

WATER PERMIT NO. 8211-3

Name of Applicant: **Timber8 LLC**

Address: **56809 893rd Road, Wynot NE 68792** Phone: **402 640-1999**

Amount of Water Claimed: **1.78 cfs** Total Acres: **96**

Source of Water Supply: **groundwater (1 well)**

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

Type of Waste Disposal System:

Location: **3 miles east of Elk Point**

PRIORITY Date Received: **3-25-16** Application/License Fee: **\$ 950**

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

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

Diversion Point: **SE 1/4 NE 1/4 Sec 28-T91N-**
R50W

Land to be Irrigated: **SW 1/4 NW 1/4, NW 1/4 SW**
1/4 Sec 27 and SE 1/4 NE 1/4, NE 1/4 SE 1/4 Sec
28; all in T91N-R50W

Depth of Well: **120 feet**

Well Driller:

Remarks:

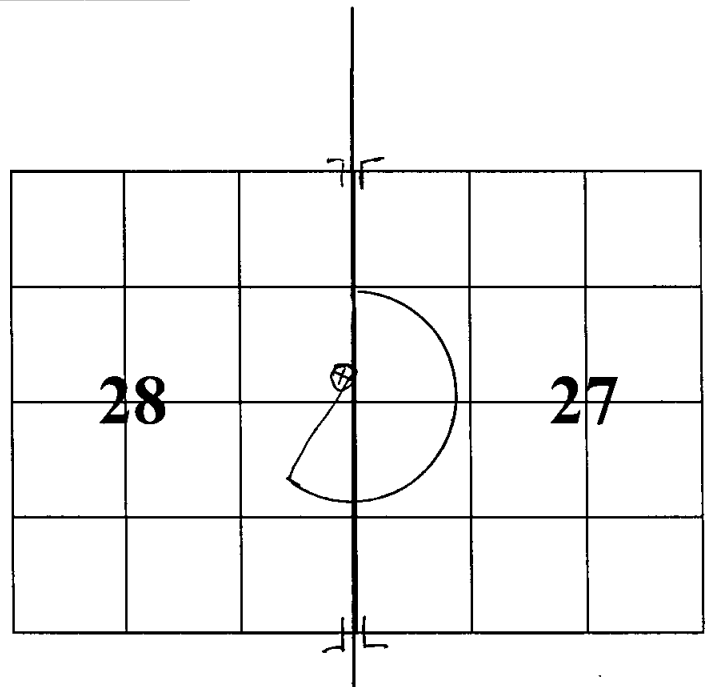
Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **3-28-16**

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>8211-3</u> (office use only)	Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri River</u>	
	Newspaper <u>Leader-Courier, Elk Point</u>	<u>605-256-2632</u>
	<u>Press & Democrat, Yankton 605-665-7811</u>	

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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 Timber8 LLC

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 56809 893rd Road Wynot NE 68792
(Address) (City) (State) (Zip Code)

Phone 402-254-9500 Mobile 402-640-1999 Email kakoch@gpcom.net

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 96
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 1 well to the Elk Point unit, Lower Missouri Aquifer

4. Location of point of diversion 1 well in the SE 1/4, NE 1/4 Section 28, T91nR50w
(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 to 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
sw of nw, section 27, T91n R50w	39	se of ne, section 28, T91n R50w	4
nw of sw, section 27, T91n R50w	38	ne of se, section 28, T91n R50w	15

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

Center pivot crop irrigation of the above listed property. Additional diversion rate requested because of soil type (very sandy soils) and application method (Windshield wipe center pivot)

I, And Heine, 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. 8211-3**

Date of first receipt of application March 25, 2016.

Date of return to applicant for corrections, amendments or changes March 29, 2016.

Date of receipt of corrected application April 11, 2016.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8211-3 to Timber8 LLC, c/o Scott Heine, 56809 893rd Road, Wynot NE 68792 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. 8211-3 appropriates 1.78 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the Wyant Tract No. 1 in Section 21 and Section 28, T91N, R50W for irrigation of 96 acres in the same legal description as the well and Lot B being accretion to Government Lot 4 on W 1/2 SW 1/4 Section 22, Lot A in the W 1/2 NW 1/4 and W 1/2 SW 1/4 and Lot C being accretion to Lot A in W 1/2 SW 1/4 and W 1/2 SW 1/4 Section 27 and Ray Tract 1 in the S 1/2 NE 1/4, E 1/2 SW 1/4, and SE 1/4 Section 28; 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 March 25, 2016.
4. The date of approval of Permit No. 8211-3 is June 20, 2016.
5. One-fifth of the construction is to be completed on or before December 20, 2018.
6. All construction is to be completed on or before June 20, 2021.
7. Water is to be put to beneficial use on or before June 20, 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. 8211-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8211-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 96 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUL 15 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 _____
(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) 120 Depth to Top of Water Bearing Material 70 Depth to Water from Surface 23d) Distance to nearest domestic well on applicant's property NA Property owned by others > 1 mile**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

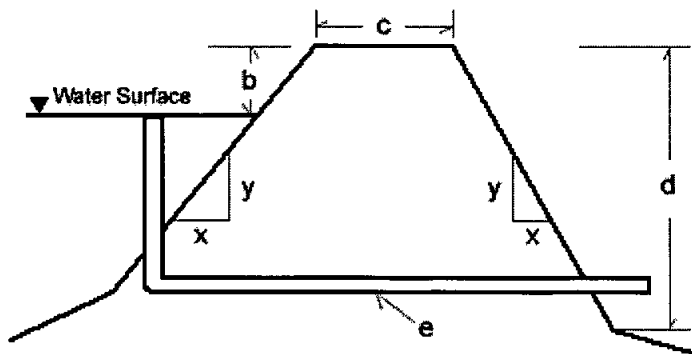
a) Surface Dimensions _____ Depth _____

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



Prepared By: **Heine Electric and Irrigation, Inc.**

For: **Elk Point south east**

Questions or concerns? Please call us at 402-640-1999!

T 91N, R 50W

Section 28

Section 27

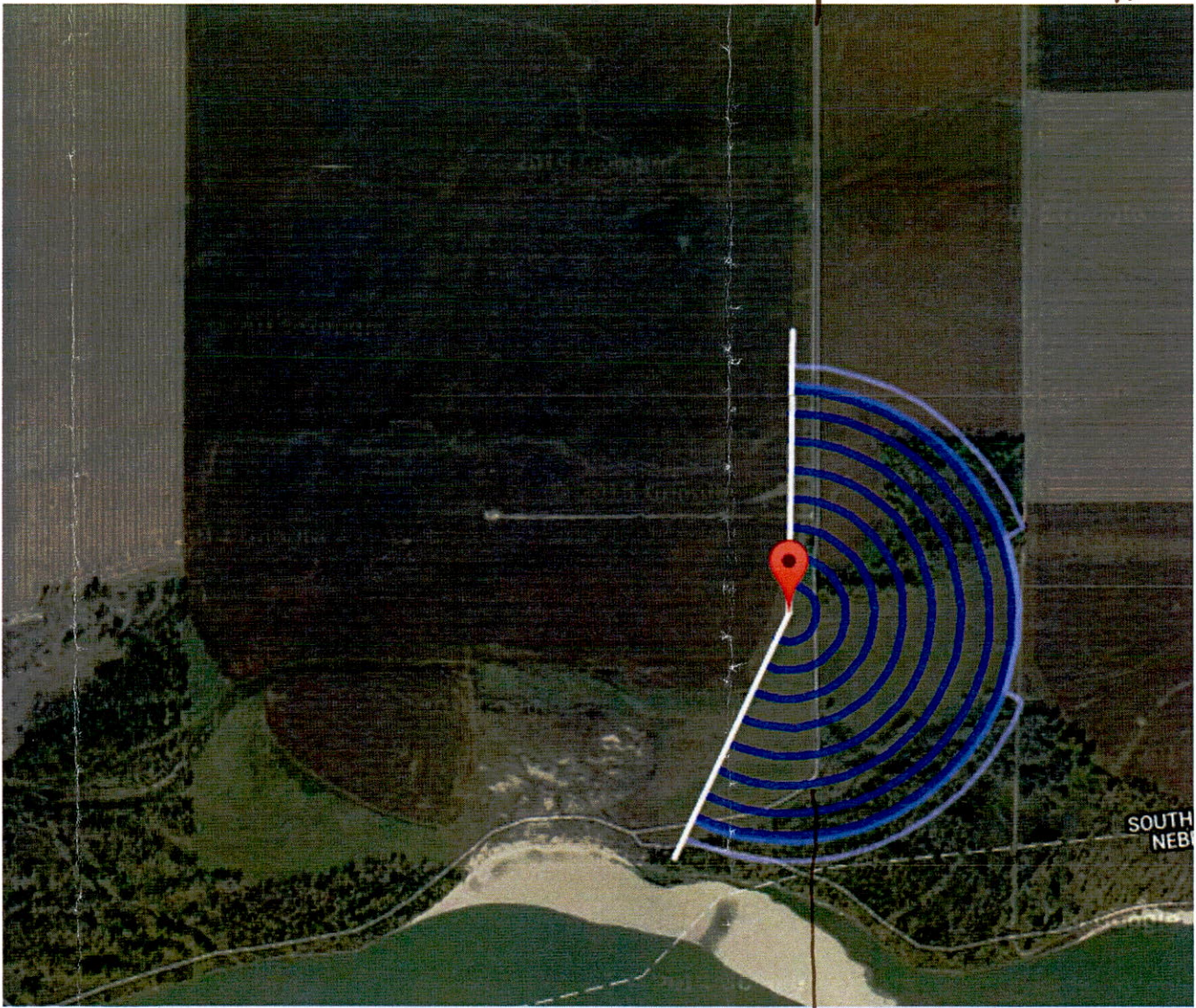


Pivot center at 42.670601, -96.747758
Arc Start Bearing: 0.71
Arc Stop Bearing: 205.21
[E] Spray off at 70°, on at 110°.

- 1 180 ft. Total: 180 ft.
Acreage: 1.32. Total: 1.32 acres.
- 2 180 ft. Total: 360 ft.
Acreage: 3.98. Total: 5.3 acres.
- 3 180 ft. Total: 540 ft.
Acreage: 6.63. Total: 11.94 acres.
- 4 180 ft. Total: 720 ft.
Acreage: 9.28. Total: 21.23 acres.
- 5 180 ft. Total: 900 ft.
Acreage: 11.94. Total: 33.17 acres.
- 6 180 ft. Total: 1080 ft.
Acreage: 14.59. Total: 47.77 acres.
- 7 180 ft. Total: 1260 ft.
Acreage: 17.25. Total: 65.02 acres.
- 8 140 ft. Total: 1400 ft.
Acreage: 15.25. Total: 80.27 acres.
- Overhang** 36 ft. Total: 1436 ft.
Acreage: 4.18. Total: 84.45 acres.
- Spray** 120 ft. Total: **1556 ft.**
Acreage: 11.81. Total: **96.27 acres.**

L. H. Hammond

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Prepared By:

Heine Electric and Irrigation, Inc.

