

WATER PERMIT NO. 8226-3

Name of Applicant: Jeffrey Albrecht

Address: 21749 435 Ave, DeSmet SD 57231 Phone: 605 203-1105

Amount of Water Claimed: 1.78 cfs Total Acres: 102.5

Source of Water Supply: groundwater (2 wells)

Water to be used for: irrigation County: Kingsbury

Type of Waste Disposal System:

Location: 7 miles south of DeSmet

PRIORITY Date Received: 5-25-16 Application/License Fee: \$ 950

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

Remarks:

Diversion Point: SE 1/4 SE 1/4 and SW 1/4 SE 1/4

Sec 35-T110N-R56W

Land to be Irrigated: E 1/2 SE 1/4 SW 1/4 SE 1/4

Sec 35-T110N-R56W

Depth of Well: 100

Well Driller:

Remarks:

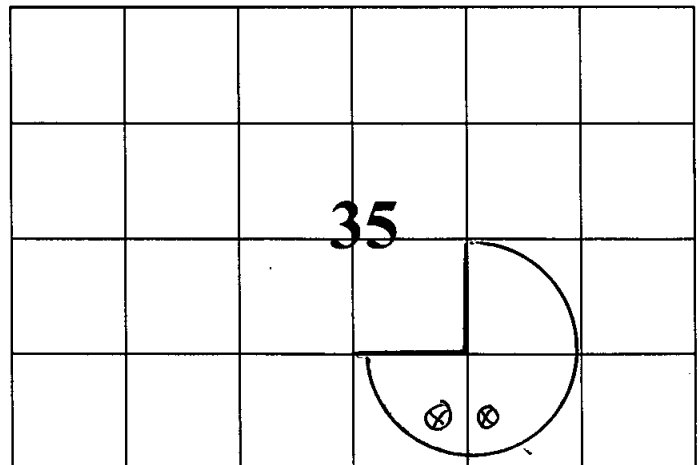
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 5-25-16

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota

(type or print)

RECEIVED

MAY 25 2016

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only)	
	No. <u>8226-3</u>	Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>	
	Newspaper <u>DeSmet News</u>	<u>605-854-3331</u>
<u>Daily Leader madsen 605-256-4555</u>		

Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit Jeffrey Albrecht

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

Mailing Address 21749 435 Avenue DeSmet ☒ SD ☒ 57231
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605-203-1105 Email _____

2. Amount of water claimed 1.78 *CFS or 800 **GPM _____ ***AF Total Acreage 102.5
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 2 wells in the Vermillion East Fork Aquifer

4. Location of point of diversion 1 well in the SW 1/4 of the SE 1/4 of section 35, T110n, R56w with a second
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
well in the SE 1/4 of the SE 1/4 of section 35, T110n, R56w if necessary County Kingsbury ☒

5. County or counties where water will be used Kingsbury

6. Annual period during which water is to be used may-september 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NE of SE of section 35, T110n, R56w	33.5		
SE of SE of section 35, T110n, R56W	35		
SW of SE of section 35, T110n, R56w	34		

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

Center pivot irrigation of the above listed cropland. Additional water requested due to windshield wipe pivot irrigation machine and soil type.

I, Jeffrey Albrecht, owner, 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.

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

SOUTH DAKOTA
WATER PERMIT NO. 8226-3 FOR IRRIGATION

Date of first receipt of application May 25, 2016.

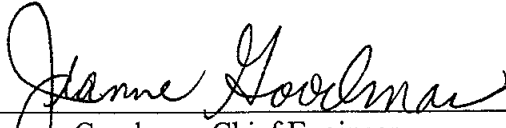
The Water Management Board approved Water Permit No. 8226-3 on March 1, 2017 for Jeffrey Albrecht, 21749 435 Ave, DeSmet SD 57231 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8226-3 appropriates 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Vermillion:East Fork Aquifer (100 feet deep) located in the S 1/2 SE 1/4 Section 35 for irrigation of 102.5 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 35; all in T110N-R56W.
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 May 25, 2016.
4. One-fifth of the construction is to be completed on or before September 1, 2019.
5. All construction is to be completed on or before March 1, 2022.
6. Water is to be put to beneficial use on or before March 1, 2026.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8226-3 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAY 17 2017
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 2 Have test holes been drilled ☒ Yes ☐ No Drilled by Heine Electric & Irrigation, Inc.
(if yes, please provide copies of logs)
- b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____
- For either Existing or Proposed Wells:
- c) Well Depth (**required**) 100 Depth to Top of Water Bearing Material 60 Depth to Water from Surface 20
- d) Distance to nearest domestic well on applicant's property 2000' Property owned by others 2400+

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 _____

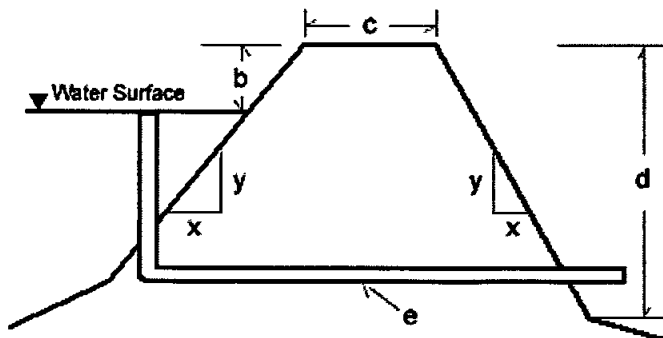
3. Dugout Information

- 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



Pivot center at 44.285444, -97.5166
Arc Start Bearing: 353.6
Arc Stop Bearing: 270.19
[S] Spray off at 160°, on at 200°.
[E] Spray off at 70°, on at 110°.
[W] Spray off at 250°, on at 290°.

- 1 180 ft. Total: 180 ft.
Acreage: 1.79. Total: 1.79 acres.
- 2 180 ft. Total: 360 ft.
Acreage: 5.38. Total: 7.17 acres.
- 3 180 ft. Total: 540 ft.
Acreage: 8.97. Total: 16.14 acres.
- 4 180 ft. Total: 720 ft.
Acreage: 12.55. Total: 28.7 acres.
- 5 180 ft. Total: 900 ft.
Acreage: 16.14. Total: 44.85 acres.
- 6 160 ft. Total: 1060 ft.
Acreage: 17.36. Total: 62.21 acres.
- 7 140 ft. Total: 1200 ft.
Acreage: 17.51. Total: 79.73 acres.
- Overhang 82 ft. Total: 1282 ft.
Acreage: 11.26. Total: 91 acres.
- Spray 120 ft. Total: 1402 ft.
Acreage: 11.47. Total: 102.47 acres.

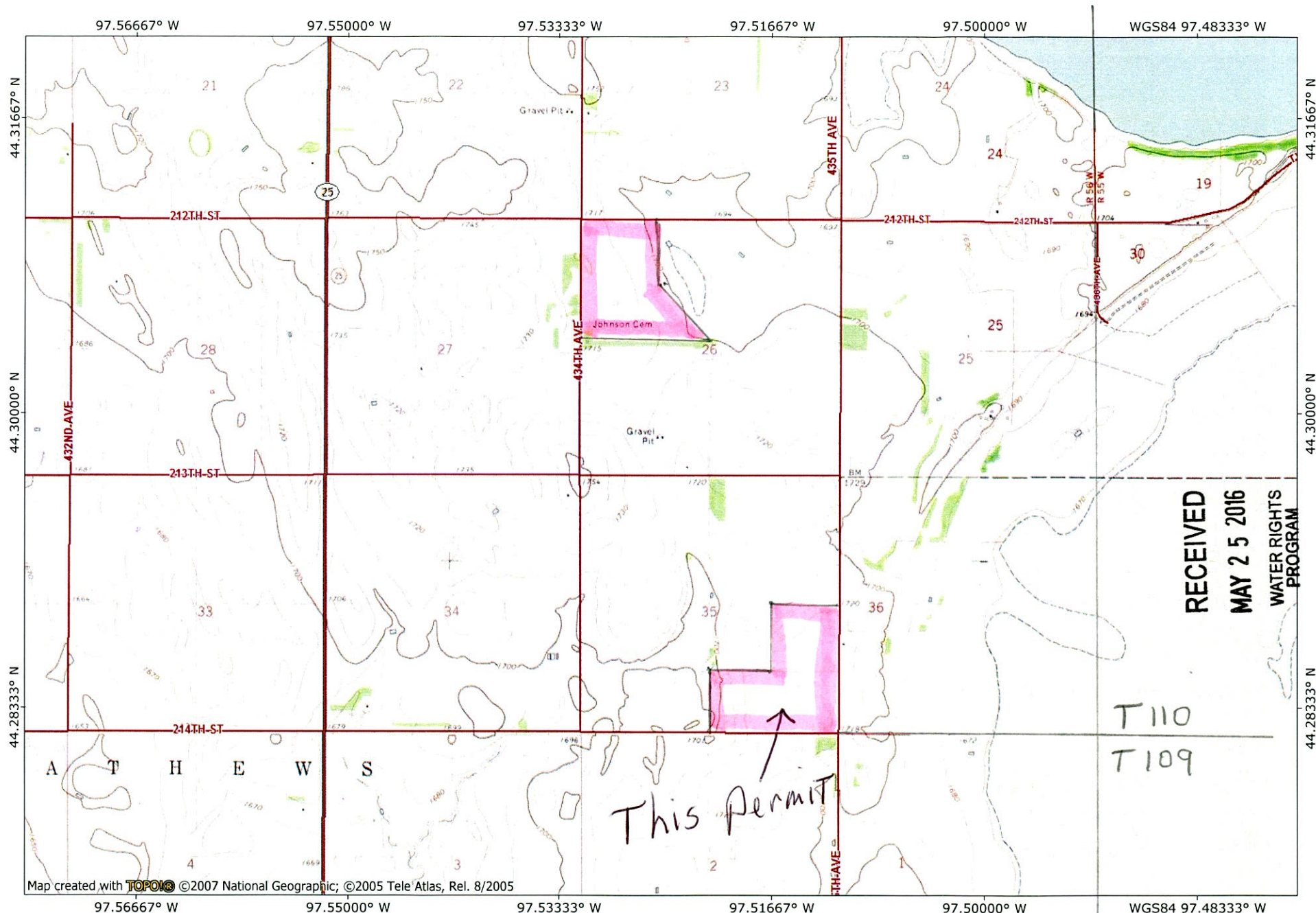
R.A. Hammond
CPG 0272.

Prepared By: **Heine Electric and Irrigation, Inc.** T110N, R56W
For: **Albrecht, John- South (Jeffrey)**
Questions or concerns? Please call us at 402-640-1999!

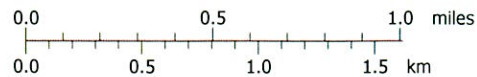
Sect 35 | Sect 36



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Map created with TOPO! ©2007 National Geographic; ©2005 Tele Atlas, Rel. 8/2005



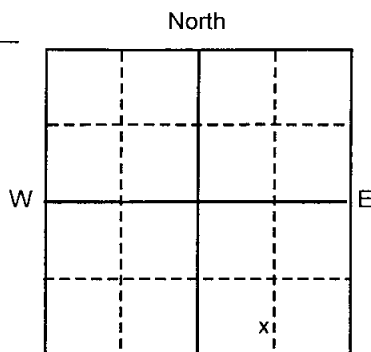
R56

R55

TN
MN
3 1/2°
03/30/16

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw 1/4 se 1/4 Sec 35 Twp 110n Rg 56wCounty KingsburyPlease mark well
location with an "X"

Well Completion Date

11/5/15

1 Mile

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

3,000.0 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ OtherIf other describe none

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	5	9.4 Lb/gal	0.0 Ft	130.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?☐ No, Why Not?Lab to which water
quality sample sent for analysisWell Owner: Bill Albrecht

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
topsoil	0	3
clay, yellow	3	12
clay, yellow with gravel	12	24
clay, blue	24	30
clay, gray, glacial till	30	59
gravel, medium to fine	59	99
sand, fine, with clay beds	99	125
clay, blue	125	130

STATIC WATER LEVEL

about 20' FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:☐ Bailed☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 1 - 2015

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MAY 25 2016

WATER RIGHTS
PROGRAMThis well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & irrigation, inc.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/25, 20 16

RECEIVED OF John Albrecht 43484 218th St De Smet SD 57231

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

Fee for Application for Permit No. <u>8226-3</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>8226-3</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. **07849**

By James Goodman
Chief Engineer



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. 8226-3, Jeffrey Albrecht**

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. 8226-3, Jeffrey Albrecht, 21749 435th Avenue, DeSmet SD 57231.

The Chief Engineer is recommending APPROVAL of Application No. 8226-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8189-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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
July 25, 2016

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8226-3
JEFFREY ALBRECHT
JULY 11, 2016

Water Permit Application No. 8226-3 proposes to appropriate water from the Vermillion East Fork aquifer for the purpose of irrigating 102.5 acres located in the E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35, T110N-R56W. The applicant intends to divert water from two wells approximately 100 feet deep, located in the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec.35, T110N-R56W, at a maximum diversion rate of 1.78 cubic feet per second (cfs). The applicant is requesting a diversion rate greater than the statutory limit of one cfs per 70 acres.

AQUIFER: Vermillion East Fork (VEF)

GENERAL:

The Vermillion East Fork aquifer was identified by Hedges and others (1982) as a surficial aquifer associated with the Vermillion East Fork River valley. The *First Occurrence of Aquifer Materials in Kingsbury County, South Dakota* (Schulz, 2007), indicates the uppermost aquifer material in the vicinity of the well sites proposed by this application as "Outwash: First occurrence is generally at land surface." The Vermillion East Fork aquifer is a glacial meltwater deposit consisting of medium to very coarse sand and fine gravel. The aquifer extends from Clark County to Turner County where it blends into the Parker Centerville outwash (Hedges and others, 1982). Subsequent work by the United States Geological Survey in Kingsbury County defined the Vermillion East Fork aquifer as a generally unconfined aquifer with the top of the aquifer ranging from land surface to as much as 120 feet (Hamilton, 1989). The report for the test hole submitted with this application identifies sand and gravel from 59-125 feet below grade. The DENR-Water Rights Program and the SD Water Management Board has considered the source aquifer for nearby observation wells and wells supplying water rights/permits that are completed into outwash deposits encountered at elevations similar to the elevation of the outwash this application proposes to develop wells into, the Vermillion East Fork aquifer.

The Vermillion East Fork aquifer is estimated to underlie approximately 94 square miles of Kingsbury County along a northwest trending 2-4 mile wide band (Hamilton, 1989). Due to a groundwater flow divide identified in the aquifer approximately four miles north of DeSmet, SD, the portion of the aquifer north of the divide is considered the Spirit Lake management unit of the Vermillion East Fork aquifer. As a result of a constriction in the areal extent of the aquifer and a groundwater divide near the Kingsbury/Miner County line, Stonesifer (2014) postulated a separate management unit of the aquifer located south of Township 112 North and north of the Kingsbury/Miner County line could be considered. This postulated management unit of the Vermillion East Fork aquifer is estimated to have a total areal extent of approximately 42,500 acres and contain an estimated 127,000 acre feet of water in storage (Stonesifer, 2014). The aquifer is generally under unconfined conditions and groundwater movement is likely from the northwest to southeast (Hamilton, 1989). The aquifer is hydraulically connected to Lake Thompson. The hydraulic conductivity of the aquifer is estimated to range from 200 to 600 ft²/d and well yields may be as high as 1,000 gallons per minute (Hamilton, 1989).

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is 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 water availability and existing rights issues only.

WATER AVAILABILITY:

Water Permit Application No. 8226-3 proposes to appropriate water from the Vermillion East Fork aquifer. Approval of this application is likely to result in an average annual water use of less than 85 acre-feet annually (ac-ft/yr). The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older or lower than the Greenhorn Formation and a water distribution system has applied for a permit, the Board need not consider the recharge/withdrawal issue. Here, a water distribution system is not involved and the aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered.

Hydrologic Budget:

Recharge:

Recharge to the Vermillion East Fork aquifer occurs through infiltration of precipitation, leakage from adjacent and underlying till, and inflow from other management units (Hamilton, 1989). The average annual recharge for this unnamed management unit of the Vermillion East Fork aquifer has not been quantified. However, average annual recharge to the adjacent Spirit Lake management unit was estimated to be approximately 4.0 inches per year through observation well analysis (Hedges and others, 1985). Due to the proximity of the two management units and their similar characteristics, the recharge rate to the two management units is expected to be similar. Therefore, the average annual recharge to this postulated management unit is estimated to be approximately 14,200 acre-feet per year.

Discharge:

Discharge from this unnamed management unit of the Vermillion East Fork aquifer is through evapotranspiration, outflow to adjacent lakes, groundwater outflow to Miner County, and well withdrawals for domestic, commercial, rural water system, municipal, and irrigation use (Water Rights, 2016b and Water Rights 2016c). The water rights/permits appropriating water from the unnamed management unit of the Vermillion East Fork aquifer that Water Permit Application No. 8226-3 proposes to appropriate from are shown in Table 1.

Although there are a number of domestic wells on file, considering rural water has replaced most domestic wells as a primary source and the relatively low amount of water used by a typical domestic well, the amount of water withdrawn annually for domestic use is not significant to the hydrologic budget for this management unit.

Appropriations from this unnamed management unit of the Vermillion East Fork aquifer for uses other than irrigation include: four water rights appropriating water for rural water system use, three municipal water rights, and two future use permits. Water use by these non-irrigation uses is estimated assuming water rights/permits limited by diversion rate only will divert at the maximum authorized diversion rate 60 percent of the time and water rights limited to an annual volume of water will divert the entire allotment. It is assumed that future use permits can be fully developed.

Kingbrook Rural Water System, Inc. has four water rights authorizing a total diversion rate of 5.76 cfs and a total annual appropriation of 1,350 ac-ft/yr, and one future use permit reserving 1,100 ac-ft/yr (Water Rights, 2016b). The amount of water that can be expected to be withdrawn through these appropriations is estimated to be 2,450 ac-ft/yr.

The City of DeSmet has three water rights authorizing a total diversion rate of 4.334 cfs and one future use permit reserving 625 ac-ft/yr. The amount of water that can be expected to be withdrawn through these appropriations is estimated to 2,508 ac-ft/yr.

Historic irrigation use from the Vermillion East Fork aquifer is shown in table 2.

Table 1. Water Rights/Permits appropriating water from the Vermillion East Fork aquifer in Kingsbury County

PERMIT NO	NAME	PRIORITY DATE	STATUS	USE	CFS	ACRES
1456A-3	H T ALBRECHT & SONS INC	11/09/1967	LC	IRR	1.33	124
1487-3	IRA ALBECK	12/29/1967	LC	IRR	1.85	130
1533-3	RUSTIN E & AUSTIE LEE ALBRECHT	11/09/1967	LC	IRR	2.66	293
1652-3	CITY OF DESMET	12/24/1968	LC	MUN	2.22	0
2037-3A	TIM SULLIVAN	12/17/1973	LC	IRR	1.89	132
3312-3	CLARENCE STUBBE	12/07/1976	LC	IRR	1.88	132
3478-3	FARRON PRATT	12/10/1976	LC	IRR	1.33	110
3499A-3	WILLIAM POPPEN	12/28/1976	LC	IRR	1.77	132
3822-3	JOAN A JENCKS	02/15/1977	LC	IRR	1.34	126
3825-3	SHIRLEY ALLEN	03/04/1977	LC	IRR	1.31	92
3937-3	WENDELL SCHUBLOOM	04/27/1977	LC	IRR	0.4	28.7
3960-3	WALLUM FARMS INC	03/09/1977	LC	IRR	0.94	66
4137-3	KINGBROOK RWS INC	03/04/1977	LC	RWS	1.06	0
4245-3	ALAN AUGHENBAUGH	02/27/1978	LC	IRR	1.77	205
4795-3	CITY OF DESMET	01/01/1922	LC	MUN	2.11	0
5186-3	KINGBROOK RWS INC	03/29/1988	LC	RWS	0.7	0
5258-3	KINGSBURY CO COUNTRY CLUB	12/07/1988	LC	IRR	0.52	37
5426-3	KINGBROOK RWS INC	08/15/1988	LC	RWS	1.4	0
6731-3	KINGBROOK RWS INC	06/05/2006	LC	RWS	2.6	0
6759-3	CITY OF DESMET	09/27/2006	LC	MUN	0.004	0
7279-3	H T ALBRECHT & SONS INC	11/17/2011	PE	IRR	1.92	135
7307-3	WESLEY TOEWS FAMILY TRUST	01/17/2012	PE	IRR	4	296
7674-3	BOB TIMP	01/24/2013	PE	IRR	4.44	360
7855-3	WILLIAM POPPEN	07/08/2013	PE	IRR	0.89	40
7981-3	FARRON PRATT	03/06/2014	PE	IRR	0.58	24
8050-3	RONALD BENSON	09/19/2014	PE	IRR	2.22	172
8168-3	NORMAN LEE	06/09/2015	PE	IRR	2.49	195.6
8169-3	LYLE ANDERSON	06/09/2015	PE	IRR	0.85	67.3
LC= Water Right, PE= Water Permit, IRR= Irrigation, MUN= Municipal, RWS= Rural Water System						

Table 2. Irrigation appropriation and pumpage from the Vermillion East Fork aquifer (Modified from Capen, 2015, Water Rights, 1980-2016)

Year	Number of Permits Reporting	Appropriation	Pumpage Reported
		(ac-ft/yr)	(ac-ft/yr)
1979	23	10193.0	1553.36
1980	23	10193.0	1531.92
1981	23	10193.0	982.46
1982	22	8691.6	393.15
1983	22	8691.6	710.13
1984	21	9783.8	694.00
1985	20	9303.8	865.00
1986	21	9500.6	485.00
1987	21	9270.6	661.00
1988	21	9270.6	973.00
1989	22	9270.6	1147.60
1990	22	9670.6	1969.00
1991	22	8696.6	877.00
1992	17	6147.1	619.60
1993	17	6192.1	146.20
1994	16	5602.1	439.12
1995	16	5602.1	253.59
1996	16	5602.1	835.64
1997	16	5582.1	802.00
1998	16	5602.1	850.36
1999	16	5602.1	588.69
2000	16	5602.1	950.39
2001	16	5602.1	891.71
2002	16	5416.1	985.08
2003	16	5416.1	1141.42
2004	15	5152.1	839.32
2005	15	5152.1	966.60
2006	15	5152.1	1090.45
2007	14	4966.1	1178.74
2008	14	4966.1	1253.00
2009	14	4966.1	464.11
2010	14	4966.1	277.89
2011	14	4966.1	517.48
2012	16	5828.1	1644.78
2013	17	6548.1	1603.63
2014	19	6676.1	1229.64
2015	21	6840.1	1478.1
Max	23	10193	1969
Min	14	4966.1	146.2
Average	17.97	6942.62	915.95

Water Balance:

The annual average withdrawal from this postulated management unit of the Vermillion East Fork aquifer through current appropriations is expected to be approximately 6,180 ac-ft/yr. Expected average annual usage includes: (1) Kingbrook RWS water rights/permits and future use permit (2450 ac-ft/yr); (2) City of DeSmet water rights/permits and future use permit (2508 ac-ft/yr); (3) average irrigation withdrawals from table 2 (915.95 ac-ft/yr); (4) development of Water Permit Nos. 8168-3 and 8169-3, with an average application rate of 10 inches per acre per year (219 ac-ft/yr); and (5) development of Water Permit 8226-3, with an average application

rate of 10 inches per acre per year (85 ac-ft/yr). The average annual recharge is estimated to be 14,200 ac-ft/yr. Therefore, there is a reasonable probability that unappropriated water is available to support the proposed appropriation.

Observation Well Data:

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DENR-Water Rights Program monitors nine observation wells completed into the this postulated management unit of the Vermillion East Fork aquifer. Hydrographs for the observation wells are shown in Figures 1-9.

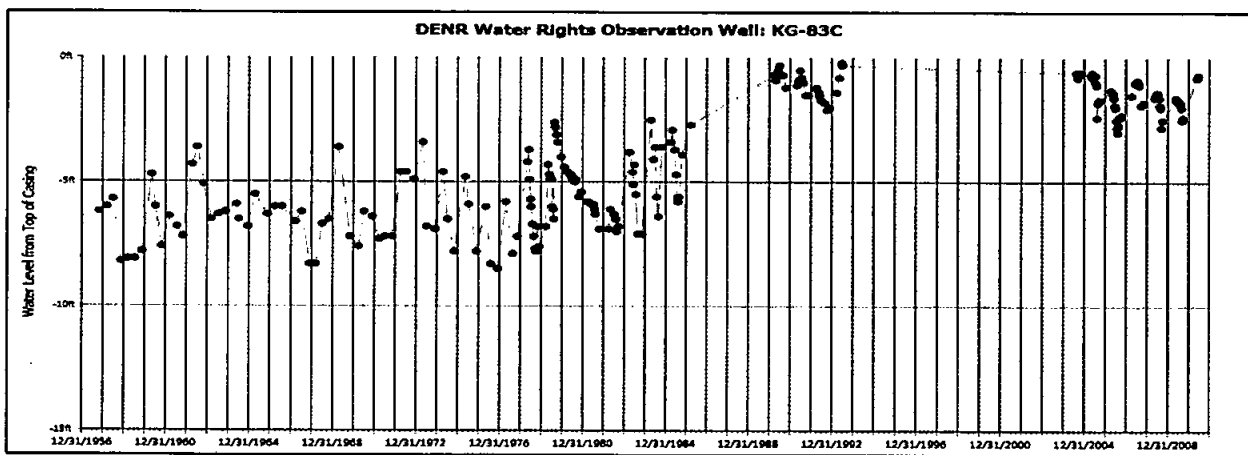


Figure 1. Hydrograph for Vermillion East Fork aquifer observation well located approximately two miles northeast of the well sites proposed by Water Permit Application No. 8266-3.

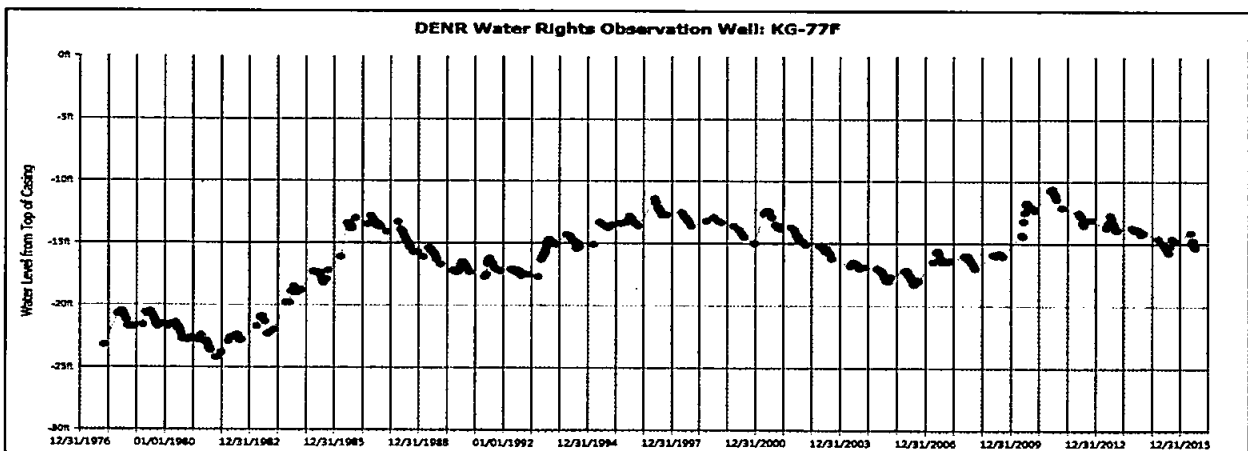


Figure 2. Hydrograph for Vermillion East Fork aquifer observation well located approximately four miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

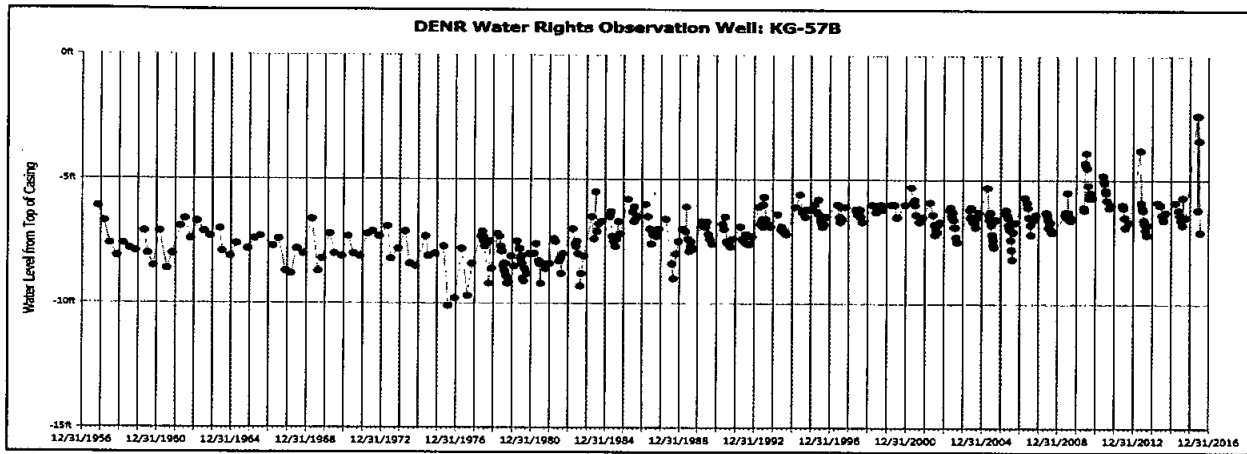


Figure 3. Hydrograph for Vermillion East Fork aquifer observation well located approximately six miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

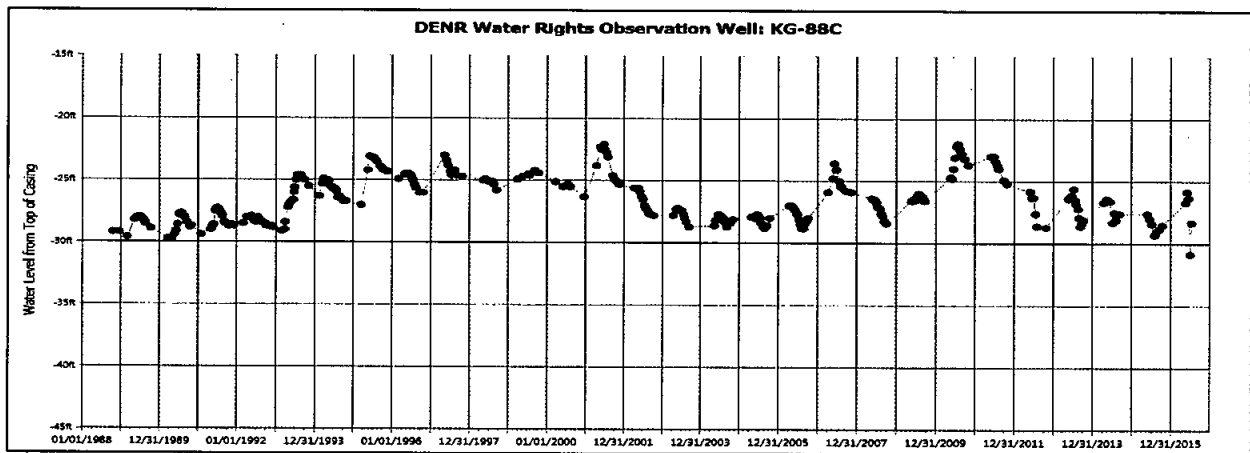


Figure 4. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

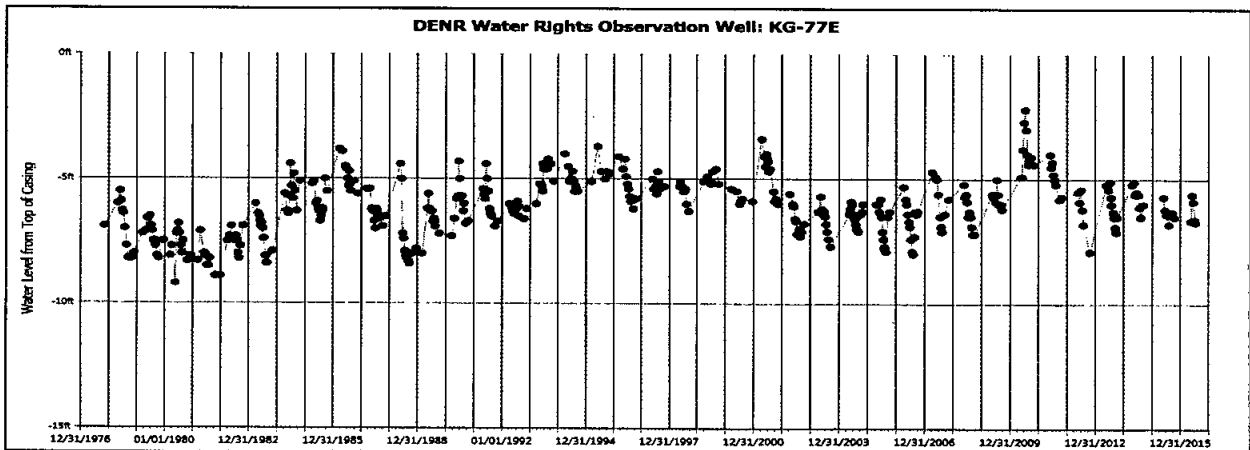


Figure 5. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

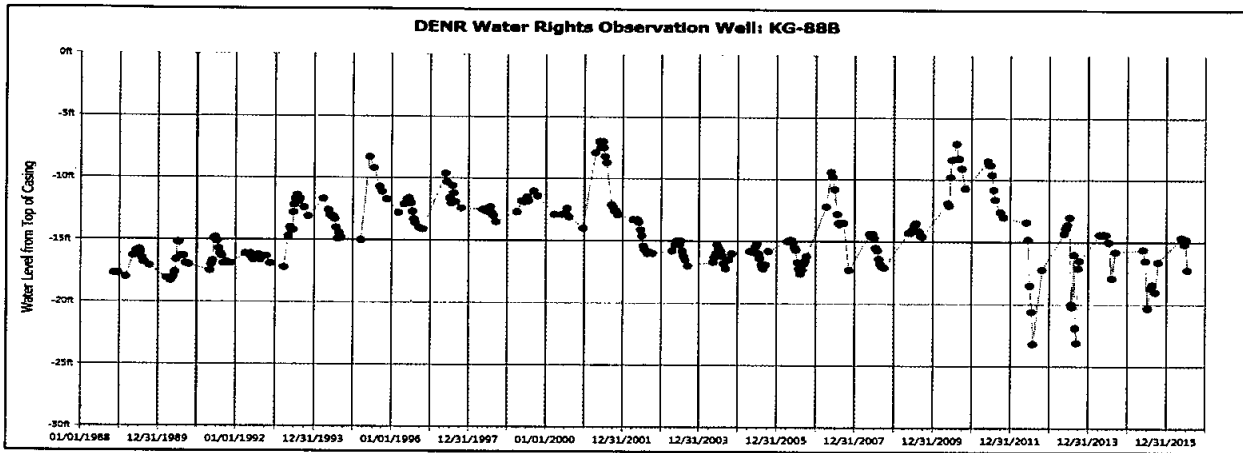


Figure 6. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

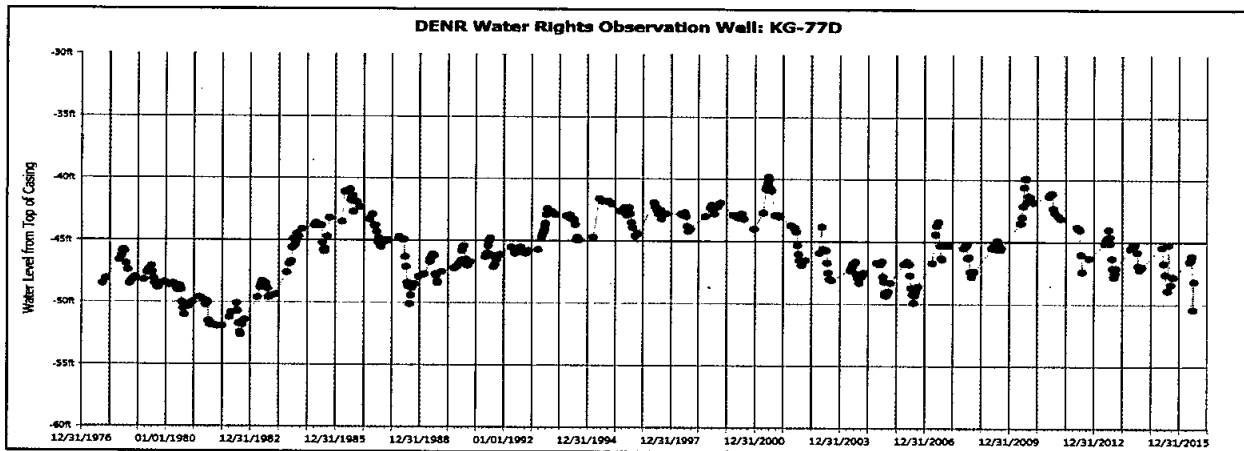


Figure 7. Hydrograph for Vermillion East Fork aquifer observation well located approximately 10 miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

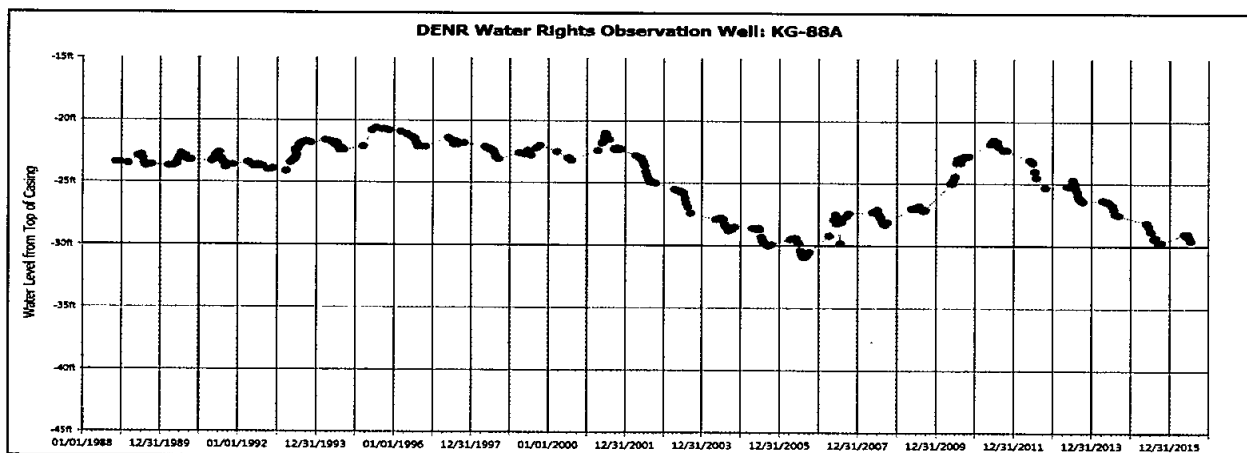


Figure 8. Hydrograph for Vermillion East Fork aquifer observation well located approximately 12 miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

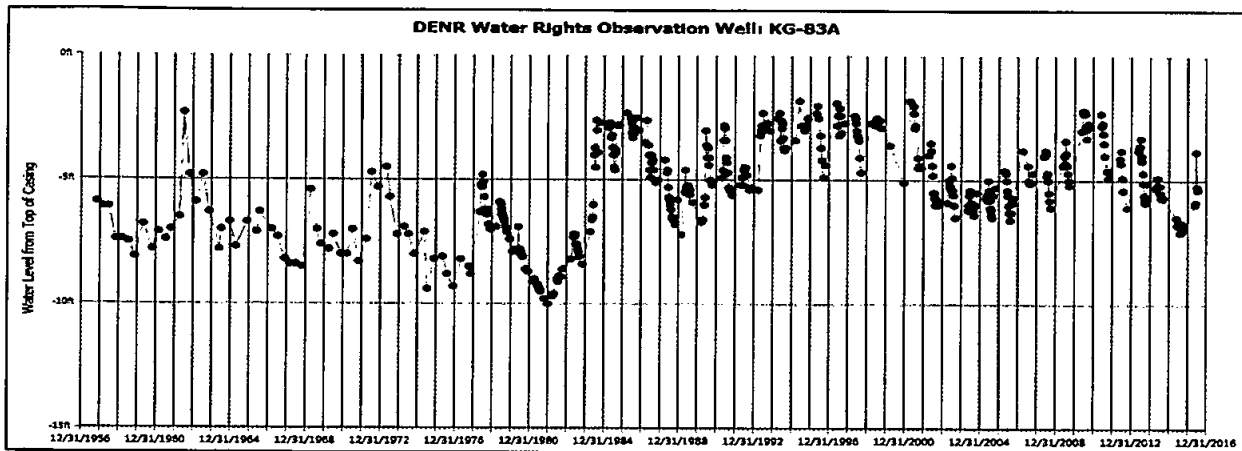


Figure 9. Hydrograph for Vermillion East Fork aquifer observation well located approximately 12 miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

In general, the hydrographs show stable or upward trending water levels over the period of record. The hydrograph for KG-88A (Figure 8) is an exception due to the proximity and influence of the Kingbrook Rural Water System well field. Note the break in data shown in the hydrograph for observation well KG-83C (Figure 1) is the result of the well's inaccessibility for a number of years. In addition to the period from 1993-2004, the well has been inaccessible since June 15, 2010. The hydrographs document that the aquifer responds well to climatic conditions with rising water levels during wet years and declining water levels during dry years. The data documents that at the current level of development temporal well withdrawal is masked by climatic conditions. Therefore, recharge to and natural discharge from the aquifer greatly exceeds well withdrawal, so water is available for capture before natural discharge. Therefore, unappropriated water is available from the Vermillion East Fork aquifer to support the proposed appropriation.

AFFECTS ON EXISTING RIGHTS:

The approximate location of wells supplying water rights/permits appropriating water from the Vermillion East Fork aquifer in the vicinity of the well sites proposed by this application are shown in Figure 10, and identified in Table 3.

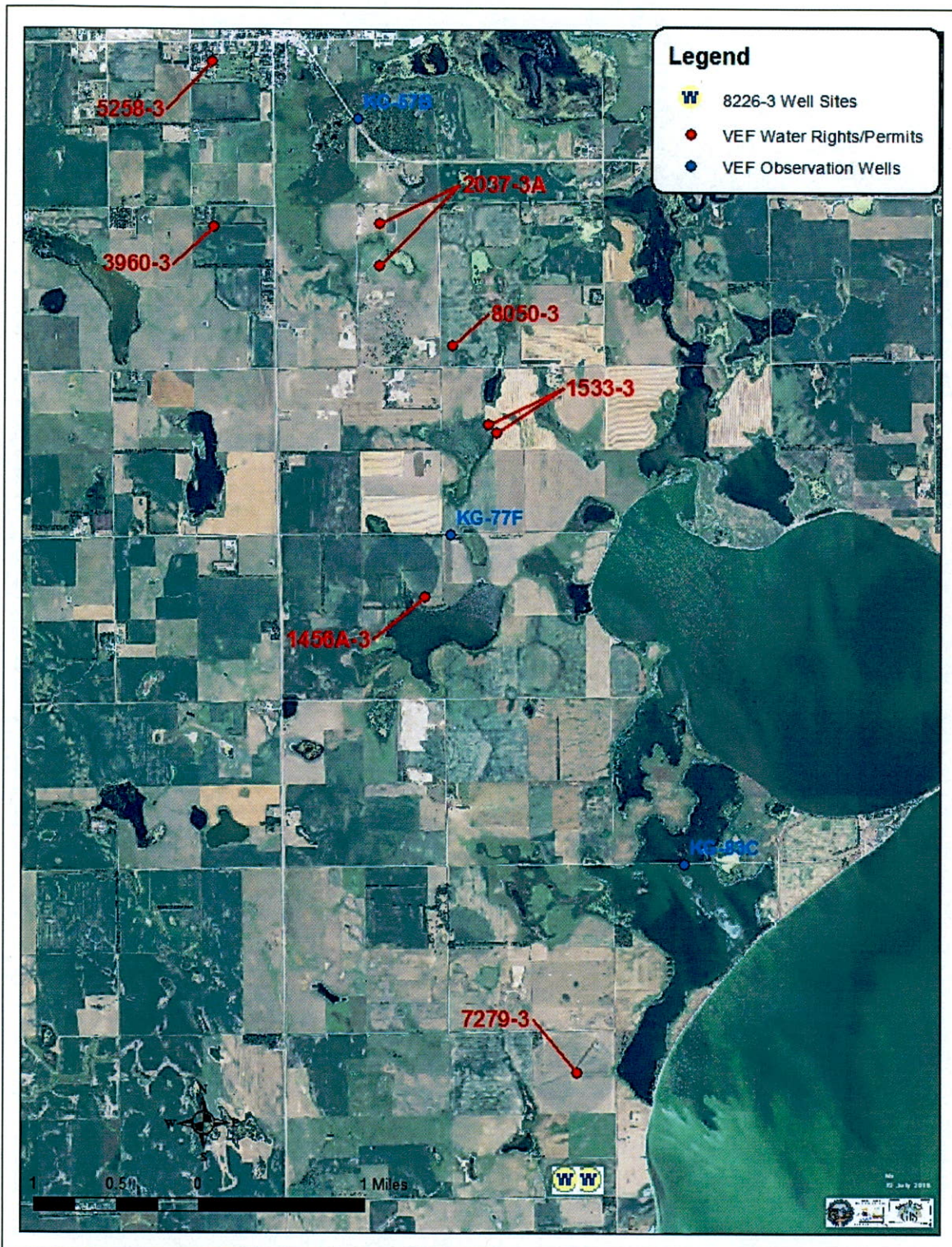


Figure 10. Map showing the approximate location of: (1) the well sites proposed by Application No. 8226-3; (2) wells supplying water rights/permits appropriating water from the Vermillion East Fork aquifer in the vicinity of the proposed well sites; and (3) DENR-Water Rights observation wells completed into the Vermillion East Fork aquifer in the area (Water Rights, 2016b).

