

WATER PERMIT NO. 8401-3

Name of Applicant: L. G. Everist Inc.

Address: 350 S Main Ave, Suite 400, Sioux Falls SD 57104

Phone: 605 330-6570

Amount of Water Claimed: 2,210 AF

Total Acres: NA

Source of Water Supply: runoff and ground from pond/dugout

Water to be used for: industrial use

County: Brookings

Type of Waste Disposal System:

Location: southeast edge of Brookings along 1-90

PRIORITY

Date Received: 5-20-19

Application/License Fee: \$ 2,450.00

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks: wash/process sand & gravel into construction aggregate and dust suppression

Diversion Point: NW 1/4 NE 1/4 Sec 31-T110N-R49W

Land to be Irrigated: NA

Depth of Well:

Well Driller:

Remarks:

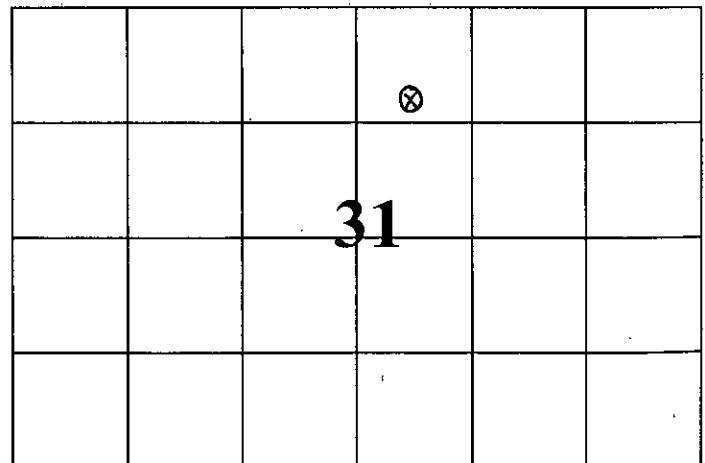
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 5-20-19

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 8401-3**

Date of first receipt of application May 20, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8401-3 to L.G. Everist Inc., c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 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. 8401-3 appropriates and places to beneficial use 2,210 acre-feet of water annually at a maximum pump rate of 13.37 cubic feet of water per second from runoff and groundwater from one pond/dugout located in the NW 1/4 NE 1/4 Section 31-T110N-R49W. The water source is considered the Big Sioux:Aurora aquifer (20 feet deep) due to the fact the pond was created by previous extraction of sand and gravel that is incised into the aquifer. The water is for industrial use to wash aggregate material and dust suppression for the plant located in the NE 1/4 Section 31-T110N-R49W. Water is recycled by discharging to a settling pond prior to reuse. While 2,210 acre feet of water is annually pumped and placed to beneficial use, due to recycling/reuse it is estimated that 50 acre feet of water annually will be consumptively used. The operation is located on the southeast edge of Brookings along I-29.
2. The water appropriated shall be used for the purpose of industrial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 8401-3 is August 19, 2019.
5. The date from which applicant may claim right is May 20, 2019.
6. One-fifth of the construction is to be completed on or before February 19, 2022.
7. All construction is to be completed on or before August 19, 2024.
8. Water is to be put to beneficial use on or before August 19, 2028.
9. 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 pond/dugout is excavated into the water table and will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner of this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8401-3 authorizes a total consumptive annual diversion of 50.0 acre feet of water from the Big Sioux:Aurora aquifer.

WATER MANAGEMENT BOARD

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

AUG 23 2019

date



PAID

MAY 20 2019

Ck# 227054

RECEIVED

MAY 20 2019

WATER RIGHTS

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8401-3</u> (office use only) Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>
	Newspaper <u>Brookings Register</u>

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☒ Industrial	☐ Other	

Type of Application:
(check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

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

1. Name to Appear on Water Permit L.G. Everist, Inc. c/o Chris Klein

Mailing Address 350 S Main Ave, Suite 400 Sioux Falls SD 57104
(Address) (City) (State) (Zip Code)

Phone (605) 330-6570 Mobile _____ Email cmklein@lgeverist.com

2. Amount of water claimed 13.37 *CFS or 6,000 **GPM and 2,210 ***AF or 720,000,000 Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply Groundwater from pond/dugout

4. Location of point of diversion SE1/4 NW1/4 NE1/4, S31-T110N-R49W County Brookings
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No

If "Yes," where will water be used? _____

(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Brookings

6. Annual period during which water is to be used January - December

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Water is used to wash/process sand & gravel into construction aggregate. Water source is a pond that has been created through previous extraction of sand & gravel - average depth is 20'. One turbine pump is used to pump water to the processing plant for washing the aggregate, where it is then diverted to a settling pond before being recycled to the water pond for re-use. Water is also used for dust control.

I, Chris Klein Mine Planning/Regulatory Manager, 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.

2015-10

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)

Supplemental Information

(type or print)

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

- a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)
- b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

- c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____
- d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) ____
- b) System Capacity (gallons) ____ Year Constructed ____
- c) Connected to the City of ____ Sanitary System

3. Dugout Information

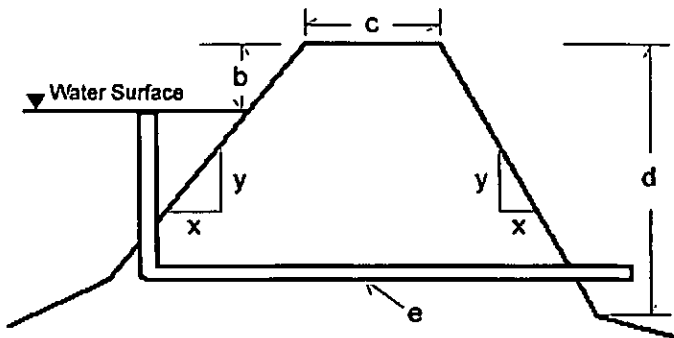
- a) Surface Dimensions 1,440' x 1,670' Depth 20'
- b) Depth to water (ground surface to water level) 5'

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





DRAWN BY C. KLEIN DATE 03/16/2018 SCALE 1:750	Brookings, SD Water Rights Location Of Pump L.G. EVERIST, INC. AGGREGATE PRODUCERS SIOUX FALLS, SD (605) 334-5000	DRAWING NO. 1	REV. △
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RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 20

, 2019

RECEIVED OF L.G. Everist, Inc. 350 S Main Ave, Ste 400 Sioux Falls SD 57104

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

Fee for Application for Permit No. <u>8401-3</u> to Appropriate Water, to construct and to put water to beneficial use	2250	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>8401-3</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	2450 00

No. **09148**

By Jeanne Godman
Chief Engineer *Jm*



530755665

B0094-4990 03/18/2019 3:26PM Rec'd by SD SOS

Secretary of State
500 E. Capitol Ave
Pierre, SD 57501-5070
(605) 773-4845

2019
FILING YEAR

ANNUAL REPORT

Foreign Business Corporation
SDCL 59-11-24, 24.1

Please Type or Print Clearly in Ink
Please submit one Original
Make payable to the SECRETARY OF STATE

Filing Fee: \$50

Total Fee: \$50

1. Business ID and Name:

FB000327
BUSINESS ID

L. G. EVERIST, INCORPORATED
BUSINESS NAME

2. The jurisdiction under whose law it is formed IOWA

3. The address of the principal executive office (business address):

Actual Street Address

**350 SOUTH MAIN AVENUE, SUITE 400
SIOUX FALLS, SD 57104**

Mailing Address

**350 SOUTH MAIN AVENUE, SUITE 400
SIOUX FALLS, SD 57104**

4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, (b) a commercial registered agent, or (c) an office holder.

(c) Title of the office or other position with the company

Title: **President**

Actual Street Address in this State

**350 SOUTH MAIN AVENUE SUITE 400
SIOUX FALLS, SD 57104**

Mailing Address in this State

**350 SOUTH MAIN AVENUE SUITE 400
SIOUX FALLS, SD 57104**

5. The names and business addresses of its principal officers.

Title	Name	Address
President	ROBERT EVERIST	350 South Main Avenue, Suite 400, SIOUX FALLS, SD, 57104
Secretary	STEVE MOUSEL	350 South Main Avenue, Suite 400, SIOUX FALLS, SD, 57104
Treasurer	STEVE MOUSEL	350 South Main Avenue, Suite 400, SIOUX FALLS, SD, 57104

6. The names and business addresses of its directors (governors).

Name	Address
RICHARD EVERIST	350 South Main Avenue, Suite 400, SIOUX FALLS, SD, 57104

7. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.