For:

Elk Point south east

Questions or concerns? Please call us at 402-640-1999!

Pivot center at 42.670601, -96.747758

Arc Start Bearing: 0.71

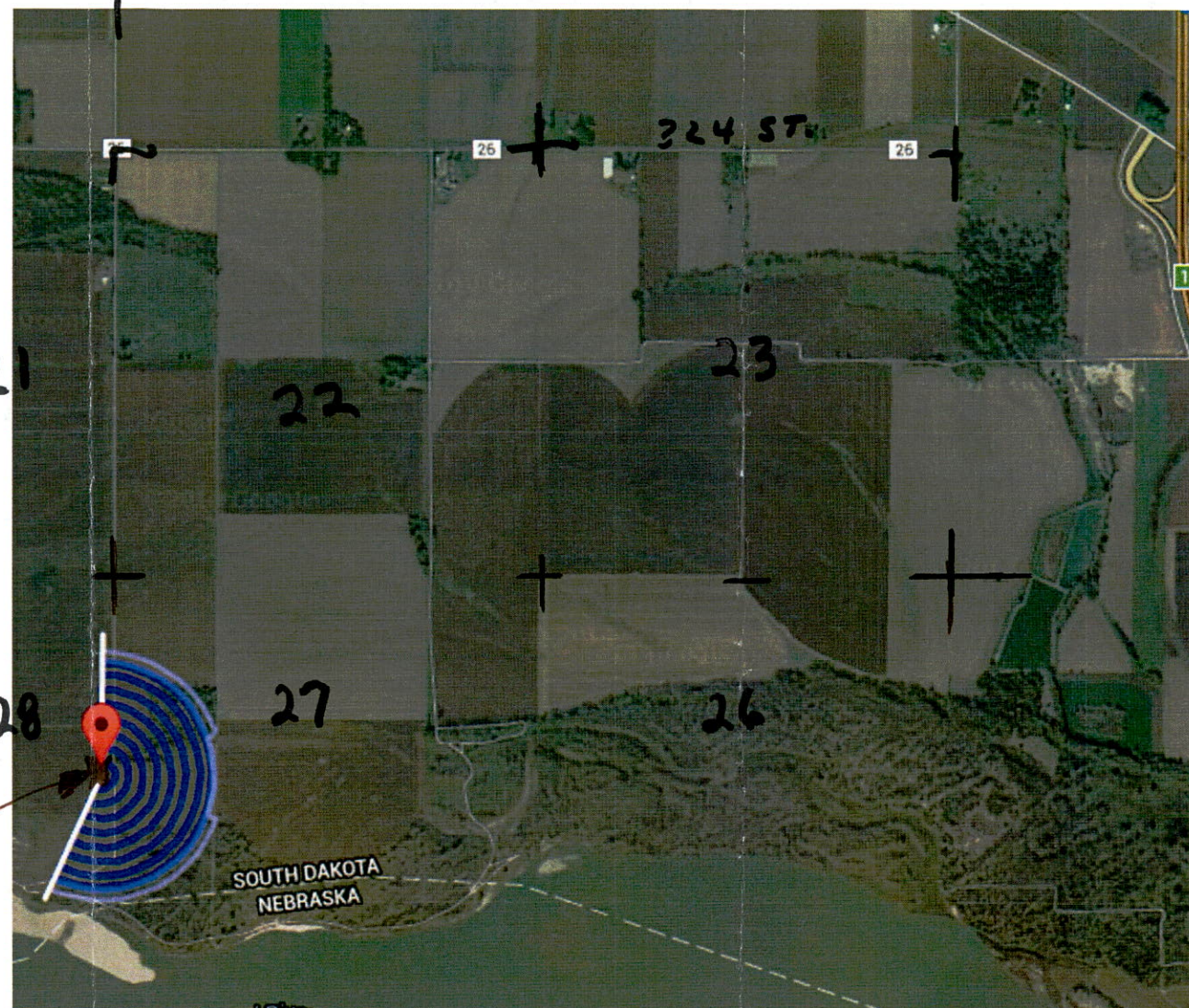
Arc Stop Bearing: 205.21

[E] Spray off at 70°, on at 110°.

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Acreage: 15.25. Total: 80.27 acres.
- Overhang** 36 ft. Total: 1436 ft.
Acreage: 4.18. Total: 84.45 acres.
- Spray** 120 ft. Total: 1556 ft.
Acreage: 11.81. Total: 96.27 acres.

R. A. Diamond

well



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Sections Numbered Above.
All in T91N, R50W, Union Co. S.D.
Red marker is center of Pivot AND
well site

N

07-92

APR 1999
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Pierre, SD

~~WATER RIGHTS~~
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RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

RECEIVED OF **TIMBER8 LLC, 56809 893 Road, Wynot NE 68792** Date **3-28**, 20 **16**

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

Fee for Application for Permit No. <u>8211-3</u> to Appropriate Water, to construct and to put water to beneficial use	750 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>8211-3</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	950.00

No. **07799**

By Janne Goodman
Chief Engineer /KS

Gronlund, Eric

From: Gronlund, Eric
Sent: Monday, April 11, 2016 9:11 AM
To: kakoch@gpcom.net
Cc: Richard Hammond (rhhhei@gmail.com); Schlaak, Karen
Subject: FW: water permit application filed by Timber8 LLC
Attachments: Timber8.pdf

I received a call from Dick Hammond regarding the legal location of the well. DENR is awaiting a response regarding where Timber8 LLC is a filed corporation. Also needed is for Timber* to check the deed for the property to determine whether the legal descriptions for the property follow quarter-quarter section designations or are in "lot" designations.

The application is on hold until this is addressed.

Thanks

Eric Gronlund
Water Rights Program, DENR
605 773-3352
Eric.gronlund@state.sd.us

From: Gronlund, Eric
Sent: Tuesday, March 29, 2016 8:55 AM
To: 'kakoch@gpcom.net'
Cc: Richard Hammond (rhhhei@gmail.com)
Subject: water permit application filed by Timber8 LLC

The South Dakota Water Rights Program received the application filed by Timber8 LLC for irrigation in Union County South Dakota. A few questions arise in the initial review of the application.

A search of the Secretary of States website in both South Dakota and Nebraska did not show that Timber8 LLC is a filed corporation in either state. What state is Timber8 LLC a filed corporation?

Item No. 4 (see attachment of application) indicates well is located in the SW ¼ NE ¼ Section 28, T91N, R50W. Should this be the SE ¼ NE ¼ of Section 28? (see next question for broader question about legal descriptions)

The application use the standard quarter-quarter designation for describing the well location and irrigated acres. However, due to the proximity of the Missouri River, Sections 27 & 28 of T91N, R50W are not standard sized sections that would follow the quarter-quarter designations based on plat maps. Please check the deed for the property in question and if not in quarter-quarter designation, provide the actual legal descriptions that are on the deed. They are general rather complicated in areas such as this.

I have included Dick Hammond in this email as I previously spoke with regarding this application prior to it being filed.

Thank you,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

Gronlund, Eric

From: Richard Hammond <rhhei@gmail.com>
Sent: Monday, April 11, 2016 10:30 AM
To: Gronlund, Eric
Subject: Fwd: Timber8 LLC
Attachments: Timber8 LLC Water Rights Paperwork.pdf

Eric, here are the land descriptions for the Timber8 application. I noticed that they have changed the land line contact number on this copy of the application form. The corporation is registered in Delaware, which accounts for why you could not find it at the SD or Nebr secretary of state databases.

Call if I can help more!!

Dick Hammond

----- Forwarded message -----

From: **Andrea Koch** <andy@topcropinc.com>
Date: Mon, Apr 11, 2016 at 10:19 AM
Subject: Timber8 LLC
To: rhhei@gmail.com

Dick

Attached is paperwork needed to complete the water right application process. Let me know if you need anything else so we can get it done today.

Thank You

Andrea Koch
TopCrop Inc
88610 Hwy 57
Hartington NE 68739
[402-254-9500](tel:402-254-9500)
andy@topcropinc.com

Department of State: Division of Corporations

Allowable Characters

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Entity Details**THIS IS NOT A STATEMENT OF GOOD STANDING**

File Number: 5412181 **Incorporation Date /** 10/8/2013
Formation Date: (mm/dd/yyyy)
Entity Name: TIMBER8, LLC
Entity Kind: Limited Liability Company **Entity Type:** General
Residency: Domestic **State:** DELAWARE

REGISTERED AGENT INFORMATION

Name: CAPITOL SERVICES, INC.
Address: 1675 S STATE ST STE B
City: DOVER **County:** Kent
State: DE **Postal Code:** 19901
Phone: 800-316-6660

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

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legals based on
Exhibit A

EXHIBIT A

Parcel #1: Government Lot 4 of the West Half of the Southwest Quarter (W1/2SW1/4) of Section 22, Township 91 North, Range 50, West of the 5th P.M., Union County, South Dakota.

Parcel #2: Lot A in the West Half of the Northwest Quarter (W1/2NW1/4) and in the West Half of the Southwest Quarter (W1/2SW1/4) of Section 27, Township 91 North, Range 50, West of the 5th P.M., Union County, South Dakota, according to the recorded plat thereof.

Parcel #3: Lot "B" being Accretion to Government Lot 4 in the West Half of the Southwest Quarter (W1/2SW1/4) of Section 22, Township 91 North, Range 50, West of the 5th P.M., Union County, South Dakota, according to the recorded plat thereof.

Parcel #4: Lot "C" being Accretion to Lot A in the West Half of the Northwest Quarter (W1/2NW1/4) and in the West Half of the Southwest Quarter (W1/2SW1/4) of Section 27, Township 91 North, Range 50, West of the 5th P.M., Union County, South Dakota, according to the recorded plat thereof.

ground
to be
irrigated

AND

Parcel 1: Government Lots 1, 2 and 3 in Section 21, Township 91 North, Range 50, West of the 5th P.M., less the North 51 acres of Government Lot 1, Union County, South Dakota, according to the recorded plat thereof.

Parcel 2: Wyant Tract No. 1 in Section 21 and Section 28, Township 91 North, Range 50, West of the 5th P.M., Union County, South Dakota, according to the recorded plat there.

New
well
location

Parcel 3: Ray Tract 1 in the South Half of the Northeast Quarter, the East Half of the Southwest Quarter and the Southeast Quarter, Section 28, Township 91 North, Range 50 West of the 5th P.M., Union County, South Dakota, according to the recorded plat thereof.

~~New
well~~

S 1/2 NE 1/4 E 1/2

Parcel 4: The North 51 acres of Government Lot 1 in Section 21, Township 91 North, Range 50, West of the 5th P.M., Union County, South Dakota, according to the recorded plat thereof.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

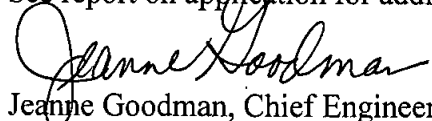
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8211-3, Timber8 LLC**

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. 8211-3, Timber8 LLC, c/o Scott Heine, 56809 893rd Road, Wynot NE 68792.

