

WATER PERMIT NO. 8202-3

Name of Applicant: **Gerald Benjamin**

Address: **32175 473 Ave, Elk Point SD 57025** Phone: **605 670-1401**

Amount of Water Claimed: ~~2.22~~ ^{5.51} cfs Total Acres: **132 acres**

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

Water to be used for: irrigation County: Union

Type of Waste Disposal System:

Location: 4 miles northwest of Elk Point

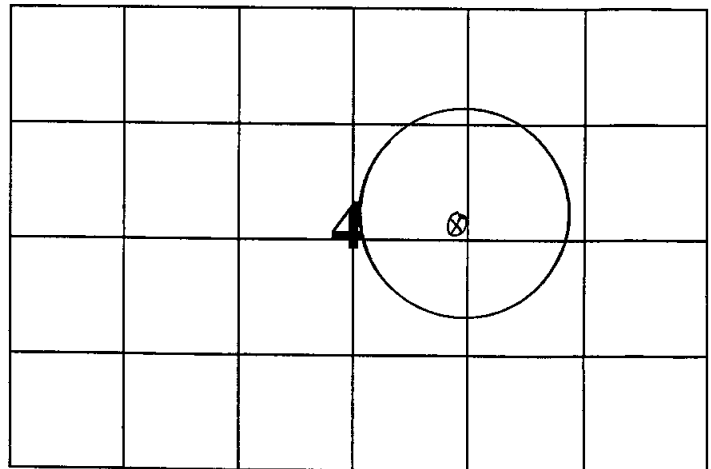
PRIORITY Date Received: 2-10-16 Application/License Fee: \$ 1050

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

Remarks:

Diversion Point: SW 1/4 NE 1/4 Sec 4-T91N-
R50W

Land to be Irrigated: NE 1/4, N 1/2 SE 1/4 Sec 4-
T91N-R50W

Depth of Well: 115

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: 2-10-16

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8202-3</u> (office use only) Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri River</u> <u>605-356-2632</u>
	Newspaper <u>Southern Union Co Leader/Courier, Elk Point</u>
	<u>Press & Dakotan, Yankton 605-665-7811</u>

RECEIVED**FEB 10 2016****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 Gerald Benjamin
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 32175 473 ave Elk Point ☒ SD ☒ 57025
 (Address) (City) (State) (Zip Code)

Phone 605-5406234 **Mobile** 605-670-1401 **Email** benjamin@evertek.net
2. Amount of water claimed 1.89 *CFS or _____ **GPM _____ ***AF _____ **Total Acreage** 132
 (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 1 well in T91n, R50w section 4, sw1/4 of ne1/4,
4. Location of point of diversion _____
 (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County union ☒
5. County or counties where water will be used union
6. Annual period during which water is to be used may-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
ne of se of section 4, T91n R50w,	25	ne of ne of section 4, T91n, R50w	6
nw of se of section 4, T91n R50w,	27	nw of ne of section 4, T91n, R50w	6
se of ne of section 4, T91n R50w	34		
sw of ne of section 4, T91n R 50w	34		

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

Center pivot irrigation of the above listed property.

 I, Gerald Benjamin Owner/Operator, the applicant, certify under
 Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

**SOUTH DAKOTA
WATER PERMIT NO. 8202-3**

Date of first receipt of application February 10, 2016.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8202-3 to Gerald Benjamin, 32175 473rd Ave, Elk Point SD 57025 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. 8202-3 appropriates 1.89 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located near the center of the E 1/2 Section 4 for irrigation of 132 acres located in the NE 1/4, N 1/2 SE 1/4 Section 4; all in T91N-R50W.
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 February 10, 2016.
4. The date of approval of Permit No. 8202-3 is May 2, 2016.
5. One-fifth of the construction is to be completed on or before November 2, 2018.
6. All construction is to be completed on or before May 2, 2021.
7. Water is to be put to beneficial use on or before May 2, 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. 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

MAY 12 2016
date



(type or print)

(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 Heine Electric & Irr, Inc.
(if yes, please provide copies of logs)

b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by _____

For either Existing or Proposed Wells:

c) Well Depth (**required**) 115 Depth to Top of Water Bearing Material 80 Depth to Water from Surface 21

d) Distance to nearest domestic well on applicant's property 1300 Property owned by others 2600

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

b) System Capacity (gallons)	Year Constructed
1000	1980
2000	1985
3000	1990
4000	1995
5000	2000
6000	2005
7000	2010
8000	2015
9000	2020
10000	2025

c) Connected to the City of Sanitary System

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)

