

WATER PERMIT NO. 8293-3

Name of Applicant: **Brian Schneck**

Address: **48002 153rd St, Milbank SD 57252** Phone: **605 695-2892**

Amount of Water Claimed: **2.66 cfs** Total Acres: **195 acres**

Source of Water Supply: **groundwater (three wells)**

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

Type of Waste Disposal System:

Location: **approximate 7 miles southeast of Milbank**

PRIORITY Date Received: **6-19-17**

Application/License Fee: **\$ 1050**

Corrected Application Received: **6-26-17**

Period of Annual Use: **June 1 – Aug 31**

Remarks:

Diversion Point: **S 1/2 S 1/2 Sec 31-T120N-R47W**

Land to be Irrigated: **S 1/2 Sec 31-T120N-R47W**

Depth of Well: **98 feet deep**

Well Driller:

Remarks:

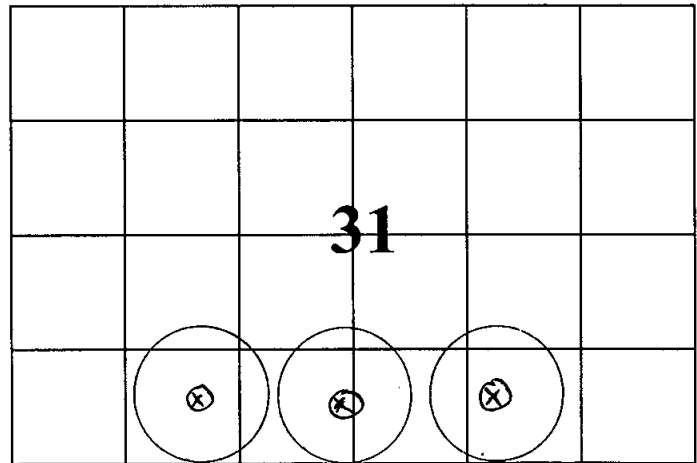
Type of Map: **aerial map**

Prepared by:

Reviewed and the Number Assigned on: **6-26-17**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



FORM 2: Application for irrigation in South Dakota
(type or print)

JUN 19 2017

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8293-3</u> (office use only)
	Hydrologic Unit <u>07020001</u>
	Basin <u>Minnesota-Whetstone</u>
	Newspaper <u>Grant Co. Review, Milbank.</u> <u>Public Opinion, Watertown</u>

Application For Permit To Appropriate Water For Irrigation

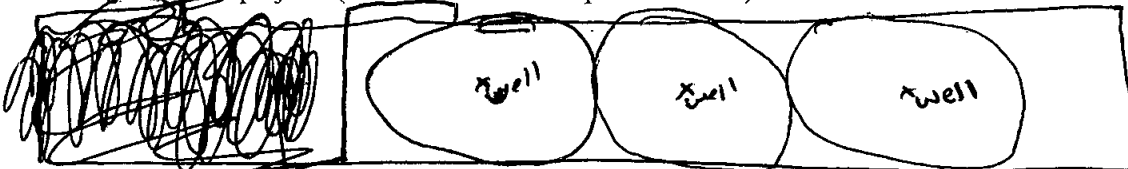
Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit Brian Schneck
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.
- Mailing Address 48002 153rd St. Milbank SD 57252
(Address) (City) (State) (Zip Code)
- Phone 605 432 5045 Mobile 605-695-2892 Email toole743@gmail.com
2. Amount of water claimed _____ *CFS or 1200 **GPM ***AF Total Acreage 195
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply ground
4. Location of point of diversion 3 wells in S 1/2 section 31-T-120N-R47W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
- County Grant
5. County or counties where water will be used Grant
6. Annual period during which water is to be used June to August
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
SE 40 of SE 1/4 Sec 31 T-120N-R47W	37	SE 40 of SW 1/4 Sec. 31	37
NE 40 of SE 1/4 Sec. 31 T-120N-R47W	10	NE 40 of SW 1/4 Sec. 31	10
SW 40 of SE 1/4 Sec. 31	37	SW 40 of SW 1/4 Sec. 31	37
NW 40 of SE 1/4 Sec. 31	10	NW 40 of SW 1/4 Sec. 31	17

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



I, Brian Schneck, 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. 8293-3 FOR IRRIGATION

Date of first receipt of application June 19, 2017.

Date of return to applicant for corrections, amendments or changes June 20, 2017.

Date of receipt of corrected application June 26, 2017.

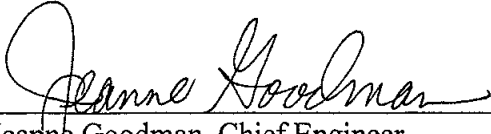
The Water Management Board approved Water Permit No. 8293-3 on December 7, 2017 for Brian Schneck, 48002 153rd St, Milbank SD 57252 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8293-3 appropriates 2.66 cubic feet of water per second from three wells to be completed into the Veblen Aquifer (95 feet deep) located in the centers of the S 1/2, SW 1/4, SE 1/4 Section 31 for irrigation of 195 acres located in the S 1/2 Section 31; all in T120N-R47W which is approximately seven miles southeast of Milbank SD.
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: June 1 – August 31.
3. The date from which applicant may claim right is June 19, 2017.
4. One-fifth of the construction is to be completed on or before June 7, 2020.
5. All construction is to be completed on or before December 7, 2022.
6. Water is to be put to beneficial use on or before December 7, 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 Permit No. 8293-3 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. The wells authorized by Permit No. 8293-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 
Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

DEC 15 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 3 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

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

For either Existing or Proposed Wells:

c) Well Depth (required) 98' Depth to Top of Water Bearing Material 80' Depth to Water from Surface 10'd) Distance to nearest domestic well on applicant's property _____ Property owned by others 1500 feet**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)

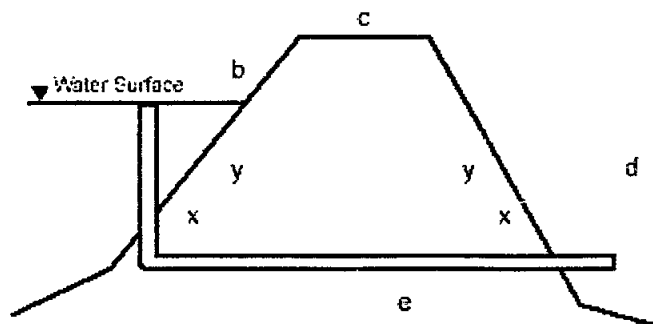
Upstream _____

Downstream _____

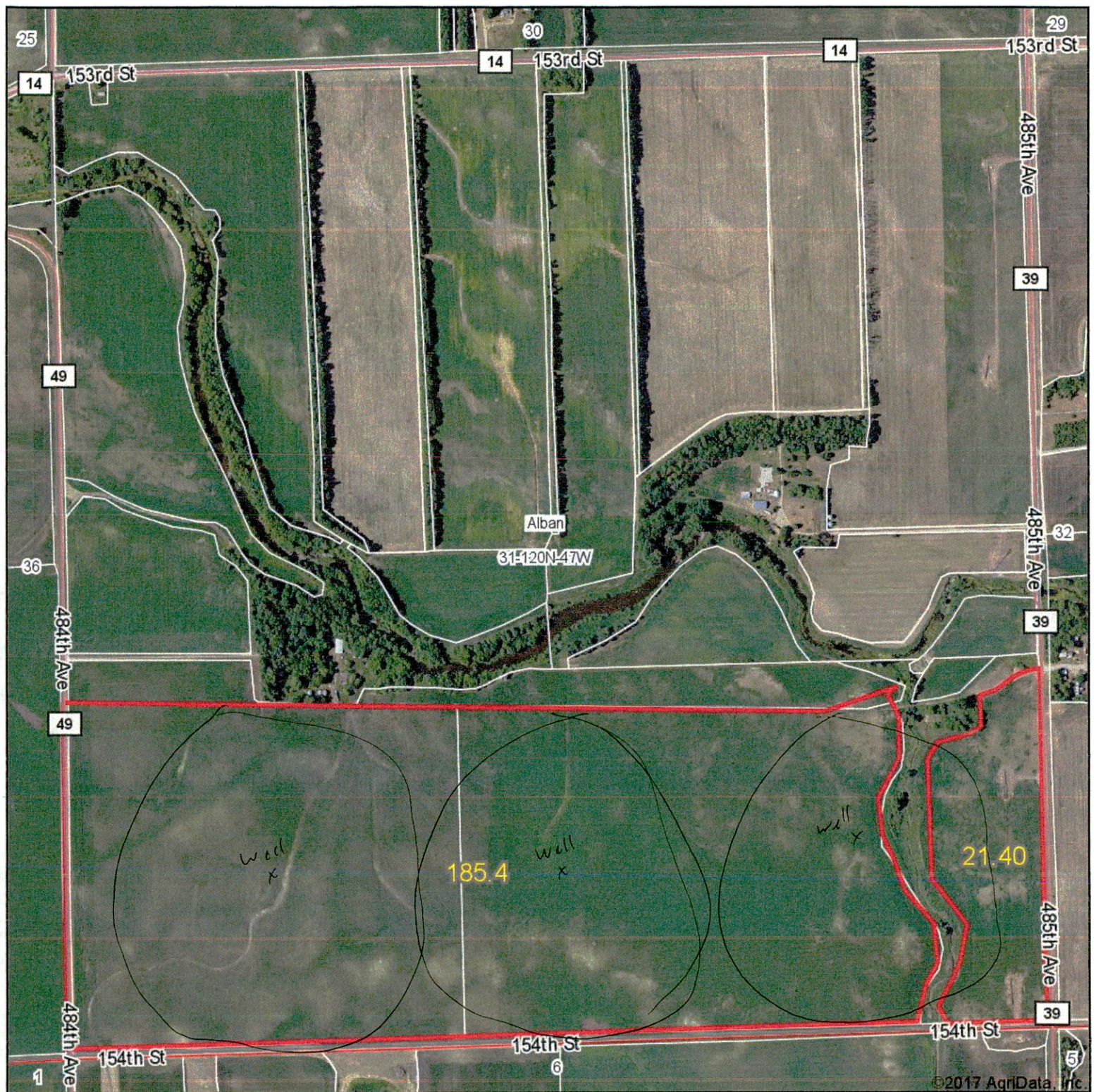
h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Aerial Map



©2017 AgriData, Inc.