No person may execute this report knowing it is false in any material respect. Any violation may be subject to a civil and/or criminal penalty (SDCL 47-1A-129; 22-39-36).

Gronlund, Eric

From: Chris Klein <cmklein@LGEVERIST.com>
Sent: Tuesday, May 21, 2019 10:49 AM
To: Gronlund, Eric
Cc: Schlaak, Karen
Subject: RE: [EXT] LG Everist water permit application

Eric –

You presume correctly – the 720 million would represent all water pumped, so it would include both consumptive and non-consumptive usage. Unfortunately we do not have an estimate for any portion of the consumptive losses, other than it would be very minimal as compared to the overall total.

Just let me know if you have any other questions.

Thanks.



CHRIS KLEIN, L.G. Everist, Inc. – Mine Planning & Regulatory Manager
350 S Main Ave, Suite 400, Sioux Falls, SD 57104
605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com
SAFE...RELIABLE...PRODUCTIVE

From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Tuesday, May 21, 2019 9:42 AM
To: Chris Klein <cmklein@LGEVERIST.com>
Cc: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: LG Everist water permit application

Chris:

The Water Rights Program is in receipt of LG Everist's water permit application along I-29 at Brookings. The application seeks a pump rate of 6,000 gpm and an annual volume of 720 million gallons. The application indicates that water will be pumped for washing purposes, then diverted to a settling pond prior to being recycled for reuse. So to an extent the water use will be non-consumptive except for the process losses, evaporation losses and the water used for dust control.

I presume the annual volume of 720 million gallons listed in the application represents the amount of water pumped (both the consumptive and non-consumptive use). Does LG Everist have an estimate of the amount of water that will be consumptively used OR is the 720 million gallons represent the consumptive use of what is diverted.

Please let me know if you have questions regarding what I am asking.

Eric Gronlund
Water Rights Program, DENR
605 773-3352 (direct 605 773-4062)
Eric.gronlund@state.sd.us

Roger

I copied two of the big sheets from the Drainage File No 151. It took ten 8.5 X 11 sheets to fully copy each of those sheets. As you can see from the attachments the quality of the copies are not the best. I'll let you decide how you want to proceed.

Mark

Gronlund, Eric

From: Gronlund, Eric
Sent: Monday, July 22, 2019 10:56 AM
To: 'Chris Klein'
Subject: RE: [EXT] LG Everist Water Permit application along I-29

My mistake – the 14.67 million gallon equates to 45 acre feet. So the 50 acre feet is the volume factoring in the 10 percent.

Sorry – too many things going on! Eric

From: Chris Klein [<mailto:cmklein@LGEVERIST.com>]
Sent: Monday, July 22, 2019 10:37 AM
To: Gronlund, Eric
Subject: RE: [EXT] LG Everist Water Permit application along I-29

We do not have a problem having a 10% factor of safety – would that be beyond the 50 acre feet or is that factored into it? I only ask as you have 50 in both cases below.



CHRIS KLEIN, L.G. Everist, Inc. – Mine Planning & Regulatory Manager
350 S Main Ave, Suite 400, Sioux Falls, SD 57104
605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com
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From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Monday, July 22, 2019 10:24 AM
To: Chris Klein <cmklein@LGEVERIST.com>
Subject: RE: LG Everist Water Permit application along I-29

Thanks for the estimate.

The 14.67 million gallons per year equates to 50 acre feet of water annually. To give a factor of safety, DENR suggest the annual consumption appropriation be 50 acre feet of water annually (this provides about a 10 percent “factor of safety”). Does LG Everist concur? Eric

From: Chris Klein [<mailto:cmklein@LGEVERIST.com>]
Sent: Monday, July 22, 2019 9:26 AM
To: Gronlund, Eric
Cc: Lance Pollman; Reed Schade
Subject: RE: [EXT] LG Everist Water Permit application along I-29

Eric –

Here's the best we can give you:

Water Truck

An average of 1 load per day, 5 days per week, 4 months per year

4,000gal/load x 5 load/week x 4 weeks/month x 4 months/year

320,000 gal/year

Evaporation

Average product washed moisture content on a conveyor belt is 10% and there's an average of 3% residual moisture in stockpiles, which leaves 7% to calculate from. We're estimating that 5% of that remaining moisture is recirculated back to the pond, which leaves 2% for actual evaporation loss.

Removing water truck gallons leaves: 717,600,000 gal/year x 2% evaporation loss **14,352,000 gal/year**

Overall consumption would be **14,672,000 gal/year** for water truck and evaporation.

If you need any further explanation or have any other questions just let me know.



CHRIS KLEIN, L.G. Everist, Inc. – Mine Planning & Regulatory Manager

350 S Main Ave, Suite 400, Sioux Falls, SD 57104

605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com

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From: Gronlund, Eric <Eric.Gronlund@state.sd.us>

Sent: Friday, July 19, 2019 4:40 PM

To: Chris Klein <cmklein@LGEVERIST.com>

Subject: LG Everist Water Permit application along I-29

Chris

DENR is concluding its review of the water permit application filed by LG Everist in Section 31-T110N-R49W.

The application requests a pump rate of 13.37 cfs and a total annual volume pumped of 720 million gallons (2,210 ac-ft) from the pond that is incised into the Big Sioux:Aurora aquifer. However this annual volume is reflective of the amount of water placed to beneficial use and not of the actual amount of water consumptively used. This is since water once used for the gravel washing is goes to a settling pond and then back to the pond for re-use.

Is there a way to estimate the annual amount of water that is consumptively used by the operation? My thought is if there is a calculation of the amount of water lost in evaporation when gravel is washed plus the water applied/lost during dust suppression. LG Everist want to estimate on the high side but also be reasonable.

The concern is that this 2,210 ac-ft/annually may raise eyebrows as being a lot of water when it isn't truly of reflection of the consumptive use of water at the project.

Eric Gronlund

Water Rights Program, DENR

605 773-3352

Eric.gronlund@state.sd.us



**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. 8401-3, L. G. Everist Inc.**

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. 8401-3, L. G. Everist Inc., c/o Chris Klein, 350 S Main Avenue, Suite 400, Sioux Falls SD 57104.

The Chief Engineer is recommending APPROVAL of Application No. 8401-3 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 qualification:

1. The pond/dugout is excavated into the water table and will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner of this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8401-3 authorizes a total consumptive annual diversion of 50.0 acre feet of water from the Big Sioux:Aurora aquifer.

See report on application for additional information.

A handwritten signature in black ink that reads "Jeanne Goodman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeanne Goodman, Chief Engineer
July 23, 2019

NOTE: The pond/dugout completed into the water table is not considered an adequate well and therefore will not be afforded protection under water rights law should fluctuation in the water levels occur.

Report to the Chief Engineer
Water Permit Application No. 8401-3
L. G. Everist, Inc.
July 19, 2019

Water Permit Application No. 8401-3 proposes to appropriate and place to beneficial use up to 2,210 acre-feet of water annually at a maximum diversion rate of 13.37 cubic feet per second (cfs) for industrial use, of which a maximum annual amount of 50 acre-feet per year can be used consumptively. The proposed diversion point is a pump in a pond/dugout that incises the Aurora management unit of the Big Sioux aquifer and receives incidental runoff located in the NW ¼ NE ¼ Section 31-T110N-R49W in Brookings County. The water is for the washing of aggregate material and dust suppression for the plant located in the NE ¼ Section 31-T110N-R49W and is recycled by discharging to a settling pond prior to reuse. Due to the recycling and reuse of water the actual consumptive use of water will be limited to a maximum annual amount of 50 acre-feet per year. The operation is located on the southeast edge of Brookings along I-29.

