **Reuben Nicolai**

Address: **4800 S 3rd St, LaCrosse WI 54601** Phone: **608 787-5685**

Amount of Water Claimed: **2.0 cfs** Total Acres: **140**

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

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

Type of Waste Disposal System:

Location: **10 miles south of Clark**

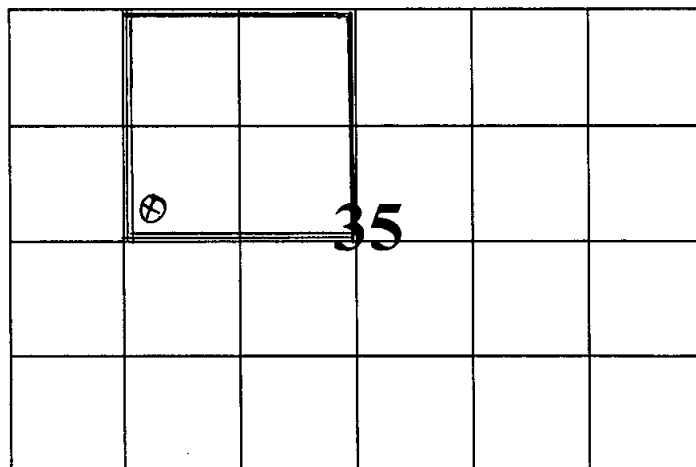
PRIORITY Date Received: **11-25-15** Application/License Fee: **\$ 1050**

Corrected Application Received: Period of Annual Use: **May 1 – September 30**

Remarks:

Diversion Point: **SW 1/4 NW 1/4 Sec 35-T115N-
R58W**

Land to be Irrigated: **NW 1/4 Sec 35-T115N-
R58W**



Depth of Well: **300 feet deep**

Well Driller: **Sam Heine Well Co.**

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **11-30-15**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

Troy Kassperson 690-0100
Farm ManagerRECEIVED
NOV 25 2015
WATER RIGHTS
PROGRAM

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8189-3</u> (office use only) Hydrologic Unit <u>10170201</u>
	Basin <u>Sioux River</u>
	Newspaper <u>Clark Co. Courier</u> <u>605-234-1444</u>
	<u>Public Opinion</u> <u>605-886-6901</u>

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 Reuben Nicolai
(check one) ☒ Owner ☐ Tenant/lessee ☐ Owner's Legal Agent
Mailing Address 4900 S. 3rd St. La Crosse WI 54601
(Address) (City) (State) (Zip Code)
Home Phone 608-787-5685 Cell _____ Email _____
2. Amount of water claimed 2.0 *CFS or 900 **GPM ***AF Total Acreage 140A
(*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 200ft from the west 400ft from the south of the
SW 1/4 corner of sec 35 115-58 (SW 1/4 NW 1/4) County Clark
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
5. County or counties where water will be used Clark
6. Annual period during which water is to be used May-Sept 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 of the NW 1/4 sec. 35 T115N R48W 35			
SW 1/4 of the NW 1/4 sec. 35 T115N R58W 35			
NE 1/4 of the NW 1/4 sec. 35 T115N R58W 35			
SE 1/4 of the NW 1/4 sec. 35 T115N R58W 35			

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

I, Reuben Nicolai Reuben Nicolai, 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. 8189-3**

Date of first receipt of application November 25, 2015.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8189-3 to Reuben Nicolai, 4800 S 33rd St, LaCrosse WI 54601 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. 8189-3 appropriates 2.0 cubic feet of water per second from one well to be completed into the Prairie Coteau Aquifer (300 feet deep) located in the SW 1/4 NW 1/4 Section 35 for irrigation of 140 acres located in the NW 1/4 Section 35; all in T115N-R58W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is November 25, 2015.
4. The date of approval of Permit No. 8189-3 is February 16, 2016.
5. One-fifth of the construction is to be completed on or before August 26, 2018.
6. All construction is to be completed on or before February 16, 2021.
7. Water is to be put to beneficial use on or before February 16, 2025.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8189-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: *Jeanne Goodman*

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

FEB 24 2016

date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)

- a) If new wells, how many 1 Have test holes been drilled ☒ Yes ☐ No Drilled by Sam Heine Well Co
(if yes, please provide copies of logs)
- b) If existing wells, how many Provide copy of log(s), if available. Drilled by
- c) Well Depth 300ft Depth to Top of Water Bearing Material 100ft Depth to Water from Surface 100ft
- d) Distance to nearest existing domestic well:

