

WATER PERMIT NO. 8404-3

Name of Applicant: James and Jason Kokes

Address: 142273 SD Hwy 50, Tabor SD 57063 Phone: 605 660-9462

Amount of Water Claimed: no add'l Total Acres: 6 acres

Source of Water Supply: groundwater (1 existing well)

Water to be used for: irrigation County: Bon Homme

Type of Waste Disposal System:

Location: 5 miles west of Tabor

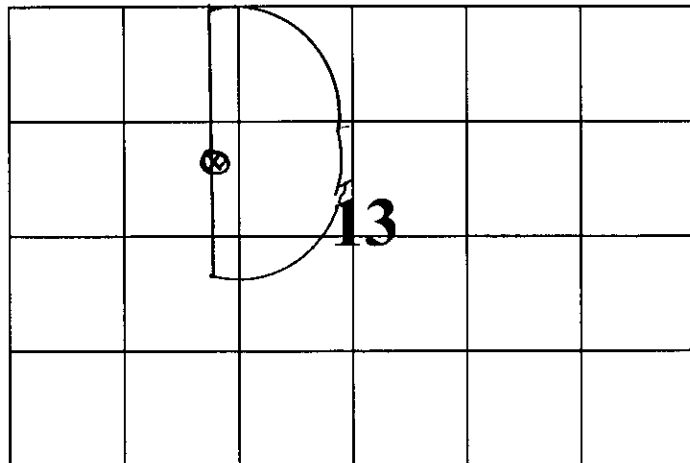
PRIORITY Date Received: 7-8-19 Application/License Fee: \$100

Corrected Application Received: Period of Annual Use: June 1 – September 30

Remarks: Additional acres to Water Permit No. 7664-3 based on inspection

Diversion Point: SW 1/4 NW 1/4 Sec 13-T94N-
R59W

Land to be Irrigated: NW 1/4, N 1/2 SW 1/4 Sec
13-T94N-R59W



Depth of Well: 200 feet deep

Well Driller: Thein Well Company

Remarks:

Type of Map: aerial

Prepared by: Keith DeJong

Reviewed and the Number Assigned on: 7-8-19

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8404-3</u>	(office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	
	Newspaper <u>Tyndall Tribune & Register</u>	
	<u>Press & Dakotan, Yankton</u>	

PAID

JUL 08 2019

Ck# 2480

RECEIVED

JUL 08 2019

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

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

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

additional 6 acres irrigated to Water Permit No. 7664-3 to reflect the level of development1. Name to Appear on Irrigation Permit James and Jason Kokes

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

Mailing Address 42273 SD Hwy 50 Tabor SD 57063
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 660-9462 Email _____

2. Amount of water claimed no addl *CFS or _____ **GPM _____ ***AF Total Acreage 6 addl
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply one well completed in the Codell aquifer4. Location of point of diversion SW 1/4 NW 1/4 Section 13-T94N-R59W

(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Bon Homme5. County or counties where water will be used Bon Homme6. Annual period during which water is to be used June 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
NW 1/4NW 1/4 Section 13-T94N-R59W	8	NW 1/4 SW 1/4 Section 13-T94N-R59W	3
NE 1/4NW 1/4 Section 13-T94N-R59W	30	NE 1/4SW 1/4 Section 13-T94N-R59W	9
SW 1/4NW 1/4 Section 13-T94N-R59W	8		
SE 1/4NW 1/4 Section 13-T94N-R59W	38		

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

The breakdown of acres listed above is representative of the total acres authorized by Water Permit No. 7664-3 and those requested by this application. The total number of additional acres requested is 96.

The well information is contained in the administrative record for Water Permit No. 7664-3.

The map representing the level of development is in Keith DeJong's licensing report

I, James C. Kokes, the applicant, certify under
Name of Person Title (if applicable)

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

**SOUTH DAKOTA
WATER PERMIT NO. 8404-3**

Date of first receipt of application July 8, 2019.

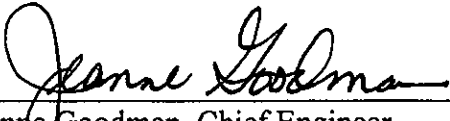
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8404-3 to James and Jason Kokes, 42273 SD Hwy 50, Tabor SD 57063 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8404-3 authorizes irrigation of 6 additional acres to what is currently authorized by Water Permit No. 7664-3. Water Permit No. 7664-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Codell Aquifer (200 feet deep) located in the SW 1/4 NW 1/4 Section 13 for irrigation of 90 acres located in the NW 1/4, N 1/2 SW 1/4 Section 13; all in T94N-R59W. An investigation of the permit found the system capable of diverting 1.67 cfs from the existing well and irrigation of an additional 6 acres located within the area described above. This permit and Water Permit No. 7664-3 will authorize a total of 1.67 cfs for irrigation of 96 acres. This site is located 5 miles west of Tabor SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: June 1 – September 30.
3. The date from which applicant may claim right is July 8, 2019.
4. The date of approval of Permit No. 8404-3 is September 23, 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. The well approved under Permit Nos. 7664-3 and 8404-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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, Permit Nos. 7664-3 and 8404-3 authorize a maximum diversion rate of 1.67 cfs for the irrigation of 96 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

OCT 01 2019

date



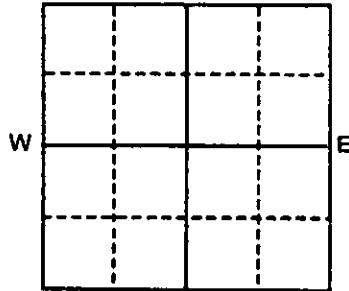
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW ¼ NW ¼ Sec 13 Twp 94N Rg 59W

County Bon Homme

North

Please mark well
location with an "X"

Well Completion Date

October 29, 2013

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
100.0 ft. from septic (Identify source)

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

PIPEWEIGHT DIAMETER FROM TO HOLE DIAMETER
LB/FT 12.00 IN 0.0 FT 180.0 FT 18.00 IN
LB/FT IN FT FT IN
LB/FT IN FT FT IN

GROUTING DATA:

Grout Type No. of Sacks Grout Weight From To
Bentonite 57 Lb/gal 0.0 Ft 178.0 Ft
Lb/gal Ft Ft

Describe grouting procedure
tremie piped

SCREEN:

☐ Perforated pipe ☒ Manufactured

Diameter 12.00 Inches Length 20.0 Feet

Material stainless steel

Slot Size .080 Set From 180.0 Feet to 200.0 Feet

Other information

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? chlorinated☐ No, Why Not?Lab to which water
quality sample sent for analysis

n/a

Well Owner: Jason Kokes

Business Name:

Address: 42273 SD Hwy 50

City, State, Zip: Tabor SD 57063

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Top soil	0	1
Yellow clay	1	22
Blue clay	22	66
Coarse sand	66	76
Blue clay w/sand seams	76	96
Sandy blue clay	96	179
Coarse sand	179	204
Boulder	204	207

STATIC WATER LEVEL 7.0 FEET

If flowing: closed in pressure PSI

GPM flow through Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe:
☐ Bailed
☐ Other

Pumping Level Below Land Surface

16.0 Ft. After 8.0 Hrs. pumped 740.0 GPM

Ft. After Hrs. pumped GPM

If pump installed, pump rate: 1,300.0 GPM

REMARKS

GPS: N 42 57.729

W 97 46.165

RECEIVED

APR - 7 2014

WATER RIGHTS
PROGRAMThis well was drilled under license # 475 and this
report is true and accurate.

Drilling firm: Thein Well Co., Inc.

Signature of Licensee Representative:

Signature of Well Owner or Equitable Property Holder:

Date: 3/31/14

4-8-14

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 8

20 19

RECEIVED OF Kokes Farms James or Debra Kokes 142273 SD Hwy 50 Tabor SD 57063

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

Fee for Application for Permit No. <u>8404-3</u> to Appropriate Water, to construct and to put water to beneficial use	100	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
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	100 00

No. **09167**

By Jeanne Goodman
Chief Engineer JM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 24, 2019

denr.sd.gov

Jason Kokes
142273 SD Hwy 50
Tabor SD 57063

Dear Mr. Kokes:

I am writing in follow up to our phone conversation regarding the additional acres developed for irrigation under Water Permit No. 7664-3. The original water permit authorized 90 acres of irrigation. However, the licensing investigation conducted earlier this year found that 96 acres we developed for irrigation. This necessitates needing to file an application for the additional acres.

We discussed two options:

1. Apply for the six additional acres.
2. Apply for the six additional acres and another 77 acres to allow you the flexibility to set up another quarter section pivot to the south of the existing pivot. This second pivot would use the existing well authorized by Water Permit No. 7664-3. Upon obtaining the permit you would have five years to complete construction.

Enclosed are partially completed applications for each of these options. Once you decide which route to go, please sign that application and returned along with the application filing fee in the self-addressed stamped envelope. The check should be made payable to the "Water Rights Program". Upon review of the application you will also be responsible for the cost of the public notice. That will be between you and the newspaper when public notice occurs.

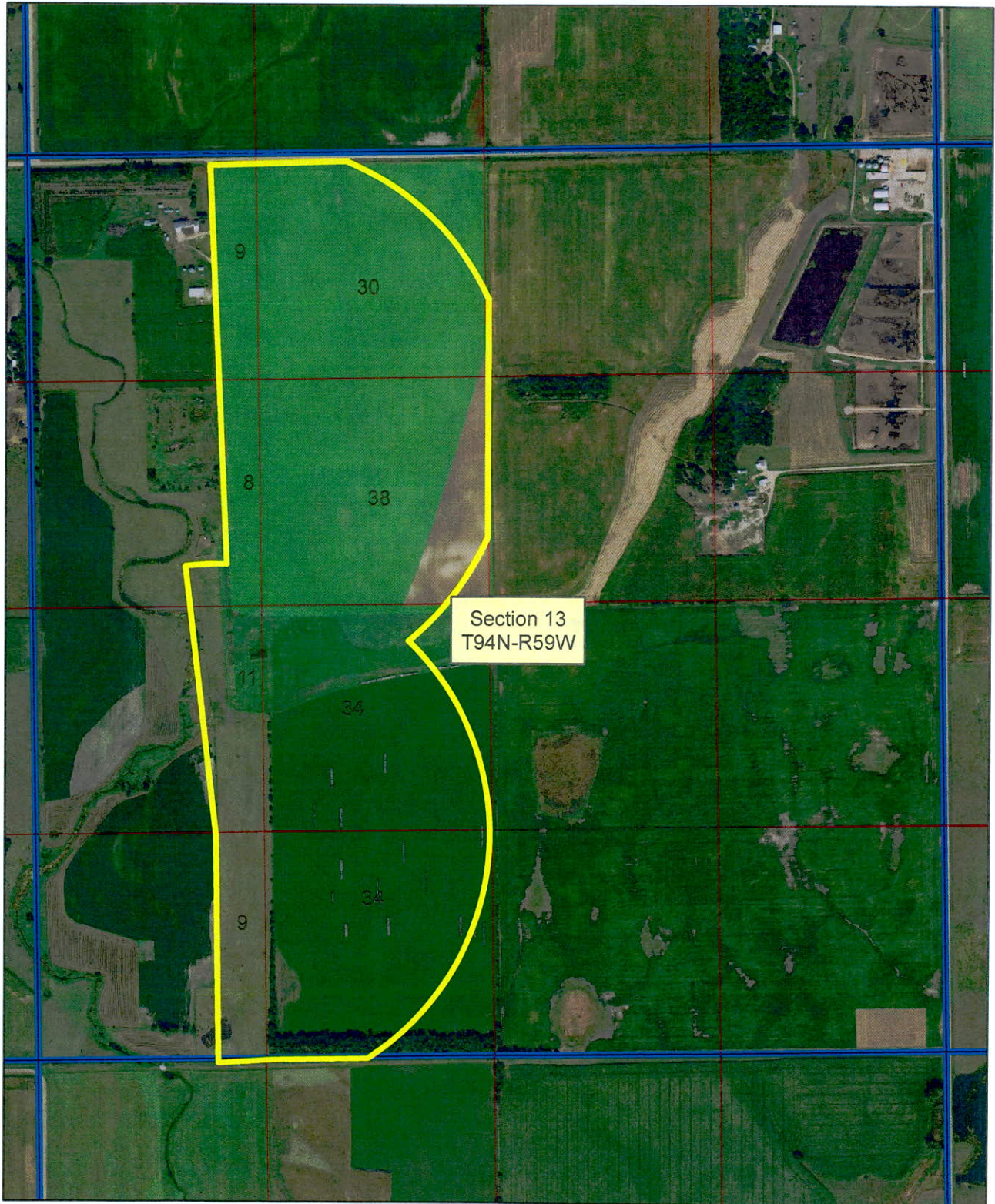
Please let me know if you have any questions. It is our goal for you to have proper permitting in place to reflect the irrigation that is occurring.