Aquifer: Aurora management unit of the Big Sioux aquifer (Big Sioux: Aurora aquifer)

Hydrogeologic Information and Aquifer Characteristics

The Big Sioux aquifer is a shallow, glacial aquifer that underlays the Big Sioux River valley and many of its tributaries (Koch, 1980). It is made up of very permeable, well-sorted glacial outwash sand (mostly medium to very coarse) and gravel (mostly very fine to medium) that overlies a relatively impermeable glacial till (Hamilton, 1989 and Koch, 1980). Near the Big Sioux River and its major tributaries, the aquifer is under unconfined conditions; elsewhere it can underlay glacial till and be under locally confined conditions (Hamilton, 1989). However, the Big Sioux aquifer is considered to be primarily an unconfined aquifer (Hedges et al., 1982).

The Big Sioux: Aurora aquifer underlies part of Brookings and Moody counties in South Dakota and parts of Lincoln and Pipestone counties in Minnesota. Near the approximate center of T109N-R47W the potentiometric map of the Big Sioux aquifer in Brookings County by Hamilton (1989) shows the direction of groundwater flow diverges with groundwater flow to the north of this area moving toward the northwest and groundwater flow south of this area moving toward the southwest. This essentially subdivides the Aurora management unit into a northern portion and a southern portion as discussed by Buhler (2012). Farmer (2017) estimates the area of the north subunit to be at least 54,245 acres. Since the proposed diversion point for this application is located in the northern portion of the aquifer, the remainder of this report will focus on the north portion of the aquifer.

The pond for Application No. 8401-3 is described as being a pond/dugout created by the previous extraction of sand and gravel. Since the diversion is from a pond/dugout and not a well a well completion report is not available for this application. However, the application indicates the pond/dugout is approximately 20 feet deep. In examining the available lithologic and water

level information for the area, a depth of 20 feet at this location would incise the Big Sioux: Aurora aquifer and allow for water from the aquifer to enter the excavation (South Dakota Geological Survey, 2019; Water Rights, 2019a; and Water Rights, 2019c). The aquifer is under unconfined conditions in the area of the pond/dugout (Water Rights, 2019a and Water Rights, 2019c). Water use from the pond/dugout will be primarily non-consumptive since water used to wash and process sand/gravel is recycled back through the system. Losses from the pond/dugout will be due to water use for dust control and losses to evaporation. A review of USDA Farm Service Agency aerial imagery going back to 2003, indicates the pond/dugout this application proposes to utilize has existed since at least 2003, so losses due to evaporation should be reflected in the observation well record. Additionally, while the pond/dugout will receive some water from precipitation falling directly on the pond/dugout and some incidental runoff from the surrounding area; since the pond/dugout incises the aquifer the water level in the pond/dugout will generally seek to reach equilibrium with the surrounding aquifer.

South Dakota Codified Law (SDCL) 46-2A-9

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

Water Availability

The probability of unappropriated water being 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 or lower than the Greenhorn Formation and a water distribution system has applied for a permit, the Board need not consider the recharge/withdrawal issue. Here, a water distribution system is not involved, however the Big Sioux: Aurora aquifer is not older or lower than the Greenhorn Formation. Therefore the withdrawal/recharge issue must be considered.

Observation Wells

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 15 observation wells completed into the Big Sioux: Aurora aquifer of which 14 are located in the northern portion of the management unit. In

general, the observation wells in the Big Sioux: Aurora aquifer document relatively stable water levels throughout the aquifer. Water levels in the observation wells for the aquifer rise during wet periods and gradually decline during dry periods. Observation wells in the Big Sioux: Aurora aquifer demonstrate that the aquifer responds well to climatic conditions, with the response of the aquifer to climatic conditions masking the effects of well withdrawals. This indicates that natural conditions dominate the aquifer, and that recharge to and natural discharge from the aquifer exceeds pumping. Since recharge to and natural discharge from an aquifer can be captured for pumping, there is a reasonable probability that unappropriated water is available. The hydrographs for Water Rights observation wells monitoring the Big Sioux: Aurora aquifer within four miles of the proposed diversion point for this application are shown in Figures 1 through 5.

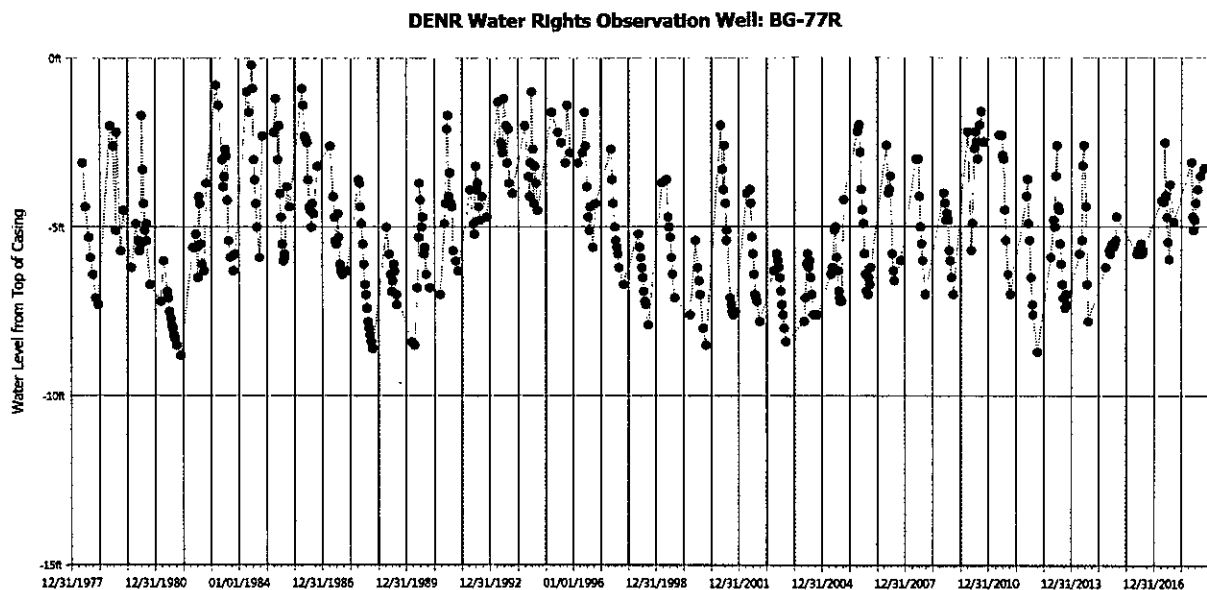


Figure 1: Hydrograph of observation well BG-77R located approximately 1.6 miles southeast of the proposed diversion point (Water Rights, 2019a)

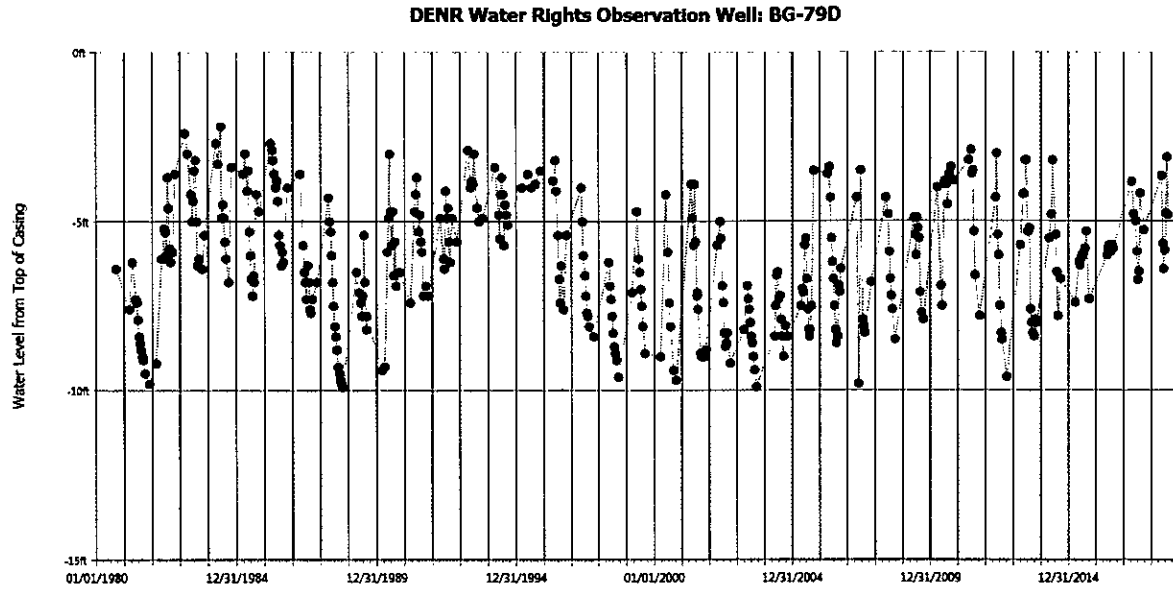


Figure 2: Hydrograph of observation well BG-79D located approximately 1.8 miles northeast of the proposed diversion point (Water Rights, 2019a)

