

WATER PERMIT NO. 8304-3

Name of Applicant: Don Schell Family LLP

Address: 26912 Baker Park Place, Sioux Falls SD 57501

Phone: 605 331-3861

Amount of Water Claimed: no add'l

Total Acres: 15

Source of Water Supply: one existing well

Water to be used for: irrigation

County: Clay

Type of Waste Disposal System:

Location: one mile northwest of Vermillion

PRIORITY

Date Received: 8-3-17

Application/License Fee: \$ 500

Corrected Application Received: 8-10-17

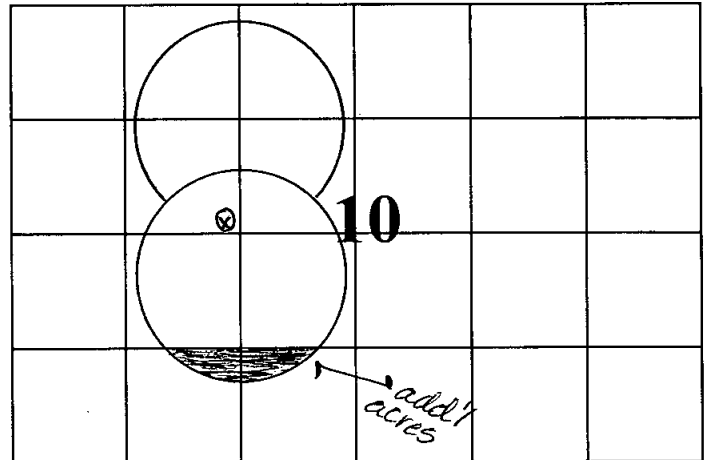
Period of Annual Use: May 1 – September 30

Remarks: Additional acres to Water Permit No. 6923-3

Diversion Point: SW 1/4 NW 1/4 Sec 10-T92N-

R52W

Land to be Irrigated: W 1/2 Sec 10-T92N-R52W



Depth of Well: 108

Well Driller: James Wetmore

Remarks:

Type of Map: aerial

Prepared by: Harold Holoch

Reviewed and the Number Assigned on: 8-10-17

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8304-3</u> (office use only) Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>
	Newspaper <u>Plain Talk, Vermillion</u> <u>Press & Dakotan, Yankton</u>

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AUG 03 2017
WATER RIGHTS
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Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit Don Schell Family LLP

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

Mailing Address 26912 Baker Park Place Sioux Falls SD 57108
(Address) (City) (State) (Zip Code)

Phone 605.331.3861 Mobile _____ Email _____

2. Amount of water claimed no add'l *CFS or _____ **GPM _____ ***AF Total Acreage 15 add'l
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Missouri: Elk Point Aquifer

4. Location of point of diversion One well located in SW1/4 NW1/4 Section 10-T92N-R52W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Clay

5. County or counties where water will be used Clay County

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

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

Land Description	Acres	Land Description	Acres
NW1/4 NW1/4	33	NW1/4 SW1/4	37
NE1/4 NW1/4	32	NE1/4 SW1/4	36
SW1/4 NW1/4	35	SW1/4 SW1/4	7
SE1/4 NW1/4	34	SE1/4 SW1/4 <u>all in</u> <u>Sec 10-T92N-R52W</u>	7

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

This application is to clarify the location of the irrigated acres and for an additional 15 acres to Permit No. 6923-3. 6923-3 authorizes irrigation of 206 acres, the current center pivots irrigate 221 acres.

This application is for no additional diversion.

I, Donald Schell
Name of Person

General Partner, the applicant, certify under
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.

Supplemental Information

(type or print)

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

a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many 1 Provide copy of log(s), if available. Drilled by James Wetmore

For either Existing or Proposed Wells:

c) Well Depth (required) 103 Depth to Top of Water Bearing Material 17 Depth to Water from Surface 15

d) Distance to nearest domestic well on applicant's property none Property owned by others 1.25 miles

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)

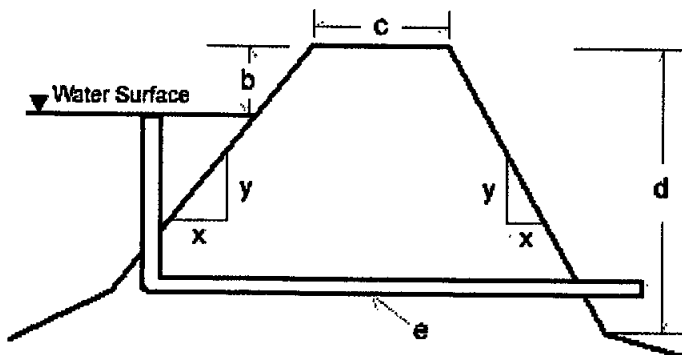
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



SOUTH DAKOTA
WATER PERMIT NO. 8304-3

Date of first receipt of application August 3, 2017.

Date of return to applicant for corrections, amendments or changes August 3, 2017.

Date of receipt of corrected application August 10, 2017.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8304-3 to Don Schell Family LLP, c/o Donald Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 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. 8304-3 authorizes irrigation of 15 additional acres. Water Permit No. 6923-3 authorizes 1.56 cubic feet of water per second (cfs) from one well completed into the Missouri:Elk Point Aquifer (108 feet deep) located in the SW 1/4 NW 1/4 Section 10 for irrigation of 206 acres located in the NW 1/4, N 1/2 SW 1/4 Section 10; all in T92N-R52W. An investigation of the permit found the system irrigating an additional 15 acres located in the above described area and the S 1/2 SW 1/4 Section 10; T92N-R52W. This permit and Water Permit No. 6923-3 authorize a diversion rate of 1.56 cfs for irrigation of 221 acres. This is located about one mile northwest of Vermillion.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is August 3, 2017 (15 acres) and December 7, 2007 (206 acres).
4. The date of approval of Permit No. 8304-3 is November 6, 2017.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under Permit Nos. 6923-3 and 8304-3 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

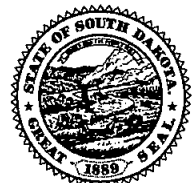
WATER MANAGEMENT BOARD

By: _____

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

NOV 15 2017

date



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 8304-3

(1) Don Schell Family LLP, c/o Donald Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 made Application No. 8304-3, August 3, 2017 to irrigate 15 additional acres from 1 well – Missouri:Elk Point Aquifer, Clay County, South Dakota. Permit No. 8304-3, with a priority date of August 3, 2017 was approved November 6, 2017 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

Water Permit No. 6923-3, with a priority date of December 7, 2007 authorizes 1.56 cubic feet of water per second (cfs) from one well to irrigate 206 acres. The applicable portions of No. 6923-3 are incorporated into No. 8304-3.

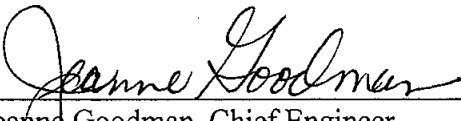
(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Incorporated Water Right No. 8304-3 is issued a license, bearing priority dates of August 3, 2017 (15 acres) and December 7, 2007 (206 acres) to appropriate 1.56 cubic feet of water per second from one well – Missouri:Elk Point Aquifer to irrigate 221 acres.

The diversion point is located: 1,290 feet east and 2,590 feet south of the NW corner of Section 10-T92N-R52W (SW 1/4 NW 1/4). The acres authorized for irrigation are as follows:

Section 10-T92N-R52W			
NW 1/4 NW 1/4	33 acres	NW 1/4 SW 1/4	37 acres
SW 1/4 NW 1/4	35 acres	SW 1/4 SW 1/4	7 acres
NE 1/4 NW 1/4	32 acres	NE 1/4 SW 1/4	36 acres
SE 1/4 NW 1/4	34 acres	SE 1/4 SW 1/4	7 acres
Total 221 acres			

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 8304-3 including the following qualifications:

- The well approved under Permit Nos. 6923-3 and 8304-3 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.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.