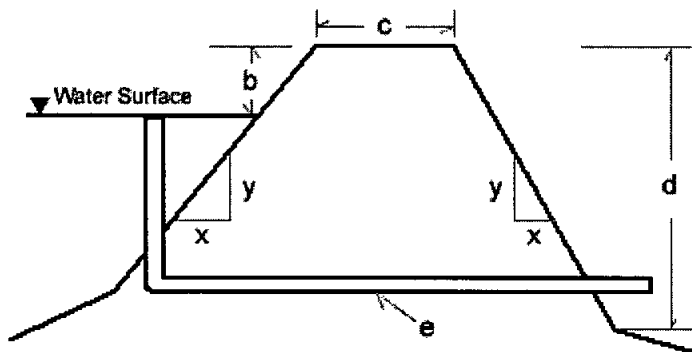
Upstream

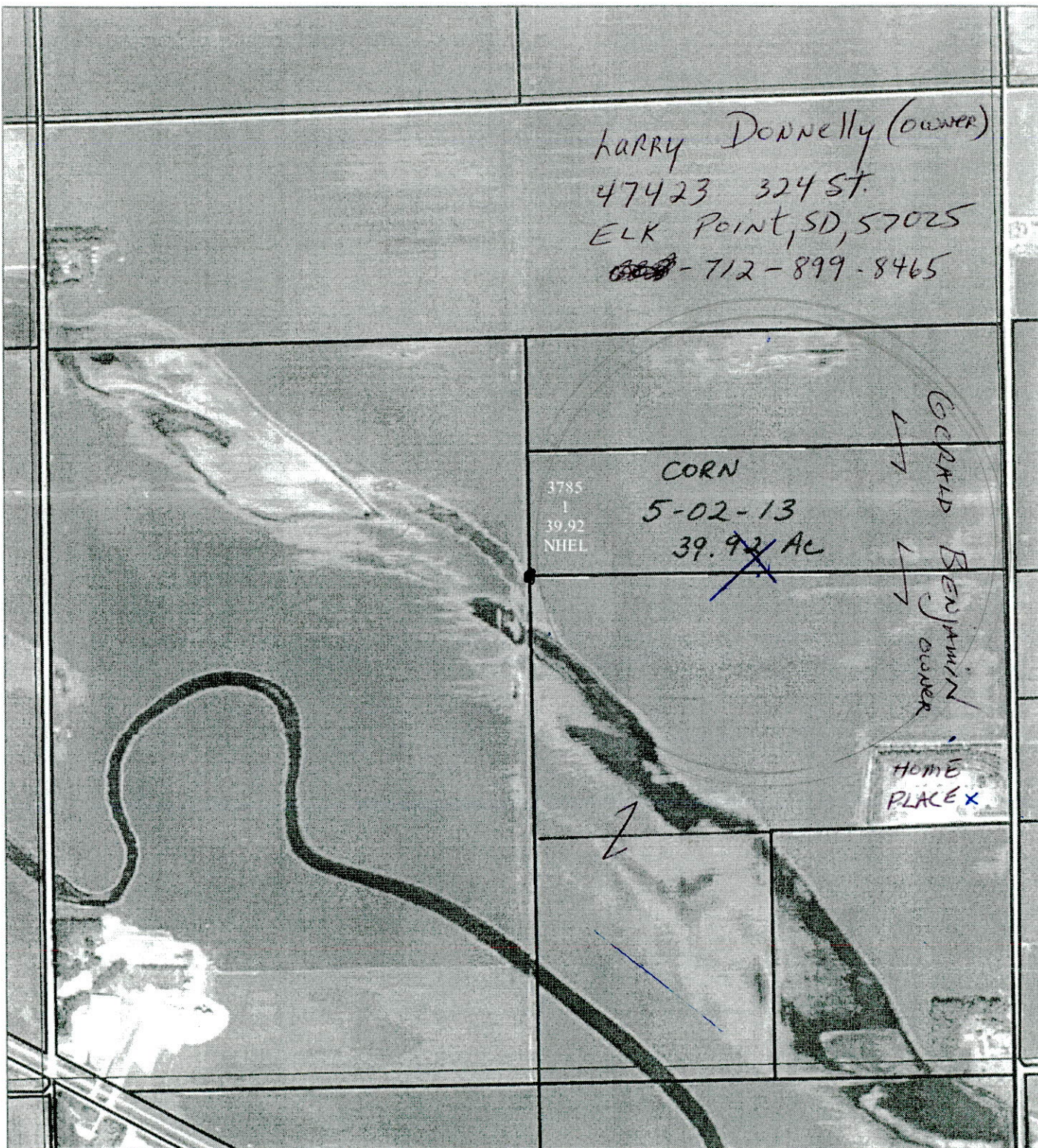
Downstream

h) Surface Area of Impoundment

i) Storage	Acre Feet
------------	-----------

j) Drainage Area Above Dam	Acres
1	100
2	200
3	300
4	400
5	500
6	600
7	700
8	800
9	900
10	1000
11	1100
12	1200
13	1300
14	1400
15	1500
16	1600
17	1700
18	1800
19	1900
20	2000
21	2100
22	2200
23	2300
24	2400
25	2500
26	2600
27	2700
28	2800
29	2900
30	3000
31	3100
32	3200
33	3300
34	3400
35	3500
36	3600
37	3700
38	3800
39	3900
40	4000
41	4100
42	4200
43	4300
44	4400
45	4500
46	4600
47	4700
48	4800
49	4900
50	5000
51	5100
52	5200
53	5300
54	5400
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58	5800
59	5900
60	6000
61	6100
62	6200
63	6300
64	6400
65	6500
66	6600
67	6700
68	6800
69	6900
70	7000
71	7100
72	7200
73	7300
74	7400
75	7500
76	7600
77	7700
78	7800
79	7900
80	8000
81	8100
82	8200
83	8300
84	8400
85	8500
86	8600
87	8700
88	8800
89	8900
90	9000
91	9100
92	9200
93	9300
94	9400
95	9500
96	9600
97	9700
98	9800
99	9900
100	10000





United States Department of Agriculture
 Farm Service Agency

PLSS: 4_91N_50W
 Farm: 5857

Union County

1:8,734



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FEB 10 2016

**WATER RIGHTS
 PROGRAM**

April 27, 2012

Wetland Determination Identifiers

- ☒ Restricted Use
- ☒ Limited Restrictions
- ☐ Exempt from Conservation Compliance Provisions

