

WATER PERMIT NO. 8406-3

Name of Applicant: **JD Bieber Enterprises Inc.**

Address: **PO Box 340, Bowdle SD 57428** Phone: **605 281-1605**

Amount of Water Claimed: **1.78 cfs** Total Acres: **136 acres**

Source of Water Supply: **groundwater (2 wells)**

Water to be used for: **irrigation** County: **Walworth**

Type of Waste Disposal System:

Location: **7 miles south of Java SD**

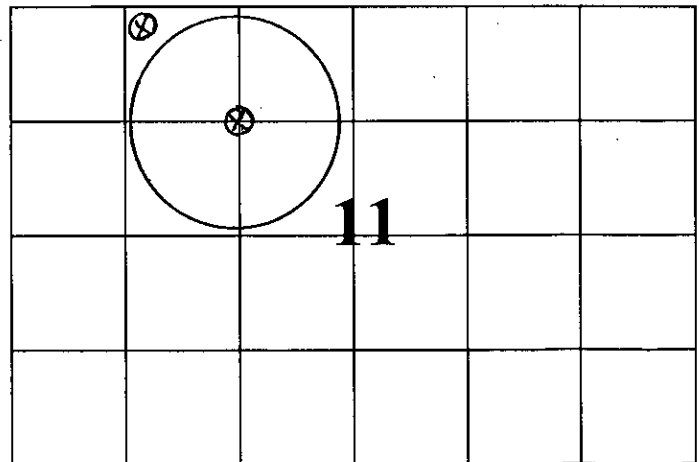
PRIORITY Date Received: **8-5-19** Application/License Fee: **\$ 1050**

Corrected Application Received: Period of Annual Use: **April 1 – October 31**

Remarks:

Diversion Point: **approximate center and the NW**
¼ NW ¼ Sec 11-T122N-R75W

Land to be Irrigated: **NW ¼ Sec 11-T122N-R75W**



Depth of Well: **50 feet**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **8-5-19**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8406-3

Date of first receipt of application July 29, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8406-3 to JD Bieber Enterprises Inc., c/o Sarah Bieber, PO Box 340, Bowdle SD 57428 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. 8406-3 appropriates 1.78 cubic feet of water per second from two wells to be completed into the Java Aquifer (50 feet deep) located in the approximate center of the NW 1/4 and the NW 1/4 NW 1/4 Section 11 to irrigate 136 acres located in the NW 1/4 Section 11; all in T122N-R75W which is located approximately 7 miles south of Java SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is July 29, 2019.
4. The date of approval of Permit No. 8406-3 is October 21, 2019.
5. One-fifth of the construction is to be completed on or before April 21, 2022.
6. All construction is to be completed on or before October 21, 2024.
7. Water is to be put to beneficial use on or before October 21, 2028.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under Permit No. 8406-3 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. The wells authorized by Permit No. 8406-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: *Jeanne Goodman*

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

NOV 07 2019

date



Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8406-3</u>	(office use only) Hydrologic Unit <u>10130105</u>	AUG 02 2019
	Basin <u>Missouri River</u>		WATER RIGHTS PROGRAM
	Newspaper <u>Selby Record</u>		
	<u>American News</u>		

PAID

AUG 05 2019

Ck# 3091

Application For Permit To Appropriate Water For Irrigation

 Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____

(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit JP Bieber Enterprises, Inc.

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

 Mailing Address PO Box 340 Bowdle SD 57428
 (Address) (City) (State) (Zip Code)

 Phone _____ Mobile 605-281-1605 Email bieberjustin@yahoo.com

 2. Amount of water claimed 1.78 *CFS or 800 **GPM _____ ***AF Total Acreage 136
 (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
3. Source of water supply ground
 4. Location of point of diversion 2 wells in the NW 1/4 of section 11 - T122N - R75W
 of 5th PM (approximate center and NW 1/4 NW 1/4 Sec 11) (example - 3 wells in SW 1/4 NE 1/4 section 12 - T104N - R53W)
 County Walworth
5. County or counties where water will be used Walworth6. Annual period during which water is to be used April through October 31

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 1/4 - section 11 - T122N - R75W	136		

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

Pivot Irrigation. The 4 corners consisting of 22.38 FSA acres will not be irrigated but will continue to be farmed. The state of South Dakota has an observation well 2 miles to the southeast in the same aquaphor. That well is WL-76Q

 I, Sarah Bieber President, 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.

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) 50 feet Depth to Top of Water Bearing Material 60 feet Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property none Property owned by others 1/2 mile to the South

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) N/A

b) System Capacity (gallons) N/A Year Constructed N/A

c) Connected to the City of N/A Sanitary System

(they do not use this well -
they use well water)

