

WATER PERMIT NO. 8340-3

Name of Applicant: Lisa Zuhlke

Address: 47750 214th St, Aurora SD 57002

Phone: 60 651-0423

Amount of Water Claimed: 0.038 cfs

Total Acres: 1.8 ac

Source of Water Supply: Medary Creek

Water to be used for: irrigation

County: Brookings

Type of Waste Disposal System:

Location: 1 mile east of Aurora

PRIORITY

Date Received: 3-26-18

Application/License Fee: \$ 300

Corrected Application Received:

Period of Annual Use:

Remarks:

Diversion Point: SW 1/4 SE 1/4 Sec 36-T110N-
R49W

Land to be Irrigated: SW 1/4 SE 1/4 Sec 36-
T110N-R49W

Depth of Well: NA

Well Driller:

Remarks:

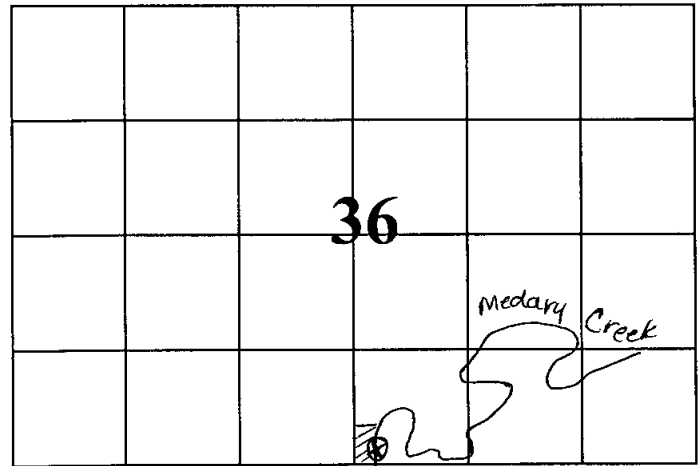
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 3-29-18

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



RECEIVED

MAR 26 2018

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8340-3</u>	(office use only) Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Brookings Register</u> <u>692-6271</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 Lisa Zuhlke

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

Mailing Address 47750 214th St Aurora SD 57002
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 6056510423 Email littleshirefarm@gmail.com

2. Amount of water claimed 0.038 *CFS or 17 **GPM ***AF Total Acreage 4.5
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Medary Creek

4. Location of point of diversion 1 Pump in OL 'A' IN SW CORNER OF SE 1/4 OF SEC. 36-110-49

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Brookings ☒

5. County or counties where water will be used Brookings

6. Annual period during which water is to be used All Year

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
Orchard	1		
Vegetables	2		
Greenhouses	1.5		
<u>all in SW 1/4 SE 1/4 Sec 36 - T110N - R49W</u>			

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

Installation of a 17 GPM pump into Medary Creek to water crops. See Attached Photo.

I, Lisa Zuhlke LZ Owner _____, the applicant, certify under
Name of Person Title (if applicable)

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

**SOUTH DAKOTA
WATER PERMIT NO. 8340-3**

Date of first receipt of application March 26, 2018.

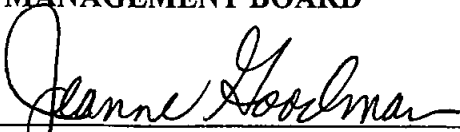
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8340-3 to Lisa Zuhlke, 47750 214th St, Aurora SD 57002 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8340-3 appropriates 0.038 cubic feet of water per second from Medary Creek located in the SW 1/4 SE 1/4 Section 36 for irrigation of 4.5 acres located in the SW 1/4 SE 1/4 Section 36; all in T110N-R49W which is approximately one mile east of Aurora 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: January 1 – December 31.
3. The date from which applicant may claim right is March 26, 2018.
4. The date of approval of Permit No. 8340-3 is May 29, 2018.
5. One-fifth of the construction is to be completed on or before November 29, 2020.
6. All construction is to be completed on or before May 29, 2023.
7. Water is to be put to beneficial use on or before May 29, 2027.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. This permit does not authorize diversion of water any time Medary Creek's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to downstream domestic use and written orders including shutoff orders issued by the Chief Engineer.
2. The irrigation intake in Medary Creek for this irrigation project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screened with ¼ inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment and impinging fish.
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