Common Land Units

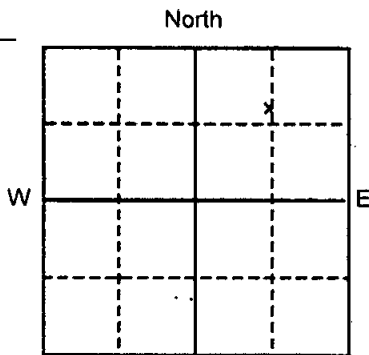
- ☒ Non Cropland

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

2010 Ortho-Photography - Not to Scale

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location nw 1/4 ne 1/4 Sec 4 Twp 91n Rg 50wCounty UnionPlease mark well
location with an "X"

Well Completion Date

January 8, 2016

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
2,000.0 ft. from septic tank (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other
 If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
_____ LB/FT	_____ IN	_____ FT	_____ FT	<u>5.00</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>bent grout</u>	<u>5</u>	<u>9.5</u> Lb/gal	<u>0.0</u> Ft	<u>120.0</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

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: Gerald Benjamin

Business Name: _____

Address: 32175 473rd aveCity, State, Zip: ElkPoint SD 57025

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
topsoil, black	0	2
clay, brown	2	40
clay, gray	40	65
sand, fine, gray	65	70
gravel, fine	70	80
gravel, medium	80	120

STATIC WATER LEVEL 20.0 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 # 810 and this
report is true and accurate.Drilling firm: Heine Electric & Irrigation, Inc

Signature of License Representative: _____

Jan [Signature] 1-22-16

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

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FEB 11 2016

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 2/10, 20 16

RECEIVED OF Gerald Benjamin 32175 473rd Ave Elk Point SD 57025

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

Fee for Application for Permit No. <u>8202-3</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>8202-3</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. 07750

By J. M. Goodman if
Chief Engineer

Application No. 8202-3

Water Rights Program - DENR Conversation File Documentation

NAME OF PERSON OR FILE: Application No. 8202-3 Gerald Benjamin

ADDRESS: COUNTY: Union County

DATE: February 10, 2016 TELEPHONE: 605 670-1401

RE: water permit application

Mr. Benjamin returned my phone call. I stated his application requests 1,000 gpm for irrigation of 132 acres. This amount of diversion rate authority exceeds the statutory limit. I asked what his rationale was for requesting 1,000 gpm. He stated it was just a number he came up with.

I explained the statutory limit for 132 acres is just shy on 850 gpm which is the amount of water normally needed to operate a quarter section center pivot system. Mr. Benjamin agreed and asked that I amend the application to the statutory limit.

I also said the proposed well construction section indicated a test hole log had been drilled. He said a test hole has been drilled but that he does not have a copy of the log. I indicated that I would contact Dick Hammond with Heine Electric to request the test hole log.

I called Dick Hammond (605 670-2321) and left a message for him to send me the test hole log for Mr. Benjamin in the NE ¼ Section 4, T91N, R50W.

NAME: Eric Kunkley



**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. 8202-3, Gerald Benjamin**

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. 8202-3, Gerald Benjamin, 32175 473rd Avenue, Elk Point SD 57025.

The Chief Engineer is recommending APPROVAL of Application No. 8202-3 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. 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
April 12, 2016

Report to the Chief Engineer
Water Permit Application No. 8202-3
Gerald Benjamin
March 28, 2016

Water Permit Application No. 8202-3 proposes to appropriate water at a maximum diversion rate of 1.89 cubic feet per second (cfs) from one well completed into the Elk Point management unit of the Missouri aquifer. The well depth is 120 feet, and the well location is near the center of the E ½ of Section 4-T91N-50W in Union County. The proposed water use is for the irrigation of 132 acres located in the NE ¼, N ½ SE ¼ of Section 4- T91N-50W in Union County.

Aquifer: Elk Point Management unit of the Missouri aquifer

Aquifer Characteristics and Hydrogeology

The Elk Point management unit of the Missouri aquifer underlies portions of Clay, Union, and Yankton counties (Hedges et al., 1982 and 1985). It is comprised primarily of glacial outwash consisting of fine sand to coarse gravel underlying alluvium on the floodplains of the Missouri River. Much of the floodplain alluvium is permeable and forms a single aquifer where the outwash underlies the floodplain (Stephens, 1967). Elsewhere the management unit underlies glacial till (Niehus, 1994; Bugliosi, 1986; and Stephens, 1967). The management unit can be found under both water table and artesian conditions (Stephens, 1967). The management unit has an area of about 219,100 acres and contains an estimated 3,287,100 acre-feet of recoverable water (Hedges, 1982). The Elk Point management unit of the Missouri aquifer is hydraulically connected to the Missouri River along its southern boundary, the Lower-Vermillion-Missouri aquifer, the Big Sioux River, the Vermillion River, and the Lower James-Missouri aquifer (Niehus, 1994; Bugliosi, 1986; and Stephens, 1967). Groundwater movement is generally southeast toward the Missouri River (Stephens, 1967).

The well completion report for the well that this application proposes to utilize reported the top of the aquifer at 65 feet below grade and a static water level of 20 feet below grade (01/08/2016). This indicates that the management unit in the location of this well is under confined conditions; however a review of area lithologic information (SDGS, 2015 and Water Rights, 2016c) indicates that the management unit transitions to unconfined conditions between this well location and the Missouri River. The well site for this application is located about 3.3 miles from the Missouri River.