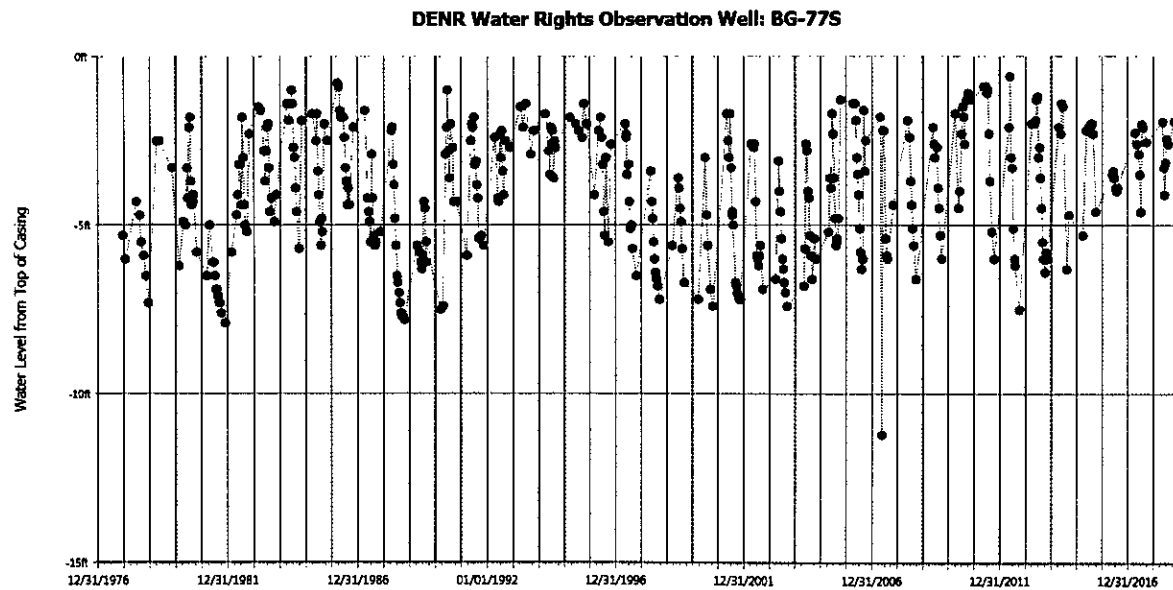


Figure 3: Hydrograph of observation well BG-77S located approximately 2.5 miles north northeast of the proposed diversion point (Water Rights, 2019a)

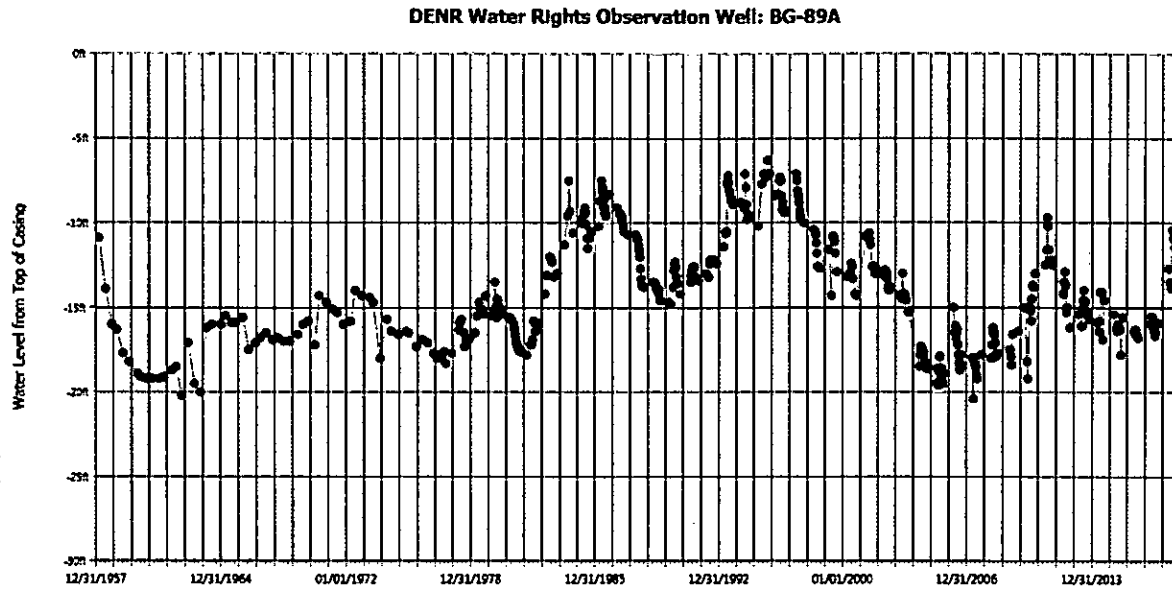


Figure 4: Hydrograph of observation well BG-89A located approximately 3.4 miles east of the proposed diversion point (Water Rights, 2019a)

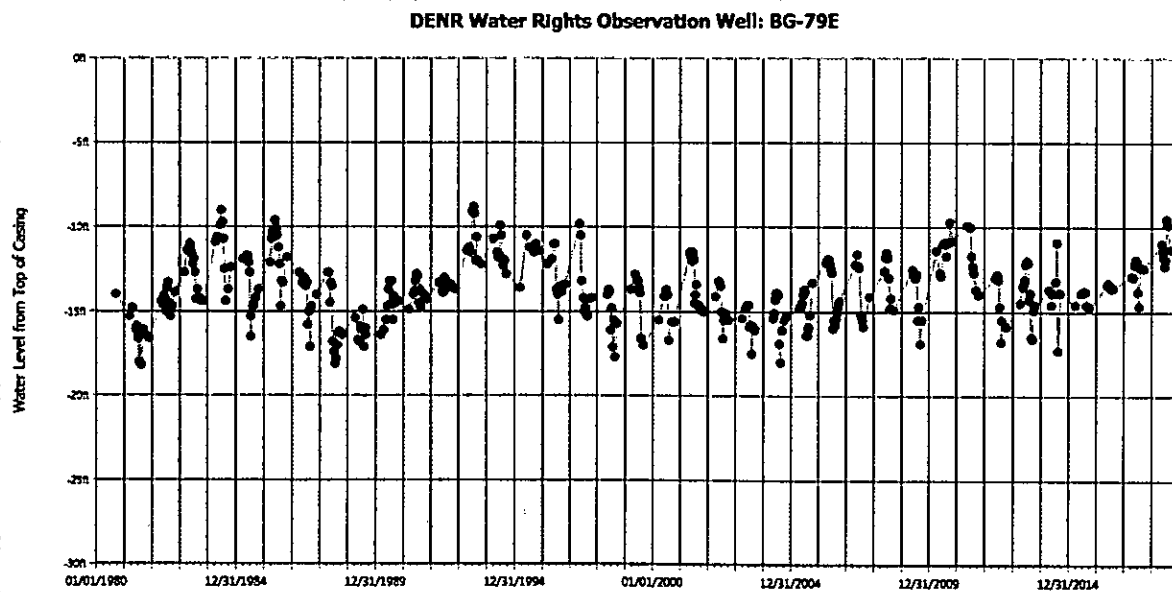


Figure 5: Hydrograph of observation well BG-79E located approximately 4.0 miles northeast of the proposed diversion point (Water Rights, 2019a)