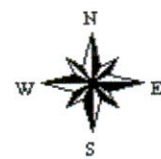


map center: 45° 9' 29.83, -96° 30' 28.12

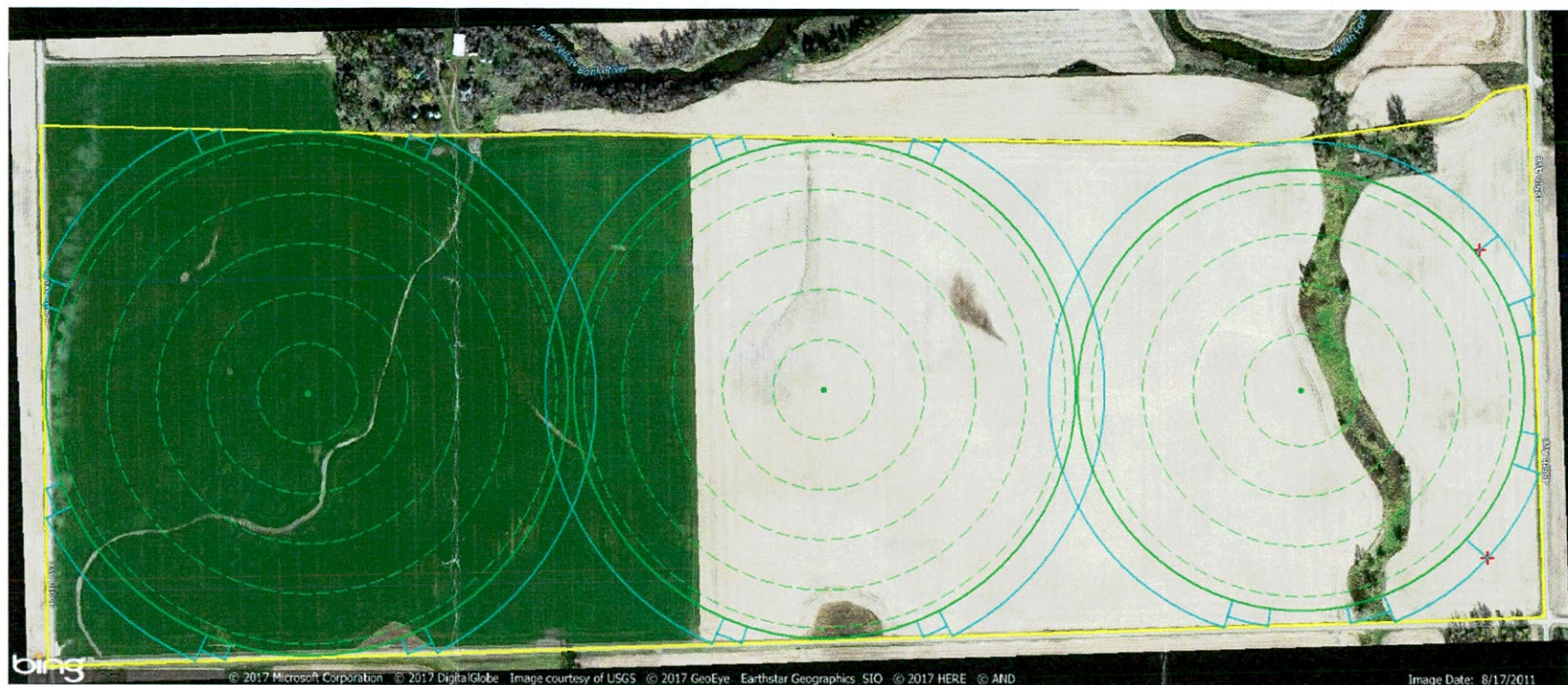
0ft 837ft 1673ft

Maps Provided By:
surety
CUSTOMIZED ONLINE MAPPING
© AgriData, Inc. 2017 www.AgriDataInc.com

31-120N-47W
Grant County
South Dakota



6/14/2017



1

2

3

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 26, 2017

RECEIVED OF Brian Schneck 48002 153rd ST Milbank

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

Fee for Application for Permit No. <u>8293-3</u> to Appropriate Water, to construct and to put water to beneficial use	950	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>8293-3</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	1150 00

No. **08280**

By Jeanne Goodman *um*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

June 20, 2017

Brian Schneck
48002 153rd St
Milbank SD 57252

RECEIVED
JUN 26 2017
WATER RIGHTS
PROGRAM

Dear Mr. Schneck:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Grant County. In order to complete the application, the following is required.

- Enclosed is the Form 2A, Supplemental Information. On Item No. 1 regarding the Well Information, please complete c) Well Depth with proposed well depth(s). Your well driller should be able to assist you with an estimate depth for the proposed well locations.
- The application/license fee for irrigation of 195 acres is \$1,150.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program.
605 773-3352
karen.schlaak@state.sd.us

enclosures

Deb

688

5001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

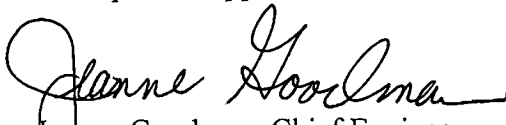
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8293-3, Brian Schneck**

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. 8293-3, Brian Schneck, 48002 153rd Street, Milbank SD 57252.

The Chief Engineer is recommending APPROVAL of Application No. 8293-3 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 Permit No. 8293-3 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. The wells authorized by Permit No. 8293-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
August 24, 2017

REPORT TO THE CHIEF ENGINEER
ON
WATER PERMIT APPLICATION NO. 8293-3
BRIAN SCHNECK
AUGUST 24, 2017

Water Permit Application No. 8293-3 proposes to authorize the irrigation of up to 195 acres at a maximum diversion rate of 2.66 cubic feet of water per second (cfs) from three wells to be completed into the Veblen aquifer. The wells are to be located in the approximate centers of the S ½, SW ¼, and SE ¼ Sec. 31 for the irrigation of lands in the S ½ Sec. 31 T120N-R47W in Grant County approximately seven miles southeast of Milbank, SD

AQUIFER: Veblen (VEB)

Aquifer Characteristics:

Historically, various glacial outwash deposits underlying portions of northeastern South Dakota have been considered the “Veblen aquifer” (Buhler, 2007). The Veblen aquifer is a group of generally buried outwash deposits underlying portions of Roberts, Grant and Deuel Counties, South Dakota, and Big Stone, Swift and Lac Qui Parle Counties, Minnesota (Buhler, 2016). Hansen (1990) defined approximate aquifer boundaries for the Veblen aquifer in Grant County. In a subsequent hydrologic investigation, Barr Engineering (2007) suggested Hansen (1990) may have overestimated the areal extent of the aquifer in Grant County and showed that it extends north into Roberts County. Thompson (2001) mapped the Veblen aquifer starting in northwestern Roberts County and extending southeasterly. However, all mappings indicate there is likely a hydrologic or physical separation or at the very least a significant constriction of aquifer materials between a northern and southern portion of the aquifer somewhere between Wilmot and Peever, approximately 10 to 15 miles north into Roberts County from its southern border. Figure 1 is a map depicting the three principle delineations of the Veblen aquifer mentioned above. The individual sand and gravel units that comprise the Veblen aquifer are not continuous throughout the entire mapped extent, but there is some interconnection between the outwash deposits in some locations (Buhler, 2007). For the purposes of this report, the Veblen aquifer will be considered as the group of buried outwash deposits in Grant and southern Roberts Counties that are found within the areal extents and intervals of altitude defined by Hansen (1990) and Barr (2007) as used by Buhler (2016).

The Veblen aquifer is primarily buried outwash consisting of medium to coarse sand and fine gravel under confined conditions (Hansen, 1990). Based on area lithologic logs (SDGS, 2017) and well completion reports (Water Rights, 2017c), the top of the Veblen aquifer near the proposed well sites can be found from near ground surface to approximately 60 feet below grade. The aquifer thickness ranges from 30 to 80 feet where present. The static water level is variable and dependent on land surface elevation, ranging from less than 10 feet to nearly 50. The aquifer, when confined, is confined by a layer of glacial till (SDGS, 2017; Water Rights, 2017c). It is underlain by till or bedrock, depending on location (SDGS, 2017; Water Rights, 2017c).

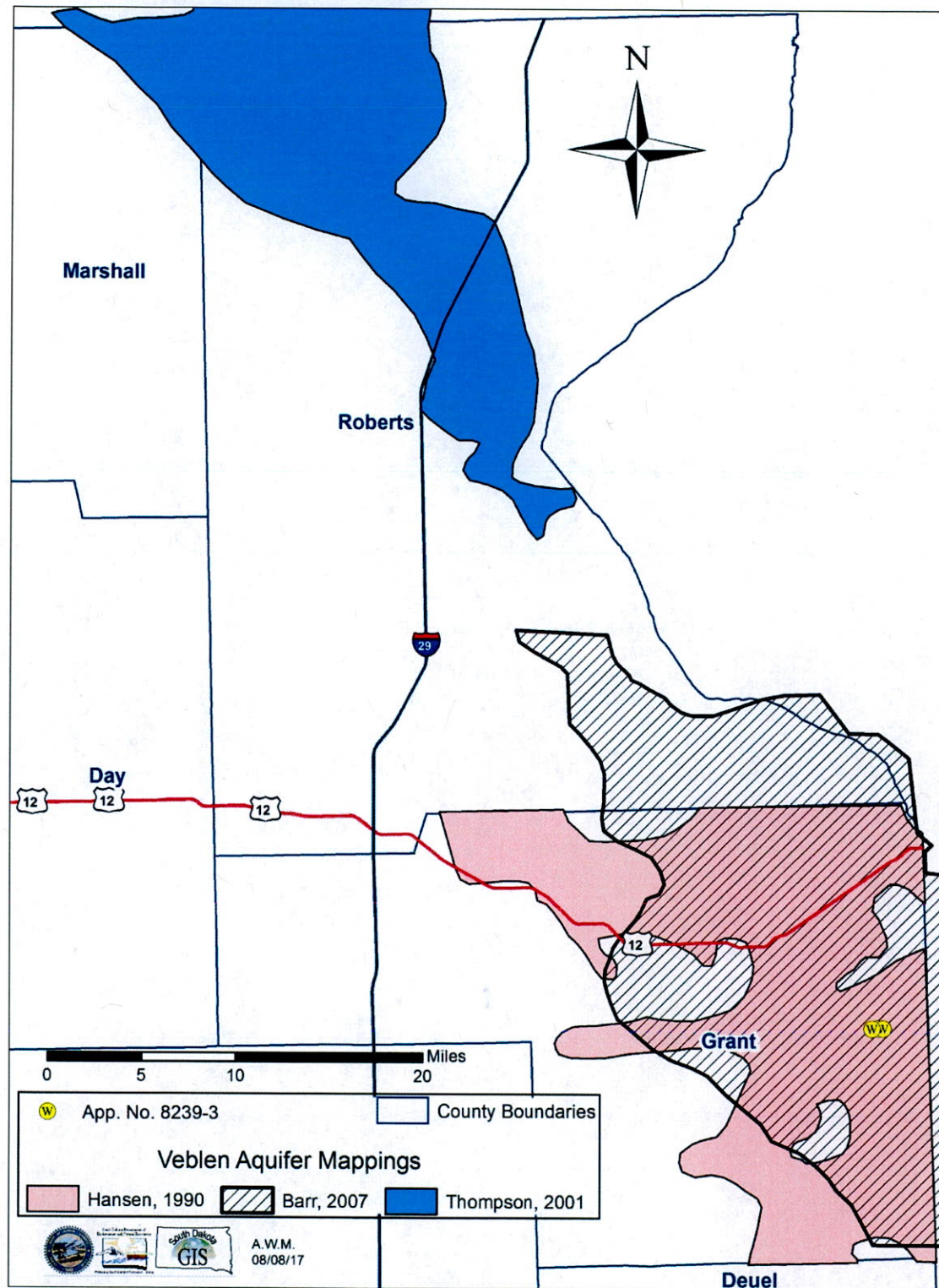


Figure 1- Map showing the three principle delineations of the Veblen aquifer in South Dakota

SOUTH DAKOTA CODIFIED LAW (SDCL) 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for this 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 effects on existing rights from the aquifer that are pertinent to this application.

WATER AVAILABILITY:

This application proposes to appropriate water from the Veblen aquifer. The probability of unappropriated water available from the 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. In this case, the aquifer is not stratigraphically lower than the Greenhorn Formation and the applicant is not a water distribution system.

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 34 observation wells completed into the Veblen aquifer with 16 completed into the southern portion of the Veblen aquifer this application proposes to use (Water Rights, 2017a). Figure 2 is a map showing the location of the observation wells completed into the southern portion of the Veblen aquifer as well as the well sites proposed by this application. There are four observation wells within approximately five miles of the proposed well sites, GT-79F, GT-77Q, GT-79G, and GT-77P (Water Rights, 2017a). The hydrographs for these observation wells are shown in Figures 3 through 6, respectively.

These hydrographs are representative and consistent with the hydrographs for the other observation wells in the southern portion of the Veblen aquifer. The observation well hydrographs show the water level over the period of record has been stable to rising. The observation wells show good response to climatic conditions. The water levels rise during wet periods when recharge exceeds natural discharge plus withdrawals, and gradually decline during drier periods when natural discharge plus withdrawals exceed recharge. Some of the hydrographs for observation wells completed into the southern portion of the Veblen aquifer show the effects of nearby pumping on the aquifer. However, these effects are minor and are masked by the effects climatic conditions have on the water levels. The dominance of climatic conditions on the water levels means that recharge to and natural discharge from the aquifer greatly exceeds pumping. Recognizing natural discharge from an aquifer can be captured for pumping, the hydrographs document there is unappropriated water available for this proposed appropriation.