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

NOV 15 2017
date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 10, 20 17

RECEIVED OF Donschell Family LLP 26912 Park Place Sioux Falls, SD 57108

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

Fee for Application for Permit No. <u>6923-3 8304-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	500 00

No. **08320**

By

Jeanne Goodman
Chief Engineer

(145)

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 6923-3

I have this day, October 25, 2016, made a thorough examination of the water use system constructed by Karl Schenk with ownership transferred to Don Schell Family LLP, 26912 Baker Park Place, Sioux Falls, SD 57108 of Permit No. 6923-3, bearing the priority of December 7, 2007 authorizing the diversion of 1.56 cu. ft. per second of the waters of Missouri:Elk Point Aquifer for irrigation purposes, of 206 acres, in Clay County.

Inspection contact & relationship **Craig Johnson, tenant**
to permit holder, if applicable:

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: James Wetmore
- 2) No. of Wells 1
- 3) Depth(s) 108 feet
- 4) Well log is available Yes

Comments: Well is existing well from cancelled Water Right No. 3036-3 drilled in 1976.

Casing:

- 1) Diameter 16 inches
- 2) Length 68 feet
- 3) Type PVC

Screen:

- 1) Type Slotted PVC
- 2) Length 40 feet
- 3) Static water level 12 feet

Pump:

- 1) Make Unknown
- 2) Model Submersible
- 3) Capacity 700 GPM

Motor:

- 1) Make Unknown
- 2) Model No. Submersible
- 3) Horsepower rating 35 hp

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

- 1) Type PVC 2) Size 10 inches 3) Length 1330 feet to North center pivot
- 1) Type PVC 2) Size 8 inches 3) Length 410 feet to South center pivot

Comments: See map for approximate location.

C. Works used to apply water to beneficial use:

Center pivot (NW ¼ Sec 10-T92N-R52W):

- 1) Make Lindsay
- 2) Overall length 1265 feet
- 3) Number of towers 7
- 4) End gun Yes
- 5) Capacity 700 GPM

Center pivot (S ½ NW ¼ & SW ¼ Sec 10-T92N-R52W):

- 1) Make Valley
- 2) Overall length 1285 feet
- 3) Number of towers 7
- 4) End gun Yes
- 5) Capacity 700 GPM

Comments: System is set up so that only one center pivot can be operated at a time.

Chemigation Equipment:

- 1) Does chemigate No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes, began irrigating in 2008.

List any extended period of nonuse: Did not use in 2009-2011 and 2014 due to adequate rainfall.

- 3) Exceptions to compliance are: Irrigating additional acres not included in application.

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: East 1290', South 2590' from NW Corner of Sec 10-T92N-R52W; Lat 42.80109/Long -96.97842; SW ¼ NW ¼ Sec 10-T92N-R52W.
2. The works are capable of diverting and conveying to the place of use 1.56 cfs or 700 gpm of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All land is located in Sec 10-T92N-R52W.

NW ¼ NW ¼ - 33 ac

NE ¼ NW ¼ - 32 ac

SW ¼ NW ¼ - 35 ac

SE ¼ NW ¼ - 34 ac

NW ¼ SW ¼ - 37 ac

NE ¼ SW ¼ - 36 ac

SW ¼ SW ¼ - 7 ac

SE ¼ SW ¼ - 7 ac

comprising a total of 221 acres of land and the license should be issued for 1.56 cfs or 700 gpm.

3. All structures, wells and lands on map Yes

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

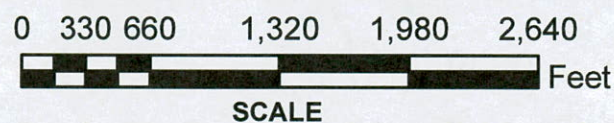
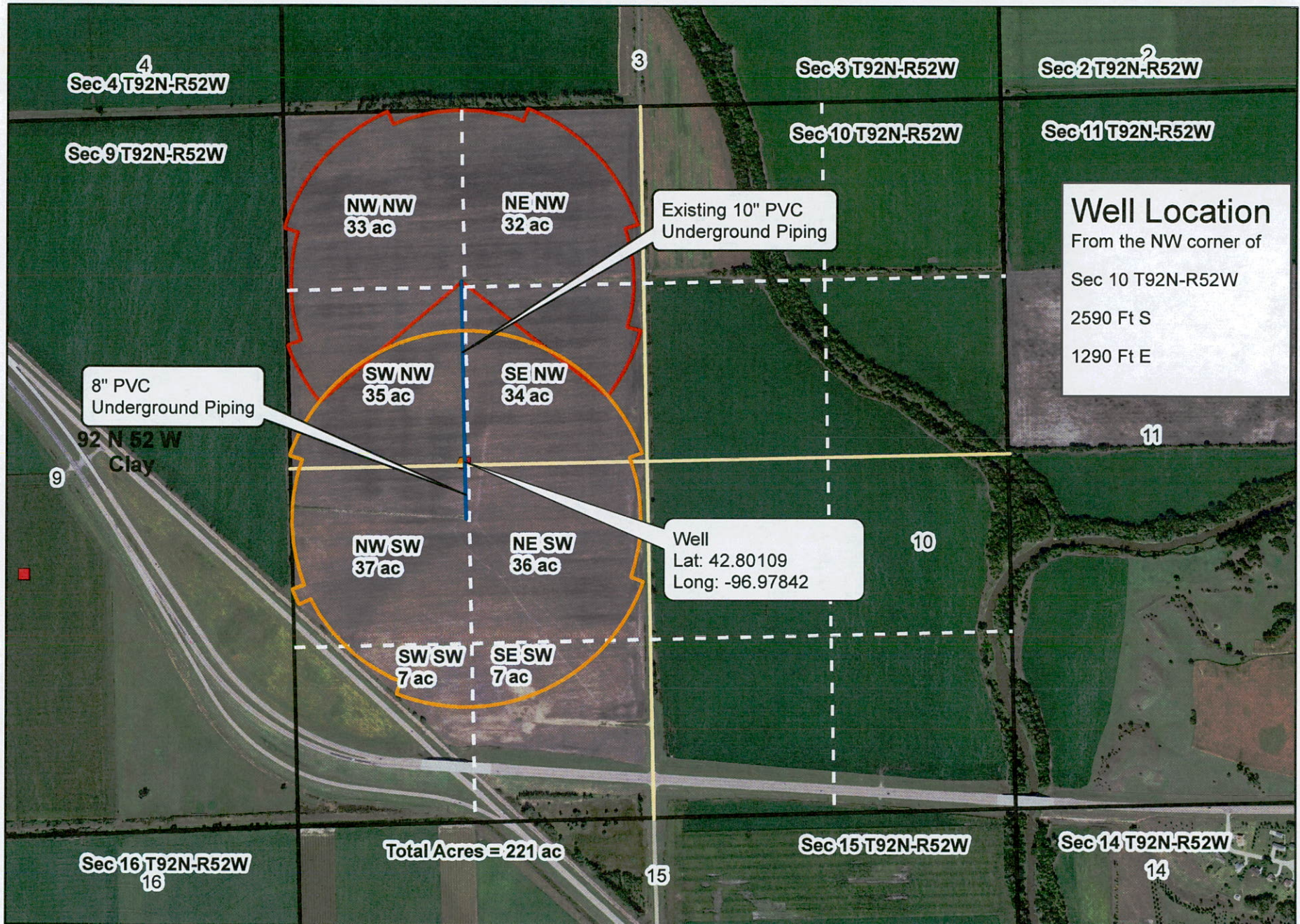
Water Permit No. 6923-3 utilizes the existing well from cancelled Water Right No. 3036-3 with a new submersible pump, and relocates the South center pivot approximately 400' South to irrigate additional acres in the S ½ SW ¼ Sec 10-T92N-R52W that were not included in application.