Hydrologic Budget

Recharge

The Big Sioux: Aurora aquifer is recharged by infiltration from precipitation and seepage from surface water (Hamilton, 1989). A 1985 study by Hedges et al. reported recharge to the Big Sioux: Aurora aquifer utilizing three different methods. Based on observation well analysis,

recharge was estimated at 5.0 inches per year, which yields an estimated recharge rate of 22,602 acre-feet per year for the northern portion of the management unit based on the area estimated by Farmer (2017) (Hedges et al., 1985). Based on the compiled best fit modeling data from various investigations recharge was reported at 3.6 inches per year (information included from other management units in estimate), which yields an estimated recharge rate of 16,273 acre-feet per year for the northern portion of the management unit (Hedges et al., 1985). The third method used regional flow net analysis to estimate recharge at 1.0 inch per year for the entirety of the Big Sioux aquifer; this yields an estimated annual recharge for the northern portion of the Aurora management unit of 4,520 acre feet (Hedges et al., 1985). Regarding the regional flow net analysis, Hedges et al. (1985) comments, "It should be noted that recharge rates calculated using flow-net analysis are suspect and conclusions based on this method are questionable." Of these three methods, the management unit specific observation well analysis is considered to be the most reflective of actual conditions since it utilized management unit specific data and is more closely based on real world observation. The observation well analysis estimate for recharge (22,602 acre-feet per year) will also be utilized in this report as the estimate for average annual recharge, since it is more reflective of actual conditions when evaluating the hydraulic budget for the aquifer.

Withdrawals

Discharge from the aquifer are from pumping, evapotranspiration, and leakage to surface water (Hamilton, 1989 and Hansen, 1986). Water uses in the aquifer can be divided into irrigation and non-irrigation uses. Non-irrigation uses of the northern portion of the Big Sioux: Aurora includes domestic, commercial (2), industrial (4), municipal (3), municipal future use (1), and rural water (2). The amount of water withdrawn by domestic uses is not considered a significant portion of the hydraulic budget of the aquifer; additionally with the development of rural water systems in the area many domestic wells may no longer be in use.

Historically, average water use by non-irrigation appropriations limited by instantaneous diversion rate has been less than 60% of full time pumping at the permitted diversion rate. Average annual water use for water rights/permits in the northern portion of the Big Sioux: Aurora aquifer limited by diversion rate is 4,238 acre-feet per year. Excluded from this estimate is Water Right No. 1952-3 for the City of Aurora and Water Right No. 4038-3 for the City of Elkton. Since these cities purchase their water from other water systems, average annual pumpage under Water Rights Nos. 1952-3 and 4038-3 are estimated to be minimal (Drinking Water, 2019). For water rights/permits limited to an annual volume, full use of that volume is assumed for estimation of average annual withdrawal, and it is assumed that future use permits will be fully developed. Water right/permits in the northern portion of the Big Sioux: Aurora aquifer limited by annual volume have a total annual volume limitation of 4,154.6 acre-feet per year. There is one future use permit for the Big Sioux: Aurora. Future Use Permit No. 1598-3 is held by the City of Brookings and is for 2,426 acre-feet per year.

The Water Rights Program collects and maintains irrigation data from across the state. Reported irrigation pumping from the Big Sioux: Aurora aquifer from 1979 to 2017 is shown in Figure 6. The average reported pumpage for this time period is approximately 2,340 acre-feet.

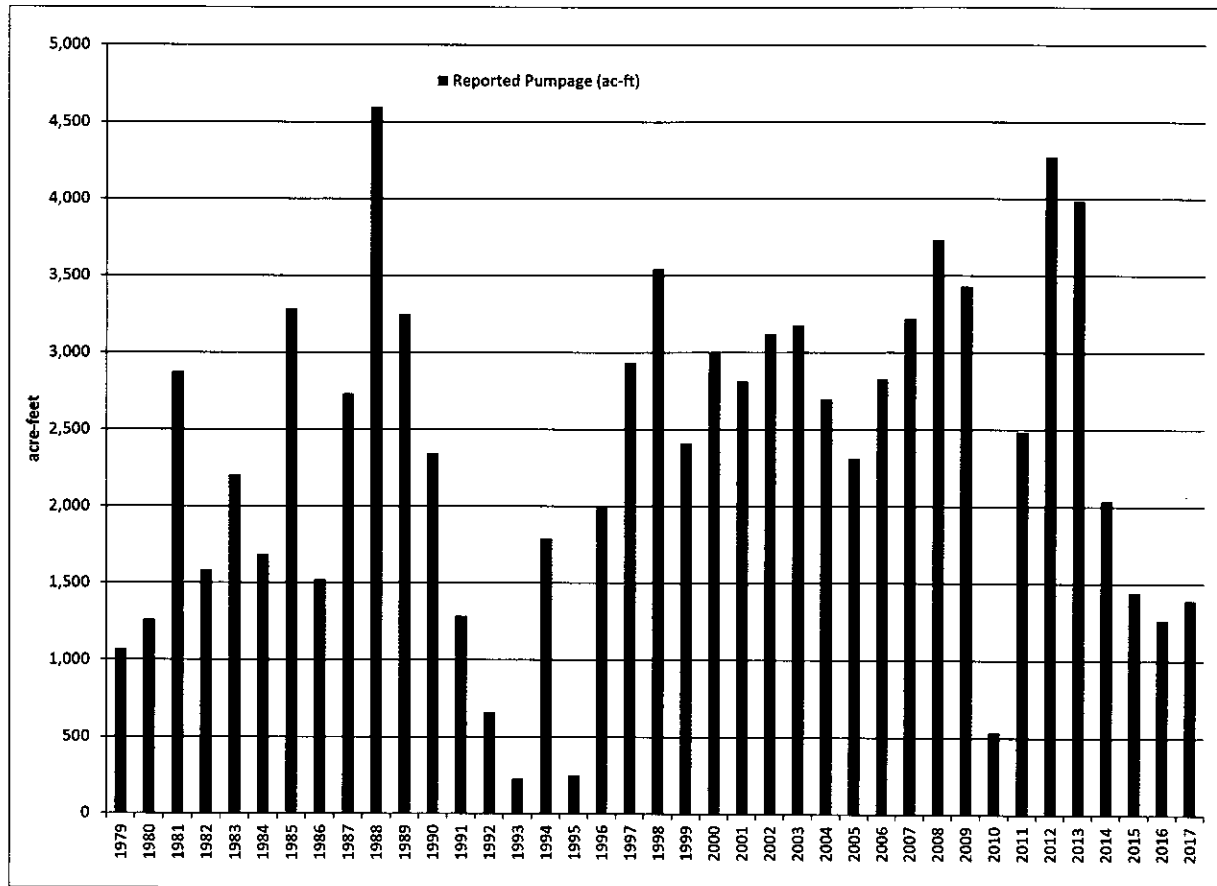


Figure 6: Reported irrigation pumpage over the period of record from the Big Sioux: Aurora aquifer (Water Rights, 1980-2018)

Balance

The estimated total average annual withdrawal from the aquifer is 13,158.6 acre-feet per year. When compared to the estimated average annual recharge estimated from the recharge rate based on observation well data analysis by Hedges et al. (1985) of 22,602 acre-feet per year, estimated average annual recharge exceeds estimated average annual withdrawals. Given the estimated average annual recharge exceeds the estimate average annual withdrawals by more than the appropriation requested by this application (2,210 acre-feet annually) and that the water use under this application is primarily non-consumptive (with consumptive use limited to annual amount of 50 acre-feet per year), there is a reasonable probability that unappropriated water is available for the appropriation requested by this application.

Existing Users

Water rights/permits appropriating water from the Big Sioux: Aurora aquifer in the area of the diversion point for this application are shown in Figure 7 and summarized in Table 1. The nearest water right/permit to this application in Water Permit No. 8146-3 held by Brookings Economic Dev Agricultural Technology Center located approximately 0.3 miles to the northeast. The nearest border of the future use area for Future Use Permit No. 1598-3 held by the City of Brookings is approximately 0.9 miles to the east of the proposed diversion point for this application. A review of the well completion reports on file with the Water Rights Program within one mile of the proposed diversion point indicate that there is one record for a domestic/stock well within one mile (Water Rights, 2019c).