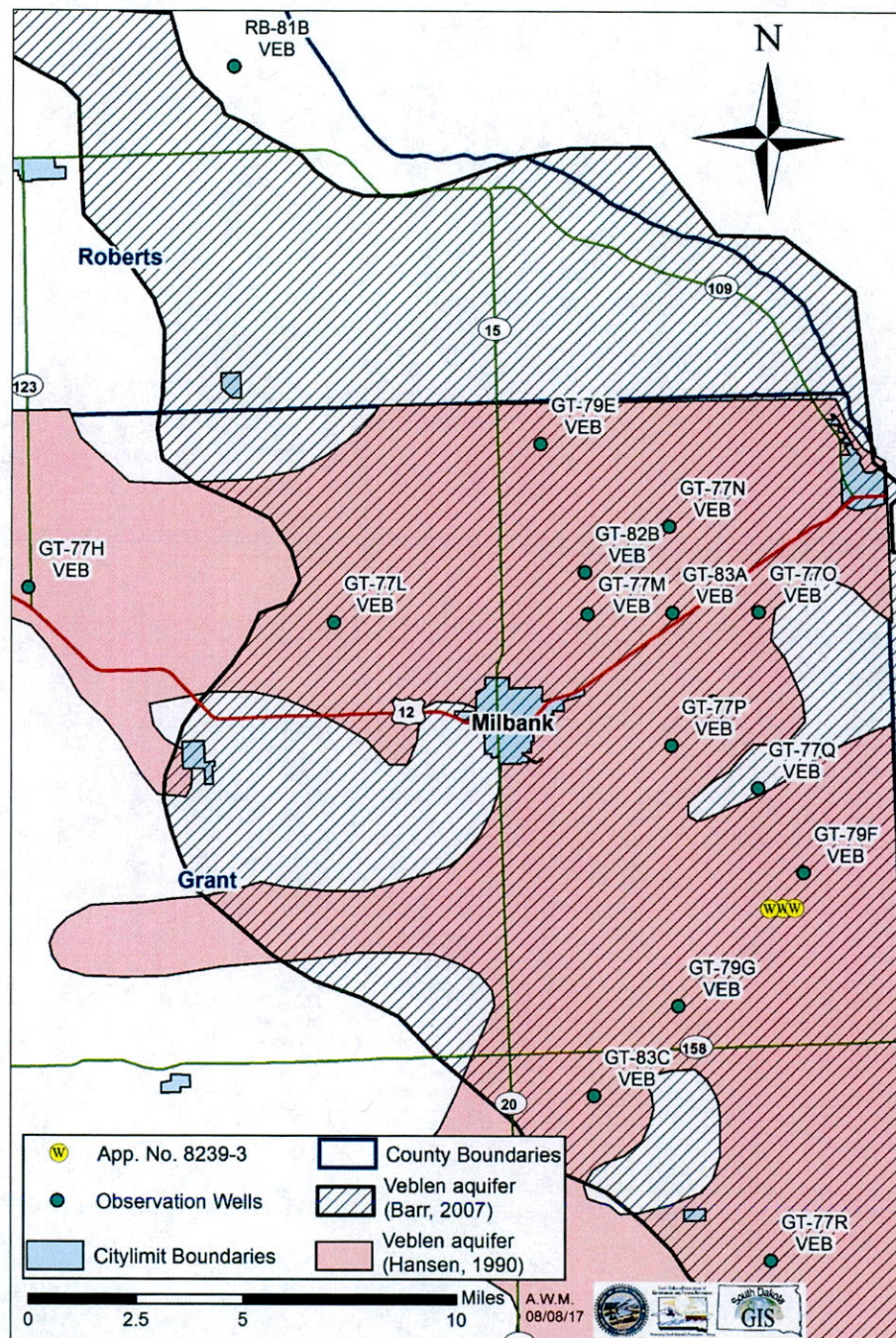


Figure 2- Map of Water Rights Program observation wells completed into the southern portion of the Veblen aquifer (Water Rights, 2017a)

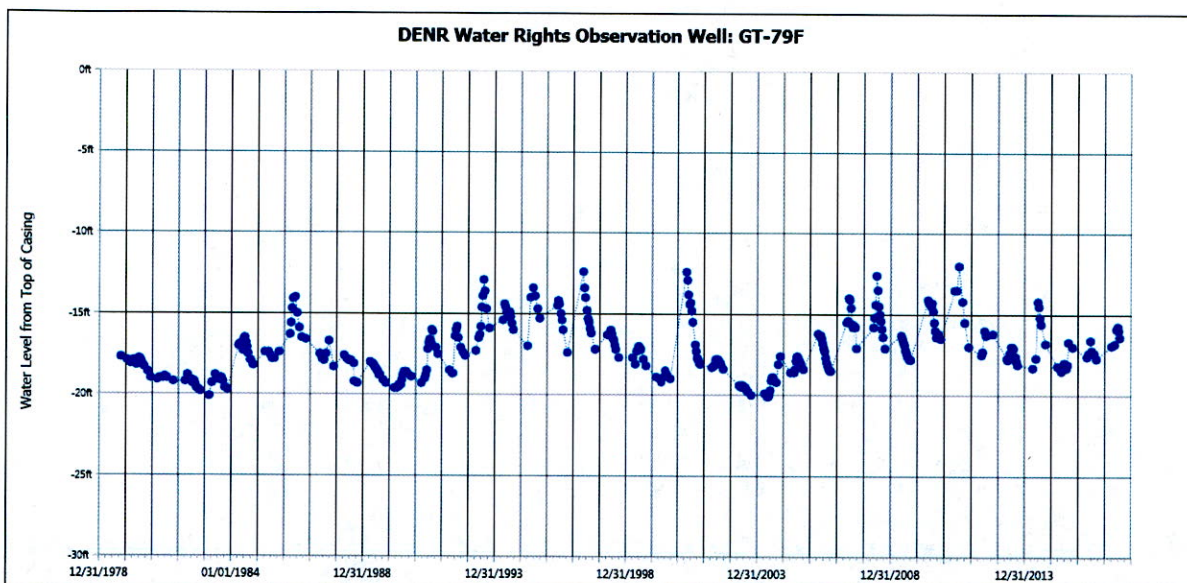


Figure 3- Hydrograph for GT-79F, approximately 1.0 miles northeast of the well sites (Water Rights, 2017a)

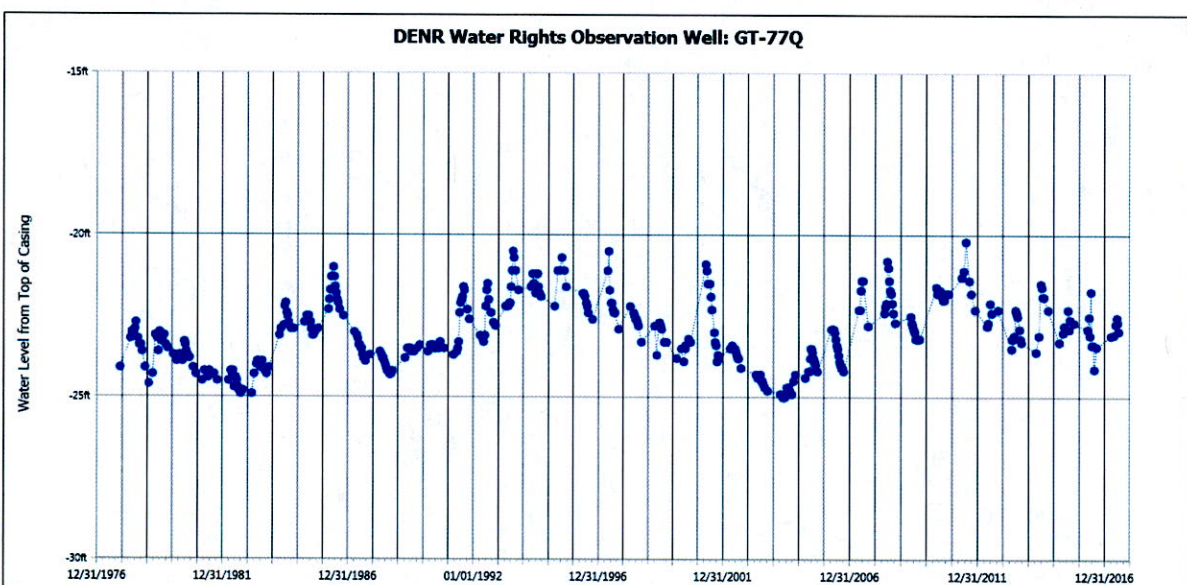


Figure 4- Hydrograph for GT-77Q, approximately 2.8 miles north of the well sites (Water Rights, 2017a)

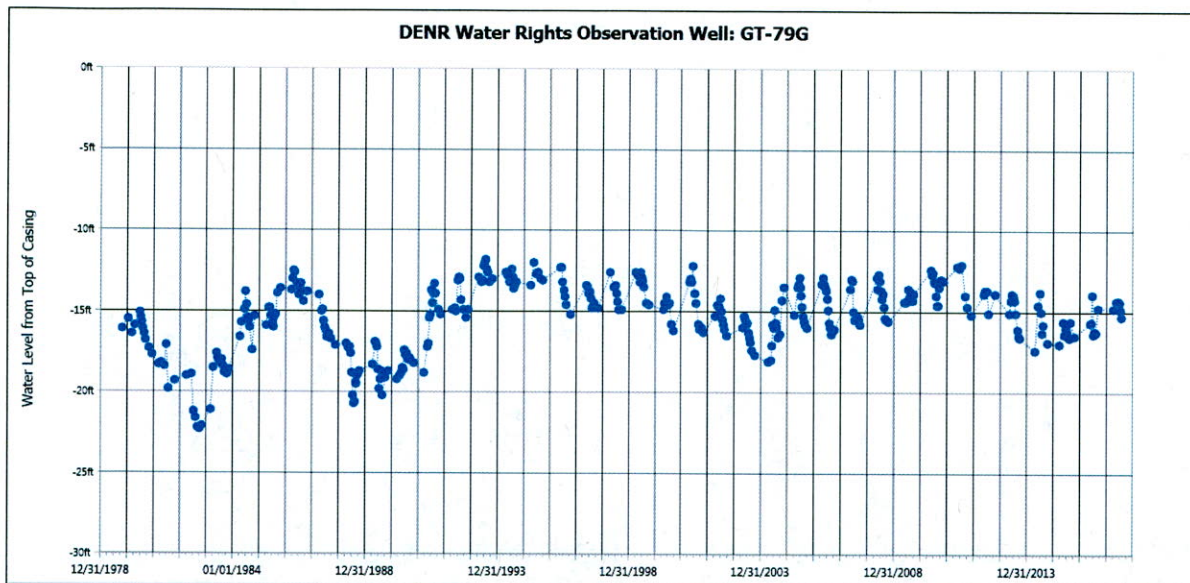


Figure 5- Hydrograph for GT-79G, approximately 3.3 miles southwest of the well sites (Water Rights, 2017a)

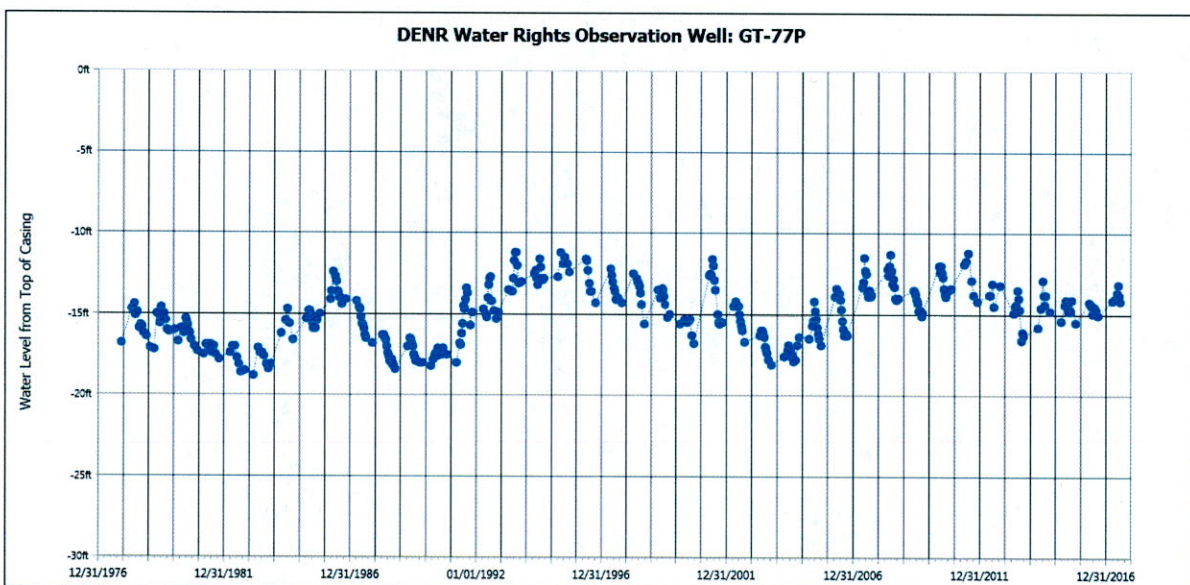


Figure 6- Hydrograph for GT-77P, approximately 4.6 miles northwest of the well sites (Water Rights, 2017a)

Recharge and Discharge:

Recharge:

Recharge to the Veblen aquifer in Grant County occurs through direct infiltration of precipitation where the aquifer is at land surface and possibly leakage from the till (Hansen, 1990). Hedges and others (1985) estimated the recharge rate to the Veblen aquifer to be 0.24 inches per year (in/yr.) for the entire aquifer based on regional flow-net analysis. Hedges and others (1985) also estimated a recharge rate of 5.2 in/yr. to the unconfined portions of the aquifer. Hedges and others (1985) also states, "It should be noted that recharge rates calculated using flow-net analysis are suspect and conclusions based on this method are questionable." It is likely the

actual recharge rate to the Veblen aquifer is within that range. Furthermore, the Veblen aquifer is primarily under confined conditions which means the recharge rate is likely much closer to the 0.24 in/yr. than the 5.2 in/yr.