The Chief Engineer is recommending APPROVAL of Application No. 8211-3 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. 8211-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8211-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 96 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
June 2, 2016

Report of the Chief Engineer
Water Permit 8211-3
Timber8 LLC
May 13, 2016

Water Permit Application No. 8211-3 proposes to appropriate water at a maximum diversion rate of 1.78 cubic feet per second (cfs) for irrigation. The proposed diversion point for this application is one well (120 feet deep) completed into the Elk Point management unit of the Missouri aquifer located in Wyant Tract No. 1 in Section 21 and Section 28, T91N-R50W in Union County for irrigation of 96 acres in the same legal location as the well and Lot B being accretion to Government Lot 4 of W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 22, Lot A in the W $\frac{1}{2}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ SW $\frac{1}{4}$ and Lot C being accretion to Lot A in W $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 27 and Ray Tract 1 in the S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ Section 28; all in T91N-R50W in Union County. The application proposes a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Aquifer: Elk Point Management unit of the Missouri aquifer (M:EP)

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 floodplain 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). Groundwater movement in the management unit is generally southeast toward the Missouri River (Stephens, 1967). 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).

There was no testhole information submitted with this application, however the well completion report for the nearby (about 0.7 miles) Water Right No. 6181-3 held by the applicant was included with this application. The well completion report for Water Right No. 6181-3 indicates aquifer materials from 2 to 90 feet below grade (depth of well completion) and a static water level of 22 feet below grade (Aug. 1996). Other well completion reports indicate the aquifer materials of the management unit could be found even deeper below grade (Water Right Program, 2016). Available well completion data in the area of the proposed well location for this application indicates that the management unit is under unconfined conditions in this area (Water Rights Program, 2016 and Water Rights, 2016b). The proposed well location for this application is about 0.3 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. 8211-3 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 estimated recharge 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 management unit due to the operation of the Lewis and Clark Water Treatment System to be 22,582 acre-feet per year. Additionally, Stonesifer (2013) noted the further potential for induced recharge to the management unit from the Missouri, Vermillion, James, and Big Sioux Rivers. Kilts (2016) estimated induced recharge to the management unit due to the operation of the proposed well under Water Permit Application No. 8212-3 for the City of Yankton at full development to be at least 3,811 acre-feet per year based on the report by HDR Engineering, Inc. (2014). This results in an estimated average annual recharge of 95,775 acre-feet per year for the management unit.

Withdrawals

Withdrawals from the Elk Point management unit of the Missouri aquifer include well withdrawals, outflow to the Missouri and Big Sioux Rivers, and evapotranspiration in locations where the management unit is under water table conditions and the water table is near land surface (Niehus, 1994; Bugliosi, 1986; and Stephens, 1967). Average annual withdrawals from the Elk Point management unit of the Missouri aquifer from water rights/permits issued as of June 10, 2013, were extensively examined in Stonesifer (2013), which estimated average annual withdrawals at 81,108 acre-feet per year for the water rights/permit examined.

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 34 water permits issued, two reinstated permits (7074A-3 and 7009A-3) and two pending applications 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/application in the case of irrigation permits and the annual volume for non-irrigation permits limited by an annual volume.

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

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
8202-3	GERALD BENJAMIN	PE	IRR	1.89	132.0	264.0
8204-3	DOUGLAS BYE	PA	IRR	0.89	70.0	140.0
Total					3748.7	7497.4
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
8212-3	CITY OF YANKTON	PA	MUN	20.12		6,050

LC=Water Rights, PE= Water Permit, PA=Pending Application DF=deferred application, COM=commercial, IRR= irrigation, LCO=live stock confinement operation, MUN=municipal

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

For new irrigation permits/applications 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 2013 and 2014 the updated percentage of pumpage to appropriation for developed appropriations is 13.8% (Water Rights, 2014-2015). By applying this percentage of pumpage to developed appropriation to the irrigation permits issued and pending applications since June 10, 2013, the average annual withdrawal from these appropriations can be estimated to be about 1,035 acre-feet.

Historically, water use by non-irrigation appropriations limited by instantaneous diversion rate has been less than 60% of full time pumping at the permitted authorized diversion rate. For water rights/permits limited to an annual diversion rate, full use of that annual diversion rate 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 applications can be estimated at 6,811 acre-feet.

Balance

In considering new/reinstated appropriations since June 10, 2013, the two deferred applications, and the two pending applications the average annual withdrawal associated with them is estimated to be 7,846 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 88,954 acre-feet. When compared with recharge, estimated average annual recharge to the aquifer exceeds this by 6,821 acre-feet. Therefore there is a reasonable probability that water is available to meet the needs of this application. Furthermore, as Stonesifer (2013) noted there is high potential for induced recharge to the management unit.

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 1.6 miles to the north of the proposed well location for this application (hydrograph shown in Figure 1). The hydrograph for observation well UN-78A located about 3.0 miles to the east is shown in Figure 2.

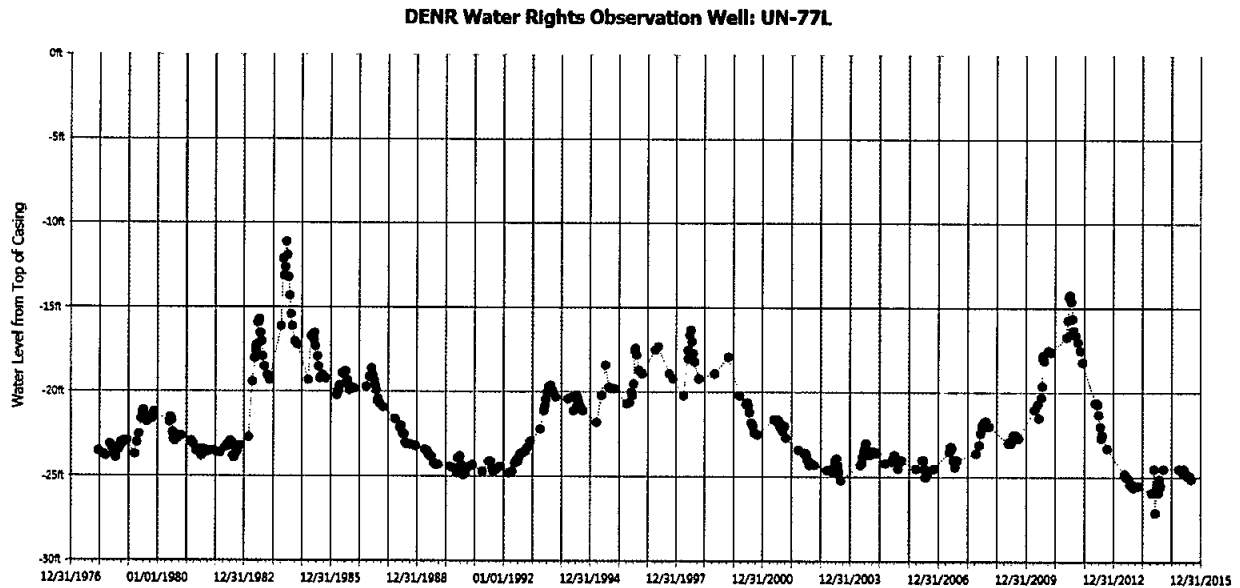


Figure 1: Hydrograph for Observation Well UN-77L (Water Rights, 2016b)

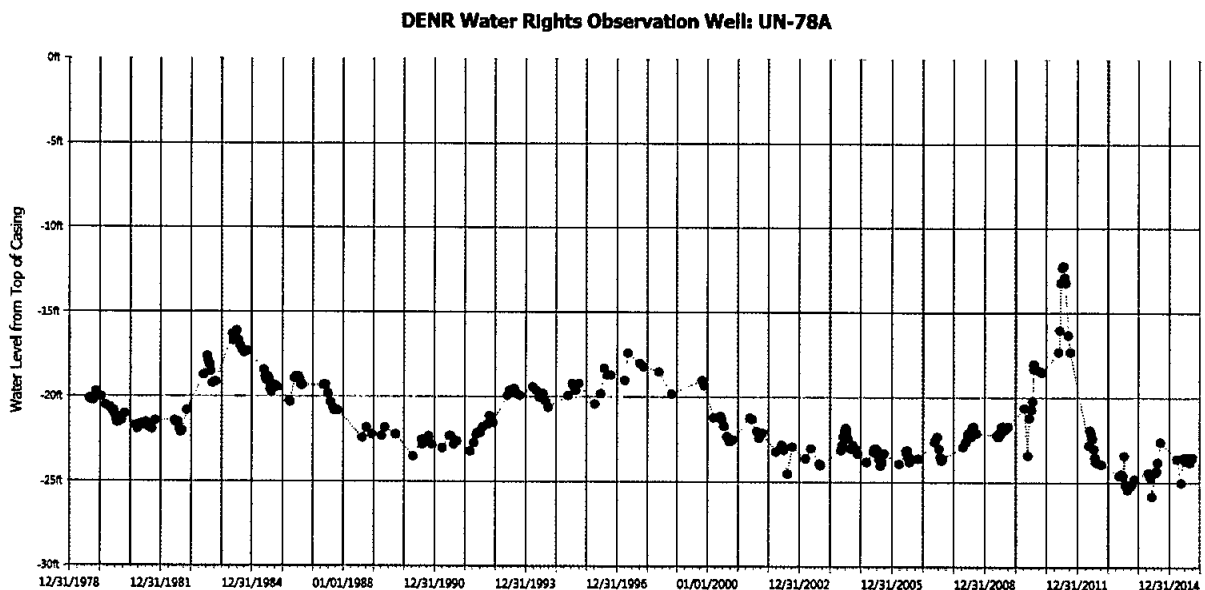


Figure 2: Hydrograph for Observation Well UN-78A (Water Rights, 2016b)

The observation well hydrographs show cyclic periods based on the effect of climatic conditions on the management unit. 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). Additionally, 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. Furthermore, Iles (1979) notes that the ongoing entrenchment of the Missouri River below the Gavins Point Dam 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 3. By examining Figure 3, the correlation between trends in the Missouri River water levels and trends in the water levels in the observation wells monitoring this management unit can be observed. Additionally, the effect of the ongoing entrenchment of the Missouri River on water levels within the management unit can be observed in these hydrographs. Furthermore, the impact of the Missouri River on water levels within the management unit can also be noted in Figure 3 by the correspondence of increases in water levels in the management unit with water level increases in the Missouri River (most notably during the summer 2011 flood event). At the current level of development the temporal effects of pumping are masked by the strong hydraulic connection between the management unit and the Missouri River and the impacts of climatic conditions on the aquifer. This shows that the management unit is dominated by natural conditions, and water is available for capture. Therefore, there is a reasonable probability that there is unappropriated water available to meet the appropriation requested by this application.