Table 1. Water Rights/Permits shown in Figure 10(Water Rights, 2016b).

PERMIT NO	NAME	PRIORITY DATE	STATUS	USE	CFS	ACRES
1533-3	RUSTIN E & AUSTIE LEE ALBRECHT	11/09/1967	LC	IRR	2.66	293
2037-3A	TIM SULLIVAN	12/17/1973	LC	IRR	1.89	132
3960-3	WALLUM FARMS INC	03/09/1977	LC	IRR	0.94	66
5258-3	KINGSBURY CO COUNTRY CLUB	12/07/1988	LC	IRR	0.52	37
1456A-3	H T ALBRECHT & SONS INC	11/09/1967	LC	IRR	1.33	124
7279-3	H T ALBRECHT & SONS INC	11/17/2011	PE	IRR	1.92	135
8050-3	RONALD BENSON	09/19/2014	PE	IRR	2.22	172

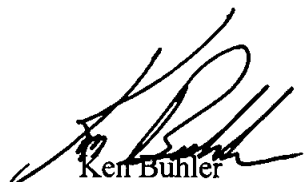
Since the Vermillion East Fork aquifer is under unconfined conditions, drawdown does not extend very far from individual production wells. This is shown by the observation well hydrographs (Figures 1-9). Except for KG-88C (Figure 4), and KG-83C (Figure 1) the observation wells are located within one-half mile of one or more high production wells (either irrigation or RWS) yet the effects of pumping are not significant on the water levels of the observation wells. Precise drawdown estimates have not been quantified at this time, however, the Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown will occur. Adequate wells defined by ARSD 74:02:20(7) are not expected to be adversely impaired due to the additional diversion from the well.

SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs for every 70 acres, or "the equivalent thereof." The statute does provide that the Water Management Board may allow a greater diversion rate if the method of irrigation so requires. Water Permit Application No. 8226-3 proposes to divert up to 1.78 cfs from the Vermillion East Fork aquifer for the irrigation of 102.5 acres, or the equivalent of 1.22 cfs per 70 acres. The applicant indicates "Additional water requested due to windshield wipe pivot irrigation machine and soil type."

CONCLUSIONS:

1. The Vermillion East Fork aquifer is a viable aquifer in this area.
2. There is a reasonable probability that unappropriated water is available from the Vermillion East Fork aquifer for this proposed appropriation.
3. There is a reasonable probability that this appropriation can be developed without an adverse impact on existing users.



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Capen, B., 2015, Report to the Chief Engineer Water Permit Application Nos. 8168-3 and 8169-3, Norman Lee and Lyle Anderson C/O Kevin Toews, July 31, 2015: SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Hamilton, L.J., 1989, Water Resources of Brookings and Kingsbury Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 88-4185, 82 p.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Hedges, L.S., Allen, J., and Holly, D.E., 1985, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Stonesifer, J.R., 2014, Report to the Chief Engineer, Water Permit Application No. 7981-3, Farron Pratt, April 28, 2014: South Dakota DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Schulz, L.D., 2007, First Occurrence of Aquifer Materials I Kingsbury County, South Dakota: South Dakota Geological Survey Aquifer Materials Map 24, Scale 1:100,000
- Water Rights, 1980-2016, "Irrigation Questionnaire Summaries", SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016b, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016c, Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA,
County of Kingsbury.

SS.

David Tritle

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

Notice of Application No. 8226-3
to Appropriate Water (Jeffrey Albrecht)

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

once in each week for 1 successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

<u>8-3</u>	<u>2016</u>	<u>20</u>
<u>20</u>	<u>20</u>	<u>20</u>
<u>20</u>	<u>20</u>	<u>20</u>
<u>20</u>	<u>20</u>	<u>20</u>

that the full amount of the fee charged for the publication of said notice accrues to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person; and that no part thereof has been agreed to be paid to any person whomsoever, and that the fees charged for the publication thereof are

\$ 29.94

[Signature]

Subscribed and sworn to before me this 5th

day of August A.D. 2016

Margaret A. Wilde
Notary Public

Kingsbury County, South Dakota

My commission expires May 30, 2018

NOTICE OF APPLICATION NO.

8226-3 TO APPROPRIATE WATER

Notice is given that Jeffrey Albrecht, 21749 435th Avenue, De Smet, SD 57231, has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Vermillion: East Fork Aquifer (100 feet deep) located in the S 1/2 SE 1/4 Section 35 for irrigation of 102.5 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 35; all in T110N-R56W. 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. 8226-3 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-

$79 \times .379 = \$29.94$

RECEIVED

AUG - 9 2016

WATER RIGHTS
PROGRAM

3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 15, 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 \$29.94.

8-3-1wc

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
County of Lake } ss.

Judy Dahl of the City of Madison, County of Lake, State of South Dakota, being first duly sworn on oath, deposes and says:

The Madison Daily Leader is a daily legal newspaper of general circulation, printed and published in the City of Madison, in said County of Lake, by Hunter Publishing, Inc., Jon M. Hunter, publisher, and has been such legal newspaper during the times hereinafter mentioned; that the said Madison Daily Leader has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Secretary of the said newspaper; in charge of the advertising department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed

Department of Environment & Natural Resources

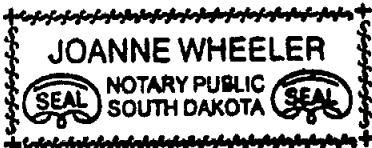
Notice of Application No: 8226-3 / Appropriate Water

printed copy of which hereunto attached, was printed and published in the said newspaper for One successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

On Wednesday, the 3rd day of August, 2016;
On , the day of , 20;
On , the day of , 20;
On , the day of , 20;
On , the day of , 20;
On , the day of , 20;
On , the day of , 20;
On , the day of , 20;

That \$ 28.55 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a 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.

Judy Dahl
Subscribed and sworn to before me this 8th day of August, 2016



Joanne Wheeler
Notary Public, Lake County, South Dakota

Publication Fees \$

Notary Fees \$

Total \$

Received Payment,

Public Notice Advertising

Wednesday, Aug. 3

NOTICE OF APPLICATION NO. 8226-3

to Appropriate Water

Notice is given that Jeffrey Albrecht, 21749 435th Ave, DeSmet SD 57231 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Vermillion: East Fork Aquifer (100 feet deep) located in the S 1/2 SE 1/4 Section 35 for irrigation of 102.5 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 35; all in T110N-R56W. 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. 8226-3 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 August 15, 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.

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STEVEN M. PIRNER,
Secretary
Department of
Environment
and Natural Resources

Published once at the total
approximate cost of \$28.55

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 26, 2016 1:08 PM
To: mail@desmetnews.com
Subject: 8226-3, Jeffrey Albrecht
Attachments: 8226-3publicnov2015.short1.docx; FORM8.FRM.doc

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

Jeffrey Albrecht, 21749 435th Ave, DeSmet SD 57231 (605 203-1105) has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak

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

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 26, 2016 1:08 PM
To: ads@madisondailyleader.com
Subject: 8226-3, Jeffrey Albrecht
Attachments: 8226-3publicnov2015.short1.docx; FORM8.FRM.doc

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

Jeffrey Albrecht, 21749 435th Ave, DeSmet SD 57231 (605 203-1105) 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.**

July 26, 2016

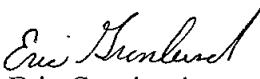
Jeffrey Albrecht
21749 435th Ave
DeSmet SD 57231

Dear Mr. Albrecht:

Water Permit Application No. 8226-3 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 DeSmet News printed at DeSmet SD (Ph # 605-854-3331) and the Daily Leader printed at Madison SD (Ph # 605-256-4555). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

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

NOTICE OF APPLICATION NO. 8226-3 to Appropriate Water

Notice is given that Jeffrey Albrecht, 21749 435th Ave, DeSmet SD 57231 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Vermillion:East Fork Aquifer (100 feet deep) located in the S 1/2 SE 1/4 Section 35 for irrigation of 102.5 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 35; all in T110N-R56W. 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. 8226-3 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 August 15, 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 _____.



IN REPLY REFER TO:

United States Department of the Interior
FISH AND WILDLIFE SERVICE
Mountain-Prairie Region



MAILING ADDRESS:
P.O. Box 25486, DFC
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Boulevard
Lakewood, Colorado 80228-1807

BA WTR
SD WR
Mail Stop 60189

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AUG 12 2016

WATER RIGHTS
PROGRAM

Jeanne Goodman, Chief Engineer
South Dakota Department of Environment
and Natural Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

AUG 08 2016

RE: Application No. 8226-3

Dear Ms. Goodman:

The Fish and Wildlife Service has received notice that the Chief Engineer has recommended approval of Application No. 8226-3, for Jeffrey Albrecht for 1.78 cfs from two wells located in the S1/2SE1/4 of Section 35, Township 110 North, Range 56 West, and will be constructed in the Vermillion East Fork Aquifer.

The Service is concerned about the impacts on its property interest as the S1/2 of Section 35, Township 110 North, Range 56 West is covered by a wetland easement and is part of the National Wildlife Refuge System. The easement prohibits the draining of wetlands covered by the easement. Since the Vermillion East Fork Aquifer is an unconfined and surficial ground water system, the easement wetlands may be in direct connection to the aquifer, and pumping may cause them to be drawn down. The proposed well locations are also located within the wetland easement itself.

The Service requests that your office provide us with any analysis done to determine whether this appropriation should be granted, as well as whether this appropriation will impact our wetland easement. The Service reserves the right to provide additional comments or information after review of the analysis and recommendation on this application.

If you have questions or require further information, please contact me at (303) 236-4491.

Sincerely,

Brian S. Caruso
Chief, Water Resources Division

cc: Jeffrey Albrecht
21749 435th Avenue
DeSmet, South Dakota 57231

Michael E. Unke
ATTORNEY & COUNSELOR AT LAW

341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

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AUG 12 2016
WATER RIGHTS
PROGRAM

OFFICE PHONE 605-425-3131
HOME PHONE 605-425-3169
FAX 605-425-2977

August 10, 2016

Jeanne Goodman, Chief Engineer
Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

CERTIFIED MAIL
7015 1660 0001 0387 0924

Jeffrey Albrecht
21749 435th Avenue
DeSmet, SD 57231

CERTIFIED MAIL
7015 1660 0001 0387 0931

RE: H.T. Albrecht & Sons, Inc.

Dear Ms. Goodman and Mr. Albrecht:

Please be advised that I represent H.T. Albrecht & Sons, Inc. It is objecting to water permit No. 8226-3 for the following reasons:

1. H.T. Albrecht & Sons, Inc. has a water permit No. 7279-3, dated November 17, 2011, which by South Dakota statute has a priority over subsequent permits. The property that my client's permit covers is adjacent to Jeff Albrecht's property.
2. There is not enough water in the area for more wells for irrigation.
3. My client is irrigating the Northeast Quarter of Section 35 in Township 110 North, Range 56, West of the 5th P.M. It can only run their pumps at partial power. Its water pressure is

about 35 pounds maximum, when it should be at 50 pounds water pressure. Its permit is for 800 gallons per minute; however it is lucky if it pulls 400 gallons per minute.

4. My client has expended \$145,765.41 in irrigation costs and is worried that its irrigation will be greatly reduced by subsequent wells being dug near them. In the past, my client's well has been pumped dry. There is not enough water for any further irrigation in close proximity to my client's property.

5. Jeff Albrecht's application does not include the domestic wells in close proximity or the depths of those wells. Also in Jeff Albrecht's application and pursuant to SDCL 46-5-6 authorizes him an increased diversion rate of 1.78 cfs for the irrigation of 102.5 acres with an annual volume not to exceed 2 acres feet of water per acre per year.

My client is requesting a hearing. Please contact me when the hearing is going to be held. It should be noted that the actual water usage by my client should be a controlling factor when issuing further water permits. It is a lot more telling than test wells.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Unke", with a stylized, cursive script.

Michael E. Unke

MEU/mrs

cc: H.T. Albrecht & Sons



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 22, 2016

denr.sd.gov

NOTICE OF HEARING

TO: Jeffrey Albrecht
21749 435th Avenue
DeSmet SD 57231

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

Brian S Caruso, Chief
Water Resources Division
US Fish and Wildlife Service
PO Box 25486 DFC
Denver CO 80225-0486

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 8226-3, Jeffrey Albrecht

Petitions to the Chief Engineer's recommendation for approval of Water Permit Application No. 8226-3 were filed in response to the Notice of Application published in the DeSmet News and Madison Daily Leader. This notice schedules a hearing on Application No. 8226-3 before the South Dakota Water Management Board.

Water Permit Application No. 8226-3 proposes to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Vermillion-East Fork Aquifer (100 feet deep) located in the S 1/2 SE 1/4 Section 35 for irrigation of 102.5 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 35; all in T110N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8226-3 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 Water Management Board will consider Application No. 8226-3 at 2:00 PM (Central Time) on Thursday, October 13, 2016, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD. The agenda time is an estimate. Parties will be provided written notice if there is a change to the hearing time or date.

The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application after it reaches a conclusion based on the facts presented at the public hearing.

The October 13, 2016, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by September 30, 2016. If an

automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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

Contact Eric Gronlund at the above Chief Engineer's address to request the staff report, recommendation, application or any other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Enclosed is a copy of the report, recommendation, affidavits of publication and two petitions filed in the matter of Water Permit Application No. 8226-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is September 2, 2016. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or eric.gronlund@state.sd.us.

enclosures

c: Ann Mines-Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on August 22, 2016, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated August 22, 2016, regarding notice of hearing for Water Right Permit Application No. 8226-3, as addressed below:

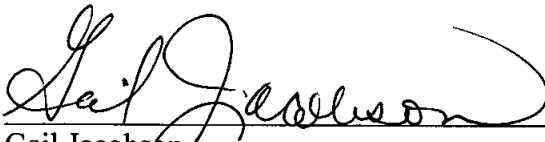
Jeffrey Albrecht
21749 435th Avenue
DeSmet SD 57231

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

Brian S Caruso, Chief
Water Resources Division
US Fish and Wildlife Service
PO Box 25486 DFC
Denver CO 80225-0486

Sent Inter-office to:

Ann Mines-Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



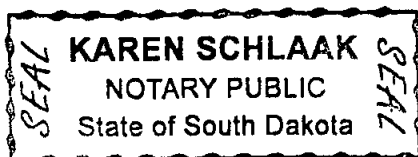
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 22nd day of August, 2016



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



Michael E. Unke
ATTORNEY & COUNSELOR AT LAW

341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

OFFICE PHONE 605-425-3131
HOME PHONE 605-425-3169
FAX 605-425-2977

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AUG 12 2016
WATER RIGHTS
PROGRAM

August 10, 2016

Jeanne Goodman, Chief Engineer
Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

CERTIFIED MAIL
7015 1660 0001 0387 0924

Jeffrey Albrecht
21749 435th Avenue
DeSmet, SD 57231

CERTIFIED MAIL
7015 1660 0001 0387 0931

RE: H.T. Albrecht & Sons, Inc.

Dear Ms. Goodman and Mr. Albrecht:

Please be advised that I represent H.T. Albrecht & Sons, Inc. It is objecting to water permit No. 8226-3 for the following reasons:

1. H.T. Albrecht & Sons, Inc. has a water permit No. 7279-3, dated November 17, 2011, which by South Dakota statute has a priority over subsequent permits. The property that my client's permit covers is adjacent to Jeff Albrecht's property.
2. There is not enough water in the area for more wells for irrigation.
3. My client is irrigating the Northeast Quarter of Section 35 in Township 110 North, Range 56, West of the 5th P.M. It can only run their pumps at partial power. Its water pressure is

about 35 pounds maximum, when it should be at 50 pounds water pressure. Its permit is for 800 gallons per minute; however it is lucky if it pulls 400 gallons per minute.

4. My client has expended \$145,765.41 in irrigation costs and is worried that its irrigation will be greatly reduced by subsequent wells being dug near them. In the past, my client's well has been pumped dry. There is not enough water for any further irrigation in close proximity to my client's property.

5. Jeff Albrecht's application does not include the domestic wells in close proximity or the depths of those wells. Also in Jeff Albrecht's application and pursuant to SDCL 46-5-6 authorizes him an increased diversion rate of 1.78 cfs for the irrigation of 102.5 acres with an annual volume not to exceed 2 acres feet of water per acre per year.

My client is requesting a hearing. Please contact me when the hearing is going to be held. It should be noted that the actual water usage by my client should be a controlling factor when issuing further water permits. It is a lot more telling than test wells.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael E. Unke", written in a cursive style.

Michael E. Unke

MEU/mrs

cc: H.T. Albrecht & Sons



United States Department of the Interior
FISH AND WILDLIFE SERVICE
Mountain-Prairie Region



IN REPLY REFER TO:

MAILING ADDRESS:
P.O. Box 25486, DFC
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Boulevard
Lakewood, Colorado 80228-1807

BA WTR
SD WR
Mail Stop 60189

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AUG 12 2016

WATER RIGHTS
PROGRAM

Jeanne Goodman, Chief Engineer
South Dakota Department of Environment
and Natural Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

AUG 08 2016

RE: Application No. 8226-3

Dear Ms. Goodman:

The Fish and Wildlife Service has received notice that the Chief Engineer has recommended approval of Application No. 8226-3, for Jeffrey Albrecht for 1.78 cfs from two wells located in the S1/2SE1/4 of Section 35, Township 110 North, Range 56 West, and will be constructed in the Vermillion East Fork Aquifer.

The Service is concerned about the impacts on its property interest as the S1/2 of Section 35, Township 110 North, Range 56 West is covered by a wetland easement and is part of the National Wildlife Refuge System. The easement prohibits the draining of wetlands covered by the easement. Since the Vermillion East Fork Aquifer is an unconfined and surficial ground water system, the easement wetlands may be in direct connection to the aquifer, and pumping may cause them to be drawn down. The proposed well locations are also located within the wetland easement itself.

The Service requests that your office provide us with any analysis done to determine whether this appropriation should be granted, as well as whether this appropriation will impact our wetland easement. The Service reserves the right to provide additional comments or information after review of the analysis and recommendation on this application.

If you have questions or require further information, please contact me at (303) 236-4491.

Sincerely,

Brian S. Caruso
Chief, Water Resources Division

cc: Jeffrey Albrecht
21749 435th Avenue
DeSmet, South Dakota 57231

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA,
County of Kingsbury.

SS.

David Tritle of said
county being first duly sworn on oath, says that he is
the publisher of **THE DE SMET NEWS**, a weekly news-
paper printed and published in De Smet in said County
of Kingsbury and has full and personal knowledge of all
the facts herein stated; that said newspaper is a legal
newspaper and has a bona-fide circulation of a least
two hundred copies weekly, and has been published
within said County for fifty-two successive weeks next
prior to the publication of the notice herein mentioned,
and was and is printed wholly or in part in an office
maintained at said place of publication; that the

Notice of Application No. 8226-3
to Appropriate Water (Jeffery Albrecht), a printed copy of
which, taken from the paper in which the same was
published, is attached to this sheet, and is made a part
of this Affidavit, was published in said newspaper at least

once in each week for 1 successive weeks, on
the day of each week on which said newspaper was regu-
larly published, to-wit:

8-3 2016; _____ 20____
_____ 20____; _____ 20____
_____ 20____; _____ 20____
_____ 20____; _____ 20____

that the full amount of the fee charged for the publica-
tion of said notice accrues to the benefit of the pub-
lisher of said newspaper; that no agreement or under-
standing 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, and that
the fees charged for the publication thereof are

\$ 29.94

Subscribed and sworn to before me this 5th

day of August A.D. 2016

Margaret A. Wilde
Notary Public
Kingsbury County, South Dakota

My commission expires May 30, 2018

NOTICE OF APPLICATION NO. 8226-3 TO APPROPRIATE WATER

Notice is given that Jeffrey
Albrecht, 21749 435th Avenue, De
Smet, SD 57231, has filed an
application for a water permit to
appropriate 1.78 cubic feet of water
per second (cfs) from two wells to be
completed into the Vermillion: East
Fork Aquifer (100 feet deep) located in
the S 1/2 SE 1/4 Section 35 for
irrigation of 102.5 acres located in
the E 1/2 SE 1/4, SW 1/4 SE 1/4
Section 35; all in T110N-R56W. 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. 8226-3
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-

$79 \times .379 = 29.94$

RECEIVED

AUG - 9 2016

WATER RIGHTS
PROGRAM

3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 15, 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 \$29.94.

8-3-lwc

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
 County of Lake } ss.

Judy Dahl

..... of the City of Madison, County of Lake,
 State of South Dakota, being first duly sworn on oath, deposes and says:

The Madison Daily Leader is a daily legal newspaper of general circulation, printed and published in the City of Madison, in said County of Lake, by Hunter Publishing, Inc., Jon M. Hunter, publisher, and has been such legal newspaper during the times hereinafter mentioned; that the said Madison Daily Leader has been in existence as such legal newspaper for more than one year prior to the publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Secretary of the said newspaper, in charge of the advertising department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed

Department of Environment & Natural Resources

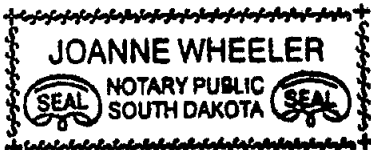
Notice of Application No: 8226-3 / Appropriate Water

printed copy of which hereunto attached, was printed and published in the said newspaper for One successive weeks, once each week and on the same day of the week, on the following dates, to-wit:

On Wednesday, the 3rd day of August, 2016;
 On, the day of, 20.....;
 On, the day of, 20.....;
 On, the day of, 20.....;
 On, the day of, 20.....;
 On, the day of, 20.....;
 On, the day of, 20.....;
 On, the day of, 20.....;

That \$ 28.55 being the full amount of the fees for publication of the attached notice inures solely for the benefit of the publisher of the said newspaper; that no arrangement or understanding for a 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.

Judy Dahl
 Subscribed and sworn to before me this 8th day of
August, 2016



Joanne Wheeler
 Notary Public, Lake County, South Dakota

Publication Fees _____ \$

Notary Fees _____ \$

Total _____ \$

Received Payment,

Public Notice Advertising

Wednesday, Aug 3

NOTICE OF APPLICATION

NO. 62263

to Appropriate Water

Notice is given that Jeffrey Albrecht, 21749 435th Ave., DeSmet SD 57231 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Vermillion East Fork Aquifer (100 feet deep) located in the S 1/2 SE 1/4 Section 35 for irrigation of 102.5 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 35, all in T10N R45W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

Pursuant to SDCL 44-2A-2, the Chief Engineer recommends APPROVAL of Application No. 62263 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, Foas Building, 523 E. Capitol Pierre SD 57501 (605) 773-3352 and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 15, 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 \$28.55

Send Letters to the Editor to
madisondailyleader.com

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8226-3
JEFFREY ALBRECHT
JULY 11, 2016

Water Permit Application No. 8226-3 proposes to appropriate water from the Vermillion East Fork aquifer for the purpose of irrigating 102.5 acres located in the E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35, T110N-R56W. The applicant intends to divert water from two wells approximately 100 feet deep, located in the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec.35, T110N-R56W, at a maximum diversion rate of 1.78 cubic feet per second (cfs). The applicant is requesting a diversion rate greater than the statutory limit of one cfs per 70 acres.

AQUIFER: Vermillion East Fork (VEF)

GENERAL:

The Vermillion East Fork aquifer was identified by Hedges and others (1982) as a surficial aquifer associated with the Vermillion East Fork River valley. The *First Occurrence of Aquifer Materials in Kingsbury County, South Dakota* (Schulz, 2007), indicates the uppermost aquifer material in the vicinity of the well sites proposed by this application as "Outwash: First occurrence is generally at land surface." The Vermillion East Fork aquifer is a glacial meltwater deposit consisting of medium to very coarse sand and fine gravel. The aquifer extends from Clark County to Turner County where it blends into the Parker Centerville outwash (Hedges and others, 1982). Subsequent work by the United States Geological Survey in Kingsbury County defined the Vermillion East Fork aquifer as a generally unconfined aquifer with the top of the aquifer ranging from land surface to as much as 120 feet (Hamilton, 1989). The report for the test hole submitted with this application identifies sand and gravel from 59-125 feet below grade. The DENR-Water Rights Program and the SD Water Management Board has considered the source aquifer for nearby observation wells and wells supplying water rights/permits that are completed into outwash deposits encountered at elevations similar to the elevation of the outwash this application proposes to develop wells into, the Vermillion East Fork aquifer.

The Vermillion East Fork aquifer is estimated to underlie approximately 94 square miles of Kingsbury County along a northwest trending 2-4 mile wide band (Hamilton, 1989). Due to a groundwater flow divide identified in the aquifer approximately four miles north of DeSmet, SD, the portion of the aquifer north of the divide is considered the Spirit Lake management unit of the Vermillion East Fork aquifer. As a result of a constriction in the areal extent of the aquifer and a groundwater divide near the Kingsbury/Miner County line, Stonesifer (2014) postulated a separate management unit of the aquifer located south of Township 112 North and north of the Kingsbury/Miner County line could be considered. This postulated management unit of the Vermillion East Fork aquifer is estimated to have a total areal extent of approximately 42,500 acres and contain an estimated 127,000 acre feet of water in storage (Stonesifer, 2014). The aquifer is generally under unconfined conditions and groundwater movement is likely from the northwest to southeast (Hamilton, 1989). The aquifer is hydraulically connected to Lake Thompson. The hydraulic conductivity of the aquifer is estimated to range from 200 to 600 ft²/d and well yields may be as high as 1,000 gallons per minute (Hamilton, 1989).

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is 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 water availability and existing rights issues only.

WATER AVAILABILITY:

Water Permit Application No. 8226-3 proposes to appropriate water from the Vermillion East Fork aquifer. Approval of this application is likely to result in an average annual water use of less than 85 acre-feet annually (ac-ft/yr). The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older or lower than the Greenhorn Formation and a water distribution system has applied for a permit, the Board need not consider the recharge/withdrawal issue. Here, a water distribution system is not involved and the aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered.

Hydrologic Budget:

Recharge:

Recharge to the Vermillion East Fork aquifer occurs through infiltration of precipitation, leakage from adjacent and underlying till, and inflow from other management units (Hamilton, 1989). The average annual recharge for this unnamed management unit of the Vermillion East Fork aquifer has not been quantified. However, average annual recharge to the adjacent Spirit Lake management unit was estimated to be approximately 4.0 inches per year through observation well analysis (Hedges and others, 1985). Due to the proximity of the two management units and their similar characteristics, the recharge rate to the two management units is expected to be similar. Therefore, the average annual recharge to this postulated management unit is estimated to be approximately 14,200 acre-feet per year.

Discharge:

Discharge from this unnamed management unit of the Vermillion East Fork aquifer is through evapotranspiration, outflow to adjacent lakes, groundwater outflow to Miner County, and well withdrawals for domestic, commercial, rural water system, municipal, and irrigation use (Water Rights, 2016b and Water Rights 2016c). The water rights/permits appropriating water from the unnamed management unit of the Vermillion East Fork aquifer that Water Permit Application No. 8226-3 proposes to appropriate from are shown in Table 1.

Although there are a number of domestic wells on file, considering rural water has replaced most domestic wells as a primary source and the relatively low amount of water used by a typical domestic well, the amount of water withdrawn annually for domestic use is not significant to the hydrologic budget for this management unit.

Appropriations from this unnamed management unit of the Vermillion East Fork aquifer for uses other than irrigation include: four water rights appropriating water for rural water system use, three municipal water rights, and two future use permits. Water use by these non-irrigation uses is estimated assuming water rights/permits limited by diversion rate only will divert at the maximum authorized diversion rate 60 percent of the time and water rights limited to an annual volume of water will divert the entire allotment. It is assumed that future use permits can be fully developed.

Kingbrook Rural Water System, Inc. has four water rights authorizing a total diversion rate of 5.76 cfs and a total annual appropriation of 1,350 ac-ft/yr, and one future use permit reserving 1,100 ac-ft/yr (Water Rights, 2016b). The amount of water that can be expected to be withdrawn through these appropriations is estimated to be 2,450 ac-ft/yr.

The City of DeSmet has three water rights authorizing a total diversion rate of 4.334 cfs and one future use permit reserving 625 ac-ft/yr. The amount of water that can be expected to be withdrawn through these appropriations is estimated to 2,508 ac-ft/yr.

Historic irrigation use from the Vermillion East Fork aquifer is shown in table 2.

Table 1. Water Rights/Permits appropriating water from the Vermillion East Fork aquifer in Kingsbury County

PERMIT NO	NAME	PRIORITY DATE	STATUS	USE	CFS	ACRES
1456A-3	H T ALBRECHT & SONS INC	11/09/1967	LC	IRR	1.33	124
1487-3	IRA ALBECK	12/29/1967	LC	IRR	1.85	130
1533-3	RUSTIN E & AUSTIE LEE ALBRECHT	11/09/1967	LC	IRR	2.66	293
1652-3	CITY OF DESMET	12/24/1968	LC	MUN	2.22	0
2037-3A	TIM SULLIVAN	12/17/1973	LC	IRR	1.89	132
3312-3	CLARENCE STUBBE	12/07/1976	LC	IRR	1.88	132
3478-3	FARRON PRATT	12/10/1976	LC	IRR	1.33	110
3499A-3	WILLIAM POPPEN	12/28/1976	LC	IRR	1.77	132
3822-3	JOAN A JENCKS	02/15/1977	LC	IRR	1.34	126
3825-3	SHIRLEY ALLEN	03/04/1977	LC	IRR	1.31	92
3937-3	WENDELL SCHUBLOOM	04/27/1977	LC	IRR	0.4	28.7
3960-3	WALLUM FARMS INC	03/09/1977	LC	IRR	0.94	66
4137-3	KINGBROOK RWS INC	03/04/1977	LC	RWS	1.06	0
4245-3	ALAN AUGHENBAUGH	02/27/1978	LC	IRR	1.77	205
4795-3	CITY OF DESMET	01/01/1922	LC	MUN	2.11	0
5186-3	KINGBROOK RWS INC	03/29/1988	LC	RWS	0.7	0
5258-3	KINGSBURY CO COUNTRY CLUB	12/07/1988	LC	IRR	0.52	37
5426-3	KINGBROOK RWS INC	08/15/1988	LC	RWS	1.4	0
6731-3	KINGBROOK RWS INC	06/05/2006	LC	RWS	2.6	0
6759-3	CITY OF DESMET	09/27/2006	LC	MUN	0.004	0
7279-3	H T ALBRECHT & SONS INC	11/17/2011	PE	IRR	1.92	135
7307-3	WESLEY TOEWS FAMILY TRUST	01/17/2012	PE	IRR	4	296
7674-3	BOB TIMP	01/24/2013	PE	IRR	4.44	360
7855-3	WILLIAM POPPEN	07/08/2013	PE	IRR	0.89	40
7981-3	FARRON PRATT	03/06/2014	PE	IRR	0.58	24
8050-3	RONALD BENSON	09/19/2014	PE	IRR	2.22	172
8168-3	NORMAN LEE	06/09/2015	PE	IRR	2.49	195.6
8169-3	LYLE ANDERSON	06/09/2015	PE	IRR	0.85	67.3
LC= Water Right, PE= Water Permit, IRR= Irrigation, MUN= Municipal, RWS= Rural Water System						

Table 2. Irrigation appropriation and pumpage from the Vermillion East Fork aquifer (Modified from Capen, 2015, Water Rights, 1980-2016)

Year	Number of Permits Reporting	Appropriation	Pumpage Reported
		(ac-ft/yr)	(ac-ft/yr)
1979	23	10193.0	1553.36
1980	23	10193.0	1531.92
1981	23	10193.0	982.46
1982	22	8691.6	393.15
1983	22	8691.6	710.13
1984	21	9783.8	694.00
1985	20	9303.8	865.00
1986	21	9500.6	485.00
1987	21	9270.6	661.00
1988	21	9270.6	973.00
1989	22	9270.6	1147.60
1990	22	9670.6	1969.00
1991	22	8696.6	877.00
1992	17	6147.1	619.60
1993	17	6192.1	146.20
1994	16	5602.1	439.12
1995	16	5602.1	253.59
1996	16	5602.1	835.64
1997	16	5582.1	802.00
1998	16	5602.1	850.36
1999	16	5602.1	588.69
2000	16	5602.1	950.39
2001	16	5602.1	891.71
2002	16	5416.1	985.08
2003	16	5416.1	1141.42
2004	15	5152.1	839.32
2005	15	5152.1	966.60
2006	15	5152.1	1090.45
2007	14	4966.1	1178.74
2008	14	4966.1	1253.00
2009	14	4966.1	464.11
2010	14	4966.1	277.89
2011	14	4966.1	517.48
2012	16	5828.1	1644.78
2013	17	6548.1	1603.63
2014	19	6676.1	1229.64
2015	21	6840.1	1478.1
Max	23	10193	1969
Min	14	4966.1	146.2
Average	17.97	6942.62	915.95

Water Balance:

The annual average withdrawal from this postulated management unit of the Vermillion East Fork aquifer through current appropriations is expected to be approximately 6,180 ac-ft/yr. Expected average annual usage includes: (1) Kingbrook RWS water rights/permits and future use permit (2450 ac-ft/yr); (2) City of DeSmet water rights/permits and future use permit (2508 ac-ft/yr); (3) average irrigation withdrawals from table 2 (915.95 ac-ft/yr); (4) development of Water Permit Nos. 8168-3 and 8169-3, with an average application rate of 10 inches per acre per year (219 ac-ft/yr); and (5) development of Water Permit 8226-3, with an average application

rate of 10 inches per acre per year (85 ac-ft/yr). The average annual recharge is estimated to be 14,200 ac-ft/yr. Therefore, there is a reasonable probability that unappropriated water is available to support the proposed appropriation.

Observation Well Data:

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DENR-Water Rights Program monitors nine observation wells completed into the this postulated management unit of the Vermillion East Fork aquifer. Hydrographs for the observation wells are shown in Figures 1-9.

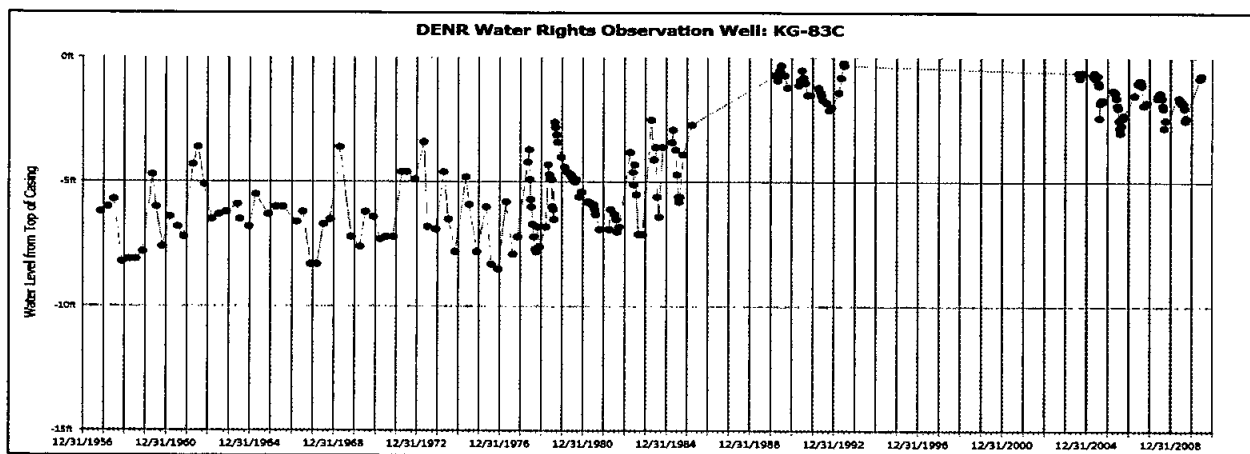


Figure 1. Hydrograph for Vermillion East Fork aquifer observation well located approximately two miles northeast of the well sites proposed by Water Permit Application No. 8266-3.

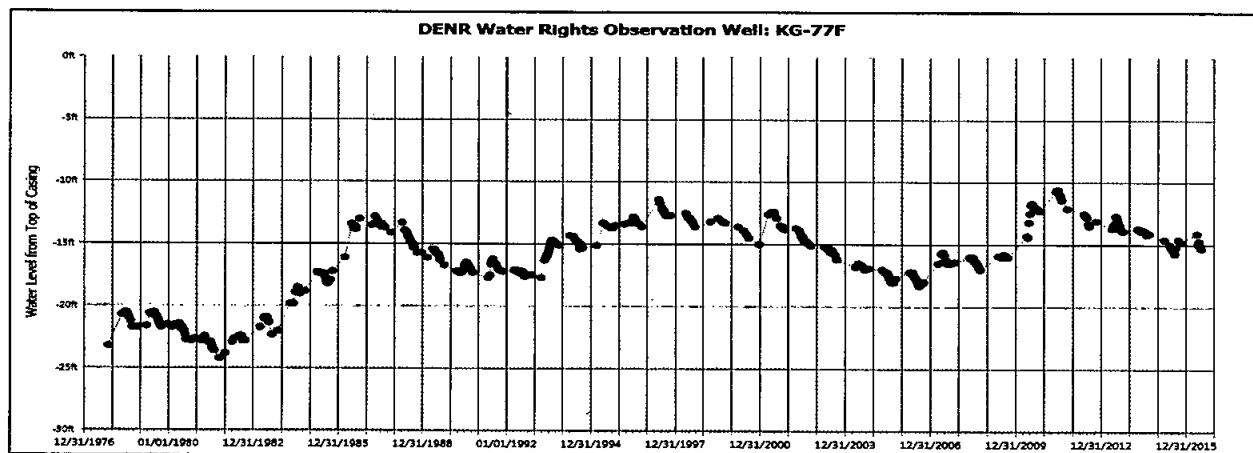


Figure 2. Hydrograph for Vermillion East Fork aquifer observation well located approximately four miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

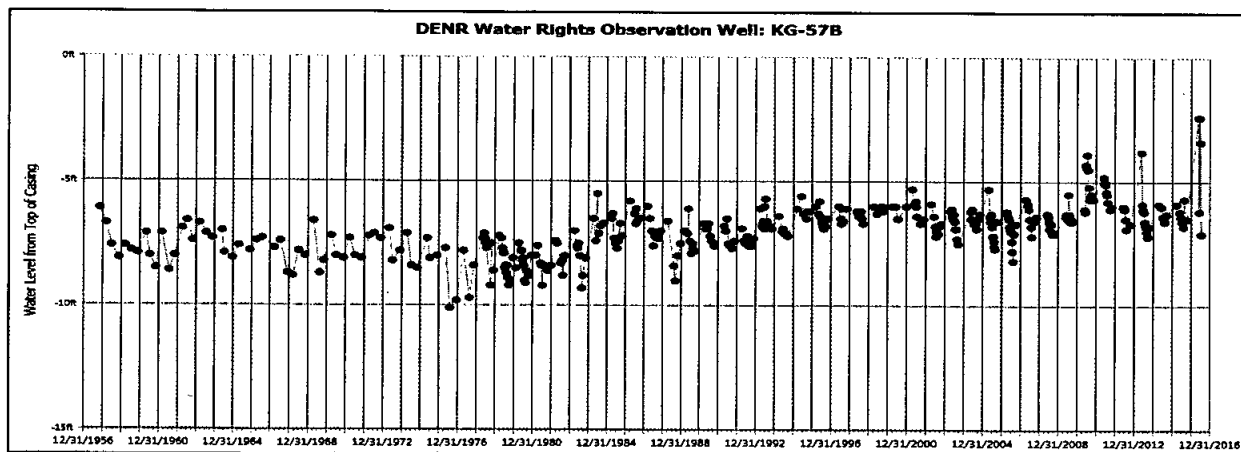


Figure 3. Hydrograph for Vermillion East Fork aquifer observation well located approximately six miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

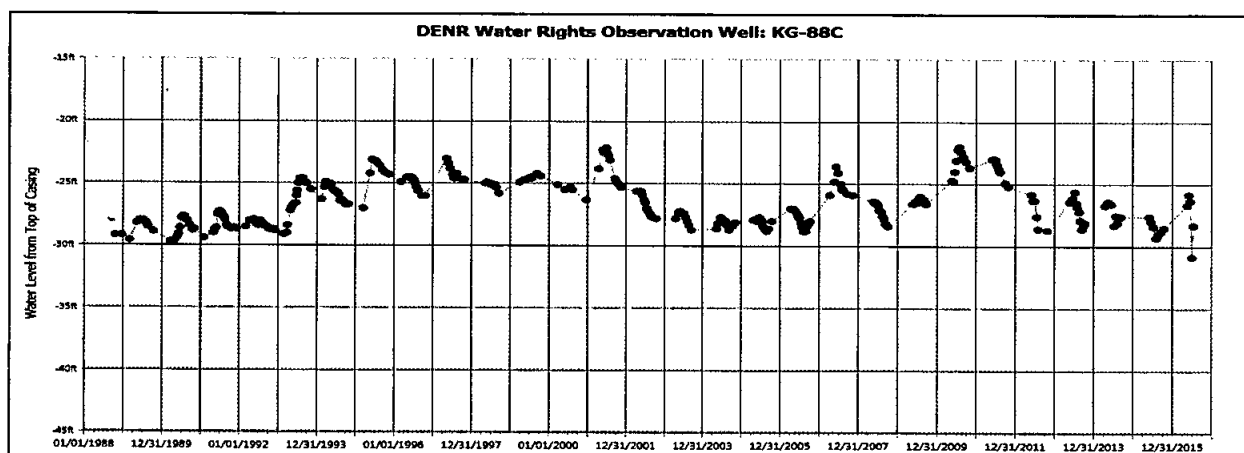


Figure 4. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

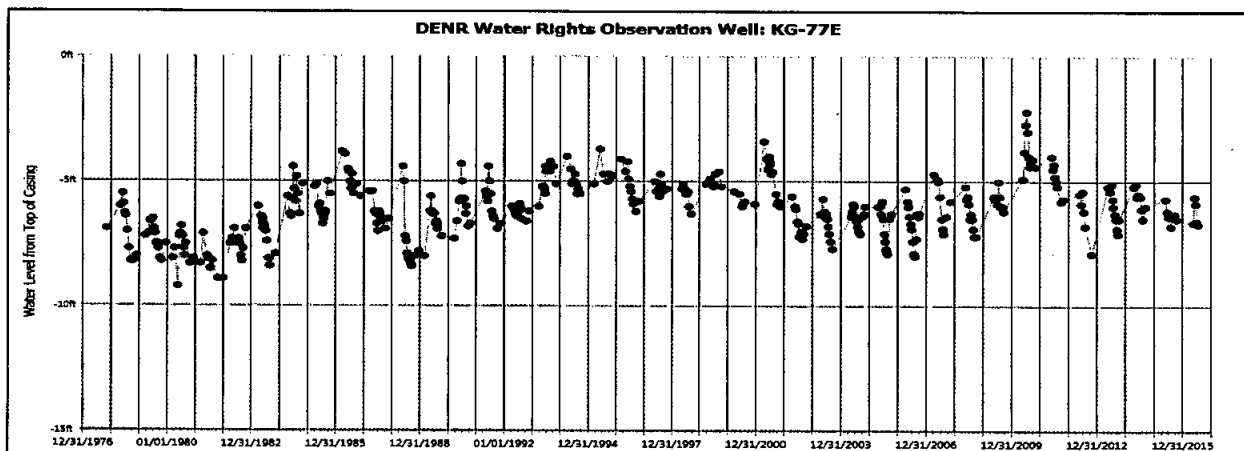


Figure 5. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

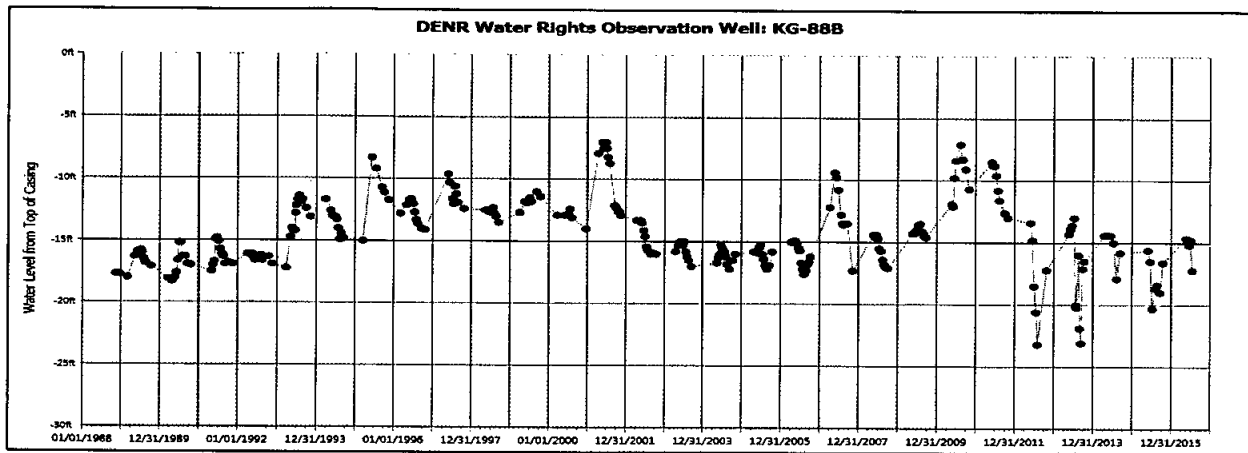


Figure 6. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

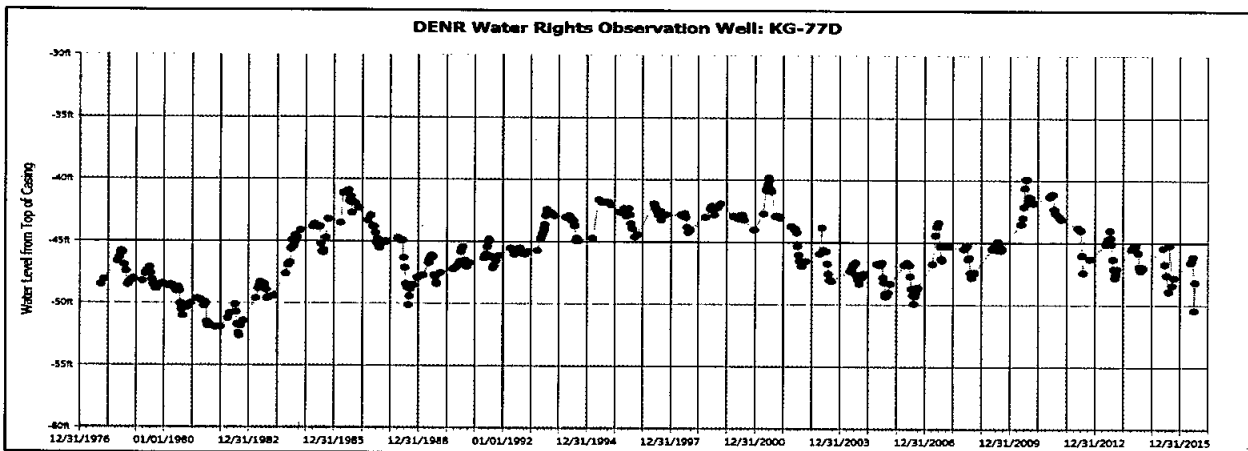


Figure 7. Hydrograph for Vermillion East Fork aquifer observation well located approximately 10 miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

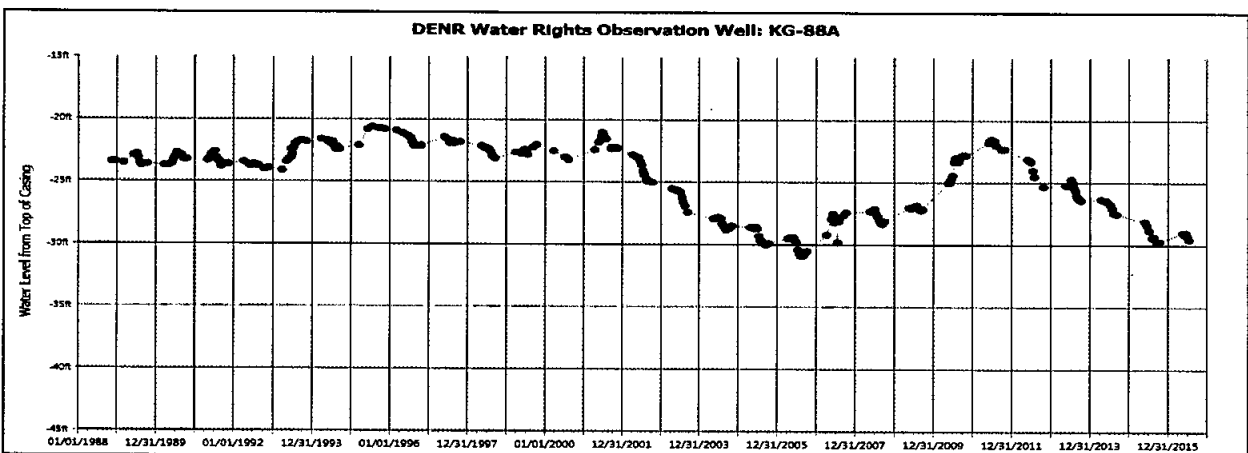


Figure 8. Hydrograph for Vermillion East Fork aquifer observation well located approximately 12 miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

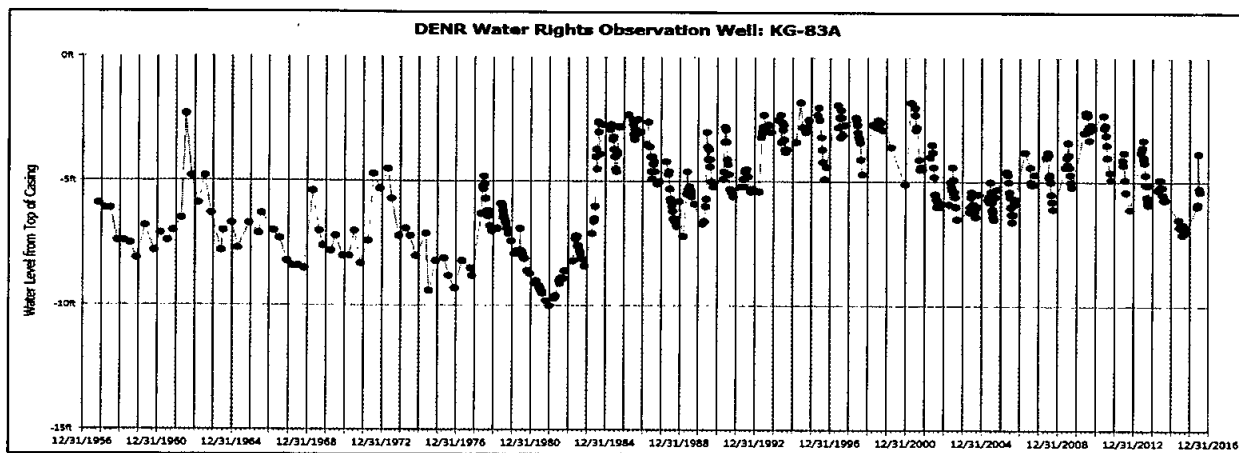


Figure 9. Hydrograph for Vermillion East Fork aquifer observation well located approximately 12 miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

In general, the hydrographs show stable or upward trending water levels over the period of record. The hydrograph for KG-88A (Figure 8) is an exception due to the proximity and influence of the Kingbrook Rural Water System well field. Note the break in data shown in the hydrograph for observation well KG-83C (Figure 1) is the result of the well's inaccessibility for a number of years. In addition to the period from 1993-2004, the well has been inaccessible since June 15, 2010. The hydrographs document that the aquifer responds well to climatic conditions with rising water levels during wet years and declining water levels during dry years. The data documents that at the current level of development temporal well withdrawal is masked by climatic conditions. Therefore, recharge to and natural discharge from the aquifer greatly exceeds well withdrawal, so water is available for capture before natural discharge. Therefore, unappropriated water is available from the Vermillion East Fork aquifer to support the proposed appropriation.