JUN 11 2018
date



OL 'A' IN SW CORNER OF SE 1/4 OF SEC.
36-110-49



Growing Area



Pump



Pump to River



Approx. 165' from road

47750 214TH ST 043801104936400

↑ north

Sec.26
T110N
R49W

Sec.25
T110N
R49W

Sec.30
T110N
R48W

Sec.35
T110N
R49W

Sec.36
T110N
R49W

Sec.31
T110N
R48W

Sec.2
T109N
R49W

Sec.1
T109N
R49W

Sec.6
T109N
R48W



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date April 3, 20 18

RECEIVED OF Little Shite Farm 47750 214th St Autera, SD 57002 6503

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

Fee for Application for Permit No. <u>8340-3</u> to Appropriate Water, to construct and to put water to beneficial use	100	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>8340-3</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	300 00

No. **08637**

By Janne Goodman
Chief Engineer

27/1



**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. 8340-3, Lisa Zuhlke**

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. 8340-3, Lisa Zuhlke, 47750 214th Street, Aurora SD 57002.

The Chief Engineer is recommending APPROVAL of Application No. 8340-3 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. This permit does not authorize diversion of water any time Medary Creek's flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversions under this permit are subject to downstream domestic use and written orders included shutoff orders issued by the Chief Engineer.
2. The irrigation intake in Medary Creek for this irrigation project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screened with ¼ inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment and impinging fish.
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
May 10, 2018

NOTE: Issuance of this permit deals with the withdrawal of water only. It does not address other concerns or permitting issues, such as the Topeka Shiner, from other State or Federal entities. The source of water for this permit is listed as a known Topeka Shiner habitat. The permit holder is responsible for contacting the US Fish and Wildlife Service concerning certain restriction on the method of withdrawal of water. The permit holder is responsible to obtain any other necessary permits.

REPORT ON WATER PERMIT APPLICATION NO. 8340-3

Lisa Zuhlke

April 30, 2018

Application No. 8340-3, proposes to appropriate 0.038 cubic feet of water per second (cfs) from Medary Creek located in the SW 1/4 SE 1/4 Section 36 for irrigation of 4.5 acres located in the SW 1/4 SE 1/4 Section 36; all in T110N-R49W which is approximately one mile east of Aurora SD. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The proposed project is located in Brookings County approximately 1 mile east of the town of Aurora.

Review of the Existing Water Rights

There is one existing water right (No. 4849-3) appropriating 1.22 cfs from Medary Creek for irrigation. This right is located approximately 8.5 miles downstream from the proposed project (Water Rights. 2018). Annual irrigation questionnaires submitted to report water use under this water right for the past ten years indicate that when irrigation has occurred it had been at a rate of 0.033 cfs (15 gpm) for irrigation of 1.6 acres.

Review of the Proposed Water Source

The source of water for the proposed project is Medary Creek. Medary Creek is a prairie stream draining approximately 200 sq-mi in eastern Brookings County South Dakota and western Lincoln County in Minnesota. Medary Creek is a tributary to the Big Sioux River with the confluence located approximately 6 miles south of the City of Brookings.

Since staff in the Water Rights Program is unable to predict future climatological conditions and their effect on stream flow, we rely on historical records to give us an indication of the flow characteristics of a stream throughout the year. Between the years of 1980 to 1990, the U.S. Geological Survey (USGS) operated a stream flow gaging station on Medary Creek near Brookings SD (USGS 06479980), approximately 9 river miles downstream of the proposed project. The USGS collected daily flow data at this gaging station for 10 years during the period the station was operated. The 10 years the gage operated saw a full spectrum of climatic conditions from wet to dry. The USGS maintains an archive of historical flow and statistical data for this gaging station that can be accessed by the public (USGS. 2018).

Figure 1 shows the daily 50 percentile and 25 percentile values for the USGS Medary Creek gage. 50 percentile, also known as the median value, can be described as the value separating the higher half of a set of data values from the lower half and may be thought of as the central value of a data set. For the 25 percentile daily value, three out of four years the daily flow values would be above the 25 percentile range and one out four years below (USGS. 2018).