3. Dugout Information

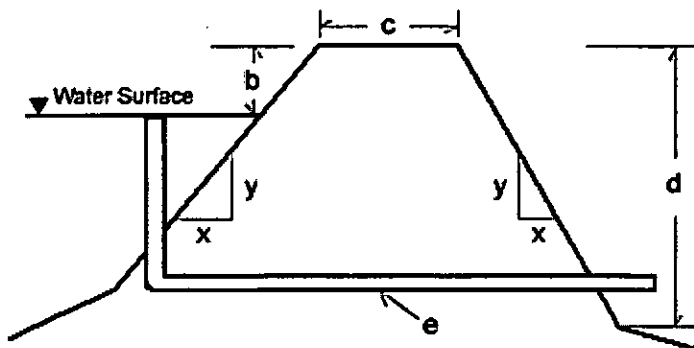
a) Surface Dimensions N/A Depth N/A

b) Depth to water (ground surface to water level) N/A

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 N/A

c) Crest Width N/A

Crest Length N/A

d) Height N/A

e) Primary Outlet Capacity N/A

If pipe, diameter N/A

f) Secondary Spillway Capacity N/A

Spillway Width N/A

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

Upstream N/A

Downstream N/A

h) Surface Area of Impoundment N/A

i) Storage N/A Acre Feet

j) Drainage Area Above Dam N/A Acres



Common Land Unit
 Non-Cropland
 Cropland

native_sod_SD
 Tract Boundary
 PLSS

Wetland Determination Identifiers

- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions

Wht Sp Gr
Sunfl Oil Gr

Corn Yel Gr
Soy Com Gr

All Crops NI

All Crops as listed above unless otherwise indicated

2019 Program Year

Map Created March 18, 2019

Farm 3141

11 -122N -75W

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 5, 2019

RECEIVED OF JD Bieber Enterprises, Inc. PO Box 340 Bowdle SD 57428

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

Fee for Application for Permit No. <u>8406-3</u> to Appropriate Water, to construct and to put water to beneficial use	850	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8406-3</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1050 00

No. **09179**

By Jeanne Goodman
Chief Engineer VM



530646036

ANNUAL REPORT

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

Domestic 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

2018
FILING YEAR

1. Business ID and Name:

DB046036
BUSINESS ID

J. D. BIEBER ENTERPRISES, INC.
BUSINESS NAME

2. The jurisdiction under whose law it is formed **SOUTH DAKOTA**

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

Actual Street Address

1085 N 4TH STREET
BOWDLE, SD 57428-2020

Mailing Address

PO BOX 340
BOWDLE, SD 57428-0340

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.

(b) The South Dakota Commercial Registered Agent's name & CRA#

CRA: **INCORP SERVICES, INC. (0000010)**

Actual Street Address in this State

400 N MAIN AVE
STE 206
SIOUX FALLS, SD 57104-5979

Mailing Address in this State

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

Title	Name	Address
President	Sarah Bieber	4785 County Road 24 3/4, Longmont CO 80504
Vice President	SARAH BIEBER	4785 County Road 24 3/4, Longmont CO 80504
Secretary	SARAH BIEBER	4785 County Road 24 3/4, Longmont CO 80504
Treasurer	SARAH BIEBER	4785 County Road 24 3/4, Longmont CO 80504

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

Name	Address
Sarah Bieber	4785 County Road 24 3/4, Longmont CO 80504

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

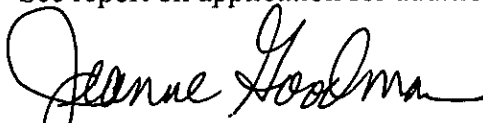
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8406-3, J D Bieber Enterprises, Inc.**

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. 8406-3, J D Bieber Enterprises, Inc., Sarah Bieber, PO Box 340, Bowdle SD 57428.

The Chief Engineer is recommending APPROVAL of Application No. 8406-3 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 wells approved under Permit No. 8406-3 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. The wells authorized by Permit No. 8406-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
September 30, 2019

REPORT ON PERMIT APPLICATION NO. 8406-3

JD Bieber Enterprises Inc

September 30, 2019

Water Permit Application No. 8406-3 requests the appropriation of 1.78 cubic feet per second (cfs) of water from two wells to be completed into the Java aquifer with an approximate depth of 50 feet located in the approximate center of the NW ¼ and the NW ¼ NW ¼ Section 11 for the irrigation of 136 acres located in the NW ¼ Section 11; all in T122N-R75W in Walworth County approximately 7 miles south of Java, SD.

Aquifer: Java (J)

Hydrogeology

The Java aquifer is a complex group of buried deposits of alluvium and glacial outwash that are draped on high points of bedrock topography and are likely the remnants of flood plains and terraces (Kume & Howells, 1987). The alluvium portions of the Java aquifer range from clay to gravel but mostly consists of fine sand and gravel (Kume & Howells, 1987).

The Java aquifer is primarily a confined aquifer with depth to top of aquifer averaging 61 feet below grade. The thickness of the Java aquifer is highly variable, ranging from 5 to 69 feet; this is likely due to the Java aquifer depositional environment leading to stranded deposits of sand and gravel. On average the thickness of the Java aquifer is 22 feet (Kume & Howells, 1987). Hedges, Burch, Iles, Barari, & Schoon (1982) estimated the areal extent of the Java aquifer to be 55,000 acres with an estimated 187,000 acre-feet of recoverable water in storage in Walworth County. Kume and Howells (1987) however estimated the areal extent of the Java aquifer to be 83,000 acres (Figure 1) with an estimated 360,000 acre-feet of water in storage in Walworth County. Both of these areas are valid and well supported; as such, for this report a range of both areas will be used to provide for both cases.

In the area of the proposed diversion points, the thickness of the Java aquifer ranges between 11 and 24 feet (South Dakota Geological Survey, 2019); however, the application is near the boundary defined by Kume and Howells (1987) for the Java aquifer, and as such the aquifer thickness could be less. Based on a nearby observation well the static water level has varied between flowing and 7.9 feet below grade (Water Rights, 2019c). The Java aquifer appears to be hydrologically well connected both horizontally and vertically, which may allow water to move freely between deposits (Kume & Howells, 1987).