Sincerely,

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

enclosure

Acreage To Be Developed from Well Authorized by Water Permit No. 7664-3
if Additional Pivot is Installed



1,000 500 0 1,000 Feet



Affidavit of Publication

SEP 24 2019

State of South Dakota }
County of Bon Homme } SS

WATER RIGHTS
PROGRAM

Rebecca Tyz Being first duly sworn says that the **Tyndall Tribune & Register** is a legal weekly newspaper for publication of legal and other official notices as required by Chapter 298 of the Session Laws of South Dakota, 1939; that it has bona fide paid circulation of more than two hundred copies weekly; that it is published in English language in the City of Tyndall, Bon Homme County, South Dakota, and has been admitted to the United States mail under second class mailing privilege for more than one year prior to the first publication of the notice herein mentioned, and that it is printed in an office maintained at the place of publication at Tyndall, South Dakota; and that deponent is the publisher in charge of the advertising department of said newspaper; that the advertisement headed

Kokes
A9
Notice of App - #8404-3
79@38+806 x1 Water

a printed copy of which is hereto attached, was printed and published in said newspaper for One successive weeks, upon the following dates:

Sept 11 201920.....
.....20.....
.....20.....
.....20.....

That the full amount of the fee charged for the publication of said notice, \$30.02, inures to the benefit of the publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any other person, and that no part has been agreed to be paid to any person whomsoever.

Rebecca Tyz, Publisher
Subscribed and sworn to before me this
11 day of Sept 2019
Reggie D. Halse
Notary Public, South Dakota

My Commission expires 10-24-2021

NOTICE OF APPLICATION

NO. 8404-3 to Appropriate Water

Notice is given that James and Jason Kokes, 42273 SD Hwy 50, Tabor SD 57063 have filed an application for a water permit to irrigate 6 additional acres to what is currently authorized by Water Permit No. 7664-3. Water Permit No. 7664-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Codell Aquifer (200 feet deep) located in the SW 1/4 NW 1/4 Section 13 for irrigation of 90 acres located in the NW 1/4, N 1/2 SW 1/4 Section 13; all in T94N-R59W. An investigation of the permit found the system capable of diverting 1.67 cfs from the existing well and irrigation of an additional 6 acres located within the area described above. This application, if approved, and Water Permit No. 7664-3 will authorize a total of 1.67 cfs for irrigation of 96 acres. This site is located 5 miles west of Tabor SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8404-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 23, 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.

Published once at an approximate cost of \$30.02

(Sept. 11)

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

SEP 16 2019

WATER RIGHTS
PROGRAM

JAMES KOKES
42273 SD HWY 50
TABOR SD 57063

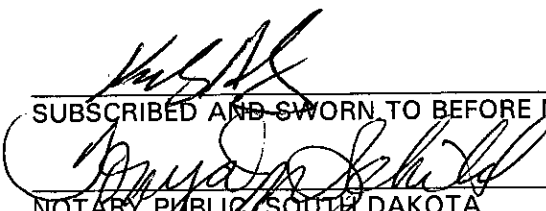
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
9+11 NOTICE OF APPLICATIO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 11th DAY OF September, 2019
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$28.81 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 09/11/2019

FILED ON: 09/11/2019


SUBSCRIBED AND SWORN TO BEFORE ME THIS 11th DAY OF September, 2019

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

Ad text : 9+11

NOTICE OF APPLICATION NO. 8404-3
to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8404-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352) and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 23, 2019.

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Published once at the total approximate cost of \$28.81

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 3, 2019 1:51 PM
To: Jackie Lammers (jackie.lammers@yankton.net)
Subject: 8404-3, James and Jason Kokes
Attachments: 8404-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on September 11, 2019.

James and Jason Kokes, 42273 SD Hwy 50, Tabor SD 57063 (605 660-9462) 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, September 3, 2019 1:50 PM
To: 'tyndalltribune@gmail.com'
Subject: 8404-3, James and Jason Kokes
Attachments: 8404-3public.short.docx; FORM8.FRM.doc

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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.**

September 3, 2019

James and Jason Kokes
42273 SD Hwy 50
Tabor SD 57063

Dear Sirs:

Water Permit Application No. 8404-3 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 Tyndall Tribune & Register printed at Tyndall SD (Ph # 605 589-3242) and the Press & Dakotan printed at Yankton SD (Ph # 605 665-7811). 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.

Instruction to Newspaper - Publish the Notice on September 11, 2019. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8404-3 to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8404-3 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.

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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>

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8404-3, James and Jason Kokes**

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. 8404-3, James and Jason Kokes, 42273 SD Hwy 50, Tabor SD 57063.

The Chief Engineer is recommending APPROVAL of Application No. 8404-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under Permit Nos. 7664-3 and 8404-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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, Permit Nos. 7664-3 and 8404-3 authorize a maximum diversion rate of 1.67 cfs for the irrigation of 96 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

A handwritten signature in black ink, reading "Jeanne Goodman". The signature is fluid and cursive, with the first name "Jeanne" being more prominent than the last name "Goodman".

Jeanne Goodman, Chief Engineer
September 3, 2019

**Report to the Chief Engineer
Water Permit Application No. 8404-3**

James and Jason Kokes

August 9, 2019

Water Permit Application No. 8404-3 proposes to irrigate 6 additional acres to what is currently authorized by Water Permit No. 7664-3. Water Permit No. 7664-3 appropriates 1.78 cubic feet of water per second (cfs) from one existing well completed into the Codell aquifer (200 ft deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 for irrigation of 90 acres located in the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 13; all in T94N-R59W. An investigation of the permit found the system capable of diverting 1.67 cfs from the existing well and irrigation of an additional 6 acres located within the area described above. If approved, this application and Water Permit No. 7664-3 will authorize a total of 1.67 cfs for irrigation of 96 acres. This site is located 5 miles west of Tabor and is in Bon Homme County, South Dakota.