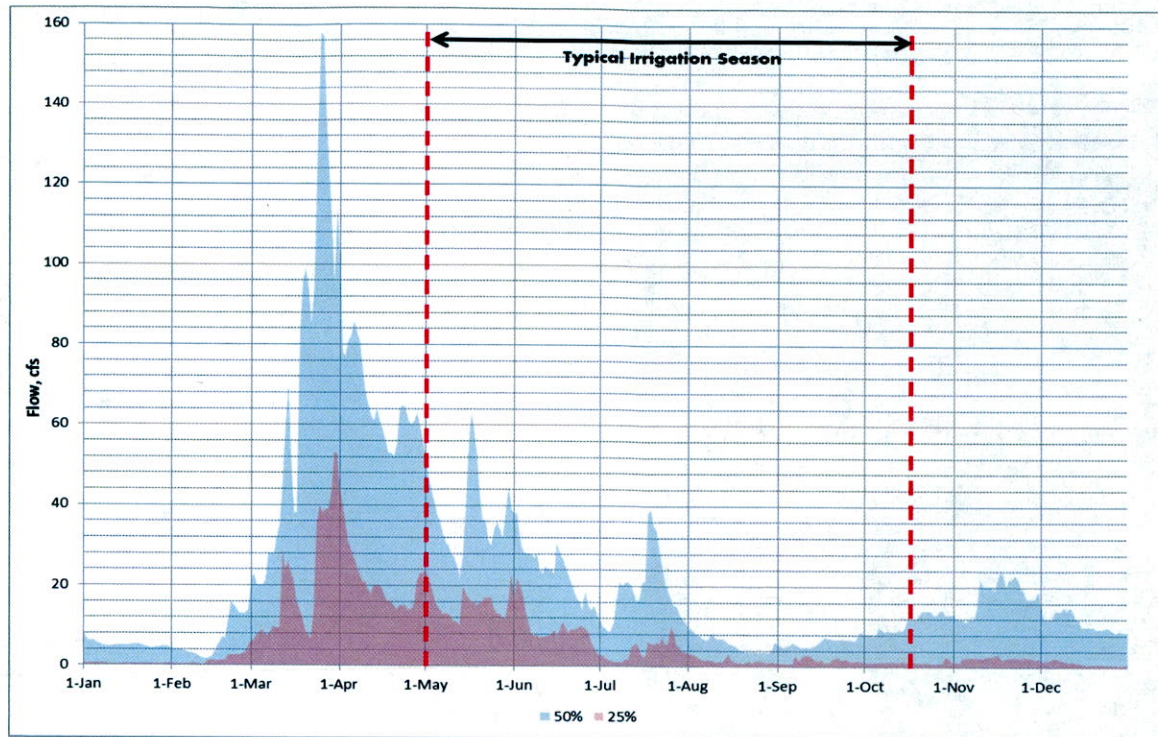


Figure 1. Daily percentile flow hydrographs for the USGS Medary Creek near Brookings 1980-1990, contributing drainage area 197 mi² (USGS, 2018).

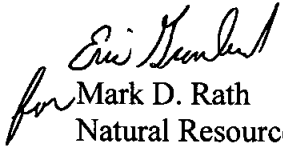
Medary Creek as typical of a prairie stream cannot be considered a reliable water source during periods of dry climatic conditions. The annual flow pattern for the Medary Creek gage shows the annual flows peak in March and April and start tailing off in May, June and into July leading into low flows for the remainder of the summer. The daily median flow record for this gage does illustrate small flow increases in May, June and July likely tied to summer rain runoff events in the watershed. The median flow values drops to approximately 4 cfs in late August then gradually increases throughout the fall (USGS. 2018).

Based upon a review of stream gaging record for Medary Creek and a review of existing rights, I believe if this permit is approved, there would be sufficient water to satisfy existing rights including domestic use and this permit during most years.

Conclusions

1. This application proposes to appropriate 0.038 cubic feet of water per second (cfs) from Medary Creek for irrigation purposes.
2. There is one existing water right located on Medary Creek approximately 8.5 mile downstream from the project.
- 3 The USGS operated a stream gaging station on Medary Creek for a 10 year period between 1980 and 1990.

- 4 Based upon a review of stream gaging record and existing rights, there would be sufficient water to satisfy existing rights including domestic use and this permit during most years.


for Mark D. Rath
Natural Resources Engineer III

References

1. USGS. 2018. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
2. Water Rights. 2018. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Affidavit of Publication

State of South Dakota

Exhibit "A"

SS

County of Brookings

Katherine Foiles of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

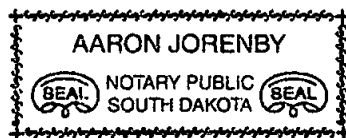
Leg#448 App 8340-3

same was published, is hereto attached marked Exhibit said newspaper for _____ 1 times, to-wit:

May 17, 2018

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Twenty-Four Dollars and Eighteen Cents \$24.18



May

21 day of

2018

Notary Public in and for the County of Brookings, South Dakota.
My Commission expires February 22, 2020.

