

WATER PERMIT NO. 8386-3

Name of Applicant: **Steve and Lori Breeding**

Address: **23825 Hwy 50, Chamberlain SD 57325**

Phone: **605 680-0763**

Amount of Water Claimed: **3.34 cfs**

Total Acres: **174 acres**

Source of Water Supply: **Missouri River**

Water to be used for: **irrigation**

County: **Buffalo**

Type of Waste Disposal System:

Location: **approximately 6 miles southeast of Ft. Thompson**

PRIORITY Date Received: **12-19-18**

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

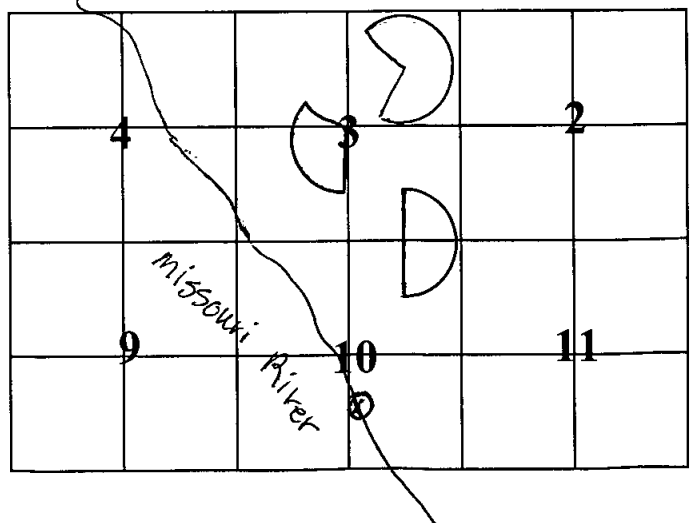
Corrected Application Received:

Period of Annual Use: **April 1 – September 30**

Remarks: **Adding acres and increasing pump rate to what is currently authorized by Water Right Nos. 2619-3 and 2573A-3**

Diversion Point: **NW 1/4 SE 1/4 Sec 10-T106N-R71W**

Land to be Irrigated: **NE 1/4 SW 1/4, SE 1/4 NW 1/4, NE 1/4 Sec 3 and NE 1/4 NE 1/4 Sec 10; all in T106N-R71W**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by: **Eric Gronlund**

Reviewed and the Number Assigned on: **12-20-18**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

RECEIVED

DEC 19 2018

WATER RIGHTS
PROGRAM

PAID

DEC 20 2018

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8386-3</u> (office use only) Hydrologic Unit <u>10140101</u>
	Basin <u>Missouri River</u>
	Newspaper <u>Central Dakota Times, Chamberlain</u> <u>Capital Journal, Pierre</u>

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. Ck# 5334
(Use predates Mar 2, 1955)

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

additional diversion rate authority and acres irrigated to what is authorized by Water Right Nos. 2573A-3 and 2619-3

1. Name to Appear on Irrigation Permit Steve and Lori Breeding

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

Mailing Address 23825 Hwy 50 Chamberlain SD 57325
(Address) (City) (State) (Zip Code)

Phone 605 234-6706 Mobile 605 680-0763 Email _____

2. Amount of water claimed 3.34 *CFS or 1,500 **GPM ***AF Total Acreage 174 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 River

4. Location of point of diversion existing pump station - NW 1/4 SE 1/4 Section 10-T106N-R71W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Buffalo5. County or counties where water will be used Buffalo6. Annual period during which water is to be used April 1 - September 30

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

Land Description	Acres	Land Description	Acres
NE 1/4 SW 1/4 Section 3-T106N-71W	36	NW 1/4 NE 1/4 Section 3-T106N-71W	6
SE 1/4 NW 1/4 Section 3-T106N-71W	6	NE 1/4 NE 1/4 Section 3-T106N-71W	31
SE 1/4 SE 1/4 Section 3-T106N-71W	33	SW 1/4 NE 1/4 Section 3-T106N-71W	2
NE 1/4 NE 1/4 Section 10-T106N-71W	33	SE 1/4 NE 1/4 Section 3-T106N-71W	21

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

NW 1/4 SE 1/4 Section 3-T106N-71W - 2 acres NE 1/4 SE 1/4 Section 3-T106N-71W - 4 acres

Adding acres and increasing pump rate to what is currently authorized for irrigation under Water Right Nos. 2619-3 and 2573A-3. Total pump rate will be 8.35 cfs (3,750 gpm). This is over the statutory limit but is due to two of the pivots making partial rotation.