Aquifer: Codell (CDLL)

Hydrogeologic characteristics

The Codell Sandstone is a member of the Cretaceous age Carlile Shale (Fahrenbach, et al., 2010). In Bon Homme County, it is composed of siltstone to fine-grained sandstone, is approximately 25 feet thick, and is under confined conditions (Jorgensen, 1971). Hedges et al. (1982) mapped the Codell aquifer at a 1:1,000,000 scale in 18 counties east of the Missouri River and later estimated that it stores 9,985,700 ac-ft in South Dakota east of the Missouri River (Hedges, et al., 1985). The area mapped by Hedges et al. (1982) covers almost 5 million acres, but lithologic logs have found the Codell Sandstone outside of that area (SD Geological Survey, 2019). However, Codell Sandstone found outside the area is not necessarily hydrologically connected to the Codell aquifer within the boundary mapped by Hedges et al. (1982).

Applicable South Dakota Codified Law

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

Pursuant to SDCL 46-6-3.1, 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 the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of the results of a hydrologic budget. This application is not for a water distribution system as defined in SDCL 46-1-6(17), and the Codell aquifer is newer and stratigraphically higher than the Greenhorn Formation (Fahrenbach, et al., 2010). Therefore, it is necessary to find that withdrawals will not exceed recharge to the aquifer to approve this application.

Availability of Water

Hydrologic budget

Recharge

Natural recharge to the Codell aquifer is through groundwater inflow from neighboring counties and infiltration from adjacent aquifers when the potentiometric surface of those aquifers is higher than the potentiometric surface of the Codell aquifer (Jorgensen, 1971). Recharge to the Codell aquifer has not been estimated at this time. However, Hedges et al. (1985) stated that due to the high storage and low use of the Codell aquifer, “it is unlikely that use is approaching or exceeding recharge.”

Discharge

Natural discharge from the aquifer is by groundwater outflow to adjacent counties and aquifers when the potentiometric surface of the aquifer is higher than that of the adjacent counties or aquifers (Jorgensen, 1971). The rest of the discharge is by withdrawals from domestic and appropriative wells. Due to the low withdrawal rate and prevalence of shallower aquifers and rural water systems, domestic well withdrawals are not significant for the hydrologic budget. Table 1 shows all the water rights and permits authorized to withdraw water from the Codell aquifer. Several water rights do not withdraw a significant amount of water for the hydrologic budget because the cities that hold them are connected to rural water systems, so those water rights are held on standby for emergency uses such as fire protection (Mathiowetz, 2017). Water Right No. 6544-3 is authorized to withdraw 1.33 cfs from an unnamed stream and 0.051 cfs from the Codell aquifer (SD Water Rights, 2019a). Only the amount withdrawn from the Codell aquifer is reflected in Table 1. Some water rights/permits are limited to an annual withdrawal volume less than the capability of their maximum instantaneous pump rate and are also required to report their annual withdrawals to the Chief Engineer (SD Water Rights, 2019a). However, they are all too new to find a meaningful average annual withdrawal, so the annual withdrawal by those water rights/permits is assumed to be their annual withdrawal volume. The rest of the non-irrigation water rights/permits are estimated to withdraw at their maximum permitted pump rate 60% of the time. The estimated withdrawal by non-irrigation water rights/permits that are not on standby is 1,662 ac-ft/yr.

All irrigation water rights/permits are required to report their annual withdrawals to the Chief Engineer. However, irrigation in the Codell aquifer has only been developed recently. Irrigation reported from 2013-2018 is shown in Table 2. The only irrigation water right held in the aquifer before 2014 was Water Right No. 6422-3, which irrigated 37 acres of lawn and was cancelled in 2014, so withdrawals prior to 2014 are not representative of typical irrigation behavior in the aquifer currently (SD Water Rights, 2019a). The irrigation water rights/permits in the Codell aquifer may withdraw up to 2 ac-ft/acre permitted, but the average withdrawal from 2014-2018 was approximately 3.51 inches per developed acre (SD Water Rights, 2019b). The maximum withdrawal from 2014-2018 was 4.87 inches per developed acre in 2016 (SD Water Rights, 2019b). Some irrigation permits might not be fully developed, so to account for further development possible, a conservative estimate of 12 inches per acre is used for the hydrologic budget. The estimated annual withdrawal due to irrigation water rights/permits is 543 ac-ft/yr.

Table 1: Water rights and permits authorized to withdraw water from the Codell aquifer (SD Water Rights, 2019a)