RECEIVED

JUN - 4 2018

WATER RIGHTS
PROGRAM

Legal 448, 1x, 5/17
NOTICE OF APPLICA-
TION NO. 8340-3 to
Appropriate Water
Notice is given that Lisa
Zuhlke, 47750 214th St,
Aurora SD 57002 has
filed an application for a
water permit to appro-
priate 0.038 cubic feet
of water per second
from Medary Creek
located in the SW 1/4
SE 1/4 Section 36 for
irrigation of 4.5 acres
located in the SW 1/4
SE 1/4 Section 36; all in
T110N-R49W which is
approximately one mile
east of Aurora SD.
Pursuant to SDCL 46-
2A-2, the Chief
Engineer recommends
APPROVAL of
Application No. 8340-3
with qualifications
because 1) unappropri-
ated 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 recom-
mendation with quali-
fications, the application,
and staff report are
available at
<http://denr.sd.gov/public>
or, contact Eric
Gronlund for this infor-
mation, or other infor-
mation, at the Water
Rights Program
address provided
below.

Any person interested in
opposing or supporting
this application or rec-
ommendation must file
a written petition with
BOTH the applicant and
Chief Engineer. The
applicant must file a
petition if contesting the
Chief Engineer's recom-
mendation. The Chief
Engineer's address is
"Water Rights Program,
Foss Building, 523 E
Capitol, Pierre, SD
57501 (605 773-3352)"
and the applicant's mail-
ing address is given
above. A petition filed

by either an interested
person or the applicant
must be filed by May 29,
2018.
The petition may be
informal, but must
include a statement
describing the petition-
er's interest in the appli-
cation, the petitioner's
reasons for opposing or
supporting the applica-
tion, and the signature
and mailing address of
the petitioner or the
petitioner's legal coun-
sel, if legal counsel is
obtained.
If the applicant does not
contest the recommen-
dation of the Chief
Engineer and no peti-
tion to oppose the appli-
cation is received, the
Chief Engineer shall act
on the application pur-
suant to the recommen-
dation with no hearing
held before the Water
Management Board. If
a petition opposing the
application or contest-
ing 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 \$24.18.



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 RIGHT AWAY.**

May 10, 2018

Lisa Zuhlke
47750 214th St
Aurora SD 57002

Dear Ms. Zuhlke:

Water Permit Application No. 8340-3 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 Brookings Register (Ph # 605-692-6271). You will need to contact the newspaper 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 to authorize publication of your Notice and to arrange for payment. Early contact with the paper 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, May 10, 2018 2:35 PM
To: registerclassifieds (registerclassifieds@brookingsregister.com)
Subject: 8340-3, Lisa Zuhlke
Attachments: 8340-3public.short.docx

Please disregard the attachment on the first email and use this one.

The date at the end of the 3rd paragraph should read "May 29, 2018" not May 29, 2019.

Thanks,
Karen

From: Schlaak, Karen
Sent: Thursday, May 10, 2018 1:57 PM
To: registerclassifieds (registerclassifieds@brookingsregister.com)
Subject: 8340-3, Lisa Zuhlke

Attached is a notice to be published on May 17, 2018.

Lisa Zuhlke, 47750 214th St, Aurora SD 57002 (605 651-0423) 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. 8340-3 to Appropriate Water

Notice is given that Lisa Zuhlke, 47750 214th St, Aurora SD 57002 has filed an application for a water permit to appropriate 0.038 cubic feet of water per second from Medary Creek located in the SW 1/4 SE 1/4 Section 36 for irrigation of 4.5 acres located in the SW 1/4 SE 1/4 Section 36; all in T110N-R49W which is approximately one mile east of Aurora SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8340-3 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 May 29, 2018.

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_____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, May 10, 2018 2:31 PM
To: Murphy, Leslie
Subject: Water Permit Application No. 8340-3, Lisa Zuhlke
Attachments: 8340-3.pdf

Eric requested I send you this information regarding Water Permit Application No. 8340-3, Lisa Zuhlke.

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





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUN 11 2018

Lisa Zuhlke
47750 214th St
Aurora SD 57002

Dear Mr. Zuhlke:

Enclosed is Water Permit No. 8340-3 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

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8340-3

I have this day, June 4, 2024, made a thorough examination of the water use system constructed by Lisa Zuhlke, 47750 214th St, Aurora, SD 57002 of Permit No. 8340-3, bearing the priority of March 26, 2018 authorizing the diversion of 0.038 cu. ft. per second of the waters of the Medary Creek for irrigation purposes, in Brookings County.