I, SB Breeding, the applicant, certify under
Name of Person Title (if applicable)

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

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

SOUTH DAKOTA
WATER PERMIT NO. 8386-3

Date of first receipt of application December 19, 2018.

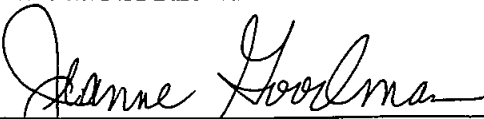
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8386-3 to Steve and Lori Breeding, 23825 Hwy 50, Chamberlain SD 57325 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8386-3 authorizes an additional 3.34 cubic feet of water per second (cfs) and to irrigate 174 additional acres to what is authorized by Water Right Nos. 2573A-3 and 2619-3. Water Right Nos. 2573A-3 and 2619-3, combined, appropriate 5.01 cfs from the Missouri River located in the NW 1/4 SE 1/4 Section 10 for irrigation of 351 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4, SE 1/4 NE 1/4, W 1/2 SE 1/4, NE 1/4 SE 1/4 Section 3; NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4 Section 10; all in T106N-R71W. This permit authorizes an additional 3.34 cfs from the existing Missouri River diversion point to irrigate 174 additional acres located in the NE 1/4 SW 1/4, SE 1/4 NW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, NE 1/4 Section 3 and NE 1/4 NE 1/4 Section 10; all in T106N-R71W. The permit holder is authorized a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This permit and Nos. 2573A-3 and 2619-3 will authorize a total diversion of 8.35 cfs for irrigation of 525 acres. The site is located approximately 6 miles southeast of Ft. Thompson 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: April 1 – September 30.
3. The date from which applicant may claim right is December 19, 2018 (3.34 cfs and 174 acres).
4. The date of approval of Permit No. 8386-3 is February 19, 2019.
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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Water Right Nos. 2573A-3, 2619-3 and Water Permit No. 8386-3, combined, authorize a maximum diversion rate of 8.35 cfs for the irrigation of 525 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 

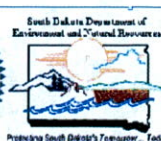
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 13 2019

date



APPLICATION FOR ADDITIONAL ACRES AND DIVERSION RATE AUTHORITY
FILED BY STEVE AND LORI BREIDING



Eric Gronlund

ERIC GRONLUND
WATER RIGHTS PROGRAM
DECEMBER 19, 2018
BASED ON REPRESENTATION BY
STEVE & LORI BREIDING

Sec 33
T107N
R71W

Sec 34
T107N
R71W

yellow - 2619-3

blue - 2573A-3

Sec 4
T106N
R71W

Sec 3
T106N
R71W

Sec 2
T106N
R71W

Sec 9
T106N
R71W

Sec 10
T106N
R71W

Sec 11
T106N
R71W

Sec 16
T106N
R71W

Sec 15
T106N
R71W

Sec 14
T106N
R71W

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Application filed by Steve & Lori Breeding

ADDRESS: 23825 Hwy 50, Chamberlain SD 57325 COUNTY: Buffalo County

DATE: December 19, 2018 TELEPHONE:

RE: Application

Mr. and Mrs. Breeding came into the office to file an application to increase the pump rate and acres irrigated under Water Right Nos. 2573A-3 and 2619-3. In reviewing the file in preparation for them coming into the office, it was apparent that two parcels we being irrigated that were not currently covered under the two existing water rights.

The NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 3-T106N-R71W is being covered by the rotation of a pivot. Looking at the plat book it is listed as "Allotment" land meaning tribal ground that the state would not assert jurisdiction. However, when in the office, The Breeding's indicated they have purposed the land so it is now deeded ground held by a non-tribal member. Therefore, it was included on the application.

Also the land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3 and NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10; all in T106N-R71W is being irrigated. It was originally included in Water Permit No. 2573-3 but at the time of licensing was omitted from the license. The reason is unclear but is may be that it was allotment. Mrs. Breeding indicated the Wesley Isburg Trust now holds the deed for most of that ground but there is a small portion that is an undivided interest held as trust ground. Mr. and Mrs. Breeding decided to include all the ground in this application. Mrs. Breeding is the trustee for the Wesley Isburg Trust.

