

WATER PERMIT NO. 8288-3

Name of Applicant: **Franklin Orr**

Address: **2821 Petterson Rd, Vermillion SD 57069** Phone: **57069**

Amount of Water Claimed: **no add'l** Total Acres: **13 acres**

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

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

Type of Waste Disposal System:

Location: **9 miles northwest of Vermillion**

PRIORITY Date Received: **6-12-17** Application/License Fee: **\$ 500**

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

Remarks: **Additional acres on Water Permit No. 7493-3**

Diversion Point: **center of SW 1/4 Sec 11-T93N-**
R53W

Land to be Irrigated: **SW 1/4 Sec 11-T93N-R53W**

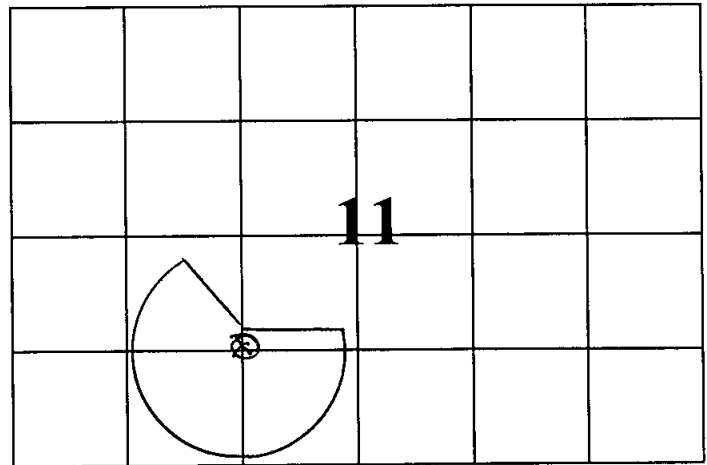
Depth of Well: **60 feet deep**

Well Driller: **Christensen Well & Irrigation**

Remarks:

Type of Map: **aerial**

Prepared by: **Harold Holoch**



Reviewed and the Number Assigned on: **6-12-17**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

JUN 12 2017

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8288-3</u> (office use only) Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>
	Newspaper <u>Plain Talk, Vermillion</u> <u>Press & Dakotan, Yankton</u>

\$4.00

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 Franklin Orr

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

Mailing Address 2821 Pettersen Rd Vermillion SD 57069
(Address) (City) (State) (Zip Code)

Phone 605.638.0457 Mobile _____ Email _____

2. Amount of water claimed no add! *CFS or _____ **GPM _____ ***AF _____ Total Acreage 13
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Missouri: Elk Point

4. Location of point of diversion One existing well located in the approximate center of the
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

SW1/4 Section 11-T93N-R53W. County Clay

5. County or counties where water will be used Clay

6. Annual period during which water is to be used April 1 - September 30

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

Land Description	Acres	Land Description	Acres
NE1/4 SW1/4	2	<u>all in Sec 11-T93N-R53W</u>	
NW1/4 SW1/4	29		
SW1/4 SW1/4	32		
SE1/4 SW1/4	34		

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

Inspection for licensing found 13 additional acres being irrigated to what is authorized by Permit No. 7493-3. This application and Permit No. 7493-3 combined, divert 1.78 cfs to irrigate 97 acres. This application is for no additional diversion. This application is to correct the location and number of acres covered by the center pivot.

I, Franklin Orr, the applicant, certify under
Name of Person Title (if applicable)

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

**SOUTH DAKOTA
WATER PERMIT NO. 8288-3**

Date of first receipt of application June 12, 2017.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8288-3 to Franklin Orr, 2821 Pettersen Rd, Vermillion SD 57069 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. 8288-3 authorizes irrigation of 13 additional acres. Water Permit No. 7493-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Missouri:Elk Point Aquifer (60 feet deep) located in the approximate center of the SW 1/4 Section 11 for irrigation of 84 acres located in the S 1/2 SW 1/4, NW 1/4 SW 1/4 Section 11; all in T93N-R53W which is approximately 9 miles northwest of Vermillion SD. An investigation of the permit found an additional 13 acres being irrigated in the SW 1/4 Section 11-T93N-R53W. This permit and Water Permit No. 7493-3 will authorize a total diversion rate of 1.78 cfs for irrigation of 97 acres.
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: April 1 – September 30.
3. The date from which applicant may claim right is June 12, 2017.
4. The date of approval of Permit No. 8288-3 is September 5, 2017.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit Nos. 7493-3 and 8288-3 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. 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 Nos. 7493-3 and 8288-3, combined authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 97 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: *Jeanne Goodman*

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

OCT 02 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 ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by Christensen Well & Irrigation

For either Existing or Proposed Wells:

c) Well Depth (required) 60 Depth to Top of Water Bearing Material 25 Depth to Water from Surface 10

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

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

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

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

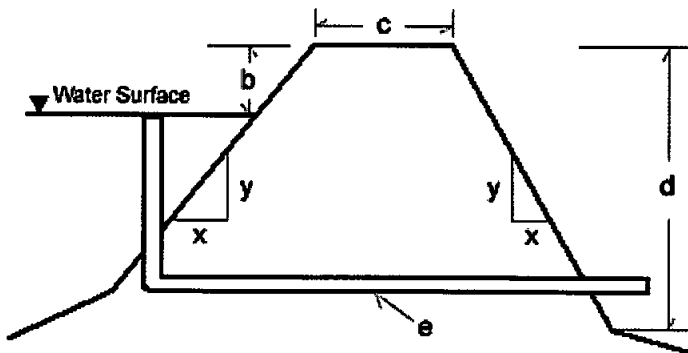
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



7493-3

11-02

City, State, Zip:

Date:



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

May 24, 2017

Franklin Orr
2821 Pettersen Rd
Vermillion SD 57069

Dear Mr. Orr

On October 27, 2016 Water Rights staff conducted an inspection of Water Permit No. 7493-3 held by Franklin Orr. Water Permit No. 7493-3 authorizes the irrigation of 84 acres located in the NW $\frac{1}{4}$ Section 13-T93N-R53W. The inspection found 97 acres being irrigated in the NW $\frac{1}{4}$ Section 13-T93N-R53W. A new permit is required for the additional 13 acres. Please find enclosed a partially completed application form, instruction sheet and map of the irrigated acres. The form can be completed and sent back as per the instruction sheet. The forms are also available online at <http://denr.sd.gov/des/wr/watrightsapps.aspx>.