On applicant's property On property owned by others

2. Wastewater Disposal System Information

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

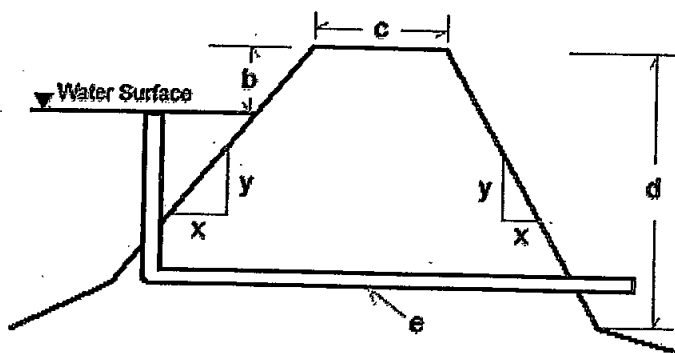
3. Dugout Information

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

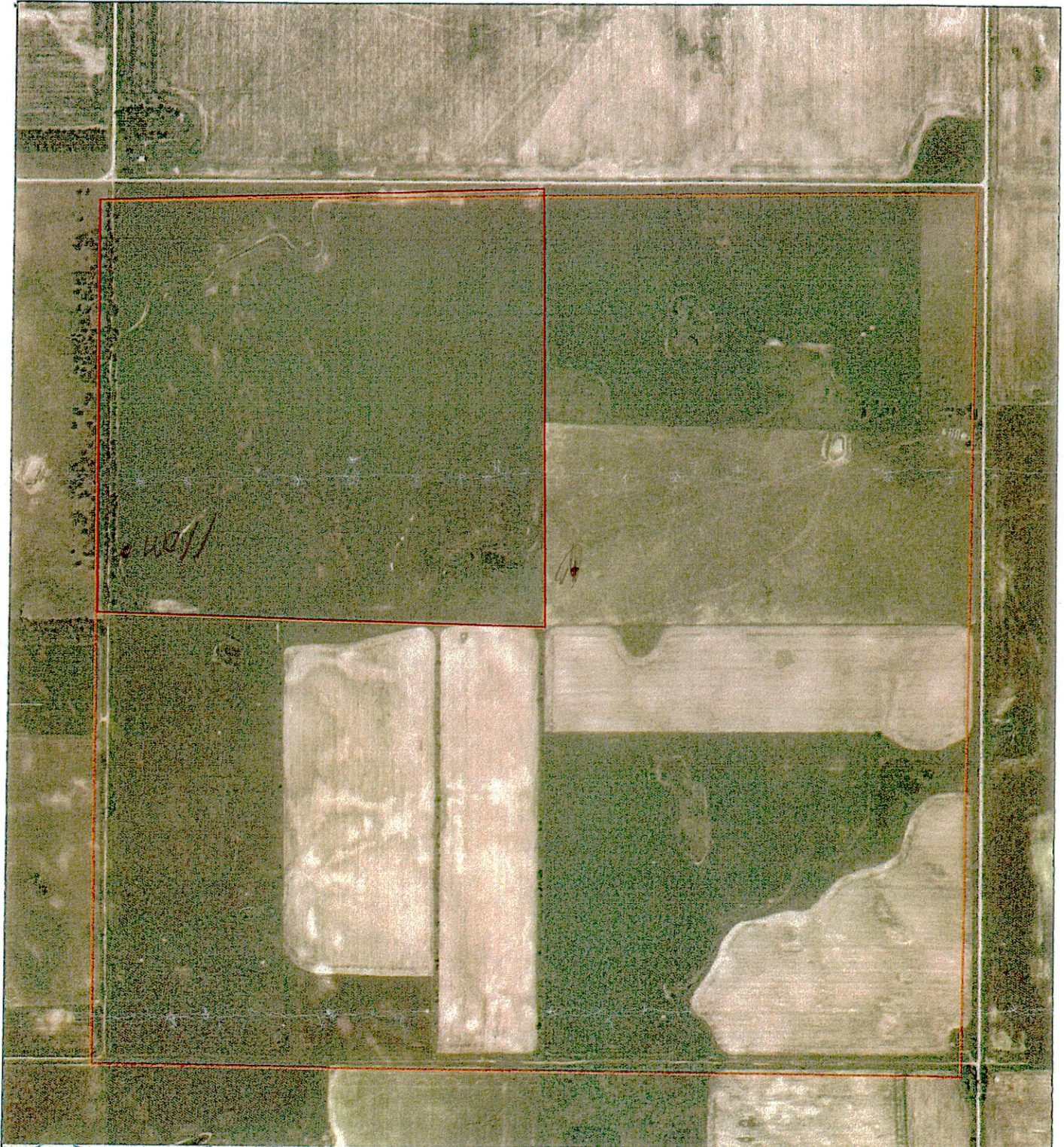
4. Water Storage Dams

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

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



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



PPLS:35_T115N_R58W

Data use subject to license.

© DeLorme, XMap® 7.

www.delorme.com

Rawdon

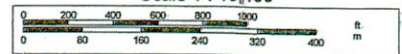


RECEIVED

NOV 30 2015

WATER RIGHTS
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Scale 1 : 10,400



1" = 866.7 ft

Data Zoom 14-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

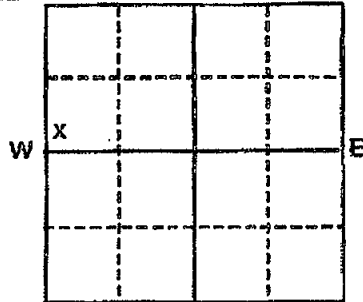
Location SW ¼ NW ¼ Sec 35 Twp 115N Rg 58W

Well Owner: REUBEN NICOLIA

County CLARK

North

Please mark well location with an "X"



Well Completion Date

5-21-15

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
3,000.0 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	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	20	9.5 Lb/gal	0.0 Ft	300.0 Ft

Describe grouting procedure

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

Business Name:

Address: 4800 SOUTH 3RD ST

City, State, Zip: LA CROSSE WI 54601

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TOP SOIL	0	8
CLAY	8	110
GRAVEL	110	120
CLAY	120	170
GRAVEL	170	178
CLAY	178	190
GRAVEL	190	210
SAND	210	290
GRAVEL	290	300

STATIC WATER LEVEL 100.0 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

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 805 and this report is true and accurate.

Drilling firm: SAM HEINE WELL CO., LLC

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date:

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 11/25, 20 16

RECEIVED OF Farmers Implement PO Box 29 Brookings SD 57006 (Nicolai)

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

Fee for Application for Permit No. <u>8189-3</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>8189-3</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. 07552

By

James Landman
Chief Engineer

Water Rights Program - File Documentation

NAME: Dave Gullickson, Farmers Implement

ADDRESS: Brookings

DATE: 11-25-15 **COUNTY:** Clark **TELEPHONE:**

RE: Applications for Reuben Nicolai

COMMENTS:

Dave Gullickson stated they would like each application to request 900 gpm. He also stated he would mark the well locations on the maps and resubmit them. From the maps, I can complete the legal description of the well locations on each application.



Karen Schlaak
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8189-3, Reuben Nicolai**

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. 8189-3, Reuben Nicolai, 4800 South 3rd Street, Lacrosse WI 54601.

The Chief Engineer is recommending APPROVAL of Application No. 8189-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8189-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
January 25, 2016

Report to the Chief Engineer
Water Permit Application No. 8189-3
Rueben Nicolai
January 8, 2016

Water Permit Application No. 8189-3 proposes to appropriate water at a maximum diversion rate of 2.0 cubic feet per second (cfs) from one well completed into the Prairie Coteau aquifer. The well is expected to be 300 feet deep and is expected to be located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T115N-R58W. The applicant intends to use the water for the irrigation of 140 acres located in the NW $\frac{1}{4}$ Section 35, T115N-R58W in Clark County.

Aquifer: Prairie Coteau (PCO)

Geology and Aquifer Characteristics

The name Prairie Coteau aquifer is a general term that refers to the disconnected outwash bodies that occur in the Coteau Des Prairies region of South Dakota. Hedges et al. (1982) estimate that these outwash bodies underlie about 217,600 acres of Clark County and contain about 825,600 acre-feet of water in storage. In Clark County this area is not contiguous. Hamilton (1986) identified six major glacial aquifers in Clark County. The aquifers were classified based on elevation. The three aquifers of higher elevation were classed as Prairie Coteau aquifers 1, 2, and 3, and the three aquifers of lower elevation were classed as Altamont aquifers 1, 2, and 3 (Hamilton, 1986).