Harold Holoch

Harold Holoch, PE
Staff Engineer
DENR, Water Rights Program

Date report completed: March 21, 2017

6923-3



Harold Holoch
 Harold Holoch, PE
 Staff Engineer
 March 21, 2017



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

No. 6923-3

November 24, 2015

Don Schell Family LLP
26912 Baker Park Pl
Sioux Falls SD 57108

Dear Sir:

Thank you for returning your 2015 irrigation questionnaire. Water Permit No. 6923-3 authorizes 1.56 cubic feet of water per second (700 gallons per minute) from one well located in the W 1/2 Section 10 to irrigate 206 acres located in the NW 1/4, N 1/2 SW 1/4 Section 10; all in T92N-R52W (copy enclosed).

The questionnaire indicates irrigation of 275 acres. This increase in acres will require a new water permit application. Enclosed are the necessary forms to be completed and a map for the location. On the map, please outline the additional acres irrigated and mark the well location with an "X". If you are diverting more than 700 gpm, please include the additional amount of water on the application. The application fee is determined by the number of new acres irrigated. The fee for irrigation of 0 to 60 acres will be \$500 and 61 to 120 acres will be \$750.

Obtaining a water permit that accurately reflects your water use ultimately benefits you by protecting your right to use water. If you have any questions, please contact Eric Gronlund or me.

Sincerely,

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

enclosures

2015 Water Management Board Irrigation Questionnaire

Please fill out and return before December 1, 2015

REMEMBER! Return of this questionnaire is required whether or not you irrigated this year.

Return the completed form(s) to the Water Rights Program at 523 E Capitol, Pierre, SD 57501 3181 ph. (605) 773 3352 or send your form(s) electronically over the internet at <http://denr.sd.gov/iq.aspx>

Permit No. 6923-3

DON SCHELL FAMILY LLP
26912 BAKER PARK PL
SIOUX FALLS SD 57108

Any address/ownership corrections?

Email _____

Phone _____

1. Did you irrigate in 2015? *yes ☒ **no ☐

*If yes, number of acres irrigated? 275

**If no, check reason(s) for not irrigating acres covered by Permit No. 6923-3

sufficient moisture ☐ no water available ☐

system not constructed ☐ use abandoned ☐

enrolled in CRP ☐, through what year? _____

other ☐, please explain in the Comment Box:

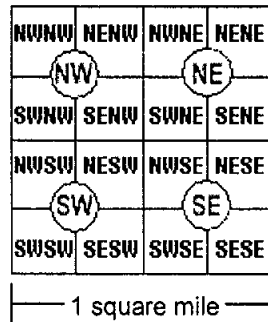
Comment Box

2. If your answer to question No. 1 is "no," you are done!
If you answered "yes," please complete Nos. 3, 4 & 5.

3. Did you apply chemicals or fertilizer through the system in 2015? yes ☐ no ☐

4. If more than one water source is listed below, circle each source used. A. GROUNDWATER

5. Provide your water use on the back of this form.



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Acreage permitted for irrigation under No. 6923-3

(see above section map for help reading legal descriptions)

sec 10-T092N-R52W, NW1/4NW1/4 - 34.00 acres
sec 10-T092N-R52W, NE1/4NW1/4 - 34.00 acres
sec 10-T092N-R52W, SW1/4NW1/4 - 37.00 acres
sec 10-T092N-R52W, SE1/4NW1/4 - 37.00 acres
sec 10-T092N-R52W, NW1/4SW1/4 - 32.00 acres
sec 10-T092N-R52W, NE1/4SW1/4 - 32.00 acres

Permitted For 206 acres
1.56 cfs (900 gpm)

His Signures on page two show 64 add'l acres and
not nearly enough water.

Please provide your 2015 water use to irrigate the above acreage on the REVERSE side of this form.

For an example of a completed questionnaire, please refer to the reverse side of your cover letter.

Type of system used: center pivot ☒ towline ☐ big gun ☐ flood ☐ sprinklers ☐ other _____

(check all that apply) If center pivot, how many? ____ **Please note, pivots need end gun stops to prevent overspray!**

If more room is needed, copies of this page may be made or complete blank pages and attach to this form.

MONTH IRRIGATED	CROP TYPE	*NUMBER OF ACRES IRRIGATED	PUMP RATE IN GALLONS PER MINUTE	DAYS PER MONTH WATER WAS APPLIED	AVERAGE HOURS PER DAY
MARCH					
APRIL					
MAY					
JUNE					
JULY					
	Corn	270	300	4	24
AUGUST					
	Corn	270	300	8	24
SEPTEMBER					
OCTOBER					

*Total number of acres irrigated should be the same as your answer in question No. 1 on reverse side of this form.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

March 23, 2017

Don Schell Family LLP
26912 Baker Park Place
Sioux Falls SD 57108

Dear Don Schell Family LLP:

Enclosed is a partially completed application form and instruction sheet. You will not have to provide a map as stated in item 2.) on the instruction sheet. A map has already been prepared. The enclosed copy is yours to keep or to make any corrections/additions and return with the application.

An inspection of Permit No. 6923-3 found additional irrigated acres to what is authorized. Permit No. 6923-3 authorizes 1.56 cubic feet per second (cfs) or 700 gallons per minute (gpm) to irrigate 206 acres. The developed irrigation consists of two center pivots which operate at 1.56 cfs (700 gpm) each, to irrigate 221 acres of land. The additional 15 acres irrigated requires a new application.

This application is for an additional 15 acres and to clarify the acres being irrigated. A \$500.00 fee is required for the application/licensing of the additional 15 acres. The \$200.00 inspection/licensing fee is not necessary as it was paid for with the application for Water Permit No 6923-3.

If you have any questions, please feel free to contact me at (605)773-3352 or by email at lynn.beck@state.sd.us.

Sincerely,

Lynn Beck
Natural Resources Engineer III



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

July 25, 2017

Don Schell Family LLP
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schell:

On March 23, 2017, you were sent applications forms for a permit to appropriate water based on an investigation of Water Permit No. 6923-3, by Harold Holoch, an engineer with this office. Enclosed is a copy of that letter and another partially completed application. The investigation showed that your system was not developed as originally permitted. This application is necessary to obtain a permit which will reflect your water use. To date, we have not received a response regarding this application.

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

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

If you have any questions, please contact me.

Sincerely,

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

enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 3, 2017

Don Schell Family LLP
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation of additional acres on Water Permit No. 6923-3 in Clay County. In order to complete the application, the following is required.

- As stated in the letter you received from Lynn Beck, a \$500.00 fee is required for this application. Please submit this fee.

If you have any questions, please contact me.

Sincerely,

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

enclosures



**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. 8304-3, Don Schell Family LLP**

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. 8304-3, Don Schell Family LLP, c/o Donald Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108.

The Chief Engineer is recommending APPROVAL of Application No. 8304-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under Permit Nos. 6923-3 and 8304-3 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

A handwritten signature in black ink, reading 'Jeanne Goodman'. The signature is written in a cursive, flowing style.

Jeanne Goodman, Chief Engineer
October 16, 2017

REPORT TO THE CHIEF ENGINEER

Water Permit Application No. 8304-3

Don Schell Family LLP

October 3, 2017

Water Permit Application No. 8304-3 proposes to appropriate water for irrigation of 14 acres located in the S $\frac{1}{2}$ SW $\frac{1}{4}$ Sec 10; T92W-R52W and 1 additional acre in the NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec 10; T92W-R52W. These acres will be supplied using water from an existing irrigation well currently authorized under Water Permit No. 6923-3. Water Permit No. 6923-3 appropriates 1.56 cubic feet per second (cfs) of water from one well (108 feet deep) completed into the Elk Point management unit of the Missouri aquifer and located in the center of the W $\frac{1}{2}$ Section 10 T92W-R52W for irrigation of 206 acres in the NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec 10; T92W-R52W.