Discharge:

Discharge from the Veblen aquifer occurs through well withdrawals, discharge to the Whetstone River in northern Grant County, to the Yellow Bank River, to Big Stone Lake, to the granite quarries east of Milbank, and to the Minnesota River (Hansen, 1990). There are 38 water rights/permits authorized to withdraw water from the southern portion of the Veblen aquifer located in Grant and southern Roberts Counties (Water Rights, 2017b). The non-irrigation water rights/permits are shown in Table 1 along with estimated or permitted average annual use.

Table 1- Non-irrigation water use from the Veblen aquifer in Grant and southern Roberts Counties (Water Rights, 2017b)

Permit No.	Name	County	Status	Use	CFS	Ac-ft/yr.
548-3	City of Milbank	GT	LC	MUN	2.1	912.2
2006-3	Town of Corona	RB	LC	MUN	0.245	106.4
4050-3	City of Big Stone City	GT	LC	MUN	3.3	1433.5
5918-3	Victory Farms	GT	LC	COM/LCO	0.33	143.3
6161-3	Lou's Greenhouse	GT	LC	COM	0.04	17.4
6171-3	Cold Spring Granite Co	GT	LC	IND	0.111	48.2
6230-3	Riverview LLP	GT	LC	COM/LCO	0.39	169.4
6358-3	Michael & Nancy Johnson	GT	LC	COM/LCO	0.11	47.8
6636-3	Western Consolidated Coop	GT	LC	COM	0.022	9.6
7649-3	Poet Biorefining	GT	PE	IND	3.34	2000 ^{1,2}
7931-3	GCC Ready Mix	GT	LC	COM	0.11	5 ¹
8015-3	Victory Farms LLC	GT	PE	COM	0.33	143.3
8227-3	Teton LLC	GT	PE	COM	0.11	46.03 ¹
Total						5082.13
Total Excluding Water Right No. 4050-3						3648.6
1=Permitted Volume, 2- Used as a backup supply when lake levels are low, RB= Roberts County, GT= Grant County, MUN= Municipal, COM= Commercial, LCO= Livestock Confinement Operation, IND= Industrial						

The estimated average annual use is based on pumping at the maximum permitted diversion rate for 60 percent of the time. Water Permit Nos. 7649-3, 7931-3, and 8227-3 are limited by an annual appropriation volume and are assumed to pump the full volume. The City of Big Stone City buys water from the City of Ortonville, MN (Friedeman, 2017). Therefore, the estimated use under Water Right No. 4050-3 is likely at or near zero ac-ft/yr.

Average annual irrigation use from the Veblen aquifer in Grant and southern Roberts counties as reported to the DENR-Water Rights Program through annual irrigation questionnaires is shown in Table 2. Over the period of record, there has been a slow and steady build out of irrigation systems withdrawing water from the southern portion of the Veblen aquifer. In addition to appropriative rights, there are a number of well completion reports on file with the DENR-Water Rights Program for domestic wells that appear to be completed into the Veblen aquifer (Water Rights, 2017c). The annual withdrawal due to domestic wells is not expected to be significant to the hydrologic budget of the aquifer.

Table 2- Irrigation water use from the Veblen aquifer in Grant and southern Roberts counties (Water Rights, 1980-2017)

Year	No. of Permits Reporting	Appropriation (ac-ft)	Pumpage (ac-ft)
2016	25	8957	1388.23
2015	23	6862	729.474
2014	24	7718	780.77
2013	27	9387	1384.59
2012	22	8325	1265.45
2011	20	7774	314.74
2010	20	8005	1100.69
2009	20	8005	1067.84
2008	20	8005	1350.26
2007	16	6547	1245.01
2006	16	6547	1440.48
2005	16	6547	1245.54
2004	17	6627	1283.56
2003	17	6627	1274.54
2002	17	6627	1024.95
2001	17	6627	1160.59
2000	17	6627	975.55
1999	17	6627	859.36
1998	16	6414	812.07
1997	15	5994	709.06
1996	15	5994	712.6
1995	16	6814	445.6
1994	18	7130	675.63
1993	18	7203	220.06
1992	18	7133	589.09
1991	21	7543	230.99
1990	18	6851.6	1329.9
1989	19	7200.6	1222.9
1988	17	6396.6	1897.35
1987	17	6673.6	1046.71
1986	17	6673.6	726.7
1985	16	5863.6	519.1
1984	16	5863.6	1189.03
1983	14	6571	808.3
1982	14	5962	704.84
1981	19	8366	1062
1980	15	6978	504
1979	15	6978	700
Min	14	5863.6	220.06
Max	27	9387	1897.35
Avg.	18.0	7027.5	947.30

Hydrologic Budget:

The irrigation application rate in eastern South Dakota is generally less than 10 in/yr. Therefore if this application is approved, it is likely to pump less than 163 ac-ft/yr. The estimated average annual use from the Veblen aquifer in Grant and southern Roberts Counties is 4,600 ac-ft/yr. assuming no pumping under Water Right No. 4050-3. Hansen (1990) estimated an areal extent of approximately 166,400 acres in only Grant County. Based on the map from Barr Engineering (2007) the areal extent of the aquifer in Grant and Roberts County is approximately 246,500 acres. The range of recharge rates required to supply existing appropriations and this application, based on the previously mentioned areal extents, is 0.23 to 0.34 in/yr. This range is reasonable and is within the range of estimates from Hedges and others (1985). Therefore, there is a reasonable probability unappropriated water is available for this proposed appropriation, and this is supported by the observation well data.

EXISTING WATER RIGHTS:

The nearest water right/permit authorized to withdraw water from the Veblen aquifer to the well sites proposed by this application is Water Right No. 5525-3 approximately 1.3 miles northeast of the proposed well sites, (Water Rights, 2017b). Figure 5 shows a map of the area around the proposed well sites and Table 3 lists the water rights/permits shown in Figure 5. There are also a number of domestic wells on file with the Water Rights Program in the vicinity of the proposed wells sites that appear to be completed into the Veblen aquifer (Water Rights, 2017c).

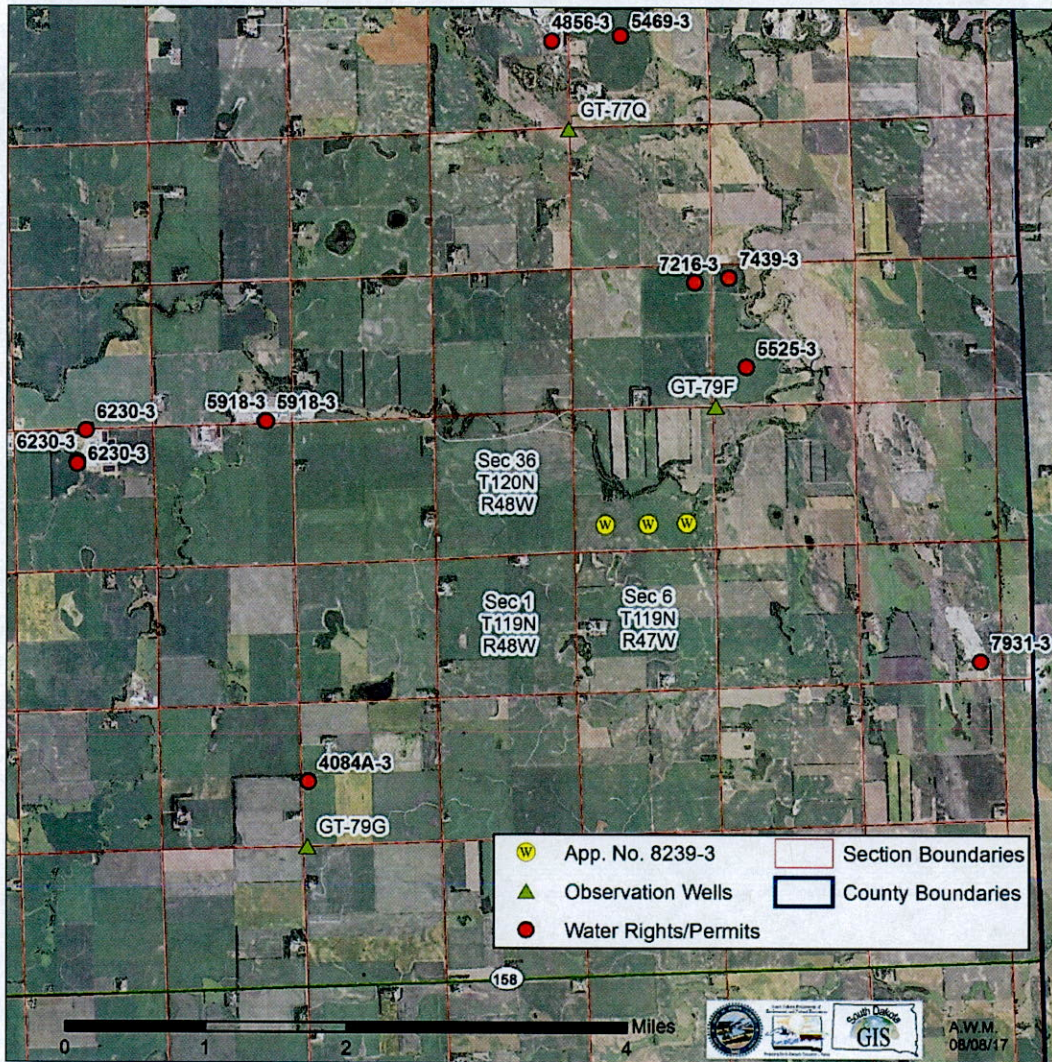


Figure 5- Map of the project area including Veblen aquifer water rights/permits (Water Rights, 2017b) and observation wells (Water Rights, 2017a).

Table 3- Veblen aquifer water rights/permits shown in Figure 5 (Water Rights, 2017b)

Permit No.	Name	Status	Use	CFS	Acres
4084A-3	Richard Will	LC	IRR	1	254
4856-3	Michael D Johnson	LC	IRR	1	70
5469-3	Michael Johnson	LC	IRR	2	230
5525-3	Mielitz Bros	LC	IRR	1.78	140
5918-3	Victory Farms	LC	COM/LCO	0.33	
6230-3	Riverview LLP	LC	COM/LCO	0.39	
7216-3	Mielitz Bros	PE	IRR	2.28	160
7439-3	Mielitz Bros	PE	IRR	1.14	80
7931-3	GCC Ready Mix	LC	COM	0.11	
LC= Water Right, PE= Water Permit, IRR= Irrigation, COM= Commercial, LCO= Livestock Confinement Operation					

Although the Veblen aquifer is generally under confined conditions, there are areas where the aquifer is unconfined. In the vicinity of the proposed well sites, observation wells GT-79F and GT-77Q are under unconfined conditions while GT-79G and GT-77P are under confined conditions. The hydrographs for those observation wells do not show any effect on water level caused by nearby pumping. The proximity of the applicant's three proposed wells to each other compared to the distance to other appropriative wells means the applicant is far more likely to impact his own wells first and would likely manage the irrigation system to prevent or limit the potential impacts.