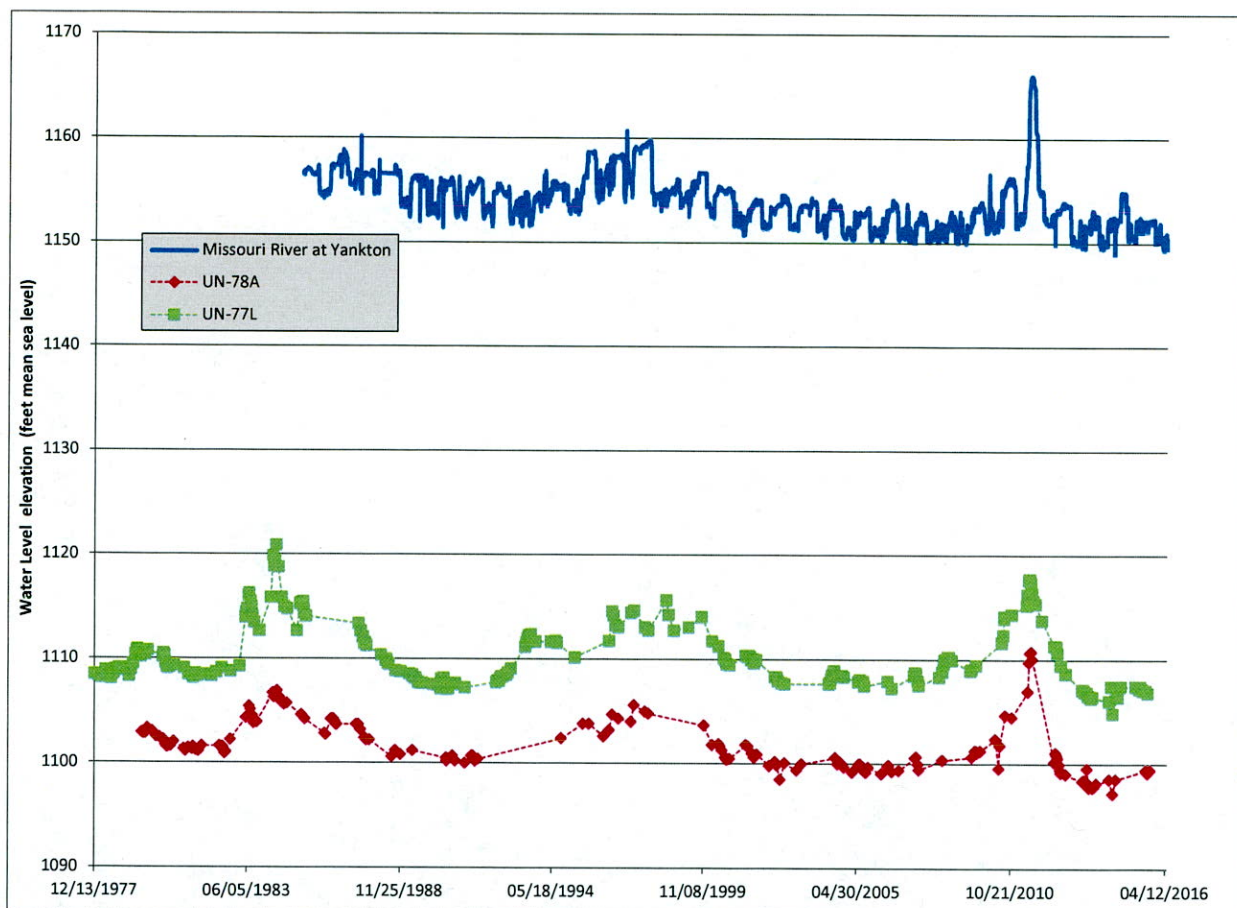


Figure 3: Water Level elevation Missouri River at Yankton, SD and Water Rights observation wells UN-77L and UN-78A (Water Rights, 2016b and USGS, 2016)

Existing Users

The diversion points for water rights/permits appropriating water from the Elk Point management unit of the Missouri aquifer in the vicinity of the proposed well site for this application are shown in Figure 4. Water Right Nos. 6179-3, 6180-3, and 6181-3 are held by Timber8 LLC, the applicant. The nearest water right/permit diversion point to the proposed well location for this application not held by the applicant is Water Right No. 2621-3 for irrigation located approximately one mile to the northeast of the well location for this application.

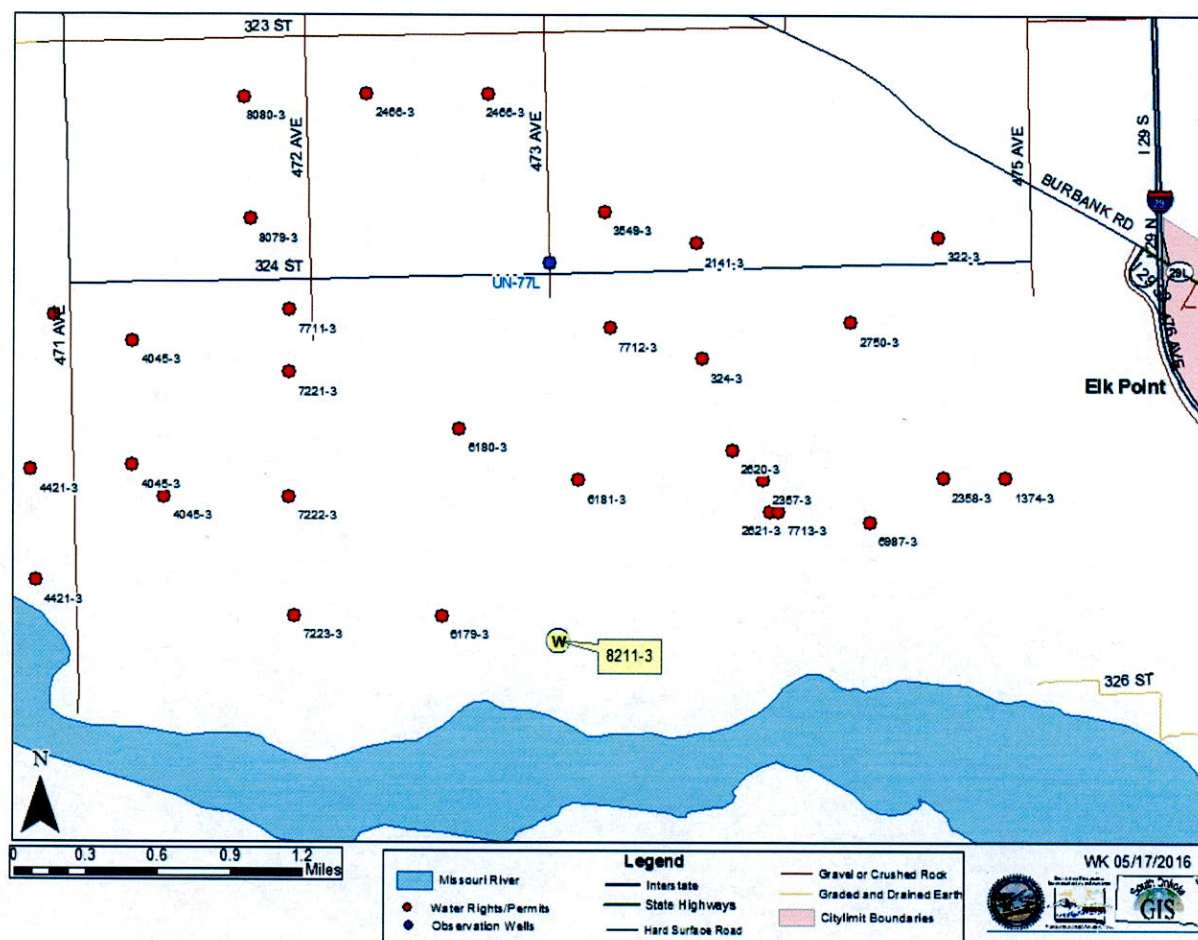


Figure 4: Water Rights/Permit completed into the Elk Point management unit of the Missouri aquifer in the area of the proposed well location for Water Permit Application No. 8211-3 (Water Rights, 2016a)

There are several well completion reports on file with the SDDENR-Water Rights Program within two miles of the well location for this application the majority of which are for irrigation or monitoring wells, most of which are likely completed into this management unit (Water Rights Program, 2016). The Water Rights Program Observation Wells UN-77L and UN-78A are all within a mile of at least one or more high capacity irrigation wells completed into the management unit. The hydrographs for these wells show very little if any impact from the pumping of these wells, and instead show a correlation between the Missouri River and water levels in the management unit. Additionally at the proposed well location for this application the management unit is under unconfined conditions and relatively thick, therefore drawdown is not expected to be significant very far from the pumping well. Therefore, the appropriation requested by this application is not expected to adversely impact existing water rights/permits with adequate wells or nearby adequate domestic wells. The Water Management 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."

SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs for every 70 acres, or "the equivalent thereof." The statute does provide that: "The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires. However, no annual volume may be greater than three acre-feet per acre delivered to the land". Water Permit Application No. 8211-3 proposes to divert a maximum of 1.78 cfs for the irrigation of 96 acres, or the equivalent of 1.30 cfs per 70 acres. The applicant indicated that the reason for requesting a diversion rate in excess of the statutory limit was due to the "very sandy soils" of the requested acre and that the center pivot would not be making a full rotation. In the past, it has been accepted that a center pivot only making a partial rotation often requires a diversion rate in excess of the statutory limit.

Conclusions

1. Water Permit Application No. 8211-3 proposes to appropriate water at a maximum diversion rate of 1.78 cfs from one well completed in the Elk Point management unit of the Missouri aquifer located in Wyant Tract No. 1 in Section 21 and Section 28, T91N-R50W in Union County for irrigation of 96 acres in the same legal location as the well and Lot B being accretion to Government Lot 4 of W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 22, Lot A in the W $\frac{1}{2}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ SW $\frac{1}{4}$ and Lot C being accretion to Lot A in W $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 27 and Ray Tract 1 in the S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ Section 28; all in T91N-R50W in Union County.
2. The application proposes a diversion rate greater than the statutory limit of 1 cfs per 70 acres due to soil type and an incomplete center pivot rotation.
3. There is a reasonable probability that there is unappropriated water available to meet the requested appropriation of this application.
4. There is a reasonable probability that the appropriation and the diversion point this application proposes to use will not adversely impact existing water rights/permits with adequate wells.

Whitney Kilts
Whitney Kilts

SDDENR-Water Rights Program

Approved by

Ken Buhler

Ken Buhler

SDDENR-Water Rights Program

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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. 8211-3 to Appropriate Water

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 9 day of June, 2016

and that the succeeding publications were

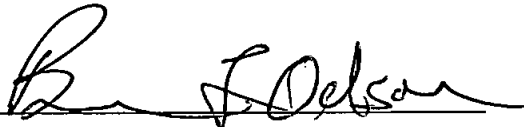
on Thursday, the _____ day of _____, _____

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

\$ 29.50, 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.