This application is a result of a permit inspection conducted on Water Permit No. 6923-3 pursuant to South Dakota Codified Law (SDCL) 46-5-30. The inspection revealed that the southern irrigation pivot was moved about 400 feet south from where it was previously permitted. As a result of this move, an additional 15 acres are being irrigated that were not authorized by Water Permit No. 6923-3. Therefore, this permit application proposes to correct the number of acres being irrigated without any increase in the diversion rate already authorized by Water Permit No. 6923-3. Water Permit application 8304-3, if approved, and Water Permit No. 6923-3 combined, will authorize a total maximum diversion rate of 1.56 cfs from one well for the irrigation of 221 acres in Clay County, SD.

AQUIFER: Missouri: Elk Point (M:EP)

HYDROGEOLOGY

The Elk Point management unit of the Missouri aquifer consists of unconsolidated glacial outwash deposits composed of materials ranging from fine sand to very coarse gravel (Niehus, 1994; Stephens, 1967). The Missouri: Elk Point aquifer in South Dakota is located in Yankton, Clay, and Union Counties, underlying the flood plains of the Missouri and Big Sioux Rivers. Hedges et al. (1982) estimated the areal extent of the aquifer to be 219,100 acres, with 3,287,100 acre-feet of recoverable water in storage. The movement of groundwater within the aquifer is generally from the northwest to the southeast, and towards the Missouri River (Stephens, 1967). The Missouri: Elk Point aquifer is hydraulically connected to the Lower Vermillion Missouri and Lower James Missouri aquifers, and the Missouri, Vermillion, and Big Sioux Rivers (Niehus, 1994; Stephens, 1967).

Hydrologically, the Elk Point management unit can be found under both confined and unconfined conditions. Near the edge of the floodplain, the Missouri: Elk Point is overlain by relatively impermeable glacial till (Niehus, 1994; Stephens, 1967). The well log for the existing well shows that at this location, the aquifer is under confined conditions and is overlain by 79 feet of clay (Water Rights, 2017b). At the time of construction in February 1977, the static water level in this well was 12 feet below ground surface.

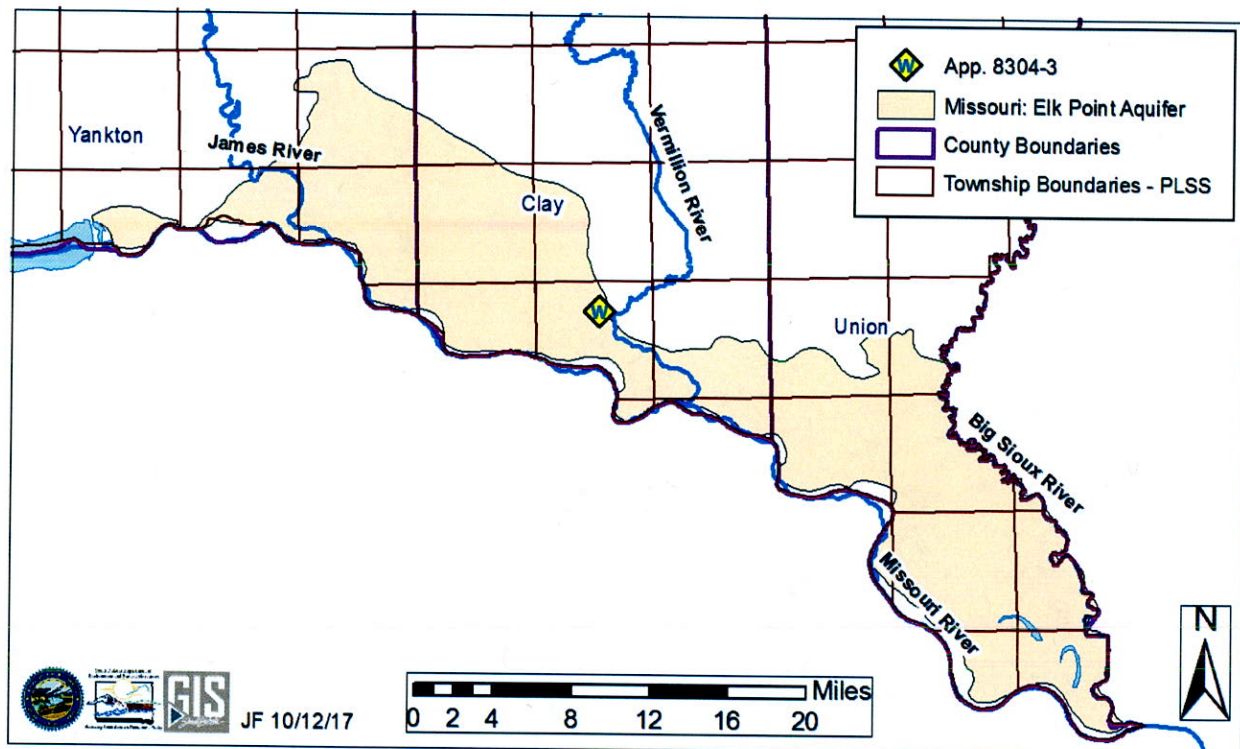


Figure 1. Map showing the location of the proposed diversion and Missouri: Elk Point aquifer boundaries as shown from Hedges et al. (1982).

South Dakota Codified Law 46-2A-9

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address the availability of unappropriated water and existing rights within the Missouri: Elk Point aquifer.

WATER AVAILABILITY

The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older than or stratigraphically lower than the Greenhorn Formation and a water distribution system has applied for a permit, the Board need not take into consideration the balance of aquifer recharge and withdrawal. Here, the water source is not older or lower than the Greenhorn Formation and a water distribution system is not involved. Therefore, the balance of withdrawal and recharge must be considered.

Hydrologic Budget

Recharge

Recharge to the Missouri: Elk Point aquifer occurs through infiltration of precipitation, inflow from the Lower Vermillion-Missouri aquifer, leakage from the Dakota aquifer, and inflow from

surface water (Bugliosi, 1986; Niehus, 1994; Stephens, 1967). From analysis of data from 20 observation wells, Hedges et al. (1985) estimated the recharge to the unconfined portions of the Missouri: Elk Point aquifer to be 3.8 inches per year. The areal extent of the Missouri: Elk Point aquifer is 219,100 acres (Hedges et al, 1982), resulting in an estimated recharge to the aquifer of approximately 69,382 ac-ft/yr. By using observation well data, the data represents both withdrawals from and recharge to the aquifer, as they occur simultaneously. When the recharge is greater than discharge, this method produces a lower than actual recharge rate. The same holds true when discharge is greater than recharge, the calculated discharge rate is lower than the actual discharge rate.

The wells for the Lewis and Clark Rural Water System induce recharge from the Missouri River, and Stonesifer (2013) estimated that this amount is at least 50% of their total pumpage. Assuming all of their wells are similar in location with regards to the Missouri River, and the Lewis and Clark RWS uses their full appropriation (current permits and reserved future uses), the Missouri: Elk Point aquifer would gain at least 22,582 ac-ft/yr through induced recharge. Other water rights/permits within the Missouri: Elk Point aquifer may also induce recharge from the Missouri, Vermillion, James, or Big Sioux Rivers, although this amount has not been quantified.

Combining the estimated recharge of Hedges et al (1985), and the induced recharge for the current appropriations of the Lewis and Clark Rural Water System, the estimated average annual recharge to the Missouri: Elk Point aquifer is approximately 92,000 ac-ft/yr.

Discharge

Discharge from the Missouri: Elk Point aquifer occurs through well withdrawals, evapotranspiration from areas where the aquifer is near the land surface, and outflow to the Missouri and Big Sioux Rivers (Bugliosi, 1986; Niehus, 1994; Stephens, 1967). Currently there are 626 Water Rights/Permits appropriating water from the Missouri: Elk Point aquifer (Water Rights, 2017a). Table 1 shows a summary of non-irrigation Water Rights/Permits with their appropriation and estimated annual expected use. The amount of water that can be expected to be withdrawn can be estimated by assuming water rights/permits limited by an annual volume will pump the entire volume appropriated annually, water rights/permits limited only by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time, and future use permits will be fully developed.