The nearest well completion report on record for a domestic well completed into the Veblen aquifer is approximately 0.75 miles south of the proposed well sites (Water Rights, 2017c). There are also a number of rural dwellings that may have wells completed into the Veblen aquifer within 0.5 miles of the proposed well sites. Precise estimates of drawdown cannot be determined without aquifer testing. However, the observation well hydrographs show that under confined and unconfined conditions within the Veblen aquifer there is little impact on water levels caused by pumping appropriative wells. Pumping this proposed diversion is not expected to unlawfully impact existing adequate wells as defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20(6).

The Water Management Board has promulgated rules to protect adequate domestic wells from nearby pumping. Administrative Rule of South Dakota (ARSD) 74:02:04:20(7) states:

“a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs”.

Nearby adequate wells are not expected to be adversely impacted as defined in ARSD 74:02:04:20(7). However, out of an abundance of caution if this application is approved, the water permit should include a qualification the well owner should control their withdrawals so there is not a reduction of needed water supplies for adequate domestic wells or for adequate wells having prior water rights. When all of the above factors are considered, there is a

reasonable probability the proposed diversion can be made without adversely impacting existing appropriative or domestic water users.

CONCLUSIONS:

1. Application No. 8293-3 proposes to authorize the irrigation of 195 acres at a maximum diversion rate of 2.66 cfs from three wells completed into the Veblen aquifer in Grant County.
2. Based on the observation well data and a hydrologic budget, there is a reasonable probability unappropriated water is available for this proposed appropriation.
3. There is a reasonable probability the diversion proposed by this application can be made without adversely impacting existing appropriative or domestic users.



Adam Mathiowetz, PE
SD DENR-Water Rights Program

REFERENCES:

- Barr Engineering. 2007. Groundwater Supply Evaluation, Big Stone II Project, Grant County, South Dakota: Prepared for Otter Tail Power Company.
- Buhler, K.A. 2016. Report on Water Permit Application No. 8227-3, Teton LLC, July 14, 2016. File No. 8227-3. SD DENR-Water Rights Program. Pierre, South Dakota.
- Buhler, K.A. 2007. Report on Water Permit Application No. 6846-3, Ottertail Power Company, March 2, 2007. File No. 6846-3. SD DENR-Water Rights Program. Pierre, South Dakota.
- Friedeman, B. Personal Communication. SD DENR-Drinking Water Program: Environmental Scientist II. August 10, 2017.
- Hansen, D.S. 1990. Water Resources of Codington and Grant Counties, South Dakota. Water-Resources Investigations Report 89-4147. U.S. Geological Survey. Huron, SD.
- Hedges, L.S., and Burch, S.L. 1985. Analysis of Groundwater and Streamflow Data Western Dakotas Region of South Dakota Tasks 3.D and 4.C: Ground-Water Recharge. Prepared for: Planning Division U.S. Army Corps of Engineers Contract DACW45-82-C-0151. SD DENR-Geological Survey. Vermillion, SD.
- SDGS. 2017. Lithologic Logs Database Search. < <http://cf.sddenr.net/lithdb/>>. Accessed: August 7, 2017. SD DENR-Geological Survey. Vermillion, South Dakota.

- Thompson, R.F. 2001. Water Resources of the Lake Traverse Reservation, South and North Dakota, and Roberts County, South Dakota. Water-Resources Investigation Report 01-4219. U.S. Geological Survey. Rapid City, South Dakota.
- Water Rights. 1980-2017. "1979-2016 Irrigation Questionnaires": SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.
- Water Rights. 2017a. Observation Well Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2017b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2017c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



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 24, 2017

Brian Schneck
48002 153rd St
Milbank SD 57252

Dear Mr. Schneck:

Water Permit Application No. 8293-3 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 Grant County Review printed at Milbank SD (Ph # 605-432-4516) and the Public Opinion printed at Watertown SD (Ph # 605-886-6901). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the 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.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, August 24, 2017 10:15 AM
To: legals@thepublicopinion.com
Subject: FW: 8293-3, Brian Schneck
Attachments: 8293-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 30, 2017.

Brian Schneck, 48002 153rd St, Milbank SD 57252 (605 432-5045 or c 605 695-2892) 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



Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, August 24, 2017 10:14 AM
To: Julie Madison, Grant County Review (gcreview@itcmilbank.com)
Subject: 8293-3, Brian Schneck
Attachments: 8293-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 30, 2017.

Brian Schneck, 48002 153rd St, Milbank SD 57252 (605 432-5045 or c 605 695-2892) 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. 8293-3 to Appropriate Water

Notice is given that Brian Schneck, 48002 153rd St, Milbank SD 57252 has filed an application for a water permit to appropriate 2.66 cubic feet of water per second from three wells to be completed into the Veblen Aquifer (95 feet deep) located in the centers of the S 1/2, SW 1/4, SE 1/4 Section 31 for irrigation of 195 acres located in the S 1/2 Section 31; all in T120N-R47W which is approximately seven miles southeast of Milbank SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8293-3 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 September 11, 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 _____.

Form 8

RECEIVED
SEP 08 2017
WATER RIGHTS
PROGRAM

DEPARTMENT
OF
ENVIRONMENT
AND NATURAL
RESOURCES

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Codington) SS

I, Jackie Wettstad

certify that the attached printed Notice was taken

from the Watertown
Public Opinion

printed and published in Watertown

County of Codington and

state of South Dakota. The notice was published

in the newspaper on the following date:

August 30, 2017

Cost of Printing \$49.48

Jackie Wettstad
(Signature)

Accounting Clerk
(Title)

9-5-17
(Date Signed)

NOTICE OF APPLICATION NO.

8293-3 to Appropriate Water

Notice is given that Brian Schneek, 48002 153rd St, Milbank SD 57252 has filed an application for a water permit to appropriate 2.66 cubic feet of water per second from three wells to be completed into the Veblen Aquifer (95 feet deep) located in the centers of the S 1/2, SW 1/4, SE 1/4 Section 31 for irrigation of 195 acres located in the S 1/2 Section 31; all in T120N-R47W which is approximately seven miles southeast of Milbank SD. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8293-3 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 September 11, 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. Pinner, Secretary,
Department of Environment and
Natural Resources

Published once at the total
Applicant's address at 04-23-08
Opinion of August 30, 2017
newspapers can be found at
adpublicnotices.com

Printer's Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF GRANT

} ss.

Ashlie Schweitzer

RECEIVED

SEP 01 2017

WATER RIGHTS
PROGRAM

of said County and State, being first duly sworn, on oath says that the Grant County Review is a legal weekly newspaper of general circulation, printed and published in Milbank, in said County of Grant and State of South Dakota, by Grant County Review, Inc., and has been such newspaper during the times hereinafter mentioned; that said newspaper is a legal newspaper; and that it has a bona fide circulation of more than two hundred copies weekly, and has been published within said County of Grant in the English language and has been admitted to the United States mail under second class mailing privilege, for at least one year next prior to the publication of the Notice herein mentioned, and has been printed wholly in an office maintained at the said place of publication, that I, the undersigned, Bookkeeper of said newspaper, in

charge of the accounts receivable department thereof, have personal knowledge of all the facts stated in this affidavit; that the advertisement headed Notice of

Application No. 8293-3 to Appropriate
Water - Brian Schneck

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

August 30 2017
20
20

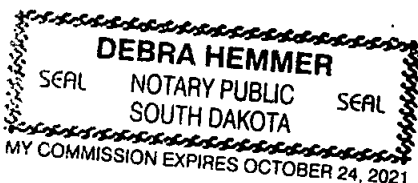
20
20
20

That \$ 26.85, being the full amount of the fee charged for the publication of said Notice, inures to the benefit of the publisher of the Grant County Review; that no agreement or understanding for the division thereof has been made with any person, and that no part has been agreed to be paid to any person whomsoever.

Ashlee Schweitzer

Subscribed and sworn to before me this 30th day of Aug 2017

Debra Hemmer
Notary Public, Grant County, South Dakota



NOTICE OF APPLICATION NO.

8293-3 to Appropriate Water

Notice is given that Brian Schneck, 48002 153rd St, Milbank, SD 57252 has filed an application for a water permit to appropriate 2.66 cubic feet of water per second from three wells to be completed into the Veblen Aquifer (95 feet deep) located in the centers of the S 1/2, SW 1/4, SE 1/4 Section 31 for irrigation of 195 acres located in the S 1/2 Section 31; all in T120N-R47W which is approximately seven miles southeast of Milbank, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8293-3 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 September 11, 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 an approximate cost of \$26.85.

Publication Fee \$ 26.85
Notarial Fee \$
Total \$ 26.85

Brian Schneck
48002 153rd st
Milbank, SD 57252

September 6, 2017

Water Rights program
Foss Building
523 E Capital
Pierre, SD 57501
605 773 3352

RECEIVED
SEP 11 2017
WATER RIGHTS
PROGRAM

RE: APPLICATION NO. 8293-3 (OPPOSE)

I grew up in Roberts County, so this has my attention.

Upon reviewing the application to appropriate water, several questions came to mind, but first let see how much 2.66 cubic feet of water per second adds up to

2.66 cubic feet per second, is equal to 19.89 gallons per second, that's equal to 1193.4/minute, 71604 gal/ hour. After 4 hours, that draws 286,416 gallons. After 24 hours of pumping , 1,718,496 gallons has been drawn out. Again, after 24 hours, 1 million, 718 thousand, 496 gallons is pulled. After 30 days or 720 hours, 51, 554,880 gallons have been pulled.. That is equivalent to 4 feet of water covering 40 acres.

What is the reason to draw this much water out of the aquifer?

What is the plan to replenish the aquifer? Don't rely on natural rainfall or snowfall through the year for replenishment, unless you get 4 feet of rain across the 40 acres to counter the draw.

Is this to water crops? IF so that doesn't sound like #4 on the application, in the public interest to me, but more for private use and profit.

What type of crops and soil conditions warrant drawing this much water?

Have the ramifications of evaporation and plant transpiration been considered?

Has the water been tested? Is it alkali, alkaline, artesian? Salty or fresh? What about any runoff potential with the natural drainage on the property?

It is my recommendation as a meteorologist/hydrologist to disapprove this request and I would kindly ask the state to deny the request to this application.

Kenneth Siyaka, USAF ,ret
2916 Redwing Cir
Bellevue, NE 68123

cc: Brian Schneck



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

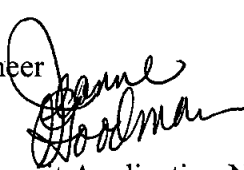
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

September 14, 2017.

NOTICE OF HEARING

TO: Brian Schneck Kenneth Siyaka, USAF, ret
48002 153rd Street 2916 Redwing Cir
Milbank SD 57252 Bellevue NE 68123

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Notice of Hearing on Water Permit Application No. 8293-3, Brian Schneck

A petition opposing Water Permit Application No. 8293-3 was filed in response to the Notice of Application published in the Grant County Review and Public Opinion. This notice schedules a hearing on Application No. 8293-3 before the South Dakota Water Management Board.