The proposed well location and the proposed well depth for this application correspond with the Prairie Coteau aquifer 3 identified by Hamilton (1986). Furthermore, the approximate testhole location, area topographic information, and the county bedrock map of Christensen (1987) indicate that there is about 100 feet of glacial material between the proposed well depth and bedrock. Therefore this application is likely not proposing to appropriate water from a basal (Altamont) aquifer. Prairie Coteau aquifer 3 lies in a two to three mile band in Clark County that extends eastward into Hamlin County (Hamilton, 1986). The aquifer underlies approximately 50 square miles (32,000 acres) of Clark County and an unknown area of Hamlin County (Hamilton, 1986). Kume (1985) does not map a corresponding aquifer in Hamlin County; however area lithologic logs indicate that the aquifer likely extends into Hamlin County (SDGS, 2016). The location of this particular portion of the Prairie Coteau aquifer is shown in Figure 1.

In the examination of the geology of Clark County, Christensen (1987) presented a cross section in this area of the county (location and cross section shown in Figure 2). Christensen (1987) identified the geologic materials in the western portion of the aquifer as late Wisconsin outwash and the geologic materials in the eastern portion of the aquifer as undifferentiated outwash-alluvium. A review of the lithologic logs used for these reports indicate that the eastern undifferentiated outwash-alluvium likely extends further to the west of testhole 81 (location shown in Figure 2), although the lithologic log indicates only four feet of aquifer materials at that location (SDGS, 2016). Figure 3 contains Hamilton's (1986) cross-section D to D' (location indicated in Figure 1). An interval of the cross section (Figure 3) located from approximately 6.8

to 8.6 miles east of point D indicates no aquifer material was present. Regardless, Hamilton (1986) interpreted the geologic and hydrologic data and considered it contiguous.

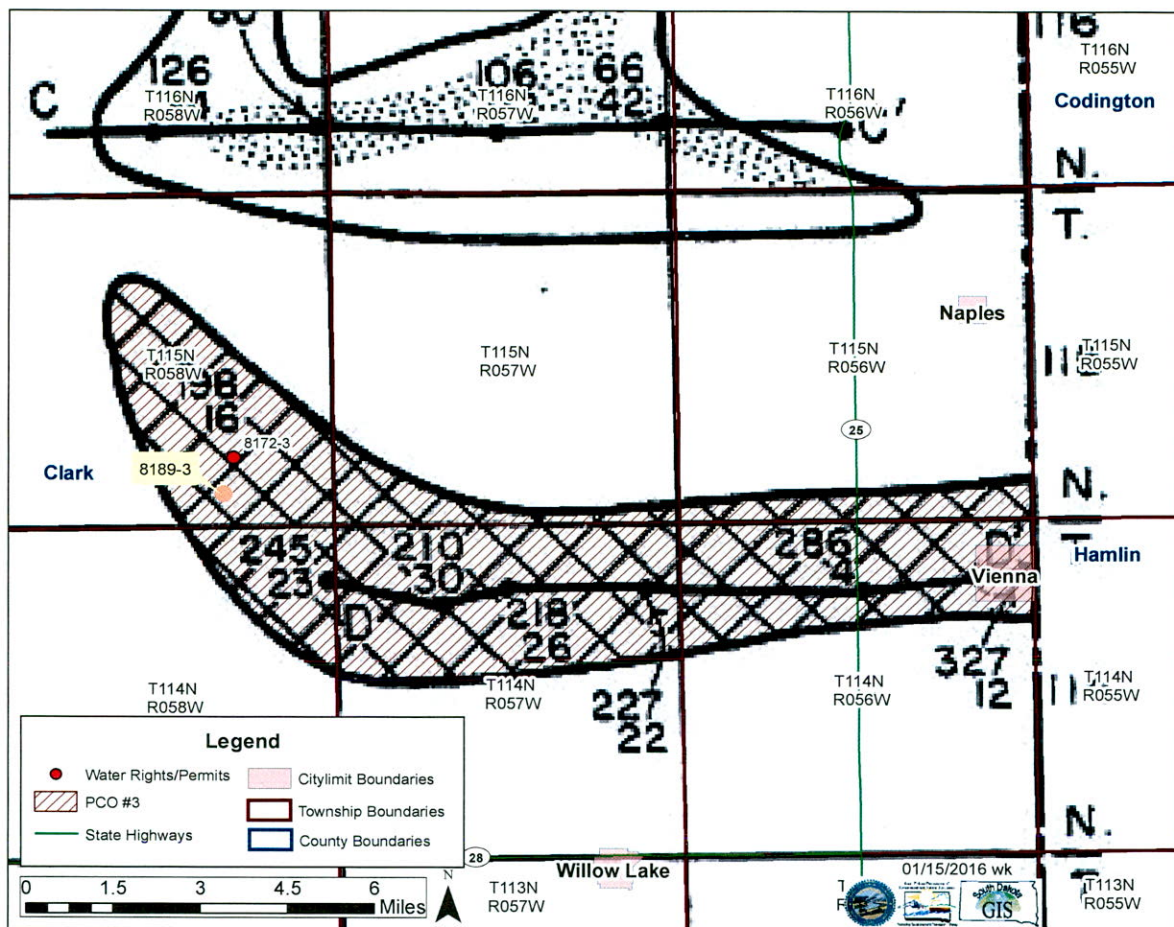


Figure 1: Location of the Prairie Coteau aquifer 3 that this application proposes to divert water from top number indicates the depth to the top of the aquifer and the lower number aquifer thickness (modified from Hamilton, 1986)