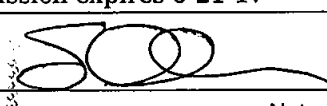


Subscribed and sworn to before me

this 9 day of June, 2016

My commission expires 6-21-17

SUSAN ODSON
NOTARY PUBLIC
SOUTH DAKOTA



Notary Public

NOTICE OF APPLICATION NO. 8211-3 TO APPROPRIATE WATER

Notice is given that Timber8 LLC, c/o Scott Heine, 56809 893rd Road, Wynot NE 68792 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the Wyant Tract No. 1 in Section 21 and Section 28, T91N, R50W for irrigation of 96 acres in the same legal description as the well and Lot B being accretion to Government Lot 4 on W 1/2 SW 1/4 Section 22, Lot A in the W 1/2 NW 1/4 and W 1/2 SW 1/4 and Lot C being accretion to Lot A in W 1/2 SW 1/4 and W 1/2 SW 1/4 Section 27 and Ray Tract 1 in the S 1/2 NE 1/4, E 1/2 SW 1/4, and SE 1/4 Section 28; all in T91N-R50W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8211-3 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 June 20, 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 June 9, 2016
Published once at the total approximate cost of \$29.50
23-6-96

RECEIVED

JUN 13 2016

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

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JUN 15 2016

WATER RIGHTS
PROGRAM

TIMBER8 LLC
56809 893 RD
WYNOT NE 68792

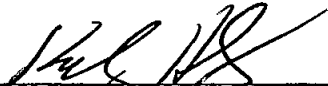
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

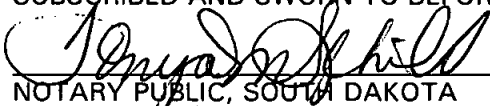
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
6+9 NOTICE OF APPLICATIO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 9th DAY OF June, 2016
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$29.97 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: 06/09/2016

FILED ON: 06/09/2016


SUBSCRIBED AND SWORN TO BEFORE ME THIS 9th DAY OF June, 2016


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

Ad text : 6+9

NOTICE OF APPLICATION NO. 8211-3 to Appropriate
Water

Notice is given that Timber8 LLC, c/o Scott Heine, 56809 893rd Road, Wynot NE 68792 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the Wyant Tract No. 1 in Section 21 and Section 28, T91N, R50W for irrigation of 96 acres in the same legal description as the well and Lot B being accretion to Government Lot 4 on W 1/2 SW 1/4 Section 22, Lot A in the W 1/2 NW 1/4 and W 1/2 SW 1/4 and Lot C being accretion to Lot A in W 1/2 SW 1/4 and W 1/2 SW 1/4 Section 27 and Ray Tract 1 in the S 1/2 NE 1/4, E 1/2 SW 1/4, and SE 1/4 Section 28; all in T91N-R50W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8211-3 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 Engineers 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 June 20, 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.
Published once at the total approximate cost of \$29.97.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, June 06, 2016 8:42 AM
To: G5 (leader1@iw.net)
Subject: 8211-3, Timber8 LLC
Attachments: 8211-3publicnov2015.short1.docx; FORM8.FRM.doc

Attached is a notice to be published on June 9, 2016.

Timber8 LLC, c/o Scott Heine, 56809 893rd Rd, Wynot NE 68792 (402 254-9500 or cell 402 640-1999) 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: Monday, June 06, 2016 8:42 AM
To: 'Tera Schmidt'
Subject: 8211-3, Timber8 LLC
Attachments: 8211-3publicnov2015.short1.docx; FORM8.FRM.doc

Attached is a notice to be published on June 9, 2016.

Timber8 LLC, c/o Scott Heine, 56809 893rd Rd, Wynot NE 68792 (402 254-9500 or cell 402 640-1999) 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 DATES, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.**

June 3, 2016

Timber8 LLC
Scott Heine
56809 893rd Road
Wynot NE 68792

Dear Mr. Heine:

Water Permit Application No. 8211-3 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 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. 8211-3 to Appropriate Water

Notice is given that Timber8 LLC, c/o Scott Heine, 56809 893rd Road, Wynot NE 68792 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Missouri:Elk Point Aquifer (120 feet deep) located in the Wyant Tract No. 1 in Section 21 and Section 28, T91N, R50W for irrigation of 96 acres in the same legal description as the well and Lot B being accretion to Government Lot 4 on W 1/2 SW 1/4 Section 22, Lot A in the W 1/2 NW 1/4 and W 1/2 SW 1/4 and Lot C being accretion to Lot A in W 1/2 SW 1/4 and W 1/2 SW 1/4 Section 27 and Ray Tract 1 in the S 1/2 NE 1/4, E 1/2 SW 1/4, and SE 1/4 Section 28; all in T91N-R50W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8211-3 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 June 20, 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. 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

JUL 15 2016

Timber8 LLC
Scott Heine
56809 893rd Rd
Wynot NE 68792

Dear Mr. Heine:

Enclosed is Water Permit No. 8211-3 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

8211-3
RECEIVED
AUG - 3 2016
WATER RIGHTS
PROGRAM

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

Date 7-28-2016

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

FROM:

Timber 8 LLC Ad Heine
(name)

56809 893 RD
(address)

Wynot NE 68792
(city, state, zip)

402-640-1999
(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.

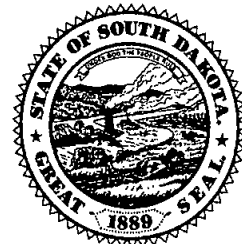
Water Permit No. 8211-3 states that the water use system is to be constructed by
6-20-2021, and water is to be put to beneficial use by 6-20-2025.
(date) (date)

The water use system was completed on 6-20-2016.
(date)

Applying the water to beneficial use was completed on 6-20-2016.
(date)

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

Ad Heine
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 5, 2016

8211-3

Scott Heine
Timber 8 LLC
56809 893rd Rd
Wynot NE 68792

Dear Mr. Heine:

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

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

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

Sincerely,

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



8211-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2017

NOTICE

TO: TIMBER8 LLC, SCOTT HEINE, 56809 893RD, WYNOT, NE 68792
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6179-3, 6180-3, 6181-3 & 8211-3. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6179-3, 6180-3, 6181-3 & 8211-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 6179-3, 6180-3, 6181-3 & 8211-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

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

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



8211-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 24, 2017

Andrea Koch
Timber8 LLC
56809 893rd
Wynot NE 68792

RE: Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3

Dear Ms. Koch:

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

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

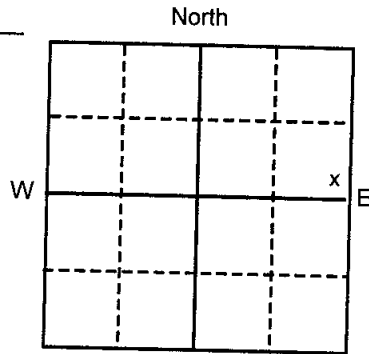
8211-3 SD EForm - 1621LD V1

11-02

Location SE 1/4 NE 1/4 Sec 28 Twp 91N Rg 50W

County Union

Please mark well location with an "X"



Well Completion Date

May 19, 2016

← 1 Mile →

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
4,000.0 ft. from Hog Barn (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

CASING DATA:

If other describe ☐ Steel ☒ Plastic ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>16.00</u> IN	<u>0.0</u> FT	<u>70.0</u> FT	<u>20.00</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Bentonite</u>	<u>21</u>	<u>9.5</u> Lb/gal	<u>0.0</u> Ft	<u>60.0</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
Tremie Method

SCREEN:

☐ Perforated pipe ☒ Manufactured
 Diameter 16.00 Inches Length 40.0 Feet
 Material PVC
 Slot Size .050 Set From 70.0 Feet to 90.0 Feet
 Other information .085 set from 90 to 110

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION:

Was well disinfected upon completion?

☒ Yes, How? HTH Tablets

Lab to which water ☐ No, Why Not?

quality sample sent for analysis

Well Owner: Timber 8

Business Name:

Address: 56809 893 Rd

City, State, Zip: Wynot NE 68792

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Sand	0	23
Coarse Sand & Pebbles	23	40
Sand - Fine Gravel Silty	40	59
Fine to Med Gravel	59	60
Fine Gravel - Sand	60	69
Med to Coarse Gravel	69	80
Fine to Med Gravel	80	110

STATIC WATER LEVEL

9.0 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

75.0 Ft. After 0.8 Hrs. pumped 1,000.0 GPM

Ft. After Hrs. pumped GPM

If pump installed, pump rate: GPM

REMARKS

Elev. 1116

42.670556

-96.747778

RECEIVED

APR 12 2017

Missouri: Elk Point **WATER RIGHTS PROGRAM**

This well was drilled under license # 810 and this report is true and accurate.

Drilling firm: Heine Electric & Irrigation

Signature of License Representative:

[Signature]

Signature of Well Owner or Equitable Property Holder:

Date: _____



8211-3
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: TIMBER8 LLC, ANDREA KOCH, 56809 893RD, WYNOT, NE 68792
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6179-3, 6180-3, 6181-3 & 8211-3. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6179-3, 6180-3, 6181-3 & 8211-3 qualification:

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

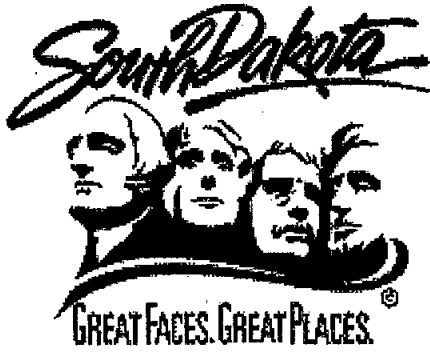
The hearing will be held at **Wednesday, March 6, 2019 at 10:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant 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) 6179-3, 6180-3, 6181-3 & 8211-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 6, 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 questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



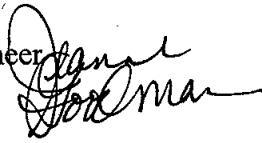
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 7, 2019

NOTICE OF ENTRY OF ORDER FOR ONE YEAR SUSPENSION OF
WATER RIGHTS AND WATER PERMIT

TO: Andrea Koch, Timber8 LLC, 56809 893rd, Wynot NE 68792

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: One Year Suspension of Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3

On March 6, 2019, the Water Management Board ordered:

Effective April 6, 2019, Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 be suspended for the 2019 irrigation season for failure to submit the 2018 irrigation questionnaires.

If the 2018 irrigation questionnaires are received prior to April 6, 2019, the suspensions will not take effect.

Suspension of a water permit or right means water may not be pumped during the 2019 irrigation season. Consistent with the Board's order, you are not permitted to irrigate in 2019 unless the 2018 irrigation questionnaires are submitted by April 6th.

After April 6th, you may petition the Water Management Board to rescind the suspensions. You will need to submit the 2018 irrigation questionnaires and a letter to our office requesting time on the agenda for the next Water Management Board meeting scheduled for May 8-9, 2019, in Pierre, SD. The letter should include your reasons for not completing the 2018 irrigation questionnaires. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

Please contact Genny McMath (605) 773-3352, if you have any questions.