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

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

If you have any questions contact Eric Gronlund at 605.773.3352.

Sincerely,

11-T93N53W

Lynn Beck
Natural Resources Engineer III
SD Department of Environment and Natural Resources
Water Rights Program
Phone: (605) 773-3352
Fax: (605) 773-4068

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date Jun 12, 20 17

RECEIVED OF Frank Orr 2821 Pettersen Road Vermillion, SD 57068

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

Fee for Application for Permit No. <u>8288-3</u> to Appropriate Water, to construct and to put water to beneficial use	400.	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. _____		
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	400.00

No. **08269**

By

[Signature]
Chief Engineer VM

Water Rights Program - File Documentation

NAME: Franklin Orr

ADDRESS: Vermillion

DATE: 6-12-17 **COUNTY:** Clay **TELEPHONE:** 605 638-0457

RE: Application/License fee for additional acres on 7493-3

COMMENTS:

Franklin Orr called June 8th about the application/license fee for the additional acres on Water Permit No. 7493-3. Eric Gronlund indicated the fee would be \$500.

Upon review Water Permit No. 7493-3 it was determined the application/license fee should have been \$950. Mr. Orr submitted \$1050 and \$100 should have been refunded but was not.

The overpayment of \$100 will be applied to the new application for the 13 additional acres with an additional \$400 being required.



Karen Schlaak
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8288-3, Franklin Orr**

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. 8288-3, Franklin Orr, 2821 Pettersen Road, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 8288-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit Nos. 7493-3 and 8288-3 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. 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 Nos. 7493-3 and 8288-3, combined authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 97 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
August 14, 2017

REPORT ON PERMIT APPLICATION NO. 8288-3

For Franklin Orr

August 11, 2017

Franklin Orr, 2821 Pettersen Rd, Vermillion, Clay County, South Dakota 57069, has filed an application for a water permit to irrigate 13 acres located in the SW $\frac{1}{4}$ Section 11, T93N-R53W using water from an existing irrigation well currently authorized by Water Permit No. 7493-3. Water Permit No. 7493-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Missouri: Elk Point aquifer (60 feet deep) located in the approximate center of the SW $\frac{1}{4}$ Section 11 for irrigation of 84 acres located in the S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11; all in T93N-R53W which is approximately 9 miles northwest of Vermillion, SD.

This application is a result of a permit inspection conducted on Water Permit No. 7493-3 pursuant to South Dakota Codified Law (SDCL) 46-5-30. The inspection revealed an additional 13 acres being irrigated not authorized by Water Permit No. 7493-3. Therefore, this permit application proposes to correct the number of acres being irrigated without any increase in the diversion rate already authorized by Water Permit No. 7493-3. Water Permit Application 8288-3, if approved, and Water Permit No. 7493-3 combined, will authorize a total diversion rate of 1.78 cfs for the irrigation of 97 acres.

AQUIFER – MISSOURI: ELK POINT (M: EP)

The Missouri aquifer consists of unconsolidated glacial outwash deposits composed of fine sand to very coarse gravel. The Elk Point management unit of the Missouri aquifer underlies an estimated 210,100 acres of Yankton, Clay, and Union Counties, and contains an estimated 3,287,100 acre feet of recoverable water in storage (Hedges and others, 1982). The Missouri: Elk Point aquifer is generally restricted to the Missouri River floodplain. The outwash is often overlain by permeable alluvial deposits. The permeable alluvium and outwash form a single aquifer (Stephens, 1967). Near the edge of the floodplain, the Elk Point management unit is overlain by relatively impermeable glacial till (Niehus, 1994; Stephens, 1967). Hydrologically, the Elk Point management unit can be found under both confined and unconfined conditions (Stephens, 1967). The Elk Point management unit is hydraulically connected to the Lower-Vermillion-Missouri aquifer and the Lower James-Missouri aquifer, the Missouri River, the Vermillion River, and the Big Sioux River (Niehus, 1994; Stephens, 1967).

The general direction of water movement in the aquifer is to the southeast toward the Missouri River (Stephens, 1967). The South Dakota Water Well Completion Report on file for this irrigation well identifies 25 feet of top soil and brown clay overlying 35 feet of the sand and gravel of the Missouri: Elk Point aquifer. At the time of well completion for the well authorized by Water Permit No. 7493-3, on February 6, 2013, the static water level within the well was 10 feet below ground surface, which indicates the aquifer is under confined conditions at this location. According to the report, the well was pump tested at a rate of 800 gallons per minute for one hour with 22 feet of drawdown (Water Rights, 2017c).



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 the availability of unappropriated water and existing rights from the aquifer.

WATER AVAILABILITY

This application proposes to appropriate water for the irrigation of 13 acres using the well that is authorized by Water Permit No. 7493-3. The availability of unappropriated water from an aquifer can be evaluated by considering SDCL 46-6-3.1. This statute requires that an application to appropriate groundwater cannot 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 average estimated annual recharge. 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. In this case, a water distribution system is not involved and the Missouri: Elk Point aquifer is not older or lower than the Greenhorn Formation therefore withdrawal/recharge issue must be considered.

Recharge versus Discharge:

Recharge to the Missouri: Elk Point aquifer is through infiltration of precipitation, groundwater inflow from other aquifers and streamflow losses from rivers and streams. Hedges and others (1985) estimated recharge to the aquifer at approximately 69,382 acre-feet per year, based on observation well analysis. Stonesifer (2013) estimated induced recharge to the aquifer due to the pumping of wells near the Missouri River to be 22,582 acre-feet per year. This results in an estimated average annual recharge of 91,964 acre-feet per year.