South Dakota Codified Law (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for 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. 8202-3 proposes to appropriate water from the Elk Point management unit of the Missouri aquifer for irrigation use. The probability of unappropriated water being 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 the application is for a water distribution system defined pursuant to SDCL 46-1-6 (17), the Board need not consider the recharge/withdrawal issue. Here, a water distribution system is not involved and the Elk Point management unit of the Missouri aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered.

Hydraulic Budget

Recharge

Recharge to the Missouri: Elk Point occurs by infiltration of precipitation, seepage from rivers/streams, and leakage from other aquifers (Bugliosi, 1986). Hedges et al. (1985) estimated that recharge to the aquifer was approximately 3.8 inches per year, based on observation well data. Utilizing this information and the area of the aquifer, average annual natural recharge can be estimated at 69,382 acre-feet. Stonesifer (2013) estimated induced recharge to the aquifer from the Missouri River due to the operation of the Lewis and Clark Water Treatment System to be 22,582 acre-feet per year. This results in an estimated average annual recharge of 91,964 acre-feet per year. Additionally, Stonesifer (2013) notes the further potential for induced recharge to the aquifer from the Missouri, Vermillion, James, and Big Sioux Rivers.

Withdrawals

Withdrawals from the Elk Point management unit of the Missouri aquifer includes well withdrawals, outflow to the Missouri and Big Sioux Rivers, and evapotranspiration in locations where the aquifer is near the land’s surface (Niehus, 1994; Bugliosi, 1986; and Stephens, 1967). Withdrawals from the Elk Point management unit of the Missouri aquifer as of June 10, 2013, were extensively examined in Stonesifer (2013), which estimated average annual withdrawals at 81,108 acre-feet per year. Therefore, Stonesifer (2013) estimated that average annual recharge exceeded average annual withdrawal by 10,856 acre-feet.

The water availability for this application can be evaluated considering the water permits issued since June 10, 2013, in conjunction with the water availability analysis of Stonesifer (2013). There have been 35 water permits issued and two reinstated permits (7074A-3 and

7009A-3) in the management unit since Stonesifer (2013). There are also two deferred applications for the management unit. These water permits/rights/applications are summarized in Table 1, along with the amount of water appropriated for each permit in the case of irrigation permits and the annual volume for non-irrigation permits limited by an annual volume.

For new irrigation permits the average annual pumping can be estimated in a similar manner to Stonesifer (2013), where the average ratio of pumpage to appropriation from developed appropriations was applied to new appropriations, and developed appropriations were considered to be permits authorized prior to 2006. In Stonesifer (2013) this percentage was 13.7%. In updating the pumpage to appropriations ratio to reflect additional irrigation data collected since Stonesifer (2013), developed appropriations were considered to be those past their five year construction period in a similar manner to Mathiowetz (2014). With the inclusion of the irrigation data from 2014 the updated percentage of pumpage to appropriation for developed appropriations is 13.8%. By applying this percentage of pumpage to appropriation to the irrigation permits issued since June 10, 2013, the average annual withdrawal from these appropriations can be estimated to be about 980 acre-feet.

Table 1: Water Rights/Permits Issued Since Stonesifer (2013) for the Elk Point Management Unit of the Missouri Aquifer (Water Rights, 2016b)

Irrigation						
Permit No.	Name	Status	Use	Rate (cfs)	Acres	Appropriation (ac-ft/yr)
7848-3	MISSOURI VALLEY FARMS INC	PE	IRR	3.04	213.0	426.0
7856-3	MIKE & STEVE ALLARD	PE	IRR	1.78	129.3	258.6
7895-3	TODD HANSON	PE	IRR	1.89	180.0	360.0
7898-3	JAMES ORR	PE	IRR	1.56	132.0	264.0
7899-3	JUSTIN ORR	PE	IRR	1.56	97.0	194.0
7904-3	CRAIG S MCINERNEY	PE	IRR	1.78	160.0	320.0
7933-3	DOUGLAS G BYE	PE	IRR	0.89	90.0	180.0
7936-3	DONALD JOHNSON	PE	IRR	1.39	83.0	166.0
7938-3	RUSSELL M HALL	PE	IRR	0	53.0	106.0
7941-3	JOSEPH F CHICOINE	PE	IRR	1	37.7	75.4
7074A-3	CALVIN HANSON	PE	IRR	1.78	162.0	324.0
7951-3	ALLEN PACE	PE	IRR	1.78	150.0	300.0
7955-3	KARL M SCHENK	PE	IRR	1.78	140.0	280.0
7971-3	BARRY VAN OSDEL	PE	IRR	1.11	68.0	136.0
7980-3	FRANCIS HEINE	PE	IRR	0	5.0	10.0
7987-3	FRANCIS M ARMSTRONG LIVING TRUST	PE	IRR	1.78	102.0	204.0
8010-3	RYAN RUSHER	PE	IRR	0.1	2.5	5.0
8016-3	AMELIA BERTRAND TRUST	PE	IRR	1.67	66.0	132.0
8022-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	PE	IRR	1.91	134.0	268.0
8023-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	PE	IRR	4.14	290.0	580.0
8024-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	PE	IRR	3.36	235.2	470.4
8025-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	PE	IRR	3.82	267.2	534.4
8029-3	DAKOTA DUNES COMM IMPROVEMENT DISTRICT	PE	IRR	0.78	17.8	35.6
7009A-3	ROGER D HANSON	PE	IRR	1.78	120.0	240.0
8040-3	HEINE ELECTRIC & IRRIGATION INC	PE	IRR & COM	0.33	3.0	6.0
8079-3	MELVIN & LARRY DONNELLY	PE	IRR	1.78	160.0	320.0
8080-3	LARRY & MELVIN DONNELLY	PE	IRR	1.78	160.0	320.0
8175-3	GAYVILLE-VOLIN SCHOOL DISTRICT 63-1	PE	IRR	0.058	4.0	8.0
8176-3	CALVIN & MARY HANSON	LC	IRR	1.113	31.0	62.0
8177-3	D A OLSON & SONS	PE	IRR	1.23	62.0	124.0
8181-3	MARC T BERNARD	PE	IRR	0.89	40.0	80.0
8192-3	STOP DROP LOCK INC	PE	IRR	2.22	152.0	304.0
Total					3546.7	7093.4
Non-Irrigation						
Permit No.	Name	Status	Use	Rate (cfs)	Acres	Annual Volume (ac-ft)
5749-3	STOCKMENS LIVESTOCK	DF	COM	0.03		
5750-3	STOCKMENS LIVESTOCK	DF	COM	0.09		
8031-3	DAKOTA PROTEIN CONVERSION INC	PE	COM	0.22		
8069-3	CIMPLS LLC	PE	COM	0.44		452*
8147-3	DOUG LAFLEUR	PE	COM/LCO	1		160