A. Works used to divert the water: (SEE SECTION F)

D. Compliance with Permit Requirements: (SEE SECTION F)

E. Condition and Location: (SEE SECTION F)

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

Not sure what to do regarding the permit at this time.

I was reviewing permits in the immediate area of where I live and noticed that this permit had a construction requirement of May 29, 2023. A review of the Irrigation Questionnaires submitted to the State showed that "No Construction" had been completed or "No Irrigation" was reported for the years 2018 through 2023.

So, I made a field trip to confirm that nothing was being done to comply with the permit requirements.

I met with Mr. John ^{Zuhlke}Sewerd, owner of the property, who responded to the telephone number (605/651-0423) on the Permit Application. A tour of the property revealed the absence of an irrigation system (no pump, no delivery pipe, etc.), but there is a greenhouse, a garden and an orchard on the property. Mr. Sewerd said that he had a floating platform pump in the Medary Creek at onetime but that flood water took it away.

There is evidence of a partially completed, excavated water holding reservoir in place on the north end of the property. The intent is to store Medary Creek water in the reservoir during times of high flow and to be a source of irrigation water during low flows. This still needs work on a proposed lining to prevent the loss of water into the gravelly substrate.

I told Mr. Sewerd that the Water Rights Office would be in contact with him in the future regarding the permit.

A map of the property was constructed using an FSA photograph and the ArcGIS software.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: June 6, 2024

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: John Zuhlke, 47750 214th St, Aurora SD 57002

DATE: 6/12/2024

TELEPHONE: 605.651.0423

RE: Construction progress & beneficial use

COMMENTS:

After reviewing Darrell's inspection report for Permit No. 8340-3, I spoke with Ron Duvall. We came to the agreement that since Zuhlke's did have a floating pump in place (until it was washed away by a flood), along with an orchard and greenhouse, the argument for non-construction could not be made. We decided to allow Zuhlke's the opportunity to continue working on the system until the date for beneficial use had passed.

I called John and informed him of the Water Rights Program's decision to allow development to continue under Permit No. 8340-3. I made sure that he understood that if the system was not fully developed by May 2027, the permit would either be cancelled, or licensed for what had been developed by that time.

We also discussed the partially completed dugout that Darrell noted in his inspection report. John confirmed that he was going to have to install a clay liner, to prevent all the water from seeping out. I did tell Mr. Zuhlke that the liner would act as a barrier between the surface water source the permit it approved for, and the groundwater table. He understood that if the liner is not installed when an inspection is conducted after the beneficial use date, a new application would be required for the groundwater source.

Summary: Come back to complete the inspection after May 2027. License the system as it's developed... If the dugout is found to not have a liner, an application will need to be made for the intermixing groundwater source. Pursue cancellation if no progress has been made



Amanda Dewell
Water Rights Program

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8340-3

I have this day, June 4, 2024, made a thorough examination of the water use system constructed by Lisa Zuhlke, 47750 214th St, Aurora, SD 57002 of Permit No. 8340-3, bearing the priority of March 26, 2018 authorizing the diversion of 0.038 cu. ft. per second of the waters of the Medary Creek for irrigation purposes, in Brookings County.

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I was reviewing permits in the immediate area of where I live and noticed that this permit had a construction requirement of May 29, 2023. A review of the Irrigation Questionnaires submitted to the State showed that "No Construction" had been completed or "No Irrigation" was reported for the years 2018 through 2023.

So, I made a field trip to confirm that nothing was being done to comply with the permit requirements.

I met with Mr. John Sewerd, owner of the property, who responded to the telephone number (605/651-0423) on the Permit Application. A tour of the property revealed the absence of an irrigation system (no pump, no delivery pipe, etc.), but there is a greenhouse, a garden and an orchard on the property. Mr. Sewerd said that he had a floating platform pump in the Medary Creek at onetime but that flood water took it away.

There is evidence of a partially completed, excavated water holding reservoir in place on the north end of the property. The intent is to store Medary Creek water in the reservoir during times of high flow and to be a source of irrigation water during low flows. This still needs work on a proposed lining to prevent the loss of water into the gravelly substrate.

I told Mr. Sewerd that the Water Rights Office would be in contact with him in the future regarding the permit.

A map of the property was constructed using an FSA photograph and the ArcGIS software.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: June 6, 2024



8340-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2026

NOTICE

TO: LISA ZUHLKE, 47750 214TH ST, AURORA, SD 57002

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8340-3. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 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) 8340-3 qualification:

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

The hearing will be held on **Wednesday, March 4, 2026 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) 8340-3 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 4, 2026** 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 Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: RMFTLH**

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.