Discharge from the aquifer is: (1) by well withdrawals; (2) evapotranspiration where the aquifer is near land surface; (3) to the Big Sioux and Missouri Rivers when the stage of the rivers are lower than the water table of the aquifer; and (4) to the Dakota aquifer when water levels of the Missouri: Elk Point aquifer are higher than the water levels of the Dakota aquifer (Niehus, 1997).

A hydrologic budget for the Missouri: Elk Point aquifer was developed based on the appropriations from the aquifer as of June 24, 2013 (Stonesifer, 2013). Water rights/permits and future use permits at the time account for an expected withdrawal of 81,108 acre-feet per year, which includes expected use of new irrigation water permits. Recharge to the aquifer is estimated to be at least 91,964 acre-feet per year. Therefore, approximately 10,856 acre-feet per year of unappropriated water was available at that stage of development (Stonesifer, 2013).

The probability of unappropriated water available for this application can be evaluated by considering the water permits issued since June 24, 2013, in conjunction with the water availability analysis of Stonesifer (2013). Water Permits approved since Stonesifer concluded the water availability analysis for the aquifer are shown in Table 1. In addition, there are two deferred applications for permits from the Elk Point management unit at this time.

PERMIT NO.	NAME	USE	CFS	ACRES	ACRE-FEET
7848-3	MISSOURI VALLEY FARMS INC	IRR	3.04	213	
7856-3	MIKE & STEVE ALLARD	IRR	1.78	129.3	
7895-3	TODD HANSON	IRR	1.89	180	
7898-3	JAMES ORR	IRR	1.56	132	
7899-3	JUSTIN ORR	IRR	1.56	97	
7904-3	CRAIG S MCINERNEY	IRR	1.78	160	
7933-3	DOUGLAS G BYE	IRR	0.89	90	
7936-3	DONALD JOHNSON	IRR	1.39	83	
7938-3	RUSSELL M HALL	IRR	0	53	
7941-3	JOSEPH F CHICOINE	IRR	1	37.69	
7074A-3	CALVIN HANSON	IRR	1.78	162	
7951-3	ALLEN PACE	IRR	1.78	150	
7955-3	KARL M SCHENK	IRR	1.78	140	
7971-3	BARRY VAN OSDEL	IRR	1.11	68	
7980-3	FRANCIS HEINE	IRR	0	5	
7987-3	FRANCIS M ARMSTRONG LIVING TRUST	IRR	1.78	102	
8010-3	RYAN RUSHER	IRR	0.1	2.5	
8016-3	AMELIA BERTRAND TRUST	IRR	1.67	66	
8022-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	IRR	1.91	134	
8023-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	IRR	4.14	290	
8024-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	IRR	3.36	235.2	
8025-3	REDWOOD SOUTH DAKOTA HOLDINGS LLP	IRR	3.82	267.2	
8029-3	DAKOTA DUNES COMM IMPROVEMENT	IRR	0.78	17.8	
8031-3	DAKOTA PROTEIN CONVERSION INC	COM	0.22		
8040-3	HEINE ELECTRIC & IRRIGATION INC	IRR	0.33	3	
8069-3	CIMPLS LLC	COM	0.44		452
7009A-3	ROGER D HANSON	IRR	1.78	120	
8080-3	LARRY & MELVIN DONNELLY	IRR	1.78	160	
8079-3	MELVIN & LARRY DONNELLY	IRR	1.78	160	
8147-3	DOUG LAFLEUR	COM	1		160
8175-3	GAYVILLE-VOLIN SCHOOL DISTRICT 63-1	IRR	0.058	4	
8176-3	CALVIN & MARY HANSON	IRR	1.113	31	
8177-3	D A OLSON & SONS	IRR	1.23	62	
8181-3	MARC T BERNARD	IRR	0.89	40	
8192-3	STOP DROP LOCK INC	IRR	2.22	152	
8202-3	GERALD BENJAMIN	IRR	1.89	132	
8204-3	DOUGLAS BYE	IRR	0.89	70	
8211-3	TIMBER8 LLC	IRR	1.78	96	
8212-3	CITY OF YANKTON	MUN	20.12		6,050
8237-3	CALVIN HANSON	IRR	0	51	
8248-3	LARRY DONNELLY	IRR	0	133	
8250-3	STEVE SCHMIDT	IRR	0	63	
8287-3	DAN & SCOTT HANSEN	IRR	2.22	170	
IRR= Irrigation, COM= Commercial, MUN= Municipal					

Table 1. Water permits approved or reinstated since the Stonesifer water availability analysis for the Missouri: Elk Point (Water Rights, 2017a).

Average annual water usage for the irrigation permits listed in Table 1 is estimated using a method described by Stonesifer (2013) in which a ratio of pumpage to appropriation of developed appropriations is established. Stonesifer (2013) calculated an average pumpage to appropriations ratio for the Missouri: Elk Point aquifer to be 13.7%. Subsequently, an updated

average pumpage to appropriation ratio for the aquifer was calculated to be 13.8% (Kilts, 2015). Appropriations made since June 10, 2013, have authorized an additional 4,261.69 acres of irrigation. Assuming an average annual use of 13.8% of appropriation, water use for irrigation is expected to increase by approximately 1,176 acre-feet annually.

Historically, average annual water use by non-irrigation appropriations has been estimated by assuming pumping for 60% of the time for permits limited by diversion rate only and full volume pumping for permits limited by volume. Therefore, Water Permit No. 8031-3 is expected to pump approximately 95 acre-feet per year and Water Permit Nos. 8069-3, 8147-3, and 8212-3 are expected to pump 6,662 acre-feet per year. The total water use (post-2013) that can be expected from appropriations identified in Table 1 is 7,933 acre-feet per year. If the two deferred applications were approved, the estimated volume of pumpage under those applications would be 50 acre-feet per year.