Permit No:	Status:	Name/Business:	Type of Use	Priority Date:	Pump rate (cfs)	Acres	Est. Withdrawal (ac-ft/yr)
551-3	LICENSE	State Training School	INS	01/01/1938	0.170	N/A	73.9
555-3	LICENSE	City of Armour	MUN	01/01/1930	0.500	N/A	*
687-3	LICENSE	City of Lake Andes	MUN	01/01/1935	0.730	N/A	*
1676-3	LICENSE	Town of Nunda	MUN	09/29/1969	0.100	N/A	43.5
1694-3	LICENSE	Town of Stickney	MUN	01/01/1949	0.110	N/A	*
1892-3	LICENSE	City of Wakonda	MUN	01/01/1935	0.330	N/A	*
1966-3	LICENSE	City of Geddes	MUN	01/01/1944	0.380	N/A	*
4120-3	LICENSE	City of Plankinton	MUN	01/01/1895	0.360	N/A	*
4279-3	LICENSE	City of Delmont	MUN	01/01/1930	0.300	N/A	*
4279A-3	LICENSE	City of Delmont	MUN	01/01/1930	0.000	N/A	*
4383-3	LICENSE	Douglas County Cheese Co.	IND	10/12/1979	0.070	N/A	30.4
4402-3	LICENSE	City of Tripp	MUN	01/01/1936	0.640	N/A	278.2
4836-3	LICENSE	City of Corsica	MUN	10/05/1982	0.130	N/A	*
4977-3	LICENSE	City of Menno	MUN	09/16/1983	0.500	N/A	*
5330-3	LICENSE	City of Avon	MUN	05/03/1989	0.330	N/A	*
5477-3	LICENSE	Artesian-Letcher School Dist. 55-5	INS	09/05/1990	0.050	N/A	21.7
5480-3	LICENSE	CorTrust Bank, NA	COM	11/26/1990	0.040	N/A	17.4
5549-3	LICENSE	National Foods Corporation	COM	04/22/1991	0.260	N/A	113.0
5598-3	LICENSE	Storla Sunset Home	INS	12/02/1991	0.080	N/A	*
5731-3	LICENSE	St Charles Catholic Church	INS	12/10/1992	0.033	N/A	14.3
5756-3	LICENSE	Town of Ravinia	MUN	02/18/1993	0.070	N/A	*
5823-3	LICENSE	DNA Production LLC	COM	05/11/1994	0.220	N/A	95.6
5978-3	LICENSE	Norfeld Hutterian Brethren Inc	COM	01/23/1997	0.111	N/A	48.2
5995-3	LICENSE	Bernard L Van Vuuren	COM	04/18/1997	0.177	N/A	76.9
6018-3	LICENSE	National Foods Corporation	COM	08/06/1997	0.270	N/A	117.4
6041A-3	LICENSE	Calvin Berwald	COM	01/22/1998	0.080	N/A	34.8
6232-3	LICENSE	Rockport Hutterian Bretheren	DOM	09/28/2000	0.222	N/A	96.5
6323-3	LICENSE	New Elm Springs Colony	DOM	04/15/2002	0.090	N/A	39.1
6539-3	LICENSE	Clearfield Colony	DOM	02/20/1997	0.200	N/A	86.9
6544-3	LICENSE	City of Armour	REC, FWP	08/24/1995	0.051	N/A	22.2
6762-3	LICENSE	Van Winkle Dairy LP	COM	10/10/2006	0.270	N/A	117.4
7206-3	PERMIT	Long View Farms LLP	COM	07/08/2010	0.067	N/A	29.1
7359-3	LICENSE	James C Kokes	COM	05/23/2012	0.067	N/A	29.1
7469-3	PERMIT	William Chenoweth	IRR	10/18/2012	3.110	217	N/A
7664-3	PERMIT	James C & Jason Kokes	IRR	01/28/2013	1.780	90	N/A
7830-3	PERMIT	Tom Bares	IRR	04/15/2013	1.780	96	N/A
7851-3	PERMIT	Alan Armstrong	DOM	06/10/2013	0.067	N/A	29.1
7978-3	LICENSE	Chad or Rita Svatos	IRR	02/28/2014	1.780	140	N/A
8252-3**	LICENSE	Michael J Slama	COM	12/14/2016	0.090	N/A	45.0
8291-3**	PERMIT	Jackrabbit Family Farms	COM	06/15/2017	0.085	N/A	50.0
8303-3**	PERMIT	Frank Pravecsek	COM	07/27/2017	0.120	N/A	51.0
8314-3**	PERMIT	Cody Schelling	COM	10/11/2017	0.070	N/A	29.0
8331-3**	PERMIT	Rosedale Hutterian Bretheren	COM	02/12/2018	0.110	N/A	72.6
COM - Commercial, DOM - Domestic, FWP - Fish and Wildlife Propagation, IND - Industrial, INS - Institutional, IRR - Irrigation, MUN - Municipal, REC - Recreational							
* Connected to rural water/on standby, ** Limited to an annual volume							

Table 2: Irrigation reported in the Codell aquifer (SD Water Rights, 2019b)

Year	Number of Permits	Reported Withdrawal (ac-ft)	Permitted acres
2013	3	23.57	403
2014	4	161.69	543
2015	4	191.21	543
2016	4	220.43	543
2017	4	213.64	543
2018	4	9.90	543

Balance of Hydrologic Budget

The average annual recharge to the Codell aquifer has not been quantified at this time. The estimated average annual withdrawals from the Codell aquifer total 2,205 ac-ft/yr. The estimated annual withdrawal from the Codell aquifer is less than 0.03% of the water stored in the aquifer. The 6 additional acres requested by this application are estimated to withdraw an additional 6 acre-feet of water from the aquifer annually. Since the development of this aquifer is so small compared to its storage, there is reasonable probability withdrawals will not exceed recharge to the aquifer if this application is approved.

Observation Wells

Pursuant to Administrative Rule of South Dakota (ARSD) 74:02:05:07, the availability of unappropriated water should be evaluated based on the analysis of observation well measurements in addition to other data. The DENR Water Rights Program maintains 22 observation wells completed into the Codell aquifer (SD Water Rights, 2019c). The nearest observation well to the well for this application is Observation Well BH-2016E located approximately 4.4 miles north of the well for this application (SD Water Rights, 2019c). The Water Rights Program has only been collecting data from that well since 2016, so long term behavior of the aquifer at that location is not known. The next nearest observation well is Observation Well HT-83E, located approximately 14.6 miles north of the well for this application (SD Water Rights, 2019c). A graph of all DENR observation wells classified to be completed in the Codell aquifer is shown in Figure 1.

Most observation well water levels rise and decline with climate variations and possibly seasonal pumping. The magnitude of water level changes varies based on well construction and changes in aquifer characteristics at the observation wells. However, Observation Well AU-77D does not rise in the mid-1990s the same way other observation wells with levels at similar elevations do, even though that was a wet period for the climate in that region (NOAA, 2019). Several possible explanations for this observation well water level trend exist including the observation well's construction features, formation variability in that location, and the presence of new water permits at that time. Approximately 4 miles south of Observation Well AU-77D, Water Right No. 6018-3 diverted 0.27 cfs as early as 1988, and Water Right No. 5549-3 diverted 0.45 cfs as early as 1991 (SD Water Rights, 2019a). Since the late 1990s, water levels at Observation Well AU-77D have risen and generally reflect climate fluctuations (SD Water Rights, 2019c). Based on observation well analysis, there is reasonable probability unappropriated water is available for this application.