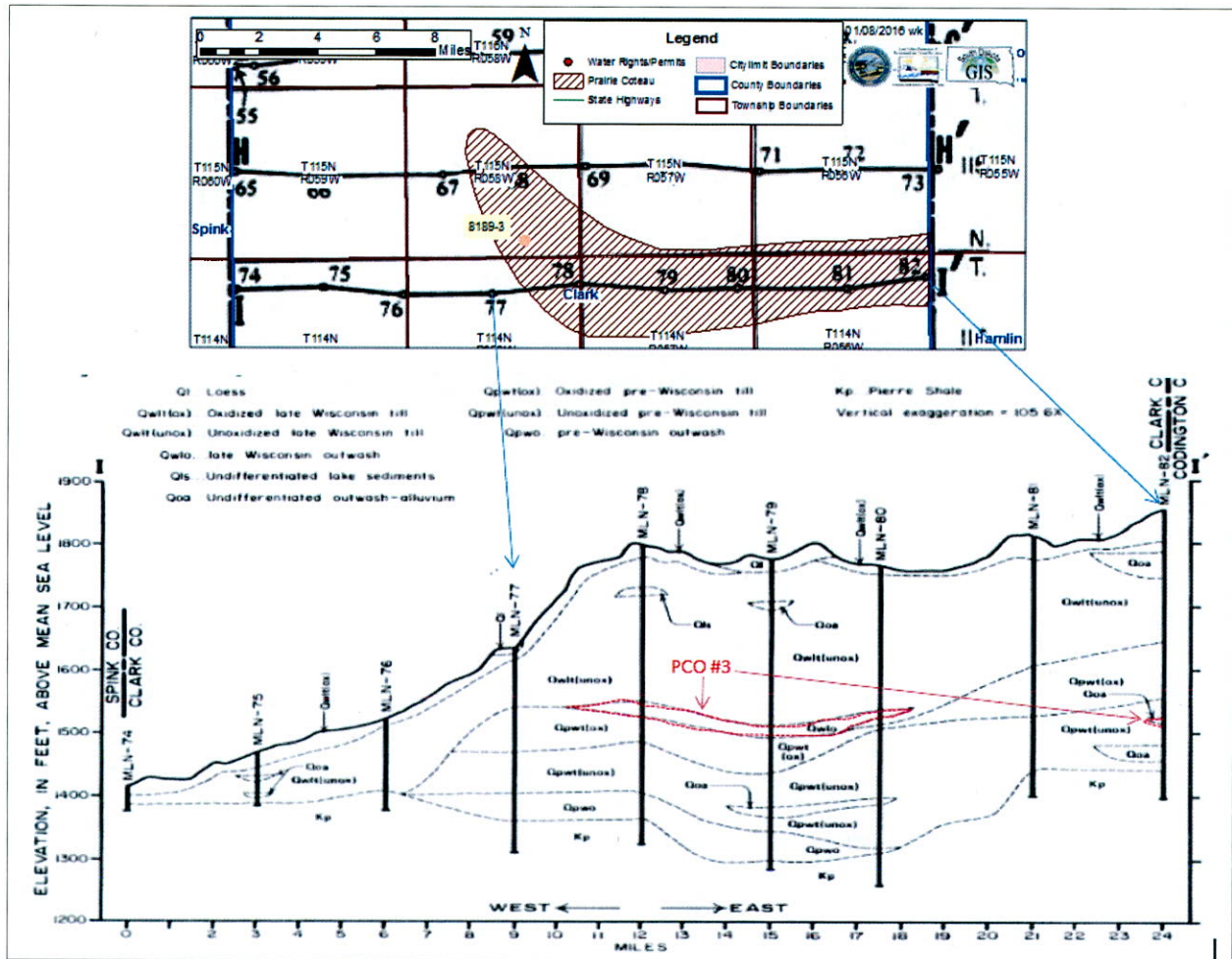


Figure 2: Cross section modified from Christensen (1987) in relation to the location of Prairie Coteau aquifer 3 (modified from Christensen, 1987 and modified from Hamilton, 1986)

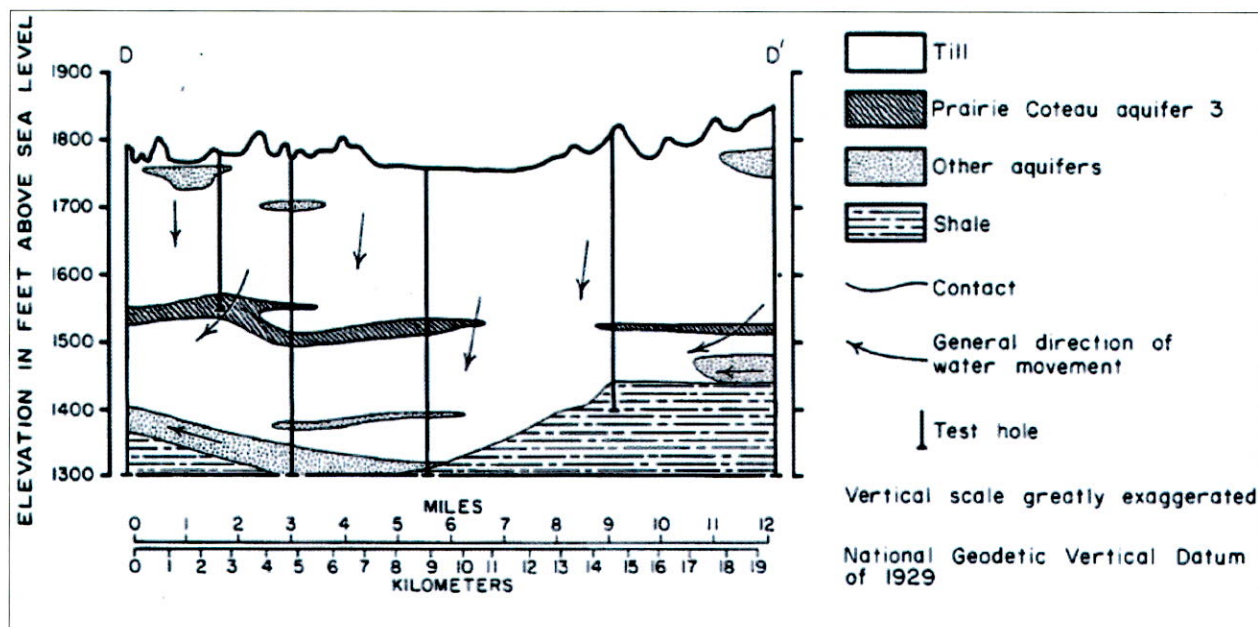


Figure 3: D to D' cross section (modified from Hamilton, 1986)

Lithologic information available since Hamilton (1986) and Christensen (1987) (i.e. well completion reports) identifies aquifer materials present just to the north (within the same section) of Hamilton's (1986) cross section within the noted interval (approximately 6.8 to 8.6 miles east of point D) (Water Rights, 2016c). A relatively thin layer of aquifer materials (four to five feet based on available information) occurs at least in the vicinity of northcentral and northwestern T114N-R56W (Water Rights, 2016c and Hamilton, 1986). Based on this the noted area of the aquifer could serve as a low transmissivity zone in the aquifer that could restrict flow from the eastern portion of the aquifer to the western portion of the aquifer. The potentiometric surface of this aquifer (Hamilton, 1986), indicates recharge originates in the eastern portion of this aquifer.