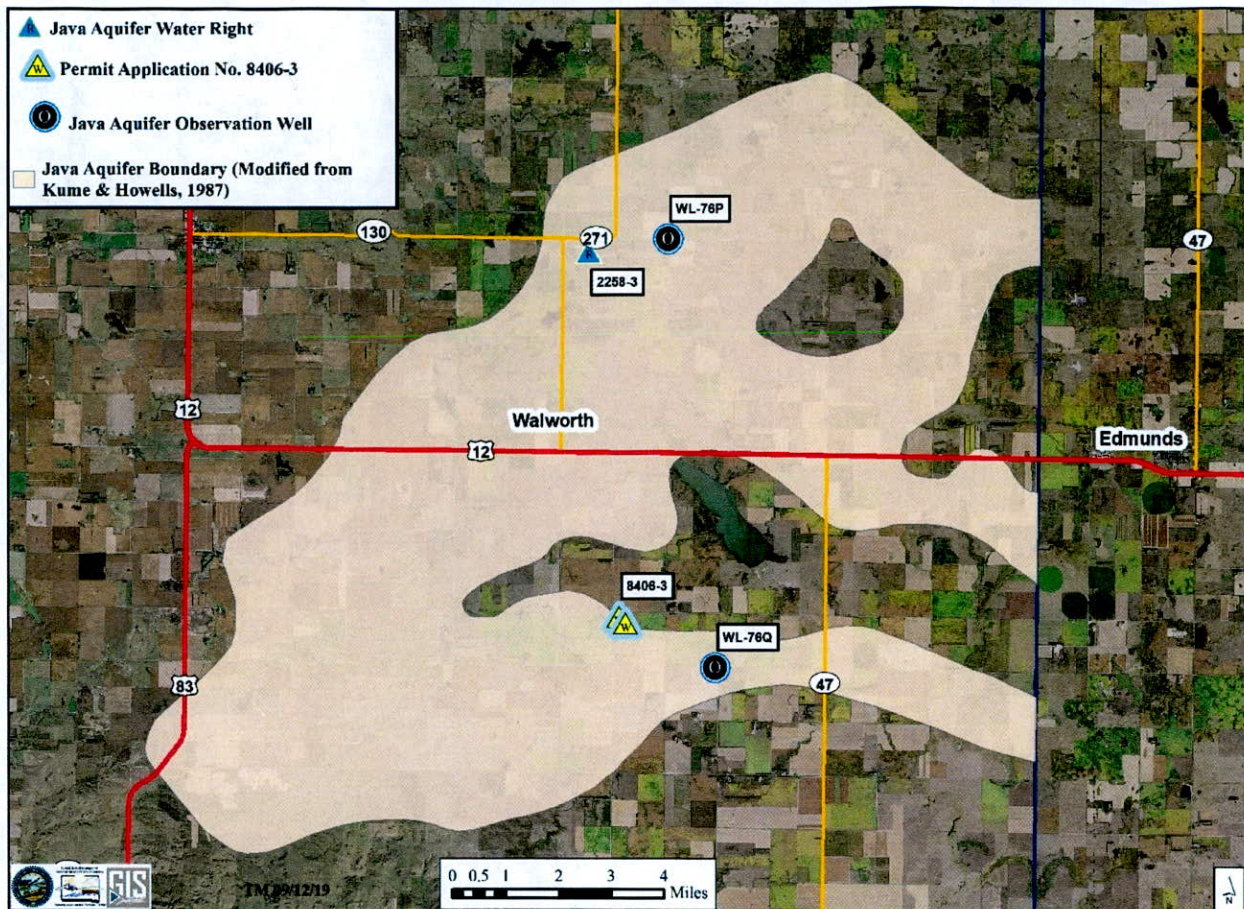


Figure 1: Java aquifer boundary (modified from Kume & Howells, 1987), location of the proposed diversion points, observation wells completed into the Java aquifer (Water Rights, 2019c) and other water rights/permits currently authorized to withdraw water from the Java aquifer (Water Rights, 2019a).

South Dakota Codified Law 46-2A-9

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

Water Availability

SDCL 46-6-3.1 is considered when evaluating the probability of unappropriated water from an aquifer and states “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. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Java aquifer is not older or lower than the Greenhorn Formation, and

there is no water distribution system involved. Therefore, recharge and withdrawal rates must be considered.

Hydrologic Budget

Recharge

Recharge to the Java aquifer occurs through the infiltration of precipitation and snowmelt where permeable layers overlie the aquifer and the Bowdle aquifer where it overlies the Java aquifer and where material separating the aquifer is permeable enough for the movement of water (Kume & Howells, 1987). Hedges, Allen, & Holly (1985) suggested an average annual recharge to confined aquifers of 0.15 to 0.60 inches per year for use by management and development programs. Due to the Java aquifer being confined for the most part and there is no aquifer specific recharge rate the average annual recharge rate of 0.15 to 0.60 will be used. Given the estimated range for areal extent of the Java aquifer (55,000 to 83,000 acres) and using a range of 0.15 to 0.60 inches per year, the estimated average annual recharge for the Java aquifer ranges between 688 to 4,150 acre-feet per year (ac-ft/yr).

Discharge

Discharge from the Java aquifer in Walworth County occurs through evapotranspiration, outflow to Edmunds County and well withdrawals. Currently, there is one water right authorized to appropriate water from the Java aquifer (Water Rights, 2019a). The City of Java holds Water Right No. 2258-3 however, the city of Java currently purchases water from WEB Water Development Association and does not use the water right consistently (DENR, 2019).