LC=Water Rights, PE= Water Permit, DF=deferred application, COM=commercial, IRR= irrigation, LCO=live stock confinement operation

*total when combined with Water Right No. 5616-3

Historically, water use by non-irrigation appropriations limited by instantaneous diversion rate has been less than 60% of full time pumping at the permitted authorize diversion rate. For water rights/permits limited to an annual volume, full use of that volume is assumed for estimation of average annual withdrawal. The water permit for Cimpl's LLC limits the total annual volume of both Water Right No. 5616-3 and Water Permit No. 8069-3 to 452 acre-feet. The hydraulic budget for the Elk Point management unit of the Missouri aquifer prepared by Stonesifer (2013) considered the appropriation associated with Water Right No. 5616-3 to be 191 acre-feet per year. This would result in an additional appropriation from the aquifer of 261 acre-feet per year. Water Permit No. 8040-3 is for both irrigation and commercial use, the diversion

rate for this permit appears to be more reflective of the need (for commercial use) to fill their water trucks in a timely manner rather than actual water use (Water Rights, 2014). The 2015 Irrigation Questionnaire for Water Permit No. 8040-3 also reported their commercial use for March 2015 to October 2015 totaled about 0.5 acre-feet. To estimate the water use from the commercial portion of this permit the highest reported monthly water use was used to estimate an average annual water use for the commercial portion of this permit as 1.5 acre-feet per year (Water Rights, 2015-2016). Therefore the annual withdrawal for non-irrigation appropriations since Stonesifer (2013) and the two deferred permits can be estimated at 761 acre-feet.

Balance

In considering new appropriations since June 10, 2013, and the two deferred applications, the average annual withdrawal associated with them is estimated to be 1,771 acre-feet. When examining this estimated average annual withdrawal in conjunction with the hydraulic budget analysis in Stonesifer (2013) average annual withdrawals are estimated to be about 82,879 acre-feet. When compared with recharge, estimated average annual recharge to the aquifer exceeds this by 9,085 acre-feet. Therefore there is a reasonable probability that water is available to meet the needs of this application.

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. When considered together observation wells can offer insight into the overall hydraulic conditions in an aquifer, and when considered singularly or in spatial groups, can offer insights into localized hydraulic conditions.

The Water Rights Program monitors 37 observation wells in the Elk Point management unit of the Missouri aquifer. The nearest observation well to the well that this application proposes to utilize is observation well UN-77L located approximately 2.4 miles to the south (hydrograph shown in Figure 1). Observation well UN-87G and CL-80 are located approximately 3.2 miles to the east southeast and approximately 4.0 miles to the northwest respectively (hydrographs shown in Figure 2 and Figure 3).