The aquifer is under confined conditions (Hamilton, 1986; SDGS, 2016, and Water Rights, 2016c). The average thickness of the aquifer is 20 feet (Hamilton, 1986). Hamilton (1986) estimated the maximum well yield for this aquifer to be in the area of 200 gallons per minute due to the generally high clay content in the sands and gravels of this aquifer. The testhole log at the proposed well site for that application indicates the top of the aquifer occurs at 190 feet below grade, and the aquifer materials present are 110 feet thick. The thickness of aquifer materials reported on the testhole for this application is notable, since none of the other available data for this aquifer indicates an aquifer thickness of this magnitude anywhere else in the aquifer. The static water level reported by the testhole log on 5/21/2015 was 100 feet below grade, however since there are two thin layers of gravel above the top of the aquifer this may not be reflective of the actual water level in the aquifer.

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. 8189-3 proposes to appropriate water from the Prairie Coteau 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 Prairie Coteau aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered.

Hydraulic Budget

Recharge

Recharge to this portion of the aquifer occurs through the infiltration of precipitation and lateral inflow from the till (Hamilton, 1986). 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. Hedges et al. (1985) evaluated recharge to confined aquifers using base flow recession analysis, computer modeling, and flow net analysis. This results in a recharge estimate of 400 to 1,600 acre-feet per year utilizing Hamilton’s (1986) estimated area of the aquifer in Clark County. The available data for this aquifer indicates some limitations may exist on the amount of annual recharge available to the western portion of the aquifer due to the potential zone of low transmissivity discussed earlier. These limitations would suggest that estimates of reasonably probable water available should be kept to the lower side of the 400 to 1,600 acre-feet per year range, until additional data is available to suggest otherwise.

Withdrawals

Discharge from this aquifer is through withdrawals from wells, and westward flow into the till (Hamilton, 1986). There is one water permit for irrigation located within this portion of the Prairie Coteau aquifer. Water Permit No. 8172-3 is for the irrigation of 280 acres at a maximum diversion rate of 2.67 cfs. Due to the priority date on this permit (06/23/2015) it is unlikely that this permit has been developed. Aquifers in the eastern portion of the state, for which the application rate per irrigated acre has been quantified, have yielded application rates of less than ten inches per acre. This results in an estimated water use for Water Permit No. 8172-3

of less than 233 acre-feet per year. Mathiowetz (2015) estimated potential domestic use from Prairie Coteau aquifer 3 (as mapped by Hamilton (1986)) at less than 32 acre-foot per year utilizing the water use data from Carter and Neitzet (2008) to estimate livestock and rural housing use. Therefore, average annual withdrawal from this aquifer can be estimated to be less than 265 acre-feet per year.

Balance

This application, if approved, will likely result in an average annual withdrawal of less than 117 acre-feet per year. This results in an estimated average annual withdrawal including this application, if approved, of less than 382 acre-feet per year. Average annual recharge to this aquifer is estimated to range from 400 to 1,600 acre-feet per year. Estimate average annual withdrawals are at the low end of this range. Therefore, there is a reasonable probability that there is unappropriated water available for the appropriation proposed by this application.

Observation Wells

Administrative Rule 74:02:05:07 requires that, “When regulating water withdrawals by large-capacity wells and in determining the availability of unappropriated water for an application for a permit to appropriate water, the board shall rely upon 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 average annual recharge to the aquifer.” The Water Rights Program does not currently monitor any observation wells in Hamilton’s (1986) Prairie Coteau aquifer 3.

Existing Rights

The proposed diversion point location for Water Permit No. 8172-3 is shown in Figure 1. The proposed diversion point location for Water Permit No. 8172-3 is located about 0.74 miles to the north of this application. Additionally, there are domestic wells in the area that may be completed into the same aquifer. Well completion reports on file with the Water Rights Program that appear to be completed into this aquifer report artesian head pressures ranging from 63 to 143 feet (Water Rights, 2016c). The precise amount of drawdown cannot be quantified without aquifer testing. However, with the amount of artesian head pressure that available data indicates is present within the aquifer, it is within reasonable probability that adequate wells in the area will not be adversely impacted.

The Water Management Board 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.” 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).

Springs

Historically there has been some controversy regarding the potential for water rights/permits to effect springs in Clark County. However, this controversy has typically been linked to Altamont aquifer applications, and Water Permit No. 8172-3 was not contested. Springs in this area are likely the result of downward sloping terrain along the edge of the Coteau Des Prairies incising area aquifers. These types of springs would be expected to fluctuate naturally as a result of climatic conditions. The proposed well location for this application is approximately a mile east of the westward sloping edge of the Coteau, and it is unlikely that withdrawals as a result of this proposed appropriation will affect this type of spring.

Conclusions

1. Water Permit Application No. 8189-3 proposes to appropriate water at a maximum diversion rate of 2.0 cfs from one well completed into the Prairie Coteau aquifer for the irrigation of 140 acres located in the NW $\frac{1}{4}$ Section 35, T115N-R58W. The well is expected to be 300 feet deep and is expected to be located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 35, T115N-R58W.
2. There is a reasonable probability that there is unappropriated water available to support the needs of this application.
3. There is a reasonable probability that this withdrawal as a result of this application, if approved, will not adversely impact area domestic well or existing water rights/permits.

Whitney Kilts

Whitney Kilts

SDDENR-Water Rights Program

Approved by

Ken Buhler

Ken Buhler

SDDENR-Water Rights Program

References

- Carter, J.M. and K.M. Neitzert. 2008. Estimated Use of Water in South Dakota, 2005. U.S. Geological Survey Scientific Investigations Report 2008-5216.
- Christensen, C.M. 1987. Geology and Water Resources of Clark County, South Dakota; Part I: Geology. South Dakota Geologic Survey Bulletin 29. Vermillion, SD.
- Hamilton, L.J. 1986. Geology and Water Resources of Clark County, South Dakota; Part II: Water Resources. South Dakota Geologic Survey Bulletin 29. Vermillion, SD.
- Hedges, L.S., Burch, S. L., Iles, D. L., Barari, R. A., and Schoon, R. A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota, and Iowa. Task 3: Ground-Water Storage. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Allen, J. and Holly, D.E. 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota, and Iowa. Task 7: Ground-Water Recharge. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Heine, S. 2016. Licensed Well Driller. Sam Heine Well Co., LLC. Personal Communication. January 15, 2016.
- Kume, J. 1985. Water Resources of Deuel and Hamlin Counties, South Dakota. Water Resources Investigation Report 84-4069. USGS. Huron, SD.
- Mathiowetz, A. 2015. Report on Water Permit No. 8172-3 for Chris Lamb. August 21, 2015. SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

SD Geological Survey. 2016. Lithological Logs Database, SD DENR-Geological Survey Program, Vermillion, SD.