AFFECTS ON EXISTING RIGHTS:

The approximate location of wells supplying water rights/permits appropriating water from the Vermillion East Fork aquifer in the vicinity of the well sites proposed by this application are shown in Figure 10, and identified in Table 3.

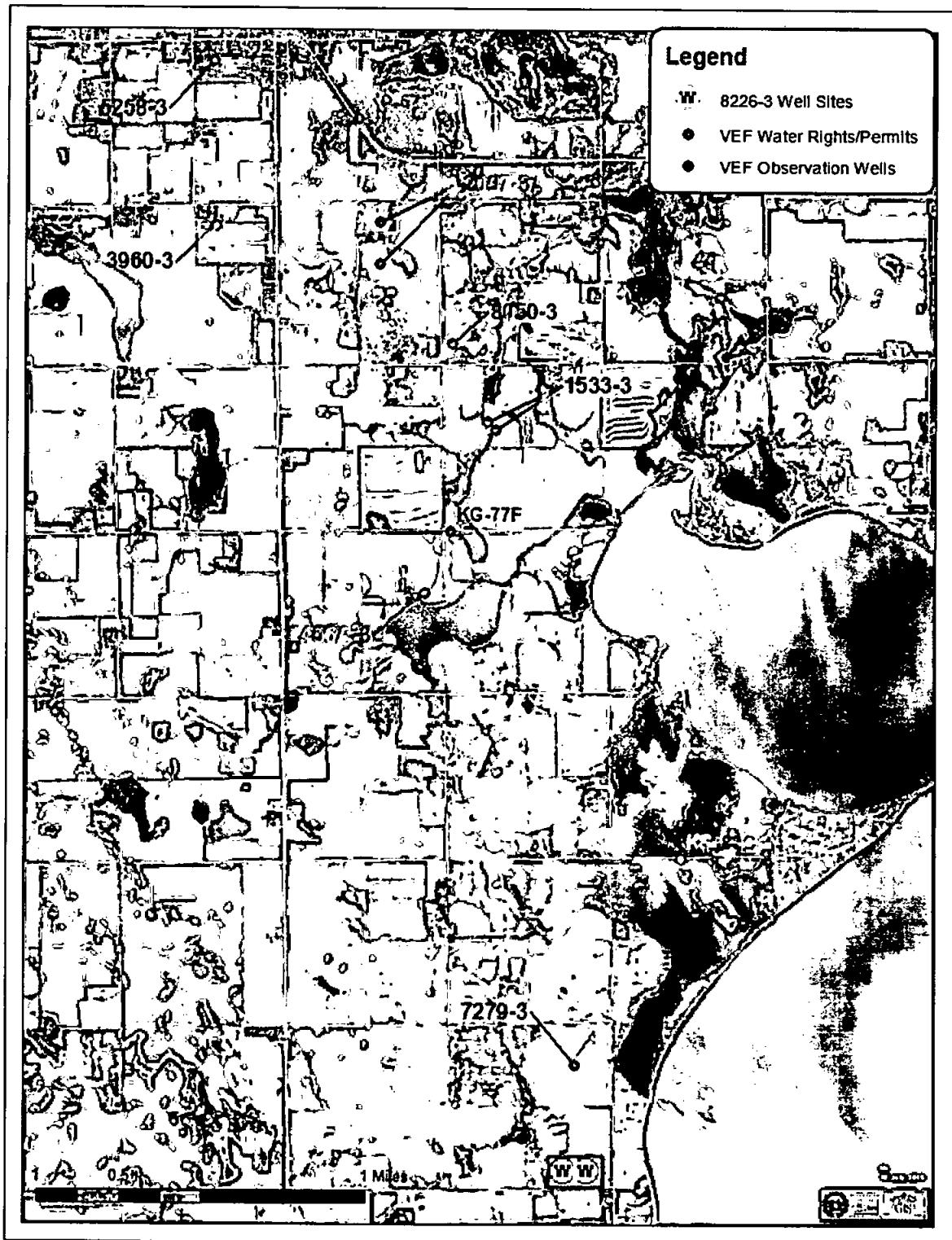


Figure 10. Map showing the approximate location of: (1) the well sites proposed by Application No. 8226-3; (2) wells supplying water rights/permits appropriating water from the Vermillion East Fork aquifer in the vicinity of the proposed well sites; and (3) DENR-Water Rights observation wells completed into the Vermillion East Fork aquifer in the area (Water Rights, 2016b).

Table 1. Water Rights/Permits shown in Figure 10(Water Rights, 2016b).

PERMIT NO	NAME	PRIORITY DATE	STATUS	USE	CFS	ACRES
1533-3	RUSTINE & AUSTIE LEE ALBRECHT	11/09/1967	LC	IRR	2.66	293
2037-3A	TIM SULLIVAN	12/17/1973	LC	IRR	1.89	132
3960-3	WALLUM FARMS INC	03/09/1977	LC	IRR	0.94	66
5258-3	KINGSBURY CO COUNTRY CLUB	12/07/1988	LC	IRR	0.52	37
1456A-3	H T ALBRECHT & SONS INC	11/09/1967	LC	IRR	1.33	124
7279-3	H T ALBRECHT & SONS INC	11/17/2011	PE	IRR	1.92	135
8050-3	RONALD BENSON	09/19/2014	PE	IRR	2.22	172

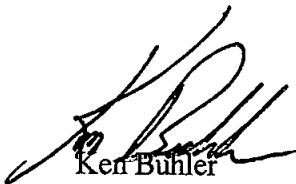
Since the Vermillion East Fork aquifer is under unconfined conditions, drawdown does not extend very far from individual production wells. This is shown by the observation well hydrographs (Figures 1-9). Except for KG-88C (Figure 4), and KG-83C (Figure 1) the observation wells are located within one-half mile of one or more high production wells (either irrigation or RWS) yet the effects of pumping are not significant on the water levels of the observation wells. Precise drawdown estimates have not been quantified at this time, however, the Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown will occur. Adequate wells defined by ARSD 74:02:20(7) are not expected to be adversely impaired due to the additional diversion from the well.

SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs for every 70 acres, or "the equivalent thereof." The statute does provide that the Water Management Board may allow a greater diversion rate if the method of irrigation so requires. Water Permit Application No. 8226-3 proposes to divert up to 1.78 cfs from the Vermillion East Fork aquifer for the irrigation of 102.5 acres, or the equivalent of 1.22 cfs per 70 acres. The applicant indicates "Additional water requested due to windshield wipe pivot irrigation machine and soil type."

CONCLUSIONS:

1. The Vermillion East Fork aquifer is a viable aquifer in this area.
2. There is a reasonable probability that unappropriated water is available from the Vermillion East Fork aquifer for this proposed appropriation.
3. There is a reasonable probability that this appropriation can be developed without an adverse impact on existing users.



Ken Bühler

SD DENR-Water Rights Program

REFERENCES:

- Capen, B., 2015, Report to the Chief Engineer Water Permit Application Nos. 8168-3 and 8169-3, Norman Lee and Lyle Anderson C/O Kevin Toews, July 31, 2015: SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Hamilton, L.J., 1989, Water Resources of Brookings and Kingsbury Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 88-4185, 82 p.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Hedges, L.S., Allen, J., and Holly, D.E., 1985, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Stonesifer, J.R., 2014, Report to the Chief Engineer, Water Permit Application No. 7981-3, Farron Pratt, April 28, 2014: South Dakota DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Schulz, L.D., 2007, First Occurrence of Aquifer Materials I Kingsbury County, South Dakota: South Dakota Geological Survey Aquifer Materials Map 24, Scale 1:100,000
- Water Rights, 1980-2016, "Irrigation Questionnaire Summaries", SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016b, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016c, Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



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. 8226-3, Jeffrey Albrecht**

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. 8226-3, Jeffrey Albrecht, 21749 435th Avenue, DeSmet SD 57231.

The Chief Engineer is recommending APPROVAL of Application No. 8226-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8189-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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
July 25, 2016

392223
Attorney General

SEP - 1 2016

Michael E. Unke
ATTORNEY & COUNSELOR AT LAW

341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

OFFICE PHONE 605-425-3131
HOME PHONE 605-425-3169
FAX 605-425-2977

August 29, 2016

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

RE: Notice of Hearing on Water Permit Application No. 8226-3,
Jeffrey Albrecht

Dear Mr. Naasz:

Enclosed for filing is an original Notice of Appearance in regard to the above referenced matter.

By copy of this letter, I am providing a copy of the Notice of Appearance on the interested parties, Brian Caruso, Chief Water Resources, Division, U.S. Fish and Wildlife Service, Rodney Freeman, Prehearing Chairman, Water Management Board, and Jeffrey Albrecht the petitioner.

If you have any questions, feel free to contact me.

Sincerely,

Michael E. Unke
Michael E. Unke

MEU/mrs

Enc.

cc: Rodney Freeman
Brian Caruso
Jeffrey Albrecht
H.T. Albrecht & Sons, Inc.

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER WATER

APPLICATION NO. 8226-3, JEFFREY
ALBRECHT

*

*

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*

NOTICE OF APPEARANCE

TO: Rodney Freeman, Prehearing Chairman, Brian Caruso, Chief
Water Resources Division, Matt Naasz, Assistant Attorney
General, Counsel for the Management Board, and Jeffrey
Albrecht

You are hereby notified that the undersigned has been
retained and hereby appears as attorney for H.T. Albrecht & Sons,
Inc.

Dated at Salem, South Dakota, this 29th day of August, 2016.



Michael E. Unke

Attorney for H.T. Albrecht & Sons
341 North Main Street, Box 529
Salem, SD 57058-0529
Telephone (605) 425-3131
Facsimile (605) 425-2977

MICHAEL E. UNKE
ATTORNEY AT LAW
OFFICE PHONE 605-425-3131
FACSIMILE 605-425-2977
341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

CERTIFICATE OF SERVICE

The undersigned, Michael E. Unke, attorney for H.T. Albrecht & Sons, Inc., hereby certifies that he did serve a true and correct copy of the Notice of Appearance on the following person:

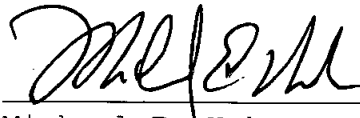
Rodney Freeman
Prehearing Chairman
Water Management Board
P.O. Box 176
Huron, SD 57350

Brian Caruso, Chief
Water Resources Division
U.S. Fish and Wildlife Service
P.O. Box 25486 DFC
Denver, CO 80225-0486

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

Jeffrey Albrecht
21749 435th Avenue
DeSmet, SD 57231

via first class mail, postage prepaid this 29th day of August, 2016.



Michael E. Unke

Attorney for H.T. Albrecht & Sons



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov/>

MARTY J. JACKLEY
ATTORNEY GENERAL

RECEIVED

AUG 29 2016

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

August 26, 2016

Rodney Freeman
Prehearing Chairman
Water Management Board
P.O. Box 176
Huron, SD 57530

Re: *Water Permit Application No. 8226-3, Jeffrey Albrecht*

Dear Mr. Freeman:

Enclosed please find a copy of the Motion for Procedural and Scheduling Order on behalf of DENR Water Rights Program, in the above-entitled matter, as well as a proposed Procedural and Scheduling Order and Certificate of Service. A copy of the Motion and proposed Order is being either mailed or hand-delivered to all interested parties.

Respectfully,

A handwritten signature in cursive script, appearing to read "Ann Mines Bailey".

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215

Counsel for Water Rights Program, DENR

AFM/mn
Enclosures
cc w/encs: Parties on Certificate of Service

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER WATER	)	
APPLICATION NO. 8226-3, JEFFREY	)	MOTION FOR PROCEDURAL AND
ALBRECHT	)	SCHEDULING ORDER
	)	

The South Dakota Department of Environment and Natural Resources Water Rights Program respectfully moves the Board's duly appointed prehearing chairman, Rodney Freeman, for entry of a procedural and scheduling order in the above captioned matter consistent with the terms of this motion.

In support of said motion, the Department submits the following:

1. Jeffrey Albrecht has submitted an application for a water permit (Application No. 8226-3). Mr. Albrecht requests a permit to appropriate 1.78 cubic feet of water per second from two wells to be completed into the Vermillion: East Fork Aquifer for the purposes of irrigating 102.5 acres. The Chief Engineer has recommended approval of the application.

2. Notice of the application was published for the above-entitled water permit application and the final date for intervention therein was August 15, 2016. Two petitions were received; one on behalf of H.T. Albrecht & Sons, Inc., and one on behalf of United States Department of the Interior, Fish and Wildlife Service.

3. The matter is currently scheduled to be heard by the Board on October 13, 2016.

4. The Department requests that the following prehearing schedule be established and applied to all parties to the formal contested case proceeding:

a. The Department requests that any party who will be represented by an attorney at the formal contested case proceeding shall be required to have their attorney file a Notice of Appearance in this matter. While individuals may appear *pro se* at hearings before the Water Management Board, all entities must be represented by counsel. Furthermore, all non-resident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2.

b. Each party must disclose in writing the names of all expert witnesses it intends to call as a witness at the contested case hearing no later than September 26, 2016. Each party must include in this submission copies of any *curricula vitae* as well as copies of any expert report prepared by the expert witness. If the expert has not prepared a report, the party must disclose a summary of the anticipated testimony the expert will provide. Should the intervening parties elect to exercise the option for automatic delay of the hearing pursuant to statute, the Department would request that the disclosure be required no later than October 31, 2016.

c. Each party must disclose in writing the names of each witness the party anticipates calling to testify during the hearing on or before

October 3, 2016. Should the intervening parties elect to exercise the option for automatic delay of the hearing pursuant to statute, the Department requests that the disclosures be required no later than November 14, 2016.

d. Each party must provide to all other parties a list identifying all exhibits that party intends to offer as evidence in its case in chief at the hearing and copies of said exhibits on or before October 3, 2016. The copies may be provided by electronic means. Should the intervening parties elect to exercise the option for automatic delay of the hearing pursuant to statute, the Department requests that the disclosures be required no later than November 14, 2016.

5. The Department requests that the Board include in its order the requirement that each party must mark in advance of the hearing all exhibits the party intends to introduce at the hearing in its case in chief. Each party shall be required to contact Eric Gronlund, DENR Water Rights Program, 605-773-3352 or at Eric.Gronlund@state.sd.us, to obtain a block of exhibit numbers.

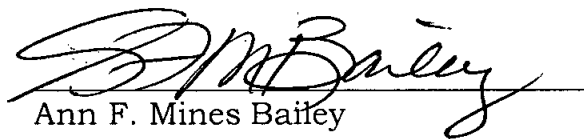
6. The Department requests that the Board include in its order the requirement that each party to the contested case proceedings must prepare and provide a sufficient number of copies of exhibits for use at the hearing as follows: 10 copies for use by the Board, its counsel, and court reporter, and sufficient copies for all parties participating in the contested proceedings.

7. The Department requests that the Board include in its order the requirement that all original pleadings are to be sent by regular first class mail to Eric Gronlund, DENR Water Rights Program, Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Parties shall also be required to serve copies of all pleadings on all other parties, including the Board Chairman, and upon the Board's Counsel, Assistant Attorney General Matt Naasz.

8. A draft procedural order is attached hereto for the Prehearing Chairman's consideration.

9. All persons who filed petitions to intervene in the water permit application are provided with copies of this motion.

Dated this 26th day of August, 2016.



Ann F. Mines Bailey
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

Counsel for Water Rights Program, DENR

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
APPLICATION NO. 8226-3, JEFFREY	)	PROCEDURAL AND SCHEDULING
ALBRECHT	)	ORDER
	)	

Upon consideration of the Motion for Procedural and Scheduling Order filed by the Department of Environment and Natural Resources, the following Order shall be entered in the above captioned action.

It is ORDERED:

1. All attorneys who will be representing any party at the formal contested case proceeding shall file a Notice of Appearance in this matter. Further, all non-resident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2.

2. The following pre-hearing schedule and obligations apply to Applicant, DENR, and all other parties:

a. Each party shall disclose in writing the names of any expert that party intends to call as a witness at the hearing in this matter on or before September 26, 2016. This disclosure must include copies of any *curricula vitae*, along with copies of any expert report the party intends to offer. If an expert report has not been prepared, the parties shall disclose a summary statement of the anticipated testimony the expert will provide. Should any of the parties avail themselves of the option to

automatically delay the hearing, these disclosures shall be made no later than October 31, 2016.

b. Each party shall disclose in writing the name and contact information for any and all witnesses that the party expects to call during the hearing in this matter on or before October 3, 2016. This disclosure must include a brief one or two sentence summary of each witness's expected testimony. Should this matter be postponed until the December meeting under the statutory automatic delay provision, these disclosures shall be completed no later than November 14, 2016.

c. Each party shall provide in writing a list identifying all exhibits that party intends to offer into evidence in its case in chief at the hearing and copies of said exhibits on or before October 3, 2016. The copies may be provided by electronic means. If this hearing is rescheduled under the statutory automatic delay provisions, these disclosures shall be made no later than November 14, 2016.

d. All exhibits shall be marked in advance of contested proceedings by each party. Each party shall contact Eric Gronlund, DENR Water Rights Program, (605) 773-3352 or at Eric.Gronlund@state.sd.us, to obtain a block of exhibit numbers.

e. Each party shall provide a sufficient number of copies of exhibits for use at the contested case hearing, including 10 copies for use by the Board, its counsel, and court reporter, and sufficient copies for all parties participating in the contested proceedings.

f. All original pleadings and prehearing motions shall be sent by first class mail to Eric Gronlund, DENR Water Rights Program, Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Parties must also serve copies of all pleadings and motions on all other parties, including Board Chairman, Jim Hutmacher, and Board Counsel, Assistant Attorney General Matt Naasz.

g. Copies of all discovery requests, discovery responses, and any items identified in subsections (a) and (b) above, shall be served on all parties with the originals to be filed with the Department.

Dated this _____ day of August, 2016.

Rodney Freeman,
Prehearing Chairman
South Dakota Water Management Board

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER WATER)	
APPLICATION NO. 8226-3, JEFFREY)	CERTIFICATE OF SERVICE
ALBRECHT)	
)	

The undersigned hereby certifies that on the 26th day of August 2016,
true and correct copies of the Motion for Procedural and Scheduling Order and
proposed Procedural and Scheduling Order, in the above matter, were mailed
by U.S. mail, first class, postage prepaid, to:

Rodney Freeman
Prehearing Chairman
Water Management Board
P.O. Box 176
Huron, SD 57530

Brian Caruso, Chief
Water Resources Division
U.S. Fish and Wildlife Service
P.O. Box 25486 DFC
Denver, CO 80225-0486

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Jeffrey Albrecht
21749 435th Ave.
DeSmet, SD 57231

Counsel for H.T. Albrecht & Sons, Inc.

And were hand-delivered and sent by electronical mail to:

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Matt.Naasz@state.sd.us

Counsel for Water Management Board

And that on the same date the original was sent by inter-office mail to:

Jeanne Goodman, Chief Engineer
Water Rights Program
DENR
523 E. Capitol Ave.
Pierre, SD 57501



Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605)773-3215

Counsel for Water Rights Program, DENR

Gronlund, Eric

From: Naasz, Matthew
Sent: Wednesday, September 07, 2016 1:42 PM
To: '4kerstings@gmail.com'; 'Brian_Caruso@fws.gov'; Mines, Ann; 'Unkelaw@hotmail.com'
Cc: Gronlund, Eric
Subject: RE: Application No. 8226-3, motion for scheduling order

My apologies, the subject line for the previous email should have read Application No. 8226-3, Jeffrey Albrecht.

Sorry for the confusion.

Matt Naasz
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215

Confidentiality Notice

This message is being sent by or on behalf of the South Dakota Attorney General's Office. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, attorney-client privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by telephone at (605) 773-3215 or by reply transmission by e-mail, and delete all copies of the message.

From: Naasz, Matthew
Sent: Wednesday, September 07, 2016 1:39 PM
To: '4kerstings@gmail.com'; 'Brian_Caruso@fws.gov'; Mines, Ann; 'Unkelaw@hotmail.com'
Cc: Gronlund, Eric
Subject: Application No. 8227-3, motion for scheduling order

Good afternoon,

Rodney Freeman, Prehearing Chairman of the South Dakota Water Management Board is in receipt of the Motion for Procedural and Scheduling Order filed by counsel for the Water Rights Program in the matter of Water Permit Application No. 8226-3, Jeffrey Albrecht. If there are any objections to granting the motion and entry of the order proposed by the Water Rights Program, please submit such objections by Monday, September 12. Please submit any objections via email to Eric Gronlund and myself.

If there are no objections, Mr. Freeman will execute the proposed order.

Thank you,

Matt Naasz

Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215

Counsel for the Water Management Board

Confidentiality Notice

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Gronlund, Eric

From: Naasz, Matthew
Sent: Wednesday, September 07, 2016 1:39 PM
To: '4kerstings@gmail.com'; 'Brian_Caruso@fws.gov'; Mines, Ann; 'Unkelaw@hotmail.com'
Cc: Gronlund, Eric
Subject: Application No. 8227-3, motion for scheduling order

Good afternoon,

Rodney Freeman, Prehearing Chairman of the South Dakota Water Management Board is in receipt of the Motion for Procedural and Scheduling Order filed by counsel for the Water Rights Program in the matter of Water Permit Application No. 8226-3, Jeffrey Albrecht. If there are any objections to granting the motion and entry of the order proposed by the Water Rights Program, please submit such objections by Monday, September 12. Please submit any objections via email to Eric Gronlund and myself.

If there are no objections, Mr. Freeman will execute the proposed order.

Thank you,

Matt Naasz
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215

Counsel for the Water Management Board

Confidentiality Notice

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OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
<http://atg.sd.gov/>

MARTY J. JACKLEY
ATTORNEY GENERAL

RECEIVED

SEP 15 2016

**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

September 14, 2016

BY INTER-OFFICE MAIL

Jeanne Goodman
Chief Engineer, Water Rights Program
Department of Environment and Natural Resources
523 East Capitol Avenue
Pierre, SD 57501

Re: *In the Matter of Water Application No. 8226-3, Jeffrey Albrecht*

Dear Jeanne:

Enclosed for filing please find a signed copy of the Procedural and Scheduling Order and original Certificate of Service in the above-entitled matter. By copy of this letter, service is intended upon the individuals listed on the Certificate of Service.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Naasz".

Matt Naasz
Assistant Attorney General

MN/jmm
Enclosures

cc w/enc: Rodney Freeman, Jr.
Brian Caruso
Michael E. Unke
Jeffrey Albrecht
Ann F. Mines Bailey

RECEIVED

SEP 15 2016

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER WATER	)	
APPLICATION NO. 8226-3, JEFFREY	)	CERTIFICATE OF SERVICE
ALBRECHT	)	
	)	

The undersigned hereby certifies that on the 14th day of September 2016, a true and correct copy of the signed PROCEDURAL AND SCHEDULING ORDER, in the above matter, were mailed by U.S. mail, first class, postage prepaid, to:

Rodney Freeman
Prehearing Chairman
Water Management Board
P.O. Box 176
Huron, SD 57530

Brian Caruso, Chief
Water Resources Division
U.S. Fish and Wildlife Service
P.O. Box 25486 DFC
Denver, CO 80225-0486

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Jeffrey Albrecht
21749 435th Ave.
De Smet, SD 57231

Counsel for H.T. Albrecht & Sons, Inc.

And was hand-delivered to:

Ann F. Mines Bailey
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Ann.Mines@state.sd.us

Counsel for Water Management Board

RECEIVED

SEP 15 2016

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
APPLICATION NO. 8226-3, JEFFREY	)	PROCEDURAL AND SCHEDULING
ALBRECHT	)	ORDER
	)	

Upon consideration of the Motion for Procedural and Scheduling Order filed by the Department of Environment and Natural Resources, the following Order shall be entered in the above captioned action.

It is ORDERED:

1. All attorneys who will be representing any party at the formal contested case proceeding shall file a Notice of Appearance in this matter. Further, all non-resident counsel must be able to demonstrate compliance with the *pro hac vice* requirements of SDCL 16-18-2.

2. The following pre-hearing schedule and obligations apply to Applicant, DENR, and all other parties:

a. Each party shall disclose in writing the names of any expert that party intends to call as a witness at the hearing in this matter on or before September 26, 2016. This disclosure must include copies of any *curricula vitae*, along with copies of any expert report the party intends to offer. If an expert report has not been prepared, the parties shall disclose a summary statement of the anticipated testimony the expert will provide. Should any of the parties avail themselves of the option to

automatically delay the hearing, these disclosures shall be made no later than October 31, 2016.

b. Each party shall disclose in writing the name and contact information for any and all witnesses that the party expects to call during the hearing in this matter on or before October 3, 2016. This disclosure must include a brief one or two sentence summary of each witness's expected testimony. Should this matter be postponed until the December meeting under the statutory automatic delay provision, these disclosures shall be completed no later than November 14, 2016.

c. Each party shall provide in writing a list identifying all exhibits that party intends to offer into evidence in its case in chief at the hearing and copies of said exhibits on or before October 3, 2016. The copies may be provided by electronic means. If this hearing is rescheduled under the statutory automatic delay provisions, these disclosures shall be made no later than November 14, 2016.

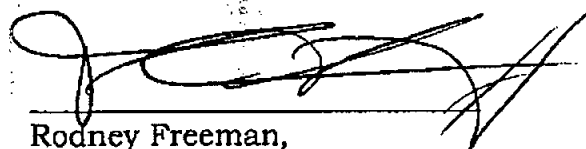
d. All exhibits shall be marked in advance of contested proceedings by each party. Each party shall contact Eric Gronlund, DENR Water Rights Program, (605) 773-3352 or at Eric.Gronlund@state.sd.us, to obtain a block of exhibit numbers.

e. Each party shall provide a sufficient number of copies of exhibits for use at the contested case hearing, including 10 copies for use by the Board, its counsel, and court reporter, and sufficient copies for all parties participating in the contested proceedings.

f. All original pleadings and prehearing motions shall be sent by first class mail to Eric Gronlund, DENR Water Rights Program, Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Parties must also serve copies of all pleadings and motions on all other parties, including Board Chairman, Jim Hutmacher, and Board Counsel, Assistant Attorney General Matt Naasz.

g. Copies of all discovery requests, discovery responses, and any items identified in subsections (a) and (b) above, shall be served on all parties with the originals to be filed with the Department.

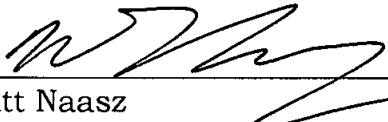
Dated this 13th day of Sept. ~~August~~, 2016.



Rodney Freeman,
Prehearing Chairman
South Dakota Water Management Board

And that on the same date a copy was sent by inter-office mail to:

Jeanne Goodman, Chief Engineer
Water Rights Program
DENR
523 E. Capitol Ave.
Pierre, SD 57501



Matt Naasz
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605)773-3215

Counsel for Water Rights Program, DENR

Gronlund, Eric

From: Hollenback, Steven <steven_hollenback@fws.gov>
Sent: Thursday, September 22, 2016 5:26 PM
To: Gronlund, Eric
Cc: Brian Caruso
Subject: In regards to water application 8226-3

Eric,

We, The Fish and Wildlife Service, would like to request that the hearing regarding the water case Application No. 8226-3, Jeffery Albrecht, be delayed as is detailed in the Procedural and Scheduling Order from Rodney Freeman.

If you have any comments or questions please follow-up with Brian Caruso (cc'd here) at <brian_caruso@fws.gov>.

Thank you,

Steve Hollenback

--

Steve Hollenback, Hydrologist
US Fish and Wildlife Service
134 Union Blvd. Ste-250
Lakewood, CO 80228
(303) 2364492



U.S. Department of Justice

RECEIVED

*Randolph J. Seiler
United States Attorney
District of South Dakota*

SEP 26 2016

**WATER RIGHTS
PROGRAM**

515 Ninth Street #201
Rapid City, SD 57701
605.342.7822
FAX: 605.342.1108

PO Box 7240
Pierre, SD 57501
605.224.5402
FAX: 605.224.8305

PO Box 2638
Sioux Falls, SD 57101-2638
605.330.4400
FAX: 605.330.4410

September 23, 2016

Rodney Freeman
Prehearing Chair
Water Management Board
P.O. Box 176
Huron, SD 57350

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

Jim Hutmacher
Water Management Board Chairman
802 E. 7th Street
Oacoma, SD 57365

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529
Counsel for H.T. Albrecht & Sons

Jeffrey Albrecht
21749 435th Ave.
DeSmet, SD 57231

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Counsel for Water Management
Board

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Counsel for Water Rights Program,
DENR

Dana Jacobsen and Lori
Caramanian
Assistant Regional Solicitors
Rocky Mountain Regional Office
Office of the Solicitor
755 Parfet, Suite 151
Lakewood, CO 80215

Re: In the Matter of Water Application No. 8226-3, Jeffrey Albrecht

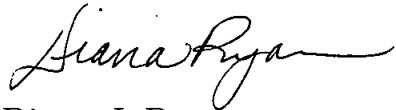
Ladies and Gentlemen:

Enclosed is the 1) Notice of Appearance of Counsel, and 2) Request for Extension of Time to Disclose Expert Witnesses and Delay of Scheduled Hearing.

Please consider this as service by mail upon you. Thank you.

Sincerely,

Randolph J. Seiler
United States Attorney

A handwritten signature in cursive script, appearing to read "Diana Ryan", with a long horizontal flourish extending to the right.

Diana J. Ryan
Assistant U.S. Attorney

/rla
Enclosure

RECEIVED

SEP 26 2016

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

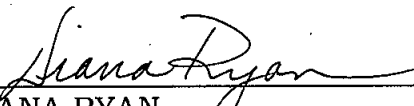
NOTICE OF APPEARANCE OF
COUNSEL ON BEHALF OF
U.S. FISH & WILDLIFE SERVICE

Please take notice and be advised that the undersigned Assistant U.S. Attorney, Diana Ryan, does hereby appear as counsel for the United States Fish and Wildlife Service.

Notice is further given that all papers and documents in said action are to be served upon the undersigned counsel of record.

Dated this 23rd day of September, 2016.

RANDOLPH J. SEILER
United States Attorney



DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
605.357.2342
Diana.Ryan@usdoj.gov

RECEIVED

SEP 26 2016

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

REQUEST FOR EXTENSION
OF TIME TO DISCLOSE
EXPERT WITNESSES AND
DELAY OF SCHEDULED
HEARING

Pursuant to the Procedural and Scheduling Order dated September 13, 2016 in this case, the U.S. Fish and Wildlife Service requests an automatic extension of the expert disclosure deadline and hearing date in this case. Delay is requested as additional time is needed to confer with the U.S. Fish and Wildlife Service witnesses and other agency counsel.

Dated this 23rd day of September, 2016.

RANDOLPH J. SEILER
United States Attorney



DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
605.357.2342
Diana.Ryan@usdoj.gov

RECEIVED

SEP 26 2016

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

CERTIFICATE OF SERVICE

The undersigned certifies that on the 23rd day of September 2016, true and correct copies of the Notice of Appearance of Counsel for the U.S. Fish and Wildlife Service and the Request for Extension of Time to Disclose Expert Witnesses and Delay of Scheduled Hearing in this case were mailed by U.S. mail, first class, postage prepaid, to:

Rodney Freeman
Prehearing Chair
Water Management Board
P.O. Box 176
Huron, SD 57530

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

Jim Hutmacher
Water Management Board
Chairman
802 E. 7th Street
Oacoma, SD 57365

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529
Counsel for H.T. Albrecht &
Sons

Jeffrey Albrecht
21749 435th Ave.
DeSmet, SD 57231

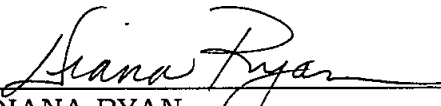
Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Counsel for Water
Management Board

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14,
Suite 1
Pierre, SD 57501-8501
Counsel for Water Rights
Program, DENR

Dana Jacobsen and Lori
Caramanian
Assistant Regional Solicitors
Rocky Mountain Regional
Office
Office of the Solicitor
755 Parfet, Suite 151
Lakewood, CO 80215

Dated this 23 day of September, 2016.

RANDOLPH J. SEILER
United States Attorney



DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
605.357.2342
Diana.Ryan@usdoj.gov

Gronlund, Eric

From: Justin G. Smith <Justin.Smith@woodsfuller.com>
Sent: Friday, September 23, 2016 8:43 AM
To: Gronlund, Eric
Cc: Mines, Ann; unkelaw@hotmail.com; matt.naasz@state.sd.us;
rfreeman.huronlaw@midconetwork.com; Vince Jones
Subject: Water Permit Application No. 8226-3, Jeffrey Albrecht

Dear Eric,

Please consider this a Notice of Appearance on behalf of Jeffrey Albrecht in this matter. Appearing for Mr. Albrecht will be Woods, Fuller, Shultz & Smith P.C., Justin G. Smith, and J. Vincent Jones. If a separate, formal Notice of Appearance must be filed, please advise and I will send one via US Mail.

Pursuant to SDCL § 46-2A-5, Jeffrey Albrecht requests a postponement of the hearing in this matter until the December meeting of the Water Management Board. It is my understanding this e-mail will serve as sufficient written notice of the request for postponement under § 46-2A-5. If a separate, formal request for postponement must be submitted, please advise and I will send one via US Mail. With this notice of request for postponement, it is my understanding the matter will now be heard by the Board December 7 or 8.

Please add me to the distribution list for all further materials in this matter. I have attempted to copy all interested parties on this e-mail. If I have missed anyone, please let me know. Thank you!



Justin G. Smith
Woods, Fuller, Shultz & Smith P.C.
300 South Phillips Avenue, Suite 300
PO Box 5027
Sioux Falls, SD 57117-5027
Phone: (605) 978-0634
Email: Justin.Smith@woodsfuller.com

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If this e-mail contains attached files and documents, please note any alteration or changes may result in changes to the legal effect of these documents. Woods, Fuller, Shultz & Smith P.C. has no responsibility for any alterations or changes made by you to these documents.

This email has been scanned for email related threats and delivered safely by Mimecast.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 26, 2016

denr.sd.gov

NOTICE

TO: Justin G. Smith
Woods, Fuller, Shultz & Smith P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

Diana J. Ryan, Assistant U.S. Attorney
US Attorney's Office
PO Box 2638
Sioux Falls SD 57101-2638

FROM: *for* Jeanne Goodman, Chief Engineer *Eric Gronlund*
Water Rights Program

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 8226-3, Jeffrey Albrecht

A petition of opposition and a petition of concern were filed in response to the public notice for Water Permit Application No. 8226-3 filed by Jeffrey Albrecht. Notice of hearing before the Water Management Board was sent to parties on August 22, 2016, scheduling the hearing for October 13, 2016. In response to this notice, counsel for petitioner US Fish and Wildlife Service and counsel for Jeffrey Albrecht have made a formal request for postponement of the October 13, 2016, hearing date on the application. Therefore, the hearing on Application No. 8226-3 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on October 13, 2016.

The hearing to consider Application No. 8226-3 is tentatively scheduled for the November 30 and December 1, 2016, Water Management Board meeting to be held in Pierre. The Board will formalize its next meeting date on October 13th. Future notice of the time and place of the hearing for Application No. 8226-3 will be provided to all parties of record.

Enclosed are notices of appearance filed by counsel for the applicant and each petitioner.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Ann Mines-Bailey, Assistant Attorney General

Gronlund, Eric

From: Justin G. Smith <Justin.Smith@woodsfuller.com>
Sent: Friday, September 23, 2016 8:43 AM
To: Gronlund, Eric
Cc: Mines, Ann; unkelaw@hotmail.com; matt.naasz@state.sd.us; rfreeman.huronlaw@midconetwork.com; Vince Jones
Subject: Water Permit Application No. 8226-3, Jeffrey Albrecht

Dear Eric,

Please consider this a Notice of Appearance on behalf of Jeffrey Albrecht in this matter. Appearing for Mr. Albrecht will be Woods, Fuller, Shultz & Smith P.C., Justin G. Smith, and J. Vincent Jones. If a separate, formal Notice of Appearance must be filed, please advise and I will send one via US Mail.

Pursuant to SDCL § 46-2A-5, Jeffrey Albrecht requests a postponement of the hearing in this matter until the December meeting of the Water Management Board. It is my understanding this e-mail will serve as sufficient written notice of the request for postponement under § 46-2A-5. If a separate, formal request for postponement must be submitted, please advise and I will send one via US Mail. With this notice of request for postponement, it is my understanding the matter will now be heard by the Board December 7 or 8.

Please add me to the distribution list for all further materials in this matter. I have attempted to copy all interested parties on this e-mail. If I have missed anyone, please let me know. Thank you!



Justin G. Smith
Woods, Fuller, Shultz & Smith P.C.
300 South Phillips Avenue, Suite 300
PO Box 5027
Sioux Falls, SD 57117-5027
Phone: (605) 978-0634
Email: Justin.Smith@woodsfuller.com

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If this e-mail contains attached files and documents, please note any alteration or changes may result in changes to the legal effect of these documents. Woods, Fuller, Shultz & Smith P.C. has no responsibility for any alterations or changes made by you to these documents.

This email has been scanned for email related threats and delivered safely by Mimecast.

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SEP 26 2016

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

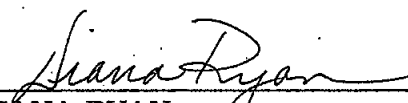
NOTICE OF APPEARANCE OF
COUNSEL ON BEHALF OF
U.S. FISH & WILDLIFE SERVICE

Please take notice and be advised that the undersigned Assistant U.S. Attorney, Diana Ryan, does hereby appear as counsel for the United States Fish and Wildlife Service.

Notice is further given that all papers and documents in said action are to be served upon the undersigned counsel of record.

Dated this 23rd day of September, 2016.

RANDOLPH J. SEILER
United States Attorney



DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
605.357.2342
Diana.Ryan@usdoj.gov

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER WATER

APPLICATION NO. 8226-3, JEFFREY
ALBRECHT

NOTICE OF APPEARANCE

TO: Rodney Freeman, Prehearing Chairman, Brian Caruso, Chief
Water Resources Division, Matt Naasz, Assistant Attorney
General, Counsel for the Management Board, and Jeffrey
Albrecht

You are hereby notified that the undersigned has been
retained and hereby appears as attorney for H.T. Albrecht & Sons,
Inc.

Dated at Salem, South Dakota, this 29th day of August, 2016.