Water Permit Application No. 8293-3 proposes to appropriate 2.66 cubic feet of water per second from three wells to be completed into the Veblen Aquifer (95 feet deep) located in the centers of the S 1/2, SW 1/4, SE 1/4 Section 31 for irrigation of 195 acres located in the S 1/2 Section 31; all in T120N-R47W which is approximately seven miles southeast of Milbank SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8293-3 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. 8293-3 at 9:00 AM (Central Time) on Thursday, December 7, 2017, 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 December 7, 2017, 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 November 22, 2017. 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 the petition filed in the matter of Water Permit Application No. 8293-3. 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 25, 2017. 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 September 14, 2017, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated September 14, 2017, regarding notice of hearing for Water Right Permit Application No. 8293-3, as addressed below:

Brian Schneck
48002 153rd Street
Milbank SD 57252

Kenneth Siyaka, USAF, ret
2916 Redwing Cir
Bellevue NE 68123

Sent Inter-office to:

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



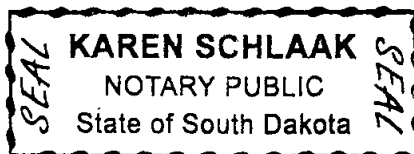
Eric Gronlund
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of September, 2017



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



Procedure for Hearings before the Water Management Board

The Water Management Board's function is to regulate and control the development, conservation, and allocation of the use of water according to the principles of beneficial use and priority of appropriation. In this role, the Water Management Board conducts contested case hearings on water right permit applications. This document is intended to acquaint participants in hearings of general procedures before the Board.

The Board is a citizen board consisting of seven members appointed by the Governor. They are from varying backgrounds and locations around the state. The Board has meetings approximately every two months.

South Dakota codified laws (SDCL) and administrative rules (ARSD) govern water rights. The laws and rules may be downloaded at DENR's website at <http://www.state.sd.us/denr/denr.html>. Laws of interest include SDCL Chapters 1-26, 46-1, 46-2, 46-2A, 46-4, 46-5 and 46-6. Administrative rules to review are ARSD 74:02:01.

An individual may represent himself in a contested case before the Board or may be represented by legal counsel. However, an organization, association, partnership, corporation, etc., must be represented by an attorney. Attorneys that intend to participate in the hearing must mail a Notice of Appearance to all other parties. Non-resident attorneys must be able to demonstrate compliance with the requirements set forth SDCL 16-18-2 to practice in South Dakota.

Burden of Proof

The applicant for an permit issued by the Water Management Board has the burden of proving that he is entitled to the permit. The applicant must therefore be prepared to present the permit application and the proposed operation to the Board at a contested case hearing. This burden then switches to the petitioning parties to prove their case. Do not rely on the Department of Environment and Natural Resources (DENR) to carry the burden of proof. Although DENR makes a recommendation to the Board, this recommendation is in no way binding upon the Board. While a DENR expert will present their report and be subject to questioning by the Board and parties on the application, DENR is not an advocate for your position.

SDCL 46-2A-9 sets forth the four criteria that must be present in order to approve an application. They are:

- 1) A reasonable probability that unappropriated water is available for the proposed use;
- 2) The proposed diversion will not unlawfully impair existing rights;
- 3) The use is a beneficial use; and
- 4) The use is in the public interest.

Procedure

You or your legal counsel need to be at the hearing to present your position in a contested case hearing.

The Board Chairman runs the hearing. Address all questions and objections to the Chairman for a ruling. In some instances the Board will appoint a hearing chairman for preside over prehearing conferences and prehearing motions. An attorney from the Attorney General's office is seated with the Board to provide

them legal advice. In addition, the Water Rights Program is represented by legal counsel. This is a legal proceeding so expect to swear an oath to tell the truth when you approach the podium.

Contested case hearing are conducted pursuant to procedures outlined in SDCL ch. 1-26. Only parties of record can participate in the hearing by presenting testimony, calling witnesses or cross examining witnesses. Parties include the applicant and those individuals that have filed a petition as set forth in the public notice. The following procedure is followed:

1. Opening statements (parties may waive their opening statement)
 - a. Applicant
 - b. DENR – DENR will present a brief description of the application
 - c. Petitioners and Intervenors
2. Evidentiary hearing
 - a. Applicant (applicant's opportunity to present testimony and call witnesses)
 - b. DENR – staff present their report and the Chief Engineer's recommendation
 - c. Petitioners and Intervenors (opportunity to present testimony and call witnesses)

Be prepared to explain your position on the application. Although the Board members have a great deal of expertise, don't presume they know anything about your issue before them. If you're the applicant, state what the proposed project is, the location of the project, timelines for completed the project and its benefits. If you are an opponent to the application, explain where you live in proximity to the proposed project and the adverse impact of the proposed project.

Parties may call witnesses on their behalf. The Board oftentimes hears testimony from technical experts, neighbors or other witnesses regarding the proposal. Written endorsements are subject to the hearsay rule at the time of the hearing since the person can not be cross examined. Written comments will usually be allowed only if there is no objection from any other party.

Upon the conclusion of any witness's testimony, Board members may ask questions of the witness and all parties will be afforded an opportunity in an orderly manner to cross examine the witness regarding their testimony. Cross examination is your opportunity to ask questions of the witness related to their direct testimony. It is not the appropriate time for you to provide your testimony.

3. Rebuttal – parties are afforded an opportunity to present testimony rebutting a prior witnesses testimony. Witnesses are again subject to cross examination but only related to their rebuttal testimony.
4. Closing arguments (summation of your position)
 - a. Applicant
 - b. DENR
 - c. Petitioners and Intervenors
5. Board decision. The decision making process occurs in public in front of all concerned and on the record. Normally, the Board limits discussion to its members but may call on witnesses, lawyers or parties to clarify a point. Upon making a verbal decision, the Board will direct

either the prevailing party or Water Rights Program's staff attorney to prepare findings of fact, conclusions of law and Final Decision that will be considered at the Board's next meeting. The findings are a record of the facts considered by the Board. In the event the Board's decision is appealed to court, the findings reflect the facts considered by the Board to arrive at a decision. The non-prevailing party may waive their rights to findings if they are satisfied the Board addressed their concerns or have no intention of appealing the decision.

Although hearings may sometimes be considered informal, it is evidentiary hearing. Lawyers cannot testify or answer factual questions, cross examination is allowed, copies of exhibits must be available for opposing counsel or parties.

Ex-parte Communication

It is improper for any party to a pending application or contested case proceeding to contact Board members prior to the hearing. To do so is ex-parte communication with the likely result being the Board member excusing himself from the proceeding. The Board is very careful to avoid even the appearance of discussing a contested case hearing that will come before it. Situations do arise where a party requests to have a Board ruling on a motion prior to the evidentiary hearing. If an applicant or party has an issue he wishes to raise prior to the hearing, please contact the Water Rights Program and they will put you in contact with either the Board's attorney or the Water Rights Program attorney.

Exhibits

Exhibits are pictures, maps or documents you wish the Board to consider in conjunction with your testimony. Used effectively, exhibits greatly increase the interest and knowledge of the Board. Please have all exhibits you intend to present marked in advance of the hearing (example – Applicant Exhibit 1, 2 and 3 or Petitioner Exhibit 1, 2 and 3). Provide enough copies of each exhibit for the Board, Water Rights Program, opposing counsel and other parties. The exchange of exhibits by parties prior to the hearing is encouraged. Be aware that someone may object to admission of an exhibit. The Board Chairman will rule whether the exhibit is admissible. All exhibits become part of the record and will not be returned.

Transcript

A court reporter is present at all contested case hearings. A party wishing to have a transcript of the hearing should make their own arrangement with the court reporter. DENR will tape the proceeding and will prepare minutes of the hearing.

Appeal of Board's Decision

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days from when the signed findings of fact, conclusions of law and final decision is mailed to parties. The notice of appeal must be in accordance with procedures established in SDCL 1-26-31.

The best advice is to come to the hearing prepared! If you have question regarding the hearing process, please contact Eric Gronlund, Water Rights Program at (605) 773-3352.



Summary of South Dakota Water Laws and Rules

Prepared by Water Rights Program

May 2013

DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov/wr>

The following is a summary of South Dakota water laws and rules. This summary is provided as a service of the Water Rights Program, Department of Environment and Natural Resources for the purpose of introducing the public to the water rights laws of South Dakota. The actual text of the laws and rules may be viewed at <http://denr.sd.gov/des/wr/laws.aspx>.

PLEASE NOTE: This summary is not a substitute for the South Dakota Codified Laws or Administrative Rules of South Dakota and is not intended to serve as legal advice. In the event there is a difference in interpretation between this document and South Dakota Codified Law and/or Administrative Rule, the law and/or rule controls.

ADMINISTRATIVE OVERVIEW

- 1) Water in South Dakota is owned by the people of the state and not by private individuals. The right to use water may be obtained under State Law.

Reference: SDCL 46-1-1, 46-1-3, and 46-5-5.

- 2) South Dakota water rights are administered by a system commonly called the "Doctrine of Prior Appropriation." This means the first in time (senior priority) is the first in right, except for individual domestic use. Priority is established based on the date of filing the application. Uses of water developed prior to or under development as of March 2, 1955 (surface water) or February 28, 1955 (ground water) may qualify for a vested water right depending on the type of use involved.

Reference: SDCL 46-1-9, 46-2A-9, 46-2A-12, 46-4-1, 46-4-2, 46-5-4, 46-5-7, 46-5-8, 46-5-34, 46-5-34.1, and 46-6-3.

- 3) Domestic use of water takes precedence over appropriative rights.

Reference: SDCL 46-1-5, 46-1-6(7), and 46-1-6(14).

- 4) The seven member Water Management Board regulates water use, approves and denies permits, validates vested rights, cancels water right permits or rights, establishes ordinary high and low water marks for lakes as well as setting lake outlet elevations.

Reference: SDCL 1-40-15, 43-17-21, 43-17-23 thru 43-17-25, 43-17-28, 46-2-9, 46-2-11, 46-2A-7, 46-2A-8, 46-2A-16, 46-4-2, and 46-5-8.1.

DOMESTIC WATER USE – no permit needed

- 1) The following domestic uses do not require a water right permit:
 - a. Domestic use of water from other than a common water distribution system that does not exceed 25,920 gallons per day (which is 18 gpm pumped 24 hours per day) or a peak diversion rate of 25 gallons per minute (gpm) for:

1. Individual farm or ranch use including livestock water;
2. Individual household use for drinking, washing, sanitary, culinary, and other ordinary household purposes; and
3. Irrigation of a noncommercial family garden, trees, lawn, shrubbery, or orchard that is no larger in area than one acre. Lawn, tree, and garden watering within a city, town, or from other common water distribution systems is covered by the system water right.

Note: Drip irrigation systems for noncommercial purposes and not exceeding 18 gpm do not need to be permitted even if the irrigated area exceeds one acre.

- b. Water use from other than a common water distribution system that does not exceed 18 gallons per minute (gpm) for:
 1. Schools, parks and other public recreation areas;
 2. Geothermal heating or cooling of a single household. Most heat pump installations for household heating and cooling should not require more than 5 to 10 gpm; and
 3. Noncommercial on-farm alcohol production.

Reference: SDCL 46-1-6(7), 46-5-50 thru 46-5-52. Water Management Board Rules 74:02:01:01 and 74:02:01:03.

WATER RIGHT PERMITTING

- 1) Except for the previously described domestic water uses and water distribution systems (e.g. towns, rural water systems, subdivisions, and mobile home parks) that do not pump more than 18 gpm, all uses of water require a water right permit pursuant to procedures in SDCL Chapter 46-2A. Water uses supplied from a water distribution system do not need a separate permit. Examples of uses which require a permit are:
 - a. Cities, towns, rural water systems, mobile home parks, subdivisions, and other common water distribution systems that pump more than 18 gpm. Those systems not pumping more than 18 gpm that may expand and increase pumping above 18 gpm, should obtain a water right permit to establish a priority date.

Note: Certain water distribution systems that do not pump more than 18 gpm may still be subject to compliance with Safe Drinking Water Standards. SDCL Chapter 34A-3A. Water Management Board Rules Chapter 74:04:05.
 - b. Domestic use for farm, ranch, household, and livestock use from other than a common water distribution system in excess of either 25,920 gallons per day (18 gpm continuously for a day) or 25 gpm (peak rate).
 - c. Any well that is allowed to flow more than 18 gpm.
 - d. Any dam or dugout on a dry draw or nonnavigable watercourse impounding more than 25 acre feet.
 - e. Any dam constructed for any purpose on a stream considered navigable.
 - f. Irrigation of more than one acre.
 - g. Commercial use, even less than 18 gpm, when supplied from other than a common water distribution system to a truckstop, tourist attraction, eating, drinking, or lodging establishment, commercial campground and any other business. An existing business without a water right has no right to the use of water. The commercial user without a water right is not entitled to receive protection in the event of well

interference by a new or future user who has a water right. The new user with a water right will have the senior priority over an existing user without a water right.