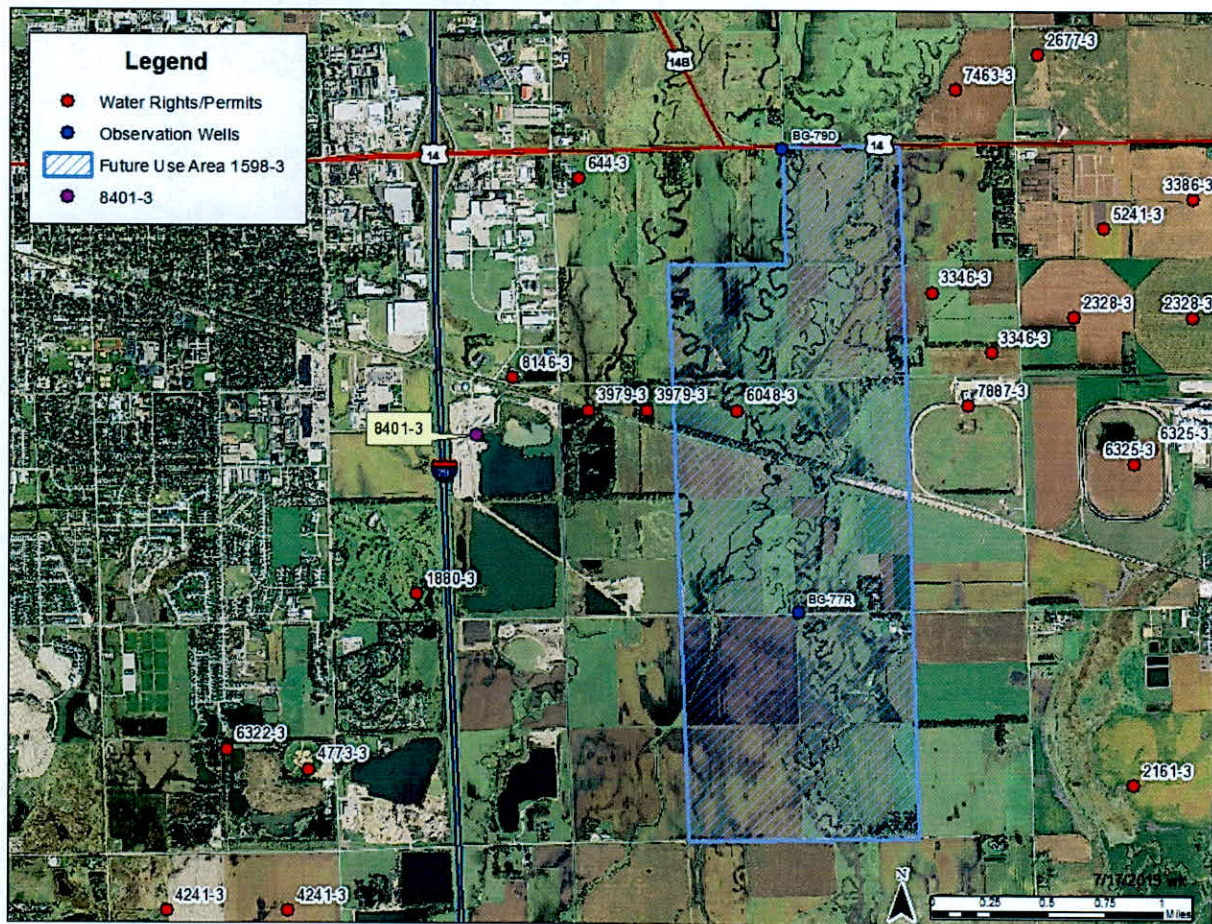


Figure 7: Water rights/permits appropriating water from the Big Sioux: Aurora aquifer in the area of the diversion point for Application No. 8401-3 (Water Rights, 2019b)

Table 1: Summary of Water Rights/Permit Shown in Figure 7 (Water Rights, 2019b)

Permit No	Name	Status	Use	Rate	Acres	Annual Volume (acre-ft)
1344-3	SDSU EXPERIMENT STATION	LC	IRR	1.41	99	n/a
1880-3	CITY OF BROOKINGS	LC	IRR	1.76	149	n/a
2161-3	E L LEIFERMAN	LC	IRR	1.78	132	n/a
2328-3	J L ANDERSON	LC	IRR	1.56	227	n/a
2677-3	TERRANCE A HILL	LC	IRR	1.89	220	n/a
3346-3	IDA SLOCUM	LC	IRR	2.23	163	n/a
3386-3	REUBEN NICOLAI	LC	IRR	1.78	127	n/a
3979-3	CITY OF BROOKINGS	LC	MUN	6.69	n/a	n/a
4241-3	WESTERN TRUST COMPANY	LC	IRR	3.35	235	n/a
4773-3	CITY OF BROOKINGS	LC	IRR	0.23	25	n/a
5241-3	DORIS JEAN PAHL	LC	IRR	1.67	134	n/a
6048-3	CITY OF BROOKINGS	LC	MUN	2.9	n/a	2,100
6322-3	CITY OF BROOKINGS	LC	IRR	1.66	43	n/a
6325-3	VALERO RENEWABLE FUELS COMPANY LLC	LC	IND	2.67	n/a	1,935
644-3	JIM GILKERSON	LC	IRR	0.5	149.3	n/a
7463-3	GERARD & DAVID MORIARTY	PE	IRR	1.78	152	n/a
7887-3	NOVITA AURORA LLC	PE	IND	1.11	n/a	n/a
8146-3	BROOKINGS ECONOMIC DEV AG TECHNOLOGY CENTER	PE	IND	0.19	n/a	48.4

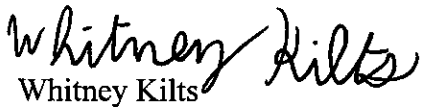
PE-permit, LC-license, IRR-irrigation, RWS-rural water system, IND-industrial, MUN-municipal

In the past, the Water Management Board has recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur. Administrative Rule of South Dakota (ARSD) 74:02:04:20(7) defines an adversely impacted domestic well as “a well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs.” Since the water use proposed by this application is primarily non-consumptive and the aquifer is under unconfined conditions, drawdown due to pumping is not expected to be significant far from the pond/dugout. In regard to evaporation losses from the pond/dugout, the pond/dugout has been in existence for several years and the Big Sioux: Aurora aquifer observations wells in the vicinity show very limited to no drawdown of water levels in the area (Figure 1). Therefore, this application, if approved, is not expected to adversely impact existing water rights or domestic users with adequate wells in the Big Sioux: Aurora aquifer.

In some locations, the Big Sioux: Aurora aquifer is a relatively thin aquifer with a limited amount of water in storage. While the best available information indicates that long term average annual withdrawals would not exceed average annual recharge to the aquifer, short term conditions may occur when withdrawals exceed recharge. When this occurs, water will be removed from storage and consequently reduce the saturated thickness of the aquifer. If the saturated thickness is reduced to the extent that existing water rights/permits can no longer pump at their developed or “historically established” rates, this may be considered an adverse impact. Therefore as a precaution, this water permit, if approved, should include a qualification that the well owner shall control their withdrawals so there is not a reduction of needed water supplies for adequate domestic wells or for adequate wells having prior water rights. However, when all of the above is considered nearby adequate wells as defined by ARSD 74:02:04:20(6) are not expected to be adversely impacted by the appropriation proposed by this application.