Water Rights. 1980-2015. "1979-2014 Irrigation Summaries by Aquifer": SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

Water Rights. 1995. Water Right File 2313-2. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2016a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.

Water Rights. 2016b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2016c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

**NOTICE OF APPLICATION NOS. 8189-3 and 8190-3
to Appropriate Water**

Notice is given that Reuben Nicolai, 4800 S 3rd St, LaCrosse WI 54601 has filed the following applications for a water permit.

Application No. 8189-3 proposes to appropriate 2.0 cubic feet of water per second (cfs) from one well to be completed into the Prairie Coteau Aquifer (300 feet deep) located in the SW 1/4 NW 1/4 Section 35 for irrigation of 140 acres located in the NW 1/4 Section 35; all in T115N-R58W.

Application No. 8190-3 proposes to appropriate 2.0 cfs from one well to be completed into the Willow Lake Management Unit of the Vermillion East Fork Aquifer (120 feet deep) located in the approximate center of the NE 1/4 Section 31 for irrigation of 140 acres located in the NE 1/4 Section 31; all in T115N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8189-3 and 8190-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at

the Water Rights Program address provided below.

Any person interested in opposing or supporting these applications or recommendations 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 February 16, 2016.

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.

If the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published once at the
total approximate cost of \$30.45.
2-3-1t

Affidavit of Publication

State of South Dakota

§

County of Clark

William J. Krikac of said county, being first duly sworn, on oath says that he is the publisher of the **Clark County Courier**, a weekly newspaper printed and published in Clark in said County of Clark and has a full and personal knowledge of all the facts therein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

**Reuben Nicolai
Nos. 8189-3 & 8190-3**

a printed copy of which taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once in each week for

One

successive week(s), on the day of each week on which said newspaper was regularly published, to wit:

February 3, 2016

that the full amount of the fees for the publication of the annexed notice is

\$30.45

William J. Krikac

Subscribed and sworn to before me this

3rd day of February, 2016

Anna Zilke

Notary Public
Clark County, South Dakota

My Commission expires: 06/04/2019

RECEIVED

FEB 05 2016

**WATER RIGHTS
PROGRAM**

RECEIVED

FEB 08 2016

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Codington)

I, Monica K. Saathoff

certify that the attached printed Notice was taken
from the Watertown Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

February 3rd, 2016

Cost of Printing \$68.91

Monica Saathoff
(Signature)

Bookkeeper

(Title)

February 3rd, 2016

(Date Signed)

DEPARTMENT
OF
ENVIRONMENT
AND NATURAL
RESOURCES

NOTICE OF APPLICATION
NOS. 8189-3 and 8190-3 to
Appropriate Water

Notice is given that Reuben Nicolai, 4800 S 3rd St, LaCrosse WI 54601 has filed the following applications for a water permit.

Application No. 8189-3 proposes to appropriate 2.0 cubic feet of water per second (cfs) from one well to be completed into the Prairie Coteau Aquifer (300 feet deep) located in the SW 1/4 NW 1/4 Section 35 for irrigation of 140 acres located in the NW 1/4 Section 35; all in T115N-R58W.

Application No. 8190-3 proposes to appropriate 2.0 cfs from one well to be completed into the Willow Lake Management Unit of the Vermillion East Fork Aquifer (120 feet deep) located in the approximate center of the NE 1/4 Section 31 for irrigation of 140 acres located in the NE 1/4 Section 31; all in T115N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8189-3 and 8190-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting these applications or recommendations 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 February 16, 2016.

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.

If the applicant does not contest the recommendations of the Chief Engineer and no

petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition. Steven M. Pimer, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of \$65.36. 89 (February 3, 2016)

All legal notices in the Public Opinion and other South Dakota newspapers can be found at www.sdpublicnotices.com

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, January 27, 2016 10:29 AM
To: courier@itctel.com
Subject: 8189-3 and 8190-3, Reuben Nicolai
Attachments: 8189-90-3nov2015pluralnewpublic.short1.docx; FORM8.FRM.doc

Attached is a notice to be published on February 3, 2016.

Reuben Nicolai, 4800 S 3rd St, LaCrosse WI 54601 (608 787-5685) 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: Wednesday, January 27, 2016 10:30 AM
To: legals@thepublicopinion.com
Subject: 8189-3 and 8190-3, Reuben Nicolai
Attachments: 8189-90-3nov2015pluralnewpublic.short1.docx; FORM8.FRM.doc

Attached is a notice to be published on February 3, 2016.

Reuben Nicolai, 4800 S 3rd St, LaCrosse WI 54601 (608 787-5685) 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



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 DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.

January 26, 2016

Reuben Nicolai
4800 S 3rd St
LaCrosse WI 54601

Dear Mr. Nicolai:

Water Permit Application Nos. 8189-3 and 8190-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Clark County Courier printed at Clark SD (Ph # 605-234-1444) and the Public Opinion printed at Watertown SD (Ph # 605-886-6901). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications 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(s) has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
(605) 773-3352

Enclosures

C: Dave Gullickson, Farmers Implement, PO Box 29, Brookings SD 57006

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 applications.

Instruction to Newspaper - Publish the Notice on February 3, 2016. The applicant is responsible for payment.

NOTICE OF APPLICATION NOS. 8189-3 and 8190-3 to Appropriate Water

Notice is given that Reuben Nicolai, 4800 S 3rd St, LaCrosse WI 54601 has filed the following applications for a water permit.

Application No. 8189-3 proposes to appropriate 2.0 cubic feet of water per second (cfs) from one well to be completed into the Prairie Coteau Aquifer (300 feet deep) located in the SW 1/4 NW 1/4 Section 35 for irrigation of 140 acres located in the NW 1/4 Section 35; all in T115N-R58W.

Application No. 8190-3 proposes to appropriate 2.0 cfs from one well to be completed into the Willow Lake Management Unit of the Vermillion East Fork Aquifer (120 feet deep) located in the approximate center of the NE 1/4 Section 31 for irrigation of 140 acres located in the NE 1/4 Section 31; all in T115N-R57W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 8189-3 and 8190-3 with qualifications 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. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting these applications or recommendations 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 February 16, 2016.

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.