The combination of pre-2013 expected water use (81,108 acre-feet per year) plus post-2013 expected water use (7,933 acre-feet per year) plus the estimated volume that would result from approval of the two deferred applications (50 acre-feet per year) totals 89,091 acre-feet per year. The difference between Stonesifer's (2013) estimated annual recharge and the estimated annual withdrawals is approximately 2,873 acre-feet per year. Using the same methodology, this application is expected to use approximately 3.6 acre-feet per year. Therefore, there is a reasonable probability that unappropriated water is available for this 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 five observation wells completed into the Missouri: Elk Point aquifer in Clay County. The nearest of these wells, CL-80A is located approximately 1.8 miles east and CL-80B is located approximately 5.8 miles south of the well this application proposes as a source. CL-80A is under artesian conditions and CL-80B is under water table conditions (Water Rights, 2017b). Hydrographs for the wells are shown in Figures 1 and 2.

The hydrographs show a cyclic pattern of the water levels based on the effect of climatic conditions, recharging during wet years and declining during dry years. Water levels may also be influenced by the aquifer's connection to the Missouri River. Figure 2 shows a slight decline of the aquifer's water table. This gradual decline has been attributed to entrenching of the Missouri River (Goodman, 2007) or controlling the flow of the river by the Gavins Point Dam, which no longer allows inundation of the floodplain (Stephens, 1967). Regardless of cause, the declining water table levels demonstrate the hydraulic connection between the aquifer and the Missouri River. Pumping from the aquifer will induce recharge supplied by the Missouri River or capture discharge before outflowing to the river (Stephens, 1967).

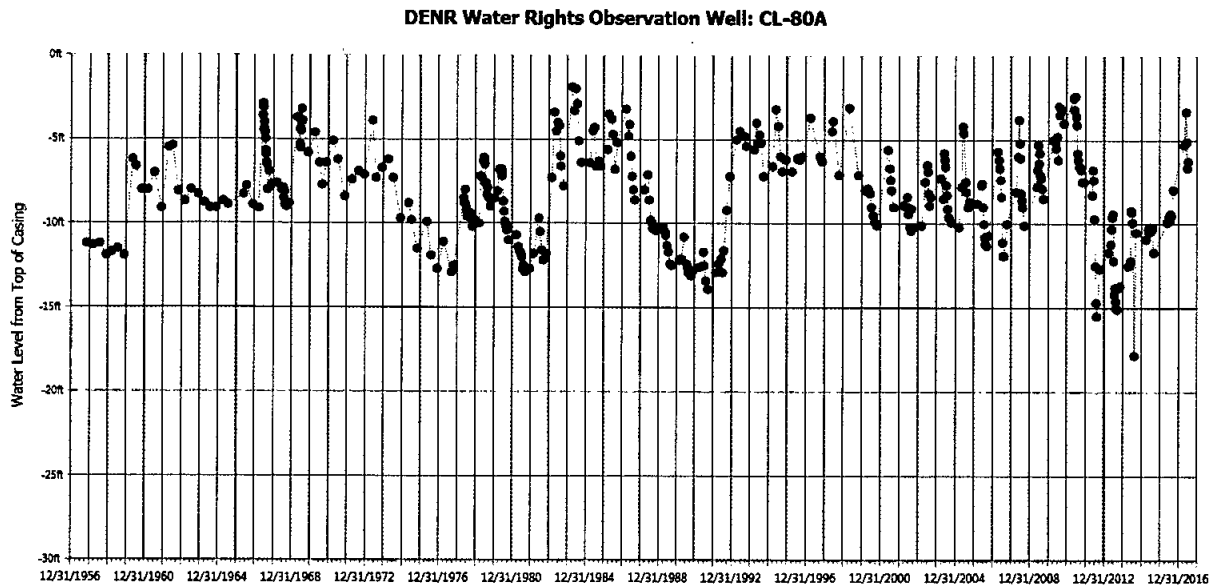


Figure 1. Hydrograph of observation well CL-80A.

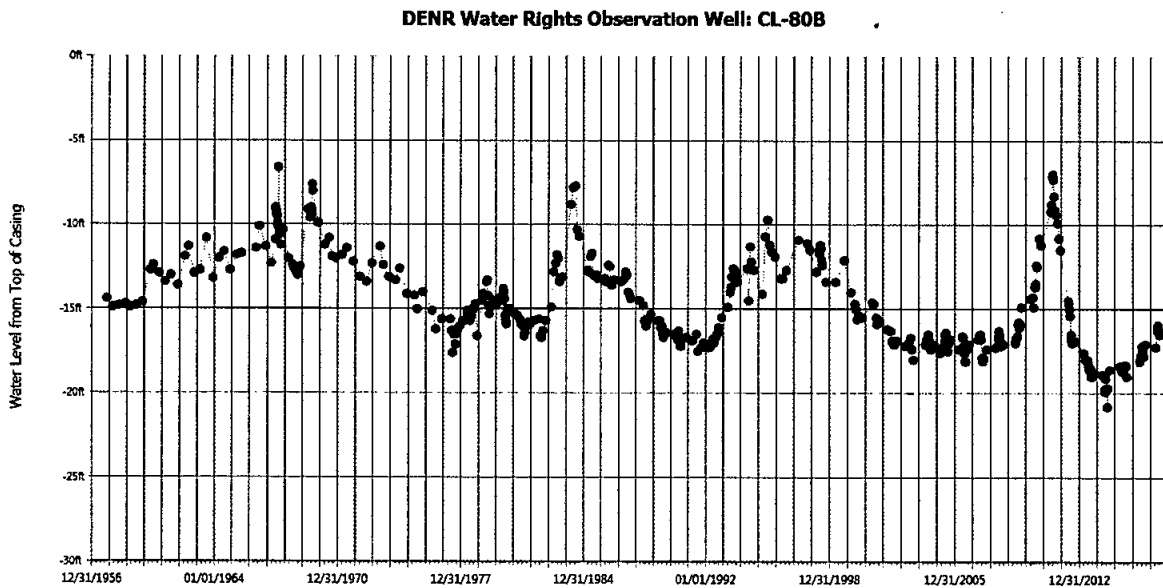


Figure 2. Hydrograph of observation well CL-80B

At the current level of development, the temporal effects of well withdrawals from the aquifer are masked by the climatic conditions on the aquifer and effects of the hydraulic connection between the aquifer and the Missouri River. Since recharge to the management unit and natural discharge from the management unit dominate the system, water is available to capture for additional well withdrawals. Therefore there is a reasonable probability that unappropriated water is available for this appropriation.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