Michael E. Unke
Attorney for H.T. Albrecht & Sons
341 North Main Street, Box 529
Salem, SD 57058-0529
Telephone (605) 425-3131
Facsimile (605) 425-2977

MICHAEL E. UNKE
ATTORNEY AT LAW
OFFICE PHONE 605-425-3131
FACSIMILE 605-425-2977
341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

CERTIFICATION

I hereby certify that on September 26, 2016, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 26, 2016, regarding automatic delay of October 13th hearing date for Water Right Permit Application No. 8226-3, as addressed below:

Justin G. Smith
Woods, Fuller, Shultz & Smith P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

Diana J. Ryan
US Attorney's Office
PO Box 2638
Sioux Falls SD 57101-2638

Sent Inter-office to:

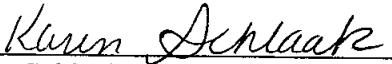
Ann Mines-Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



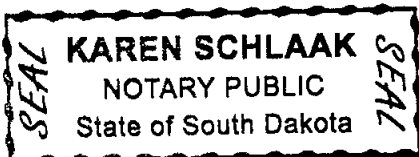
Gail Jacobson
Water Rights Program, DENR

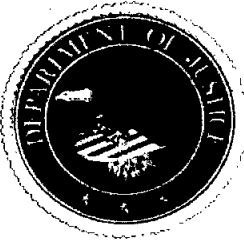
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of September, 2016



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





U.S. Department of Justice
RECEIVED
Randolph J. Seiler
United States Attorney
District of South Dakota
OCT - 6 2016
WATER RIGHTS
PROGRAM

515 Ninth Street #201
Rapid City, SD 57701
605.342.7822
FAX: 605.342.1108

PO Box 7240
Pierre, SD 57501
605.224.5402
FAX: 605.224.8305

X PO Box 2638
Sioux Falls, SD 57101-2638
605.330.4400
FAX: 605.330.4410

October 4, 2016

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

Rodney Freeman
Water Management Board
P.O. Box 176
Huron, SD 57350

Jim Hutmacher
Water Management Board Chairman
802 E. 7th Street
Oacoma, SD 57365

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501

Justin Smith
J. Vincent Jones
Woods Fuller Law Firm
P. O. Box 5027
Sioux Falls, SD 57117-5027

Re: In the Matter of Water Application No. 8226-3, Jeffrey Albrecht

Ladies and Gentlemen:

Enclosed is the Declaration of Lori Caramanian with regard to the above-entitled matter. Please consider this as service by mail upon you. Thank you.

Sincerely,

Randolph J. Seiler
United States Attorney

Diana J. Ryan
Assistant U.S. Attorney

/mkp

cc: Lori Caramanian

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

MOTION BY NON-RESIDENT
ATTORNEY FOR ADMITTANCE
PRO HAC VICE OF LORI CARAMANIAN

COMES NOW Lori Caramanian, a non-resident attorney, and pursuant to S.D.C.L. § 16-18-2 (as amended), hereby moves the Court to be admitted pro hac vice as counsel for the U.S. Fish & Wildlife Service in the above-captioned water permit proceeding before the State Water Management Board. In support of this motion, Petitioner offers the following:

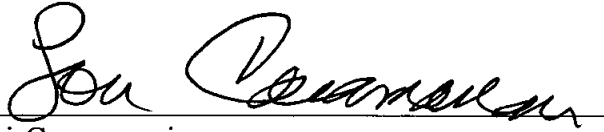
1. Mailing Address: Rocky Mountain Regional Office, Office of the Solicitor, 755 Parfet, Suite 1, Lakewood, Colorado 80215.
2. Name and Address of Licensed South Dakota Attorney With Whom Non-Resident Attorney Will Associate: Diana Ryan, Civil Chief, United States Attorney's Office, P.O. Box 2638, Sioux Falls, SD 57101-2638.
3. Statement of Good Standing: I am currently a member in good standing of the bar of the state of New York. I have not been previously admitted by this Court. I have been an attorney for 20 years and am admitted to practice in the state of New York. Attached is a document from the New York State Unified Court System, printed September 28,

2016, showing that I am an attorney in good standing and have no disciplinary actions against me. New York State does not provide bar cards.

4. Disciplinary Actions: During the preceding five years, I have not been subject to any disciplinary action(s) by the bars or courts of the state of my residence, or any other state.
5. Denial of Admission to Other Courts: During the preceding five years, I have never been denied admission to any state or Federal court.
6. Rules of the State Bar of South Dakota: I am familiar with the rules of the State Bar of South Dakota governing the conduct of members of the State Bar, and so long as the subject case is pending, I have not withdrawn as counsel. I will at all times abide by and comply with such rules.
7. Statement Concerning Compensation: I am not in private practice. I am appearing as an attorney for the U.S. Department of Interior's Office of the Solicitor, to appear in the above-captioned case on behalf of the U.S. Fish & Wildlife Service, U.S. Department of the Interior. My appearance before the State Water Management Board will be part of my regular duties as an employee of Office of the Solicitor, and I will not receive any additional compensation for this appearance.
8. Other: To the best of my knowledge, the Applicant now has counsel,

Justin G. Smith and J. Vincent Jones of the Woods Fuller Law Firm.

Dated this 29 day of Sept, 2016.

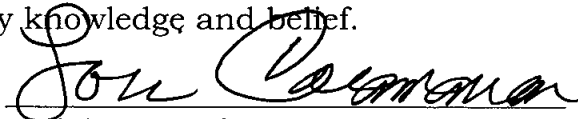


Lori Caramanian
Attorney-Advisor
Rocky Mountain Regional Office
Office of the Solicitor
755 Parfet, Suite 151
Lakewood, CO 80215
(303) 445-0639
Lori.Caramanian@sol.doi.gov

VERIFICATION

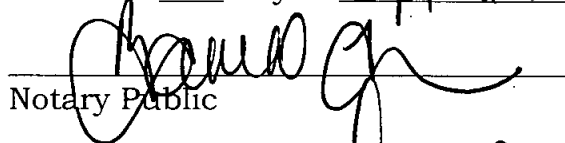
District of Columbia)
) ss
)

I, Lori Caramanian, state under oath that the foregoing statements are true and correct to the best of my knowledge and belief.



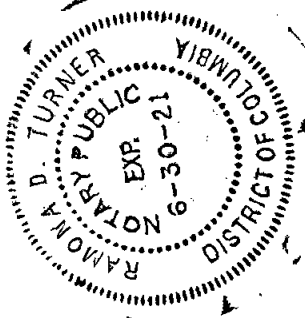
Lori Caramanian

Subscribed and sworn to before me this 29th day of September, 2016.


Notary Public

Commission expires: June 30, 2021

(SEAL)



CERTIFICATE OF SERVICE

The undersigned certifies that on the 4th day of ~~September~~ ^{October} 2016, true and correct copies of the foregoing was mailed by U.S. mail, first class, postage prepaid, to:

Rodney Freeman
Prehearing Chair
Water Management Board
P.O. Box 176
Huron, SD 57530

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

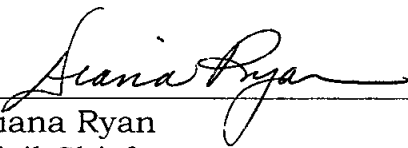
Jim Hutmacher
Water Management Board
Chairman
802 E. 7th Street
Oacoma, SD 57365

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Counsel for Water
Management Board

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Counsel for Water Rights
Program, DENR

Justin G. Smith
J. Vincent Jones
Woods Fuller Law Firm
P.O. Box 5027
Sioux Falls, SD 57117-5027
Counsel for Jeffrey Albrecht



Diana Ryan
Civil Chief
United States Attorney's Office
P.O. Box 2638
Sioux Falls, SD 57101-2638
(605) 330-4400
Diana.Ryan@usdoj.gov

New York State Unified Court System

Attorney
Search



Attorney
Registration

Attorney Detail**as of 09/28/2016**

Registered
In-House
Counsel
Search

Registration Number: 2720159

LORI LOUISE CARAMANIAN

In-House
Counsel
Registration

E-mail Address:
Year Admitted in NY: 1996
Appellate Division
Department of Admission: 2
Law School: PACE LAW SCHOOL
Registration Status: Currently registered
Next Registration: Jul 2018

Resources

E-Courts

Contact Us

Disciplinary History: No record of public discipline

Search Again

The Detail Report above contains information that has been provided by the attorney listed, with the exception of REGISTRATION STATUS, which is generated from the OCA database. Every effort is made to insure the information in the database is accurate and up-to-date.

The good standing of an attorney and/or any information regarding disciplinary actions must be confirmed with the appropriate Appellate Division Department. Information on how to contact the **Appellate Divisions** of the Supreme Court in New York is available at www.nycourts.gov/courts.

If the name of the attorney you are searching for does not appear, please try again with a different spelling. In addition, please be advised that attorneys listed in this database are listed by the name that corresponds to their name in the Appellate Division Admissions file. There are attorneys who currently use a name that differs from the name under which they were admitted. If you need additional information, please contact the NYS Office of Court Administration, Attorney Registration Unit at 212-428-2800.

www.NYCOURTS.gov

COURTS

PLAINTIFFS

ATTORNEYS

JUDGES

JUDGES

COURTS

SEARCH

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OCT - 6 2016
WATER RIGHTS
PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 28, 2016

denr.sd.gov

NOTICE

TO: Justin G. Smith
Woods, Fuller, Shultz & Smith P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

Diana J. Ryan, Assistant U.S. Attorney
US Attorney's Office
PO Box 2638
Sioux Falls SD 57101-2638

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Scheduling Hearing on Water Permit Application No. 8226-3, Jeffrey Albrecht

Water Permit Application No. 8226-3 proposes to appropriate 1.78 cubic feet of water per second (cfs) from two wells to be completed into the Vermillion:East Fork Aquifer (100 feet deep) located in the S 1/2 SE 1/4 Section 35 for irrigation of 102.5 acres located in the E 1/2 SE 1/4, SW 1/4 SE 1/4 Section 35; all in T110N-R56W.

In response to the public notice, petitions were filed in opposition to Water Permit Application No. 8226-3. Then in response to the August 22, 2016, notice of hearing sent to parties of record scheduling a hearing, parties requested a postponement of the October 13, 2016, hearing before the Water Management Board pursuant to SDCL 46-2A-5.

The Water Management Board will now conduct a hearing to consider Application No. 8226-3 at 1:00 PM (Central Daylight Time) on Thursday, December 1, 2016, Chamber of Commerce, 800 West Dakota Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior items. Future notice will be provided to all parties if there is a significant change to the hearing time. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Applicable provisions of the notice of application published in the DeSmet News and Madison Daily Leader on August 3, 2016, and the notice of hearing sent to parties of record on August 22, 2016, will still apply at the hearing.

Questions regarding the hearing process may be directed to Ann Mines-Bailey, legal counsel for the Water Rights Program at (605) 773-3215.

c: Ann Mines-Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 28, 2016, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 28, 2016, regarding scheduling a hearing date for Water Right Permit Application No. 8226-3, as addressed below:

Justin G. Smith
Woods, Fuller, Shultz & Smith P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

Diana J. Ryan
US Attorney's Office
PO Box 2638
Sioux Falls SD 57101-2638

Sent Inter-office to:

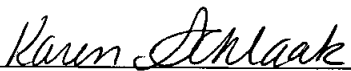
Ann Mines-Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



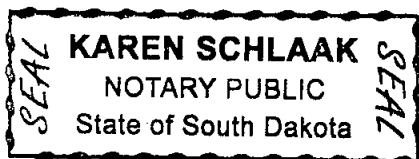
Gail Jacobson
Water Rights Program, DENR

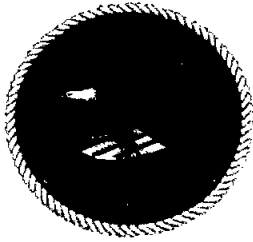
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 28th day of October, 2016



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





U.S. Department of Justice

Randolph J. Seiler
United States Attorney
District of South Dakota

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OCT 31 2016
WATER RIGHTS
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515 Ninth Street #201
Rapid City, SD 57701
605.342.7822
FAX: 605.342.1108

PO Box 7240
Pierre, SD 57501
605.224.5402
FAX: 605.224.8305

X PO Box 2638
Sioux Falls, SD 57101-2638
605.330.4400
FAX: 605.330.4410

October 28, 2016

Rodney Freeman
Prehearing Chair
Water Management Board
P.O. Box 176
Huron, SD 57350

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

Jim Hutmacher
Water Management Board Chairman
802 E. 7th Street
Oacoma, SD 57365

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Justin Smith
Woods Fuller Law Firm
P.O. Box 5027
Sioux Falls, SD 57117-5027

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501

Dana Jacobsen & Lori Caramanian
Assistant Regional Solicitors
Rocky Mountain Regional Office
Office of the Solicitor
755 Parfet, Suite 151
Lakewood, CO 80215

Re: In the Matter of Water Application No. 8226-3, Jeffrey Albrecht

Ladies and Gentlemen:

Enclosed is the United States Fish and Wildlife Service's Withdrawal of Petition regarding the water application permit sought by Jeffrey Albrecht. Please consider this as service by mail upon you. Thank you.

Sincerely,

RANDOLPH J. SEILER
United States Attorney

Diana J. Ryan
Assistant U.S. Attorney

Enclosure

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OCT 31 2016

WATER RIGHTS
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STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

U.S. FISH AND WILDLIFE'S
WITHDRAWAL OF PETITION

BACKGROUND

Jeffrey Albrecht (Albrecht) filed for a water permit application No. 8226-3 to appropriate water from the Vermillion East Fork aquifer for the purpose of irrigation. The applicant intends to divert water from two wells at a maximum diversion rate of 1.78 cubic feet per second (cfs) from two wells located in the S½SE¼ of Section 35, Township 110 North, Range 56 West. The United States Fish & Wildlife Service (USFWS) expressed initial concerns about the water permit related to the protection of a wetland easement on the property in an August 8, 2016 date-stamped letter to the South Dakota Department of Environment and Natural Resources. The Water Management Board treated that letter as a petition in its Motion for Procedural and Scheduling Order.

On October 7, 2016, USFWS Agent Natoma (Tomi) Hansen and Jeffrey Albrecht met to determine if actions could be taken with regard to the water permit which would protect the wetlands subject to the USFWS's easement (Kingsbury 366X). Jeffrey Albrecht clarified that he will only irrigate periodically over the course of the growing season, and not every day, from May 1st to September 30th. Jeffrey Albrecht also agreed to move the location of well 1 for a distance of 100 feet to the east of the test well location (well 1). This relocation

of well 1 will satisfy the USFWS's concerns about the water permit having a negative impact on the USFWS's wetland easement. If the irrigation system does impact the USFWS wetland easement in the future, the USFWS will work with Jeffrey Albrecht to minimize impacts by reducing the number of days irrigating or decreasing the CFS/GPM.

The substance of the agreement between the parties is reflected in the October 14, 2016 letter which was sent to Jeffrey Albrecht by the USFWS and is attached as Exhibit 1 to this pleading.

Based on the foregoing, the USFWS hereby withdraws its letter of August 8, 2016 which the South Dakota Chief Engineer viewed as a petition to participate in a hearing regarding Jeffrey Albrecht's SD water permit application No. 8226-3.

Dated this 28th day of October, 2016.

RANDOLPH J. SEILER
United States Attorney

A handwritten signature in black ink, appearing to read "Diana Ryan", written over a horizontal line.

DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
(605) 357-2340
Diana.Ryan@usdoj.gov



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Madison Wetland Management District
PO Box 48
23520 SD HWY 19
Madison, SD 57042



CERTIFIED MAIL # 7015 3010 0001 8615 8044
RETURN RECEIPT REQUESTED

October 14, 2016

Jeffrey Albrecht
21749 435th Ave
DeSmet, SD 57231

Dear Mr. Albrecht:

This letter is a follow up to our meeting on Friday, October 7th to discuss concerns the USFWS has in regards to SD water permit No. 8226-3. I'd like to first express my appreciation that you were willing to meet with us on such short notice. As you know, the USFWS has a wetland easement (Kingsbury 366X) on the same parcel as the water permit application. During our visit, I provided a copy of the easement document and the Exhibit A which depicts the wetlands protected from drainage (direct and indirect), leveling, filling and burning. You confirmed the location for the primary well was the test well marked as "Well 1" on the application. Due to the proximity of the well to a protected wetland basin, we discussed moving the primary well 100ft directly to the east to avoid impacting the USFWS interest, and we understand that is acceptable to you. We did not have any concerns in regards to the secondary well.

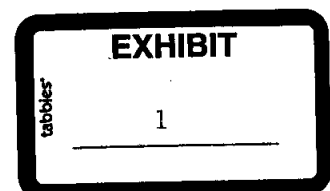
We also briefly discussed the USFWS concerns in regards to the large protected basin near the farmstead. We believe this basin is tied to the same aquifer you would be utilizing for the irrigation permit. Since the permit application indicates 1.78CFS for 800 GPM from May 1st to September 30th, there is a concern if you irrigate every day during this time period you may indirectly drain the large protected basin. You indicated you would only be irrigating periodically over the course of the growing season.

We feel this irrigation permit will likely have little or no impact on the USFWS easement if the primary well is moved 100ft to the east as agreed by all parties. If the irrigation system does impact USFWS interest, we will work with you to minimize impacts by reducing the number of days irrigating or decrease CFS/GPM.

It was a pleasure working with you and your family to come up with a viable solution to resolve this issue. If you have any questions or concerns, please do not hesitate to contact our office at 605-256-2974.

Sincerely,

Natoma Hansen
Madison WMD Project Leader



STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

CERTIFICATE OF SERVICE

The undersigned certifies that on the 28th day of October 2016, true and correct copies of the U.S. Fish and Wildlife Service's Withdrawal of Petition were mailed by U.S. mail, first class, postage prepaid, to:

Rodney Freeman
Prehearing Chair
Water Management Board
P.O. Box 176
Huron, SD 57530

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

Jim Hutmacher
Water Management Board
Chairman
802 E. 7th Street
Oacoma, SD 57365

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529
Counsel for H.T. Albrecht &
Sons

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Counsel for Water
Management Board

Justin Smith
J. Vincent Jones
Woods Fuller Law Firm
P.O. Box 5027
Sioux Falls, SD 57117-5027
(counsel for Jeffrey Albrecht)

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Ste 1
Pierre, SD 57501-8501
Counsel for Water
Rights/DENR

Dana Jacobsen and
Lori Caramanian
Assistant Regional Solicitors
Rocky Mountain Regional
Office
Office of the Solicitor
755 Parfet, Suite 151
Lakewood, CO 80215

Dated this 28th day of October, 2016.

RANDOLPH J. SEILER
United States Attorney

A handwritten signature in cursive script, reading "Diana Ryan", with a horizontal line extending to the right.

DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
(605) 357-2340
Diana.Ryan@usdoj.gov

Michael E. Unke
ATTORNEY & COUNSELOR AT LAW

341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

October 31, 2016

OFFICE PHONE (605) 425-3131
FAX (605) 425-2977
unkelaw@hotmail.com

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NOV - 2 2016
WATER RIGHTS
PROGRAM

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

RE: Notice of Hearing on Water Permit Application No. 8226-3,
Jeffrey Albrecht

Dear Mr. Naasz:

Enclosed for filing is an original of H.T. Albrecht & Sons, Inc.'s
Disclosure of Witness in regard to the above referenced matter.

By copy of this letter, I am providing a copy of this disclosure
on the interested parties, Brian Caruso, Chief Water Resources,
Division, U.S. Fish and Wildlife Service, Rodney Freeman,
Prehearing Chairman, Water Management Board, Erin Gronlund, DENR
Water Rights Program, its attorney, Ann Mines Bailey, Jim
Hutmacher, Water Management Board Chairman, Justin G. Smith, and
Jeffrey Albrecht, the petitioner.

If you have any questions, feel free to contact me.

Sincerely,

Michael E. Unke

Michael E. Unke
MEU/mrs
Enc.

cc: Brian Caruso
Rodney Freeman
Eric Gronlund ✓
Ann Mines Bailer
Jim Hutmacher
Justin G. Smith
Jeffrey Albrecht
H.T. Albrecht & Sons, Inc.

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NOV - 2 2016

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER WATER

APPLICATION NO. 8226-3, JEFFREY
ALBRECHT

*

* H.T. ALBRECHT & SONS, INC.'S
* DISCLOSURE OF WITNESS
*

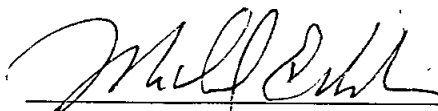
*

Pursuant to the Procedural and Scheduling Order dated September 13, 2016, H.T. Albrecht & Sons, Inc. hereby provides the name of the witness it intends to call:

Rick Grace
Pullman's Well Drilling, Inc.
21416 401 Avenue
Huron, SD 57350

Mr. Grace attended one year of college at USD and has 40 years of experience in the well drilling field. Mr. Grace will testify that the holes that were drilled were not drilled in a good site and that the holes were not pumped to make sure that there would be an adequate water source. Mr. Grace will also testify about the area and his opinion whether it will support additional wells. Mr. Grace has personal knowledge of H.T. Albrecht & Sons, Inc. well.

Dated at Salem, South Dakota, this 31st day of October, 2016.



Michael E. Unke
Attorney for H.T. Albrecht & Sons
341 North Main Street, Box 529
Salem, SD 57058-0529
Telephone (605) 425-3131
Facsimile (605) 425-2977

MICHAEL E. UNKE
ATTORNEY AT LAW
OFFICE PHONE 605-425-3131
FACSIMILE 605-425-2977
341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

CERTIFICATE OF SERVICE

The undersigned, Michael E. Unke, attorney for H.T. Albrecht & Sons, Inc., hereby certifies that he did serve a true and correct copy of the H.T. Albrecht & Sons, Inc.'s Disclosure of Witness on the following persons:

Rodney Freeman
Prehearing Chairman
Water Management Board
P.O. Box 176
Huron, SD 57350

Brian Caruso, Chief
Water Resources Division
U.S. Fish and Wildlife Service
P.O. Box 25486 DFC
Denver, CO 80225-0486

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capital Avenue
Pierre, SD 57501-31-82

Jim Hutmacher
Water Management Board Chairman
802 E. 7th Street
Oacoma, SD 57365

Ann Mines Bailey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501
Counsel for Water Rights Program
DENR

Jeffrey Albrecht
21749 435th Avenue
DeSmet, SD 57231

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

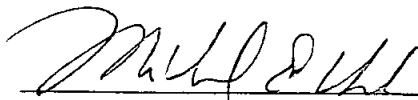
Justin G. Smith
Woods, Fuller, Shultz & Smith
300 S. Phillips Avenue, #300
Sioux Falls, SD 57117

via first class mail, postage prepaid this 31st day of October, 2016.

MICHAEL E. UNKE

ATTORNEY AT LAW
OFFICE PHONE 605-425-3131
FACSIMILE 605-425-2977
341 NORTH MAIN
P.O. BOX 529

SALEM, SOUTH DAKOTA 57058-0529



Michael E. Unke
Attorney for H.T. Albrecht & Sons



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NOV 16 2016

WATER RIGHTS
PROGRAM

November 14, 2016

Justin G. Smith
Justin.Smith@woodsfuller.com
Extension 634

Department of Environment and
Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Re: In the Matter of Water Application No. 8226-3, Jeffrey Albrecht

Greetings:

Enclosed for filing, please find Applicant's Disclosure of Exhibits and Applicant's Disclosure of Witnesses. Thank you.

Kindest personal regards,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink, appearing to read 'Justin G. Smith', is written over the printed name.

Justin G. Smith

Enclosures

cc: Michael E. Unke
Rodney Freeman
Matt Naasz
Ann Mines Bailey
Eric Gronlund
Jim Hutmacher

ATTORNEYS • EST. 1887

Street Address: 300 S. Phillips Avenue, Suite 300 | Sioux Falls, SD 57104-6322

Mailing Address: P.O. Box 5027 | Sioux Falls, SD 57117-5027

Phone: (605) 336-3890 | Fax: (605) 339-3357

WoodsFuller.com

{02448081.1}

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

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WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER APPLICATION NO. 8226-3, JEFFREY ALBRECHT	:	APPLICANT'S DISCLOSURE OF EXHIBITS
	:	
	:	

Applicant Jeffrey Albrecht hereby discloses the following exhibits, which may be offered into evidence.

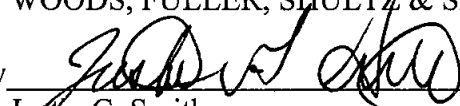
1. Application No. 8226-3.
2. Recommendation of Chief Engineer: App. No. 8226-3.
3. Report to Chief Engineer (Ken Buhler): 7/11/16
4. Curriculum Vitae (Ken Buhler)
5. Curriculum Vitae (Jeanne Goodman)
6. U.S. Fish and Wildlife Service Withdrawal of Petition
7. Letter of Michael E. Unke (08/10/2016)
8. Hydrology Analysis of Richard Hammond
9. Test Well Site Map

Applicant also reserves the right to introduce or rely upon any and all exhibits disclosed by any other party in this matter or any documents in the DENR file.

Dated this 14th day of November, 2016.

WOODS, FULLER, SHULTZ & SMITH P.C.

By


Justin G. Smith

J. Vincent Jones

300 South Phillips Avenue, Suite 300

Post Office Box 5027

Sioux Falls, South Dakota 57117-5027

(605)336-3890

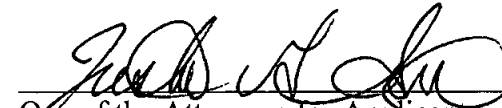
Attorneys for Applicant, Jeffrey Albrecht

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November, 2016, I sent to:

Michael E. Unke Attorney at Law P.O. Box 529 Salem, SD 57058-0529 <i>Counsel for H.T. Albrecht & Sons, Inc.</i>	Rodney Freeman Prehearing Chair Water Management Board P.O. Box 176 Huron, SD 57530
Matt Naasz Assistant Attorney General 1302 E. Hwy 14, Ste. 1 Pierre, SD 57501 <i>Counsel for Water Management Board</i>	Ann Mines Bailey Assistant Attorney General 1302 East Hwy 14, Ste. 1 Pierre, SD 57501-8501 <i>Counsel for Water Rights/DENR</i>
Eric Gronlund DENR Water Rights Program Foss Building 523 E. Capitol Ave. Pierre, SD 57501-3182	Jim Hutmacher Water Management Board Chairman 802 E. 7 th Street Oacoma, SD 57365

by United States first class mail, postage prepaid, a true and correct copy of the foregoing
Applicant's Disclosure of Exhibits.



One of the Attorneys for Applicant,
Jeffrey Albrecht

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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WATER RIGHTS
PROGRAM

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER APPLICATION NO. 8226-3, JEFFREY ALBRECHT	:	APPLICANT'S DISCLOSURE OF WITNESSES
	:	
	:	

Applicant, Jeffrey Albrecht, hereby discloses the following witnesses, who may be called to testify on behalf of Applicant at the hearing on December 1, 2016:

1. Jeffrey Albrecht, applicant for appropriation of water rights for irrigation, 21749 435th Avenue, De Smet, South Dakota 57231. Mr. Albrecht will testify regarding his Water Permit Application, Number 8226-3, and the necessity, intended use, and other details of his Application. Jeffrey will also testify about his family's current and predicted water usage, the performance and water production levels of his family's existing domestic and irrigation wells in the area, issues surrounding beneficial use, and any general issues related to the necessity and appropriateness of the new wells.

2. Richard Hammond, Certified Professional Geologist, 31585 460th Ave, Vermillion, South Dakota 57069, will testify regarding his involvement in the hydrology analysis supporting the filing of this Application 8226-3, including the location, drilling, and test data for the test wells. Richard will testify about his work and evaluation to determine the sufficiency of available water to support the Albrechts' irrigation needs detailed in Application 8226-3. Richard will also testify about the six test holes that were drilled on the property and the appropriateness of each such site for a potential well.

3. Greg Albrecht, 21692 435th Avenue, De Smet, South Dakota 57231. Mr. Albrecht will testify regarding Water Permit Application, Number 8226-3, and the necessity, intended use, and other details of the Application. Greg will also testify about his family's current and predicted water usage, the performance and water production levels of his family's existing domestic and irrigation wells in the area, issues surrounding beneficial use, and any general issues related to the necessity and appropriateness of the new wells.

4. Ken Buler, Engineer, South Dakota Department of Environment and Natural Resources, has been disclosed as a witness for the Department. Ken Buler's testimony will relate to his report conclusions, and expert engineering opinions on the nature and hydrologic characteristics of the aquifer, including his opinions regarding the availability of adequate water at the location of the two proposed well in Application 8226-3.

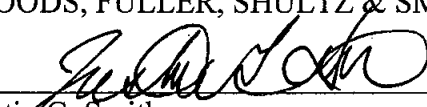
5. Jeanne Goodman, Chief Engineer, South Dakota Department of Environment and Natural Resources, has also been disclosed as a witness for the Department. Her examination will regard her recommended approval of the application based on the report, conclusions, and expert engineering opinions of Ken Buhler.

6. Applicant also reserves the right to call any and all witnesses disclosed by any other party for this matter, for purposes of either direct or cross-examination.

Dated this 14th day of November, 2016.

WOODS, FULLER, SHULTZ & SMITH P.C.

By


Justin G. Smith

J. Vincent Jones

300 South Phillips Avenue, Suite 300

Post Office Box 5027

Sioux Falls, South Dakota 57117-5027

(605) 336-3890

Attorneys for Applicant, Jeffrey Albrecht

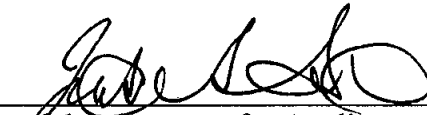
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Matt Naasz Assistant Attorney General 1302 E. Hwy 14, Ste. 1 Pierre, SD 57501 <i>Counsel for Water Management Board</i>	Ann Mines Bailey Assistant Attorney General 1302 East Hwy 14, Ste. 1 Pierre, SD 57501-8501 <i>Counsel for Water Rights/DENR</i>
Eric Gronlund DENR Water Rights Program Foss Building 523 E. Capitol Ave. Pierre, SD 57501-3182	Jim Hutmacher Water Management Board Chairman 802 E. 7 th Street Oacoma, SD 57365

by United States first class mail, postage prepaid, a true and correct copy of the foregoing

Applicant's Disclosure of Witnesses.



One of the Attorneys for Applicant,
Jeffrey Albrecht

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MAY 25 2016

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8226-3</u> (office use only) Hydrologic Unit <u>10170102</u>
	Basin: <u>Vermillion R</u>
	Newspaper <u>DeSmet News 605 854-3331 (Wed)</u> <u>Daily Leader, Madison 605 256-4555</u>

Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit Jeffrey Albrecht

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

Mailing Address 21749 435 Avenue DeSmet SD 57231
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605-203-1105 Email _____

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 102.5
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 2 wells in the Vermillion East Fork Aquifer

4. Location of point of diversion 1 well in the SW 1/4 of the SE 1/4 of section 35, T110n, R56w with a second
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
well in the SE 1/4 of the SE 1/4 of section 35, T110n, R56w if necessary County Kingsbury

5. County or counties where water will be used Kingsbury

6. Annual period during which water is to be used may-september 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NE of SE of section 35, T110n, R56w	33.5		
SE of SE of section 35, T110n, R56W	35		
SW of SE of section 35, T110n, R56w	34		

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

Center pivot irrigation of the above listed cropland. Additional water requested due to windshield wiper pivot irrigation machine and soil type.

I, Jeffrey Albrecht
Name of Person

OWNER
Title (if applicable)

, the applicant, certify under

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.

2015-10

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

(type or print)

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

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

For either Existing or Proposed Wells:

d) Distance to nearest domestic well on applicant's property 2000' Property owned by others 2400+

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

c) Connected to the City of _____ Sanitary System

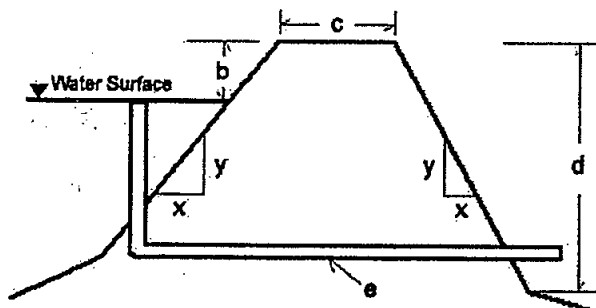
a) Surface Dimensions	Depth
-----------------------	-------

b) Depth to water (ground surface to water level) _____

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.

100

j) Drainage Area Above Dam Acres





The Leader in Precision Irrigation

Pivot center at 44.285444, -97.5166
 Arc Start Bearing: 353.6
 Arc Stop Bearing: 270.19
 [S] Spray off at 160° on at 200°
 [E] Spray off at 70° on at 110°
 [W] Spray off at 250° on at 290°

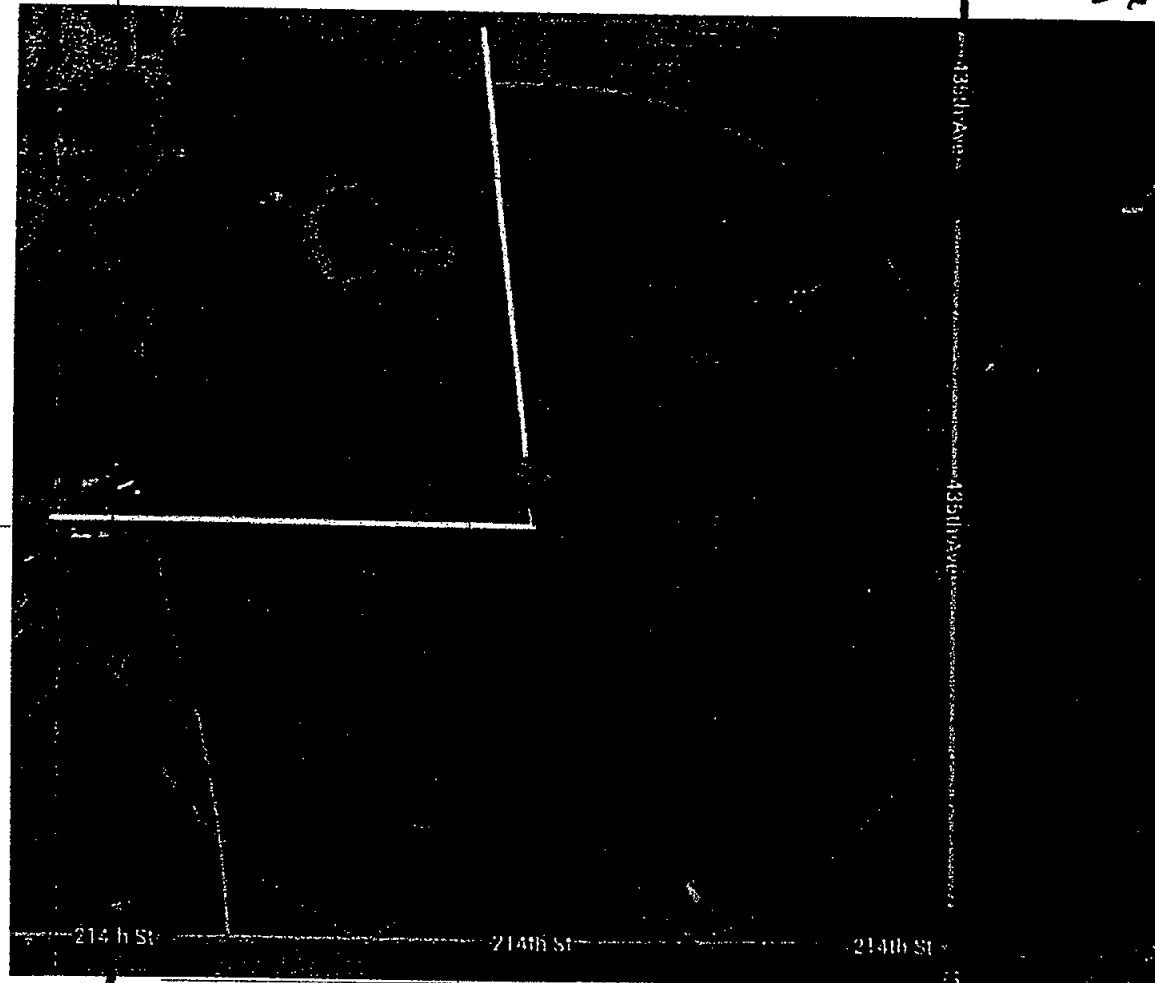
- 1 180 ft. Total: 180 ft.
Acreage: 1.79. Total: 1.79 acres.
 - 2 180 ft. Total: 360 ft.
Acreage: 5.38. Total: 7.17 acres.
 - 3 180 ft. Total: 540 ft.
Acreage: 8.97. Total: 16.14 acres.
 - 4 180 ft. Total: 720 ft.
Acreage: 12.55. Total: 28.7 acres.
 - 5 180 ft. Total: 900 ft.
Acreage: 16.14. Total: 44.85 acres.
 - 6 160 ft. Total: 1060 ft.
Acreage: 17.36. Total: 62.21 acres.
 - 7 140 ft. Total: 1200 ft.
Acreage: 17.51. Total: 79.73 acres.
- Overhang 82 ft. Total: 1282 ft.
 Acreage: 11.26. Total: 91 acres.
 Spray 120 ft. Total: 1402 ft.
 Acreage: 11.47. Total: 102.47 acres.

Prepared By: Heine Electric and Irrigation, Inc. T110N, R56W

For: Albrecht, John- South (Jeffrey)

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

Sect 35 | Sect 36

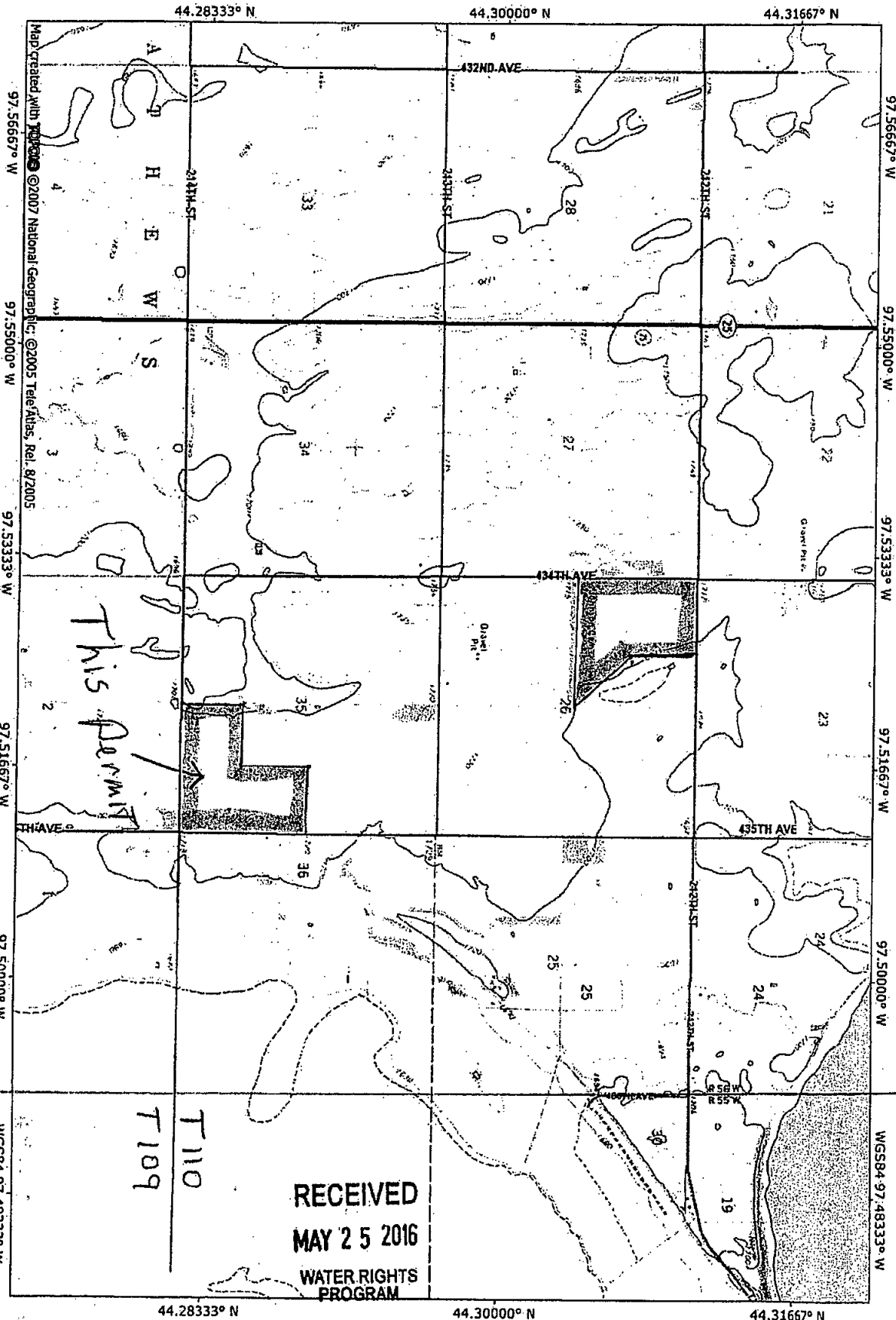


R. H. Hammond
 CP6 0272.

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R56

R55

T109

T110

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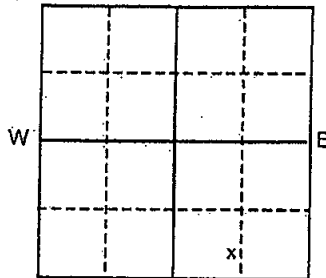
03/30/16
31°
TN MN

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw ¼ se ¼ Sec 35 Twp 110n Rg 56wCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

11/5/15

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
3,000.0 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other
If other describe none

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	5	9.4 Lb/gal	0.0 Ft	130.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____

☐ No, Why Not? _____
Lab to which water
quality sample sent for analysisWell Owner: Bill Albrecht

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
topsoil	0	3
clay, yellow	3	12
clay, yellow with gravel	12	24
clay, blue	24	30
clay, gray, glacial till	30	59
gravel, medium to fine	59	99
sand, fine, with clay beds	99	125
clay, blue	125	130

STATIC WATER LEVEL Under 20' FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____

☐ Bailed

☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 1 - 2015

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WATER RIGHTS
PROGRAMThis well was drilled under license # 810 and this
report is true and accurate.Drilling firm: Heine Electric & Irrigation, Inc.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

FILE COPY

RECEIVED

MAY 25 2016

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8226-3</u> (office use only)
	Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion R</u>
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Application For Permit To Appropriate Water For Irrigation

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(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 Jeffrey Albrecht

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

Mailing Address 21749 435 Avenue DeSmet SD 57231
(Address) (City) (State) (Zip Code)Phone _____ Mobile 605-203-1105 Email _____2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 102.5
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply 2 wells in the Vermillion East Fork Aquifer4. Location of point of diversion 1 well in the SW 1/4 of the SE 1/4 of section 35, T110n, R56w with a second
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
well in the SE 1/4 of the SE 1/4 of section 35, T110n, R56w if necessary County Kingsbury5. County or counties where water will be used Kingsbury6. Annual period during which water is to be used may-september 307. 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
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8. Give a description of the project. (Attach sheet if more space is needed)

Center pivot irrigation of the above listed cropland. Additional water requested due to windshield wiper pivot irrigation machine and soil type.

8

I, Jeffrey Albrecht, 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.

2015-10

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

(type or print)

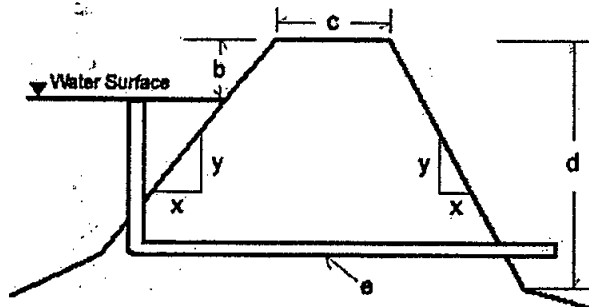
a) If new wells, how many 2 Have test holes been drilled ☒ Yes ☐ No Drilled by Heine Electric & Irrigation, Inc.
(if yes, please provide copies of logs)

For either Existing or Proposed Wells:

d) Distance to nearest domestic well on applicant's property 2000' Property owned by others 2400+

c) Connected to the City of Sanitary System

b) Depth to water (ground surface to water level) _____



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



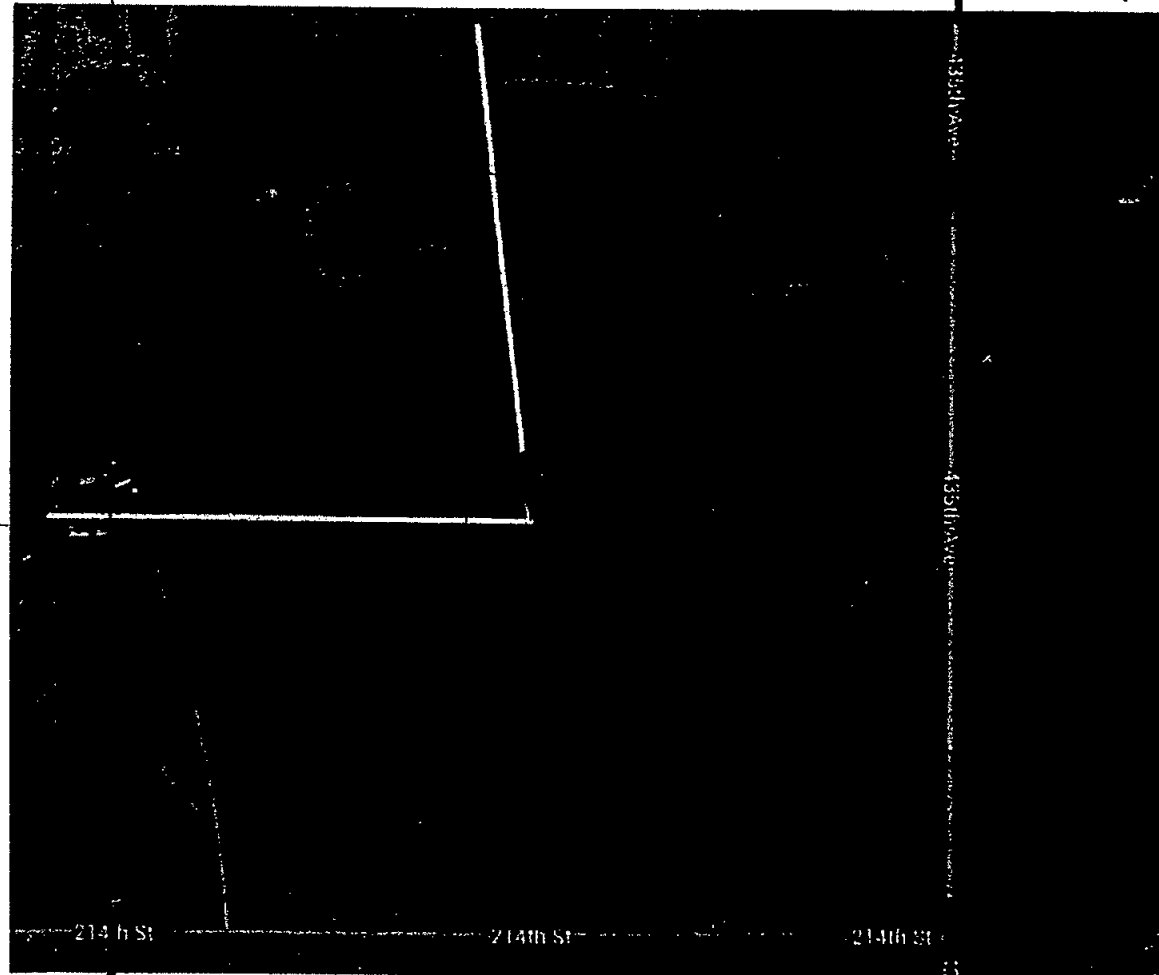
The Leader in Precision Irrigation

Pivot center at 44.285444, -97.5166
 Arc Start Bearing: 353.6
 Arc Stop Bearing: 270.19
 [S] Spray off at 160° on at 200°
 [E] Spray off at 70° on at 110°
 [W] Spray off at 250° on at 290°

- 1 180 ft. Total: 180 ft.
Acreage: 1.79. Total: 1.79 acres.
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- Overhang 82 ft. Total: 1282 ft.
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- Spray 120 ft. Total: 1402 ft.
Acreage: 11.47. Total: 102.47 acres.