NAME: Eric Isburg

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date **December 19**, 20**18**

RECEIVED OF **Breeding Farms 23825 Hwy 50 Chamberlain SD 57325**

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

Fee for Application for Permit No. <u>8386-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	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>8386-3</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	1050 00

No. **08866**

By

Jeanne Goodman
Chief Engineer



**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. 8386-3, Steve and Lori Breeding**

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. 8386-3, Steve and Lori Breeding, 23825 Hwy 50, Chamberlain SD 57325.

The Chief Engineer is recommending APPROVAL of Application No. 8386-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Water Right Nos. 2573A-3, 2619-3 and Water Permit No. 8386-3, combined, authorize a maximum diversion rate of 8.35 cfs for the irrigation of 525 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
2. 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
January 29, 2019

Report to the Chief Engineer
Water Permit Application No. 8386-3

Steve and Lori Breeding

23825 Hwy 50

Chamberlain, SD 57325

January 14, 2019

Water Permit Application No. 8386-3 proposes to appropriate an additional 3.34 cubic feet of water per second (cfs) from the Missouri River to irrigate 174 additional acres to what is authorized by Water Right Nos. 2573A-3 and 2619-3. Water Right Nos. 2573A-3 and 2619-3, combined, appropriate 5.01 cfs from the Missouri River located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10 for irrigation of 351 acres located in the E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3; NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10; all in T106N-R71W. This application proposes to appropriate an additional 3.34 cfs from the existing Missouri River diversion point to irrigate 174 additional acres located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ Section 3 and NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10; all in T106N-R71W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This application, if approved, and Nos. 2573A-3 and 2619-3 will authorize a total diversion of 8.35 cfs for irrigation of 525 acres. The site is located approximately 6 miles southeast of Ft. Thompson, SD in Buffalo County.

Review of Water Source

The water source for this project is from the natural flow of the Missouri River flowing through Lake Francis Case in the reach impounded behind Ft. Randall Dam. The US Army Corps of Engineers constructed Ft. Randall Dam impounding Lake Francis Case in the 1950s as a part of a six reservoir Pick-Sloan project for the Missouri River. The six project dams, Ft. Peck, Garrison, Oahe, Big Bend, Ft. Randall, and Gavins Point, are operated as a system providing storage and water releases for Congressionally authorized purposes, including irrigation. Specifically Lake Francis Case impounds approximately 5.4 million acre-feet of water with normal operations. Natural flow in an in-stream reservoir system like the Missouri River mainstem system is the volume of water moving past a point along a river that is not augmented by artificial releases from the storage. When there is an excess of natural flow the excess can be used to fill empty storage space in the instream reservoir and typically occurs during spring run-off. The natural flow of the Missouri River is available for appropriation without the need for releases from storage in the reservoirs to augment the natural flow.

The flow hydrograph of the Missouri River in South Dakota has been altered in the past 60 to 70 years due to the presence of the Missouri River mainstem reservoir system, with excess natural flow going into storage and stored water released to supplement flows. The USGS, in a 2001 research study, made an estimation of the Missouri River natural flows at locations on the river approximately 95 miles upstream at Oahe Dam and 170 miles downstream from this project at Gavins Point Dam (Jacobson et. al. 2001). A percentile hydrograph displaying the daily 50, 25

and 10 percentile flows corresponding to drier climatic conditions, can be derived from this study for the Missouri River at Oahe Dam (Figure 1). A percentile is a measure used in statistics to indicate the value below which a given percentage of observations in a group of observations fall, in this case daily flow. The Missouri River natural flow percentile hydrograph shows a double peak for the three percentile levels shown. The first March-April peak corresponds to the snowpack and spring rains runoff from plains of Montana, Wyoming, North Dakota and South Dakota. The second June peak corresponds to snow run off from the mountains in Wyoming and Montana and from upstream summer thunderstorms. Considering the 10th percentile hydrograph, corresponding to the daily flow values at or below this level on average one out of ten years, demonstrates there is ample natural flow available, if this project is approved, during the irrigation season of April through September.