Private self-serve domestic usage was calculated by determining if a property looked inhabited and within approximately half a mile of the Kume and Howells (1987) Java aquifer boundary, this resulted in 56 dwellings. For each dwelling the assumption was made that 2.5 people lived in each dwelling and that each person on average would use 70 gallons per day. Based on past records 2.5 people is a good average between single-person homes and larger families. Carter and Neitzert (2005) determined 70 gallons per day was the average usage of a single person for self-service domestic use using data from about 109,750 people in South Dakota. Assuming 56 dwellings with 2.5 people in each dwelling and each person using 70 gallons per day the estimated average annual withdrawal for private self-serve domestic wells for the Java aquifer in Walworth county is 11 ac-ft/yr. This value is conservative due to some of the dwellings likely being connected to rural water systems, completed into other aquifers such as the Dakota aquifer or some of the dwellings no longer being inhabited.

Livestock usage was determined by Carter and Neitzert (2005) for Walworth county to be approximately 180,000 gallons per day. Assuming equal distribution over the entire areal extent of Walworth county (476,800 acres) and taking into account that the areal extent of the Java aquifer makes up approximately 17 percent (83,000 acres) of Walworth county, the estimated average annual withdrawal is 35.1 ac-ft/year. This value is conservative since the larger area of the two aquifer boundaries was used to calculate the usage.

Hydrologic Budget Summary

The calculated average annual withdrawal by water rights/permits for the Java aquifer is currently zero, the calculated average annual withdrawal for private self-serve domestic usage was determined to be approximately 11 ac-ft/yr, and the average annual livestock withdrawal was determined to be approximately 35.1 ac-ft/yr. If approved this application will use an estimated 113.3 ac-ft/yr using 10 in/yr per acre. The 10 in/yr is based on past reports and the region this application is located. Including Permit Application No. 8406-3, the total estimated average annual withdrawal from the Java aquifer is approximately 159.4 ac-ft/yr. Subtracting the estimated average annual withdrawal from the estimated average annual recharge (688 to 4,150 ac-ft/yr) for the Java aquifer results in an estimated 528.6 to 3,990.6 ac-ft/yr of unappropriated water available. Therefore, there is a reasonable probability unappropriated water is available.

Observation Well Data

In determining the availability of unappropriated water for a permit application, Administrative Rule of South Dakota (ARSD) 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 average annual recharge to the aquifer.

The DENR-Water Rights Program monitors two observation wells completed into the Java aquifer (Water Rights, 2019c). Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. There is one nearby (2 miles southeast) observation well that can be used for the analysis of Application No. 8406-3, observation well WL-76Q (top of casing elevation 2006.8 feet), as seen in Figure 1 and Figure 2.

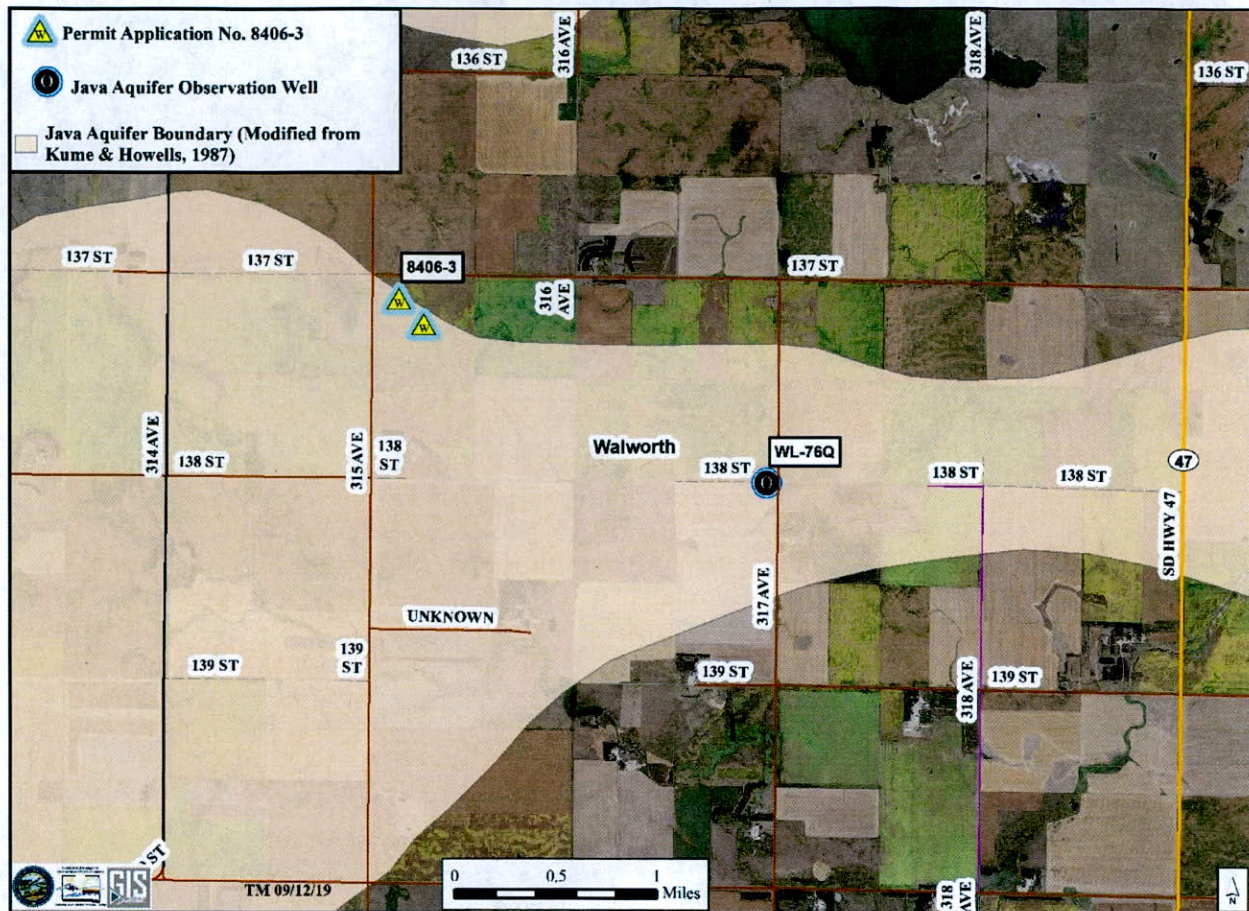


Figure 2: Map showing the Java aquifer boundary (Modified from Kume & Howells, 1987), the location of observation wells used for analysis (Water Rights, 2019c) and the proposed diversion point.