- h. Industrial, manufacturing, gravel washing and mining uses when supplied by other than a common water distribution system. Temporary water permits may be issued for temporary, short term projects. See Temporary Water Permitting.
- i. Geothermal use of any amount of water from other than a common water distribution system, for businesses, churches, schools, or any other building, except for individual homes using 18 gpm or less.
- j. Any use by a school, park, rest area or other public recreation area in excess of 18 gpm when supplied by other than a common water distribution system.
- k. Any use by a hospital, nursing home or church when supplied by other than a common water distribution system.

Fees for permit applications are set by SDCL 46-2-13(2).

Depending on the type of use involved a person who applied water to a beneficial use for works constructed prior to or under construction as of March 2, 1955 (surface water) or February 28, 1955 (ground water), may qualify for a vested right pursuant to SDCL 46-1-9 or 46-6-1, if that vested water right has not been forfeited or abandoned. Vested water right claims may be filed or the chief engineer may require vested water right claims to be filed pursuant to SDCL 46-5-49 or 46-6-2.

Reference: SDCL 46-1-3, 46-1-6(3), 46-1-9, 46-1-15, 46-5-1.1, 46-5-6.2 thru 46-5-6.8, 46-5-8.2, 46-5-9, 46-5-10, 46-5-49 and 46-6-2. Water Management Board Rules ARSD 74:02:01:03.

2) Criteria for granting a water right permit as set forth in SDCL 46-2A-9:

- a. Water must be available for the proposed use.

The water source, whether surface or ground water, needs to be capable of supporting the proposed water use. For ground water, the average annual use from the water source may not exceed the average estimated annual recharge with some limited exceptions – please refer to “WELLS, Ground Water Management” for additional details.

- b. The proposed diversion can be developed without unlawful impairment of existing rights.

Existing rights, including domestic uses of water, may not be unlawfully impaired regardless of whether the proposed source is surface or ground water. In order for a well to be protected it must meet the definition of an “adequate” well – please refer to “WELLS, Well Construction” for additional details.

- c. The use of water must be a beneficial use.

Beneficial use is the use of water that is reasonable and useful and beneficial to the owner and consistent with the best utilization of water supplies. In general, beneficial uses of water include, but are not limited to: 1) domestic, 2) municipal, 3) rural water system, 4) irrigation, 5) suburban housing, 6) commercial, 7) industrial, 8) recreation, 9) fish and wildlife, and 10) institutional.

- d. The use of water must be in the public interest.

Public interest is not specifically defined in water rights law and is a determination made by the Board based on testimony at the time of hearing. In making a public interest determination, the Board may recognize that some issues are within the jurisdiction of local, state and federal entities.

WATER RIGHT PERMIT ADMINISTRATION

- 1) After approval of a water right permit, the permit owner has five years to complete any construction. The owner then has an additional four years to put the water to beneficial use.

A water right permit may be amended to extend the time for completion of construction or the time to put the water to beneficial use. The extension may be granted on account of delays due to physical or engineering difficulties, due to operation of law, or due to exigent circumstances identified by the Water Management Board. An application to amend a permit to extend the time for construction or the time to put the water to use needs to be made prior to expiration of the time period to be extended.

Reference: SDCL 46-2A-1(2), 46-2A-8, and 46-5-26.

- 2) An existing water right permit or right may be amended. Amendment examples are: to change the use of water, to change place of use, to extend time for construction beyond five years, to change diversion points or to add diversion points. An amendment can not be granted to increase the rate of diversion or volume of water appropriated under the original permit or if an existing water right will be impaired. An application to increase the rate of diversion or volume of water will be treated as a new application and will be assigned a new priority date.

The location of an existing diversion point may be moved or additional diversion points may be added without application or publication, if:

- a. The water source remains unchanged;
- b. No additional water is appropriated;
- c. If for irrigation purposes, no new land is irrigated; and
- d. The Chief Engineer makes a finding that the potential for interference with existing diversions is not increased.

Reference: SDCL 46-2A-1(2), 46-2A-12, 46-5-13.1, 46-5-30.4, and 46-5-31.

- 3) Notice of any sale, grant, lease, conveyance or other transfer of an application, permit, or license to appropriate water must be filed with the Chief Engineer of the Water Rights Program within 90 days. No assignment is binding, except upon the parties thereto, unless filed for record in the Water Rights Program.

Reference: SDCL 46-5-30.3 and 46-5-32.

- 4) Water right permits can be cancelled for nonconstruction. However, the Board may reinstate any water right permit with a priority date after March 31, 1977, within three years after expiration of the original construction period if unappropriated water is available. A new priority date is assigned to a reinstated permit. A water right permit or right can be lost for any of the following three reasons:

- a. Abandonment - The water right permit or right owner has no intent to use water and abandons its use. Once a water right permit or right is abandoned, it can not be reclaimed under the original permit or right.

- b. Forfeiture - Occurs by operation of law if water is not used for a three year period without legal excuse. A "legal excuse" would include, generally, the lack of water, but may include other reasons. Once a water right permit or right is forfeited, it can not be reclaimed under the original permit or right.
- c. A third violation of a condition of a water right permit or right.

Reference: SDCL 46-1-12, 46-2A-8.1, 46-5-36, 46-5-37, and 46-5-37.1. Water Management Board rules ARSD 74:02:01:36 thru 74:02:01:41.

FUTURE USE PERMITTING

- 1) The following entities may reserve water for expected future needs pursuant to procedures in SDCL 46-2A:
 - a. State institution;
 - b. Municipality as defined in SDCL 9-1-1;
 - c. The South Dakota conservancy district or water development districts as defined in SDCL 46A-2-4;
 - d. Water user district as defined in SDCL 46A-9-2;
 - e. Nonprofit rural water supply company as defined in SDCL 10-36A-1;
 - f. Sanitary district as defined in SDCL Chapter 34A-5;
 - g. Irrigation district as defined in SDCL 46A-4; or
 - h. Water project district as defined in SDCL Chapter 46A-18.

Approval of an application to appropriate water for future use is a reservation of a definite amount of water with a specific priority date. A future use permit does not grant authority to construct works or put the water to beneficial use. An additional application is required to construct works and put reserved water to beneficial use. The fee for a future use application is 10% of the usual fee for an application to construct works and put water to beneficial use.

Future use permits are subject to review by the Water Management Board every seven years. If the future use permit is allowed to remain in effect after the seven year review, an additional 10% fee is required.

Reference: SDCL 46-2-13(2), 46-5-38, and 46-5-38.1.

FLOOD CONTROL PERMITTING

- 1) Flood control permits are required pursuant to SDCL 46-2A for facilities constructed on a watercourse to control flooding. Emergency facilities may be constructed without a permit. However, the Chief Engineer of the Water Rights Program must be promptly notified. Flood control permits are not required for flood control facilities constructed on dry draws.

Reference: SDCL 46-2A-11, 46-5-47, and 46-5-48.

TEMPORARY WATER PERMITTING

- 1) Temporary water permits may be issued by the Chief Engineer when limited amounts of public water are needed on a temporary basis. For example, permission may be granted to use water for highway and other construction projects and exploration drilling. A temporary permit is not valid after December 31 of the year in which the permit was issued and, under certain circumstances, a temporary permit may be rescinded. In

addition, a temporary permit is temporary permission to use public water and does not grant any right of priority for the temporary use.

Temporary permits may be granted to use water from either public or privately owned sources of water. Approval of a temporary permit does not grant trespass rights to access the water. Water may be obtained from municipalities and other permitted water distribution systems without a temporary permit.

Reference: SDCL 46-5-40.1. Water Management Board Rules ARSD 74:02:01:32 thru 74:02:01:34.02.

WELLS

1) Ground Water Management

- a. An adversely impacted domestic well is a well in which the pump intake is at least 20 feet below the top of the aquifer or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water from the well owner's needs.

Reference: Water Management Board Rules ARSD 74:02:04:20(7)

- b. South Dakota water laws do not allow the "mining" of ground water. "Mining" occurs when the average quantity of water pumped annually from a ground water aquifer exceeds the estimated average annual recharge to the aquifer. There are a few areas in South Dakota where additional water right permits are not being approved for this reason. A limited exception to "no mining" is made by SDCL 46-6-3.1 for water distribution systems. The Water Rights Program maintains more than 1,500 observation wells to monitor ground water levels.

Reference: SDCL 46-2-14 and 46-6-3.1.

- c. South Dakota water law does not protect artesian head pressure as a means of diversion. In other words, a well owner is not necessarily guaranteed that water from a flowing well or from a pump placement that relies on head pressure will always be available. A pump must be capable of being placed 20 feet into the aquifer or set as near to the bottom of the aquifer as practical if the aquifer is less than 20 feet thick.

2) Well Construction

- a. All wells must be completed in accordance with South Dakota Well Construction Standards. A well driller must be licensed to drill water wells in South Dakota. The driller is required by law to file a copy of a well completion report with the Water Rights Program within 30 days of completion of each well.

Reference: 46-2A-13, 46-6-9, and 46-6-11. Water Management Board Rules ARSD Chapter 74:02:04

- b. Any person who performs work for compensation in the repair of wells or as a well pump installer must obtain either a well driller's license or a well pump installer's license.

Reference: 46-2A-13 and 46-6-9.2.

- c. An adequate well is defined as a well constructed 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 to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.

Reference: Water Management Board Rules ARSD 74:02:04:20(6)

3) Well Owner Responsibilities

- a. The owner or equitable property holder is responsible for the well from the time the licensed well driller successfully completes the well in compliance with the Well Construction Standards ARSD Chapter 74:02:04. The owner shall keep the well capped or covered, in good repair, and in a sanitary condition.

Reference: Water Management Board Rules ARSD 74:02:04:74

- b. All flowing wells must be controlled by the owner to produce only the amount of water needed and to prevent waste of water.

Reference: SDCL 46-2-18, 46-6-10, 46-6-14, 46-6-20, 46-6-21, 46-6-29, and 46-6-30. Water Management Board Rules ARSD 74:02:04:74.

- c. When the owner of an existing well constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Other abandoned wells must also be plugged. If an old well is not to be abandoned or will be used, the well must still be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

Reference: SDCL 46-6-18 and 46-6-27.

DAMS OR DUGOUTS

- 1) Dams or dugouts of any size on a navigable watercourse or storing greater than 25 acre feet of water located on a dry draw or on a nonnavigable watercourse require a water right permit.

Reference: SDCL 46-4-1 and Water Management Board Rules ARSD 74:02:01:03.

- 2) Dams or dugouts storing 25 acre feet or less of water located on a dry draw or on a nonnavigable watercourse can be constructed without a water right permit provided a location notice is filed. However, the dam may not be constructed if it changes the course of the water, interferes with water rights, or wrongfully floods land owned by others.

Reference: SDCL 46-4-1.1, 46-4-3 and 46-5-2.

- 3) The owner of a dam or dugout storing 25 acre feet or less on a dry draw must file a location notice with the county Register of Deeds and the Water Management Board to avail the owner of the rights provided in SDCL Chapter 46-4 including establishment of a priority date. The \$50.00 filing fee is set by SDCL 46-2-13(1).

Reference: SDCL 46-4-3 thru 46-4-6.

- 4) The Board may not enforce limitations on domestic use of water from dry draw dams except in response to a written complaint from a person claiming interference with water permits or rights on the same watercourse.

Reference: SDCL 46-2-22

- 5) Water Management Board Safety of Dams Rules Chapter 74:02:08 apply to dams that are 25 feet or more in height (top of dam) or that store 50 acre-feet or more of water (maximum storage to top of dam.)

Reference: Water Management Board Safety of Dams Rule ARSD 74:02:08:01(7).

- 6) Beaver dams - No person owning land through which a watercourse passes may prohibit the removal of obstructions built by beavers in a watercourse, if the beavers have obstructed or interfered with the flow of water through the watercourse in a manner that floods land belonging to others or impairs existing water rights.

Reference: SDCL 46-5-1.2.

ORDINARY HIGH/LOW WATER MARKS AND LAKE OUTLET ELEVATIONS

- 1) The Water Management Board establishes ordinary high water marks (OHWM), ordinary low water marks (OLWM) and lake outlet elevations for public lakes.