Table 1: Summary and expected use of non-irrigation water rights/permits including future use permits (Water Rights, 2017a)

Use Type	No. of Water Rights/Permits	Appropriation (ac-ft)	Appropriation (cfs)	Expected Use (ac-ft)
RWS	4	45,165		45,165.00
SHD	2		0.199	86.50
REC	1	393.3		393.30
COM	10	637	1.539	1,305.96
DOM	2		2.780	1,208.38
FWP	4		9.430	4,098.94
IND	5		0.878	381.64
MUN	12	9,111	11.662	14,180.12
Total	40	55,306	26.49	66,819.84
RWS = Rural Water Supply, SHD = Suburban Housing Development, REC = Recreation, COM = Commercial, DOM = Domestic, FWP = Fish & Wildlife Propagation, IND = Industrial, MUN =Municipal				

Several of the non-irrigation water rights/permits are required to report their annual water use from the Missouri: Elk Point aquifer. Two of these are recent permits and their systems are considered to be in development. The remaining water rights/permits and their reported water usage from 2006 to 2016 are shown in Table 2.

Table 2: Reported annual water use in acre-feet from non-irrigation water rights/permits for the years 2006 to 2016 (Water Rights, 2017a)

	Clay RWS	Lewis & Clark RWS	City of Vermillion
	5998A-3, 7388-3	6736-3, 7207-3	147-3, 6236-3
2006	170		1,252
2007	217		1,344
2008	213		1,199
2009	215		1,140
2010	183		1,071
2011	137	92	1,127
2012	525	3,836	1,317
2013	301	9,368	1,183
2014	307	11,532	1,121
2015	278	15,591	1,161
2016	231	17,091	1,175
Max	525	17,091	1,344
Min	137	92	1,071
Average	252.5	9,585	1,190

The reported usage for these non-irrigation permits shows that the usage for the City of Vermillion has remained steady over these years. Water Right 147-3 has a diversion rate of 2.66 cfs and Water Right 6236-3 is limited to an annual volume of 1,161 ac-ft. Combined, these two water rights are estimated to use 2,315 ac-ft/yr, however the average actual reported usage is 1,190 ac-ft/yr. The Clay RWS added Water Permit 7388-3 to their system in 2012, so the expected usage from their permits is greater than the average shown. The Lewis & Clark RWS is still under development and the usage will continue to grow. Using the average actual reported use from the City of Vermillion, instead of the appropriated amount, reduces the expected use from non-irrigation water rights/permits by 1,125 ac-ft/yr to 65,694.84 ac-ft/yr.

There are a number of domestic wells on file that withdraw water from the Missouri: Elk Point aquifer, however the magnitude of their withdrawals is small, and since the introduction of rural water systems, many of these wells may no longer be in use (Water Rights, 2017b). The annual quantity of water withdrawn for domestic uses is considered to not be significant to the hydrologic budget of the aquifer.

Irrigation data from 2016 shows that there were 564 water rights/permits that submitted their irrigation data. These water rights/permits currently appropriate 190,428.78 acre-ft of water, however the actual usage is much less. Stonesifer (2013) analyzed the irrigation data from 1979 to 2012, and determined that from 1979 to 2006, the appropriated amount of water in the Missouri: Elk Point aquifer remained steady. After 2006, the appropriations increased due to a number of factors. Stonesifer developed a method to estimate the average annual use from irrigation even as the numbers of water rights/permits were increasing. Using the period of 1979 to 2006, and calculating the pumpage and the appropriations for each year, a ratio of pumpage to the appropriation was developed. This ratio showed that 13.7% of the appropriated amount of water for irrigation was the average annual usage for irrigation. Three water permits have been approved since the 2016 irrigation season, adding a total appropriation of 492 ac-ft/yr, bringing the total appropriation for irrigation to 190,920.78 ac-ft/yr. Applying the usage to appropriation ratio of 13.7%, the estimated annual usage for irrigation is 26,156.15 ac-ft/yr.

Hydrologic Budget

The estimated withdrawals from the Missouri: Elk Point aquifer are 65,694.84 ac-ft/yr from non-irrigation users, and 26,156.15 ac-ft/yr from irrigation. Including an estimated 4.11 ac-ft/yr from this application, the estimated average annual withdrawal from the Missouri: Elk Point aquifer is 91,855.1 ac-ft/yr.

The estimated annual recharge to the Missouri: Elk Point aquifer is approximately 92,000 ac-ft/yr. The estimated annual withdrawals equate to roughly three percent of the available water in storage. Due to the relatively small development of this large resource and the ability to induce recharge to the aquifer from nearby bodies of surface water, there is a reasonable probability there is unappropriated water available from the Missouri: Elk Point aquifer for the proposed appropriation.

Observation Well Data

In determining the availability of unappropriated water for a permit application Administrative Rule 74:02:05:07 requires the Water Management Board to rely on the record of observation well measurements, in addition to other data, to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated annual recharge.

The Water Rights Program monitors 37 observation wells completed in the Missouri: Elk Point aquifer (Water Rights, 2017c). The nearest observation well is CL-80C, located approximately 4.5 miles southeast of the well location. As shown in Figure 2, the location of this application is in the approximate center of several other observation wells. By using these other observation wells in this analysis, an idea of how the water table reacts to local pumping and regional climatic conditions can be obtained. The nearby observation wells that were looked at include CL-80A (6.4 miles), CL-80B (6.3 miles), CL-80D (6.6 miles), CL-80E (8.9 miles), and YA-80KA (10.6 miles).