The hydrograph for observation well WL-76Q is shown in Figure 3. This observation well hydrograph is representative of the Java aquifer and shows that the aquifer responds well to hydrologic conditions, recharging during wetter periods and declining during drier periods.

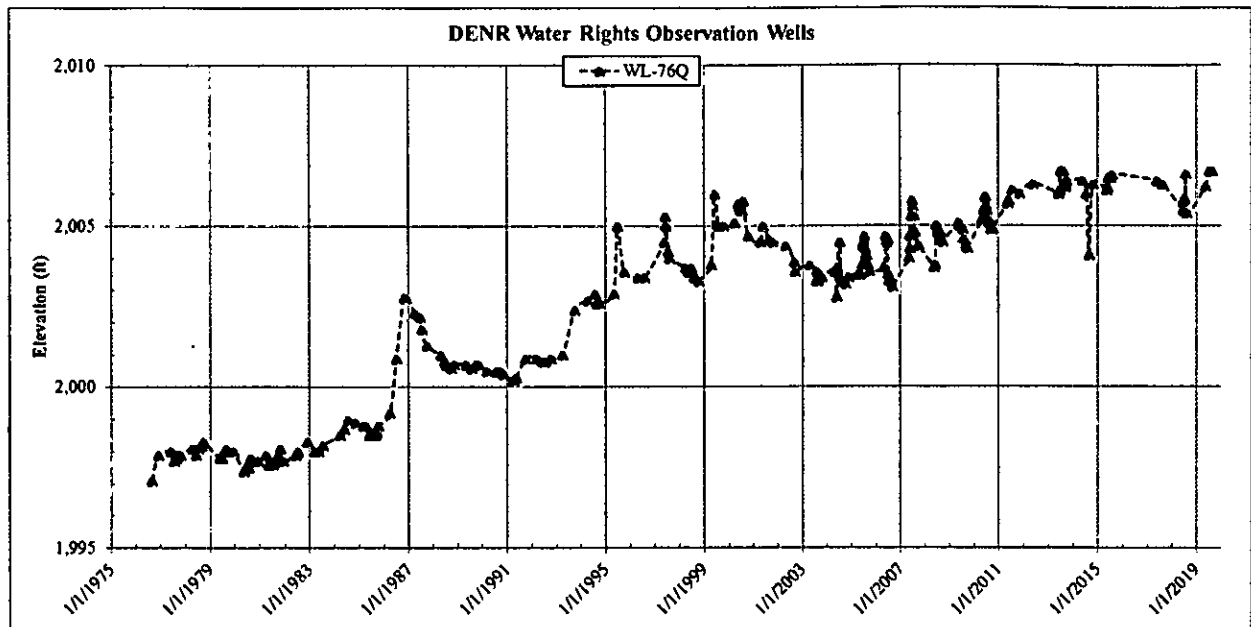


Figure 3: Hydrograph for Observation Well WL-76Q (top of casing elevation 2006.8 feet) (Water Rights, 2019c).

The water levels for the observation well show that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the water level rising in spring due to precipitation and snowmelt infiltration. Therefore, recharge to, and natural discharge from the Java aquifer can be captured for pumping, and the hydrograph documents that unappropriated water is available for this proposed appropriation.

Existing Water Rights

Currently, there is one water right appropriating water from the Java aquifer (Water Rights, 2019a). The nearest water right/permit to the applicant's proposed diversion points is approximately 6.9 miles to the northwest (Figure 1). There are several domestic wells on file with the SD DENR-Water Rights Program within approximately 3 miles of the proposed well site that appear to be completed into the Java aquifer (Water Rights, 2019b). The Java aquifer is expected to be confined based on nearby lithology logs (South Dakota Geological Survey, 2019) and the observation well hydrograph in this area, so drawdown from pumping could extend a significant distance from the proposed well site. Observation well data can provide insight into how the aquifer reacts to local pumping. Over the period of record, the water levels shown in the hydrograph for observation well WL-76Q (top of casing elevation 2006.8 feet) (Figure 3) shows water levels varying between flowing and 7.9 feet below grade in the area of Permit Application No. 8406-3. The average thickness of the Java aquifer is 22 feet with depth to the top of the Java aquifer at approximately 61 feet (Kume & Howells, 1987). The thickness of the Java aquifer locally ranges between 11 and 24 feet (South Dakota Geological Survey, 2019); however the application is near the boundary defined by Kume and Howells (1987) for the Java aquifer and as such the aquifer thickness could be less. Nearby adequate wells should not be adversely impacted by pumping at this proposed diversion rate.