Conclusions

1. Water Permit Application No. 8401-3 proposes to appropriate water up to 2,210 acre-feet annually at a maximum diversion rate of 13.37 cfs for industrial use from a pond/dugout incising the Big Sioux: Aurora aquifer located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 31-T110N-R49W. The water is for the washing of aggregate material and dust suppression for the plant located in the NE $\frac{1}{4}$ Section 31-T110N-R49W and is recycled by discharging to a settling pond prior to reuse. Due to the recycling and reuse of water the actual consumptive use of water will be much less than 2,210 acre-feet of water.
2. Based on a review of the hydrologic budget for the northern portion of the Big Sioux: Aurora aquifer and the observation well information for the aquifer, there is a reasonable probability that water is available in the Big Sioux: Aurora aquifer for the applicants proposed use as required by SDCL 46-2A-9.
3. There is a reasonable probability that these applications if approved will not adversely impact existing water rights/permits or domestic users with adequate wells.



Whitney Kilts

SDDENR- Water Rights Program

References

- Buhler, K. 2012. Report to the Chief Engineer on Water Permit No. 7392-3 and Future Use Permit Application No. 7393-3 Lincoln Pipestone Rural Water. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
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- South Dakota Geological Survey. 2019. Lithological Logs Database, SD DENR-Geological Survey Program, Vermillion, SD.
- Water Rights. 1980-2018. "1979-2017 Irrigation Summaries by Aquifer": SD DENR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.
- Water Rights. 2019a. Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, SD.
- Water Rights. 2019b. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. 2019c. Well Completion Reports. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 23, 2019 11:37 AM
To: cmklein@lgeverist.com
Subject: Water Permit Application No. 8401-3
Attachments: 8401-3.pdf

Attached is the report, recommendation and public notice information for Water Permit Application No. 8401-3. As stated in the letter, it is important to contact the paper ASAP to authorize publication and arrange for payment. Paper copies are in the mail today.

Karen Schlaak

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, July 23, 2019 11:23 AM
To: registerclassifieds (registerclassifieds@brookingsregister.com)
Subject: 8401-3, L.G.Everist Inc
Attachments: 8401-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on August 1, 2019.

L.G. Everist Inc, c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 (605 330-6570) 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





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.**

July 23, 2019

L.G. Everist Inc
c/o Chris Klein
350 S Main Ave, Suite 400
Sioux Falls SD 57104

Dear Mr. Klein:

Water Permit Application No. 8401-3 for industrial 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 printed at Brookings SD (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.

NOTICE OF APPLICATION NO. 8401-3 to Appropriate Water

Notice is given that L. G. Everist, Inc., c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 has filed an application for a water permit to appropriate and place to beneficial use 2,210 acre-feet of water annually at a maximum pump rate of 13.37 cubic feet of water per second from runoff and groundwater from one pond/dugout located in the NW 1/4 NE 1/4 Section 31-T110N-R49W. The water source is considered the Brookings:Aurora aquifer (20 feet deep) due to the fact the pond was created by previous extraction of sand and gravel that is incised into the aquifer. The water is for industrial use to wash aggregate material and dust suppression for the plant located in the NE 1/4 Section 31-T110N-R49W. Water is recycled by discharging to a settling pond prior to reuse. While 2,210 acre feet of water is annually pumped and placed to beneficial use, due to recycling/reuse it is estimated that 50 acre feet of water annually will be consumptively used. The operation is located on the southeast edge of Brookings along I-29.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8401-3 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 August 12, 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 _____.

Affidavit of Publication

State of South Dakota

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

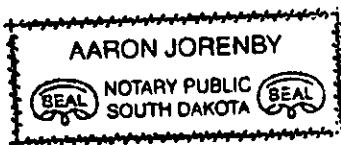
Leg#726 Notice of Application

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

August 7, 2019

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-Nine Dollars and Ninety-Nine Cents \$29.99.



August

Legal 726, 1x, 8/7
NOTICE OF APPLICATION NO. 8401-3 to
Appropriate Water.
Notice is given that L. G. Everist, Inc., c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 has filed an application for a water permit to appropriate

and place to beneficial use 2,210 acre-feet of water annually at a maximum pump rate of 13.37 cubic feet of water per second from runoff and groundwater from one pond/dugout located in the NW 1/4 NE 1/4 Section 31-T110N-R49W. The water source is considered the Big Sioux/Aurora aquifer (20 feet deep) due to the fact the pond was created by previous extraction of sand and gravel that is incised into the aquifer. The water is for industrial use to wash aggregate material and dust suppression for the plant located in the NE 1/4 Section 31-T110N-R49W. Water is recycled by discharging to a settling pond prior to reuse. While 2,210 acre feet of water is annually pumped and placed to beneficial use, due to recycling/reuse it is estimated that 50 acre feet of water annually will be consumptively used. The operation is located on the southeast edge of Brookings along I-29. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8401-3 with qualifications because 1) inappropriate 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 August 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 \$29.99.

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

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, August 01, 2019 8:51 AM
To: cmklein@lgeverist.com
Subject: Water Permit Application No. 8401-3
Attachments: 8401-3public.short.docx

Mr. Klein,

The notice for Water Permit Application No. 8401-3, L. G. Everist Inc. is scheduled for publication today August 1st. Because of error, the notice will need to be published again in the Brookings Register. The aquifer was incorrectly identified in the first notice as Brookings:Aurora Aquifer. The correct aquifer is Big Sioux:Aurora Aquifer. The paper has been emailed the correct notice which will be published on August 7, 2019. The deadline date for filing petitions will be August 19, 2019.

The Water Rights Program will pay the cost of the second publication. If you have questions, please let me know.

Karen Schlaak

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, August 19, 2019 2:38 PM
To: 'ajorenby@brookingsregister.com'
Subject: FW: 8401-3, L. G. Everist Inc

Aaron,
Please send me the affidavit and bill for this notice which was to run August 7th.

This notice was originally published on August 1st with L. G Everist, c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 responsible for that payment.

The first notice we sent to your paper contained an error identifying the aquifer. Because of the error, the notice was to be republished on August 7th with our instructions that the Water Rights Program, 523 E Capitol, Pierre SD 57501 would be responsible for the second publication cost.

Please send the affidavit and bill ASAP. If you have any questions, please let me know

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



From: Schlaak, Karen
Sent: Thursday, August 1, 2019 8:24 AM
To: registerclassifieds (registerclassifieds@brookingsregister.com) <registerclassifieds@brookingsregister.com>
Subject: 8401-3, L. G. Everist Inc

Attached is a notice to be published on August 7, 2019.

Please bill the Water Rights Program, 523 E Capitol, Pierre SD 57501 for this publication.,

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.

NOTICE OF APPLICATION NO. 8401-3 to Appropriate Water

Notice is given that L. G. Everist, Inc., c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 has filed an application for a water permit to appropriate and place to beneficial use 2,210 acre-feet of water annually at a maximum pump rate of 13.37 cubic feet of water per second from runoff and groundwater from one pond/dugout located in the NW 1/4 NE 1/4 Section 31-T110N-R49W. The water source is considered the Big Sioux:Aurora aquifer (20 feet deep) due to the fact the pond was created by previous extraction of sand and gravel that is incised into the aquifer. The water is for industrial use to wash aggregate material and dust suppression for the plant located in the NE 1/4 Section 31-T110N-R49W. Water is recycled by discharging to a settling pond prior to reuse. While 2,210 acre feet of water is annually pumped and placed to beneficial use, due to recycling/reuse it is estimated that 50 acre feet of water annually will be consumptively used. The operation is located on the southeast edge of Brookings along I-29.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8401-3 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 August 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_____.

August 26, 2019

PAYMENT REQUEST FORM

PAYEE: Brookings Register
PO Box 177
Brookings, SD 57006-0177

FROM: DENR Water Rights Program
523 E. Capitol Ave
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Notice of Hearing

AMOUNT: \$29.99

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION:



I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 23 2019

L.G Everist Inc
c/o Chris Klein
350 S Main Ave, Suite 400
Sioux Falls SD 57104

Dear Mr. Klein:

Enclosed is Water Permit No. 8401-3 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

8401-3
RECEIVED

SEP 30 2019

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 09/25/2019

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM: L.G. Everist, Inc c/o Chris Klein
(name)
350 S Main Ave, Suite 400
(address)
Sioux Falls, SD 57104 (605) 330-6570
(city, state, zip) (phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 8401-3 states that the water use system is to be constructed by
08/19/2024, and water is to be put to beneficial use by 08/19/2028
(date) (date)

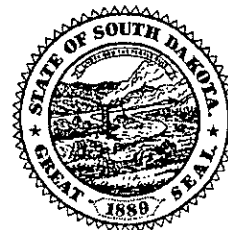
The water use system was completed on 09/02/2019
(date)

Applying the water to beneficial use was completed on 09/02/2019
(date)

You may schedule an investigation so that the water license may be issued.