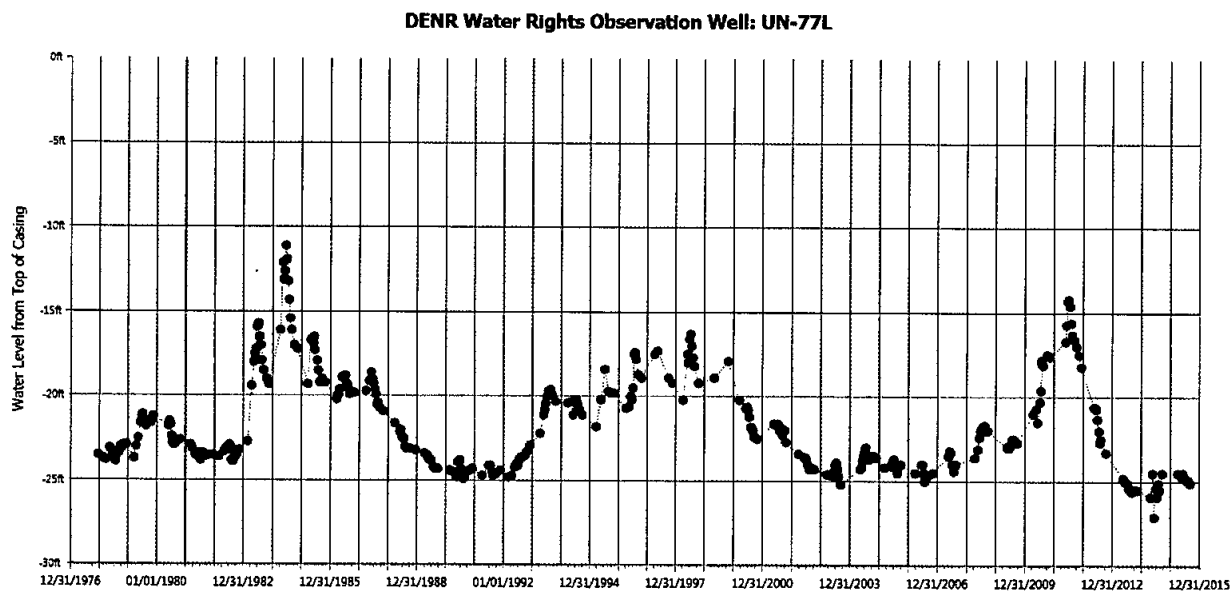


Figure 1: Hydrograph of observation well UN-77L (Water Rights, 2016a)

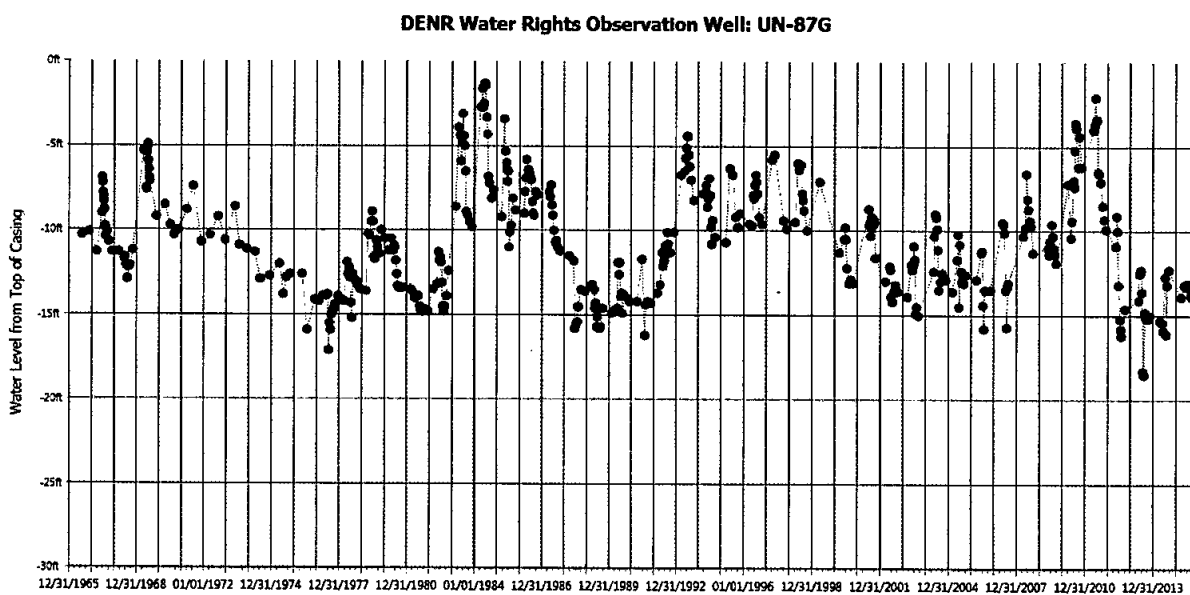


Figure 2: Hydrograph of observation well UN-87G (Water Rights, 2016a)

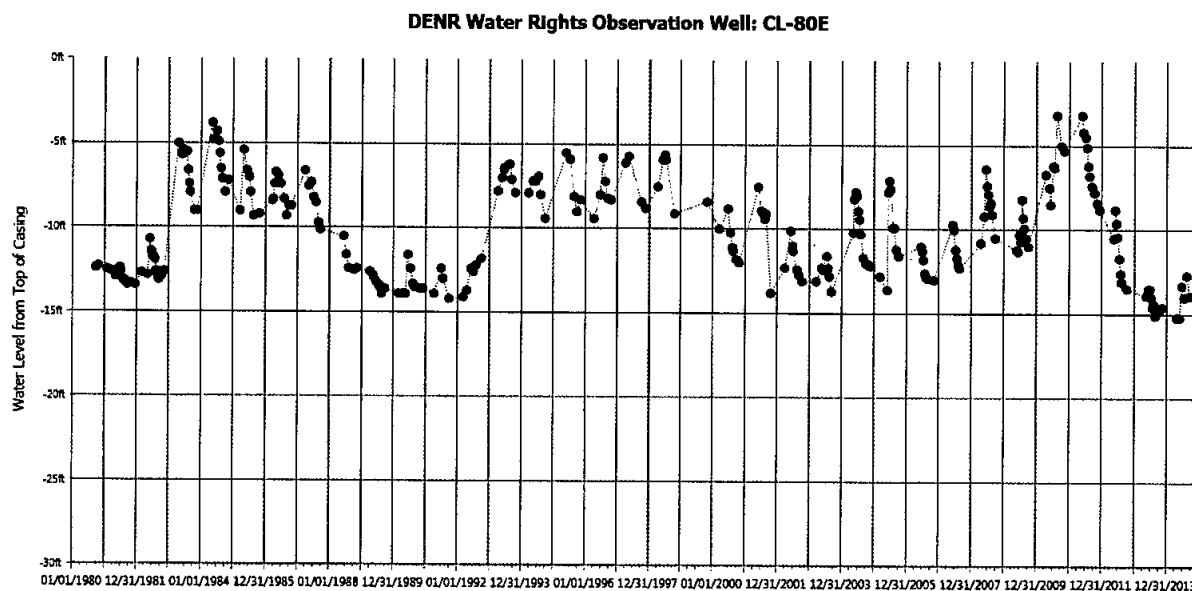


Figure 3: Hydrograph of observation well CL-80E (Water Rights, 2016a)