If the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendations with no hearing held before the Water Management Board. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

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

Reuben Nicolai
4800 S 33rd St
LaCrosse WI 54601

Dear Mr. Nicolai:

Enclosed are Water Permit Nos. 8189-3 and 8190-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses 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



8189-3
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 25, 2019

NOTICE

TO: REUBEN NICOLAI, 4800 S 33RD ST, LACROSSE, WI 54601

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

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaires

Our records indicate your 2018 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 3386-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 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, 2019 at 10:30 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) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3386-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **March 6, 2019** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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.

8189-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 27, 2019

Reuben Nicolai
4800 S 33rd St
Lacrosse WI 54601

RE: Water Permit/Right Nos. 2211A-3, 3386-3, 4295-3A, 4648-3, 8189-3 & 8190-3

Dear Mr. Nicolai:

I am writing to acknowledge receipt of your 2018 irrigation questionnaires. Troy Rasmussen returned the forms to our office on February 26th.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit/Right Nos. 2211A-3, 3386-3, 4295-3A, 4648-3, 8189-3 & 8190-3. 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,

A handwritten signature in black ink, appearing to read "Genny McMath". The signature is fluid and cursive, with the first name "Genny" being more prominent.

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

8189-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: REUBEN NICOLAI, 4535 MORMAN COULEE RD, LACROSSE, WI 54601

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

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaires

Our records indicate your 2020 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 3386-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 qualification:

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

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 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:

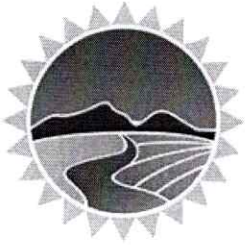
1. Suspend or cancel Permit No(s) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3386-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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 questionnaires are received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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: <https://denr.sd.gov/iq> using this password: RRWSUL**

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.

8189-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 2021

Reuben Nicolai
RHN LLC
4535 Morman Coulee Rd
LaCrosse WI 54601

RE: Water Right or Permit Nos. 1504B-3, 1723-3, 2211A-3, 3386-3, 3390-3A, 4295-3A, 4648-3, 8189-3
& 8190-3

Dear Mr. Nicolai:

I am writing to acknowledge receipt of your 2020 irrigation questionnaires. They were submitted January 26th by Troy Rasmussen.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for the above listed water permits and rights. 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,

A handwritten signature in cursive script, appearing to read "Genny McMath".

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

8189-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2022

NOTICE

TO: REUBEN NICOLAI, 4535 MORMAN COULEE RD, LACROSSE, WI 54601

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaires

Our records indicate your 2021 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 3386-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 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) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3386-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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: <https://danr.sd.gov/iq> using this password: BVDYUP**

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.

8189-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 9, 2022

RHN LLC
4535 Morman Coulee Rd
LaCrosse WI 54601

Dear Audra:

I am writing to acknowledge receipt of the 2021 irrigation questionnaires for Reuben Nicolai and RHN LLC. The forms were returned by Troy Rasmussen on January 27th and the last one on February 9th.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for the following water permits & water rights:

- Reuben Nicolai: 2211A-3, 3386-3, 4295-3A, 4648-3, 8189-3 & 8190-3 and
- RHN LLC: 1504B03, 1723-3 and 3390-3A

The information was received in our office prior to the Water Management Board meeting and is no longer on the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

c: Troy Rasmussen (email)

8189-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date January 17, 2023RECEIVED OF Nicolai Apartments 4535 Mormon Coulee Rd., LaCrosse WI 54601

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
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. _____	\$ _____
Fee for Filing Transfer Form <u>8189-3</u>	\$ <u>50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>50.00</u>

By Eric Gronlund
 Chief Engineer
Em

PAID

JAN 17 2023

NOTICE OF TRANSFER OF OWNERSHIP

Ck# 016750

For assistance call (605) 773-3352

Rec't# _____

Mail to: SD DANR, Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 8189-3

Date: 1/9/23

RECEIVED

JAN 17 2023

OFFICE OF
WATER

I/We request that Water Right/Permit No. 8189-3 formerly owned by:

Reuben Nicolai

be transferred to:

New Owner Name:

Steven M. Nicolai

Address:

4535 Mormon Court Rd mobile: 608 788 7462

City, State, Zip

La Crosse, WI 54601

email: AndraC.Nicolai@apartments.com

Title to the following described land(s)/property has been transferred as described above:

Deed



I understand that the validity of Water Right/Permit No. 8189-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Steven M. Nicolai, the new owner, certify that the above information is true and correct.

Steven M. Nicolai
(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five-year construction period has expired. Once a water permit is developed, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three-year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

EXHIBIT A

LEGAL DESCRIPTION

Steven M. Nicolai

Clark County, South Dakota

1. THE SOUTHWEST QUARTER (SW1/4), LESS A TRACT EIGHTEEN (18) RODS BY EIGHTEEN (18) RODS IN THE SOUTHEAST CORNER THEREOF FOR CEMETERY PURPOSES, OF SECTION TWENTY-FOUR (24), IN TOWNSHIP ONE HUNDRED SEVENTEEN (117) NORTH, OF RANGE FIFTY-EIGHT (58), WEST OF THE 5TH P.M., CLARK COUNTY, SOUTH DAKOTA.
2. THE SOUTHWEST QUARTER (SW1/4) OF SECTION THREE (3), TOWNSHIP ONE HUNDRED SEVENTEEN (117) NORTH, RANGE FIFTY-SIX (56) WEST OF THE 5TH P.M., CLARK COUNTY, SOUTH DAKOTA.
3. THE NORTHEAST QUARTER (NE1/4) OF SECTION THIRTY-ONE (31), IN TOWNSHIP ONE HUNDRED FIFTEEN (115) NORTH, OF RANGE FIFTY-SEVEN (57) WEST OF THE 5TH P.M., CLARK COUNTY, SOUTH DAKOTA.
4. THE NORTHWEST QUARTER (NW1/4) OF SECTION THIRTY-FIVE (35), IN TOWNSHIP ONE HUNDRED FIFTEEN (115) NORTH, OF RANGE FIFTY-EIGHT (58) WEST OF THE 5TH P.M., CLARK COUNTY, SOUTH DAKOTA.
5. THE SOUTHEAST QUARTER (SE1/4) OF SECTION TWENTY-FIVE (25), IN TOWNSHIP ONE HUNDRED SIXTEEN (116) NORTH, OF RANGE FIFTY-SIX (56), WEST OF THE 5TH P.M., CLARK COUNTY, SOUTH DAKOTA.
6. THE NORTHWEST QUARTER (NW1/4) OF SECTION TWELVE (12), IN TOWNSHIP ONE HUNDRED SIXTEEN (116) NORTH, OF RANGE FIFTY-SIX (56) WEST OF THE 5TH P.M., CLARK COUNTY, SOUTH DAKOTA EXCEPT FOR THE ROAD THEREIN.