Currently, there are 607 water permits/rights appropriating water from the Missouri: Elk Point aquifer in addition to five future use permits and two deferred applications (Water Rights, 2017a). The water rights/permits in the vicinity of the acreage associated with this application are shown in Figure 3 and Table 2. In addition to wells supplying appropriative rights, there are a

number of domestic use wells on file with the DENR-Water Rights Program in the vicinity of this proposed well site.

PERMIT NO.	NAME	STATUS	USE	CFS	ACRES
3475-3	OLSON & SONS	LC	IRR	1.03	72.0
5289-3	OLSON & SONS	LC	IRR	1.66	116.0
6554-3	SCHMIDT	LC	IRR	1.56	132.0
6610-3	WARDIN	LC	IRR	1.67	135.0
6641-3	DREESEN	LC	IRR	1.56	125.0
6645-3	FREEBURG LIMITED PARTNERSHIP	LC	IRR	1.78	148.0
6646-3	FREEBURG LIMITED PARTNERSHIP	LC	IRR	1.90	271.2
6647-3	FREEBURG LIMITED PARTNERSHIP	LC	IRR	1.56	138.0
6807-3	ORR	LC	IRR	1.78	132.0
6966-3	WALRAVEN	LC	IRR	1.78	133.0
7052-3	WARDIN	LC	IRR	1.56	216.0
7474-3	ORR	LC	IRR	1.78	134.0
7661-3	FREEBURG LIMITED PARTNERSHIP	LC	IRR	5.44	402.0
7703-3	WARDIN	LC	IRR	3.90	534.0
7899-3	ORR	LC	IRR	1.56	97.0
5658A-3	MARQUARDT FAMILY LTD PARTNERSHIP	PE	IRR	2.00	140.0
6744-3	GRANT	PE	DOM	0.78	0.0
6901A-3	DREESEN	PE	IRR	2.29	160.0
6901B-3	DREESEN	PE	IRR	4.57	320.0
6978-3	MARQUARDT FARMS	PE	IRR	1.78	133.5
7152-3	MARQUARDT FAMILY LTD PARTNERSHIP	PE	IRR	2.00	145.0
7447-3	HAUCK	PE	IRR	1.78	160.0
7493-3	ORR	PE	IRR	1.78	84.0
7494-3	ORR	PE	IRR	1.78	116.0
7689-3	OLSON	PE	IRR	1.00	70.0
7800-3	MARQUARDT	PE	IRR	2.22	110.0
7801-3	MARQUARDT	PE	IRR	1.56	108.0
7802-3	MARQUARDT	PE	IRR	1.78	165.0
8022-3	DOUBLE DOWN FARM GP	PE	IRR	1.91	134.0
8025-3	DOUBLE DOWN FARM GP	PE	IRR	3.82	267.2
8031-3	DAKOTA PROTEIN CONVERSION INC	PE	COM	0.22	0.0
LC= License, PE= Permit, IRR= Irrigation, COM= Commercial, MUN= Municipal, DOM= Domestic					

Table 2. Water rights/permits appropriating water from the Missouri: Elk Point aquifer in the vicinity of Water Permit Application No. 8288-3.