8211-3

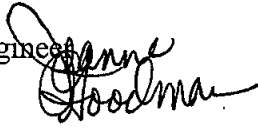
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 9, 2019

NOTICE

TO: Andrea Koch, Timber8 LLC, 56809 893rd, Wynot NE 68792

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3,
Timber8 LLC

On May 8, 2019, the Water Management Board passed a motion to lift the suspension of Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3. **The Board's action allows Timber8LLC to irrigate in 2019.**

The Board's action took into consideration the 2018 irrigation questionnaires were now on file with the Water Rights Program. They also took into consideration testimony from Scott Heine explaining circumstances happening this past season and his assurance the questionnaires will be submitted in a timely manner in the future.

Please be aware that under SDCL 46-1-12, the Board has the authority to suspend a water right for a period of up to one year for the first violation; for up to three years for the second violation and may cancel a water right for a third violation.

The 2019 irrigation questionnaires will be directed to you in October, 2019. If you have any questions concerning the reporting requirements, please contact Genny McMath at 605 773-3352.

CERTIFICATION

I hereby certify that on May 9, 2019, I have personally deposited with the United States mail at Pierre, South Dakota, a first class postage prepaid envelope containing a Notice dated May 9, 2019 regarding the Reinstatement of the following Water Rights or Water Permits addressed as stated below:

Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3

- **Andrea Koch, Timber8 LLC, 56809 893rd, Wynot NE 68792**

Water Right No. 5601-3

- **Matt Van Buskirk, PO Box 98, Hitchcock SD 57348-0098**

Vickie Maherry

Vickie Maberry
Water Rights Program
Environment and Natural Resources

STATE OF SOUTH DAKOTA)

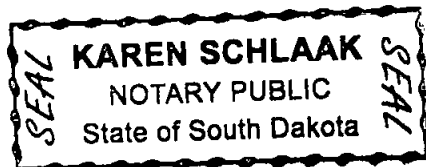
) SS

COUNTY OF HUGHES)

Sworn to, before me, this 9th day of May, 20 19.

Karen Ahlback

Karen Schlaak
Notary Public
My Commission expires April 1, 2025



Gronlund, Eric

From: Andrea Koch <kakoch@gpcom.net>
Sent: Monday, April 29, 2019 7:34 AM
To: McMath, Genny
Cc: Gronlund, Eric
Subject: Re: [EXT] 2018 Irrigation Questionnaires - Timber8 LLC

Timber8 LLC is notifying the Water Management Board that they would like to be considered to have reinstatement of Water Rights Numbers: 6179-3, 6180-3, 6181-3 and 8211-3 for the upcoming irrigation season and placement on the agenda at the next scheduled Board meeting. Timber8 LLC has taken steps to allow completion of the questionnaires when received in October of each subsequent years. Each partner assumed that another partner was completing the questionnaires and now one partner has been assigned the responsibility for future questionnaires.

Sincerely,

Andrea Koch

On Apr 26, 2019, at 8:39 AM, McMath, Genny <Genny.McMath@state.sd.us> wrote:

Andrea,
 DENR received the irrigation questionnaires for Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 on April 25th. The Water Management Board took action on March 6th to suspend the water rights and water permit for the upcoming 2019 irrigation season with the suspensions taking effect 30 days later on April 6th unless the irrigation questionnaires were received within the 30 day period. Since the questionnaires were not received within that timeframe, the water rights and water permit are currently suspended based on the Board's action.

Only the Board can reinstate the water rights and water permit to allow irrigation this upcoming season. If you want the Board to consider reinstating Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 for the upcoming irrigation season, you must file a request to that effect immediately. The Board meets on May 8th. Please send us an email by April 29th requesting the Board to reconsider the suspensions and state why the irrigation questionnaires were not submitted by the deadlines provided in three notification that were sent. You will then be provided notice of the matter being placed on the Board agenda. Please plan to attend the hearing in Pierre to explain why the irrigation questionnaires were not submitted in a timely manner and what steps will be taken to ensure they are timely submitted in the future.

The email requesting time on the Board agenda for reconsideration of the suspensions should be directed to both myself and Eric Gronlund in our program. Eric handles scheduling matters before the Board.

Genny McMath
 Water Rights Program
 605 773-3352

From: Andrea Koch [<mailto:kakoch@gpcom.net>]
Sent: Thursday, April 25, 2019 12:35 PM
To: McMath, Genny
Subject: [EXT] 2018 Irrigation Questionnaires

Genny

I have been able to get one of the guys to complete the Irrigation Questionnaires for Timber8 LLC. Please accept our apologies as this is far past the deadline. In the future, please expect timely submission.

Sincerely

Andrea Koch



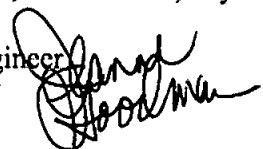
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 29, 2019

NOTICE

TO: Andrea Koch, Timber8 LLC, 56809 893rd, Wymore NE 68792

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3,
Timber8 LLC

The 2018 irrigation questionnaires have been received along with your petition to have the Water Management Board consider rescinding suspensions of Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3.

The matter has been scheduled for **8:45 am, Wednesday May 8, 2019 (central time) in the LRC Conference Room 414, State Capitol Building, 500 E Capitol Avenue, Pierre SD.**

It is ultimately a Board decision on whether to rescind the one year suspension for each of the above listed water rights and water permit or to let the suspensions stand. It is very important that you plan to attend the hearing.

If you have any questions, please contact Genny McMath or Eric Gronlund at 605 773-3352.

CERTIFICATION

I hereby certify that on April 29, 2019, I have personally deposited with the United States mail at Pierre, South Dakota, a first class postage prepaid envelope containing a Notice dated April 29, 2019 regarding the scheduling of a hearing for Suspended Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 addressed as stated below:

Andrea Koch, Timber8 LLC, 56809 893rd, Wynot NE 68792


Eric Gronlund
Water Rights Program
Environment and Natural Resources

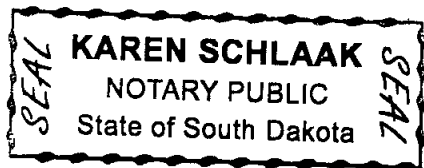
STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

Sworn to, before me, this 29th day of April, 20 19.


Karen Schlaak
Notary Public
My Commission expires April 1, 2025



**IRRIGATION QUESTIONNAIRE VIOLATIONS
WATER RIGHT NOS. 6179-3, 6180-3, 6181-3 & WATER PERMIT NO. 8211-3
TIMBER8 LLC**

BRIEF DESCRIPTION AND HISTORY

Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 are held by Timber8 LLC. They collectively authorize diversion of 12.51 cubic feet of water per second from the Missouri Elk Point Aquifer to irrigate 864 acres.

Water Right Nos. 6179-3, 6180-3 and 6181-3 were originally obtained by Ray Farms. They were transferred to Timber8 LLC on April 30, 2014.

Water Permit No. 8211-3 was obtained by Timber8 LLC in June, 2016.

With the exception of the 2016 irrigation questionnaires, past questionnaires sent to Timber8 LLC have been returned in a timely manner. In 2016, the forms were not returned by January 20, 2017 and a "Notice of hearing" was sent out. The forms were submitted on January 24th.

REPORTING SUMMARY FOR 2018:

October 30, 2018: Irrigation questionnaires for Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 were sent to: Andrea Koch, Timber8 LLC, 56809 893rd, Wynot NE 68792

January 25, 2019: A "Notice" of hearing was sent by Certified Mail to above name & address. The "Notice" indicated the forms had not been received and a hearing was scheduled for March 6, 2019. The "Notice" explained if the irrigation questionnaires were received, the hearing to consider the violations would not be held. Tracking information shows the "Notice" was delivered February 4, 2019.

March 6, 2019: The Water Management Board ordered Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 suspended for the 2019 irrigation season for failure to submit the 2018 irrigation questionnaires. The Board granted a 30 day grace period allowing the questionnaires to be submitted up until April 6, 2019 to avoid suspension.

March 7, 2019: A "Notice" was sent by Certified Mail to Andrea Koch, Timber8 LLC, 56809 893rd, Wynot, NE 68792 outlining the Board's order and requirement to submit the questionnaires prior to April 6, 2019 to avoid suspension. The "Notice" also outlined the procedure for coming back before the Board should the forms be submitted after April 6th. Tracking information shows the "Notice" was delivered March 9, 2019.

April 25, 2019: All four 2018 irrigation questionnaires for Timber8 LLC were received. The forms indicated irrigation had taken place from May or June through August, 2018.

April 29, 2019: Petition received via email communication from Timber8 LLC requesting time on the agenda for the Board to consider rescinding the suspensions.



Genny McMath
Water Rights Program

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID

FEB 1 2021

Ck# 3399

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

RECEIVED

FEB 01 2021

Water Right/Permit No. 8211-3

Date: 01/28/2021

I/We request that Water Right/Permit No. 8211-3 WATER RIGHTS PROGRAM formerly owned by:

TIMBER8 LLC

be transferred to:

New Owner Name: SCOTT & JENNIFER HEINE

Address: 56368 886 RD

City, State, Zip HARTINGTON



NE



68739

Telephone No. 402-640-1999

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

SW1/4 NW1/4, NW1/4 SW1/4 SEC 27 AND SE1/4 NE1/4, NE1/4 SE1/4, SEC 28; ALL IN
T91N-R50W

☒ I understand that the validity of Water Right/Permit No. 8211-3 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, SCOTT HEINE, the new owner, certify that the above information is true and correct.



(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 and the water used, the permit becomes a right. A water right may be lost for three 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.

8211-3

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date February 1, 2021

RECEIVED OF Scott/Jennifer Heine 56368 886 Rd Hartington NE 68739

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>8211-3</u>	\$50.00
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	\$50.00

By Eric Gronlund
Chief Engineer

vm



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

February 11, 2021

Scott & Jennifer Heine
56368 886th Rd
Hartington NE 68739

RE: Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3

Dear Mr. & Mrs. Heine:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership on the above listed water rights and permit.

The ownership changes have been completed. Water Right Nos. 6179-3, 6180-3, 6181-3 and Water Permit No. 8211-3 formerly held by Timber8 LLC are now listed in your names.

Enclosed for your records are receipts for the filing fees you paid. If I can answer any questions for you, please let me know.

Sincerely,

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

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID

MAR 12 2021

Ck# 167

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

MAR 12 2021

Water Right/Permit No. 8211-3WATER RIGHTS
PROGRAMDate: March 9, 2021

I/We request that Water Right/Permit No. 8211-3 formerly owned by:
Scott Heine and Jennifer Heine be transferred to:

New Owner Name: Double Down Farm GP - Jay Girotto (Agent)
Address: 18 Crescent Key
City, State, Zip Bellevue WA 98006 Telephone No. 425-301-0728

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

Exhibit A - Attached

- ☒ I understand that the validity of Water Right/Permit No. 8211-3 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, Double Down Farm GP, Jay Girotto (Agent), the new owner, certify that the above information is true and correct.