The observation well hydrographs shows cyclic patterns based on the effect of climatic conditions on the aquifer. Increases in water levels occur during wetter periods (when recharge exceeds discharge), and decreases in water levels occur during drier periods (when discharge exceeds withdrawals). Stephens (1967) notes the close relation of the water table under the floodplain to Missouri River water levels and the lowering of the water table in response to the closure of Gavins Point Dam. Additionally, Iles (1979) notes that the ongoing entrenchment of the Missouri River is also tied to lowering water table levels in the aquifer, and this has been linked by Goodman (2007) to the declining water levels in observation wells in this aquifer near the Missouri River. The hydrograph for the Missouri River at the USGS gaging station near Yankton, SD, is shown in Figure 4. By examining Figure 4, the relationship between trends in the Missouri River water levels and trends in the water levels in the observation wells can be observed. At the current level of development the temporal effects of pumping are masked by the strong hydraulic connection between the aquifer and the Missouri River and the impacts of climatic conditions on the aquifer. This shows that the hydrographs are dominated by natural conditions, and water is available for capture. Therefore, there is a reasonable probability that there is water available to support this application.

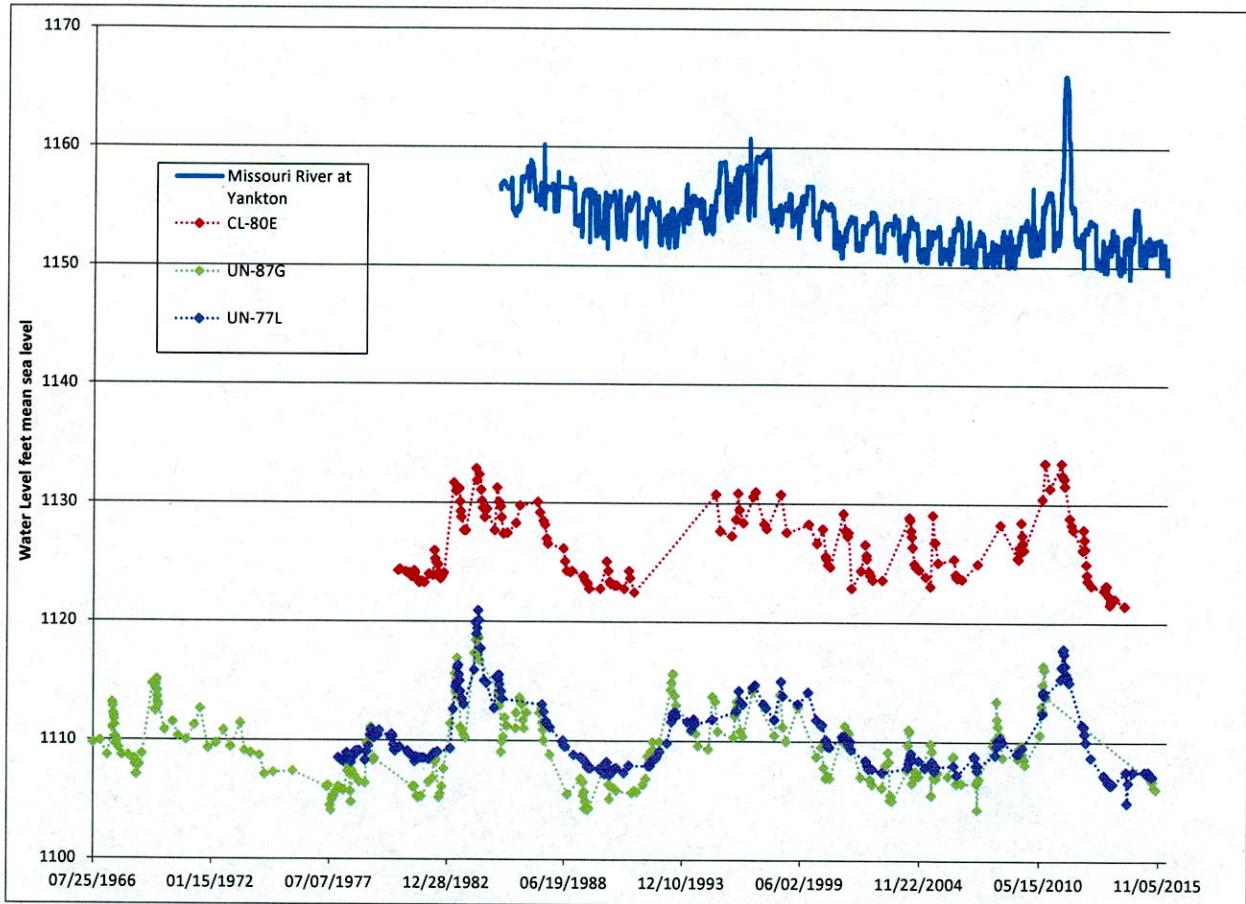


Figure 4: Trends in observation well water levels in relation to the Missouri River gaging station near Yankton, SD (USGS, 2016 and Water Rights, 2016a)

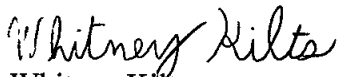
Existing Users

The diversion points for water rights/permits in the vicinity of the well site for this application are shown in Figure 5. The nearest water right/permit to the well location for this application is Water Right No. 3712-3 for irrigation located approximately 0.4 miles to the southeast of the well location for this application.