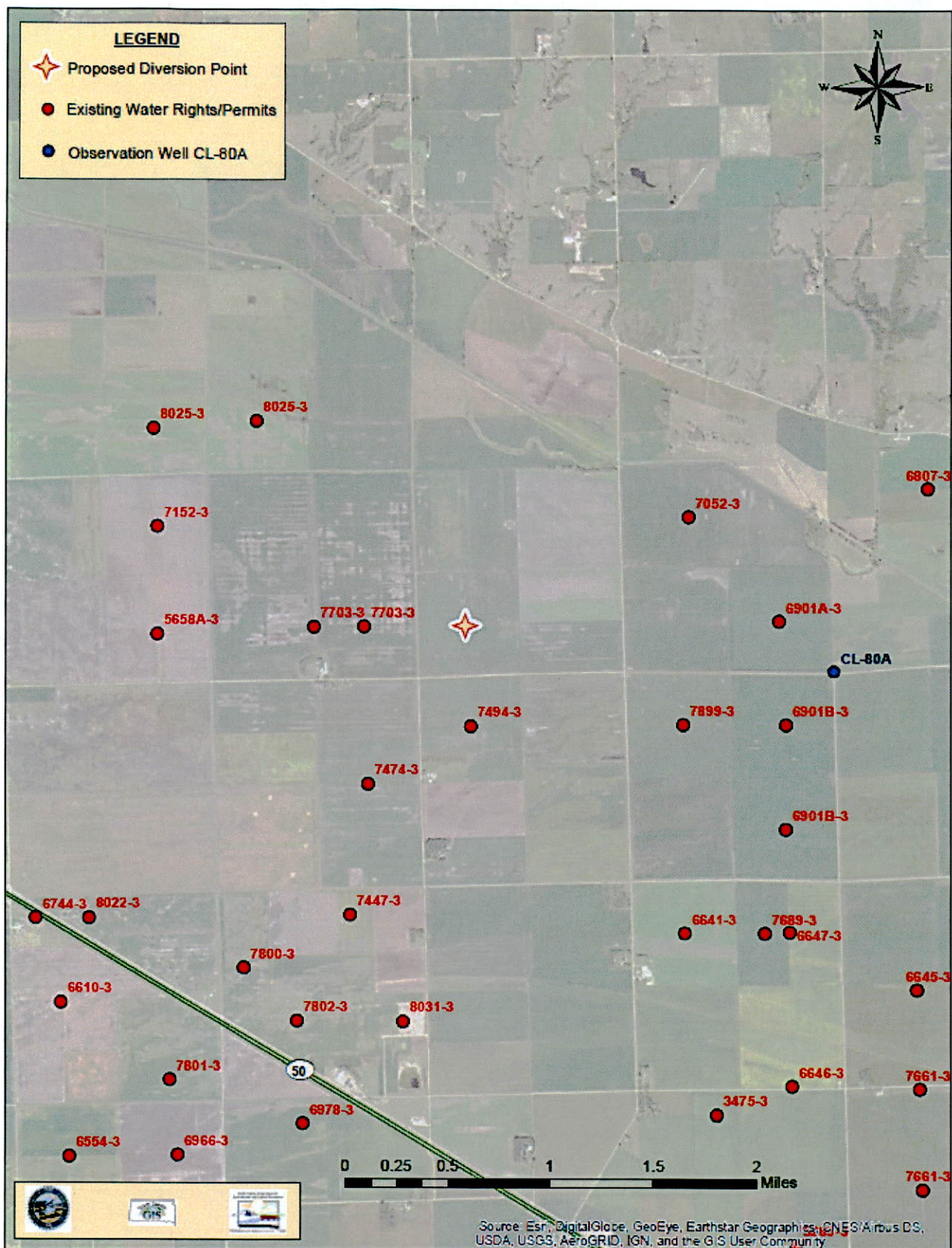


Figure 3. Approximate location of diversion points for water rights/permits appropriating water from the Missouri: Elk Point aquifer in the vicinity of Water Permit Application No. 8288-3.

Drawdown from pumping wells completed into the Missouri: Elk Point aquifer is typically not significant very far from the pumping well. Examination of the hydrographs of observation wells completed into the Missouri: Elk Point aquifer shows no signs of being significantly impacted by

drawdown despite being located in the proximity of a number of irrigation wells. Although precise drawdown cannot be quantified without aquifer testing this application, if approved, is not expected to adversely impact nearby adequate wells. An adequate well as defined by South Dakota Administrative Rules as “a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near as possible to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.” Although this application proposes no increase to the maximum diversion rate for this existing well (i.e. 1.78 cfs), the water demand of irrigating an additional 13 acres will result in an increased average diversion over an irrigation season. There has not been a history of well interference issues with the Missouri: Elk Point aquifer. At the distances involved between this well site and wells of existing water rights/permits and domestic users, interference is not expected to be a concern.

CONCLUSIONS

1. Water Permit Application No. 8288-3 proposes to irrigate 13 additional acres from an existing well but does not authorize any increase in the diversion rate already authorized by Water Permit No. 7493-3.
2. Water Permit Application 8288-2, if approved, and Water Permit No. 7493-3 combined, will authorize a total diversion rate of 1.78 cfs for the irrigation of 97 acres.
3. Although there would be an increase in water use, there is a reasonable probability that unappropriated water is available for the application.
4. Based on observation well data, recharge to the aquifer and discharge from the aquifer, there is a reasonable probability that unappropriated water is available for the application.
5. This is an existing well and diversions from the site proposed by this application are not expected to adversely impact existing water rights.



Aaron Tieman
SD DENR-Water Rights Program

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- Water Right, 2017b, Observation Well Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Right, 2017c, SD Well Completion Report Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

AFFIDAVIT OF PUBLICATION

PLAIN TALK

RECEIVED

AUG 28 2017

WATER RIGHTS
PROGRAM

FRANKLIN ORR
2821 PETTERSEN RD
VERMILLION SD 57069

STATE OF SOUTH DAKOTA
COUNTY OF CLAY

TERA SCHMIDT, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE CLASSIFIED MANAGER OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED
IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF
THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN
THIS AFFIDAVIT; THAT THE ANNEXED
NOTICE OF APPLICATION NO.
8288-3 APPROPRIATE WATER
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 25th DAY OF August, 2017
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$28.37 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 08/25/2017

FILED ON: 08/25/2017

Tera A Schmidt

SUBSCRIBED AND SWORN TO BEFORE ME THIS 25th DAY OF August, 2017

Douglas A. Hill

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES 08/19/2021

Ad text : NOTICE OF APPLICATION NO. 8288-3 to

Appropriate Water

Notice is given that Franklin Orr, 2821 Pettersen Rd, Vermillion SD 57069 has filed an application to irrigate 13 additional acres. Water Permit No. 7493-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Missouri: Elk Point Aquifer (60 feet deep) located in the approximate center of the SW 1/4 Section 11 for irrigation of 84 acres located in the S 1/2 SW 1/4, NW 1/4 SW 1/4 Section 11; all in T93N-R53W which is approximately 9 miles northwest of Vermillion SD. An investigation of the permit found an additional 13 acres being irrigated in the SW 1/4 Section 11-T93N-R53W. This application, if approved, and Water Permit No. 7493-3-3 will authorize a total diversion rate of 1.78 cfs for irrigation of 97 acres.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8288-3 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 (605-772-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 5, 2017.

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 \$28.37.

Publish: August 25, 2017.