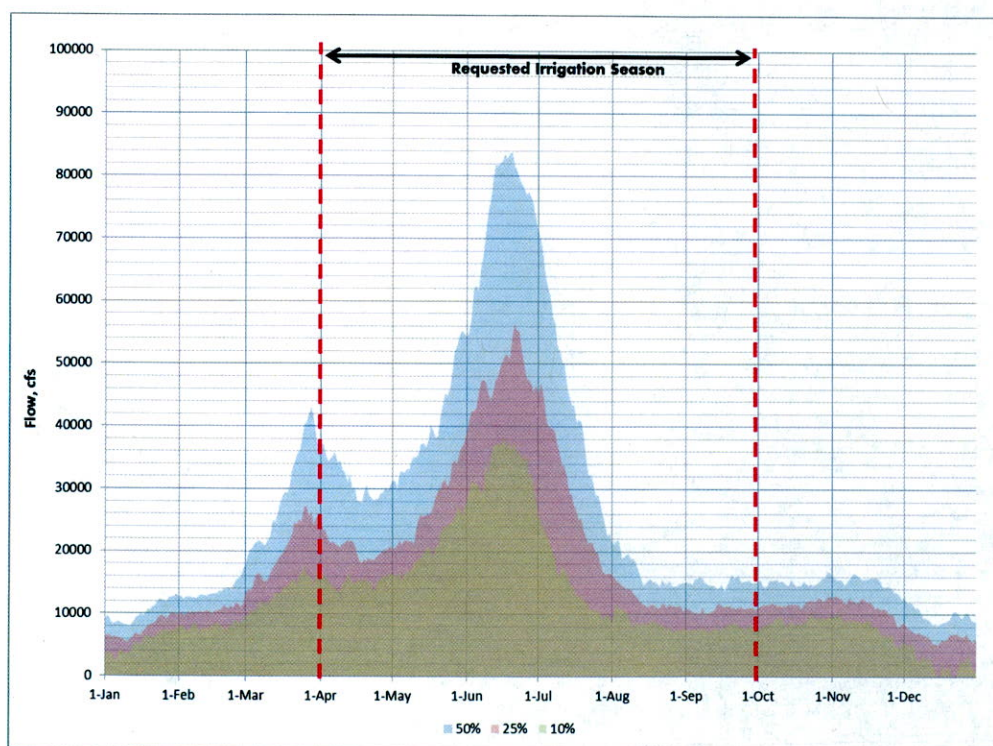


Figure 1 - Natural Flow Hydrograph for the Missouri River at Oahe Dam. (Jacobson, 2012)

A percentile hydrograph displaying the daily 50, 25 and 10 percentile flows corresponding to drier climatic conditions, can also be derived from this study for the Missouri River at a point near Gavins Pt Dam (Figure 2). This natural flow percentile hydrograph shows a similar double peak for the three percentile levels shown. The first April peak corresponds to the snowpack and spring rains runoff from the plains of Montana, Wyoming, North Dakota and South Dakota. The second June peak corresponds to snow run off from the mountains in Wyoming and Montana and from upstream summer thunderstorms. Considering the 10th percentile hydrograph, corresponding to the daily flow values at or below this level on average one out of ten years,

demonstrates there is ample natural flow available, if this project is approved, during the irrigation season of April through September.