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).

Conclusions

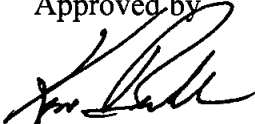
1. Water Application No. 8202-3 proposes to appropriate water at a maximum diversion rate of 1.89 cfs from one well completed into the Elk Point management unit of the Missouri aquifer located near the center of the E ½ of Section 4-T91N-50W for the irrigation of 132 acres located in the NE ¼, N ½ SE ¼ of Section 4- T91N-50W.
2. There is a reasonable probability that there is unappropriated water available to meet the requested appropriation of this application.
3. There is a reasonable probability that the appropriation and diversion point proposed by this application will not adversely impact existing water rights/permits with adequate wells.



Whitney Kilts

SDDENR-Water Rights Program

Approved by



Ken Buhler

SDDENR-Water Rights Program

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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.

AFFIDAVIT OF PUBLICATION

State of South Dakota)
:ss
County of Union)

Bruce L. Odson,

the publisher of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Notice of Application No. 8202-3

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 21 day of April, 2016

and that the succeeding publications were

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 25.28, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.



Subscribed and sworn to before me

this 21 day of April, 2016

My commission expires 6-21-17

SUSAN ODSON
NOTARY PUBLIC
SOUTH DAKOTA


Notary Public

NOTICE OF APPLICATION NO. 8202-3 TO APPROPRIATE WATER

Notice is given that Gerald Benjamin, 32175 473rd Ave, Elk Point SD 57025 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located near the center of the E 1/2 Section 4 for irrigation of 132 acres located in the NE 1/4, N 1/2 SE 1/4 Section 4; all in T91N-R50W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8202-3 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 this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 2, 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 recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Publish April 21, 2016
Published once at the total approximate cost of \$25.28
16-2-84

RECEIVED

APR 25 2016

WATER RIGHTS
PROGRAM

RECEIVED

APR 25 2016

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

GERALD BENJAMIN
32175 473 AVE
ELK POINT SD 57025

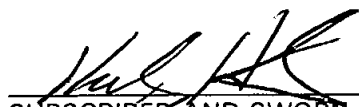
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)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
4 + 21 NOTICE OF APPLICATI

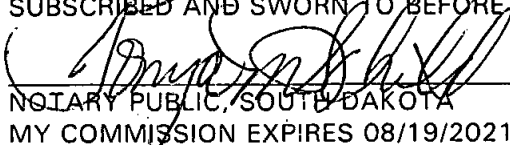
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 21st DAY OF April, 2016
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$25.31 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION 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: 04/21/2016

FILED ON: 04/21/2016



SUBSCRIBED AND SWORN TO BEFORE ME THIS 21st DAY OF April, 2016



NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 08/19/2021

Ad text : 4 + 21

NOTICE OF APPLICATION NO. 8202-3 to Appropriate Water

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Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published once at the total approximate cost of \$25.31.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, April 13, 2016 7:49 AM
To: G5 (leader1@iw.net)
Subject: 8202-3, Gerald Benjamin
Attachments: 8202-3publicnov2015.short1.docx; FORM8.FRM.doc

Attached is a notice to be published on April 21, 2016.

Gerald Benjamin, 32175 473 Ave, Elk Point SD 57025 (605 540-6234 c 605 670-1401) 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, April 13, 2016 7:49 AM
To: 'Tera Schmidt'
Subject: 8202-3, Gerald Benjamin
Attachments: 8202-3publicnov2015.short1.docx; FORM8.FRM.doc

Attached is a notice to be published on April 21, 2016.

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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.**

April 12, 2016

Gerald Benjamin
32175 473rd Ave
Elk Point SD 57025

Dear Mr. Benjamin:

Water Permit Application No. 8202-3 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 Southern Union County Leader-Courier printed at Elk Point SD (Ph # 605-356-2632) 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. 8202-3 to Appropriate Water

Notice is given that Gerald Benjamin, 32175 473rd Ave, Elk Point SD 57025 has filed an application for a water permit to appropriate 1.89 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located near the center of the E 1/2 Section 4 for irrigation of 132 acres located in the NE 1/4, N 1/2 SE 1/4 Section 4; all in T91N-R50W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8202-3 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 this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 2, 2016.

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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

MAY 12 2016

Gerald Benjamin
32175 473rd Ave
Elk Point SD 57025

Dear Mr. Benjamin:

Enclosed is Water Permit No. 8202-3 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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 29, 2016

8202-3

Gerald Benjamin
32175 473rd Ave
Elk Point SD 57025

Dear Mr. Benjamin:

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,

A handwritten signature in cursive script that reads "Genny McMath".

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

Note: As of today's date, we have not received your 2016 irrigation questionnaire. Please give me a call if you need assistance with that. The notices scheduling a hearing before the Board will go out in about 2 weeks.

8202-3

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

RECEIVED

DEC 29 2016

WATER RIGHTS
PROGRAMDate 8-15-16TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181FROM: GERALD BENJAMIN
(name)
32175 473 Ave.
(address)
ELK Point, S.D. 57025 605-670-1401
(city, state, zip) (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. 8202-3 states that the water use system is to be constructed by
5-2-2021 water is to be put to beneficial use by 5-2-2025
(date) (date)

The water use system was completed on 4-15-16
(date)

Applying the water to beneficial use was completed on 6-07-16
(date)

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

Gerald Benjamin
(signature)