(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 and the water used, the permit becomes a right. A water right may be lost for three 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.

ASSIGNMENT OF WATER PERMITS

THIS ASSIGNMENT OF WATER PERMITS (the "Assignment") is entered into as of the 4th day of February, 2021, between Scott and Jennifer Heine, of 56368 886 Road, Hartington, NE 68739, ("Assignor"), and Double Down Farm GP, c/o Jay Giroto, 18 Crescent Key, Bellevue, WA 98006 ("Assignee").

WITNESSETH:

WHEREAS, the Parties hereto entered into that certain Real Estate Purchase Agreement dated October 16, 2020, for the sale of the real property described on Exhibit A, attached hereto and incorporated by this reference ("Property"); and

WHEREAS, Assignor previously obtained Water Permit No. 6179-3; Water Permit No. 6180-3; Water Permit No. 6181-3; and Water Permit No. 8211-3, attached hereto as Exhibit B, (collectively the "Permits") to appropriate water in connection with portions of the Property; and

WHEREAS, Assignor desires to assign, and Assignee desires to assume all of Assignor's right, title and interest to the Permits, subject to the terms and conditions described herein.

NOW THEREFORE in consideration of the mutual premises, covenants, agreements and understandings contained herein, Assignor and Assignee agree as follows:

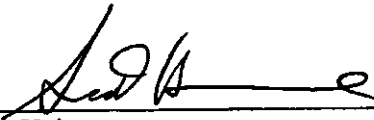
1. **ASSIGNMENT**. Assignor hereby assigns, transfers and conveys unto Assignee, and its successors or assigns, all of Assignor's right, title and interest, in and to the Permits, subject to all limitations, conditions, or other requirements imposed by the Permits or applicable law. Assignee hereby agrees to assume the Permits including all liability and obligations associated with said Permits.

2. **ACKNOWLEDGMENT**. Assignee acknowledges that (i) notice of this Assignment and payment of applicable filing fees must be made with the Chief Engineer of the South Dakota Department of the Environment and Natural Resources no later than ninety (90) days from the completion of this Assignment, and (ii) the rights associated with the Permits are granted subject to certain conditions and requirements specified by said Permits and applicable law, such requirements and conditions may specifically include, without limitation, a requirement to develop and use water rights within certain defined time periods.

[SIGNATURE PAGE FOLLOWS]

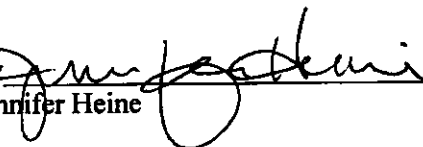
IN WITNESS WHEREOF, the parties have executed this Assignment on the date set opposite the signatures of the authorized representatives of the parties set forth hereinbelow.

2-4-2021
Date

By 
Scott Heine

ASSIGNOR

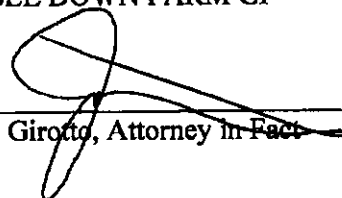
2-4-2021
Date

By 
Jennifer Heine

ASSIGNOR

DOUBLE DOWN FARM GP

2/1/21
Date

By 
Jay Giroto, Attorney in Fact

ASSIGNEE

Exhibit A

Water Permit No 8211-3

SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 27, SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 28,
All in T91N, R50W

Water Permit No 6181-3

E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 21, W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 22, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 28
All in T91N, R50W

Water Permit No 6180-3

S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Section 21, T91N, R50W

Water Permit No 6179-3

S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 28, all in T91N, R50W

EXHIBIT B

ASSIGNED WATER PERMITS

8211-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date March 12, 2021RECEIVED OF Double Down Farm GP 18 Crescent Key Bellevue WA 98006

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>8211-3</u>	\$50.00
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	\$50.00

By Eric Gronlund
 Chief Engineer
 em



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 31, 2021

Jay Girotto
Double Down Farm GP
18 Crescent Key
Bellevue WA 98006

RE: Water Right/Permit Nos. 6179-3, 6180-3, 6181-3 and 8211-3

Dear Mr. Girotto:

I am writing to acknowledge completion of the ownership changes for the above listed water rights and water permit. Nos. 6179-3, 6180-3, 6181-3 and 8211-3 formerly held by Scott and Jennifer Heine are now listed under "Double Down Farm GP".

The receipts for the filing fees you paid are enclosed. If you have any questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Genny McMath".

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

enclosures

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8211-3

I have this day, August 8, 2022, made a thorough examination of the water use system currently owned by Double Down Farm, GP, 18 Crescent Key, Bellevue, WA 98006, holder of Permit No. 8211-3, bearing the priority of March 25, 2016, authorizing the diversion of 1.78 cu. ft. per second of the waters of groundwater (Missouri: Elk Point Aquifer) for the irrigation of 96 acres located in Union County.

Inspection contact: Ryan Strem

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Heine Electric & Irrigation
- 2) No. of Wells: 1
- 3) Depth(s): 110 feet
- 4) Well log is available: Yes

Casing:

- 1) Diameter: 16 inches
- 2) Length: 70 feet
- 3) Type: Plastic

Screen:

- 1) Diameter: 16 inches
- 2) Length: 40 feet
- 3) Type: PVC
- 4) Static water level: 9 feet

Pump:

- 1) Make: Southeast Pump
- 2) Model: 12RKHO
- 3) Capacity: 1,100 GPM

Motor:

- 1) Make: General Electric
- 2) Model No.: 5KE326DTT6017D1
- 3) Horsepower rating: 50 hp

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

- 1) Type: Galvanized
- 2) Size: 8 inches
- 3) Length: 10 feet

C. Works used to apply water to beneficial use:

Center Pivot:

- 1) Make: Valley
- 2) Overall length: 1,460 feet
- 3) Number of towers: 8
- 4) End gun: Yes
- 5) Capacity: 1,100 GPM

Chemigation Equipment:

- 1) Does chemigate: Yes
- 2) Main line check valve: Yes
- 3) Inspection port/air relief: Yes
- 4) Low pressure drain: Yes
- 5) Discharge is 20' from source: No
- 6) Interlock type: Electrical
- 7) Injection pump: Positive displacement
- 8) Injection check valve: Yes

- 9) Injection line check valve or positive displacement pump: Yes

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: No
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Yes
- 3) Exceptions to compliance are: Flow Rate

E. Condition and Location:

- 1) The system is in good condition with the point(s) of diversion located as follows:
The well is 190 feet west and 2,560 feet south of the northeast corner of Section 28-T91N-R50W (Latitude 42.67061, Longitude -96.74785 – SE1/4 of the NE1/4).
- 2) The works are capable of diverting and conveying to the place of use 2.45 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

<u>Section 28-T91N-R50W</u>		<u>Section 27-T91N-R50W</u>	
<u>NE1/4NE1/4</u>	<u>1 acre</u>	<u>NW1/4NW1/4</u>	<u>3 acres</u>
<u>SE1/4NE1/4</u>	<u>1 acre</u>	<u>SW1/4NW1/4</u>	<u>35 acres</u>
<u>NE1/4SE1/4</u>	<u>15 acres</u>	<u>NW1/4SW1/4</u>	<u>34 acres</u>
<u>SE1/4SE1/4</u>	<u>4 acres</u>	<u>SW1/4SW1/4</u>	<u>2 acres</u>

comprising a total of 95 acres of land and the license should be issued for 1.78 cfs.

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

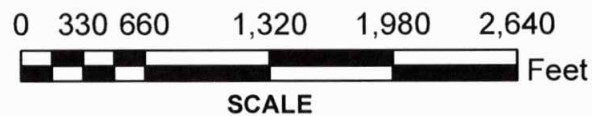
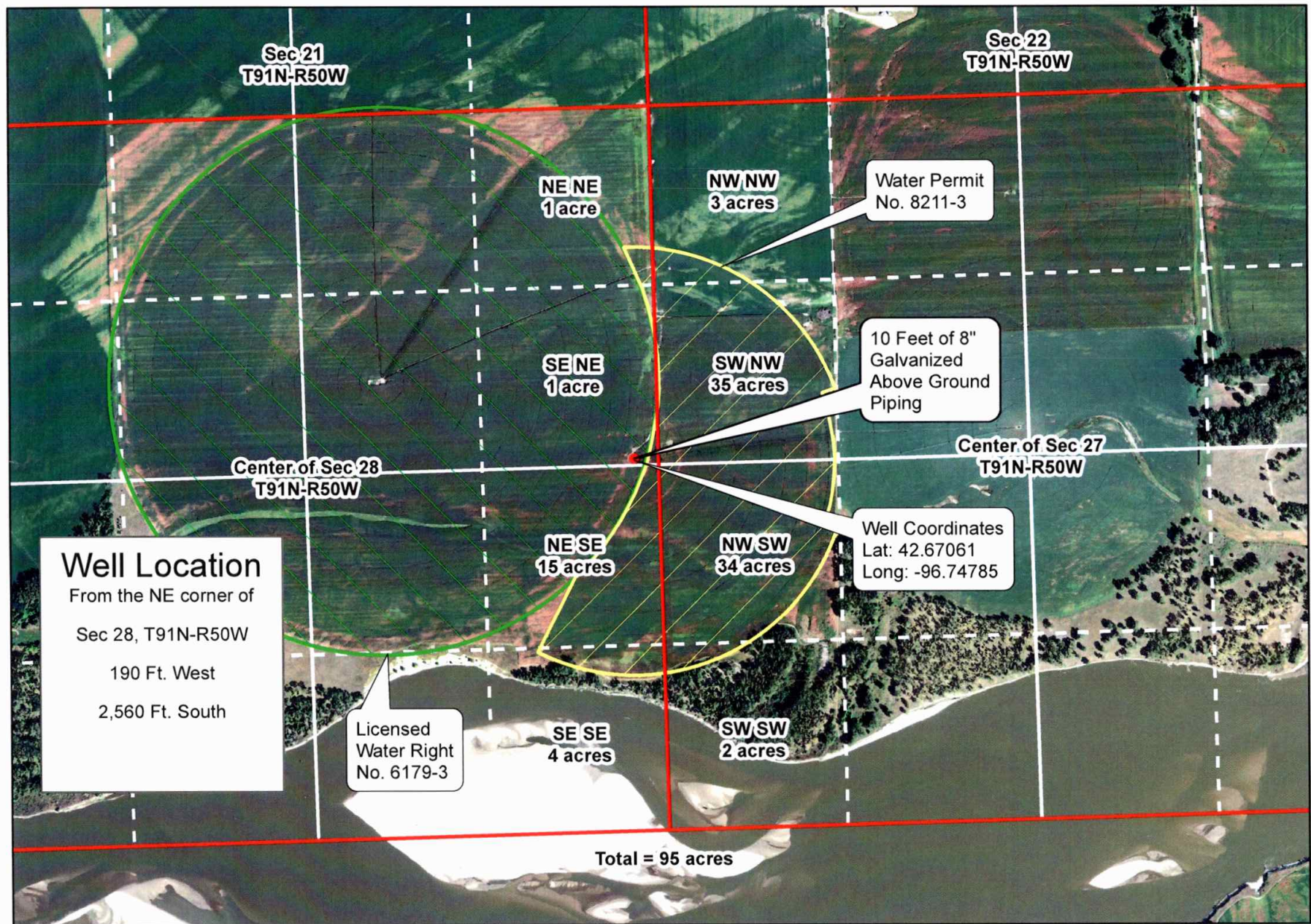
F. Comments or other permit(s) associated with the project: This pivot overlaps part of the pivot associated with licensed Water Right No. 6179-3. The acres listed above are the acres that do not overlap with that water right. The irrigated property is accretion land and I extended section and quarter-quarter lines to indicate approximate section and quarter-quarter lines. Actual legal descriptions are not shown. Double Down Farm, GP also owns the property associated with licensed Water Right No. 6179-3. The actual flow rate is more than allowed by the permit and the approximate legal descriptions of the irrigated land include land not listed in the permit. The irrigated land is all owned by the permit holder and is adjacent to the permitted land. I mentioned to Mr. Strem that he should put a drain hose on the chemigation discharge and he said he would do that.