Prepared By: Heine Electric and Irrigation, Inc. T110N, R56W
 For: Albrecht, John- South (Jeffrey)
 Questions or concerns? Please call us at 402-640-1999!

Sect 35 | Sect 36.



R.H. Hammond
 CP6 0272.

↑
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2635'

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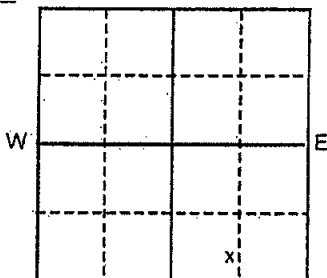
3/29/2016 4:13 PM

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw 1/4 se 1/4 Sec 35 Twp 110n Rg 56wCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

11/5/15

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
3,000.0 ft. from septic tank (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other
 If other describe none

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	5	9.4 Lb/gal	0.0 Ft	130.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter Inches Length Feet
Material Slot Size Set From Feet to FeetOther information WAS A PACKER OR SEAL USED? ☐ Yes ☒ NoIf so, what material? Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?
☐ No, Why Not?
 Lab to which water quality sample sent for analysis
Well Owner: Bill AlbrechtBusiness Name: Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
topsoil	0	3
clay, yellow	3	12
clay, yellow with gravel	12	24
clay, blue	24	30
clay, gray, glacial till	30	59
gravel, medium to fine	59	99
sand, fine, with clay beds	99	125
clay, blue	125	130

STATIC WATER LEVEL

Under 20' FEETIf flowing: closed in pressure PSIGPM flow through Inch pipeControlled by ☐ Valve ☐ Reducers ☐ Other Reduced flow rate GPMCan 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

TEST 1 - 2015

RECEIVED

MAY 25 2016

WATER RIGHTS
PROGRAMThis well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & Irrigation, Inc.Signature of License Representative: Signature of Well Owner or Equitable Property Holder: Date:



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. 8226-3, Jeffrey Albrecht

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. 8226-3, Jeffrey Albrecht, 21749 435th Avenue, DeSmet SD 57231.

The Chief Engineer is recommending APPROVAL of Application No. 8226-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8189-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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
July 25, 2016

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8226-3
JEFFREY ALBRECHT
JULY 11, 2016

Water Permit Application No. 8226-3 proposes to appropriate water from the Vermillion East Fork aquifer for the purpose of irrigating 102.5 acres located in the E $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35, T110N-R56W. The applicant intends to divert water from two wells approximately 100 feet deep, located in the S $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec.35, T110N-R56W, at a maximum diversion rate of 1.78 cubic feet per second (cfs). The applicant is requesting a diversion rate greater than the statutory limit of one cfs per 70 acres.

AQUIFER: Vermillion East Fork (VEF)

GENERAL:

The Vermillion East Fork aquifer was identified by Hedges and others (1982) as a surficial aquifer associated with the Vermillion East Fork River valley. The *First Occurrence of Aquifer Materials in Kingsbury County, South Dakota* (Schulz, 2007), indicates the uppermost aquifer material in the vicinity of the well sites proposed by this application as "Outwash: First occurrence is generally at land surface." The Vermillion East Fork aquifer is a glacial meltwater deposit consisting of medium to very coarse sand and fine gravel. The aquifer extends from Clark County to Turner County where it blends into the Parker Centerville outwash (Hedges and others, 1982). Subsequent work by the United States Geological Survey in Kingsbury County defined the Vermillion East Fork aquifer as a generally unconfined aquifer with the top of the aquifer ranging from land surface to as much as 120 feet (Hamilton, 1989). The report for the test hole submitted with this application identifies sand and gravel from 59-125 feet below grade. The DENR-Water Rights Program and the SD Water Management Board has considered the source aquifer for nearby observation wells and wells supplying water rights/permits that are completed into outwash deposits encountered at elevations similar to the elevation of the outwash this application proposes to develop wells into, the Vermillion East Fork aquifer.

The Vermillion East Fork aquifer is estimated to underlie approximately 94 square miles of Kingsbury County along a northwest trending 2-4 mile wide band (Hamilton, 1989). Due to a groundwater flow divide identified in the aquifer approximately four miles north of DeSmet, SD, the portion of the aquifer north of the divide is considered the Spirit Lake management unit of the Vermillion East Fork aquifer. As a result of a constriction in the areal extent of the aquifer and a groundwater divide near the Kingsbury/Miner County line, Stonesifer (2014) postulated a separate management unit of the aquifer located south of Township 112 North and north of the Kingsbury/Miner County line could be considered. This postulated management unit of the Vermillion East Fork aquifer is estimated to have a total areal extent of approximately 42,500 acres and contain an estimated 127,000 acre feet of water in storage (Stonesifer, 2014). The aquifer is generally under unconfined conditions and groundwater movement is likely from the northwest to southeast (Hamilton, 1989). The aquifer is hydraulically connected to Lake Thompson. The hydraulic conductivity of the aquifer is estimated to range from 200 to 600 ft²/d and well yields may be as high as 1,000 gallons per minute (Hamilton, 1989).

SDCL 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is 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 water availability and existing rights issues only.

WATER AVAILABILITY:

Water Permit Application No. 8226-3 proposes to appropriate water from the Vermillion East Fork aquifer. Approval of this application is likely to result in an average annual water use of less than 85 acre-feet annually (ac-ft/yr). The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older or lower than the Greenhorn Formation and a water distribution system has applied for a permit, the Board need not consider the recharge/withdrawal issue. Here, a water distribution system is not involved and the aquifer is not older or lower than the Greenhorn Formation, therefore the withdrawal/recharge issue must be considered.

Hydrologic Budget:

Recharge:

Recharge to the Vermillion East Fork aquifer occurs through infiltration of precipitation, leakage from adjacent and underlying till, and inflow from other management units (Hamilton, 1989). The average annual recharge for this unnamed management unit of the Vermillion East Fork aquifer has not been quantified. However, average annual recharge to the adjacent Spirit Lake management unit was estimated to be approximately 4.0 inches per year through observation well analysis (Hedges and others, 1985). Due to the proximity of the two management units and their similar characteristics, the recharge rate to the two management units is expected to be similar. Therefore, the average annual recharge to this postulated management unit is estimated to be approximately 14,200 acre-feet per year.

Discharge:

Discharge from this unnamed management unit of the Vermillion East Fork aquifer is through evapotranspiration, outflow to adjacent lakes, groundwater outflow to Miner County, and well withdrawals for domestic, commercial, rural water system, municipal, and irrigation use (Water Rights, 2016b and Water Rights 2016c). The water rights/permits appropriating water from the unnamed management unit of the Vermillion East Fork aquifer that Water Permit Application No. 8226-3 proposes to appropriate from are shown in Table 1.

Although there are a number of domestic wells on file, considering rural water has replaced most domestic wells as a primary source and the relatively low amount of water used by a typical domestic well, the amount of water withdrawn annually for domestic use is not significant to the hydrologic budget for this management unit.

Appropriations from this unnamed management unit of the Vermillion East Fork aquifer for uses other than irrigation include: four water rights appropriating water for rural water system use, three municipal water rights, and two future use permits. Water use by these non-irrigation uses is estimated assuming water rights/permits limited by diversion rate only will divert at the maximum authorized diversion rate 60 percent of the time and water rights limited to an annual volume of water will divert the entire allotment. It is assumed that future use permits can be fully developed.

Kingbrook Rural Water System, Inc. has four water rights authorizing a total diversion rate of 5.76 cfs and a total annual appropriation of 1,350 ac-ft/yr, and one future use permit reserving 1,100 ac-ft/yr (Water Rights, 2016b). The amount of water that can be expected to be withdrawn through these appropriations is estimated to be 2,450 ac-ft/yr.

The City of DeSmet has three water rights authorizing a total diversion rate of 4.334 cfs and one future use permit reserving 625 ac-ft/yr. The amount of water that can be expected to be withdrawn through these appropriations is estimated to 2,508 ac-ft/yr.

Historic irrigation use from the Vermillion East Fork aquifer is shown in table 2.

Table 1. Water Rights/Permits appropriating water from the Vermillion East Fork aquifer in Kingsbury County

PERMIT NO	NAME	PRIORITY DATE	STATUS	USE	CFS	ACRES
1456A-3	H T ALBRECHT & SONS INC	11/09/1967	LC	IRR	1.33	124
1487-3	IRA ALBECK	12/29/1967	LC	IRR	1.85	130
1533-3	RUSTIN E & AUSTIE LEE ALBRECHT	11/09/1967	LC	IRR	2.66	293
1652-3	CITY OF DESMET	12/24/1968	LC	MUN	2.22	0
2037-3A	TIM SULLIVAN	12/17/1973	LC	IRR	1.89	132
3312-3	CLARENCE STUBBE	12/07/1976	LC	IRR	1.88	132
3478-3	FARRON PRATT	12/10/1976	LC	IRR	1.33	110
3499A-3	WILLIAM POPPEN	12/28/1976	LC	IRR	1.77	132
3822-3	JOAN A JENCKS	02/15/1977	LC	IRR	1.34	126
3825-3	SHIRLEY ALLEN	03/04/1977	LC	IRR	1.31	92
3937-3	WENDELL SCHUBLOOM	04/27/1977	LC	IRR	0.4	28.7
3960-3	WALLUM FARMS INC	03/09/1977	LC	IRR	0.94	66
4137-3	KINGBROOK RWS INC	03/04/1977	LC	RWS	1.06	0
4245-3	ALAN AUGHENBAUGH	02/27/1978	LC	IRR	1.77	205
4795-3	CITY OF DESMET	01/01/1922	LC	MUN	2.11	0
5186-3	KINGBROOK RWS INC	03/29/1988	LC	RWS	0.7	0
5258-3	KINGSBURY CO COUNTRY CLUB	12/07/1988	LC	IRR	0.52	37
5426-3	KINGBROOK RWS INC	08/15/1988	LC	RWS	1.4	0
6731-3	KINGBROOK RWS INC	06/05/2006	LC	RWS	2.6	0
6759-3	CITY OF DESMET	09/27/2006	LC	MUN	0.004	0
7279-3	H T ALBRECHT & SONS INC	11/17/2011	PE	IRR	1.92	135
7307-3	WESLEY TOEWS FAMILY TRUST	01/17/2012	PE	IRR	4	296
7674-3	BOB TIMP	01/24/2013	PE	IRR	4.44	360
7855-3	WILLIAM POPPEN	07/08/2013	PE	IRR	0.89	40
7981-3	FARRON PRATT	03/06/2014	PE	IRR	0.58	24
8050-3	RONALD BENSON	09/19/2014	PE	IRR	2.22	172
8168-3	NORMAN LEE	06/09/2015	PE	IRR	2.49	195.6
8169-3	LYLE ANDERSON	06/09/2015	PE	IRR	0.85	67.3
LC= Water Right, PE= Water Permit, IRR= Irrigation, MUN= Municipal, RWS= Rural Water System						

Table 2. Irrigation appropriation and pumpage from the Vermillion East Fork aquifer (Modified from Capen, 2015, Water Rights, 1980-2016)

Year	Number of Permits Reporting	Appropriation	Pumpage Reported
		(ac-ft/yr)	(ac-ft/yr)
1979	23	10193.0	1553.36
1980	23	10193.0	1531.92
1981	23	10193.0	982.46
1982	22	8691.6	393.15
1983	22	8691.6	710.13
1984	21	9783.8	694.00
1985	20	9303.8	865.00
1986	21	9500.6	485.00
1987	21	9270.6	661.00
1988	21	9270.6	973.00
1989	22	9270.6	1147.60
1990	22	9670.6	1969.00
1991	22	8696.6	877.00
1992	17	6147.1	619.60
1993	17	6192.1	146.20
1994	16	5602.1	439.12
1995	16	5602.1	253.59
1996	16	5602.1	835.64
1997	16	5582.1	802.00
1998	16	5602.1	850.36
1999	16	5602.1	588.69
2000	16	5602.1	950.39
2001	16	5602.1	891.71
2002	16	5416.1	985.08
2003	16	5416.1	1141.42
2004	15	5152.1	839.32
2005	15	5152.1	966.60
2006	15	5152.1	1090.45
2007	14	4966.1	1178.74
2008	14	4966.1	1253.00
2009	14	4966.1	464.11
2010	14	4966.1	277.89
2011	14	4966.1	517.48
2012	16	5828.1	1644.78
2013	17	6548.1	1603.63
2014	19	6676.1	1229.64
2015	21	6840.1	1478.1
Max	23	10193	1969
Min	14	4966.1	146.2
Average	17.97	6942.62	915.95

Water Balance:

The annual average withdrawal from this postulated management unit of the Vermillion East Fork aquifer through current appropriations is expected to be approximately 6,180 ac-ft/yr. Expected average annual usage includes: (1) Kingbrook RWS water rights/permits and future use permit (2450 ac-ft/yr); (2) City of DeSmet water rights/permits and future use permit (2508 ac-ft/yr); (3) average irrigation withdrawals from table 2 (915.95 ac-ft/yr); (4) development of Water Permit Nos. 8168-3 and 8169-3, with an average application rate of 10 inches per acre per year (219 ac-ft/yr); and (5) development of Water Permit 8226-3, with an average application

rate of 10 inches per acre per year (85 ac-ft/yr). The average annual recharge is estimated to be 14,200 ac-ft/yr. Therefore, there is a reasonable probability that unappropriated water is available to support the proposed appropriation.

Observation Well Data:

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DENR-Water Rights Program monitors nine observation wells completed into the this postulated management unit of the Vermillion East Fork aquifer. Hydrographs for the observation wells are shown in Figures 1-9.

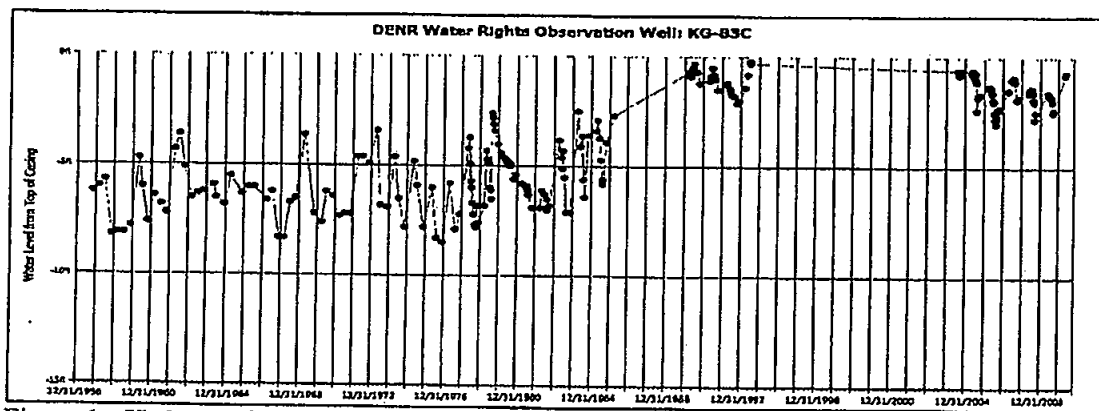


Figure 1. Hydrograph for Vermillion East Fork aquifer observation well located approximately two miles northeast of the well sites proposed by Water Permit Application No. 8266-3.

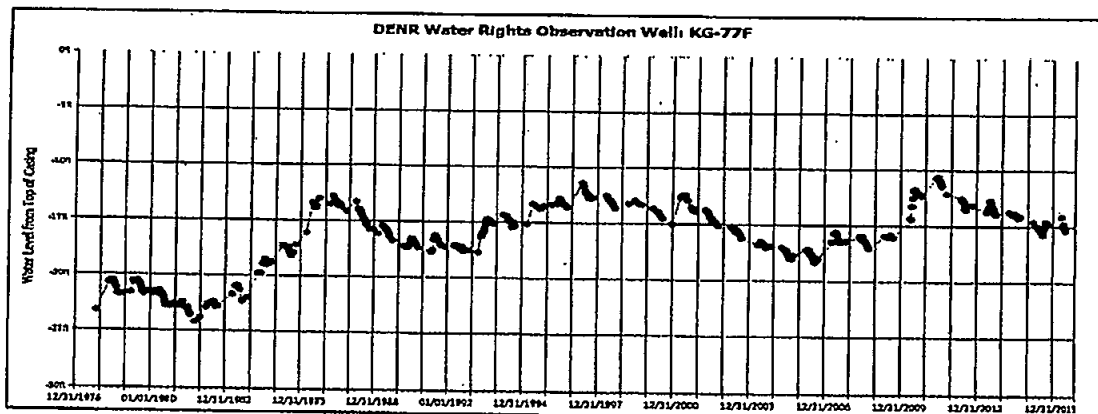


Figure 2. Hydrograph for Vermillion East Fork aquifer observation well located approximately four miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

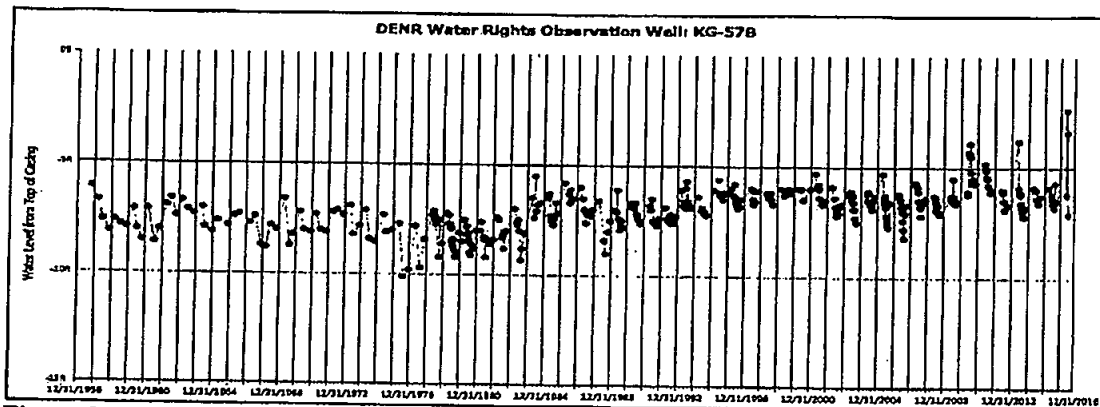


Figure 3. Hydrograph for Vermillion East Fork aquifer observation well located approximately six miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

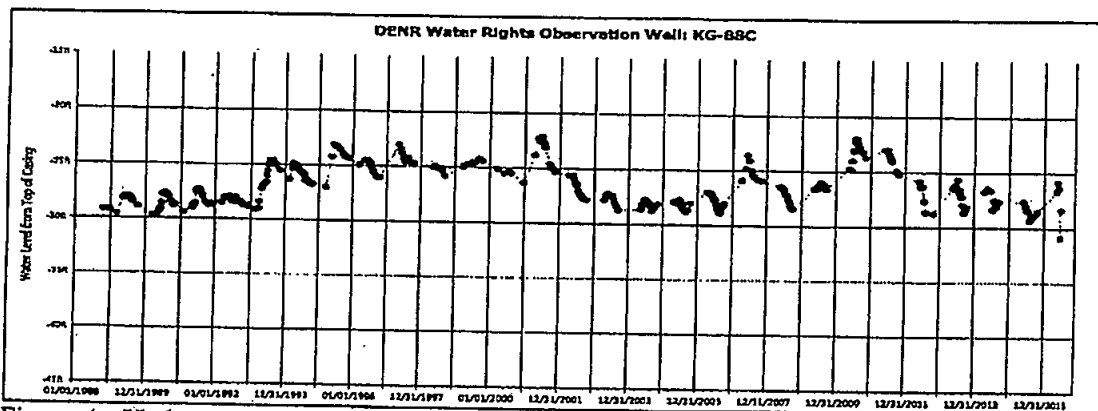


Figure 4. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

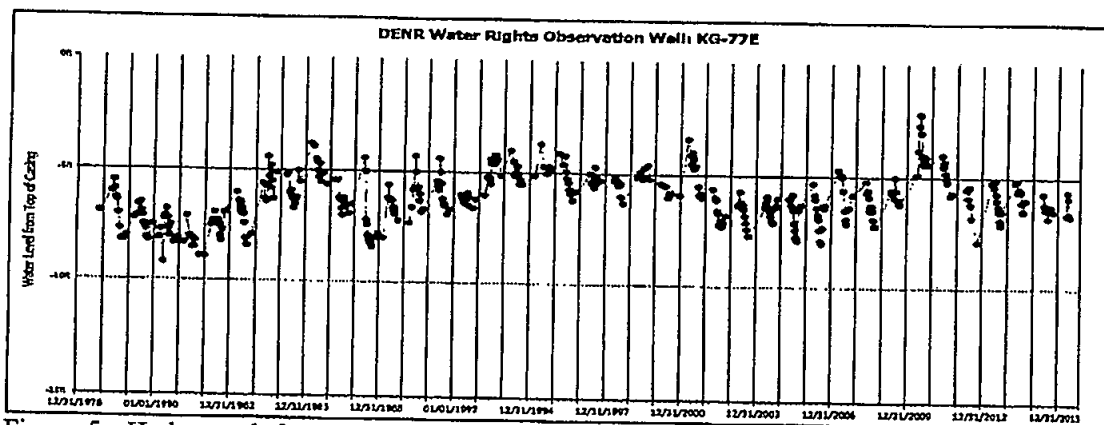


Figure 5. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

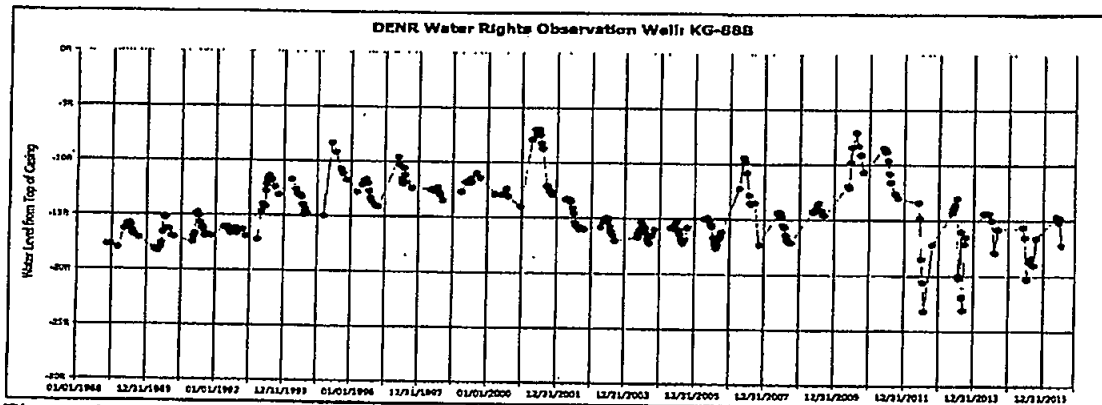


Figure 6. Hydrograph for Vermillion East Fork aquifer observation well located approximately nine miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

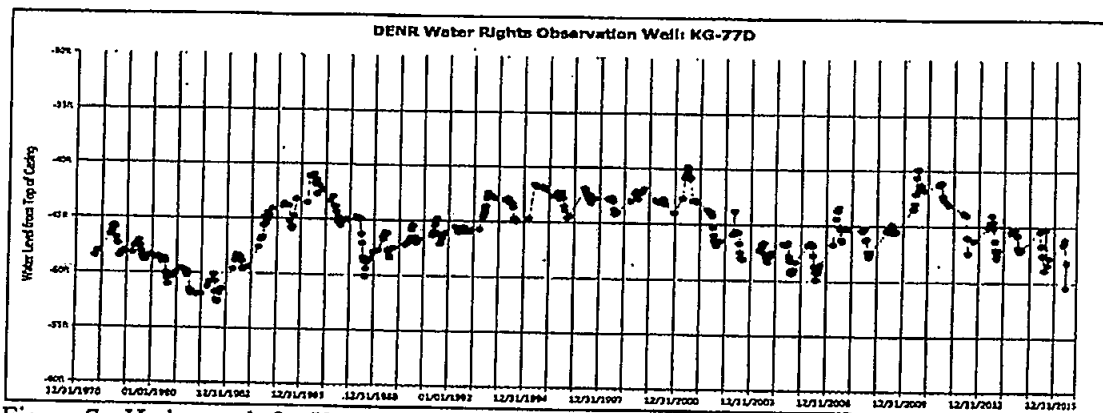


Figure 7. Hydrograph for Vermillion East Fork aquifer observation well located approximately 10 miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

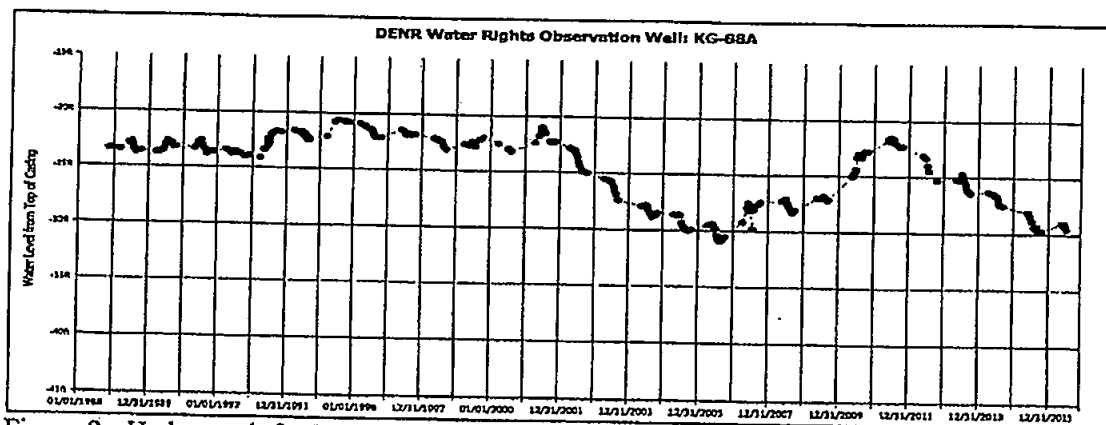


Figure 8. Hydrograph for Vermillion East Fork aquifer observation well located approximately 12 miles northwest of the well sites proposed by Water Permit Application No. 8266-3.

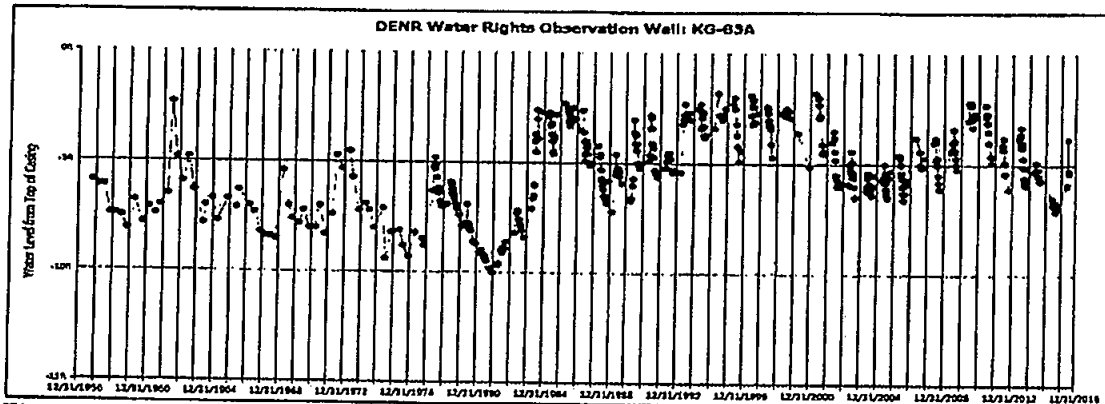


Figure 9. Hydrograph for Vermillion East Fork aquifer observation well located approximately 12 miles north-northwest of the well sites proposed by Water Permit Application No. 8266-3.

In general, the hydrographs show stable or upward trending water levels over the period of record. The hydrograph for KG-88A (Figure 8) is an exception due to the proximity and influence of the Kingbrook Rural Water System well field. Note the break in data shown in the hydrograph for observation well KG-83C (Figure 1) is the result of the well's inaccessibility for a number of years. In addition to the period from 1993-2004, the well has been inaccessible since June 15, 2010. The hydrographs document that the aquifer responds well to climatic conditions with rising water levels during wet years and declining water levels during dry years. The data documents that at the current level of development temporal well withdrawal is masked by climatic conditions. Therefore, recharge to and natural discharge from the aquifer greatly exceeds well withdrawal, so water is available for capture before natural discharge. Therefore, unappropriated water is available from the Vermillion East Fork aquifer to support the proposed appropriation.

AFFECTS ON EXISTING RIGHTS:

The approximate location of wells supplying water rights/permits appropriating water from the Vermillion East Fork aquifer in the vicinity of the well sites proposed by this application are shown in Figure 10, and identified in Table 3.

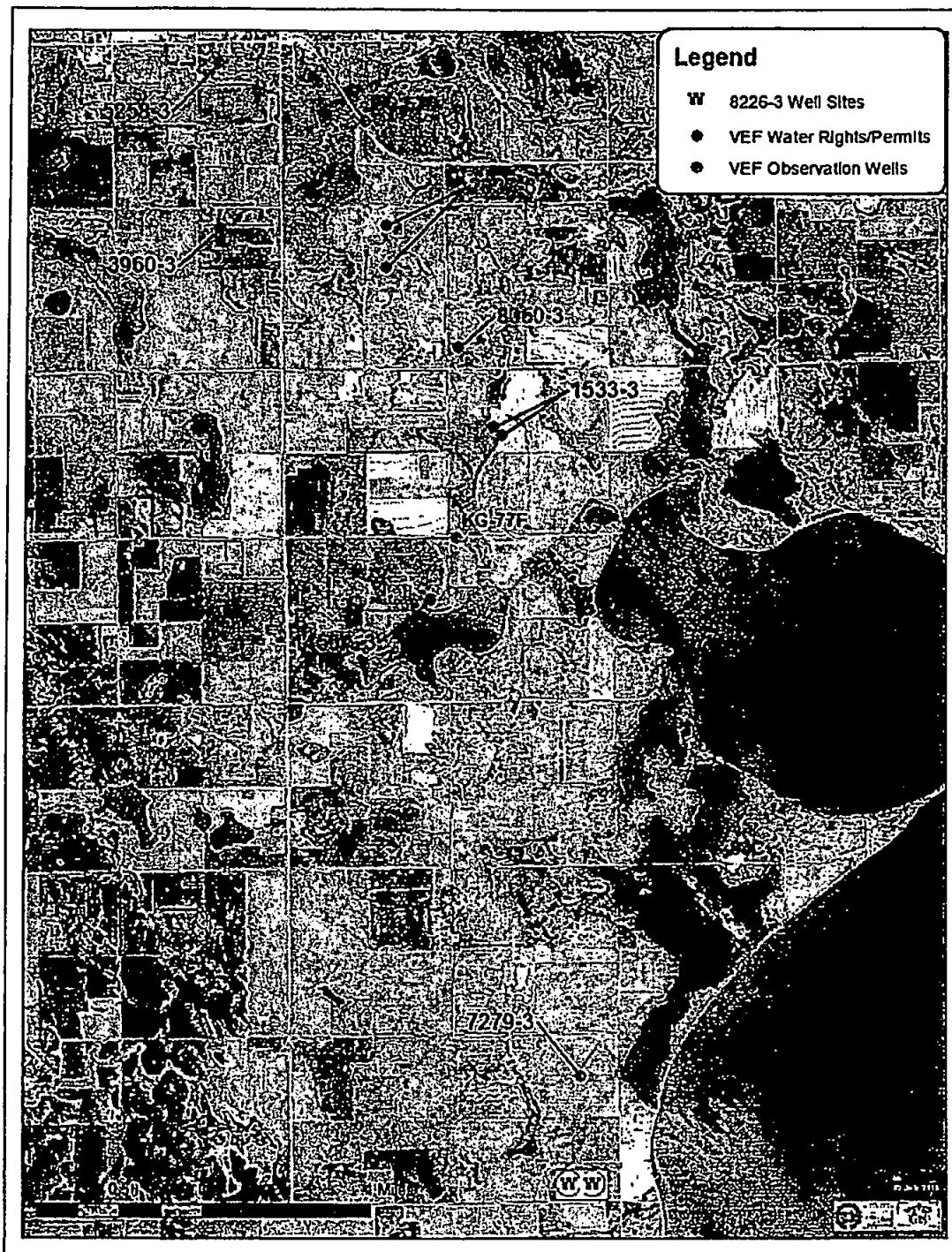


Figure 10. Map showing the approximate location of: (1) the well sites proposed by Application No. 8226-3; (2) wells supplying water rights/permits appropriating water from the Vermillion East Fork aquifer in the vicinity of the proposed well sites; and (3) DENR-Water Rights observation wells completed into the Vermillion East Fork aquifer in the area (Water Rights, 2016b).

Table 1. Water Rights/Permits shown in Figure 10(Water Rights, 2016b).

PERMIT NO	NAME	PRIORITY DATE	STATUS	USE	CFS	ACRES
1533-3	RUSTINE & AUSTIE LEE ALBRECHT	11/09/1967	LC	IRR	2.66	293
2037-3A	TIM SULLIVAN	12/17/1973	LC	IRR	1.89	132
3960-3	WALLUM FARMS INC	03/09/1977	LC	IRR	0.94	66
5258-3	KINGSBURY CO COUNTRY CLUB	12/07/1988	LC	IRR	0.52	37
1456A-3	H T ALBRECHT & SONS INC	11/09/1967	LC	IRR	1.33	124
7279-3	H T ALBRECHT & SONS INC	11/17/2011	PE	IRR	1.92	135
8050-3	RONALD BENSON	09/19/2014	PE	IRR	2.22	172

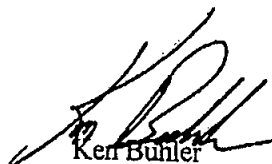
Since the Vermillion East Fork aquifer is under unconfined conditions, drawdown does not extend very far from individual production wells. This is shown by the observation well hydrographs (Figures 1-9). Except for KG-88C (Figure 4), and KG-83C (Figure 1) the observation wells are located within one-half mile of one or more high production wells (either irrigation or RWS) yet the effects of pumping are not significant on the water levels of the observation wells. Precise drawdown estimates have not been quantified at this time, however, the Water Management Board has consistently recognized that to place water to maximum beneficial use a certain amount of drawdown will occur. Adequate wells defined by ARSD 74:02:20(7) are not expected to be adversely impaired due to the additional diversion from the well.

SDCL 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs for every 70 acres, or "the equivalent thereof." The statute does provide that the Water Management Board may allow a greater diversion rate if the method of irrigation so requires. Water Permit Application No. 8226-3 proposes to divert up to 1.78 cfs from the Vermillion East Fork aquifer for the irrigation of 102.5 acres, or the equivalent of 1.22 cfs per 70 acres. The applicant indicates "Additional water requested due to windshield wipe pivot irrigation machine and soil type."

CONCLUSIONS:

1. The Vermillion East Fork aquifer is a viable aquifer in this area.
2. There is a reasonable probability that unappropriated water is available from the Vermillion East Fork aquifer for this proposed appropriation.
3. There is a reasonable probability that this appropriation can be developed without an adverse impact on existing users.



Ken Buhler
SD DENR-Water Rights Program

REFERENCES:

- Capen, B., 2015, Report to the Chief Engineer Water Permit Application Nos. 8168-3 and 8169-3, Norman Lee and Lyle Anderson C/O Kevin Toews, July 31, 2015: SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Hamilton, L.J., 1989, Water Resources of Brookings and Kingsbury Counties, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 88-4185, 82 p.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., Schoon, R.A., 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Hedges, L.S., Allen, J., and Holly, D.E., 1985, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge, Final Report; U.S. Army Corps of Engineers Contract DACW 45-80-C-0185
- Stonesifer, J.R., 2014, Report to the Chief Engineer, Water Permit Application No. 7981-3, Farron Pratt, April 28, 2014: South Dakota DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Schulz, L.D., 2007, First Occurrence of Aquifer Materials I Kingsbury County, South Dakota: South Dakota Geological Survey Aquifer Materials Map 24, Scale 1:100,000
- Water Rights, 1980-2016, "Irrigation Questionnaire Summaries", SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016a, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016b, Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2016c, Water Well Completion Reports, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

KEN BUHLER

EDUCATION

B.S. Geological Engineering, South Dakota School of Mines and Technology, 1981

CAREER EXPERIENCE

Engineer III - SD Dept of Environment and Natural Resources, Water Rights Program: Responsibilities: Conducting ground water investigations and investigating complaints, managing the Observation Well Network, compiling water well data, preparing and reviewing reports for new ground water permit applications, providing technical assistance to the Chief Engineer and providing expert testimony to the Water Management Board on contested water permit applications. Responsible for the management of the state's water well construction program, including licensure and regulation of well drillers operating in South Dakota and administration of the SD Well Construction Standards. Monitor water use, investigate violation complaints and conduct water permit reviews for licensing. Provide technical assistance to the Water Management Board through evaluating ground water permit applications and through interpretation of data from the statewide observation well network.

District Field Engineer – Western Company of North America: Designed oil well stimulation and cementing programs and ensured QA/QC for the District's services.

SPECIAL PROJECTS

Provided technical assistance to the Steering committees for the Black Hills Hydrology Study and the Black Hills Water Management Study.

Provided technical assistance and expert testimony before the South Dakota Water Management Board for Well Construction Rules promulgation, well construction enforcement and well driller licensing issues since 1985.

TESTIMONY

Testified as an expert witness before the South Dakota Water Management Board since 1985. Cases since March 7, 1990 include:

- Water Permit Application No. 2745-2, Croell Redi Mix
- Deferred Applications from the Upper Vermillion Missouri:North Aquifer: No. 7468-3, Cleland Hagen Trust; No. 7558-3, Cleland Trust; No. 7587-3, Paul Petersen
- Water Permit Application No. 8126-3, David, Cathy, Brian, Krista Smit
- Water Permit Application No. 2737-2, Summer Creek Inn
- Water Permit Application No. 2730-2, United Order of South Dakota
- Water Permit Application Nos. 8066-3 and 8127-3, Teton LLC
- Water Permit Applications from the Tulare: Western Spink Hitchcock Aquifer: Nos. 7858-3 and 7859-3-Brad Peterson; No. 7860-3-Oscar Inc; No. 7894-3-Van Buskirk Farms
- Water Permit Applications from the Tulare: East James Aquifer: Nos. 7875-3, 7876-3 and 7877-3- Lenny Peterson; Nos. 7878-3, 78779-3, 7880-3, 7881-3, 7882-3 and 7884-3- Oscar Inc.
- Water Permit Application No. 8032-3, Arthur Olsen
- Water Permit Application No. 2078A-3, Riverside Hutterian Brethren

- Water Permit Application Nos. 7369A-3, 7369B-3 and 7369C-3, Huron Hutterian Brethren
- Water Permit Application No. 8068-3, Thunder Ridge RE LLC
- Consideration of Water Permit Application No. 8013-3, Riverside Hutterian Brethren
- Consideration of Water Permit Application No. 4134-3, Bixler Farms
- Consideration of Deferred Applications from Upper Vermillion: Missouri aquifer Application
- No. 7725-3, Lenny Peterson; Nos. 7752-3, 7755-3, 7756-3, 7757-3, Lenny Peterson; Nos. 7726-3, 7727-3, 7753-3, 7754-3, 7759-3, Oscar Inc.; Nos. 7733-3, 7734-3, 7735-3, 7736-3, Van Buskirk Farms LLP
- Renewal of South Dakota Well Driller License No. 740, Brechtel & Sons Drilling
- South Dakota Well Driller License Application for RCS Construction
- South Dakota Well Pump Installer License Application for Babby Solar Pump Co.
- Well Driller License No. 473, Babby Well Drilling
- Application No. 7685-3, Michael Watson; No. 7716-3 Denis and Craig Slepikas; Nos. 7717-3, 7718-3, 7720-3, 7721-3, Terry Wieting; No. 7719-3, Marshall Brothers; Nos. 7722-3, 7723-3, 7724-3, Bren/Leland Kleinssaser; Nos. 7725-3, 7752-3, 7755-3, 7756-3, 7757-3, Lenny Peterson; Nos. 7726-3, 7727-3, 7753-3, 7754-3, 7759-3, Oscar Inc.; Nos. 7733-3, 7734-3, 7735-3, 7736-3, Van Buskirk Farms LLP
- Application No. 7747-3 Gordie Hofer
- Application No. 7551-3, Wayne Binger, Nos. 7570-3, 7571-3, 7572-3, 7574-3, 7575-3, 7637-3, 7638-3, 7639-3, 7640-3, Gary Marshall; No. 7620-3, Oscar, Inc.
- Application No. 7441-3, Gary or Julie Peterson; No. 7442-3, Gary or Julie Peterson; No. 7452-3, Jerome Hult; No. 7466-3, Bethel Hagen Trust; No. 7535-3, Donald D Benson; No. 7467-3, Cleland Hagen Trust; No. 7468-3, Cleland Hagen Trust; No. 7558-3, Cleland Hagen Trust; No. 7587-3, Paul Petersen; No. 7588-3, Paul Petersen; No. 7600-3, Michael D Stevens; No. 7601-3, Michael D Stevens; No. 7602-3, Michael D Stevens; No. 7603-3, Michael D Stevens; No. 7623-3, Darrell Osborn; No. 7633-3, Brad Farrar; No. 7653-3, Jeremiah Welsh
- Application No. 7386-3, Brian Gatzke; No. 7537-3, Bret Fliehs; No. 7541-3 Roger Schuelke; No. 7555-3 Craig Bass
- Application No. 7373-3, Terry Wieting; No. 7620-3, Oscar, Inc
- Application No. 7649-3, POET
- Application No. 7295-3, William St. Clair; No. 7348-3, Wipf Acres LP; No. 7365-3, Huron Colony; No. 7366-3, Huron Colony; No. 7367-3, Huron Colony; No. 7368-3, Huron Colony; No. 7369-3, Huron Colony; No. 7370-3, Huron Colony
- Application No. 7345-3, Jack Schmidt
- Application No. 7289-3, Bixler Farms; Nos. 7290-3 and 7291-3, Lee Gatzke; No. 7293-3, Jefferey Gatzke and No. 7292-3, Allen Gatzke
- Well Driller License No. 722, Stretch's Well Service
- Consider Application to renew SD Well Driller's License No. 672, Millbrook Industries
- Consider Application for a SD Well Driller's License, Ekern HomeEquipment Co. Inc
- Application No. 7165-3, Paul Buckneberg
- Appeal of Chief Engineer's Decision in the matter of a pond along Spring Creek
- Consider Application for a SD Well Driller's License, Aaron Marshall
- Application No. 2629-2, Fall River Water User District
- Application No. 2633-2, Southern Black Hills Water System
- Application No. 5156-3, Lincoln County Rural Water System, Inc.
- Application No. 2623-2, Colonial Pine Hills Sanitary District
- Application No. 6823-3, TM Rural Water District
- Application No. 1883-1, Pro Eco Energy
- Application No. 2610-2, United Land Management
- Application Nos. 2560A-2 & 2615-2, Fall River Water User District

- Application No. 6846-3, Otter Tail Corporation
- Application No. 1872-1, City of Spearfish
- Application No. 1864-1, Hay Creek Ranch
- Application No. 1858-1, Glencoe Camp Resort
- Application No. 1865-1, Jay Allen
- Application Nos. 2580-2 & 2585-2, Southern Black Hills Water System
- Application No. 2591-2, Larry and Geri Gustafson
- Application No. 1707E-1, Frawley Ranches
- Application No. 2560-2, Fall River Water Users District
- Application No. 2559-2, John Markus
- Application No. 2549-2, City of Custer
- Application No. 2544-2, Timmerman Brothers Ranch Co.
- Application No. 1707D-1, City of Spearfish
- Application No. 1803-1, Albert & Ryett Harty
- Application No. 1789-1, Sturgis Water Department
- Application No. 1779-1, City of Spearfish
- Application No. 1775-1, Alben, Inc
- Application No. 1769-1, DuWayne Mahlen
- Application No. 1772-1, Fisher Sand and Gravel Company
- Application No. 1758-1, No Name City RV & Cabins
- Application No. 2475-2, City of Rapid City
- Application No. 1756-1, Frawley Ranches, Inc
- Application No. 2466-2, Black Hills Generation
- Application No. 2461-2, Colonial Pine Hills Sanitary District
- Application No. 2459-2, Anita Cregut
- Application No. 2458-2, Red Rock Development
- Application No. 6245-2, Shamrock Colony
- Application No. 1707-1, Frawley Ranches
- Application No. 1733-1, Frawley Ranches
- Application No. 6070-3, Spencer Quarries
- Application No. 2427-2, Daniel and Gary Velder
- Application No. 6166-3, Oscar Inc.
- Application No. 1689-1, Jack Marler
- Application No. 6121-3, John Swanson
- Application No. 2418-2, Fall River RWS
- Application No. 1676-1, Stagebarn Subdivision
- Application No. 1674-1, Black Hawk Water User District
- Application No. 6094-3, Dan Christensen
- Application No. 6007-3, Bob's Resort, Inc.
- Application No. 6091-3, Brentwood Colony
- Application No. 2396-2, Flintstone Bedrock City
- Application No. 1670-1, Lyndon & Jane Kok
- Application No. 1666-1, Golden Reward
- Application No. 2400-2, Karlen Family Partnership
- Application No. 2395-2, Roy Alexander
- Application No. 6027-3, City of Brandon
- Application No. 2386-2, Town of Keystone
- Application No. 5996-3, Myrl & Roy's Paving
- Application No. 1650-1, Melvin Delzer
- Application No. 2385-2, Roger Robbins

- Application Nos. 5966-3 & 5967-3, Michael Williams
- Application No. 5965-3, Rodney Hofer
- Application No. 2313-2, Coca Cola bottling of the Black Hills
- Application No. 5797-3, Heartland Pork
- Application No. 2299-2, Custer School District 16-1
- Application No. 2235-2, The Fort
- Application No. 2204-2, Flintstone Bedrock City
- Application No. 5521-3, City of Sioux Falls
- Application No. 5522-3, City of Sioux Falls
- Application No. 5533-3, City of Sioux Falls
- Application No. 5556-3, City of Sioux Falls
- Application No. 2137-2, Frank Simpson
- Application Nos. 2155-2 & 2156-2, City of Rapid City
- Application No. 1478-1 Pete Lien & Sons, Inc
- Consideration of Alleged Seepage Problems with Hawthorne Ditch

Testified as an expert witness before the Sixth Circuit Court in the matter of Stretch's Well Service, Inc./Chuck Ross (Scattergun Lodge) well.