State law provides that all navigable rivers and lakes are public highways within 50 feet landward from the water's nearest edge, provided that the outer boundary of such public highway may not expand beyond the OHWM and may not contract within the OLWM. Thus, the public has the right to use a strip of land up to 50 feet wide below the OHWM beginning at the water's edge or the OLWM. Further, while the public may use the 50 foot strip of land for only "public" purposes, the private adjoining landowner may use the land for any purpose not inconsistent with the rights of the public.

The meander line is a survey line and is usually not a property line nor is the title of an adjacent landowner limited to the meander line, except when the land title conveyance clearly states that the meander line is the property line. Subject to the preceding exception, the meander line defines neither the boundary of a lake or stream nor the extent of land area owned by the adjacent landowner. The meander line was established during early government surveys and used to determine the acres of land subject to sale.

Reference: SDCL 43-17-1 thru 43-17-4, and 43-17-20 thru 43-17-30.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

DEC 15 2017

Brian Schneck
48002 153rd St
Milbank SD 57252

Dear Mr. Schneck:

Enclosed is Water Permit No. 8293-3 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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

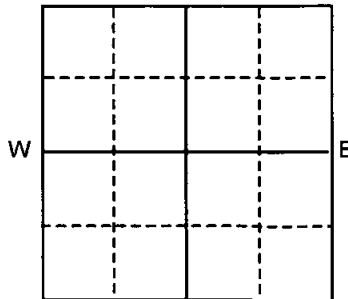
11-02

Location 1/4 SE 1/4 Sec 31 Twp 120 Rg 47Well Owner: Brian Schneck

Business Name: _____

Address: 47995 153rd StCity, State, Zip: Milbank SD 57252County Grant

North

Please mark well
location with an "X"

Well Completion Date

May 17, 2018

1 Mile

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:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	12.00 IN	0.0 FT	45.0 FT	17.25 IN
LB/FT	12.00 IN	59.0 FT	66.0 FT	17.25 IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
HS Bentonite	12	Lb/gal	0.0 Ft	45.0 Ft
Red Flint#90	34	Lb/gal	40.0 Ft	66.0 Ft

Describe grouting procedure

Tremmy

SCREEN:

☐ Perforated pipe ☒ ManufacturedDiameter 12.00 Inches Length 15.0 FeetMaterial Stainless SteelSlot Size 80 Set From 44.0 Feet to 59.0 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

WELL LOG:

FORMATION			DEPTH	
			FROM	TO
Top Soil	Blk	M	0	2
Clay	Tan	M	2	15
Clay	Blue	M	15	43
Sand			43	59
Sandy Clay			59	66

STATIC WATER LEVEL 13.8 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: submersible☐ Bailed☐ Other

Pumping Level Below Land Surface

44.1 Ft. After 24.0 Hrs. pumped 400.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Well #1(TH#4)

45 9.4 4N

96 30 54.5W

Mike Gjerde/James Block

5/17/2018

This 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: _____

Date: 5-23-18

RECEIVED

DEC 18 2018

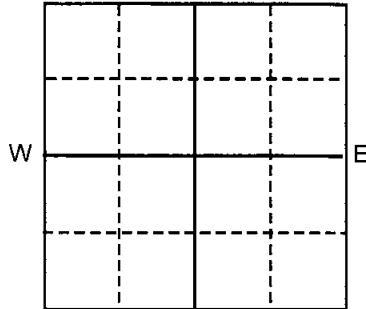
WATER RIGHTS
PROGRAM

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location 1/4 SE 1/4 Sec 31 Twp 120 Rg 47County Grant

North

Please mark well
location with an "X"

Well Completion Date

June 8, 2018

← 1 Mile →

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:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>12.00</u> IN	<u>0.0</u> FT	<u>72.0</u> FT	<u>17.25</u> IN
LB/FT	<u>12.00</u> IN	<u>84.0</u> FT	<u>94.0</u> FT	<u>17.25</u> IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Grout</u>	<u>12</u>	Lb/gal	<u>0.0</u> Ft	<u>62.0</u> Ft
<u>Red Flint</u>	<u>30</u>	Lb/gal	<u>62.0</u> Ft	<u>94.0</u> Ft

Describe grouting procedure
Tremmy

SCREEN:

☐ Perforated pipe ☒ Manufactured
 Diameter 12.00 Inches Length 12.0 Feet
 Material Stainless Steel
 Slot Size 60 Set From 72.0 Feet to 84.0 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
Well Owner: Brian SchneckBusiness Name: 48002 153rd ST

Address: _____

City, State, Zip: Milbank SD 57252

WELL LOG:

			DEPTH	
FORMATION			FROM	TO
Top Soil	Blk	M	0	1
Clay	Tan	M	1	15
Clay	Blue	M	15	47
Sand	Blue	12-20slt	47	84
Clay	Blue	M	84	94

STATIC WATER LEVEL 9.8 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: submersible
☐ Bailed
☐ Other

Pumping Level Below Land Surface

64.6 Ft. After 2.5 Hrs. pumped 118.0 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Well #2(TH#6) 12 hours development
 45 09 13.3N
 96 31 02.9W
 Kris Vanheuveld/Russel R
 6/08/2018

This 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:

Date: 6-25-18

RECEIVED

DEC 18 2018

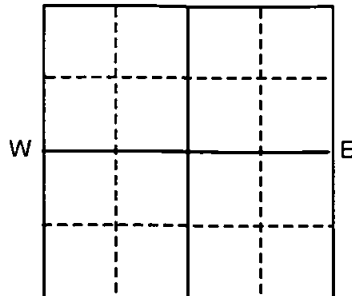
WATER RIGHTS
PROGRAM

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location 1/4 SE 31 Twp 120 Rg 47County Grant

North

Please mark well
location with an "X"

Well Completion Date

July 11, 2018

1 Mile

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:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	12.00 IN	0.0 FT	40.0 FT	17.50 IN
LB/FT	12.00 IN	50.0 FT	61.0 FT	17.50 IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Quick Grout	7	Lb/gal	0.0 Ft	30.0 Ft
Red Flint	30	Lb/gal	30.0 Ft	61.0 Ft

Describe grouting procedure
Tremmy (drill rod)

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 12.00 Inches Length 10.0 FeetMaterial Stainless SteelSlot Size 80 Set From 40.0 Feet to 50.0 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 analysisWell Owner: Brian Schneck

Business Name: _____

Address: 47995 153rd STCity, State, Zip: Milbank SD 57252

WELL LOG:

DEPTH

FORMATION			FROM	TO
topsoil	blk	s	0	1
clay	tan	s-m	1	15
clay	blue	s-m	15	28
sand/clay streaks	blue		28	33
sand	multi	30-100slt	33	50
clay	blue	m-h	50	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

Well #3(TH #1)

10hrs air development

45 09 12.9N

96 30 51.5W

Kris Vanheuveld/Russel R

7/11/18

This 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: _____

RECEIVED

Date: DEC 18 2018WATER RIGHTS
PROGRAM

8293-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUN 05 2023

Brian Schneck
48002 153rd St
Milbank, SD 57252

8293-3

Dear Mr. Schneck:

Enclosed is Water License No. 8293-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

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

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 8293-3

(1) Brian Schneck; 48002 153rd St, Milbank, SD 57252, made Application No. 8293-3, June 19, 2017 for a water permit to divert 2.66 cubic feet of water per second from groundwater, 3 wells (Veblen Aquifer), Grant County, South Dakota for irrigation purposes. Permit No. 8293-3, with a priority date of June 19, 2017 was approved December 7, 2017 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 7, 2022 and for the application to beneficial use of water on or before December 7, 2026.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.56 cubic feet of water per second for beneficial use. The location of the diversion points are:

Well #1: 100 ft N and 715 ft E of the SW corner of Section 31, T120N, R47W (SW $\frac{1}{4}$ SW $\frac{1}{4}$)
(Latitude 45.15125 Longitude -96.51517)

Well #2: 1,050 ft N and 125 ft E of the SW corner of Section 31, T120N, R47W (SW $\frac{1}{4}$ SW $\frac{1}{4}$)
(Latitude 45.15372 Longitude -96.51746)

Well #3: 1,030 ft N and 760 ft E of the SW corner of Section 31, T120N, R47W (SW $\frac{1}{4}$ SW $\frac{1}{4}$)
(Latitude 45.15363 Longitude -96.51501)

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

Section 31, T120N, R47W	NW $\frac{1}{4}$ SW $\frac{1}{4}$	12.6 acres
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	7.0 acres
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	22.0 acres
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	32.7 acres
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	20.2 acres
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	1.8 acres
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	6.6 acres
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	37.9 acres
	TOTAL	140.8 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Brian Schneck; 48002 153rd St, Milbank, SD 57252 the holder and/or owner of Water Right No. 8293-3 is issued a license to appropriate water, the right to use 1.56 cubic feet of water per second from groundwater, 3 wells (Veblen Aquifer) with a priority date of June 19, 2017 from the locations specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8293-3 and subject to the following qualifications:

continued

1. The wells approved under this water right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well's owner under this water right shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by Permit No. 8293-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *(The wells were all drilled by Steffi Drilling & Pump Inc. in 2018. Copies of the well completion reports are on file with the Water Rights Program)*
3. This Water Right is approved subject to the irrigation water use questionnaire being submitted each year.

Eric Gronlund

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

JUN 05 2023

date



Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8293-3

I have this day, May 17, 2023, made a thorough examination of the water use system constructed by Brian Schneck; 48002 153rd St, Milbank, SD 57252 of Permit No. 8293-3, bearing the priority of June 19, 2017 authorizing the diversion of 2.66 cu. ft. per second of the waters of the Veblen Aquifer for irrigation purposes, in Grant County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Steffl Drilling & Pump
- 2) No. of Wells 3
- 3) Depth(s) 59, 84, 50 feet
- 4) Well log is available Y If no, explain in comments

Casing:

- 1) Diameter 12 inches
- 2) Length 45, 72, 40 feet
- 3) Type Plastic

Screen:

- 1) Type Stainless steel - slotted
- 2) Length 15, 12, 10 feet
- 3) Static water level 9.8 – 13.8 feet

Pump:

- 1) Make Submersibles
- 2) Model & Size Unknown
- 3) Capacity 400 & 300 GPM

Motor information unknown

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

- 1) Type Buried PVC
- 2) Size 8 inches
- 3) Length 3,500 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make 2 - Zimmatic
- 2) Overall length 875 & 970 feet
- 3) Number of towers 5 & 6
- 4) End gun Y
- 5) Capacity 400 & 300 GPM

Chemigation Equipment: none

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the points of diversion located as follows: **Well Locations -**
 Well #1: 100' N & 715' E of the SW corner of Sec 31, T120N, R47W; Lat 45.15125, Long -96.51517
 Well #2: 1,050' N & 125' E of the SW corner of Sec 31, T120N, R47W; Lat 45.15372, Long -96.51746
 Well #3: 1,030' N & 760' E of the SW corner of Sec 31, T120N, R47W; Lat 45.15363, Long -96.51501
 All wells are in the SW ¼ SW ¼ of Section 31. **Well #2 is not currently used due to low production.**
2. The works are capable of diverting and conveying to the place of use 1.56 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All land in Sec 31 T120N R47W
 NW ¼ SW ¼ – 12.6 acres
 NE¼ SW¼ – 7.0 acres
 SE¼ SW¼ – 22.0 acres
 SW¼ SW¼ – 32.7 acres

NW¼ SE¼ – 20.2 acres
NE¼ SE¼ – 1.8 acres
SE ¼ SE¼ – 6.6 acres
SW¼ SE¼ – 37.9 acres

comprising a total of 140.8 acres of land and the license should be issued for 1.56 cfs

3. All structures, wells and lands on map Y

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

The irrigated acreage was determined with the aid of FSA imagery and ArcMAP software.
 The mailing address and the telephone number in the permit materials are current.



Darrell W DeBoer
 Water Rights Inspector
 DANR, Water Rights Program

Date report completed: May 18, 2023

5-26-2023: I called and spoke with Mr. Schneck. Well #2 is not currently being used due to low production. He indicated it is capped most likely will be plugged. Wells 1&3 will supply the two center pivots.
 Genny McMath