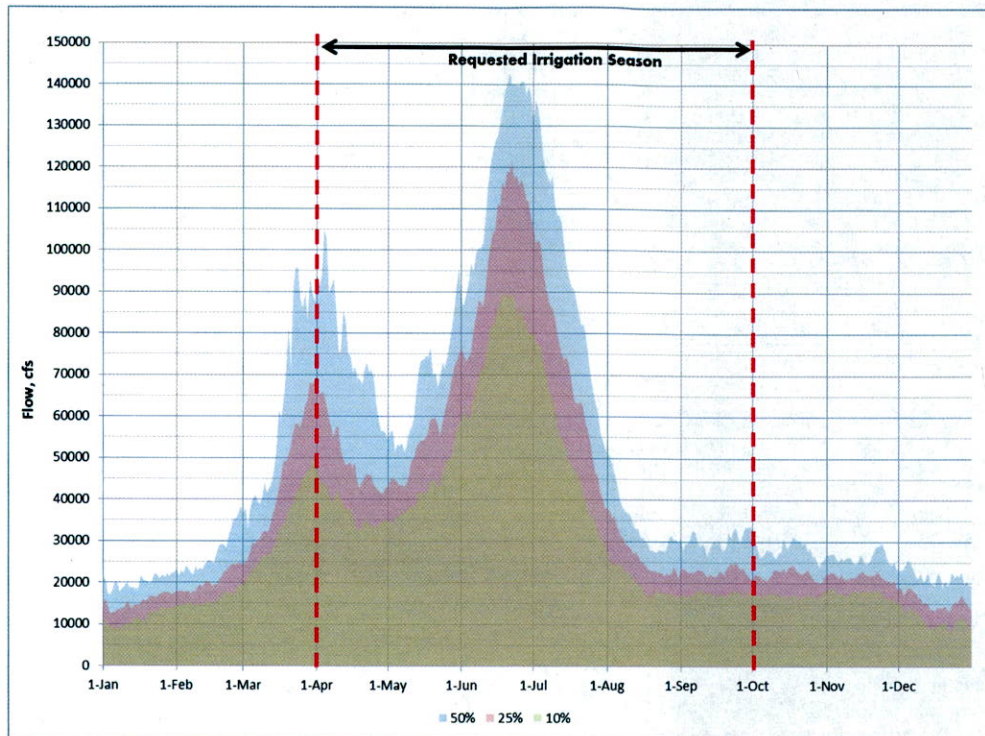


Figure 2 - Natural Flow Hydrograph for the Missouri River at Gavins Point Dam. (Jacobson, 2012)

Even at the 10th percentile flow, both hydrographs demonstrate that there is ample natural flow available, if this project is approved. Water availability is not a concern when using the natural flows of the Missouri River as a water source.

Review of Proposed Project and Existing Water Rights

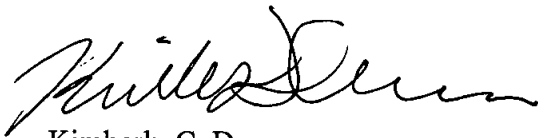
The applicant currently holds Water Right Nos. 2619-3 and 2573A-3 authorizing the diversion of 5.01 cfs from the Missouri River River located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10 for irrigation of 351 acres located in the E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3; NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10; all in T106N-R71W. If approved, the combined diversion rate from the Missouri River would be 8.35 cfs to irrigate a total of 525 acres.

The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. South Dakota Codified Law (SDCL) 45-5-6 states the Water Management Board may allow a greater diversion of water than the statutory limit of 1 cfs per 70 acres if the method of irrigation, any time constraints on diversion of water, or the type of soil requires. Due to the configuration of the irrigation systems, the applicant requests an additional 3.34 cfs from the existing diversion point authorized under Water Right No. 2573A-3 for the irrigation of 174 additional acres.

There are 136 existing water rights/permits appropriating 421.93 cfs of water from the Missouri River downstream from the diversion point for Water Permit Application 8386-3. Since water availability is not an issue, approval of Application No. 8386-3 would not adversely affect downstream water rights (SD Water Rights. 2019).

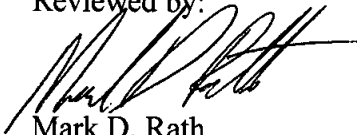
Conclusions

1. Water Permit Application No 8386-3 proposes an additional 3.34 cfs utilizing the existing diversion point authorized under Water Right 2573A-3 from the natural flows of the Missouri River for irrigation of 174 additional acres.
2. This application, if approved, combined with Water Right Nos. 2573A-3 and 2619-3 will authorize a total of 8.35 cfs for irrigation of 525 acres.
3. The applicant has requested a diversion rate greater than the statutory limit of 1 cfs per 70 acres due to the configuration of the irrigation systems.
4. The Missouri River is known to have ample supplies of non-appropriated water available.
5. If approved, Application No. 8386-3 would not adversely affect downstream water rights/permits.



Kimberly C. Drennon
Natural Resources Engineer I

Reviewed by:



Mark D. Rath
Natural Resources Engineer III

References

- Jacobson R.B. and Heuser J. 2001. Visualization of Flow Alternatives, Lower Missouri River
U.S. Geological Survey Open-file Report OF02-122. U.S. Geological Survey.
- SD Water Rights. 2019. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss
Bldg., Pierre, SD.