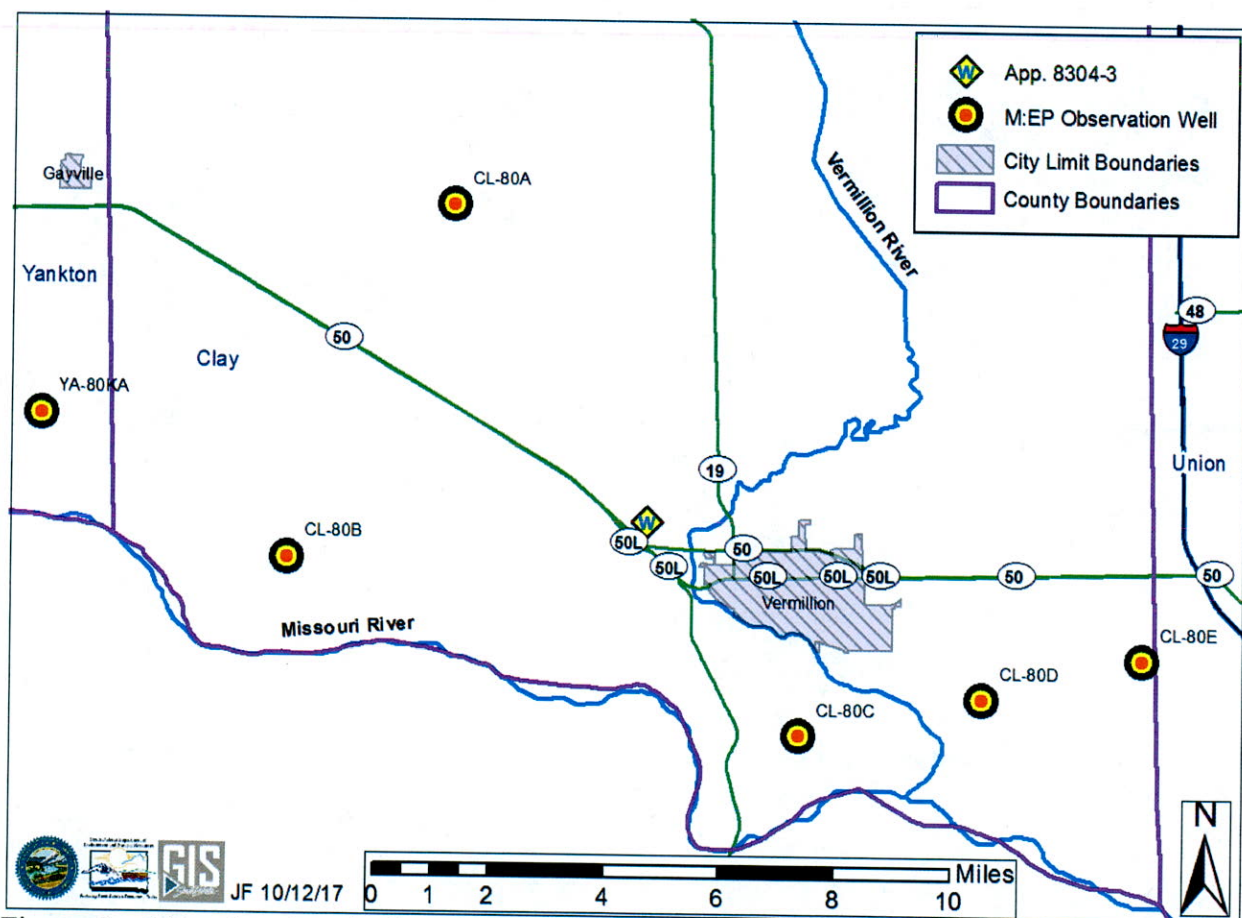


Figure 2. Map showing the location of nearby observation wells in the Missouri: Elk Point aquifer (Water Rights, 2017a; Water Rights, 2017c)

The hydrographs for the mentioned observation wells are shown in Figure 3. These observation well hydrographs are representative of the Missouri: Elk Point aquifer. The hydrographs show that the aquifer responds well to hydrologic conditions, recharging during wetter periods and

declining during drier periods. The hydrographs of the Missouri: Elk Point aquifer show that the aquifer is hydraulically connected to the Missouri River, as the hydrographs of the Missouri River (Figure 4 and 5) generally show the same peaks, rising periods, and declining periods. Observation well CL-80A is under confined conditions, and the five others shown are under water table conditions. Figure 4 is the hydrograph of the Missouri River at Sioux City, Iowa, approximately 40 miles downstream from the USGS stream gage Missouri River near Maskell, Nebraska (Figure 5). There are slight differences between these hydrographs as the confluences of the Vermillion and Big Sioux Rivers are located between these gages. Due to the availability of information, Figure 4 shows discharge, whereas Figure 5 shows gage height. The peaks on these hydrographs generally do not correspond with local precipitation events, as in the case of the peak in 2011, which was generated from the effects of rainfall far upstream and the controlled release of water from upstream dams. The observation well measurements show that the effects from pumping are temporal, and that the aquifer generally returns to pre-pumping conditions. There is a downward trend in these observation wells due to the construction of the Gavins Point Dam in Yankton, SD, the Missouri River is entrenching below the dam, lowering the water surface elevation of the river (Goodman, 2007; Iles, 1979). The observation well data indicates that there is a reasonable probability that there is unappropriated water available from the Missouri: Elk Point aquifer.

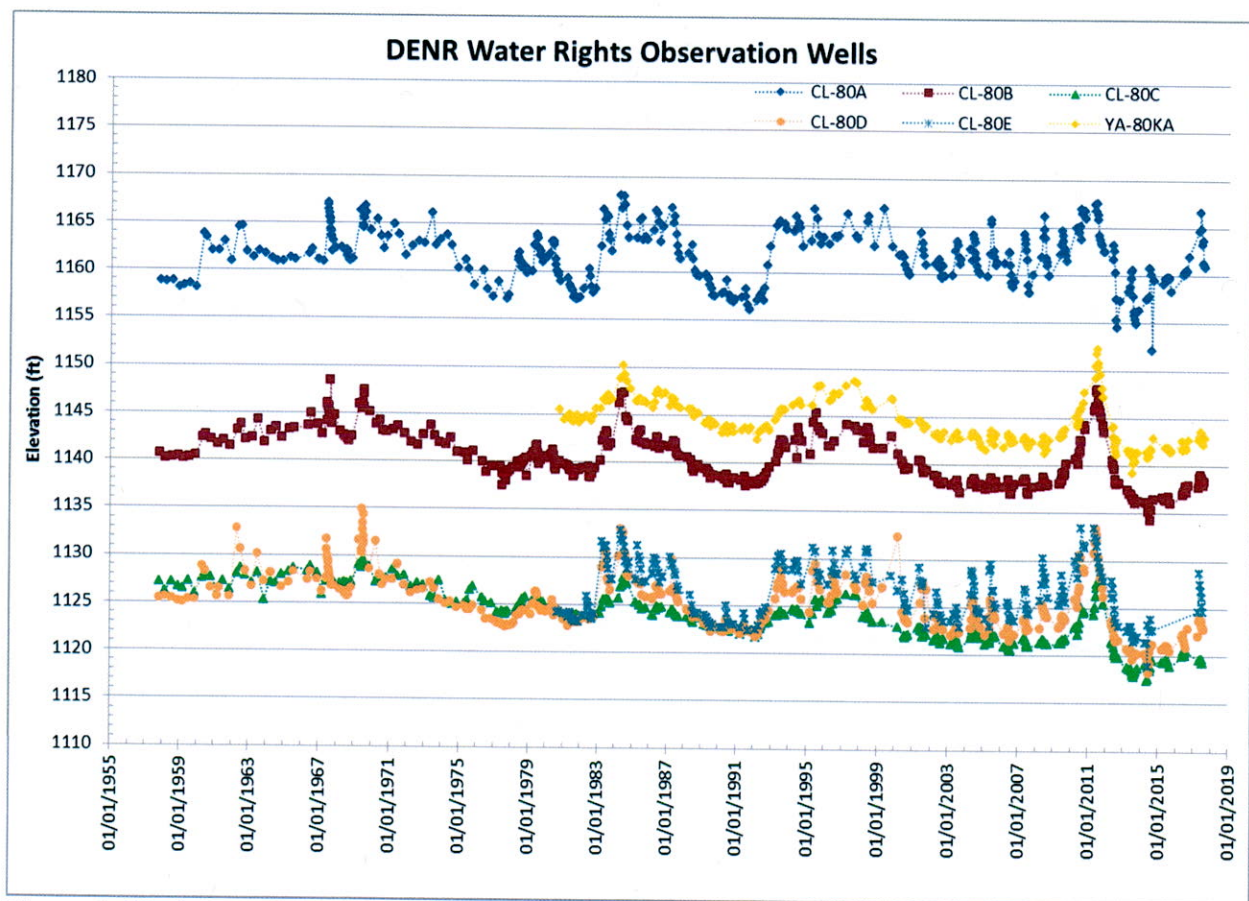


Figure 3: Hydrographs for Observation Wells CL-80A, CL-80B, CL-80C, CL-80D, CL80E, and YA-80KA (Water Rights, 2017c)