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

AUG 28 2017

WATER RIGHTS
PROGRAM

FRANKLIN ORR
2821 PETTERSEN RD
VERMILLION SD 57069

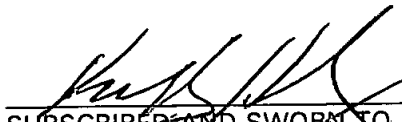
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

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8 + 25 NOTICE OF APPLICATIO

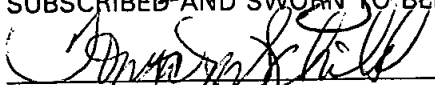
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
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BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 08/25/2017

FILED ON: 08/25/2017



SUBSCRIBED AND SWORN TO BEFORE ME THIS 25th DAY OF August, 2017



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

Ad text : 8+25

NOTICE OF APPLICATION NO. 8288-3 to Appropriate Water

Notice is given that Franklin Orr, 2821 Pettersen Rd, Vermillion SD 57069 has filed an application to irrigate 13 additional acres. Water Permit No. 7493-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Missouri:Elk Point Aquifer (60 feet deep) located in the approximate center of the SW 1/4 Section 11 for irrigation of 84 acres located in the S 1/2 SW 1/4, NW 1/4 SW 1/4 Section 11; all in T93N-R53W which is approximately 9 miles northwest of Vermillion SD. An investigation of the permit found an additional 13 acres being irrigated in the SW 1/4 Section 11-T93N-R53W. This application, if approved, and Water Permit No. 7493-3-3 will authorize a total diversion rate of 1.78 cfs for irrigation of 97 acres.

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Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published once at the total approximate cost of \$28.67.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, August 14, 2017 1:33 PM
To: 'Tera Schmidt'
Subject: 8288-3, Franklin Orr
Attachments: 8288-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 25, 2017.

Franklin Orr, 2821 Pettersen Rd, Vermillion SD 57069 (605 638-0457) 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 to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

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

Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352



NOTICE OF APPLICATION NO. 8288-3 to Appropriate Water

Notice is given that Franklin Orr, 2821 Pettersen Rd, Vermillion SD 57069 has filed an application to irrigate 13 additional acres. Water Permit No. 7493-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Missouri:Elk Point Aquifer (60 feet deep) located in the approximate center of the SW 1/4 Section 11 for irrigation of 84 acres located in the S 1/2 SW 1/4, NW 1/4 SW 1/4 Section 11; all in T93N-R53W which is approximately 9 miles northwest of Vermillion SD. An investigation of the permit found an additional 13 acres being irrigated in the SW 1/4 Section 11-T93N-R53W. This application, if approved, and Water Permit No. 7493-3-3 will authorize a total diversion rate of 1.78 cfs for irrigation of 97 acres.

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.**

August 17, 2017

Franklin Orr
2821 Pettersen Rd
Vermillion SD 57069

Dear Mr. Orr:

Water Permit Application No. 8288-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plain Talk printed at Vermillion SD (Ph # 605- 624-2625) and the Press & Dakotan printed at Yankton SD (Ph # 605- 665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 7493-3**

I have this day, October 27, 2016, made a thorough examination of the water use system constructed by Franklin Orr, 2821 Pettersen Rd, Vermillion SD 57069 of Permit No. 7493-3, bearing the priority of October 22, 2012 authorizing the diversion of 1.78 cu. ft. per second of the waters of Missouri:Elk Point Aquifer for irrigation purposes, of 84 acres, in Clay County.

Inspection contact & relationship to permit holder, if applicable: **Justin Orr, son of permit holder**

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Christensen Well & Irrigation
- 2) No. of Wells 1
- 3) Depth(s) 60 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 16 inches
- 2) Length 20 feet
- 3) Type PVC

Screen:

- 1) Type PVC Perforated
- 2) Length 40 feet
- 3) Static water level 10 feet

Pump:

- 1) Make Submersible
- 2) Model Unknown
- 3) Capacity 800 GPM

Motor:

- 1) Make Amarillo Right Angle Gear
- 2) Model No. S60A
- 3) Horsepower rating 60 hp

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make T-L Irrigation Systems
- 2) Overall length 1340 feet
- 3) Number of towers 8
- 4) End gun Yes
- 5) Capacity 800 GPM

Comments: T-L Irrigation uses a hydraulic drive system.
System is driven by a 61 KW Isuzu Diesel Generator Set with above ground diesel fuel tank.

Chemigation Equipment:

- 1) Does chemigate No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes, began irrigating in 2013.
- 3) Exceptions to compliance are: Water Permit No. 7493-3 was issued to irrigate 84 acres in SW ¼ Sec 11-T93N-R53W, however 97 acres are actually irrigated.

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: East 1360', North 1360' from SW Corner of Sec 11-T93N-R53W; Lat 42.88487/Long -97.07732; approximate center of SW ¼ Sec 11-T93N-R53W.

2. The works are capable of diverting and conveying to the place of use 1.78 cfs or 800 gpm of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All land is located in Sec 11-T93N-R53W.

NW ¼ SW ¼ - 29 ac

SW ¼ SW ¼ - 32 ac

NE ¼ SW ¼ - 2 ac

SE ¼ SW ¼ - 34 ac

comprising a total of 97 acres of land and the license should be issued for 1.78 cfs or 800 gpm.

3. All structures, wells and lands on map Yes

F. Comments or other permit(s) associated with the project:

Provide detailed explanation when multiple permits are involved or any discrepancy between what the permit was issued for and what was developed.

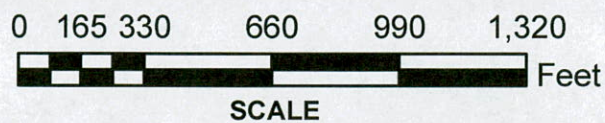
Water Permit No. 7493-3 appropriates a diversion rate greater than the statutory limit of 1 cfs per 70 acres irrigated. Water Permit No. 7493-3 was issued to irrigate 84 acres in SW ¼ Sec 11-T93N-R53W, however 97 acres are actually irrigated.



Harold Holoch, PE
Staff Engineer
DENR, Water Rights Program

Date report completed: May 23, 2017

7493-3



Harold Holoch
Harold Holoch, PE
Staff Engineer
May 19, 2017

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8288-3

(1) Franklin Orr, 2821 Pettersen Rd, Vermillion SD 57069 made Application No. 8288-3, June 12, 2017 for a water permit to irrigate additional acres from one well – Missouri:Elk Point Aquifer, Clay County, South Dakota for irrigation purposes. Permit No. 8288-3, with a priority date of June 12, 2017 was approved September 5, 2017 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

Water Permit No. 7493-3, with a priority date of October 22, 2012 authorized 1.78 cubic feet of water per second from one well to irrigate 84 acres. The applicable portions of No. 7493-3 are incorporated into No. 8288-3.