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FEB 21 2019

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Hughes) SSI, Marilynn Bakercertify that the attached printed Notice was taken
from the Capital Journalprinted and published in PierreCounty of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following date:

2-19-19Cost of Printing \$ 42.84Marilynn Baker
(Signature)Business Manager
(Title)2-19-19
(Date Signed)

WEDNESDAY FEBRUARY 6, 2019 A6

Legal Notices

SNAXLP 16886
11dy 2/6NOTICE OF
APPLICATION
NO. 8385-3 to Appropriate
Water

Notice is given that Steve and Lori Breeding, 23825 Hwy 50, Chamberlain, SD 57325 has filed an application for a water permit to appropriate an additional 3.34 cubic feet of water per second (cfs) and to irrigate 174 additional acres to what is authorized by Water Right Nos. 2573A-3 and 2619-3. Water Right Nos. 2573A-3 and 2619-3, combined, appropriate 5.01 cfs from the Missouri River located in the NW 1/4 SE 1/4 Section 10 for irrigation of 351 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4, SE 1/4 NE 1/4, W 1/2 SE 1/4, NE 1/4 SE 1/4, Section 3; NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4 Section 10; all in T106N-R71W. This application proposes to appropriate an additional 3.34 cfs from the existing Missouri River diversion point to irrigate 174 additional acres located in the NE 1/4 SW 1/4, SE 1/4 NW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4 NE 1/4 Section 3 and NE 1/4 NE 1/4 Section 10, all in T106N-R71W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This application, if approved, and Nos. 2573A-3 and 2619-3 will authorize a total diversion of 8.35 cfs for irrigation of 525 acres. The site is located approximately 6 miles southeast of Ft. Thompson, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8385-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unduly 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 Grunkord 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 (605 773-3332)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 19, 2019.

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. Primer,
Secretary
Department of Environment
and Natural Resources

Published once at the total
approximate cost of \$42.84.

AFFIDAVIT OF PUBLICATION

RECEIVED

FEB 08 2019

WATER RIGHTS
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State of South Dakota

ss.

County of Brule

Debi Ruiz of said county, being first duly sworn, on oath, says: That she is the publisher of *Central Dakota Times*, a weekly newspaper, published in the City of Chamberlain, in said County of Brule and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Brule and State of South Dakota, for at least one year next prior to the first publication of the attached public notice and that the Notice of Application No. 8386-3

To appropriate water
a printed copy of which, taken from the paper in which the same was published and which is hereto attached and made a part of this affidavit, was published in said newspaper for one successive week(s) to wit:

February 6, 2019; _____, 20____;
_____, 20____; _____, 20____;
_____, 20____; _____, 20____;

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; 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:

\$30.02
Signed: Debi Ruiz

Subscribed and sworn to before me this 7th day

of February, 2019.
Janet L. Petrak
Notary Public In and For The County of Brule,
South Dakota

NOTICE OF APPLICATION NO. 8386-3 TO APPROPRIATE WATER

Notice is given that Steve and Lori Breeding, 23825 Highway 50, Chamberlain, SD 57325 has filed an application for a water permit to appropriate an additional 3.34 cubic feet of water per second (cfs) and to irrigate 174 additional acres to what is authorized by Water Right Nos. 2573A-3 and 2619-3. Water Right Nos. 2573A-3 and 2619-3, combined, appropriate 5.01 cfs from the Missouri River located in the NW 1/4 SE 1/4 Section 10 for irrigation of 351 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4, SE 1/4 NE 1/4, W 1/2 SE 1/4, NE 1/4 SE 1/4 Section 3; NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4 Section 10; all in T106N-R71W. This application proposes to appropriate an additional 3.34 cfs from the existing Missouri River diversion point to irrigate 174 additional acres located in the NE 1/4 SW 1/4, SE 1/4 NW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, NE 1/4 Section 3 and NE 1/4 NE 1/4 Section 10; all in T106N-R71W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This application, if approved and Nos. 2573A-3 and 2619-3 will authorize a total diversion of 8.35 cfs for irrigation of 525 acres. The site is located approximately six miles southeast of Fort Thompson, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8386-3 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 East 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 Feb. 19, 2019.