Testified as an expert witness before the Pierre City Council in the matter of flooding related groundwater issues

JEANNE GOODMAN, P.E.
CHIEF ENGINEER

EDUCATION

Bachelor of Science Degree in Geological Engineering, South Dakota School of Mines and Technology 1979

REGISTRATIONS, PROFESSIONAL SOCIETIES, AND AWARDS

1. South Dakota Registered Professional Engineer
2. South Dakota Engineering Society
3. Central Chapter SD Engineering Society Outstanding Engineer of 1995
4. Central Chapter SD Engineering Society Young Engineer of the Year 1986

CAREER EXPERIENCE

April 2013 – present – Chief Engineer, Water Rights Program, DENR. Administer the Program, which coordinates the appropriation of water resources in South Dakota to protect the public welfare and interest in the development of the water resources and determine in what way the water of the state should be developed for the greatest public benefit.

2000 – 2013 - Natural Resources Administrator, Surface Water Quality Program, DENR. Administer the Surface Water Quality program, which coordinates the prevention, reduction, measurement, and control of water pollutants to maintain water quality that is protective of the public's health and safety and the beneficial uses of the state's lakes and streams.

1997 – 2000 - Natural Resources Administrator, Air Quality Program, DENR. Administer the Air Quality program, which coordinates the prevention, reduction, measurement, and control of air pollutants to maintain air quality that is protective of the public's health and safety.

1987 – 1997 – Natural Resources Engineer IV, Ground Water Quality Program, DENR. Team Leader for ground-water discharge plans and enforcement of ground-water quality standards, Underground Injection Control, pesticides in Ground Water, and Wellhead Protection staff. Review storage tank plans and specifications. Supervise special water quality studies and the review of numerous regulated substance release assessments and remediations.

1981 – 1987 – Natural Resources Engineer/Hydrologist, Ground Water Quality Program, DWNR. Participated in writing Rural Clean Water Program/Comprehensive Monitoring and Evaluation proposal and workplan; reviewed mineral exploration permits for impacts to ground water; identified aquifers and compiled well data for Corps studies. Supervised staff and participated in ground water studies and investigations by installing and sampling monitoring wells; contributed sections to the Big Sioux Aquifer Water Quality study; prepared all contracts for Comprehensive Monitoring and Evaluation project, and assisted in installation of monitoring systems.

1979 – 1980 – Natural Resources Engineer I, Water Rights Program, DWNR. Investigated water rights complaints; reviewed water right applications; supervised installation of observation wells; prepared a report on flowing artesian wells.

TESTIMONY

Board of Water Management – In various capacities and responsibilities with DENR, provided testimony regarding permit application review and water use, water quality, and water monitoring relative to water right permit applications, General Water Pollution Control Permits for Concentrated Animal Feeding Operations, and ground water discharge plan applications, and proposed and modifications to Administrative Rules of South Dakota for ground water and surface water quality standards, beneficial use classifications for water bodies in South Dakota, and ground water and surface water discharge permits.

Board of Minerals and Environment – In various capacities and responsibilities with DENR, provided testimony regarding water use, water quality, and water monitoring relative to mineral and oil and gas exploration and development permits.

Court matters since 2008 - In re: *Veblen West Dairy, LLP, Chapter 11, Debtor. Bankr. No. 10-10071*. United States Bankruptcy Court, D. South Dakota (court testimony).
Storbeck, et. al. v. State of South Dakota, Third Judicial Circuit, Kingsbury County Civ. No. 07-69 (deposition).

MAJOR PUBLICATIONS

1. "South Dakota Ground-Water Quality" w/ Koch and Lawrence -USGS
USGS Open-file Report 87-0752, Goodman and Pirner - SDDWNR
2. "Agricultural Sources of Nitrate Contamination in a Shallow Sand and Gravel Aquifer in Eastern South Dakota", in *Perspectives on Nonpoint Source Pollution*, EPA 440/5-85-001.
3. "Non-Point Source Pesticide Contamination of Shallow Ground Water", ASTM Paper No. 892529, St. Joseph, Missouri, Kimball and Goodman.
4. "Nitrate and Pesticide Occurrence in Shallow Groundwater During the Oakwood Lakes-Poinsett RCWP Project", in *The National Rural Clean Water Program Symposium*, EPA/625/R-92/006.
5. "Coordination is the Project Cornerstone", in *The National Rural Clean Water Program Symposium*, EPA/625/R-92/006, Kuck and Goodman.
6. "Ground Water Monitoring – A Guide to Monitoring for Agricultural Nonpoint Source Pollution Projects", USDA-FSA, Huron, SD. Goodman, German, and Bischoff, January 1996.

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER WATER)	
APPLICATION NO. 8226-3, JEFFREY)	CERTIFICATE OF SERVICE
ALBRECHT)	
)	

The undersigned hereby certifies that on the 21st day of September 2016, true and correct copies of DENR'S Disclosure of Witnesses with attachments, in the above-entitled matter, were mailed by U.S. mail, first class, postage prepaid, to:

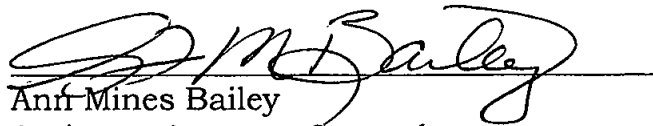
Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Counsel for H.T. Albrecht & Sons, Inc.

Justin G. Smith
Woods, Fuller, Shultz & Smith
300 S. Phillips Ave., #300
Sioux Falls, SD 57117

Brian Caruso, Chief
Water Resources Division
U.S. Fish and Wildlife Service
P.O. Box 25486 DFC
Denver, CO 80225-0486

Jeffrey Albrecht
21749 435th Ave.
DeSmet, SD 57231


Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605)773-3215

Counsel for Water Rights Program, DENR

RECEIVED

NOV 16 2016

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

U.S. FISH AND WILDLIFE'S
WITHDRAWAL OF PETITION

BACKGROUND

Jeffrey Albrecht (Albrecht) filed for a water permit application No. 8226-3 to appropriate water from the Vermillion East Fork aquifer for the purpose of irrigation. The applicant intends to divert water from two wells at a maximum diversion rate of 1.78 cubic feet per second (cfs) from two wells located in the S½SE¼ of Section 35, Township 110 North, Range 56 West. The United States Fish & Wildlife Service (USFWS) expressed initial concerns about the water permit related to the protection of a wetland easement on the property in an August 8, 2016 date-stamped letter to the South Dakota Department of Environment and Natural Resources. The Water Management Board treated that letter as a petition in its Motion for Procedural and Scheduling Order.

On October 7, 2016, USFWS Agent Natoma (Tomi) Hansen and Jeffrey Albrecht met to determine if actions could be taken with regard to the water permit which would protect the wetlands subject to the USFWS's easement (Kingsbury 366X). Jeffrey Albrecht clarified that he will only irrigate periodically over the course of the growing season, and not every day, from May 1st to September 30th. Jeffrey Albrecht also agreed to move the location of well 1 for a distance of 100 feet to the east of the test well location (well 1). This relocation

of well 1 will satisfy the USFWS's concerns about the water permit having a negative impact on the USFWS's wetland easement. If the irrigation system does impact the USFWS wetland easement in the future, the USFWS will work with Jeffrey Albrecht to minimize impacts by reducing the number of days irrigating or decreasing the CFS/GPM.

The substance of the agreement between the parties is reflected in the October 14, 2016 letter which was sent to Jeffrey Albrecht by the USFWS and is attached as Exhibit 1 to this pleading.

Based on the foregoing, the USFWS hereby withdraws its letter of August 8, 2016 which the South Dakota Chief Engineer viewed as a petition to participate in a hearing regarding Jeffrey Albrecht's SD water permit application No. 8226-3.

Dated this 28th day of October, 2016.

RANDOLPH J. SEILER
United States Attorney

A handwritten signature in black ink, appearing to read "Diana Ryan", is written over a horizontal line.

DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
(605) 357-2340
Diana.Ryan@usdoj.gov



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Madison Wetland Management District
PO Box 48
23520 SD HWY 19
Madison, SD 57042



CERTIFIED MAIL # 7015 3010 0001 8615 8044
RETURN RECEIPT REQUESTED

October 14, 2016

Jeffrey Albrecht
21749 435th Ave
DeSmet, SD 57231

Dear Mr. Albrecht:

This letter is a follow up to our meeting on Friday, October 7th to discuss concerns the USFWS has in regards to SD water permit No. 8226-3. I'd like to first express my appreciation that you were willing to meet with us on such short notice. As you know, the USFWS has a wetland easement (Kingsbury 366X) on the same parcel as the water permit application. During our visit, I provided a copy of the easement document and the Exhibit A which depicts the wetlands protected from drainage (direct and indirect), leveling, filling and burning. You confirmed the location for the primary well was the test well marked as "Well 1" on the application. Due to the proximity of the well to a protected wetland basin, we discussed moving the primary well 100ft directly to the east to avoid impacting the USFWS interest, and we understand that is acceptable to you. We did not have any concerns in regards to the secondary well.

We also briefly discussed the USFWS concerns in regards to the large protected basin near the farmstead. We believe this basin is tied to the same aquifer you would be utilizing for the irrigation permit. Since the permit application indicates 1.78CFS for 800 GPM from May 1st to September 30th, there is a concern if you irrigate every day during this time period you may indirectly drain the large protected basin. You indicated you would only be irrigating periodically over the course of the growing season.

We feel this irrigation permit will likely have little or no impact on the USFWS easement if the primary well is moved 100ft to the east as agreed by all parties. If the irrigation system does impact USFWS interest, we will work with you to minimize impacts by reducing the number of days irrigating or decrease CFS/GPM.

It was a pleasure working with you and your family to come up with a viable solution to resolve this issue. If you have any questions or concerns, please do not hesitate to contact our office at 605-256-2974.

Sincerely,

Natoma Hansen
Madison WMD Project Leader



STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3,
JEFFREY ALBRECHT

CERTIFICATE OF SERVICE

The undersigned certifies that on the 28th day of October 2016, true and correct copies of the U.S. Fish and Wildlife Service's Withdrawal of Petition were mailed by U.S. mail, first class, postage prepaid, to:

Rodney Freeman
Prehearing Chair
Water Management Board
P.O. Box 176
Huron, SD 57530

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capitol Ave.
Pierre, SD 57501-3182

Jim Hutmacher
Water Management Board
Chairman
802 E. 7th Street
Oacoma, SD 57365

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529
Counsel for H.T. Albrecht &
Sons

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Counsel for Water
Management Board

Justin Smith
J. Vincent Jones
Woods Fuller Law Firm
P.O. Box 5027
Sioux Falls, SD 57117-5027
(counsel for Jeffrey Albrecht)

Ann Mines Bailey
Assistant Attorney General
1302 East Highway 14, Ste 1
Pierre, SD 57501-8501
Counsel for Water
Rights/DENR

Dana Jacobsen and
Lori Caramanian
Assistant Regional Solicitors
Rocky Mountain Regional
Office
Office of the Solicitor
755 Parfet, Suite 151
Lakewood, CO 80215

Dated this 28th day of October, 2016.

RANDOLPH J. SEILER
United States Attorney



DIANA RYAN
Assistant U.S. Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
(605) 357-2340
Diana.Ryan@usdoj.gov

Michael E. Unke
ATTORNEY & COUNSELOR AT LAW

341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

OFFICE PHONE 605-425-3131
HOME PHONE 605-425-3169
FAX 605-425-2977

August 10, 2016

Jeanne Goodman, Chief Engineer
Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

CERTIFIED MAIL

7015 1660 0001 0387 0924

Jeffrey Albrecht
21749 435th Avenue
DeSmet, SD 57231

CERTIFIED MAIL

7015 1660 0001 0387 0931

RE: H.T. Albrecht & Sons, Inc.

Dear Ms. Goodman and Mr. Albrecht:

Please be advised that I represent H.T. Albrecht & Sons, Inc. It is objecting to water permit No. 8226-3 for the following reasons:

1. H.T. Albrecht & Sons, Inc. has a water permit No. 7279-3, dated November 17, 2011, which by South Dakota statute has a priority over subsequent permits. The property that my client's permit covers is adjacent to Jeff Albrecht's property.
2. There is not enough water in the area for more wells for irrigation.
3. My client is irrigating the Northeast Quarter of Section 35 in Township 110 North, Range 56, West of the 5th P.M. It can only run their pumps at partial power. Its water pressure is

about 35 pounds maximum, when it should be at 50 pounds water pressure. Its permit is for 800 gallons per minute; however it is lucky if it pulls 400 gallons per minute.

4. My client has expended \$145,765.41 in irrigation costs and is worried that its irrigation will be greatly reduced by subsequent wells being dug near them. In the past, my client's well has been pumped dry. There is not enough water for any further irrigation in close proximity to my client's property.

5. Jeff Albrecht's application does not include the domestic wells in close proximity or the depths of those wells. Also in Jeff Albrecht's application and pursuant to SDCL 46-5-6 authorizes him an increased diversion rate of 1.78 cfs for the irrigation of 102.5 acres with an annual volume not to exceed 2 acres feet of water per acre per year.

My client is requesting a hearing. Please contact me when the hearing is going to be held. It should be noted that the actual water usage by my client should be a controlling factor when issuing further water permits. It is a lot more telling than test wells.

Sincerely,



Michael E. Unke

MEU/mrs

cc: E. T. Albrecht & Sons

RECEIVED

NOV 16 2016

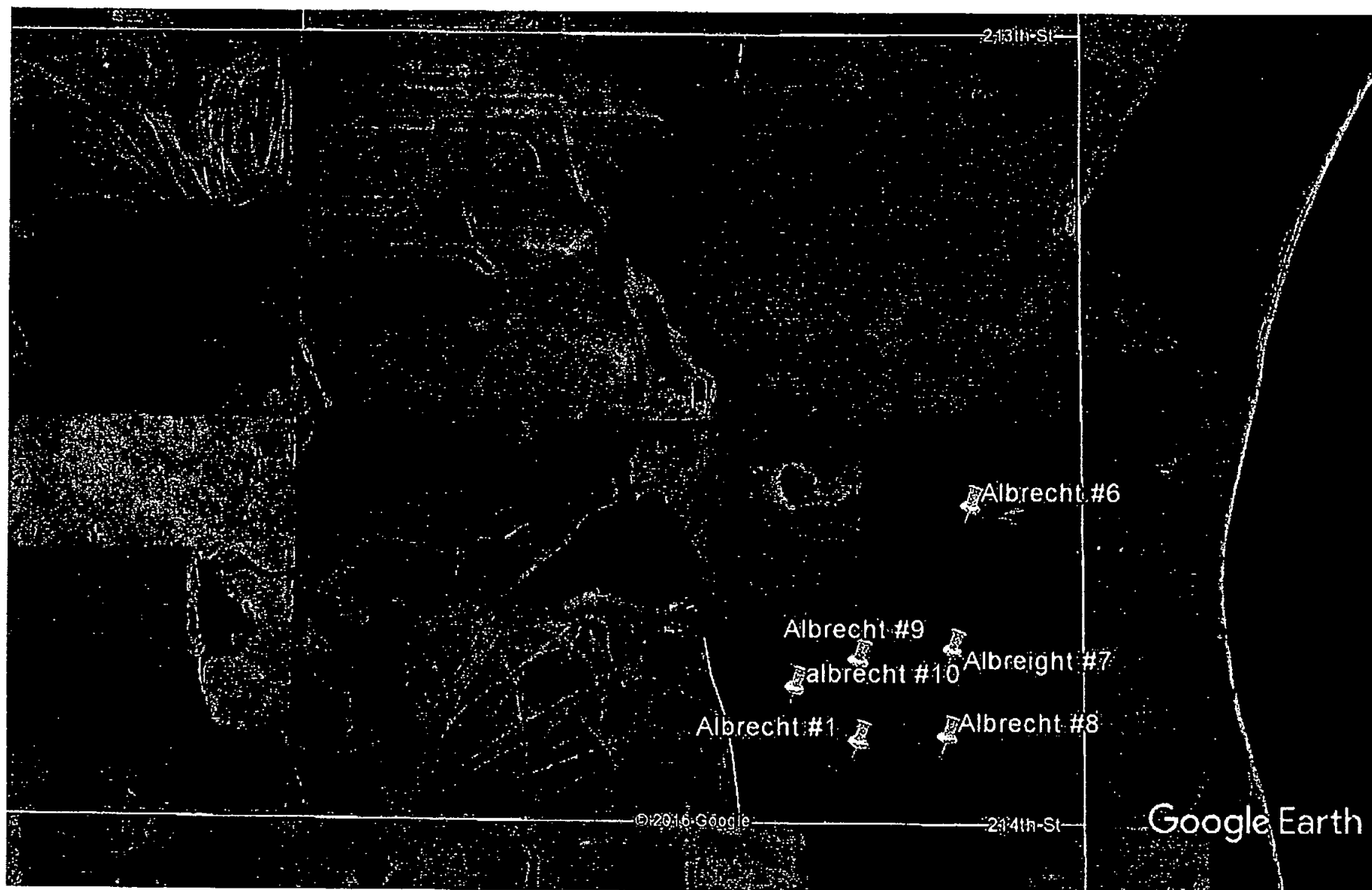
WATER RIGHTS
PROGRAM

Albrecht Test Hole Locations (Long/Lat)

#1	44.283015	97.517406
#6	44.287280	97.514542
#7	44.284673	97.515003
#8	44.283101	97.515165
#9	44.284482	97.517400
#10	44.283980	97.519001

test numbers 2 through 5 were drilled on another Albrecht property a few miles to the north.

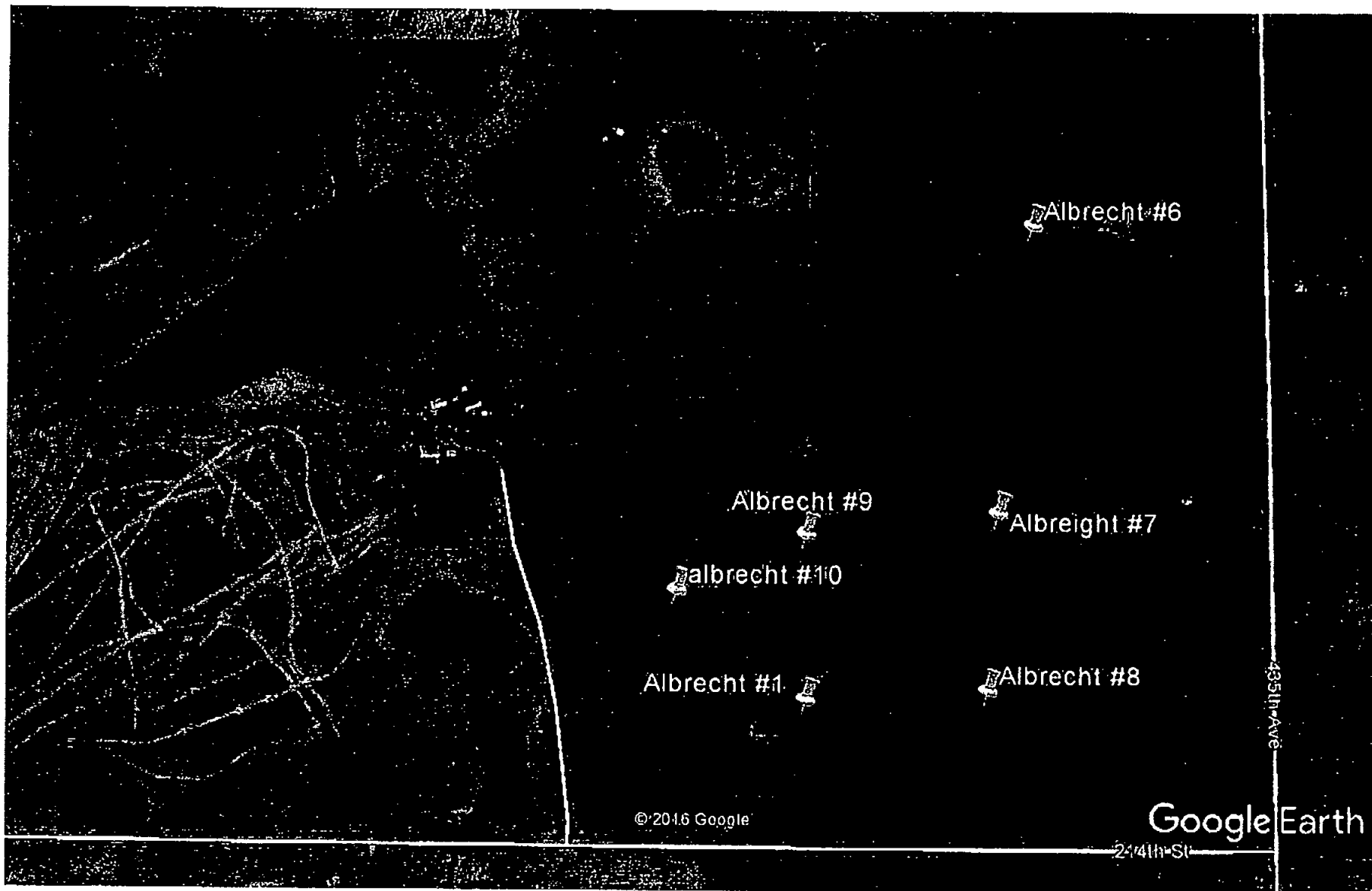
Locations were read from a GPS instrument, then entered into Google Earth to construct the attached maps



Google Earth

miles
km





Google Earth

feet
meters

2000

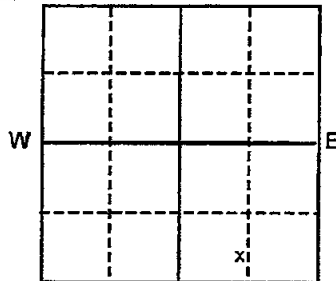
800

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw 1/4 se 1/4 Sec 35 Twp 110n Rg 56wCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

11/5/15

← 1 Mile →

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
3,000.0 ft. from septic tank (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other
 If other describe none

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	5	9.4 Lb/gal	0.0 Ft	130.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter _____ Inches Length _____ Feet
 Material _____
 Slot Size _____ Set From _____ Feet to _____ Feet
 Other information _____
WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____
☐ No, Why Not? _____
 Lab to which water
 quality sample sent for analysis _____
Well Owner: Bill Albrecht

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
topsoil	0	3
clay, yellow	3	12
clay, yellow with gravel	12	24
clay, blue	24	30
clay, gray, glacial till	30	59
gravel, medium to fine	59	99
sand, fine, with clay beds	99	125
clay, blue	125	130

STATIC WATER LEVEL 2.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____
☐ Bailed
☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 1-2015

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & irrigation, inc.

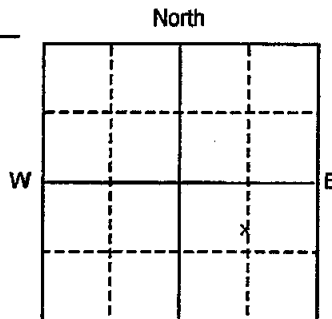
Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location nw ¼ se ¼ Sec 35 Twp 110n Rg 56wCounty KingsburyPlease mark well
location with an "X"

Well Completion Date

November 6, 2015

← 1 Mile →

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,600.0 ft. from septic tank (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

If other describe ☐ Steel ☐ Plastic ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	93.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter _____ Inches Length _____ Feet
 Material _____
 Slot Size _____ Set From _____ Feet to _____ Feet

Other information

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?
☐ No, Why Not?
 Lab to which water
 quality sample sent for analysis
Well Owner: Albrecht Family farms

Business Name:

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	2
Gravel, sandy	2	21
clay, brown,	21	31
clay, gray, sandy	31	61
sand, fine	61	77
clay, gray, sandy	77	90
clay, gray, sticky	90	93

STATIC WATER LEVEL

 _____ FEET
 If flowing: closed in pressure _____ PSI
 GPM flow _____ through _____ Inch pipe
Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:
☐ Bailed
☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 6-2015

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & irr.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

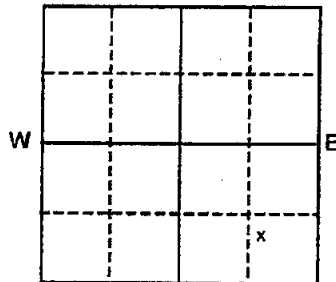
Date:

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location se ¼ se ¼ Sec 35 Twp 110n Rg 56wCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

November 17, 2015

← 1 Mile →

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,900.0 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	80.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other Information _____

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____☐ No, Why Not? _____Lab to which water
quality sample sent for analysis _____Well Owner: John Albrecht

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	2
clay, brown	2	13
Gravel, sandy	13	19
clay, gray,	19	24
sand, with clay layers	24	38
sand, gray, fine	38	64
gravel, fine to medium	64	68
clay, blue	68	80

STATIC WATER LEVEL

FEET

If flowing: closed in pressure _____

PSI

GPM flow _____ through _____

Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____☐ Bailed☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 7-2015

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & irr.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

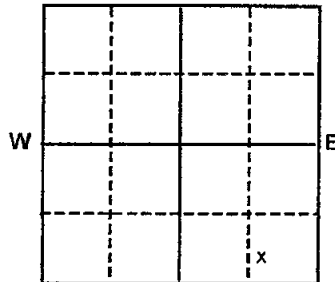
Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location se ¼ se ¼ Sec 35 Twp 110n Rg 56wCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

November 17, 2015

← 1 Mile →

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,300.0 ft. from septic tank (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other
If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	117.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured
Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____☐ No, Why Not? _____Lab to which water
quality sample sent for analysis _____Well Owner: Albrecht Farms

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	1
gravel and rocks	1	22
clay, brown	22	25
sand, fine, clay bed @ 37-44	25	57
gravel, medium grained	57	59
clay, gray, sandy	59	90
gravel, medium, sandy	90	114
clay, blue	114	117

STATIC WATER LEVEL

FEET

If flowing: closed in pressure _____

PSI

GPM flow _____ through _____

Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____☐ Bailed☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 8-2015

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & irr.

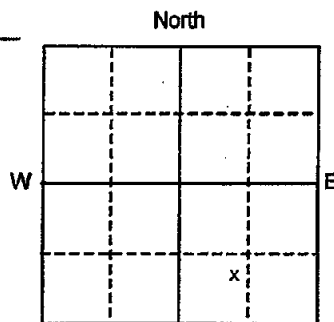
Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw ¼ se ¼ Sec 35 Twp 110n Rg 56wCounty KingsburyPlease mark well
location with an "X"

Well Completion Date

November 18, 2015

1 Mile

 Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,100.0 ft. from septic tank (identify source)

PROPOSED USE:

☐ Domestic/Stock Irrigation

 ☐ Municipal Industrial

 ☐ Business Institutional

 ☒ Test holes Monitoring well

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel

☐ Plastic

☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	105.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
remie

SCREEN:

☐ Perforated pipe

☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____☐ No, Why Not? _____Lab to which water
quality sample sent for analysis _____Well Owner: Albrecht Farms

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	1
gravel and rocks	1	9
clay, brown w/ gravel & rocks	9	21
clay, blue	21	26
sand, fine	26	30
clay, gray, sandy	30	84
gravel, medium, sandy	84	101
clay, blue	101	105

STATIC WATER LEVEL

FEET

If flowing: closed in pressure _____

PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____☐ Bailed☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 9-2015

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & irr.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

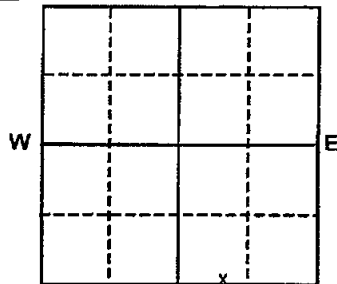
Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 se 1/4 Sec 35 Twp 110n Rg 56WCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

November 18, 2015

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,100.0 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other
 If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	92.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured
 Diameter _____ inches Length _____ Feet
 Material _____
 Slot Size _____ Set From _____ Feet to _____ Feet
 Other information _____
WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____
☐ No, Why Not? _____
 Lab to which water
 quality sample sent for analysis _____
Well Owner: Albrecht Farms

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	1
gravel and rocks	1	29
clay, blue, sandy	29	83
gravel, sandy	83	89
clay, blue	89	92

STATIC WATER LEVEL _____ FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____
☐ Bailed
☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 10-2015

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: Heine Electric & Irr.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____



- Approximate Well Location
- ▲ Test Hole (TH) Location

Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community
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RECEIVED

NOV 16 2016

WATER RIGHTS
PROGRAM

Michael E. Unke
ATTORNEY & COUNSELOR AT LAW

341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

November 14, 2016

OFFICE PHONE (605) 425-3131
FAX (605) 425-2977
unkelaw@hotmail.com

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

RE: Notice of Hearing on Water Permit Application No. 8226-3,
Jeffrey Albrecht

Dear Mr. Naasz:

Enclosed for filing is an original of H.T. Albrecht & Sons, Inc.'s Exhibit and Witness List in regard to the above referenced matter.

By copy of this letter, I am providing a copy of H.T. Albrecht & Sons, Inc.'s Exhibit and Witness List including a copy of the pre-marked exhibits on the interested parties, Brian Caruso, Chief Water Resources, Division, U.S. Fish and Wildlife Service, Rodney Freeman, Prehearing Chairman, Water Management Board, Erin Gronlund, DENR Water Rights Program, its attorney, Ann Mines Bailey, Jim Hutmacher, Water Management Board Chairman, Justin G. Smith, and Jeffrey Albrecht, the petitioner.

If you have any questions, feel free to contact me.

Sincerely,

Michael E. Unke

Michael E. Unke

MEU/mrs

Enc.

cc: Brian Caruso
Rodney Freeman ✓
Eric Gronlund ✓
Ann Mines Bailer
Jim Hutmacher
Justin G. Smith
Jeffrey Albrecht
H.T. Albrecht & Sons, Inc.

**STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD**

IN THE MATTER WATER	* H.T. ALBRECHT & SONS, INC.'S
APPLICATION NO. 8226-3, JEFFREY	* EXHIBIT AND WITNESS LIST
ALBRECHT	*

Intervener 10 - Arial Map 34-110-N-54W Kingsbury County, SD showing H.T. Albrecht & Sons, Inc. irrigation, Jeff Albrecht's proposed irrigation and Heller's pasture well

- Intervener 11 - South Dakota Water Well Completion Report for Heller's well that is used for the pasture that H.T. Albrecht & Sons, Inc. rent.
- Intervener 12 - Arial Map 35-110N-56 W Kingsbury County, SD showing H. T. Albrecht & Sons, Inc. existing irrigation and Jeff Albrecht's proposed irrigation
- Intervener 13 - South Dakota Water Well Completion Report showing test wells that Jeff Albrecht had drilled even though they are listed in the name of Albrecht Farms
- Intervener 14 - 2016 Water Management Board Irrigation Questionnaire concerning Permit No. 7279-3
- Intervener 15 - 2015 irrigation report sent to the State showing 500 gallons per minute on the NE ¼ quarter of Section 35-T110-R56W for alfalfa and beans
- Intervener 16 - 2014 irrigation report sent to the State showing 500 gallons per minute on the NE ¼ quarter of Section 35-T110-R56W for alfalfa
- Intervener 17 - South Dakota Water Well Completion Report for SW1/4 and NW1/4 in Section 35-T110-R56W – H.T. Albrecht & Sons, Inc. well
- Intervener 18 - H.T. Albrecht & Sons, Inc. irrigation well #2 drilled in mid July, 2012

Dated at Salem, South Dakota, this 14th day of November, 2016.



Michael E. Unke
Attorney for H.T. Albrecht & Sons
341 North Main Street, Box 529
Salem, SD 57058-0529
Telephone (605) 425-3131
Facsimile (605) 425-2977

CERTIFICATE OF SERVICE

The undersigned, Michael E. Unke, attorney for H.T. Albrecht & Sons, Inc., hereby certifies that he did serve a true and correct copy of the H.T. Albrecht & Sons, Inc.'s Exhibit and Witness List on the following persons:

Rodney Freeman
Prehearing Chairman
Water Management Board
P.O. Box 176
Huron, SD 57350

Brian Caruso, Chief
Water Resources Division
U.S. Fish and Wildlife Service
P.O. Box 25486 DFC
Denver, CO 80225-0486

Eric Gronlund
DENR Water Rights Program
Foss Building
523 E. Capital Avenue
Pierre, SD 57501-31-82

Jim Hutmacher
Water Management Board Chairman
802 E. 7th Street
Oacoma, SD 57365

Ann Mines Bailey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501
Counsel for Water Rights Program
DENR

Jeffrey Albrecht
21749 435th Avenue
DeSmet, SD 57231

Matt Naasz
Assistant Attorney General
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501

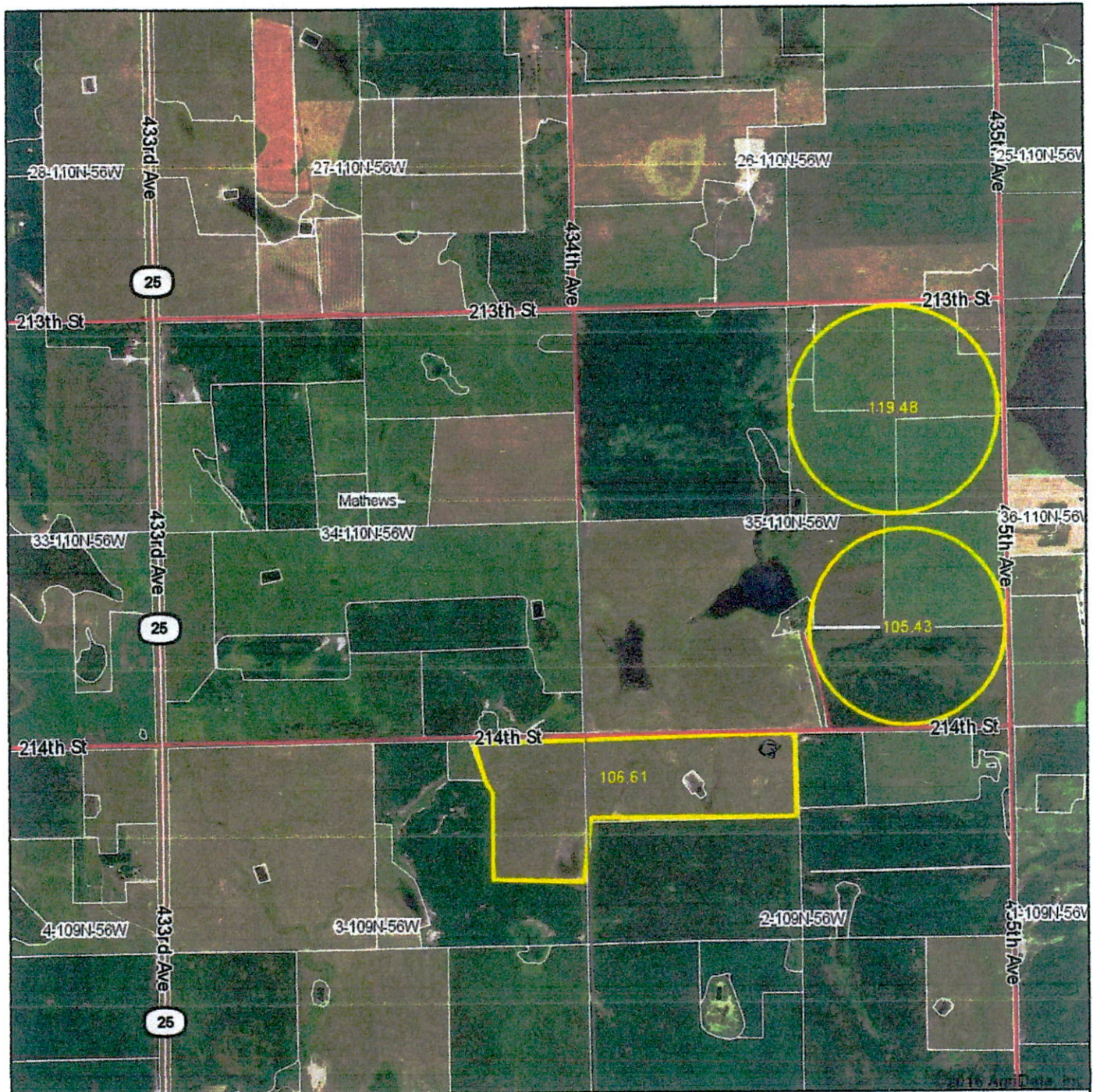
Justin G. Smith
Woods, Fuller, Shultz & Smith
300 S. Phillips Avenue, #300
Sioux Falls, SD 57117

via first class mail, postage prepaid this 14th day of November, 2016.



Michael E. Unke
Attorney for H.T. Albrecht & Sons

Aerial Map



map center: 44° 17' 17.62, -97° 32' 0.12

0ft 1916ft 3832ft

Maps Provided By:



© AgriData, Inc. 2016

www.AgrIDataInc.com

34-110N-56W
Kingsbury County
South Dakota



9/8/2016

Field borders provided by Farm Service Agency as of 5/21/2008.

Intervener 10

SOUTH DAKOTA WATER WELL COMPLETION REPORT

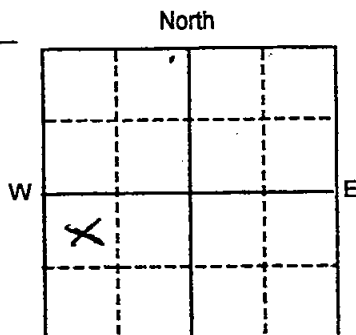
11-02

Location NE 1/4 NE 1/4 Sec 3 Twp 109 Rg 56Well Owner: Dave Heller

Business Name: _____

Address: 20845 SW Hwy 25City, State, Zip: De Smet SD 57231County Kingsbury

Please mark well location with an "X"



Well Completion Date

January 9, 2013

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

ft. from _____

(Identify source) _____

PROPOSED USE:

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

METHOD OF DRILLING:

mud rotary

CASING DATA:

If other describe _____

☐ Steel ☒ Plastic ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>5.00</u> IN	<u>0.0</u> FT	<u>111.0</u> FT	<u>8.00</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
		Lb/gal	FT	FT
		Lb/gal	FT	FT

Describe grouting procedure
Tremmy

SCREEN:

☐ Perforated pipe ☒ Manufactured
 Diameter 3.00 Inches Length 4.0 Feet
Material StainlessSlot Size 18 Set From 111.0 Feet to 115.0 Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☐ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Chlorine
☐ No, Why Not? _____

Lab to which water

quality sample sent for analysis

NOT FOR HUMAN CONSUMPTION

WELL LOG:

DEPTH

FORMATION	DEPTH	
	FROM	TO
Top Soil	0	2
Clay Ylw	2	14
Clay Blu	14	109
Sand	109	115

STATIC WATER LEVEL

20.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: With Air
☐ Bailed
☐ Other

Pumping Level Below Land Surface

25.0 Ft. After 2.0 Hrs. pumped 40.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

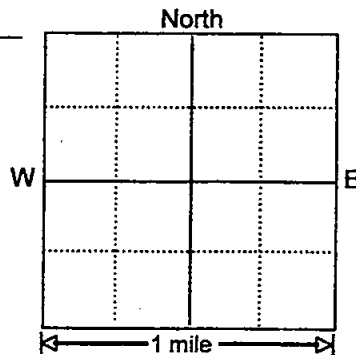
REMARKS

44 16 53.5N97 31 23.4WThis well was drilled under license # 463 and this report is true and accurate.Drilling firm: Steffl Drilling & Pump Inc

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Dave Heller Property of Lorene HellerDate: 6/26/2013

SOUTH DAKOTA WELL AND TEST HOLE PLUGGING REPORT 11-02Location NE ¼ NE ¼ Sec 3 Twp 109 Rg 56County KingsburyPlease mark well
location with an "X"Plugging Completion Date January 8, 2013

Well Owner:

Name: Dave HellerAddress: 20845 SW Hwy 25City, State, Zip: De Smet SD 57231

Comments:

44 16 53.5N
97 31 23.4W

CHECK APPROPRIATE BOXEXISTING WELL ☐TEST HOLE ☒

Well depth _____

Casing material _____

Casing size(s) _____

Casing condition _____

Hole depth 150

Hole size _____

Describe plugging procedure:

Describe grout or plugging material:

4 sacks of Bentonite from 0 to 150 ft

Type of non-slip plug: _____

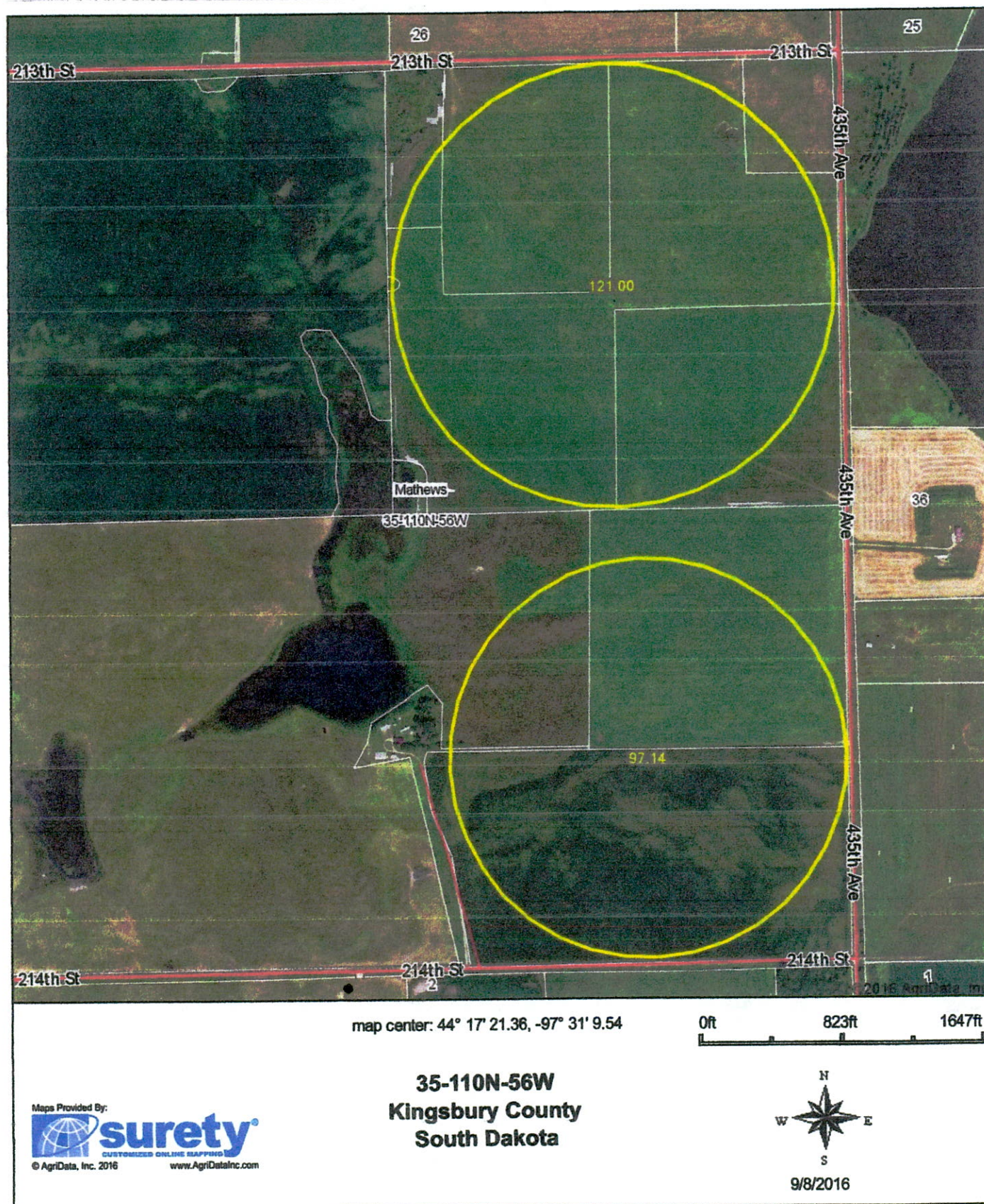
This well or test hole was plugged under license # 463 and this report is true and accurate.Drilling firm: Steffl Drilling & Pump Inc

Signature of Licensed Representative: _____

Signature of Well Owner: _____

Date: _____

Aerial Map



Intervener 12

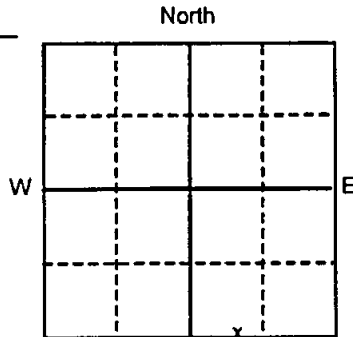
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw 1/4 se 1/4 Sec 35 Twp 110n Rg 56w

County Kingsbury

Please mark well location with an "X"



Well Completion Date

November 18, 2015

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,100.0 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	92.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____

☐ No, Why Not? _____

Lab to which water quality sample sent for analysis _____

Well Owner: Albrecht Farms

Business Name: _____

Address: 43314 215th Street

City, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	1
gravel and rocks	1	29
clay, blue, sandy	29	83
gravel, sandy	83	89
clay, blue	89	92

STATIC WATER LEVEL

_____ FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____

☐ Bailed _____

☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 10-2015

RECEIVED

JAN 29 2016

WATER RIGHTS PROGRAM

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

Drilling firm: Heine Electric & irr.