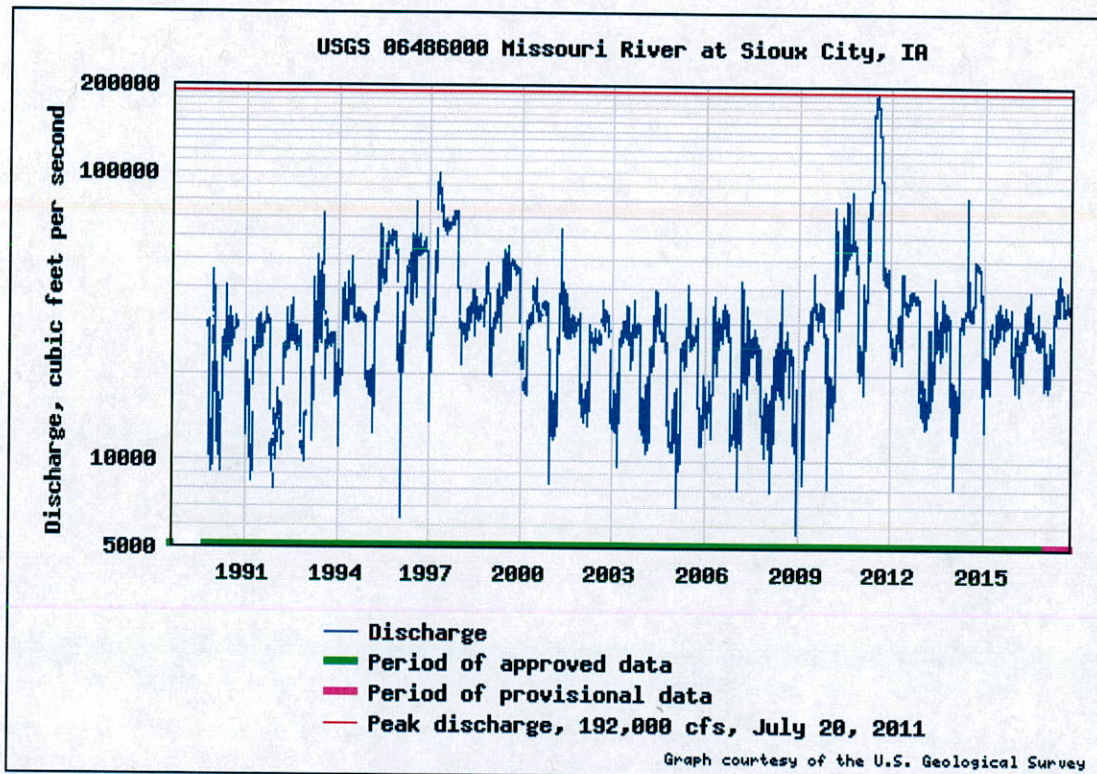


Figure 4: Hydrograph for USGS Stream Gage 06486000 Missouri River at Sioux City, IA (USGS, 2017)

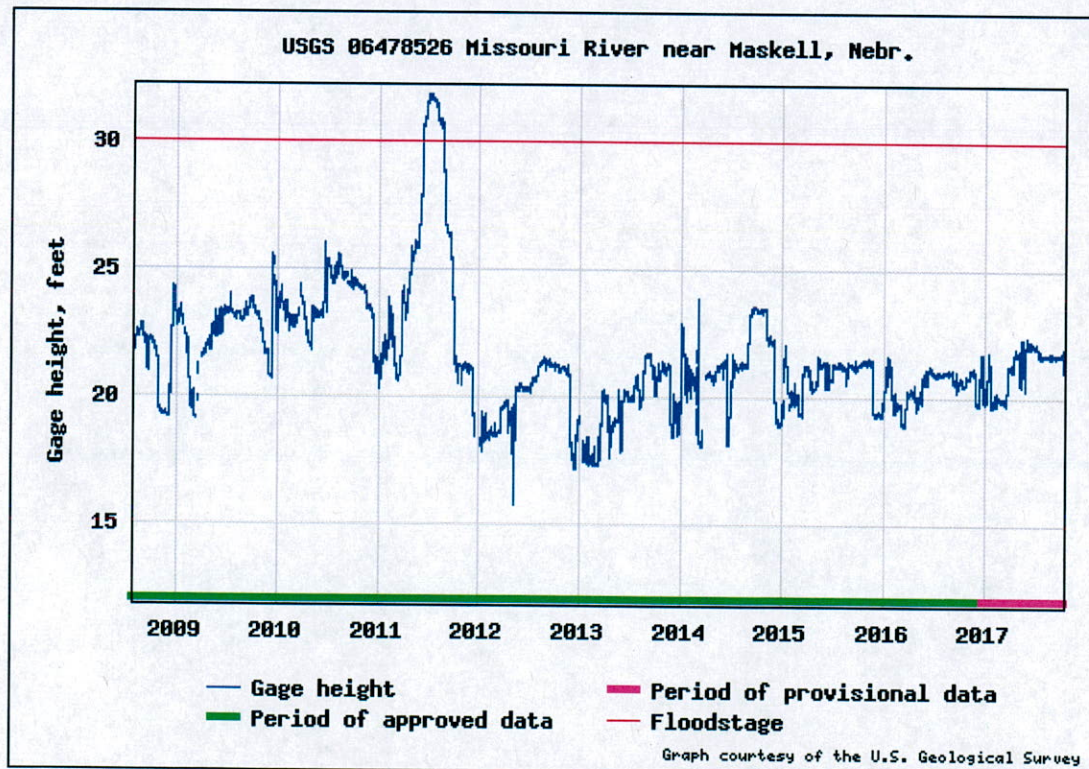


Figure 5: Hydrograph for USGS Stream Gage 06478526 Missouri River near Maskell, NE (USGS, 2017)

EXISTING WATER RIGHTS

There are 609 water rights/permits appropriating water and 4 future use permits reserving water from the Missouri: Elk Point area along with 2 deferred applications (Water Rights, 2017a). The location of the diversion points for water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer in the vicinity of this application are shown in Figure 6. The areas reserved for the future use permits are also shown.

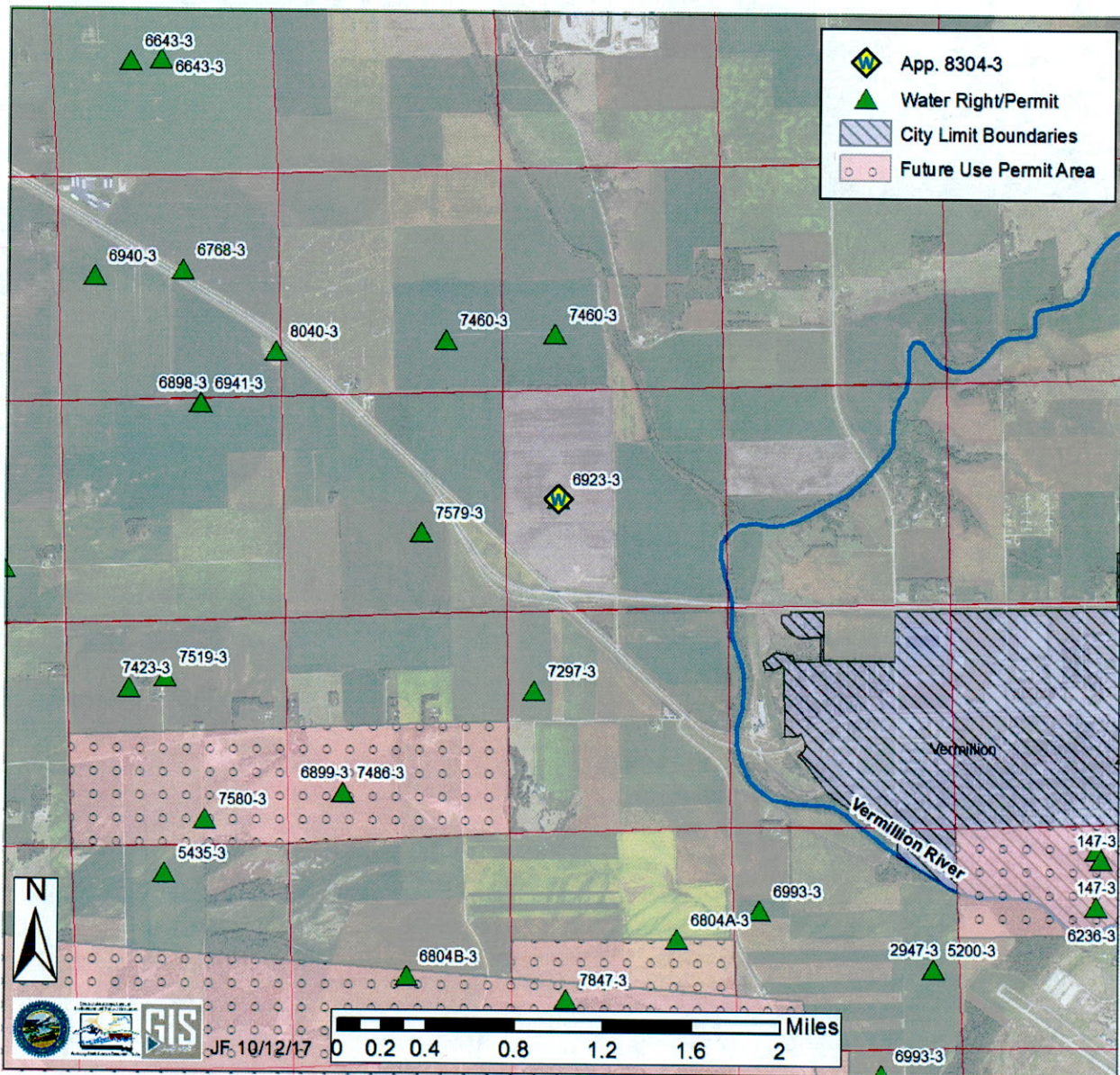


Figure 6: Map of the vicinity of Application No. 8304-3 including Missouri: Elk Point aquifer water rights/permits and future use areas (Water Rights, 2017a)