Keith DeJong

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

Date report completed: August 11, 2022

Water Permit No. 8211-3



Keith DeJong
Keith DeJong, PE Ret.
Staff Engineer
August 11, 2022

Licensing of Acreage Outside of Permitted Area

NAME: Double Down Farm GP

ADDRESS: 18 Crescent Key, Bellevue WA 98006

DATE: August 15, 2022 COUNTY: Union

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is 95 acres as compared to 96 acres authorized by the permit.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

Water Permit No. 8211-3 authorized the irrigation of 96 acres in SW ¼ NW ¼, NW ¼ SW ¼ of Section 27 and the SE ¼ of Section 28; all in T91N-R50W. One acre was developed outside of the permitted area in the NE ¼ NE ¼ Section 28; T91N-R50W.

- **Owned by Same Property Owner**

Double Down Farm GP owns all of the property

- **Developed Prior to Expiration of Construction Period**

Yes, the permit holder reported irrigation of the acres prior to the end of the construction period.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the 1 acre area be included in the water license.



Mark D Rath, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



Eric Gronlund, Chief Engineer
Water Rights Program



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

AUG 18 2022

Jay Giroto
Double Down Farm GP
18 Crescent Key
Bellevue WA 98006

RE: Water License Nos. 8022-3, 8023-3, 8024-3, 8025-3, 8211-3 and 8325-3

Dear Mr. Giroto:

Enclosed are Water License Nos. 8022-3, 8023-3, 8024-3, 8025-3, 8211-3 and 8325-3. They are the final water right documents completing your process of obtaining Water Rights. Included with each license is a map prepared by the staff engineer who conducted the field investigation.

Items to be aware of for the following licenses:

- **No. 8022-3** (N ½ Section 21): The investigation found your irrigation system is capable of diverting 850 gallons per minute (1.89 cfs). The statutory limit for 115 acres is 1.64 cfs (equivalent to 737 gpm). Diversion of water under this water license is limited to 1.64 cfs;
- **No. 8024-3** (Section 8) The investigation found your irrigation system is capable of diverting 1,700 gallons per minute (3.79 cfs). The statutory limit for 223 acres is 3.19 cfs (equivalent to 1,430 gpm). Diversion of water under this water license is limited to 3.19 cfs;
- **No. 8025-3** (SE ¼ Sec 4 and SW ¼ Sec 3) The investigation found your irrigation system is capable of diverting 1,700 gallons per minute (3.79 cfs). The statutory limit for 255 acres is 3.64 cfs (equivalent to 1,635 gpm). Diversion of water under this water license is limited to 3.64 cfs;
- **No. 8211-3** (Sec 27 & 28, T91N, R50W – **Union** County) In regard to the equipment used for applying chemicals and/or fertilizer through your irrigation systems, the staff engineer indicated he spoke with Ryan Strem about the absence of a hose to drain the water at least 20 feet from the well. Enclosed is a copy of Water Management Board rules dealing with chemigation. "Appendix A" shows the minimum requirements for the equipment. Please coordinate with Mr. Strem to ensure the requirements are met.

continued

Double Down Farm GP

Page 2

- **No. 8325-3** (SW ¼ & W ½ SE ¼ Sec 4) The investigation found your irrigation system is capable of diverting 850 gallons per minute (1.89 cfs). The original permit authorized a diversion rate of 1.67 cfs (750 gpm). Diversion of water under this license is limited to 1.67 cfs.

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

As long as you use the water beneficially, as stated in the Water Licenses, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,



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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 8211-3

(1) Timber8 LLC made Application No. 8211-3, March 25, 2016, for a water permit to divert 1.78 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer), Union County, South Dakota for irrigation purposes. Permit No. 8211-3, with a priority date of March 25, 2016, was approved June 20, 2016, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 20, 2021, and for the application to beneficial use of water on or before June 20, 2025.

Ownership changes filed with Water Permit No. 8211-3 are as follows:

- February 1, 2021, transferred from Timber8 LLC to Scott & Jennifer Heine
- March 12, 2021, transferred from Scott & Jennifer Heine to Double Down Farm GP

An investigation conducted for licensing purposes found acreage developed slightly outside of the permitted area. Pursuant to SDCL 46-5-30.5 and ARSD 74:02:01:14.01, the Chief Engineer made a finding that the change in acreage did not impair existing water rights and the overall project, as developed, is consistent with the original application.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.78 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 190' W and 2,560' S of the NE corner of Section 28, T91N, R50W (SE ¼ NE ¼ Section 28)
Latitude 42.67061, Longitude -96.74785

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

Section 28, T91N, 50W		Section 27, T91N, R50W	
NE ¼ NE ¼	1 acre	NW ¼ NW ¼	3 acres
SE ¼ NE ¼	1 acre	SW ¼ NW ¼	35 acres
NE ¼ SE ¼	15 acres	NW ¼ SW ¼	34 acres
SE ¼ SE ¼	4 acres	SW ¼ SW ¼	2 acres

Total 95 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Double Down Farm GP, 18 Crescent Key, Bellevue WA 98006 the holder and/or owner of Water Right No. 8211-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from ground water, one well (Missouri Elk Point Aquifer) with a priority date of March 25, 2016, from the location specified in (2) of this license for irrigation purposes.

continued

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8211-3 and subject to the following qualifications:

- The well approved under this water right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this water right shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The well authorized by Permit No. 8211-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *The well was drilled in May 2016 by Heine Electric & Irrigation. A copy of the well completion report is on file with the Water Rights Program.*
- Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Water Right No. 8211-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 95 acres with an annual volume not to exceed 2 acre feet of water per acre per year. *The acreage was reduced from 96 to 95 based on the system as developed.*
- This Water Right is approved subject to the irrigation water use questionnaire being submitted each year.



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

AUG 18 2022

date



8211-3

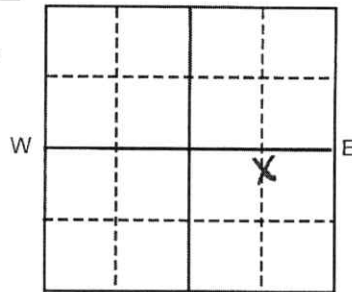
SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE 1/4 SE 1/4 Sec 28 Twp 91N Rg 50WCounty UNION

Please mark well location with an "X"



Well Completion Date

6/9/22

1 Mile

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

> 4000 ft. from HOG BARN (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

RO BUCKET

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

PIPEWEIGHT DIAMETER FROM TO HOLE DIAMETER

LB/FT 16 IN 0 FT 88 FT 30 IN

LB/FT IN FT FT IN

LB/FT IN FT FT IN

GROUTING DATA:

Grout Type No. of Sacks Grout Weight From To

Groutwell DF 68 Lb/gal 0 Ft 70 Ft

 Lb/gal Ft Ft

Describe grouting procedure

TREMMIE

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 16 Inches Length 13 FeetMaterial PVCSlot Size .080 Set From 88 Feet to 101 Feet

Other information

WAS A PACKER OR SEAL USED?

☒ Yes ☐ NoIf so, what material? 16" PVC CAP

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH TABLETS
☐ No, Why Not?
 Lab to which water quality sample sent for analysis
Well Owner: SCOTT HEINEBusiness Name: TIMBER 8Address: 56368 886th RDCity, State, Zip: HARTINGTON NE 68739

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Sand</u>	<u>0</u>	<u>22</u>
<u>Fine Sand</u>	<u>22</u>	<u>40</u>
<u>Clay</u>	<u>40</u>	<u>53</u>
<u>Sandy Clay</u>	<u>53</u>	<u>85</u>
<u>Silty Gravel (Dirty)</u>	<u>85</u>	<u>91</u>
<u>Black Sand & Gravel</u>	<u>91</u>	<u>93</u>
<u>ROCKS!</u>	<u>93</u>	<u>94</u>
<u>Dirty Sand/Gravel w/clay</u>	<u>94</u>	<u>97</u>
<u>SHALE</u>	<u>97</u>	<u>101</u>

STATIC WATER LEVEL

9

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 GPMIf pump installed, pump rate: GPM

REMARKS

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: HEINE ELECTRIC & IRRIGATIONSignature of License Representative: James Heine

Signature of Well Owner or Equitable Property Holder:

RECEIVED

Date:

JAN 12 2023

OFFICE OF
WATER

6179-3, 6180-3, 6181-3, 6642-3, 6804B-3, 7389B-3, 8022-3
8023-3, 8024-3, 8025-3, 8211-3, & 8325-3



FARMLAND
OPPORTUNITY

RECEIVED

NOV 01 2023

OFFICE OF
WATER

September 30, 2023

Everyone,

The Farmland Opportunity mailing address/ office changed.

Please send all future USPS, Fedex, UPS, DHL mail and packages to the addresses listed below:

Farmland Opportunity, LLC or [Entity Name] c/o Farmland Opportunity, LLC
1661 Ringling Blvd.
PO Box 2139
Sarasota, FL 34230

If you plan to visit us in person, tell us when you are coming 😊

We are physically located @ 645 S. Orange Ave, Sarasota, FL 34236. DO NOT SEND ANYTHING TO THIS ADDRESS.

Sincerely,

Jay Girotto

Farmland Opportunity LLC
M: 425.301.0728
F: 319.538.0034
jgirotto@farmopp.com

Florida Mailing Address:
1661 Ringling Blvd
PO Box 2139
Sarasota, FL 34230

Iowa Mailing Address:
4926 Autumn Dr
Cedar Rapids, IA 52411

Farmland Opportunity Brokerage PLLC, Cedar Rapids, IA is a licensed broker in Idaho, Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Washington, Wisconsin