Signature of License Representative: _____

Ryan Hemmingsen

Signature of Well Owner or Equitable Property Holder: _____

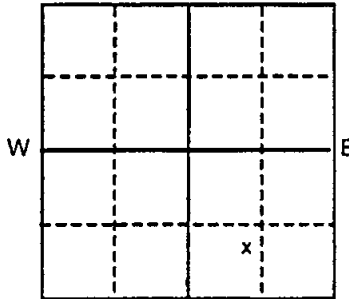
Date: Dec 15, 2015

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location sw 1/4 se 1/4 Sec 35 Twp 110n Rg 56wCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

November 18, 2015

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,100.0 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	105.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured
Diameter _____ Inches Length _____ Feet
Material _____
Slot Size _____ Set From _____ Feet to _____ Feet
Other information _____WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____
☐ No, Why Not? _____
Lab to which water
quality sample sent for analysis _____Well Owner: Albrecht Farms

Business Name: _____

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	1
gravel and rocks	1	9
clay, brown w/ gravel & rocks	9	21
clay, blue	21	26
sand, fine	26	30
clay, gray, sandy	30	84
gravel, medium, sandy	84	101
clay, blue	101	105

STATIC WATER LEVEL

If flowing: closed in pressure _____ FEET
PSI
GPM flow _____ through _____ Inch pipeControlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____
☐ Bailed
☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 9-2015

RECEIVED

JAN 29 2016

WATER RIGHTS
PROGRAMThis well was drilled under license # 810 and this
report is true and accurate.Drilling firm: Heine Electric & irr.

Signature of License Representative: _____

Ryan Hemmingson

Signature of Well Owner or Equitable Property Holder: _____

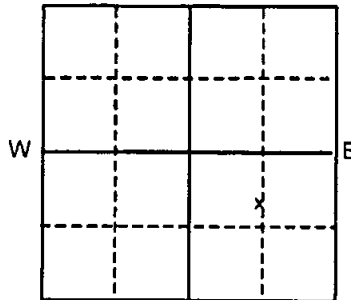
Date: Dec 15, 2015

11-02

SOUTH DAKOTA WATER WELL COMPLETION REPORT

Location nw 1/4 se 1/4 Sec 35 Twp 110n Rg 56wCounty Kingsbury

North

Please mark well
location with an "X"

Well Completion Date

November 6, 2015

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
1,600.0 ft. from septic tank (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bent grout	4	9.5 Lb/gal	0.0 Ft	93.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?☐ No, Why Not?Lab to which water
quality sample sent for analysisWell Owner: Albrecht Family farms

Business Name:

Address: 43314 215th StreetCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil, black	0	2
Gravel, sandy	2	21
clay, brown,	21	31
clay, gray, sandy	31	61
sand, fine	61	77
clay, gray, sandy	77	90
clay, gray, sticky	90	93

STATIC WATER LEVEL _____ FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:☐ Bailed☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test 6-2015

RECEIVED

JAN 29 2016

WATER RIGHTS
PROGRAMThis well was drilled under license # 810 and this
report is true and accurate.Drilling firm: Heine Electric & irr.

Signature of License Representative:

Ryan Hemmingson

Signature of Well Owner or Equitable Property Holder:

Date: Dec 15, 2015

2016 Water Management Board Irrigation Questionnaire

Please fill out and return before December 1, 2016

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

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

Permit No. 7279-3

H T ALBRECHT & SONS INC
43314 215TH ST
DESMET SD 57231

Any address/ownership corrections?

Email _____

Phone _____

1. Did you irrigate in 2016? *yes ☒ **no ☐

*If yes, number of acres irrigated? 128

**If no, check reason(s) for not irrigating acres covered by Permit No. 7279-3

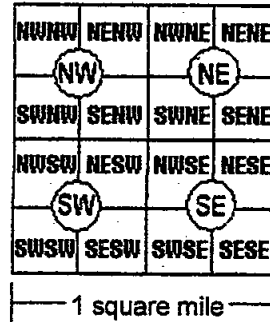
sufficient moisture ☐ no water available ☐

system not constructed ☐ use abandoned ☐

enrolled in CRP ☐, through what year? _____

other ☐, please explain in the Comment Box:

Comment Box



Office use only

Acreage permitted for irrigation under No. 7279-3

(see above section map for help reading legal descriptions)

sec 35-T110N-R56W, NE1/4 - 135.00 acres

Intervener 14

Please provide your 2016 water use to irrigate the above acreage on the REVERSE side of this form.

For an example of a completed questionnaire, please refer to the reverse side of your cover letter.

of system used: center pivot ☒ towline ☐ big gun ☐ flood ☐ sprinklers ☐ other _____
 (check all that apply) If center pivot, how many? 1 Please note, pivots need end gun stops to prevent overspray!

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

MONTH IRRIGATED	CROP TYPE	*NUMBER OF ACRES IRRIGATED	PUMP RATE IN GALLONS PER MINUTE	DAYS PER MONTH WATER WAS APPLIED	AVERAGE HOURS PER DAY
MARCH					
APRIL					
MAY	Soybeans	128	0	0	0
JUNE	Soybeans	128	400	10	24
JULY	Soybeans	128	300	31	24
AUGUST	Soybeans	128	300	7	24
SEPTEMBER	Soybeans	128	0	0	0
OCTOBER					

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

2015

Type of system used: center pivot ☐ towline ☐ big gun ☐ flood ☐ sprinklers ☐ other _____

(check all that apply) If center pivot, how many? 1 Please note, pivots need end gun stops to prevent overspray!

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

MONTH IRRIGATED	CROP TYPE	*NUMBER OF ACRES IRRIGATED	PUMP RATE IN GALLONS PER MINUTE	DAYS PER MONTH WATER WAS APPLIED	AVERAGE HOURS PER DAY
MARCH					
APRIL					
MAY					
JUNE					
JULY	Alfalfa	72	500	10	24
	Beans	72	500	10	24
AUGUST	Alfalfa	72	500	8	24
	Beans	72	500	8	24
SEPTEMBER					
OCTOBER					

Intervener 15

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

2014

Sec 35-TION-R56W NE 1/4

Permit # 7274-3

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

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

MONTH IRRIGATED	CROP TYPE	*NUMBER OF ACRES IRRIGATED	PUMP RATE IN GALLONS PER MINUTE	DAYS PER MONTH WATER WAS APPLIED	AVERAGE HOURS PER DAY
MARCH					
APRIL					
MAY					
JUNE					
JULY	Alfalfa	135	500	16	24
AUGUST	Alfalfa	135	500	8	24
SEPTEMBER					
OCTOBER					

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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

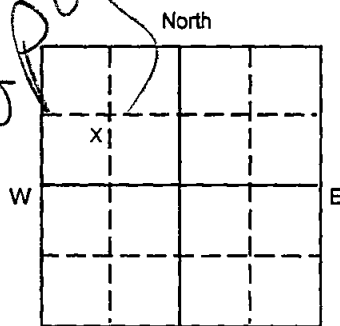
11-02

Location SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 35 Twp 110 Rg 56

County

Kingsbury

Please mark well location with an "X"



Well Completion Date

11/18/2011

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

? _____ ft. from _____ (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT LB/FT	DIAMETER IN	FROM FT	TO FT	HOLE DIAMETER IN
	<u>3.00</u>	<u>0.0</u>	<u>40.0</u>	<u>5.00</u>

LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight Lb/gal	From Ft	To Ft
<u>Vol Clay</u>	<u>3</u>		<u>0.0</u>	<u>40.0</u>

Describe grouting procedure _____

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 3.00 Inches Length 20.0 FeetMaterial Sch 80 3" PvcSlot Size 0.057 Set From 40.0 Feet to 60.0 Feet

Other information _____

WAS A PACKER OR SEAL USED?

☒ Yes ☐ NoIf so, what material? Pearock

Describe packer(s) and location

40-60ft

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? pelletsLab sample sent to for water quality analysis ☐ No, Why Not? _____Well Owner: Henry AlbrechtBusiness Name: H.T Albrecht & SonsAddress: 43314 215th StCity, State, Zip: DeSmet SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Top Soil	0	6
Yellow Gravel	6	15
Yellow Clay	15	20
Blue Clay	20	22
Sandy Yellow Clay	22	40
Course Sand and PeaRock	40	60
Blue Clay	60	80

STATIC WATER LEVEL 19.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____☐ Bailed☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS RECEIVED

FEB 16 2012

WATER RIGHTS PROGRAM

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm: Pullman Well Drilling IncSignature of License Representative: Ken Faber

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

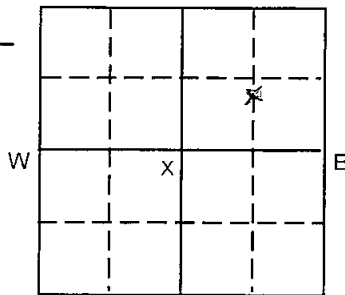
11-02

Location NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 35 Twp 110 Rg 56

County

Kingbury

North

Please mark well
location with an "X"

Well Completion Date

7/12/2012

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

? _____ ft. from _____ (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Reverse Rotary

CASING DATA:

If other describe

☐ Steel
 ☒ Plastic
 ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	16.00 IN	0.0 FT	46.0 FT	24.00 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Vol Clay	28	Lb/gal	0.0 Ft	42.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

SCREEN:

☐ Perforated pipe
 ☒ Manufactured
 Diameter 16.00 Inches Length 15.0 FeetMaterial Stainless SteelSlot Size 0.057 Set From 46.0 Feet to 61.0 Feet

Other information

WAS A PACKER OR SEAL USED?

☒ Yes
 ☐ No
 If so, what material? Pearlock

Describe packer(s) and location

42-61'

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Pellets
☐ No, Why Not?
 Lab sample sent to for
water quality analysisWell Owner: Bill & Henry AlbrechtBusiness Name: H.T Albrecht & SonsAddress: 43314 215th StCity, State, Zip: DeSmet SD 57231

WELL LOG:

DEPTH

FORMATION	FROM	TO
Yellow Clay	0	5
Yellow Gravel	5	15
Yellow Clay	15	23
Sandy Yellow Clay	23	39
Sandy Blue Clay	39	43
Gravel	43	48
Fine Gray Sand w/ Coal	48	53
Gravel	53	57
Fine Sand w/ Coal	57	61

STATIC WATER LEVEL

FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____☐ Bailed☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm: Pullman Well Drilling Inc.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

11/28/16 Email



November 28, 2016

J. G. Shultz
Jeff.Shultz@woodsfuller.com
Extension 643

VIA E-MAIL

ann.mines@state.sd.us

Ann F. Mines Bailey
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501

Re: In the Matter Water Permit Application No. 8226-3, Jeffrey Albrecht

Dear Ms. Bailey:

Please accept this as my notice of appearance in this matter. In addition, I understand that Mr. Freeman may have done some work for my clients' family. I trust this does not pose a problem going forward with the hearing.

Thank you.

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink, appearing to be 'JG Shultz', written over a horizontal line.

J. G. Shultz

cc: Michael E. Unke (unkelaw@hotmail.com)
Rodney Freeman (rfreeman.huronlaw@midconetwork.com)
Matt Naasz (matt.naasz@state.sd.us)
Eric Gronlund (Eric.Gronlund@state.sd.us)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

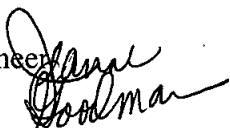
December 5, 2016

denr.sd.gov

NOTICE

TO: J. G. Shultz
Woods, Fuller, Shultz & Smith P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed J. G. Shultz, counsel for Jeffrey Albrecht, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of the approval of Water Permit Application No. 8226-3.

The Board will consider adoption of Findings of Fact, Conclusions of Law and Final Decision at 1:00 PM, on Wednesday, March 1, 2017, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior issues on the agenda. Notice will be provided if there is a change in the hearing date or time.

The Board requested that the proposed Findings of Fact, Conclusions of Law and Final Decision be mailed to each Board member and parties of record by February 6, 2017. Written objections or comments in support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision are to be mailed to each Board member, the Board attorney, Water Rights Program counsel and other parties of record by February 17, 2017. A mailing list is enclosed. Board counsel requests that the draft findings or alternative findings be provided in a WORD format file via email to matthew.naasz@state.sd.us.

At the Board's discretion, oral arguments in opposition or support of the proposed Findings of Fact, Conclusions of Law and Final Decision, or alternative Findings of Fact, Conclusions of Law and Final Decision may be made on March 1, 2017. The evidentiary hearing was completed December 1, 2016. No additional testimony will be received on March 1, 2017.

If you have questions about the findings process, please contact Ann Mines-Bailey at (605) 773-3215.

enclosure

c: Ann Mines-Bailey, Assistant Attorney General
Matthew Naasz, Assistant Attorney General

CERTIFICATION

I hereby certify that on December 5, 2016, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 5, 2016, regarding scheduling a hearing date for Water Right Permit Application No. 8226-3, as addressed below:

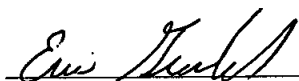
J. G. Shultz
Woods, Fuller, Shultz & Smith P.C.
PO Box 5027
Sioux Falls, SD 57117-5027

Michael E Unke, Attorney
PO Box 529
Salem SD 57058-0529

Sent Inter-office to:

Ann Mines-Bailey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

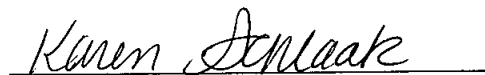
Matt Naasz, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



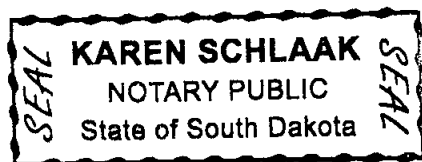
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 5th day of December, 2016



Karen Schlaak
Notary Public
My Commission expires April 1, 2019





RECEIVED

FEB - 8 2017

WATER RIGHTS
PROGRAM

February 6, 2017

J. G. Shultz

Jeff.Shultz@woodsfuller.com

Extension 643

Ann Mines-Bailey
Office of Attorney General
Natural Resources Section
George S. Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, SD 57501

XJeanne Goodman
Chief Engineer
DENR
Water Rights Program
523 East Capitol Avenue
Pierre, SD 57501

Matt Naasz
Assistant Attorney General
Natural Resources Section
George S. Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, SD 57501

Lee Holzbauer
Secretary
Post Office Box 64
Delmont, SD 57330

Rodney Freeman Jr.
Post Office Box 176
Huron, SD 57350

Peggy Dixon
3311 Hogan Court
Rapid City, SD 57702

Everett Hoyt
4422 Carriage Hills Drive
Rapid City, SD 57702

Tim Bjork
Vice Chairman
223 Enchantment Drive
Rapid City, SD 57701

Jim Hutmacher
Chairman
802 East 7th Street
Oacoma, SD 57365

Chad Comes
116 West Center
Madison, SD 57042

ATTORNEYS • EST. 1887

Street Address: 300 S. Phillips Avenue, Suite 300 | Sioux Falls, SD 57104-6322

Mailing Address: P.O. Box 5027 | Sioux Falls, SD 57117-5027

Phone: (605) 336-3890 | Fax: (605) 339-3357

WoodsFuller.com

{02527433.1}

WOODS, FULLER, SHULTZ & SMITH P.C.

February 6, 2017

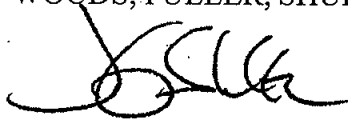
Page 2

Re: In the Matter Water Permit Application No. 8226-3, Jeffrey Albrecht

Enclosed please find proposed Findings of Fact, Conclusions of Law and Final Decision in the referenced matter.

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.



J. G. Shultz

Enclosures

cc: Michael E. Unke

RECEIVED

FEB - 8 2017

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER APPLICATION NO. 8226-3, JEFFREY ALBRECHT	:	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
---	---	--

This matter came before the South Dakota Water Management Board for hearing on December 1, 2016. Board members Everett Hoyt, Tim Bjork, Rodney Freeman, Peggy Dixon, Leo Holzbauer, and Jim Hutmacher were present at the hearing and heard the evidence presented. Jeffrey Albrecht (hereinafter referred to as Applicant) was represented by J. G. Shultz, and H.T. Albrecht and Sons, Inc., Intervenor, was represented by Michael E. Unke and Ann F. Mines Bailey represented the DENR Water Rights Program and its Chief Engineer (DENR).

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 25, 2016, DENR received water permit application number 8226-3 on behalf of Applicant seeking the appropriation of water for irrigation. The application proposes the construction of two wells in the Vermillion East Fork Aquifer located at the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 35, Township 110N, Range 56 West with a second well in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 35, Township 110N, Range 56 West, if necessary, in Kingsbury County with a diversion rate of 1.78 cubic feet per second for a volume not to exceed 2 acre feet per acre per year.

2. The sole proposed use is irrigation.

3. DENR witness Ken Buhler, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Vermillion East Fork Aquifer and reviewed the information obtained from observation wells in the Vermillion East Fork Aquifer, as well as current water right/permit files and well completion reports for the aquifer.

4. On July 11, 2016, Mr. Buhler issued a report to the chief engineer. Mr. Buhler concluded there is reasonable probability that unappropriated water is available in the Vermillion East Fork Aquifer to satisfy Applicant's appropriation, that the estimated annual average recharge of the Aquifer exceeds the estimated annual withdrawals, and there is a reasonable probability that Applicant's appropriation would not adversely impact existing water rights or domestic use wells.

5. On July 25, 2016, the chief engineer recommended approval of Applicant's application due to the availability of unappropriated water in the Vermillion East Fork Aquifer. The proposed diversion can be developed without unlawful impairment of existing water rights, Applicant's proposed uses are beneficial uses, and it is in the public interest, with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. §189-3 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.
6. Notice of the application and hearing was timely advertised in the Madison Daily Leader and the DeSmet News on August 3, 2016.
7. DENR received timely petitions in opposition to the application on behalf of H. T. Albrecht & Sons, Inc., and on behalf of the U.S. Fish and Wildlife Service.
8. The matter was initially scheduled to be heard by the Water Management Board on October 13, 2016; however, an automatic delay was requested by the U.S. Fish and Wildlife Service and applicant.
9. On October 28, 2016, the U.S. Fish and Wildlife Service withdrew its objection to applicant's permit request based upon applicant's agreement to move the primary well 100 feet directly to the east to avoid U.S. Fish and Wildlife Service's interest and based upon applicant's representation that he expected that irrigation would be implemented only periodically during the course of the growing season.
10. Water Permit Application No. 8226-3 is a new water permit application which requires a determination pursuant to SDCL, § 46-2A-9 of whether there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

11. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

12. The Vermillion East Fork Aquifer is a glacial melt water deposit consisting of medium to very coarse sand and fine gravel. The Aquifer extends from Clark County to Turner County where it blends into the Parker Centerville outwash in Kingsbury County. The Vermillion East Fork Aquifer is estimated to underlie approximately 94 square miles and in the postulated management unit under consideration for purposes of this water permit, it is estimated to contain 127,000 acre feet of water in storage. The Aquifer in the area in question is generally considered to be unconfined and is hydraulically connected to Lake Thompson.

13. Recharge of the Vermillion East Fork Aquifer in the location subject to the present permit occurs through infiltration and precipitation, leakage from adjacent and underlying till, and inflow from other management units. Based upon studies of nearby management units, the average annual recharge to the postulated management unit in the location subject to the present permit is estimated to be approximately 14,200 acre feet per year.

14. The average annual withdrawal from the postulated management unit in the location subject to the present permit and current appropriation is expected to be 6,180 acre feet per year.

15. Mr. Buhler testified that based upon the recharge rates and withdrawal rates, there were over 8,000 acre feet per year available for appropriation in the postulated water

management unit of the Vermillion East Fork Aquifer in the location subject to the present permit.

16. Additionally, DENR monitors 9 observation wells in the postulated management unit of the Vermillion East Fork Aquifer where the proposed wells would be located. The hydrographs for these wells document that the Aquifer responds well to climatic conditions with rising water levels during wet years and declining water levels during dry years. Based upon the observation well information, it appears that recharge to and natural discharge from the Aquifer greatly exceeds well withdrawal, so water is available for capture before natural discharge.

17. Mr. Buhler concluded that there is a reasonable probability that unappropriated water is available from the Vermillion East Fork Aquifer to support the proposed appropriation.

18. Mr. Buhler also examined whether there would be an unlawful impairment to existing water rights in the Vermillion East Fork Aquifer.

19. In the area of Kingsbury County involved in the permit, there are seven existing water rights in the Vermillion East Fork Aquifer.

20. Mr. Buhler concluded that, since the Vermillion East Fork Aquifer is under unconfined conditions, draw down does not extend very far from individual production wells, which is shown by the observation well data.

21. The Water Management Board has consistently recognized that to place water to maximum beneficial use, a certain amount of draw down will occur. Although precise draw down estimates were not quantified by Mr. Buhler in his report, he testified that he calculated that the effect of granting the permit might be between .22 and 1.3 feet on Intervenor's wells.

22. Mr. Buhler concluded that adequate wells as defined by ARSD 74:02:020(7) are not expected to be adversely impaired due to the additional diversion from the proposed project.

23. Jeffrey Albrecht, the applicant, testified before the Board.

24. Applicant has farmed the property in question for over 20 years. He confirmed that the application was submitted in order to irrigate sandy soil in the affected area. He also testified that there was a domestic well on or nearby the property where the permit is sought and that this well has not shown any problems over the years.

25. Rick Grace, an employee of the Pullman Well Drilling Company with 40 years of experience, testified before the Board.

26. Mr. Grace testified that he equipped the Intervenor's wells and that the pumps in those wells are at the lowest point they can be.

27. Mr. Grace further reported that the Intervenor's wells fell below expected productivity after reconfiguring the equipment.

28. Mr. Grace said that, since Intervenor's pumps are at the bottom of the well, any draw down by new wells would have an adverse impact.

29. Mr. Grace heard all the testimony from Mr. Buhler and confirmed that he had no disagreement with it.

30. Bill Albrecht, Intervenor's secretary, testified before the Board.

31. Bill Albrecht testified that regarding his concerns as to the impact of the proposed permit on Intervenor's wells. He also testified about the difficulties developing Intervenor's wells and the history of Intervenor's well's production over the course of five years. Bill Albrecht testified that he does not believe there is unappropriated water in the area under

consideration. He also expressed his concern that there were no observation wells in close proximity to the proposed permit area.

32. Based on the production records for the last four years on Intervenor's well that is approximately 3,000 feet away from the proposed permit site, Bill Albrecht asserted that there is not sufficient unappropriated water available.

33. The Board finds Mr. Buhler to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Buhler's testimony and the reports and exhibits which he prepared and/or relied upon.

34. Intervenor has not submitted sufficient evidence through expert opinions, testimony or evidence that would support a determination that there is a reasonable probability that there is not unappropriated water available in this Aquifer.

35. The Board finds that there is a reasonable probability that there is unappropriated water available for the applicant's proposed use.

36. The Board further finds that granting this application would not result in withdrawals from the Aquifer exceeding recharge to the Aquifer.

37. The Board further finds that the proposed uses of the water for irrigation purposes constitute beneficial use.

38. The Board further finds that placing the water to this beneficial use is in the public interest.

39. In light of the testimony received, the Board finds that granting the proposed application will not result in an impairment of existing rights.

40. In addition to Witness Buhler's conclusion that there would not likely be adverse interference with the domestic wells, the Chief Engineer proposes a qualification that will negate the likelihood of unlawful impairment. That qualification is that "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."

41. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the subject matter and parties to this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46,

2. Publication was properly made and the Notice of Hearing was properly issued pursuant to SDCL 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL 46-2A-9.

5. SDCL 46-2A-9 provides that a permit to appropriate water may be issued "only if there is 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." Each of

these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them,

6. The first factor for consideration under SDCL 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL 46-6-3.1 pertaining to recharge/withdrawal: whether "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,"

7. There is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

8. The Board further concludes that it is not probable that withdrawals from the Aquifer would exceed recharge to the Aquifer in violation of SDCL 46-6-3.1 if this application is granted.

9. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing rights.

10. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use (irrigation) is a beneficial use.

11. The fourth requirement of SDCL § 46-2A-9 concerns the public interest: the proposed use of the water must be "consistent with the interests of the public of this state in the

best utilization of water supplies." SDCL § 46-1-6(3), The Board finds that appropriating water for irrigation is in the public interest.

12. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8226-3 is granted with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. §189-3 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

Dated this ____ day of March, 2017.

BY THE BOARD:

Michael E. Unke
ATTORNEY & COUNSELOR AT LAW

341 NORTH MAIN
P.O. BOX 529
SALEM, SOUTH DAKOTA 57058-0529

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WATER RIGHTS
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February 13, 2017

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Assistant Attorney General
Natural Resources Section
George S. Mickelson Criminal Justice Center
1302 E. Highway 14, Suite 1
Pierre, SD 57501

Jeanne Goodman
Chief Engineer
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Rapid City, SD 57702

Everett Hoyt
4422 Carriage Hills Drive
Rapid City, SD 57702

Tim Bjork, Vice Chairman
223 Enchantment Drive
Rapid City, SD 57701

Jim Hutnacher
Water Management Board Chairman
802 E. 7th Street
Oacoma, SD 57365

Chad Comes
116 West Center
Madison, SD 57042

RE: In the Matter Water Permit Application No. 8226-3, Jeffrey Albrecht

Enclosed please find Intervenor's proposed Findings of Fact, Conclusions of Law and Final Decision in the above referenced matter. I am in agreement with the majority of J.G. Schultz's proposed Findings of Fact, Conclusions of Law and Final Decision that he submitted on February 6, 2017 with the following changes or additions:

To paragraph 17 the underlined sentences were added. 17. Mr. Buhler concluded that there is a reasonable probability that unappropriated water is available from the Vermillion East Fork Aquifer to support the proposed appropriation. This was based on information from similar management units. Mr. Buhler admitted that there were no studies for recharge of this management unit.

Intervenor added paragraph 25. Applicant had drilled numerous wells in the area before he found one that was viable.

Intervenor removed applicants paragraph 29 and replaced it with paragraph 30. Mr. Grace said that applicant's well would have an adverse affect on Intervenor's well. The location was not suitable for another well.

Intervenor added paragraphs 33, 34, 35, 36, and 37.

Intervenor added to paragraph 40 the underlined words: 40. The Board finds Intervenor has not submitted sufficient evidence through expert opinions, testimony or evidence that would support a determination that there is a reasonable probability that there is not unappropriated water available in this Aquifer.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Michael E. Unke', written in a cursive style.

Michael E. Unke

MEU/mrs

Enc.

cc: J. G. Schultz
H.T. Albrecht

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FEB 15 2017

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER
APPLICATION NO. 8226-3, JEFFREY
ALBRECHT

:
:
:

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND FINAL DECISION.

This matter came before the South Dakota Water Management Board for hearing on December 1, 2016. Board members Everett Hoyt, Tim Bjork, Rodney Freeman, Peggy Dixon, Leo Holzbauer, and Jim Hutmacher were present at the hearing and heard the evidence presented. Jeffrey Albrecht (hereinafter referred to as Applicant) was represented by J. G. Shultz, and H.T. Albrecht and Sons, Inc., Intervenor, was represented by Michael E. Unke and Ann F. Mines Bailey represented the DENR Water Rights Program and its Chief Engineer (DENR).

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1 On May 25, 2016, DENR received water permit application number 8226-3 on behalf of Applicant seeking the appropriation of water for irrigation. The application proposes the construction of two wells in the Vermillion East Fork Aquifer located at the SW 1/4 of the SE 1/4 of Section 35, Township 110N, Range 56 West with a second well in the SE 1/4 of the SE 1/4 of Section 35, Township 110N, Range 56 West, if necessary, in Kingsbury County with a diversion rate of 1.78 cubic feet per second for a volume not to exceed 2 acre feet per acre per year.

2. The sole proposed use is irrigation.

3. DENR witness Ken Buhler, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Vermillion East Fork Aquifer and reviewed the information obtained from observation wells in the Vermillion East Fork Aquifer, as well as current water right/permit files and well completion reports for the aquifer.

4. On July 11, 2016, Mr. Buhler issued a report to the chief engineer. Mr. Buhler concluded there is reasonable probability that unappropriated water is available in the Vermillion East Fork Aquifer to satisfy Applicant's appropriation, that the estimated annual average recharge of the Aquifer exceeds the estimated annual withdrawals, and there is a reasonable probability that Applicant's appropriation would not adversely impact existing water rights or domestic use wells.

5. On July 25, 2016, the chief engineer recommended approval of Applicant's application due to the availability of unappropriated water in the Vermillion East Fork Aquifer. The proposed diversion can be developed without unlawful impairment of existing water rights, Applicant's proposed uses are beneficial uses, and it is in the public interest, with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. §189-3 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.
6. Notice of the application and hearing was timely advertised in the Madison Daily Leader and the DeSmet News on August 3, 2016.
7. DENR received timely petitions in opposition to the application on behalf of H. T. Albrecht & Sons, Inc., and on behalf of the U.S. Fish and Wildlife Service.
8. The matter was initially scheduled to be heard by the Water Management Board on October 13, 2016; however, an automatic delay was requested by the U.S. Fish and Wildlife Service and applicant.
9. On October 28, 2016, the U.S. Fish and Wildlife Service withdrew its objection to applicant's permit request based upon applicant's agreement to move the primary well 100 feet directly to the east to avoid U.S. Fish and Wildlife Service's interest and based upon applicant's representation that he expected that irrigation would be implemented only periodically during the course of the growing season.
10. Water Permit Application No. 8226-3 is a new water permit application which requires a determination pursuant to SDCL, § 46-2A-9 of whether there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

11. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

12. The Vermillion East Fork Aquifer is a glacial melt water deposit consisting of medium to very coarse sand and fine gravel. The Aquifer extends from Clark County to Turner County where it blends into the Parker Centerville outwash in Kingsbury County. The Vermillion East Fork Aquifer is estimated to underlie approximately 94 square miles and in the postulated management unit under consideration for purposes of this water permit, it is estimated to contain 127,000 acre feet of water in storage. The Aquifer in the area in question is generally considered to be unconfined and is hydraulically connected to Lake Thompson.

13. Recharge of the Vermillion East Fork Aquifer in the location subject to the present permit occurs through infiltration and precipitation, leakage from adjacent and underlying till, and inflow from other management units. Based upon studies of nearby management units, the average annual recharge to the postulated management unit in the location subject to the present permit is estimated to be approximately 14,200 acre feet per year.

14. The average annual withdrawal from the postulated management unit in the location subject to the present permit and current appropriation is expected to be 6,180 acre feet per year.

15. Mr. Buhler testified that based upon the recharge rates and withdrawal rates, there were over 8,000 acre feet per year available for appropriation in the postulated water management unit of the Vermillion East Fork Aquifer in the location subject to the present permit.

16. Additionally, DENR monitors 9 observation wells in the postulated management unit of the Vermillion East Fork Aquifer where the proposed wells would be located. The hydrographs for these wells document that the Aquifer responds well to climatic conditions with rising water levels during wet years and declining water levels during dry years. Based upon the observation well information, it appears that recharge to and natural discharge from the Aquifer greatly exceeds well withdrawal, so water is available for capture before natural discharge.

17. Mr. Buhler concluded that there is a reasonable probability that unappropriated water is available from the Vermillion East Fork Aquifer to support the proposed appropriation. This was based on information from similar management units. Mr. Buhler admitted that there were no studies for recharge of this management unit.

18. Mr. Buhler also examined whether there would be an unlawful impairment to existing water rights in the Vermillion East Fork Aquifer.

19. In the area of Kingsbury County involved in the permit, there are seven existing water rights in the Vermillion East Fork Aquifer.

20. Mr. Buhler concluded that, since the Vermillion East Fork Aquifer is under unconfined conditions, draw down does not extend very far from individual production wells, which is shown by the observation well data.

21. The Water Management Board has consistently recognized that to place water to maximum beneficial use, a certain amount of draw down will occur. Although precise draw down estimates were not quantified by Mr. Buhler in his report, he testified that he calculated that the effect of granting the permit might be between .22 and 1.3 feet on Intervenor's wells.

22. Mr. Buhler concluded that adequate wells as defined by ARSD 74:02:020(7) are not expected to be adversely impaired due to the additional diversion from the proposed project.

23. Jeffrey Albrecht, the applicant, testified before the Board.

24. Applicant has farmed the property in question for over 20 years. He confirmed that the application was submitted in order to irrigate sandy soil in the affected area. He also testified that there was a domestic well on or nearby the property where the permit is sought and that this well has not shown any problems over the years.

25. Applicant had drilled numerous wells in the area before he found one that was viable.

26. Rick Grace, an employee of the Pullman Well Drilling Company with 40 years of experience, testified before the Board.

27. Mr. Grace testified that he equipped the Intervenor's wells and that the pumps in those wells are at the lowest point they can be.

28. Mr. Grace further reported that the Intervenor's wells fell below expected productivity after reconfiguring the equipment.

29. Mr. Grace said that, since Intervenor's pumps are at the bottom of the well, any draw down by new wells would have an adverse impact.

30. Mr. Grace said that applicant's well would have an adverse affect on Intervenor's well. The location was not suitable for another well.

31. Bill Albrecht, Intervenor's secretary, testified before the Board.

32. Bill Albrecht testified that regarding his concerns as to the impact of the proposed permit on Intervenor's wells. He also testified about the difficulties developing Intervenor's wells and the history of Intervenor's well's production over the course of five years. Bill Albrecht testified that he does not believe there is unappropriated water in the area under

consideration. He also expressed his concern that there were no observation wells in close proximity to the proposed permit area.

33. Intervenor has a water permit No. 7279-3, dated November 17, 2011, which by South Dakota statute has a priority over subsequent permits. The property that Intervenor's permit covers is adjacent to applicant's property.

34. Bill Albrecht testified in his opinion there is not enough water in the area for more wells for irrigation.

35. Intervenor is irrigating the Northeast Quarter of Section 35 in Township 110 North, Range 56, West of the 5th P.M. It can only run their pumps at partial power. Its water pressure is about 35 pounds maximum, when it should be at 50 pounds water pressure. Its permit is for 800 gallons per minute; however it is lucky if it pulls 400 gallons per minute.

36. Intervenor has expended \$145,765.41 in irrigation costs and is worried that its irrigation will be greatly reduced by subsequent wells being dug near them. In the past, my Intervenor's well has been pumped dry. There is not enough water for any further irrigation in close proximity to Intervenor's property.

37. Applicant's application does not include the domestic wells in close proximity or the depths of those wells. Also in applicant's application and pursuant to SDCL 46-5-6 authorizes applicant an increased diversion rate of 1.78 cfs for the irrigation of 102.5 acres with an annual volume not to exceed 2 acres feet of water per acre per year.

38. Based on the production records for the last four years on Intervenor's well that is approximately 3,000 feet away from the proposed permit site, Bill Albrecht asserted that there is not sufficient unappropriated water available.

39. The Board finds Mr. Buhler to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Buhler's testimony and the reports and exhibits which he prepared and/or relied upon.

40. The Board finds Intervenor has not submitted sufficient evidence through expert opinions, testimony or evidence that would support a determination that there is a reasonable probability that there is not unappropriated water available in this Aquifer.

41. The Board finds that there is a reasonable probability that there is unappropriated water available for the applicant's proposed use. Intervenor has prior water rights that are superior to applicants. If there is a problem with Intervenor's well caused by applicant's irrigating must control his withdrawals.

42. The Board further finds that granting this application would not result in withdrawals from the Aquifer exceeding recharge to the Aquifer.

43. The Board further finds that the proposed uses of the water for irrigation purposes constitute beneficial use.

44. The Board further finds that placing the water to this beneficial use is in the public interest.

45. In light of the testimony received, the Board finds that granting the proposed application will not result in an impairment of existing right.

46. In addition to Witness Buhler's conclusion that there would not likely be adverse interference with the domestic wells, the Chief Engineer proposes a qualification that will negate the likelihood of unlawful impairment. That qualification is that "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."

47. Any finding of fact more properly designated as a conclusion of law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the subject matter and parties to this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46,

2. Publication was properly made and the Notice of Hearing was properly issued pursuant to SDCL 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL 46-2A-4(8).

4. The applicant is required to satisfy each of the factors set forth in SDCL 46-2A-9.

5. SDCL 46-2A-9 provides that a permit to appropriate water may be issued "only if there is 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." Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them,

6. The first factor for consideration under SDCL 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL 46-6-3.1 *pertaining to recharge/withdrawal*: whether "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,"

7. There is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

8. The Board further concludes that it is not probable that withdrawals from the Aquifer would exceed recharge to the Aquifer in violation of SDCL 46-6-3.1 if this application is granted.

9. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing rights.

10. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use (irrigation) is a beneficial use.

11. The fourth requirement of SDCL § 46-2A-9 concerns the public interest: the proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3), The Board finds that appropriating water for irrigation is in the public interest.

12. Any conclusion of law more properly designated as a finding of fact shall be treated as such.

FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8226-3 is granted with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. §189-3 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

Dated this _____ day of March, 2017.

BY THE BOARD:



OFFICE OF ATTORNEY GENERAL

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Pierre, South Dakota 57501-8501
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MARTY J. JACKLEY
ATTORNEY GENERAL

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**WATER RIGHTS
PROGRAM**

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

February 17, 2017

BY INTER-OFFICE MAIL

Jeanne Goodman
Chief Engineer, Water Rights Program
Department of Environment and Natural Resources
523 East Capitol Avenue
Pierre, SD 57501

Re: *In the Matter of Water Application No. 8226-3, Jeffrey Albrecht*

Dear Jeanne:

Enclosed for filing please find DENR's proposed Findings of Fact, Conclusions of Law and Final Decision, DENR's Objections to Applicant's proposed Findings of Fact and Conclusions of Law and Certificate of Service in the above-entitled matter. By copy of this letter, service is intended upon the individuals listed on the Certificate of Service.

Respectfully,

A handwritten signature in black ink, appearing to read "Ann F. Mines Bailey".

Ann F. Mines Bailey
Assistant Attorney General

AFMB/jmm

Enclosures

cc w/enc: Individuals listed on the Certificate of Service

FEB 21 2017

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER APPLICATION NO. 8226-3, JEFFREY ALBRECHT	))))	DENR'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION
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This matter came before the South Dakota Water Management Board for hearing on December 1, 2016. Board members Tim Bjork, Rodney Freeman, Peggy Dixon, Leo Holzbauer, Ev Hoyt, and Jim Hutmacher were present at the hearing and heard the evidence presented. Jeffrey Albrecht was represented by Jeffrey Schultz. Intervenor H.T. Albrecht & Sons, Inc. was represented by Michael E. Unke. Ann F. Mines Bailey represented the DENR Water Rights Program and its Chief Engineer (DENR).

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 25, 2016, DENR received Water Permit Application No. 8226-3 on behalf of Jeffrey Albrecht seeking the appropriation of water for irrigation of 102.5 acres located in the E½SE¼, SW¼SE¼ Section 35, T110N-R56W. The application proposes the construction of two wells to be completed into the Vermillion East Fork Aquifer and located in S½SE¼ of Section 35, T110N-R56W in Kingsbury County with a diversion rate of 1.78

cubic feet of water per second (cfs) for a volume of 205 acre-feet per year.

The application is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

2. The Chief Engineer recommended approval of the application subject to the permit including four specified qualifications. Those qualifications are as follows:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. [8226-3] shall be constructed by a licensed well driller and construction of the well[s] and installation of the pump[s] shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing[s] 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

3. Notice of the application and hearing was timely advertised in the Madison Daily Leader and the DeSmet News on August 3, 2016.

4. DENR received a timely petition in opposition to the application on behalf of H.T. Albrecht & Sons, Inc. on August 12, 2016.

5. DENR also received a timely petition to intervene on behalf of United States Department of Interior, Fish and Wildlife Service (USFWS) on August 12, 2016. DENR was notified by USFWS of its withdrawal of its petition to intervene on October 31, 2016. The notice of withdrawal indicated that Applicant and USFWS had entered into a settlement agreement whereby Applicant agreed to move the location of the proposed well site 100 feet to the east of the original proposed location.

6. The matter was initially scheduled to be heard by the Water Management Board on October 13, 2016; however, an automatic delay was requested by intervenors. Counsel for Applicant also requested a postponement of the hearing.

7. Water Permit Application No. 8226-3 is a new water permit application which requires a determination pursuant to SDCL § 43-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

8. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

9. The Vermillion East Fork Aquifer is a glacial meltwater deposit consisting of medium to coarse sand and fine gravel. Typically, it is surficial and unconfined. In this location, the Aquifer is under confined conditions and is hydraulically connected to Lake Thompson. There is approximately twenty foot of artesian head in this area.

10. The Vermillion East Fork Aquifer extends from Clark County to Turner County and is comprised of several management units; namely the Reed Lake Management Unit, the Antelope Lake Management Unit, the Willow Lake Management Unit, the Spirit Lake Management Unit, an unnamed management unit, and the Montrose Management Unit. The unnamed management unit begins at approximately Township 111 North and ends at the county line between Kingsbury County and Miner County.

11. The criteria for determining management units include the thinning or constriction of the aquifer or management unit; facies change from high to low permeability of aquifer material; a change from water-table to artesian conditions or vice versa; groundwater divide; groundwater discharge point such as a stream or lake; or the presence of a streamflow gaging station. Only one of the six criteria needs to be met in order for a management unit to be established. In this instance, a groundwater divide exists at the north end of the Unnamed Management Unit. At the south end of the Unnamed Management Unit, near the Kingsbury/Miner County line, there is a constriction of the Aquifer.

12. DENR witness, Ken Buhler, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Vermillion East Fork Aquifer, and reviewed the information obtained from observation wells completed into the Unnamed Management Unit of the Vermillion East Fork Aquifer, as well as current water right/permit files and well completion reports for the Aquifer.

13. Mr. Buhler testified that while there have been no recharge studies conducted on the Unnamed Management Unit of Vermillion East Fork, the recharge for the unit would be similar to that of the Spirit Lake Management Unit, which is geographically and geologically similar to the Unnamed Management Unit. Based upon that comparison, Mr. Buhler estimated recharge to the Unnamed Management Unit to be approximately 14,200 acre-feet per year.

14. Mr. Buhler further testified that withdrawals from the Unnamed Management Unit occur through evapotranspiration, outflow to adjacent lakes and Miner County, and well withdrawals from the Unnamed Management Unit. Well withdrawals from this management unit total approximately 6,180 acre-feet per year.

15. Additionally, DENR monitors nine observation wells which are completed into the Unnamed Management Unit of the Vermillion East Fork Aquifer. The observation well data demonstrated that climatic conditions dominate the water levels in this management unit and mask the results of

pumping. Over the period of record, average annual recharge has exceeded average annual withdrawal.

16. Mr. Buhler concluded that there is a reasonable probability that unappropriated water is available in the Unnamed Management Unit of the Vermillion East Fork Aquifer to support the proposed appropriation.

17. Mr. Buhler also examined whether there would be an unlawful impairment to existing water rights in the Unnamed Management Unit of the Vermillion East Fork Aquifer.

18. In the Unnamed Management Unit, there are twenty eight appropriations from this management unit. The nearest existing water right to the proposed well site is Water Right No.7279-3, H.T. Albrecht, immediately north approximately 3,300 feet.

19. The nearest domestic well on file is the Heller well, located approximately 1,700 to 2,100 feet southwest of the proposed well sites.

20. Mr. Buhler estimated the drawdown at the H.T. Albrecht wells that would result from pumping at the proposed well site would be between 0.22 feet and 1.3 feet. Mr. Buhler further testified that given there is approximately twenty foot of artesian head pressure in this area, the impact from the proposed well site would not constitute an unlawful impairment.

21. The Board also received the testimony of the Applicant. The Applicant testified that the soil at the location is somewhat sandy and he believes that irrigation will help increase production.

22. The Board additionally received the testimony of Rick Grace. Mr. Grace is a well driller with Pullman Well Drilling with over forty years of experience. Mr. Grace did not drill the wells for Intervenor but placed the pumps in the wells. Mr. Grace testified that Intervenor's wells do not produce 200 gpm. He further testified that he could not say with a reasonable probability that the Applicant's wells would not interfere with Intervenor's wells. Mr. Grace did not dispute Mr. Buhler's testimony regarding the recharge to or withdrawals from the Aquifer. Mr. Grace also did not dispute Mr. Buhler's testimony as to the amount of potential drawdown that might occur at the Intervenor's wells. Mr. Grace further testified that there was twenty feet of artesian head pressure at Intervenor's wells.