Drawdown from well withdrawals within the Missouri: Elk Point aquifer is generally not significant at distances far from the pumping well. Examination of the hydrographs of observation wells completed into the Missouri: Elk Point aquifer show no signs of being significantly impacted by drawdown caused by pumping, despite usually being located within a mile of several irrigation wells. There has not been a history of well interference issues in the Missouri: Elk Point aquifer. This application, if approved, is not expected to adversely impact nearby adequate wells.

An adequate well has been defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) as:

“a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet”

Although this application proposes no increase to the maximum diversion rate for this existing well, the water demand of irrigating an additional 15 acres will result in an increase of the average diversion rate over the irrigation season. At the distances involved and the relatively small increase in the average diversion rate, well interference from this application is not expected to be a concern.

CONCLUSIONS

1. Water Permit Application No. 8304-3 proposes to irrigate 15 additional acres from an existing well but does not authorize any increase in the diversion rate already authorized by Water Permit No. 6923-3.
2. Water Permit Application No. 8304-3, if approved, and Water Permit No. 6923-3 combined, will authorize a total diversion rate of 1.56 cfs for the irrigation of 221 acres.
3. Although there would be an increase in water use, there is a reasonable probability that unappropriated water is available for the application.
4. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer.
5. This is an existing irrigation well and there is a reasonable probability that the diversions proposed by this application will not adversely impact adequate wells for existing water rights and domestic use.


John Farmer
SD DENR – Water Rights Program

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- Water Rights. 2017c, "Observation Well Database", SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

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OCT 30 2017

WATER RIGHTS
PROGRAM

DON SCHELLPFEFFER
26912 BAKER PARK PLACE
SIOUX FALLS SD 57108

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

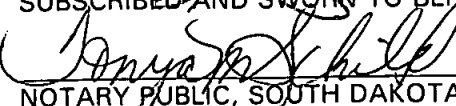
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MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
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PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
10+27 NOTICE OF APPLICATI

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 27th DAY OF October, 2017
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$29.25 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 10/27/2017

FILED ON: 10/27/2017


SUBSCRIBED AND SWORN TO BEFORE ME THIS 27th DAY OF October, 2017


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

NOTICE OF APPLICATION NO. 8304-3 to Appropriate Water

Notice is given that Don Schell Family LLP, c/o Donald Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 has filed an application to irrigate 15 additional acres. Water Permit No. 6923-3 authorizes 1.56 cubic feet of water per second (cfs) from one well completed into the Missouri:Elk Point Aquifer (108 feet deep) located in the SW 1/4 NW 1/4 Section 10 for irrigation of 206 acres located in the NW 1/4, N 1/2 SW 1/4 Section 10; all in T92N-R52W. An investigation of the permit found the system irrigating an additional 15 acres located in the above described area and the S 1/2 SW 1/4 Section 10; T92N-R52W. This application, if approved, and Water Permit No. 6923-3 will authorize diversion rate of 1.56 cfs for irrigation of 221 acres. This is located about one mile northwest of Vermillion.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8304-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineers recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 6, 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 \$29.25.

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WATER RIGHTS
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PLAIN TALK

DON SCHELLPFEFFER
26912 BAKER PARK PLACE
SIOUX FALLS SD 57108

STATE OF SOUTH DAKOTA
COUNTY OF CLAY

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AND SAYS THAT (S)HE IS THE CLASSIFIED MANAGER OF YANKTON
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THIS AFFIDAVIT; THAT THE ANNEXED
NOTICE OF APPLICATION NO.
8304-3 APPROPRIATE WATER
TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 27th DAY OF October, 2017
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OF SAID NOTICE TO WIT \$28.96 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 10/27/2017

FILED ON: 10/27/2017

Tera A Schmidt

SUBSCRIBED AND SWORN TO BEFORE ME THIS 27th DAY OF October, 2017

Don Schellpfeffer

NOTARY PUBLIC, SOUTH DAKOTA

MY COMMISSION EXPIRES 08/19/2021

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Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

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Publish: October 27, 2017.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, October 17, 2017 9:23 AM
To: 'Tera Schmidt'
Subject: 8304-3, Don Schell Family
Attachments: 8304-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on October 27, 2017.

Don Schell Family LLP, c/o Donald Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 (605 331-3861) 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: Tuesday, October 17, 2017 9:22 AM
To: classifieds@plaintalk.net
Subject: 8304-3, Don Schell Family
Attachments: 8304-3public.short.docx; FORM8.FRM.doc

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(605) 773-3352





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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THE NEWSPAPER(S) RIGHT AWAY.**

October 17, 2017

Don Schell Family LLP
c/o Donald Schellpfeffer
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

Water Permit Application No. 8304-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plain Talk printed at Vermillion SD (Ph # 605-624-2695) and the Press & Dakotan printed at Yankton SD (Ph # 605-665-7811). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 8304-3 to Appropriate Water

Notice is given that Don Schell Family LLP, c/o Donald Schellpfeffer, 26912 Baker Park Place, Sioux Falls SD 57108 has filed an application to irrigate 15 additional acres. Water Permit No. 6923-3 authorizes 1.56 cubic feet of water per second (cfs) from one well completed into the Missouri:Elk Point Aquifer (108 feet deep) located in the SW 1/4 NW 1/4 Section 10 for irrigation of 206 acres located in the NW 1/4, N 1/2 SW 1/4 Section 10; all in T92N-R52W. An investigation of the permit found the system irrigating an additional 15 acres located in the above described area and the S 1/2 SW 1/4 Section 10; T92N-R52W. This application, if approved, and Water Permit No. 6923-3 will authorize diversion rate of 1.56 cfs for irrigation of 221 acres. This is located about one mile northwest of Vermillion.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8304-3 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 November 6, 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 _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

8304-3
6923-3

NOV 15 2017

Don Schell Family LLP
c/o Donald Schellpfeffer
26912 Baker Park Place
Sioux Falls SD 57108

Dear Mr. Schellpfeffer:

Enclosed are Water Permit and License No. 8304-3. These are the final water right documents completing your process of obtaining a Water Right. Also, included is a map prepared by the staff engineer who conducted the investigation.

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

Sincerely,

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

Note: The applicable portions of No. 6923-3 are incorporated into Water License No. 8304-3.

enclosures



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

January 19, 2024

NOTICE

TO: DON SCHELLPFEFFER, 1401 S SUGAR MAPLE DR, SIOUX FALLS, SD 57110

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8162-3 & 8304-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8162-3 & 8304-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8162-3 & 8304-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: BMLRYE**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 15, 2024

8162-3
8304-3

Don Schellpfeffer
1401 S Sugar Maple Dr
Sioux Falls SD 57110

Dear Mr. Schellpfeffer:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 8162-3 & 8304-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

cc: Brett Petersen, 45656 US HWY 18, Hurley SD 57036