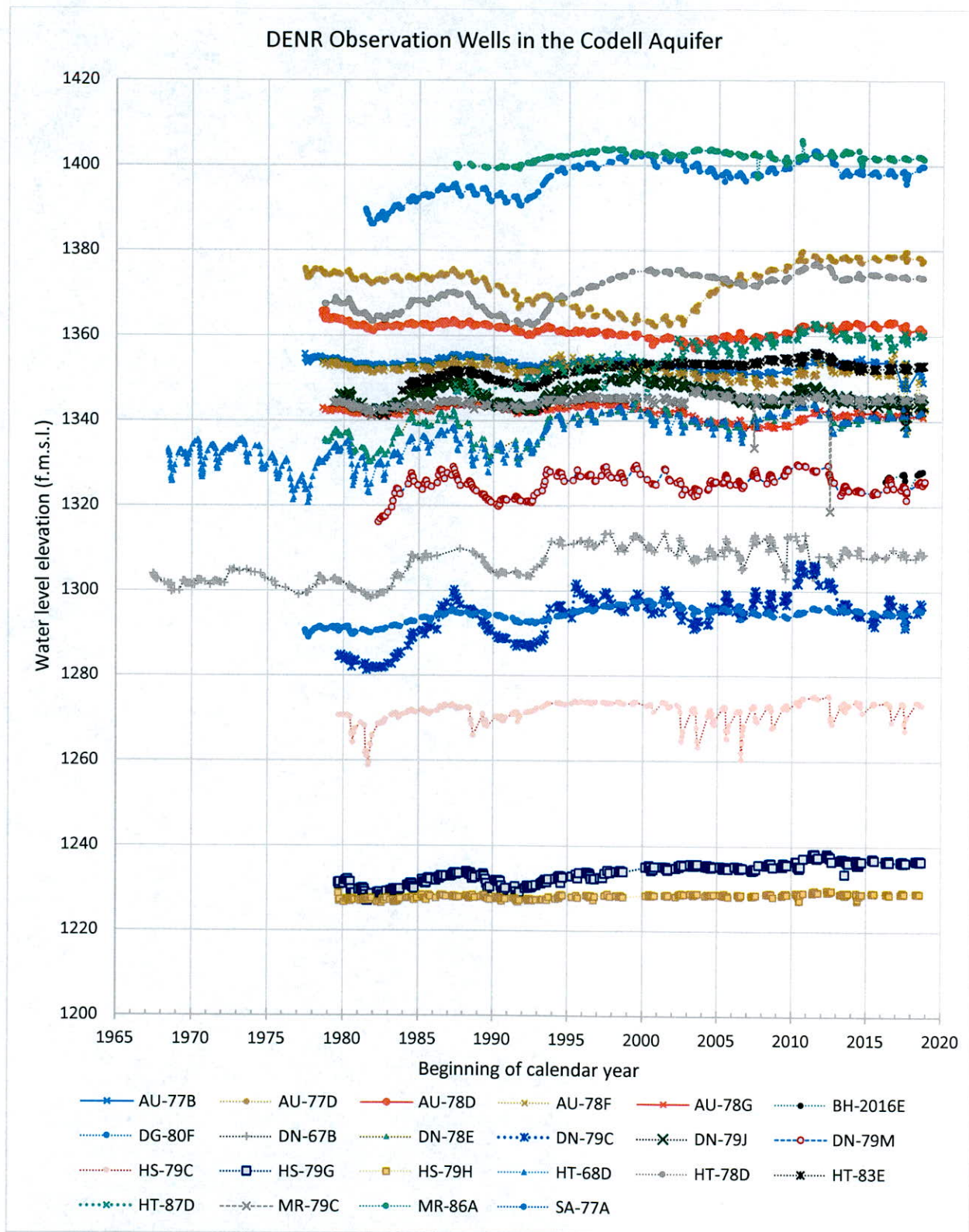


Figure 1: DENR Observation Wells completed into the Codell aquifer (SD Water Rights, 2019c)

Existing users

The nearest water right/permit in the Codell aquifer is Water Right No. 8252-3, which has a well located approximately 0.6 miles east of the well for this application and a second well located approximately 0.9 miles northeast of the well for this application (SD Water Rights, 2019a). The well located 0.6 miles east of the well for this application is reported to be completed into the Dakota aquifer, although no well completion reports are attached to that water rights file (SD Water Rights, 2019a). The nearest domestic well on file in the DENR Well Completion Report database that is likely to be completed into the Codell aquifer is located approximately 1.2 miles northeast of the well for this application (SD Water Rights, 2019d). However, based on the engineer's report for Water Right No. 8252-3, that well may be the Codell aquifer well for that water right (SD Water Rights, 2019a). The next nearest domestic well on file with DENR that is likely to be in the Codell aquifer is located approximately 3 miles west of the well for this application (SD Water Rights, 2019d). A map of nearby water rights/permits and Observation Well BH-2016E is shown in Figure 2. The Water Management Board has recognized that in order to put the waters of the state to maximum beneficial use, a certain amount of drawdown may occur. In order to protect domestic users, an adversely impacted domestic well is defined in ARSD 74:02:04:20(7) 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."

Because the Codell aquifer is under confined conditions, some drawdown may occur due to withdrawals from the well for this application. However, due to the small additional acreage for this application, it is unlikely that any drawdown due to this application will be measurable. Furthermore, this acreage was developed as part of Water Permit No. 7664-3, and no complaints about it have been submitted to DENR. No complaints regarding well interference in Bon Homme County have been substantiated (SD Water Rights, 2019e). Therefore, it is unlikely nearby domestic users or senior water rights/permits will be unlawfully impacted by the development of this application.