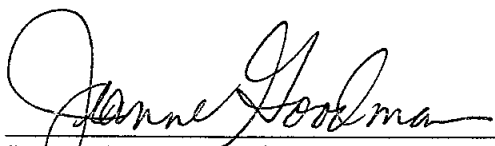
(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Incorporated Water Right No. 8288-3 is issued a license, bearing priority dates of October 22, 2012 (84 acres) and June 12, 2017 (13 acres) to appropriate 1.78 cubic feet of water per second from one well – Missouri:Elk Point Aquifer to irrigate 97 acres.

The diversion point is located: 1,360 feet east and 1,360 feet north of the SW corner of Section 11-T93N-R53W (NE 1/4 SW 1/4). The acres authorized for irrigation are as follows:

Section 11-T93N-R53W	NW 1/4 SW 1/4	29 acres
	SW 1/4 SW 1/4	32 acres
	NE 1/4 SW 1/4	2 acres
	<u>SE 1/4 SW 1/4</u>	<u>34 acres</u>
		97 acres

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Permit No. 8288-3 including the following qualifications:

- The well approved under this Permit Nos. 7493-3 and 8288-3 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.
- 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 Nos. 7493-3 and 8288-3, combined authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 97 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.


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

OCT 02 2017
date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

8288-3
7493-3

OCT 02 2017

Franklin Orr
2821 Pettersen Rd
Vermillion SD 57069

Dear Mr. Orr:

Enclosed are Water Permit and Water License No. 8288-3. These are the final water right documents completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

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

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

Sincerely,

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

Note: The applicable portions of No. 7493-3 are incorporated into Water License No. 8288-3.

enclosures

8288-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 7, 2020

7494-3
8288-3

Justin Orr
30804 Bluff Rd
Volin SD 57072

Dear Mr. Orr:

Thank you for contacting me concerning the irrigation questionnaires for both you and James. I have completed questionnaires for you both indicating no irrigation took place due to excess moisture.

In reference to the water rights held by your folks, I have enclosed copies of them for you to keep. It looks like only two of them were listed solely in your dad's name and will need to be transferred (Water Right Nos. 7494-3 and 8288-3).

Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing the ownership changes. Please review and complete as needed. Upon completion, please return the forms to our office with a required filing fee of \$50 each (total of \$100). The check or money order for the fee can be made payable to the Water Rights Program.

Filing of the ownership changes does not have to be done right away, by statute, you have 90 days to complete the ownership changes. If you have any questions concerning the water rights or completion of the transfer forms, please let me know.

Sincerely,

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

Genny McMath
Water Rights Program
605 773-5455

enclosures

8288-3



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: JUSTIN F ORR, 30804 BLUFF RD, VOLIN, SD 57072 6313

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) 6964-3, 7089-3, 7474-3, 7494-3, 7899-3, 8288-3. 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) 6964-3, 7089-3, 7474-3, 7494-3, 7899-3, 8288-3 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) 6964-3, 7089-3, 7474-3, 7494-3, 7899-3, 8288-3 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: MMJCUQ**

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.

8288-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 1, 2022

Justin F Orr
30804 Bluff Rd
Volin SD 57072 6313

RE: Water Right/Permit Nos. 6964-3, 7089-3, 7474-3, 7494-3, 7899-3, 8288-3

Dear Mr. Orr:

I am writing to acknowledge receipt of your 2021 irrigation questionnaires.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right/Permit Nos. 6964-3, 7089-3, 7474-3, 7494-3, 7899-3 & 8288-3. 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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 8, 2022

7089-3
7474-3
7494-3
8288-3

Justin F Orr
30804 Bluff Rd
Volin SD 57072

Dear Mr. Orr:

Thank you for completing the irrigation questionnaires online. I noticed the notation you added to three of the forms indicating you were the new owner.

Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing the ownership changes. Please review and complete as needed. Upon completion, please sign and return the forms to our office with a required filing fee of \$50 each. The check or money order for the fee can be made payable to the Water Rights Program.

Water Right No. 7089-3 is also listed under Franklin and Gwen Orr. You did not include a notation about changing ownership for that specific water right, but I included it with the other three forms in case you need it.

If I can answer any questions for you, please let me know.

Sincerely,

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

enclosures

8288-3

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date December 20, 2022RECEIVED OF Justin Orr 30804 Bluff Rd., Volin SD 57072

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>8288-3</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	TOTAL
	<u>\$50.00</u>

By Eric Bronlund
Chief Engineer
zm

PAID

DEC 20 2022

Ck# 5170

Rec't# _____

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED

DEC 20 2022

OFFICE OF
WATER

No. 8288-3

Date: Dec 12, 2022

I/We request that Water Right No. 8288-3

formerly owned by: Franklin Orr

be transferred to: (name & address) Justin Orr

30804 Bluff Rd

Volin SD 57072

Telephone No. (605) 638-0456

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

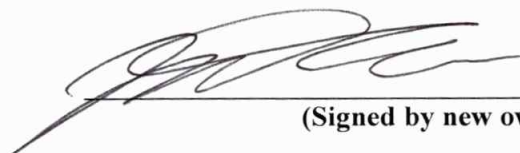
97 acres - SW 1/4 Section 11, T93N, R53W

I/We understand that the validity of Water Right No. 8288-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Justin Orr, the new owner, certify that the above information is true and correct.



(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

8288-3

December 21, 2022

7089-3
7474-3
7494-3
8288-3

Justin F Orr
30804 Bluff Rd
Volin SD 57072

Dear Mr. Orr:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership on Water Right Nos. 7089-3, 7474-3, 7494-3 and 8288-3.

The ownership changes have been completed. The above listed water rights formerly held by Franklin or Gwen Orr are now listed in your name.

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

Sincerely,

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

enclosures