23. Bill Albrecht also testified on behalf of Intervenor. Mr. Albrecht serves as an officer of H.T. Albrecht & Sons, Inc. Mr. Albrecht testified as to the Intervenor's land and water right. In particular, Mr. Albrecht testified that the company had invested over \$100,000 into developing the water right. He testified that he is concerned that there is not sufficient water to satisfy his appropriation and also allow for this new appropriation. He also expressed his concern that there were no observation wells in close proximity to the proposed well site.

24. The Board finds Mr. Buhler to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Buhler's testimony and the reports and exhibits which he prepared and/or relied upon.

25. Intervenor has not submitted sufficient evidence through expert opinions, testimony or evidence that would support a determination that there is a reasonable probability that there is not unappropriated water available in this Aquifer.

26. The Board finds that there is a reasonable probability that there is unappropriated water available for the Applicant's proposed use.

27. The Board further finds that granting this application would not result in withdrawals from the Aquifer exceeding average estimated recharge to the Aquifer.

28. The Board further finds that the proposed use of the water for irrigation constitutes beneficial use.

29. The Board further finds that placing the water to this beneficial use is in the public interest.

30. Any Finding of Fact more properly designated as a Conclusion of Law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made and the Notice of Hearing was properly issued pursuant to SDCL 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL 46-2A-4(8).

4. The Water Rights Program has proposed and the Board concludes the Vermillion East Fork Aquifer is properly divided into management units based upon the criteria commonly used for the designation of management units and the Board hereby recognizes the Vermillion East Fork Aquifer is comprised of the Reed Lake Management Unit, the Antelope Lake Management Unit, the Willow Lake Management Unit, the Spirit Lake Management Unit, an Unnamed Management Unit, and the Montrose Management Unit.

5. The applicant is required to satisfy each of the factors set forth in SDCL 46-2A-9.

6. SDCL 46-2A-9 provides that a permit to appropriate water may be issued “only if there is 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.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL 46-6-3.1 pertaining to recharge/withdrawal: whether “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.”

8. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

9. The Board further concludes that it is not probable that withdrawals from the Aquifer would exceed recharge to the Aquifer in violation of SDCL 46-6-3.1 if this application is granted.

10. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing rights.

11. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed uses (irrigation) is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be “consistent with the interests of the public of this state in the best utilization of water supplies.” SDCL § 6-1-6(3). The Board finds that appropriating water for irrigation is in the public interest.

13. Any Conclusion of Law more properly designated as a Finding of Fact shall be treated as such.

FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8226-3 is granted with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. [8226-3] shall be constructed by a licensed well driller and construction of the well[s] and installation of the pump[s] shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing[s] 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

Dated this ____ day of March, 2017.

BY THE BOARD:

Jim Hutmacher, Chairman
South Dakota Water Management Board

FEB 21 2017

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	DENR'S
APPLICATION NO. 8226-3, JEFFREY	)	OBJECTIONS TO APPLICANT'S
ALBRECHT	)	PROPOSED FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW, AND
	)	FINAL DECISION

COMES NOW, the Department of Natural and Environment Resources - Water Rights Program (hereinafter DENR) in response to Jeffrey Albrecht's (hereinafter Applicant) proposed Findings of Fact and Conclusions of Law in this matter.

DENR objects to the lack of inclusion of the legal description of the land which is to be irrigated under the application.

DENR objects to Proposed Finding 5 to the extent that the qualifications contain grammatical errors as well as an error in the permit number.

DENR objects to Proposed Finding 10 in that "SDCI" should be "SDCL."

DENR objects to Proposed Finding 12 in that "underline" should be "underlie." DENR also objects to Proposed Finding 12 in that it implies that the Aquifer is unconfined at this location. The testimony at hearing was that the Aquifer is generally considered to be unconfined but is under confined conditions at the proposed well sites.

DENR objects to the use of the phrase "postulated management unit" in Proposed Findings 14 and 15. DENR presented evidence regarding the division

of the Vermillion East Fork Aquifer into management units. DENR's evidence regarding the availability of unappropriated water and impairment of existing rights was based upon those management units. The Board's acceptance of DENR's evidence necessarily recognizes those management units. DENR will be offering its own proposed Findings of Fact and Conclusions of Law to memorialize the Board's recognition of the management units in the Vermillion East Fork Aquifer.

DENR objects to Proposed Finding 16 with regard to the phrase "before natural discharge."

DENR objects to Proposed Finding 19 to the extent that it is misleading. In the report, Mr. Buhler noted seven existing water rights in the "vicinity" of the proposed well sites. However, the testimony at hearing is that there are twenty-eight existing water rights in the Unnamed Management Unit of the Vermillion East Fork Aquifer.

DENR objects to Proposed Finding 20 as inaccurate. Mr. Buhler testified that while the Aquifer is generally considered to be unconfined, it is under confined conditions in the area of the proposed well sites.

DENR objects to Finding 27 with regard to the use of the phrase "reconfiguring the equipment." It is more accurate to state "after replacement of the pumps in the wells" as opposed to a renozzling of the pivot.

DENR objects to Finding 36 to the extent that it should include the phrase "average estimated" before the word "recharge."

DENR objects to the Final Decision in that the qualifications set forth contain grammatical errors and the wrong permit number.

DENR asserts that additional findings are necessary. Accordingly, DENR submits its own proposed Findings of Fact and Conclusions of Law for the Board's consideration which attempt to combine Applicant's proposed findings, with slight modification, with those additional findings DENR believes are necessary.

Dated this 17th day of February 2017.



Ann F. Mines Bailey
Assistant Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215

Counsel for Water Rights Program, DENR

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER WATER	)	
APPLICATION No. 8226-3, JEFFREY	)	CERTIFICATE OF SERVICE
ALBRECHT	)	
	)	

The undersigned hereby certifies that on the 17th day of February 2017, a true and correct copy of DENR'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION and DENR'S OBJECTIONS TO APPLICANT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND FINAL DECISION was mailed by U.S. mail first-class and also by e-mail to:

Jeff Shultz
Woods, Fuller, Shultz & Smith
300 South Phillips Avenue, #300
Sioux Falls, SD 57117

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Chad Comes
116 West Center
Madison, SD 57042

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350

Everett Hoyt
4422 Carriage Hills Dr.
Rapid City, SD 57702

Jim Hutmacher
802 East 7th Street
Oacoma, SD 57365

Leo Holzbauer
P.O. Box 64
Delmont, SD 57330

Peggy Dixon
3311 Hogan Court
Rapid City, SD 57702

Tim Bjork
223 Enchantment Drive
Rapid City, SD 57701

By hand delivery and electronically to

Matt Naasz
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

and on the same date, the originals were filed for record with:

Jeanne Goodman
Chief Engineer, Water Rights Program
DENR
523 East Capitol Avenue
Pierre, South Dakota 57501



Ann F. Mines Bailey
Assistant Attorney General



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

<http://atg.sd.gov/>

MARTY J. JACKLEY

ATTORNEY GENERAL

CHARLES D. McGUIGAN

CHIEF DEPUTY ATTORNEY GENERAL

February 24, 2017

Jeff Shultz
Woods, Fuller, Shultz & Smith
300 South Phillips Avenue, #300
Sioux Falls, SD 57117

Michael E. Unke
Attorney at Law
P.O. Box 529
Salem, SD 57058-0529

Jeanne Goodman
Chief Engineer, Water Rights Program
DENR
HAND-DELIVERED

Ann F. Mines Bailey
Assistant Attorney General
HAND-DELIVERED

Re: *In the Matter of Water Application No. 8226-3, Jeffrey Albrecht*

Dear Counsel and Chief Engineer:

Enclosed please find the proposed Water Management Board's Rulings on Parties' Submissions and proposed Findings of Fact, Conclusions of Law and Final Decision I have prepared in the above matter. The documents were prepared consistent with statements made at the December 1, 2016, meeting of the Water Management Board. The Board will consider these proposals at its March meeting. It is within the Board's discretion whether oral argument by the parties will be afforded prior to consideration of the matter.

Yours truly,

A handwritten signature in black ink, appearing to read "Matt Naasz", written over a horizontal line.

Matt Naasz
Assistant Attorney General

MN/jmm

Enclosures

cc w/enc: Water Management Board



RECEIVED

MAR - 6 2017

WATER RIGHTS
PROGRAM

March 3, 2017

J. G. Shultz
Jeff.Shultz@woodsfuller.com
Extension 643

Jeanne Goodman
Chief Engineer
Department of Environment and Natural
Resources
Foss Building
523 East Capitol Avenue
Pierre, SD 57501-3182

Re: In the Matter of Water Application No. 8226-3, Jeffrey Albrecht

Dear Ms. Goodman:

Enclosed for filing please find the original Notice of Entry of Findings of Fact, Conclusions of Law, and Final Decision in the referenced matter.

Sincerely,

WOODS, FULLER, SHULTZ & SMITH P.C.

A handwritten signature in black ink, appearing to be 'JGS', written over a horizontal line.

J. G. Shultz

Enclosure

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

RECEIVED
MAR - 6 2017
WATER RIGHTS
PROGRAM

IN THE MATTER OF WATER APPLICATION NO. 8226-3, JEFFREY ALBRECHT	:	NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION
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PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, and Final Decision was signed by Tim Bjork, Acting Chairman of the South Dakota Water Management Board on March 1, 2017. A true and correct copy of the Findings of Fact, Conclusions of Law, and Final Decision is attached.

Dated this 3rd day of March, 2017.

WOODS, FULLER, SHULTZ & SMITH P.C.

By



J. G. Shultz
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
Email Jeff.Shultz@woodsfuller.com
Attorneys for Jeffrey Albrecht

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of March, 2017, a true and correct copy of the Notice of Entry of Findings of Fact, Conclusions of Law, and Final Decision was mailed to the following by United States mail, postage prepaid thereon:

Ann Mines-Bailey
Office of Attorney General
Natural Resources Section
George S. Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, SD 57501

Mr. Michael E. Unke
Attorney at Law
Post Office Box 529
Salem, SD 57058-0529

Matt Naasz
Assistant Attorney General
Natural Resources Section
George S. Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, SD 57501

and the original for filing was mailed to Jeanne Goodman, Chief Engineer, Department of Environmental and Natural Resources, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, 5501-3182.



One of the attorneys for Jeffrey Albrecht

RECEIVED

MAR - 6 2017

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	FINDINGS OF FACT,
APPLICATION NO. 8226-3, JEFFREY	)	CONCLUSIONS OF LAW, AND
ALBRECHT	)	FINAL DECISION
	)	

This matter came before the South Dakota Water Management Board for hearing on December 1, 2016. Board members Tim Bjork, Rodney Freeman, Peggy Dixon, Leo Holzbauer, Ev Hoyt, and Jim Hutmacher were present at the hearing and heard the evidence presented. Jeffrey Albrecht was represented by Jeffrey Schultz. Intervenor H.T. Albrecht & Sons, Inc. was represented by Michael E. Unke. Ann F. Mines Bailey represented the DENR Water Rights Program and its Chief Engineer (DENR).

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 25, 2016, DENR received Water Permit Application No. 8226-3 on behalf of Jeffrey Albrecht seeking the appropriation of water for irrigation of 102.5 acres located in the E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, T110N-R56W. The application proposes the construction of two wells to be completed into the Vermillion East Fork Aquifer and located in S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 35, T110N-R56W in Kingsbury County with a diversion rate of 1.78

cubic feet of water per second (cfs) for a volume of 205 acre-feet per year.

The application is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

2. The Chief Engineer recommended approval of the application subject to the permit including four specified qualifications. Those qualifications are as follows:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. [8226-3] shall be constructed by a licensed well driller and construction of the well[s] and installation of the pump[s] shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing[s] 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

3. Notice of the application and hearing was timely advertised in the Madison Daily Leader and the DeSmet News on August 3, 2016.

4. DENR received a timely petition in opposition to the application on behalf of H.T. Albrecht & Sons, Inc. on August 12, 2016.

5. DENR also received a timely petition to intervene on behalf of United States Department of Interior, Fish and Wildlife Service (USFWS) on

August 12, 2016. DENR was notified by USFWS of its withdrawal of its petition to intervene on October 31, 2016. The notice of withdrawal indicated that Applicant and USFWS had entered into a settlement agreement whereby Applicant agreed to move the location of the proposed well site 100 feet to the east of the original proposed location.

6. The matter was initially scheduled to be heard by the Water Management Board on October 13, 2016; however, an automatic delay was requested by intervenors. Counsel for Applicant also requested a postponement of the hearing.

7. Water Permit Application No. 8226-3 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

8. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

9. The Vermillion East Fork Aquifer is a glacial meltwater deposit consisting of medium to very coarse sand and fine gravel. Typically, it is surficial and unconfined. In this location, the Aquifer is under confined

conditions and is hydraulically connected to Lake Thompson. There is approximately twenty feet of artesian head in this area.

10. The Vermillion East Fork Aquifer extends from Clark County to Turner County and is comprised of several management units; namely the Reed Lake Management Unit, the Antelope Lake Management Unit, the Willow Lake Management Unit, the Spirit Lake Management Unit, an unnamed management unit, and the Montrose Management Unit. The unnamed management unit begins at approximately Township 111 North and ends at the county line between Kingsbury County and Miner County.

11. The criteria for determining management units include the thinning or constriction of the aquifer or management unit; facies change from high to low permeability of aquifer material; a change from water-table to artesian conditions or vice versa; groundwater divide; groundwater discharge point such as a stream or lake; or the presence of a streamflow gaging station. Only one of the six criteria needs to be met in order for a management unit to be established. In this instance, a groundwater divide exists at the north end of the Unnamed Management Unit. At the south end of the Unnamed Management Unit, near the Kingsbury/Miner County line, there is a constriction of the Aquifer.

12. DENR witness, Ken Buhler, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Vermillion East Fork Aquifer, and reviewed the information obtained from observation wells completed into the Unnamed Management Unit of the Vermillion East Fork

Aquifer, as well as current water right/permit files and well completion reports for the Aquifer.

13. Mr. Buhler testified that while there have been no recharge studies conducted on the Unnamed Management Unit of Vermillion East Fork, the recharge for the unit would be similar to that of the Spirit Lake Management Unit, which is geographically and geologically similar to the Unnamed Management Unit. Based upon that comparison, Mr. Buhler estimated recharge to the Unnamed Management Unit to be approximately 14,200 acre-feet per year.

14. Mr. Buhler further testified that withdrawals from the Unnamed Management Unit occur through evapotranspiration, outflow to adjacent lakes and Miner County, and well withdrawals from the Unnamed Management Unit. Well withdrawals from this management unit total approximately 6,180 acre-feet per year.

15. Additionally, DENR monitors nine observation wells which are completed into the Unnamed Management Unit of the Vermillion East Fork Aquifer. The observation well data demonstrated that climatic conditions dominate the water levels in this management unit and mask the results of pumping. Over the period of record, average annual recharge has exceeded average annual withdrawal.

16. Mr. Buhler concluded that there is a reasonable probability that unappropriated water is available in the Unnamed Management Unit of the Vermillion East Fork Aquifer to support the proposed appropriation.

17. Mr. Buhler also examined whether there would be an unlawful impairment to existing water rights in the Unnamed Management Unit of the Vermillion East Fork Aquifer.

18. In the Unnamed Management Unit, there are twenty eight appropriations from this management unit. The nearest existing water right to the proposed well site is Water Right No.7279-3, H.T. Albrecht, immediately north approximately 3,300 feet.

19. The nearest domestic well on file is the Heller well, located approximately 1,700 to 2,100 feet southwest of the proposed well sites.

20. Mr. Buhler estimated the drawdown at the H.T. Albrecht wells that would result from pumping at the proposed well site would be between 0.22 feet and 1.3 feet. Mr. Buhler further testified that given there is approximately twenty foot of artesian head pressure in this area, the impact from the proposed well site would not constitute an unlawful impairment.

21. Jeffrey Albrecht, the Applicant, testified before the Board. Applicant has farmed the property in question for over twenty years. He confirmed that the application was submitted in order to irrigate sandy soil in the affected area. He also testified that there was a domestic well on the property where the permit is sought and that this well has not shown any problems over the years.

22. The Board additionally received the testimony of Rick Grace. Mr. Grace is a well driller with Pullman Well Drilling with over forty years of experience. Mr. Grace did not drill the wells for Intervenor but placed the pumps in the wells. Mr. Grace testified that Intervenor's wells do not produce

200 gpm. He further testified that he could not say with a reasonable probability that the Applicant's wells would not interfere with Intervenor's wells. Mr. Grace did not dispute Mr. Buhler's testimony regarding the recharge to or withdrawals from the Aquifer. Mr. Grace also did not dispute Mr. Buhler's testimony as to the amount of potential drawdown that might occur at the Intervenor's wells. Mr. Grace further testified that there was twenty feet of artesian head pressure at Intervenor's wells.

23. Bill Albrecht also testified on behalf of Intervenor. Mr. Albrecht serves as an officer of H.T. Albrecht & Sons, Inc. Mr. Albrecht testified as to the Intervenor's land and water right. In particular, Mr. Albrecht testified that the company had invested over \$100,000 into developing the water right. He testified that he is concerned that there is not sufficient water to satisfy his appropriation and also allow for this new appropriation. He also expressed his concern that there were no observation wells in close proximity to the proposed well site.

24. The Board finds Mr. Buhler to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Buhler's testimony and the reports and exhibits which he prepared and/or relied upon.

25. Intervenor has not submitted sufficient evidence through expert opinions, testimony or evidence that would support a determination that there is a reasonable probability that there is not unappropriated water available in this Aquifer.

26. The Board finds that there is a reasonable probability that there is unappropriated water available for the Applicant's proposed use.

27. In light of the testimony received, the Board finds that granting the proposed application will not result in an impairment of existing rights.

28. The Board further finds that granting this application would not result in withdrawals from the Aquifer exceeding average estimated recharge to the Aquifer.

29. The Board further finds that the proposed use of the water for irrigation constitutes beneficial use.

30. The Board further finds that placing the water to this beneficial use is in the public interest.

31. Any Finding of Fact more properly designated as a Conclusion of Law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made and the Notice of Hearing was properly issued pursuant to SDCL 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL 46-2A-4(8).

4. The Water Rights Program has proposed and the Board concludes the Vermillion East Fork Aquifer is properly divided into management units based upon the criteria commonly used for the designation of management units and the Board hereby recognizes the Vermillion East Fork Aquifer is comprised of the Reed Lake Management Unit, the Antelope Lake Management Unit, the Willow Lake Management Unit, the Spirit Lake Management Unit, an Unnamed Management Unit, and the Montrose Management Unit.

5. The applicant is required to satisfy each of the factors set forth in SDCL 46-2A-9.

6. SDCL 46-2A-9 provides that a permit to appropriate water may be issued "only if there is 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." Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL 46-6-3.1 pertaining to recharge/withdrawal: whether "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."

8. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

9. The Board further concludes that it is not probable that withdrawals from the Aquifer would exceed recharge to the Aquifer in violation of SDCL 46-6-3.1 if this application is granted.

10. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing rights.

11. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use (irrigation) is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for irrigation is in the public interest.

13. Any Conclusion of Law more properly designated as a Finding of Fact shall be treated as such.

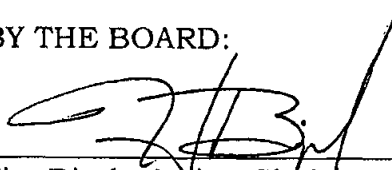
FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8226-3 is granted with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8226-3 shall be constructed by a licensed well driller and construction of the wells and installation of the pumps shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casings 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

Dated this 1 day of March, 2017.

BY THE BOARD:



Tim Bjork, Acting Chairman
South Dakota Water Management Board

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	FINDINGS OF FACT,
APPLICATION NO. 8226-3, JEFFREY	)	CONCLUSIONS OF LAW, AND
ALBRECHT	)	FINAL DECISION
	)	

This matter came before the South Dakota Water Management Board for hearing on December 1, 2016. Board members Tim Bjork, Rodney Freeman, Peggy Dixon, Leo Holzbauer, Ev Hoyt, and Jim Hutmacher were present at the hearing and heard the evidence presented. Jeffrey Albrecht was represented by Jeffrey Schultz. Intervenor H.T. Albrecht & Sons, Inc. was represented by Michael E. Unke. Ann F. Mines Bailey represented the DENR Water Rights Program and its Chief Engineer (DENR).

The Board, having considered the testimony and exhibits presented and all records and documents on file and having entered its oral decision and rulings on the parties' submissions, now enters the following:

FINDINGS OF FACT

1. On May 25, 2016, DENR received Water Permit Application No. 8226-3 on behalf of Jeffrey Albrecht seeking the appropriation of water for irrigation of 102.5 acres located in the E½SE¼, SW¼SE¼ Section 35, T110N-R56W. The application proposes the construction of two wells to be completed into the Vermillion East Fork Aquifer and located in S½SE¼ of Section 35, T110N-R56W in Kingsbury County with a diversion rate of 1.78

cubic feet of water per second (cfs) for a volume of 205 acre-feet per year.

The application is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres.

2. The Chief Engineer recommended approval of the application subject to the permit including four specified qualifications. Those qualifications are as follows:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. [8226-3] shall be constructed by a licensed well driller and construction of the well[s] and installation of the pump[s] shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing[s] 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

3. Notice of the application and hearing was timely advertised in the Madison Daily Leader and the DeSmet News on August 3, 2016.

4. DENR received a timely petition in opposition to the application on behalf of H.T. Albrecht & Sons, Inc. on August 12, 2016.

5. DENR also received a timely petition to intervene on behalf of United States Department of Interior, Fish and Wildlife Service (USFWS) on

August 12, 2016. DENR was notified by USFWS of its withdrawal of its petition to intervene on October 31, 2016. The notice of withdrawal indicated that Applicant and USFWS had entered into a settlement agreement whereby Applicant agreed to move the location of the proposed well site 100 feet to the east of the original proposed location.

6. The matter was initially scheduled to be heard by the Water Management Board on October 13, 2016; however, an automatic delay was requested by intervenors. Counsel for Applicant also requested a postponement of the hearing.

7. Water Permit Application No. 8226-3 is a new water permit application which requires a determination pursuant to SDCL § 46-2A-9 that there is a reasonable probability unappropriated water is available for the proposed use, whether the use would impair existing rights, whether the use would be a beneficial use, and whether the proposed use is in the public interest.

8. In considering water availability this Board must examine whether the quantity of the average water withdrawn annually from the groundwater source would exceed the quantity of the average estimated annual recharge of water to the groundwater source if this permit was granted.

9. The Vermillion East Fork Aquifer is a glacial meltwater deposit consisting of medium to very coarse sand and fine gravel. Typically, it is surficial and unconfined. In this location, the Aquifer is under confined

conditions and is hydraulically connected to Lake Thompson. There is approximately twenty feet of artesian head in this area.

10. The Vermillion East Fork Aquifer extends from Clark County to Turner County and is comprised of several management units; namely the Reed Lake Management Unit, the Antelope Lake Management Unit, the Willow Lake Management Unit, the Spirit Lake Management Unit, an unnamed management unit, and the Montrose Management Unit. The unnamed management unit begins at approximately Township 111 North and ends at the county line between Kingsbury County and Miner County.

11. The criteria for determining management units include the thinning or constriction of the aquifer or management unit; facies change from high to low permeability of aquifer material; a change from water-table to artesian conditions or vice versa; groundwater divide; groundwater discharge point such as a stream or lake; or the presence of a streamflow gaging station. Only one of the six criteria needs to be met in order for a management unit to be established. In this instance, a groundwater divide exists at the north end of the Unnamed Management Unit. At the south end of the Unnamed Management Unit, near the Kingsbury/Miner County line, there is a constriction of the Aquifer.

12. DENR witness, Ken Buhler, a natural resources engineer, reviewed the permit application, analyzed the hydrology of the Vermillion East Fork Aquifer, and reviewed the information obtained from observation wells completed into the Unnamed Management Unit of the Vermillion East Fork

Aquifer, as well as current water right/permit files and well completion reports for the Aquifer.

13. Mr. Buhler testified that while there have been no recharge studies conducted on the Unnamed Management Unit of Vermillion East Fork, the recharge for the unit would be similar to that of the Spirit Lake Management Unit, which is geographically and geologically similar to the Unnamed Management Unit. Based upon that comparison, Mr. Buhler estimated recharge to the Unnamed Management Unit to be approximately 14,200 acre-feet per year.

14. Mr. Buhler further testified that withdrawals from the Unnamed Management Unit occur through evapotranspiration, outflow to adjacent lakes and Miner County, and well withdrawals from the Unnamed Management Unit. Well withdrawals from this management unit total approximately 6,180 acre-feet per year.

15. Additionally, DENR monitors nine observation wells which are completed into the Unnamed Management Unit of the Vermillion East Fork Aquifer. The observation well data demonstrated that climatic conditions dominate the water levels in this management unit and mask the results of pumping. Over the period of record, average annual recharge has exceeded average annual withdrawal.

16. Mr. Buhler concluded that there is a reasonable probability that unappropriated water is available in the Unnamed Management Unit of the Vermillion East Fork Aquifer to support the proposed appropriation.

17. Mr. Buhler also examined whether there would be an unlawful impairment to existing water rights in the Unnamed Management Unit of the Vermillion East Fork Aquifer.

18. In the Unnamed Management Unit, there are twenty eight appropriations from this management unit. The nearest existing water right to the proposed well site is Water Right No.7279-3, H.T. Albrecht, immediately north approximately 3,300 feet.

19. The nearest domestic well on file is the Heller well, located approximately 1,700 to 2,100 feet southwest of the proposed well sites.

20. Mr. Buhler estimated the drawdown at the H.T. Albrecht wells that would result from pumping at the proposed well site would be between 0.22 feet and 1.3 feet. Mr. Buhler further testified that given there is approximately twenty foot of artesian head pressure in this area, the impact from the proposed well site would not constitute an unlawful impairment.

21. Jeffrey Albrecht, the Applicant, testified before the Board. Applicant has farmed the property in question for over twenty years. He confirmed that the application was submitted in order to irrigate sandy soil in the affected area. He also testified that there was a domestic well on the property where the permit is sought and that this well has not shown any problems over the years.

22. The Board additionally received the testimony of Rick Grace. Mr. Grace is a well driller with Pullman Well Drilling with over forty years of experience. Mr. Grace did not drill the wells for Intervenor but placed the pumps in the wells. Mr. Grace testified that Intervenor's wells do not produce

200 gpm. He further testified that he could not say with a reasonable probability that the Applicant's wells would not interfere with Intervenor's wells. Mr. Grace did not dispute Mr. Buhler's testimony regarding the recharge to or withdrawals from the Aquifer. Mr. Grace also did not dispute Mr. Buhler's testimony as to the amount of potential drawdown that might occur at the Intervenor's wells. Mr. Grace further testified that there was twenty feet of artesian head pressure at Intervenor's wells.

23. Bill Albrecht also testified on behalf of Intervenor. Mr. Albrecht serves as an officer of H.T. Albrecht & Sons, Inc. Mr. Albrecht testified as to the Intervenor's land and water right. In particular, Mr. Albrecht testified that the company had invested over \$100,000 into developing the water right. He testified that he is concerned that there is not sufficient water to satisfy his appropriation and also allow for this new appropriation. He also expressed his concern that there were no observation wells in close proximity to the proposed well site.

24. The Board finds Mr. Buhler to be a credible expert witness and that these proposed Findings of Fact are supported by the evidence presented including Mr. Buhler's testimony and the reports and exhibits which he prepared and/or relied upon.

25. Intervenor has not submitted sufficient evidence through expert opinions, testimony or evidence that would support a determination that there is a reasonable probability that there is not unappropriated water available in this Aquifer.

26. The Board finds that there is a reasonable probability that there is unappropriated water available for the Applicant's proposed use.

27. In light of the testimony received, the Board finds that granting the proposed application will not result in an impairment of existing rights.

28. The Board further finds that granting this application would not result in withdrawals from the Aquifer exceeding average estimated recharge to the Aquifer.

29. The Board further finds that the proposed use of the water for irrigation constitutes beneficial use.

30. The Board further finds that placing the water to this beneficial use is in the public interest.

31. Any Finding of Fact more properly designated as a Conclusion of Law shall be treated as such.

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. The present application falls within the Board's responsibility over water appropriation and regulation in Title 46.

2. Publication was properly made and the Notice of Hearing was properly issued pursuant to SDCL 46-2A-4.

3. The Chief Engineer recommended granting this application. This recommendation is not, however, binding on the Board. SDCL 46-2A-4(8).

4. The Water Rights Program has proposed and the Board concludes the Vermillion East Fork Aquifer is properly divided into management units based upon the criteria commonly used for the designation of management units and the Board hereby recognizes the Vermillion East Fork Aquifer is comprised of the Reed Lake Management Unit, the Antelope Lake Management Unit, the Willow Lake Management Unit, the Spirit Lake Management Unit, an Unnamed Management Unit, and the Montrose Management Unit.

5. The applicant is required to satisfy each of the factors set forth in SDCL 46-2A-9.

6. SDCL 46-2A-9 provides that a permit to appropriate water may be issued “only if there is 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.” Each of these factors must be met and the permit must be denied if the applicant does not meet its burden of proof on any one of them.

7. The first factor for consideration under SDCL 46-2A-9 is whether there is water available for the appropriation. Determination of water availability includes consideration of the criteria in SDCL 46-6-3.1 pertaining to recharge/withdrawal: whether “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.”

8. The Board concludes there is a reasonable probability that there is unappropriated water available to fulfill the amount requested by the application.

9. The Board further concludes that it is not probable that withdrawals from the Aquifer would exceed recharge to the Aquifer in violation of SDCL 46-6-3.1 if this application is granted.

10. The second requirement of SDCL § 46-2A-9 is that the proposed water use may not unlawfully impair existing water rights. The proposed diversion can be developed without unlawful impairment of existing rights.

11. The third element in SDCL § 46-2A-9 is whether the use of water would be a beneficial use: one that is reasonable and useful and beneficial to the appropriator and also consistent with the interest of the public in the best utilization of water supplies under SDCL § 46-1-6(3). The proposed use (irrigation) is a beneficial use.

12. The fourth requirement of SDCL § 46-2A-9 concerns the public interest. The proposed use of the water must be "consistent with the interests of the public of this state in the best utilization of water supplies." SDCL § 46-1-6(3). The Board finds that appropriating water for irrigation is in the public interest.

13. Any Conclusion of Law more properly designated as a Finding of Fact shall be treated as such.

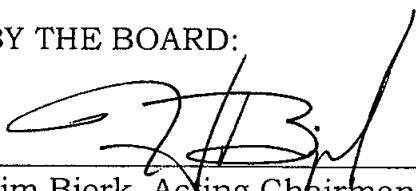
FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Board enters its determination that Water Permit Application No. 8226-3 is granted with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8226-3 shall be constructed by a licensed well driller and construction of the wells and installation of the pumps shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casings 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. 8226-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 102.5 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.

Dated this 1 day of March, 2017.

BY THE BOARD:



Tim Bjork, Acting Chairman
South Dakota Water Management Board

STATE OF SOUTH DAKOTA

SOUTH DAKOTA WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	
PERMIT APPLICATION	)	WATER MANAGEMENT BOARD'S
NO. 8226-3, JEFFREY	)	RULINGS ON PARTIES'
ALBRECHT	)	SUBMISSIONS
	)	

Pursuant to the direction of the Water Management Board, counsel for the Applicant, Jeffrey Albrecht, submitted Proposed Findings of Fact and Conclusions of Law and Final Decision in the above-captioned matter. Subsequently, Michael E. Unke, counsel for Petitioner H.T. Albrecht, submitted proposed Findings of Fact, Conclusions of Law and Final Decision. Additionally, Ann Mines-Bailey, counsel for the Department of Environment and Natural Resources, Water Rights Program (DENR) submitted DENR's Proposed Findings of Fact and Conclusions of Law and Final Decision and DENR's Objections to Applicant's Proposed Findings of Fact and Conclusions of Law. The Board, upon review of the submissions received, the administrative record, and having orally entered its decision, enters the following rulings:

A. DENR's proposed Findings of Fact are accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision with the changes articulated in this document.

B. DENR's proposed Finding of Fact No. 9 is accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision, as modified as follows to more accurately reflect the record: add "very" between "to" and "coarse."

C. Applicant's Proposed Findings of Fact are accepted by the Board to the extent that they are consistent with DENR's proposed Findings of Fact as amended above and as reflected in the attached proposed Findings of Fact and Conclusions of Law.

D. Applicant's Proposed Finding of Fact No. 10 is accepted by the Board as a more accurate reflection of the administrative record than DENR's Proposed Finding of Fact No. 7. Applicant's Proposed Finding of Fact No. 10 is included as Finding of Fact No. 17 in the attached proposed Findings of Fact and Conclusions of Law.

E. Applicant's Proposed Findings of Fact Nos. 23 and 24 are accepted by the Board as a more complete reflection of the testimony received and the administrative record than DENR's Proposed Finding of Fact No. 21. Applicant's Proposed Findings of Fact Nos. 23 and 24 are combined into Finding of Fact No. 21 in the attached proposed Findings of Fact and Conclusions of Law.

F. Applicant's Proposed Finding of Fact No. 39 is accepted by the Board as consistent with and supported by the administrative record and the Board's oral decision. This proposed Findings of Fact is No. 27 in the attached proposed Findings of Fact and Conclusions of Law.

G. DENR's Proposed Conclusions of Law are accepted by the Board as consistent with and supported by the administrative record, the Board's oral decision and the Findings of Fact adopted by the Board in the above rulings,

with the following change: in DENR's proposed Conclusion of Law No. 12: replace "SDCL § 6-1-6(3)" with "SDCL § 46-1-6(3)."

H. Applicant's Proposed Conclusions of Law are accepted by the Board to the extent they are consistent with DENR's Proposed Conclusions of Law.

I. DENR's proposed Final Decision and Order is accepted by the Board as consistent with and supported by the administrative record, the Board's oral decision, and the Findings of Fact and Conclusions of Law adopted by the Board in the above rulings.

J. Applicant's Proposed Final Decision is accepted by the Board to the extent consistent with the Proposed Final Decision of DENR.

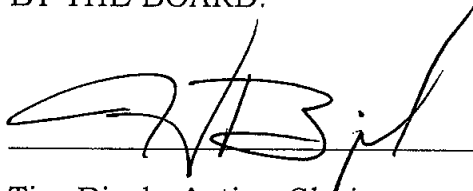
K. DENR's objections to Applicant's proposed Findings of Fact are sustained for the reasons provided in DENR's Objections to Applicant's Proposed Findings of Fact and Conclusions of Law.

L. Petitioners' Proposed Findings of Fact and Conclusions of Law are rejected by the Board to the extent they are inconsistent with these rulings and with the Board's adopted Findings of Fact, Conclusions of Law and Final Decision. The Board's Findings of Fact, Conclusions of Law, and Final Decision are consistent with and supported by the administrative record and are a reasonable interpretation and application of the applicable provisions of South Dakota law.

The Board's attorney is directed to prepare Findings of Fact, Conclusions of Law and Final Decision consistent with the above rulings to be executed by the Board's designee without further notice of hearing.

Dated this 1 day of March, 2017.

BY THE BOARD:

A handwritten signature in black ink, appearing to read 'T. Bjork', is written over a horizontal line.

Tim Bjork, Acting Chairman

South Dakota Water Management Board



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

MAY 17 2017

Jeffrey Albrecht
21749 435th Ave
DeSmet SD 57231

Dear Mr. Albrecht:

Enclosed is Water Permit No. 8226-3 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



8226-3
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 26, 2018

NOTICE

TO: JEFFREY ALBRECHT, 21749 435TH AVE, DESMET, SD 57231
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8226-3. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 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) 8226-3 qualification:

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

The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8226-3 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 7, 2018** 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 12, 2018

8226-3

Jeffrey Albrecht
21749 435th Ave
DeSmet SD 57231

Dear Mr. Albrecht:

I am writing to acknowledge receipt of your 2017 irrigation questionnaire.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Permit No. 8226-3. The information was received in our office prior to the Water Management Board meeting and your name was deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

12x111
12x20x70 slot

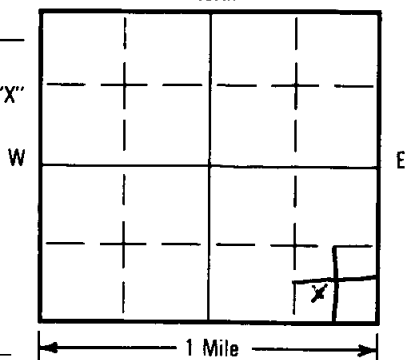
8226-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location SE 1/4 SE 1/4 Sec 35 Twp 110N Rg 50W
County Kingsbury

Please mark well location with an "X"



Well Completion Date

6-20-18

LOCATION:

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

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

- ☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT _____ LB/FT DIAMETER 12 IN FROM 0 FT TO 91 FT HOLE DIAMETER 17 1/2 IN
_____ LB/FT _____ IN _____ FT _____ FT _____ IN
_____ LB/FT _____ IN _____ FT _____ FT _____ IN

GROUTING DATA

Grout Type Bentonite No. of Sacks 25 Grout Weight _____ lb./gal From 0 ft To 60 ft
_____ lb./gal _____ ft _____ ft

Describe grouting procedure _____

SCREEN:

☐ Perforated pipe ☐ Manufactured
Diameter 12 IN Length 20 FEET
Material Shankless Steel
Slot Size 70 Set From 91 Feet to 111 Feet
Other information Vermilion East Fork Aquifer

WAS A PACKER OR SEAL USED?

☐ YES ☐ NO

If so, what material? _____
Describe packer(s) and location? _____

DISINFECTION:

Was well disinfected upon completion? _____

Laboratory sent to for water quality analysis _____

Well Owner: Greg + Jeff Albrecht
Business Name: _____
Address: 21692 435th Ave
Desmet, SD 57231

WELL LOG:

FORMATION		DEPTH	
		FROM	TO
<u>Gravel</u>	<u>Brn</u>	<u>0</u>	<u>4</u>
<u>clay</u>	<u>Brn</u>	<u>4</u>	<u>11</u>
<u>Gravel Rock</u>	<u>Brn</u>	<u>11</u>	<u>28</u>
<u>clay</u>	<u>Brn</u>	<u>28</u>	<u>35</u>
<u>clay</u>	<u>Gry</u>	<u>35</u>	<u>70</u>
<u>Fine Sand</u>	<u>Gry</u>	<u>70</u>	<u>75</u>
<u>Silt</u>	<u>Gry</u>	<u>75</u>	<u>90</u>
<u>Coarse Sand</u>	<u>Gry</u>	<u>90</u>	<u>95</u>
<u>Snd / Clay Lys</u>	<u>Gry</u>	<u>95</u>	<u>99</u>
<u>Coarse Sand</u>	<u>Gry</u>	<u>99</u>	<u>111</u>
<u>clay</u>	<u>Gry</u>	<u>111</u>	<u>120</u>

STATIC WATER LEVEL 34 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____

☐ Bailed _____

☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

I 3
H 18

This well was drilled under license # 3605

And this report is true and accurate.

Drilling firm Stevenm Trant Wells

Signature of License Representative: _____

Steve Rick Frank

Signature of Well Owner or Equitable Property Holder _____

RECEIVED

JUN 25 2018

Date: _____ WATER RIGHTS PROGRAM

120TH #1

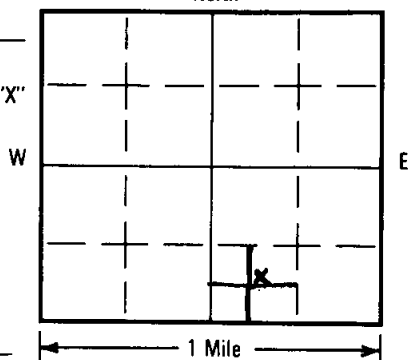
8226-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

NE Location SW 1/4 SE 1/4 Sec 35 Twp 110N Rg 50W
County Kingsbury

Please mark well location with an "X"



Well Completion Date

6-19-18

LOCATION:

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

PROPOSED USE:

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

METHOD OF DRILLING:

CASING DATA: ☐ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
_____ LB/FT	_____ IN	_____ FT	_____ FT	7 7/8" per drill bit
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type Bentonite No. of Sacks 12 Grout Weight _____ lb./gal From 0 ft To 100 ft
_____ lb./gal _____ ft _____ ft

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☐ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

_____ YES, How: _____

_____ NO, Why Not? _____

Laboratory sent to for water
quality analysis

Well Owner: Greg and Jeff Albrecht

Business Name: _____

Address: 21692 435th Ave
Desmet, SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TS	0	1
Sndy cly	1	18
Cly	18	59
Snd	59	101
Silt	101	72
Cly	72	83
Snd	83	85
Cly	85	92
Fine Snd	92	100
Cly	100	120

STATIC WATER LEVEL _____ Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____

☐ Bailed _____

☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

Test Hole

This well was drilled under license # 365

And this report is true and accurate.

Drilling firm Steven M. Threlkeld Wells

Signature of License Representative: _____

Steve Rick Frank

Signature of Well Owner or Equitable Property Holder: **RECEIVED**

Date: 6-19-18

JUN 25 2018**WATER RIGHTS
PROGRAM**

120' TH #2

8226-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NW SE 1/4 SE 1/4 Sec 35 Twp 110N Rg 56W

County

Kingsbury

North

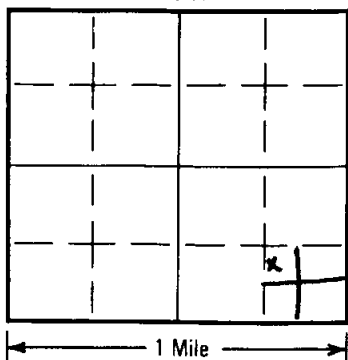
Please mark well location with an "X"

W

E

Well Completion Date

6-19-18



LOCATION:

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

PROPOSED USE:

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

METHOD OF DRILLING:

CASING DATA: ☐ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
_____ LB/FT	_____ IN	_____ FT	_____ FT	7 1/8" 4" 11/27/11 IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
Bentonite	12	_____ lb./gal	0 ft.	120 ft.
_____	_____	_____ lb./gal	_____ ft.	_____ ft.

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☐ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

YES, How: _____

NO, Why Not? _____

Laboratory sent to for water quality analysis _____

Well Owner: Greg + Jeff Albrecht

Business Name: _____

Address: 21692 435th Ave

De Smet, SD 57231

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TS	Blk	0
clay	Brn	1
clay	Gry	25
Snd	Gry	51
clay	Gry	120

STATIC WATER LEVEL _____ Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____☐ Bailed _____☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

- Test Hole -

This well was drilled under license # 365

And this report is true and accurate.

Drilling firm Steven M Trout Wells

Signature of License Representative: Steven Rick Frank

Signature of Well Owner or Equitable Property Holder

RECEIVED

Date: 6-19-18

JUN 25 2018

WATER RIGHTS PROGRAM



8226-3
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 23, 2020

NOTICE

TO: JEFFREY ALBRECHT, 21749 435TH AVE, DESMET, SD 57231

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8226-3. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 8226-3 qualification:

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

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 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) 8226-3 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 **February 26, 2020** 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: <https://denr.sd.gov/iq> using this password: ZTZUUP**

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.

8226-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 18, 2020

8226-3

Jeffrey Albrecht
21749 435th Ave
De Smet SD 57231

Dear Mr. Albrecht:

I am writing to acknowledge receipt of your 2019 irrigation questionnaire.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Permit No. 8226-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: JEFFREY ALBRECHT, 21749 435TH AVE, DESMET, SD 57231

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

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaire(s)

Our records indicate your 2020 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8226-3. The request for the Questionnaire was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 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) 8226-3 qualification:

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

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8226-3 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 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional 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: <https://denr.sd.gov/iq> using this password: VKDGQH**

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.

8226-3



DENR
SOUTH DAKOTA

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

February 12, 2021

8226-3

Jeffrey Albrecht
21749 435th Ave
DeSmet SD 57231

Dear Mr. Albrecht:

I am writing to acknowledge receipt of your 2020 irrigation questionnaire.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for Water Permit No. 8226-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Genny McMath". The signature is fluid and cursive.

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

8226-3



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

January 20, 2022

NOTICE

TO: JEFFREY ALBRECHT, 21749 435TH AVE, DESMET, SD 57231

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8226-3. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 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) 8226-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8226-3 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 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional 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: <https://danr.sd.gov/iq> using this password: ZHTGVF**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 1, 2022

8226-3

Jeffrey Albrecht
21749 435th Ave
DeSmet SD 57231

Dear Mr. Albrecht:

I am writing to acknowledge receipt of your 2021 irrigation questionnaire.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right No. 8226-3. 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
Genny.mcmath@state.sd.us

8226-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

November 20, 2023

Jeffrey Albrecht
21749 435th Ave
DeSmet SD 57231

Dear Mr. Albrecht:

A recent field inspection conducted by staff engineer Darrel DeBoer for the licensing of your Water Permit No. 8226-3 discovered the development of 121 irrigated acres. Presently Permit No. 8226-3 only authorizes the irrigation of 102.5 acres. I've enclosed a map for your reference.

I've also enclosed a partially completed Permit Application and pre-paid envelope for you to complete, sign, and return. This secondary application will bring the extra 18.5 acres into compliance. I have highlighted the portions of the application that need your attention and the applicable fees.

The cost for bringing these extra acres into compliance will be \$500.00 for the application. The \$200.00 licensing fee will be waived as it's already been paid under Permit No. 8226-3

Upon the return of this application and payment of fees, we will proceed with the licensing of your irrigation system.

If you have any questions or concerns, please feel free to contact me. My direct line is 605.910.5187

Sincerely,

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

enclosures