(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 30, 2019

8401-3

Chris Klein
L G Everist Inc
350 S Main Suite 400
Sioux Falls SD 57104

Dear Mr. Klein:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with the project authorized under Water Permit No. 8401-3.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8401-3

I have this day, May 14, 2021, made a thorough examination of the water use system constructed by L G Everist, c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls, SD 57104 of Permit No. 8401-3, bearing the priority of May 20, 2019 authorizing the beneficial use of 2,210 acre-feet of water annually at a maximum pump rate of 13.37 cu. ft. per second of the waters of Big Sioux: Aurora Aquifer for industrial purposes, in Brookings County.

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: From the NE corner of Sec 31, T110N, R49W 1075 ft S & 1,920 ft W (NW 1/4 NE 1/4 of Sec 31) Lat 44.29393, Long -96.75555.
2. The works are capable of diverting and conveying to the place of use 11.1 cu. ft. per second of water which is to be used for industrial purposes. Water has been put to beneficial use to the maximum extent with the project located in the NW 1/4 NE 1/4, Sec 31, T110N, R49W, Brookings County, SD

The license should be issued for 11.1 cfs (see F section).

3. All structures, wells and lands on map Y

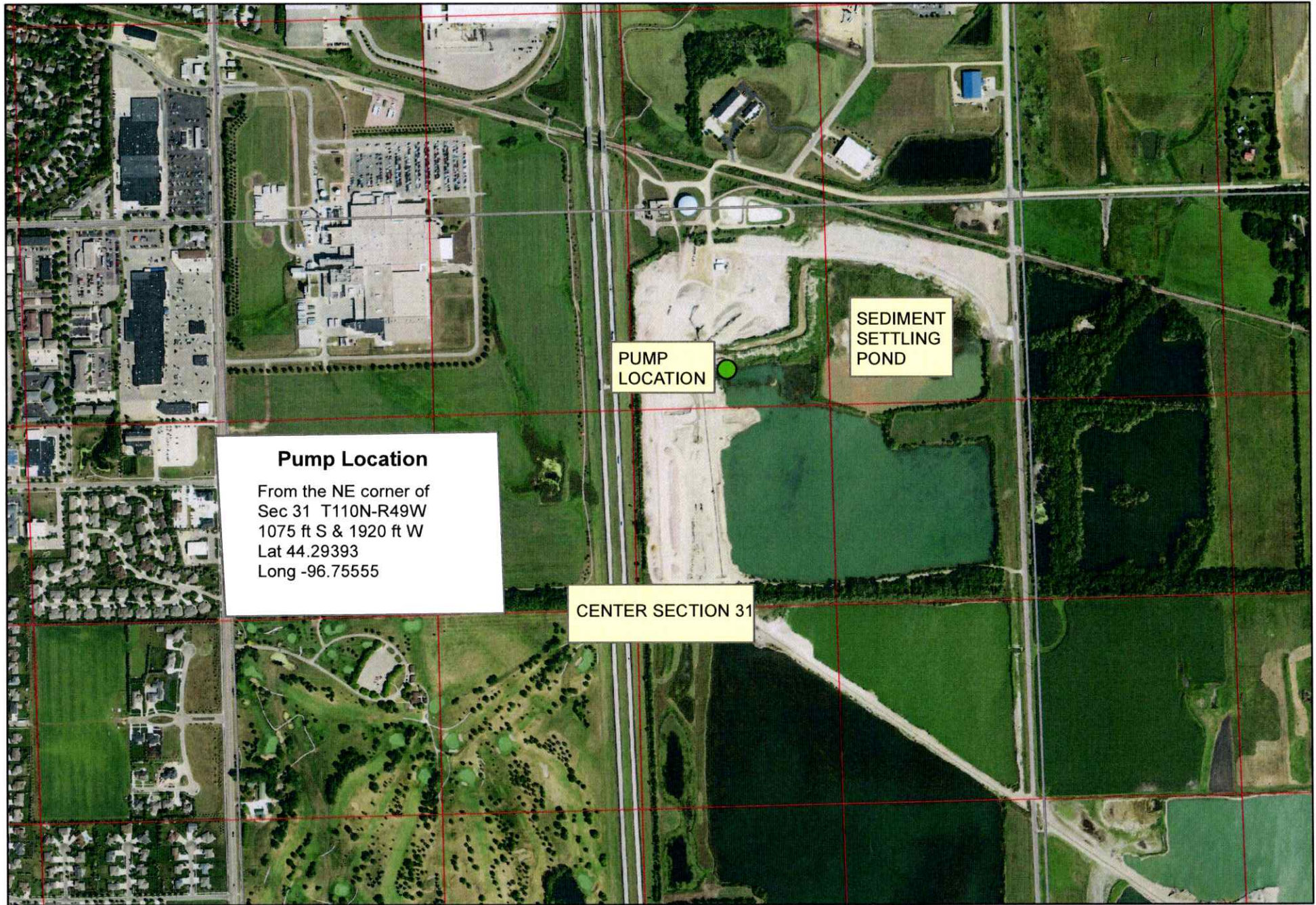
F. Comments or other permit(s) associated with the project:

A visit with Corey (a site manager) for the industrial site revealed that he estimated the plant was pumping at 5,000 gal/min (11.1 cfs) for the washing of aggregate material, the wash water is then diverted to a sediment settling basin which in turn is recycled to the main holding pond for reuse in accord with the current permit.



Darrell W DeBoer
Water Rights Inspector
DANR, Water Rights Program

Date report completed: May 14, 2021



0 0.1 0.2 0.4 0.6 0.8 Miles



Darrell DeBoer
Water Right Inspector
DANR-Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

8401-3

MAY 20 2021

Chris Klein
L G Everist Inc
350 S Main Ave Ste 400
Sioux Falls SD 57104

Dear Mr. Klein:

Enclosed is Water License No. 8401-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8401-3**

(1) L G Everist Inc., 350 S Main Ave., Suite 400, Sioux Falls SD 57104 made Application No. 8401-3, May 20, 2019 for a water permit to divert 13.37 cubic feet of water per second (2,210 acre feet annually) from runoff and ground water into the Big Sioux Aurora Aquifer, Brookings County, South Dakota for industrial use purposes. Permit No. 8401-3, with a priority date of May 20, 2019 was approved August 19, 2019 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before August 19, 2024 and for the application to beneficial use of water on or before August 28, 2028.

The Permit holder submitted a "Notice of Completion of Works and Application of Water to Beneficial Use" on September 30, 2019. The "Notice" stated the water use system was completed and the water placed to beneficial use on September 2, 2019.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to divert 11.10 cubic feet of water per second for beneficial use. The location of the diversion point is as follows:

- 1,075'S and 1,920'W of the NE corner of Section 31, T110N, R49W (NW ¼ NE ¼ of Sec 31)
Latitude 44.29393, Longitude -96.75555.

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use washing aggregate material and for dust control. Water is recycled by discharging to a settling pond prior to reuse.

(4) Pursuant to South Dakota Water Law 46-5-30.1 L G Everist Inc., 350 S Main Ave., Suite 400, Sioux Falls SD 57104 the holder and/or owner of Water Right No. 8401-3 is issued a license to appropriate water, the right to use 11.10 cubic feet of water per second (2,210 acre feet annually) from runoff and ground water into the Big Sioux Aurora Aquifer with a priority date of May 20, 2019 from the location specified in (2) of this license for industrial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8401-3 and subject to the following qualifications:

- The pond/dugout is excavated into the water table and will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner of this water right shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- Water Right No. 8401-3 authorizes a total consumptive annual diversion of 50 acre feet of water from the Big Sioux Aurora Aquifer.


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

MAY 20 2021
date