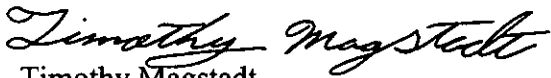
An adequate well as defined in ARSD 74:02:04:20(6):

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

SDCL 46-6-6.1 does not necessarily protect artesian head pressure as a means of delivery, and in the past, the Water Management Board has recognized that to place water to maximum beneficial use, a certain amount of drawdown may occur (Water Rights, 1995). Given the artesian head pressure (20 to 27 feet) at observation well WL-76Q, the lack of well interference complaints in the area and the nearest water right/permit being approximately 6.9 miles to the northwest well interference from this proposed diversion is not expected to cause an adverse impact. Therefore, there is a reasonable probability that any interference created by pumping for this proposed appropriation will not be adverse.

Conclusions

1. Water Permit Application No. 8406-3 requests the appropriation of 1.78 cubic feet per second (cfs) of water from two wells to be completed into the Java aquifer with an approximate depth of 50 feet located in the approximate center of the NW ¼ and the NW ¼ NW ¼ Section 11 for the irrigation of 136 acres located in the NW ¼ Section 11; all in T122N-R75W in Walworth County approximately 7 miles south of Java, SD.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Java aquifer.
3. There is a reasonable probability that the diversion proposed by this application will not adversely impact adequate wells for existing water rights and domestic use.



Timothy Magstadt

Natural Resources Engineer I

SD DENR – Water Rights Program

References

- Carter, J. M., & Neitzert, M. K. (2005). *Estimated Use of Water in South Dakota; Scientific Investigations Report 2008-5216*. U.S. Geological Survey.
- DENR. (2019, September 25). *Drinking Water System Information*. Retrieved from South Dakota DENR: <https://denr.sd.gov/des/dw/sysinfo.aspx#C>
- Hedges, L. S., Allen, J., & Holly, D. E. (1985). *Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River South Dakota and Iowa Task 7*. Vermillion: Department of Water and Natural Resources.
- Hedges, L. S., Burch, S. L., Iles, D. L., Barari, R. A., & Schoon, R. A. (1982). *Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa Tasks 1-4*. Department of Water and Natural Resources, Office of Geological Survey.
- Kume, J., & Howells, L. (1987). *Water Resources of Walworth County, South Dakota; Water-Resources Investigations Report 85-4015*. U.S. Geological Survey.
- South Dakota Geological Survey. (2019). *Lithologic Logs Database*. Akeley-Lawrence Science Center, Vermillion, SD. SD DENR-Geological Survey.
- Water Rights. (1995). *Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills*. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
- Water Rights. (2019a). *Water Right/Permit Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2019b). *Well Completion Report Files*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.
- Water Rights. (2019c). *Observation Well Database*. Joe Foss Bldg., Pierre, South Dakota.: SD DENR-Water Rights Program.

RECEIVED

OCT 15 2019

WATER RIGHTS PROGRAM

AFFIDAVIT OF PUBLICATION

(No. 746065)
(October 10, 2019 - 1T)

NOTICE OF APPLICATION NO. 8406-3 to Appropriate Water

STATE OF SOUTH DAKOTA}

§

COUNTY OF BROWN}

Carla Lanning being duly sworn, on his/her oath says: That the AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, by the Aberdeen News Company, a corporation, and has been such a newspaper during the times hereinafter mentioned; That affiant is an employee and principal clerk of said publisher and has personal knowledge of all facts stated in this affidavit; That the advertisement headed:

Legal # 746065

Notice of Application NO. 8406-3

a printed copy of which is herunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each

day for 1 successive day

The first publication being made on the 10th day of Oct., 2019.

The second publication being made on the _____ day of _____, 2019.

The third publication being made on the _____ day of _____, 2019.

The fourth publication being made on the _____ day of _____, 2019.

The fifth publication being made on the _____ day of _____, 2019.

The sixth publication being made on the _____ day of _____, 2019;

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper; That the whole amount of the fee paid for the publication of the annexed notice is \$ 48-64, which insures solely to the benefit of said publisher; That no agreement or understanding for a division thereof had been made with any other person; and That no part thereof has been agreed to be paid to any person whomsoever.

Carla Lanning

Subscribed and sworn to before me this 10th day of Oct., 2019.

Daily Circulation 10,000

Phillip

Notary Public, Brown County, SD

My commission expires March 20, 2025

Notice is given that JD Bieber Enterprises Inc., c/o Sarah Bieber, PO Box 340, Bowdle SD 57428 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells to be completed into the Java Aquifer (50 feet deep) located in the approximate center of the NW 1/4 and the NW 1/4 NW 1/4 Section 11 to irrigate 136 acres located in the NW 1/4 Section 11; all in T122N-R75W which is located approximately 7 miles south of Java SD.

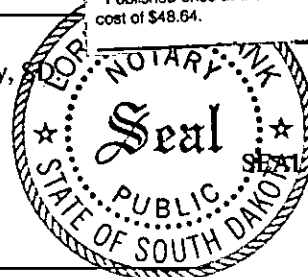
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8406-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's 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 October 21, 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 the total approximate cost of \$48.64.



Affidavit of Publication

STATE OF SOUTH DAKOTA)

COUNTY OF WALWORTH)

I, Louella Miller, being first duly sworn under oath say: the Selby Record/continuing the Java Herald is a legal weekly newspaper of general circulation as required by South Dakota Codified Laws, and any acts amendatory thereto, published by Sharon Wolff in said county and state, and has been such legal newspaper during the time hereinafter mentioned; that during all of said time as an employee or officer of said newspaper, I have had personal knowledge of the facts stated in this affidavit; that the advertisement headed:

Legal - Bieber
app 8406-3

A printed copy of which is hereto attached, was printed and published in said newspaper for

1 successive weeks upon the following dates, to wit:

<u>10-3</u> , 2019	_____	2019
_____, 2019	_____	2019
_____, 2019	_____	2019
_____, 2019	_____	2019

That the full amount of the fees charged for publishing the same to wit: the sum of \$ 22.82

inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.