Deed BOOK 5N PAGE 419



Document Prepared By:

James R. Myers, P.C.
MYERS BILLION, LLP
Attorneys at Law
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Andrea Helkenn
Andrea Helkenn, Register of Deeds
Return To:
MYERS BILLION

TRUSTEE'S DEED

Steven M. Nicolai and Ronald Helstad, Co-Trustees of the Reuben Nicolai Revocable Trust, restated as of March 8, 2019, of 4535 Mormon Coulee Road, LaCrosse, Wisconsin 54601 and 3317 Mormon Coulee Road, LaCrosse, Wisconsin 54601, respectively, Grantor, for and in consideration of One Dollar and other good and valuable consideration, hereby convey unto Steven M. Nicolai, a married person as individual property, Grantee, of 4535 Mormon Coulee Road, LaCrosse, Wisconsin 54601, the following described real estate in the County of Clark in the State of South Dakota:

SEE ATTACHED EXHIBIT A

Exempt from Transfer fee pursuant to SDCL 43-4-22(15): Transfer between fiduciary and beneficiary.

A Certificate of Trust signed by the Co-Trustees is attached hereto.

Dated this 30th day of November 2022.

REUBEN NICOLAI REVOCABLE TRUST

By *Steven M. Nicolai*
Steven M. Nicolai, Its Co-Trustee; and,

By *Ronald Helstad*
Ronald Helstad, Its Co-Trustee

Deed BOOK 5N PAGE 417

McMath, Genny

From: audra@nicolaiapartments.com
Sent: Tuesday, February 21, 2023 1:34 PM
To: McMath, Genny
Subject: RE: [EXT] Deed
Attachments: Trustee's Deed - Turner County-Steven-recorded.pdf; Trustee's Deed - Clark County-Steven-recorded.pdf; Trustee's Deed - Hutchinson County-Steven-recorded.pdf

Genny-

The following deeds are attached:

- Permit 4648-3 (Turner County)
 - This paperwork should now be completed by and sent to the farmer.
 - L & L Feeders
28681 459th Avenue
Davis, SD 57021
605-238-5652
- Permit 8189-3 & 8190-3 (Clark County)
 - This paperwork should now be completed by and sent to the farmer.
 - Chris Lamb
43116 182nd St.
Vienna, SD 57271-5421
605-625-5082
- Permit 5392A-3 (Hutchinson County)
 - This paperwork should now be completed by and sent to the farmer.
 - Daniel Ulmer
159 Crestview Drive
Yankton, SD 57078
605-660-0485 & 605-760-3948 (Linda)
- Permits 1723-3, 1504B-3, & 3390-3A (Spink County)
 - This deed was not received with the others, so I've requested it be sent.
 - Will forward as soon as we receive it.
 - This paperwork should now be completed by and sent to the farmer.
 - Matt VanBuskirk
Box 98
Hitchcock, SD 57348
605-690-0100

Let me know if you need anything else from me.

And again, thank you for all of your help with this.

Audra B.

8189-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 23, 2023

4648-3
8189-3
8190-3

Steven M Nicolai
4535 Mormon Coulee Rd
LaCrosse WI 54601

Dear Mr. Nicolai:

Thank you for sending in the transfer forms and filing fees for changing ownership on Water Permits or Rights held by Reuben Nicolai or RHN LLC.

The ownership changes have been completed for three of them. Water Right No. 4648-3 and Water Permit Nos. 8189-3 and 8190-3 formerly held by Reuben Nicolai are now listed in your name. We are waiting for the deeds for the remaining water permits or rights. Once those are received, the remaining ownership changes will be processed.

As requested, the annual irrigation questionnaires will be directed to the operators as follows:

- Water Right No. 4648-3 (Turner County) – L & L Feeders
- Water Permit Nos. 8189-3 & 8190-3 (Clark County) – Chris Lamb

If you change operators in the future, please notify our office so we can update the records.

Enclosed are receipts for the filing fees you paid for the ownership changes. If you have any questions, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosures



8189-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 18, 2025

No. 8189-3 & 8190-3

Steven Nicolai
4535 Morman Coulee Rd
La Crosse, WI 54601

Dear Mr. Nicolai:

I'm writing you today in reference to Water Permit Nos. 8189-3 & 8190-3.

Water Permit No. 8189-3 authorized the diversion of 2.00 cfs from groundwater, one well (Prairie Coteau Aquifer) for the irrigation of 140 acres located within the NW ¼ Section 35; all in T115N, R58W, with construction to be completed by February 16, 2021, and for the application to beneficial use of water on or before February 16, 2025.

Water Permit No. 8190-3 authorized the diversion of 2.00 cfs from groundwater, one well (Willow Lake Management Unit of the Vermillion East Fork Aquifer) for the irrigation of 140 acres located within the NE ¼ Section 31; all in T115N, R57W, with construction to be completed by February 16, 2021, and for the application to beneficial use of water on or before February 16, 2025.

On November 20, 2024, Water Rights Program inspector Darrell DeBoer attempted to inspect Water Permit Nos. 8189-3 & 8190-3 for the purpose of licensing the irrigation systems authorized by the water permits. Mr. DeBoer noted that the irrigation systems were likely un-developed.

Due to the reported absence of irrigation systems, I would ask that you please contact me to discuss the cancelation of Water Permit Nos. 8189-3 & 8190-3.

Sincerely,

Miranda Smith
Water Rights Program
605 773-3352
Miranda.Smith@state.sd.us

Dewell, Amanda

From: DeBoer, Darrell
Sent: Monday, November 25, 2024 8:51 AM
To: Dewell, Amanda
Subject: Permits 8189-3 & 8190-3 (Nicolai - Clark)

Steven Cell:
608-780-7642

Amanda

I tried to follow up on these two permits but will not have time to complete an interview with Mr. Steven Nicolai, son of Rueben who received the original permit, before my employment termination.

Mr. Chris Lamb, the farm operator, has been completing the IQ's for the land owner which indicate no irrigation or construction since 2015.

Steven can be contacted at 608/788-7962 and at 4535 Mormon Coulee Road, La Crosse WI, 54601-8232.

So, if you are looking for something to do this long winter, this would be a good project.

Stay warm.

Darrell