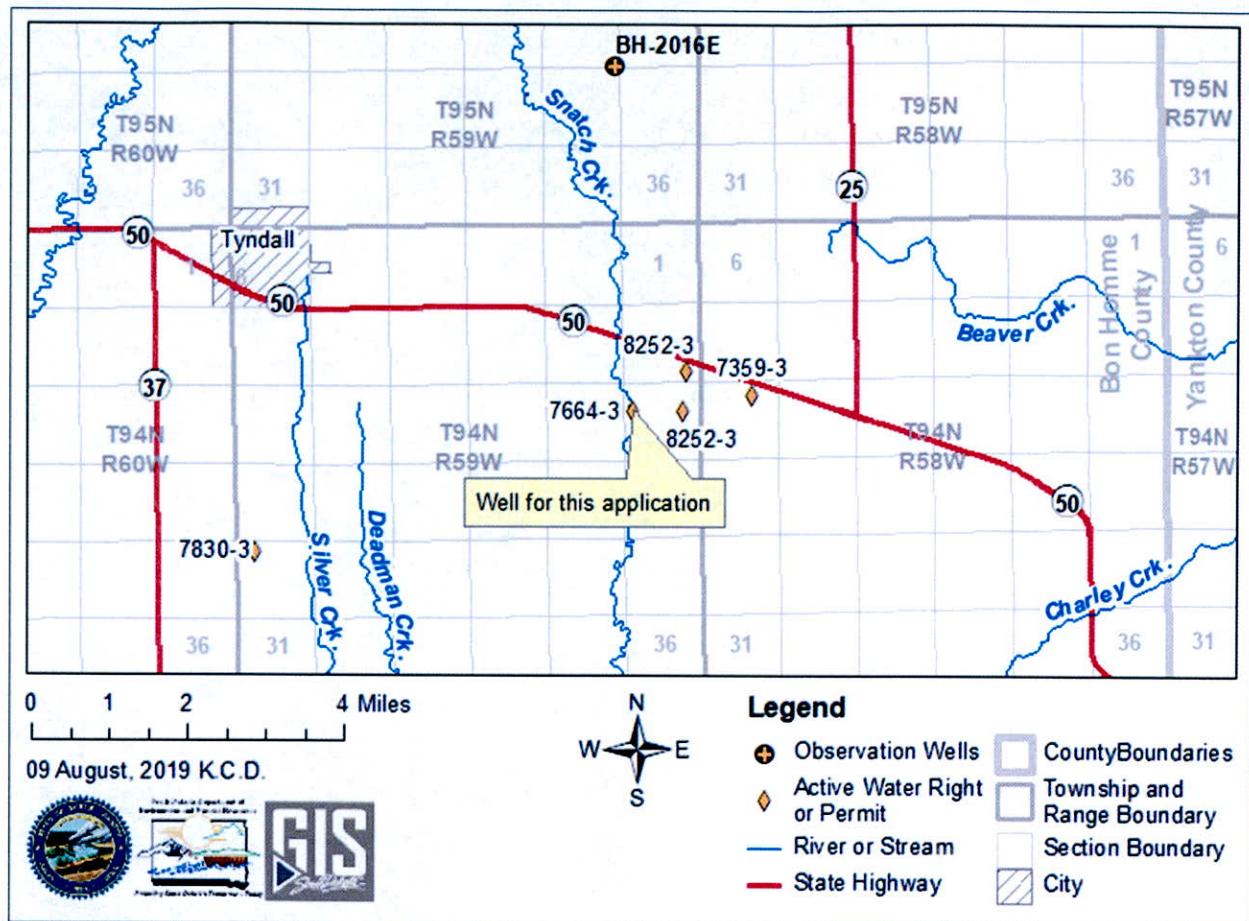


Figure 2: Map of nearby water rights (SD Water Rights, 2019a) and observation well BH-2016E (SD Water Rights, 2019c)

Conclusions

1. Water Permit Application No. 8404-3 seeks to irrigate 6 additional acres to what is currently authorized by Water Permit No. 7664-3.
2. Water Permit No. 7664-3 appropriates 1.78 cfs from one well completed into the Codell aquifer located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13 to irrigate 90 acres located in the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 13; all in T94N-R59W.
3. An investigation of the permit found the system capable of diverting 1.67 cfs from the existing well and irrigating an additional 6 acres located within the area for Water Permit No. 7664-3.
4. Based on a hydrologic budget and observation well analysis, there is reasonable probability unappropriated water is available for this application.
5. There is reasonable probability this application can be developed without unlawful impairment of senior water rights/permits or domestic wells.



Kimberly C. Drennon
Natural Resources Engineer

References

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NOAA. 2019. Divisional Time Series. *Climate at a Glance*. [Online] NOAA National Centers for Environmental Information, August 1, 2019. [Cited: August 9, 2019.] <https://www.ncdc.noaa.gov/cag/>.

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—. **2019b.** *Irrigation questionnaire summaries*. Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019b.

—. **2019c.** *Observation Wells*. [Electronic database] Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019c.

—. **2019a.** *Water rights/permits*. [Electronic database] Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019a.

—. **2019d.** *Well completion reports*. [Electronic database] Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019d.

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 7664-3 (Inc into 8404-3)**

I have this day, January 24, 2019, made a thorough examination of the water use system constructed by James and Jason Kokes, 42273 SD Hwy 50, Tabor, SD 57063, holders of Permit No. 7664-3, bearing the priority of January 28, 2013 authorizing the diversion of 1.78 cu. ft. per second of the waters of groundwater (Codell Aquifer) to irrigate 90 acres, in Bon Homme County.

Inspection contact: Jason Kokes

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Thein Well Co., Inc.
- 2) No. of Wells 1
- 3) Depth(s) 200 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 12 inches
- 2) Length 180 feet
- 3) Type PVC

Screen:

- 1) Diameter 12 inches
- 2) Type Stainless Steel
- 3) Static water level 7 feet

Pump:

- 1) Make Gould
- 2) Model 10LHC
- 3) Capacity 750 GPM

Motor:

- 1) Make Isuzu Diesel Engine
- 2) Model No. Unknown
- 3) Horsepower rating 100 hp

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

- 1) Type Galvanized
- 2) Size 8 inches
- 3) Length 75 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make T&L
- 2) Overall length 1,540 feet
- 3) Number of towers 10
- 4) End gun Yes
- 5) Capacity 750 GPM

Chemigation Equipment:

- 1) Does chemigate Yes
- 2) Main line check valve Yes
- 3) Inspection port/air relief Yes
- 4) Low pressure drain Yes
- 5) Discharge is 20' from source Needs Hose
- 6) Interlock type Hydraulic
- 7) Injection pump Piston
- 8) Injection check valve Yes
- 9) Injection line check valve or
positive displacement pump Yes

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes
- 3) Exceptions to compliance are: Irrigating 96 acres instead of 90 acres.

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows:
The well is 1,070 feet east and 1,510 feet south of the northwest corner of Section 13-T94N-R59W (Latitude 42.962190, Longitude -97.769410 – SW1/4 of the NW1/4).
2. The works are capable of diverting and conveying to the place of use 1.67 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows: All in Section 13-T94N-R59W:

<u>NW1/4NW1/4</u>	<u>8 acres</u>
<u>NE1/4NW1/4</u>	<u>30 acres</u>
<u>SW1/4NW1/4</u>	<u>8 acres</u>
<u>SE1/4NW1/4</u>	<u>38 acres</u>
<u>NW1/4SW1/4</u>	<u>3 acres</u>
<u>NE1/4SW1/4</u>	<u>9 acres</u>

comprising a total of 96 acres of land and the license should be issued for 1.67 cfs.

3. All structures, wells and lands on map Yes

F. Comments or other permit(s) associated with the project: The land being irrigated is six acres more than what was approved in the water right.