Louella Miller

Sharon Wolff

Subscribed and sworn to before me this
3 day of Oct., 2019

My Commission expires 10-29-2022

RECEIVED

OCT 04 2019

WATER RIGHTS
PROGRAM

19, Page 10

LEGAL NOTICE

NOTICE OF APPLICATION NO. 8406-3 to Appropriate Water

Notice is given that JD Bieber Enterprises Inc., c/o Sarah Bieber, PO Box 340, Bowdle SD 57428 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells to be completed into the Java Aquifer (50 feet deep) located in the approximate center of the NW 1/4 and the NW 1/4 NW 1/4 Section 11 to irrigate 136 acres located in the NW 1/4 Section 11; all in T122N-R75W which is located approximately 7 miles south of Java SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8406-3 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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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 the total approximate cost of \$22.82.

Published in the Selby Record October 3, 2019.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, September 30, 2019 10:26 AM
To: 'selbyrec@venturecomm.net'
Subject: 8406-3, JD Bieber Enterprises Inc
Attachments: 8406-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on October 10, 2019.

JD Bieber Enterprises Inc., c/o Sara Bieber, PO Box 340, Bowdle SD 57428 (605 281-1605) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

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



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, September 30, 2019 10:31 AM
To: Aberdeen News Legals (aan-legals@aberdeennews.com)
Subject: 8405-3 and 8406-3, JD Bieber Enterprises Inc
Attachments: 8405-3public.short.docx; 8406-3public.short.docx; FORM8.FRM.doc

Attached are two notices to be published on October 10, 2019.

JD Bieber Enterprises Inc., c/o Sara Bieber, PO Box 340, Bowdle SD 57428 (605 281-1605) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavits 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 NEWSPAPERS RIGHT AWAY.**

September 30, 2019

JD Bieber Enterprises Inc.
c/o Sara Bieber
PO Box 340
Bowdle SD 57428

Dear Ms. Bieber:

Water Permit Application No. 8406-3 located in Walworth County 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 Selby Record printed at Selby SD (Ph # 605 649-7866) and the American News printed at Aberdeen SD (Ph # 605 225-4100). 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
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. 8406-3 to Appropriate Water

Notice is given that JD Bieber Enterprises Inc., c/o Sarah Bieber, PO Box 340, Bowdle SD 57428 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells to be completed into the Java Aquifer (50 feet deep) located in the approximate center of the NW 1/4 and the NW 1/4 NW 1/4 Section 11 to irrigate 136 acres located in the NW 1/4 Section 11; all in T122N-R75W which is located approximately 7 miles south of Java SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8406-3 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 October 21, 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 the total approximate cost of_____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

NOV 07 2019

JD Bieber Enterprises Inc.
c/o Sarah Bieber
PO Box 340
Bowdle SD 57428

Dear Ms. Bieber:

Enclosed are Water Permit Nos. 8405-3 and 8406-3 authorizing construction of the water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed forms after you have finished the systems 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



8406-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

September 24, 2021

Sarah Bieber
JD Bieber Enterprises, Inc.
PO Box 340
Bowdle, SD 57428

Dear Ms. Bieber,

I am writing in regard to the request submitted by JD Bieber Enterprises, Inc. for four additional wells to what is currently authorized under Water Permit No. 8406-3.

Water Permit No. 8406-3 authorizes a maximum instantaneous diversion rate of 1.78 cfs from two wells completed into the Java aquifer (50 feet deep) in the approximate center of the NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11 for the irrigation of 136 acres; all in T122N-R75W. At this time, only one well has been completed in the approximate center of the NW $\frac{1}{4}$ of Section 11-T122N-R75W into the Java aquifer. The four additional wells are requested because the original well does not put out enough water for the pivot. It is noted that your intent remains to also complete the second well authorized under Water Permit No. 8406-3. Therefore, there will be a total of six wells authorized for the irrigation of the authorized acres.