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

JANET L. PETRAK
Notary Public
SEAL
South Dakota

My commission expires June 5, 2022.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, January 29, 2019 9:51 AM
To: legals@capjournal.com
Subject: 8386-3, Steve and Lori Breeding
Attachments: 8386-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on February 6, 2019

Steve and Lori Breeding, 23825 Hwy 50, Chamberlain SD 57325 (605 234-6706 or 605 680-0763) have 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, January 29, 2019 9:50 AM
To: cdt@midstatesd.net
Subject: 8386-3, Steve and Lori Breeding
Attachments: 8386-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on February 6, 2019

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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

denr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

January 29, 2019

Steve and Lori Breeding
23825 Hwy 50
Chamberlain SD 57325

Dear Mr. & Mrs. Breeding:

Water Permit Application No. 8386-3 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 Central Dakota Times printed at Chamberlain SD (Ph # 605 234-0266) and the Capital Journal printed at Pierre SD (Ph # 605 224-7301). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers 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. 8386-3 to Appropriate Water

Notice is given that Steve and Lori Breeding, 23825 Hwy 50, Chamberlain SD 57325 has filed an application for a water permit to appropriate an additional 3.34 cubic feet of water per second (cfs) and to irrigate 174 additional acres to what is authorized by Water Right Nos. 2573A-3 and 2619-3. Water Right Nos. 2573A-3 and 2619-3, combined, appropriate 5.01 cfs from the Missouri River located in the NW 1/4 SE 1/4 Section 10 for irrigation of 351 acres located in the E 1/2 NW 1/4, W 1/2 NE 1/4, SE 1/4 NE 1/4, W 1/2 SE 1/4, NE 1/4 SE 1/4 Section 3; NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4 Section 10; all in T106N-R71W. This application proposes to appropriate an additional 3.34 cfs from the existing Missouri River diversion point to irrigate 174 additional acres located in the NE 1/4 SW 1/4, SE 1/4 NW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, NE 1/4 Section 3 and NE 1/4 NE 1/4 Section 10; all in T106N-R71W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This application, if approved, and Nos. 2573A-3 and 2619-3 will authorize a total diversion of 8.35 cfs for irrigation of 525 acres. The site is located approximately 6 miles southeast of Ft. Thompson SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8386-3 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 February 19, 2019.

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
<http://denr.sd.gov>

MAR 13 2019

Steve and Lori Breeding
23825 Hwy 50
Chamberlain SD 57325

Dear Mr. & Mrs. Breeding:

Enclosed is Water Permit No. 8386-3 authorizing changes to your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Sincerely,

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

8386-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 23, 2023

Steve & Lori Breeding
23825 Hwy 50
Chamberlain SD 57325

8386-3

Dear Mr. & Ms. Breeding:

I am writing in regard to your Water Permit No. 8386-3. The water permit authorizes diversion of water from the Missouri River, for the irrigation of 174.0 acres within Sections 3 & 10, T106N, R71W.

In reviewing your 2022 irrigation questionnaire, we have found discrepancies in the amount of water used and have some concerns. Enclosed is a copy of your questionnaire for reference purposes.

Water Permit No. 8386-3 allows you to use up to two acre-feet (ac-ft) (24 inches) of water, per acre, per year. On the questionnaire you reported substantially more water use. The following information is what was reported and what is authorized:

- 174 acres irrigated
- Reported water use – 613.2 ac-ft of water (approximately 42 inches)
- Authorized water use – 348 acre-feet (174 acres x 2 ac-ft per year)

We realize that water use depends greatly on climactic conditions and may vary year to year. However, it is very rare that irrigators come close to the 24 inches per acre that is authorized. Typical water use is between 8 and 12 inches per acre. Often, irrigators do not keep track of their days or hours actually pumped and estimate numbers for the questionnaires in an effort to get them completed and back in on time. While we appreciate returning the forms in a timely manner each year, we need the forms to reflect accurate information to ensure everyone is limiting their use to the amount of water appropriated to them.

The information we receive each year from irrigators across the state is very valuable. The water use data supplied by irrigators is one of the tools we use to help determine whether an aquifer or stream is nearing full appropriation.

If you do in fact apply as much water as claimed on your questionnaire, you are exceeding the limits of your water permit and will have to reduce your discharge to stay within the authorized limit. If you simply estimated your water use, we ask that you please ensure the information reported is as accurate as possible. As stated before, the information you provide to us is very valuable. If you have any questions, please contact me.

Sincerely,

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