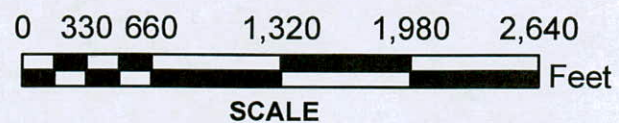
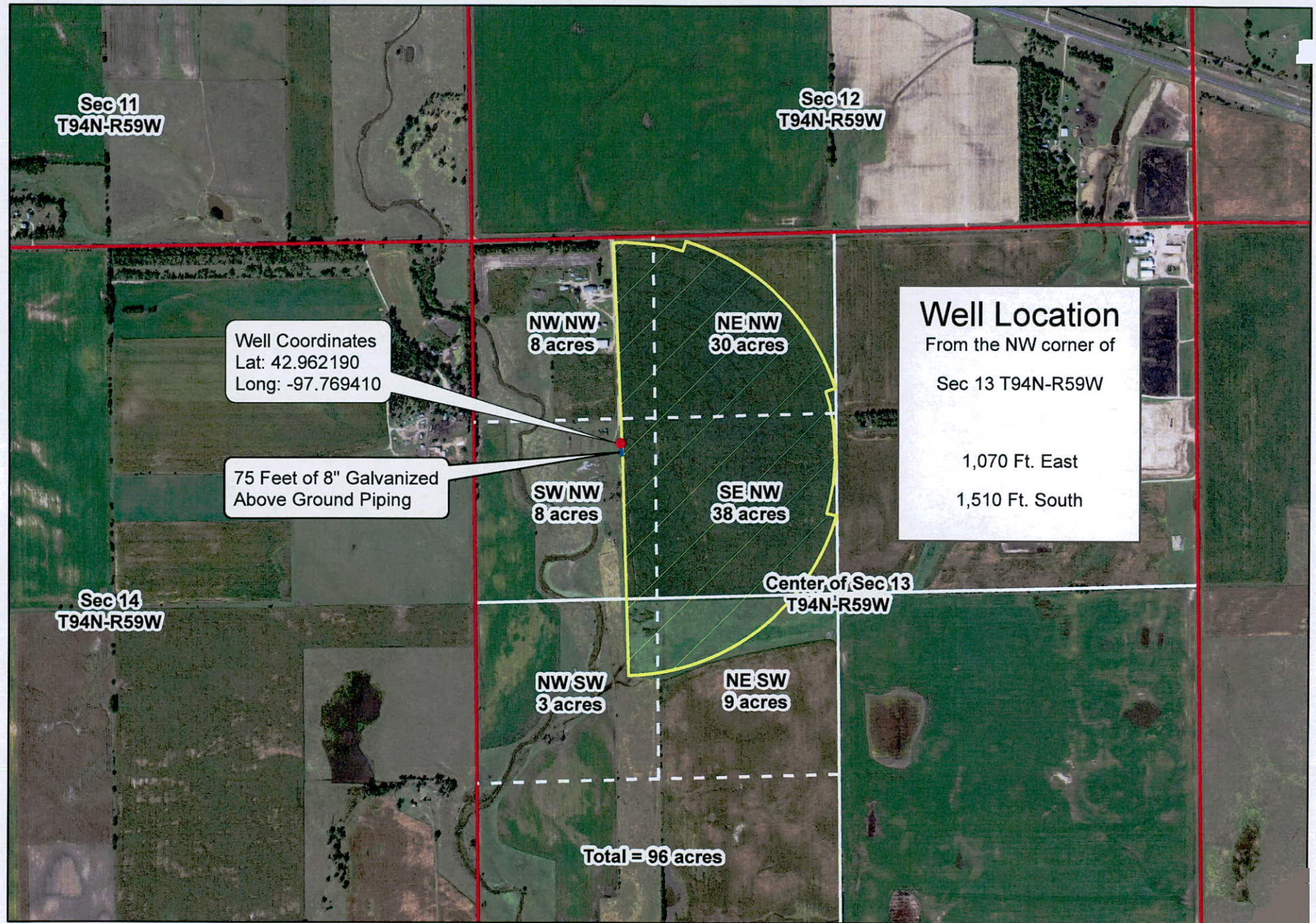


Keith DeJong
Water Rights Inspector
DENR, Water Rights Program

Date report completed: February 4, 2019

Note: Permit holder made an application for the additional six acres (8404-3). No. 7664-3 was incorporated into No 8404-3 upon licensing.

Water Right No. 7664-3



Keith DeJong
Keith DeJong, PE
Staff Engineer
February 4, 2019

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 8404-3

(1) James and Jason Kokes, 42273 SD Hwy 50, Tabor SD 57063 made Application No. 8404-3, July 8, 2019 for a water permit to irrigate 6 additional acres from the Codell Aquifer, Bon Homme County, South Dakota. Permit No. 8404-3, with a priority date of July 8, 2019 was approved September 23, 2019 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

Water Permit No. 7664-3, with a priority date of January 28, 2013 authorizes 1.78 cubic feet of water per second (cfs) from one well for irrigation of 90 acres. The applicable portions of Permit No. 7664-3 have been incorporated into this water license.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holders and/or owners of Incorporated Water Right No. 8404-3 are issued a license, bearing a priority date of January 28, 2013 (90 acres and 1.97 cfs) and July 8, 2019 (6 acres) to appropriate 1.67 cfs from one well (Codell Aquifer) to irrigate 96 acres.

The diversion point is located: 1,070'E and 1,510'S of the NW corner of Section 13-T94N-R59W (SW 1/4 NW 1/4)
Latitude 42.962190 Longitude -97.769410

The acres authorized for irrigation are as follows: **Section 13-T94N-R59W**

NW 1/4 NW 1/4 8 acres

NE 1/4 NW 1/4 39 acres

SW 1/4 NW 1/4 8 acres

SE 1/4 NW 1/4 38 acres

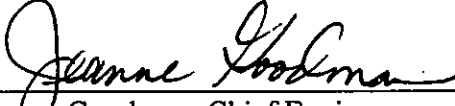
NW 1/4 SW 1/4 3 acres

NE 1/4 SW 1/4 9 acres

Total 96 acres

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Permit No. 8404-3 including the following qualifications:

1. The well approved under Permit Nos. 7664-3 and 8404-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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, Permit Nos. 7664-3 and 8404-3 authorize a maximum diversion rate of 1.67 cfs for the irrigation of 96 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.


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

OCT 01 2019

date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

OCT 01 2019

7664-3
8404-3

James and Jason Kokes
42237 SD Hwy 50
Tabor SD 57063

Dear Sirs:

Enclosed are Water Permit and License No. 8404-3. These are the final documents completing your process of obtaining a Water Right. Also, included is a map prepared by the staff engineer who conducted the investigation.

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

At the time the irrigation project was inspected for licensing, the staff engineer made note of the equipment used to apply chemicals or fertilizer through your center pivot system. In order to bring the equipment into compliance, a hose will need to be installed to the low pressure drain to allow discharge to be routed at least 20 feet away from the well.

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

Sincerely,

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

Note: The applicable portions of No. 7664-3 are incorporated into Water License No. 8404-3.