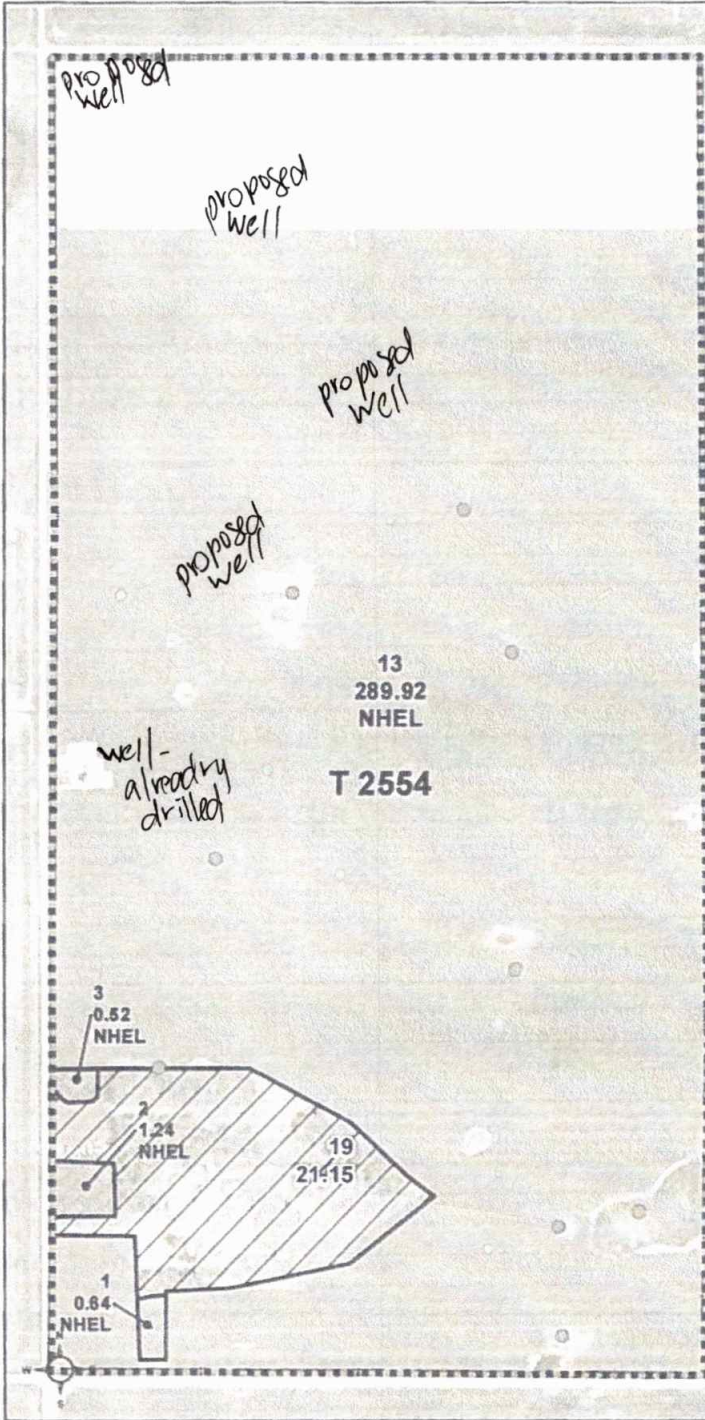
Upon review of the request and pursuant to SDCL 46-5-13.1, the additional wells to be located in the NW $\frac{1}{4}$ of Section 11-T122N-R75W and completed into the Java aquifer, is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. No increase in the authorized diversion rate of 1.78 cfs from the six wells is authorized. If the total diversion rate increases, a new water right permit will need to be obtained.

Under Water Permit No. 8406-3, the construction of works deadline is on or before October 21, 2024.

If you have any questions, please contact me at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



Permit 8406-3

per our conversation, the one well will not put out enough for the pivot so we plan to drill an additional 4 wells to get the gallons needed on our permit. All other info on our original application remains the same. please call us at 605-281-1605 if you have any questions or need any other information from us..

Common Land Unit

Non-Cropland
Cropland

native_sod_SD
Tract Boundary
PLSS

Wht Sp Gr
Sunfl Oil Gr

Corn Yel Gr
Soy Com Gr

2021 Program Year
Map Created December 10, 2020

Farm 3141

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation
- Compliance Provisions

All Crops NI

All Crops as listed above unless otherwise indicated

11-122N-75W-Walworth

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

Approval of Additional Diversion Points

NAME: JD Bieber Enterprises, Inc. c/o Sarah Bieber

ADDRESS: PO Box 340, Bowdle, SD 57428

DATE: September 24, 2021

COUNTY: Walworth

TELEPHONE: 605-281-1605

BACKGROUND:

Water Permit No. 8406-3 authorizes a maximum instantaneous diversion rate of 1.78 cfs from two wells completed into the Java aquifer (50 feet deep) in the approximate center of the NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11 for the irrigation of 136 acres located in the NW $\frac{1}{4}$ of Section 11; all in T122N-R75W. At this time, only one well has been completed in the approximate center of the NW $\frac{1}{4}$ of Section 11-T122N-R75W into the Java aquifer.

Sarah Bieber, representing JD Bieber Enterprises, Inc. submitted a letter on August 11, 2021 requesting four additional wells to be located in the NW $\frac{1}{4}$ of Section 11-T122N-R75W for a total of six wells to be authorized under Water Permit No. 8406-3. It was noted in the letter that the additional wells are requested because the original well does not put out enough water for the pivot.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed, or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The water source remains the Java aquifer. Sarah Bieber indicated in the letter that the original well, a second authorized well not yet constructed, plus the proposed additional wells will not exceed 1.78 cfs during operation. Therefore, no additional water is appropriated.

- **If irrigation, no new land is irrigated**

Water Permit No. 8406-3 authorizes 136 acres of irrigation. Sarah Bieber indicated in the letter that other than the additional wells, all other information from Water Permit No. 8406-3 remains the same.

- **Review of existing diversions**

The additional wells are to be located in the NW $\frac{1}{4}$ of Section 11-T122N-R75W. Water Right No. 2258-3, held by the City of Java, is the closest water right to the original well and proposed location for the additional wells. The diversion point authorized by Water Right No. 2258-3 is approximately seven miles north of the original well and the location for the additional wells. This is the only other water right authorized to appropriate water from the Java aquifer. Given there is no history of well interference complaints, and no additional water is to be appropriated, there is a reasonable probability the additional wells will not increase the potential for unlawful impairment of existing water rights/permits, or domestic users with adequate wells within the Java aquifer.

RECOMENNDED ACTION:

Based on the above criteria, it is recommended that the additional diversion points as described above be authorized under Water Permit No. 8406-3.

Nakaila Steen
Natural Resources Engineer I
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46:5:13.1 and ARSD 74:02:01:14:01 that:

The additional diversion points do not increase the potential for adverse effects to existing diversions.



Eric Gronlund, Chief Engineer
Water Rights Program