

WATER PERMIT NO. 8419-3

Name of Applicant: Jack Wellnitz

Address: 20195 415th Ave, Yale SD 57386 Phone: 605 350-0205

Amount of Water Claimed: 1.33 cfs Total Acres: 188 acres

Source of Water Supply: groundwater

Water to be used for: irrigation County: Beadle

Type of Waste Disposal System:

Location: 3 miles northeast of Yale SD

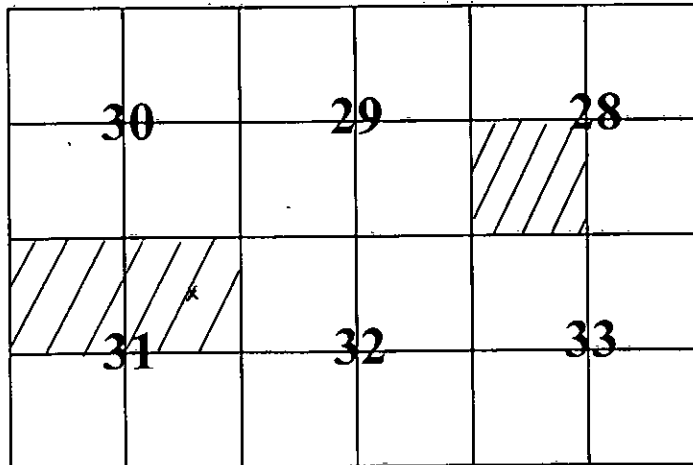
PRIORITY Date Received: 12-13-19 Application/License Fee: \$100

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

Remarks: Reinstatement of portions of No. 7400-3

Diversion Point: E 1/2 NE 1/4 Sec 31-T112N-R59W

Land to be Irrigated: N 1/2 Sec 31 and SW 1/4 Sec 28; T112N-R59W



Depth of Well: 52 feet

Well Driller:

Remarks:

Type of Map:

Prepared by:

Reviewed and the Number Assigned on: 12-17-19

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8419-3**

Date of first receipt of application December 13, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8419-3 to Jack Wellnitz, 20195 415th Ave, Yale SD 57386 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. 8419-3 reinstates Permit No. 7400-3. Permit No. 7400-3 appropriates 1.33 cubic feet of water per second (cfs) from one well completed into the Floyd East James Aquifer (52 feet deep) located in the E 1/2 NE 1/4 Section 31 to irrigate 188 acres located in portions of the N 1/2 Section 31 and the SW 1/4 Section 28; all in T112N-R59W. This is an existing well authorized by Water Permit No. 6936A-3 to irrigate neighboring land. The permit was approved November 12, 2012, and the project was to be completed by November 12, 2017, with water being put to beneficial use by November 12, 2021. Permit No. 8419-3 reinstates non-developed portions of Water Permit No. 7400-3 since the project has not been completed. This project is located approximately 3 miles northeast of Yale 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 December 13, 2019.
4. The date of approval of Permit No. 8419-3 is March 9, 2020.
5. One-fifth of the construction is to be completed on or before September 9, 2022.
6. All construction is to be completed on or before March 9, 2025.
7. Water is to be put to beneficial use on or before March 9, 2029.
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 well approved under Water Permit Nos. 6936A-3, 7400-3 and 8419-3 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 13 2020

date



FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8419-3</u>	(office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>	
	Newspaper <u>Plainsman</u>	

PAID

DEC 13 2019

Ck# 1800
RECEIVED

DEC 13 2019

Application For Permit To Appropriate Water For Irrigation

WATER RIGHTS
PROGRAMType 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.)

See Permit # 7400-31. Name to Appear on Irrigation Permit Sack Wellnitz

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

Mailing Address 20195 415th AVE Yale SD 57386
(Address) (City) (State) (Zip Code)Phone 605-350-0205 Mobile 605-350-0205 Email wellnitzj@gmail.com2. Amount of water claimed 1.33 *CFS or 600 **GPM add ***AF Total Acreage 188 add
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply Floyd East : James Agutter4. Location of point of diversion Same as 6936-A-3 E 1/2 NE 1/4 Sect 31 T12N R 59W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)County Beadle5. County or counties where water will be used Beadle6. Annual period during which water is to be used Same as 6936-A-3 - April 1 - Oct 317. 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
T12N-R59W north 1/2 sect 31	31		
T12N-R59W southwest 1/4 of Sect 28	157		

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

Increase diversion rate under permit 6936-A from 900-1500 gpm. One circle pivot is installed and in use, as of 2008. Sub irrigation was partially developed for remaining acres on 31 but abandoned due to soil type being unsuitable. An additional partial circle pivot was installed instead. More acres on 31 will be developed by either center pivot or subsurface drip. Acres on 28 will be by circle pivot - pending feasibility.

I, Sack Wellnitz for Sack Wellnitz, 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)

See Permit # 7400-3.

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ Property owned by others ____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) ____

b) System Capacity (gallons) ____ Year Constructed ____

c) Connected to the City of ____ Sanitary System

3. Dugout Information

a) Surface Dimensions ____ Depth ____

b) Depth to water (ground surface to water level) ____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

b) Freeboard ____

c) Crest Width ____

Crest Length ____

d) Height ____

e) Primary Outlet Capacity ____

If pipe, diameter ____

f) Secondary Spillway Capacity ____

Spillway Width ____

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

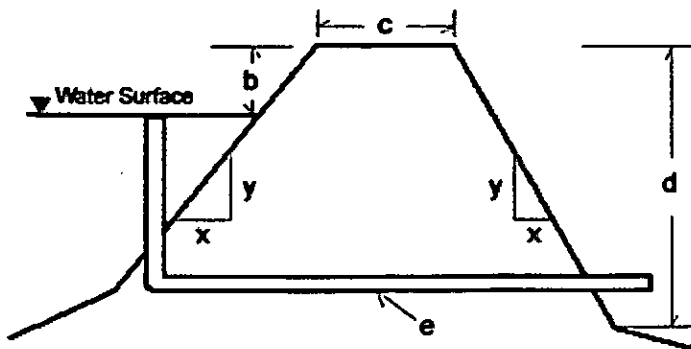
Upstream ____

Downstream ____

h) Surface Area of Impoundment ____

i) Storage ____ Acre Feet

j) Drainage Area Above Dam ____ Acres





United States Department of Agriculture Farm Service Agency



*Per FSA record,
Jack Wellmuth is owner/operator*

*Sharla Wipf
FSA, Program Tech*

10157
-1
157.31
NHSL



South Dakota
Beadle County

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AUG 13 2012
WATER RIGHTS
PROGRAM

Farm Number
6264

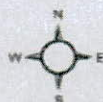
Township-Range-Section
112N59W28

Legend

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

CLU Field Boundary

□ Tract Boundary

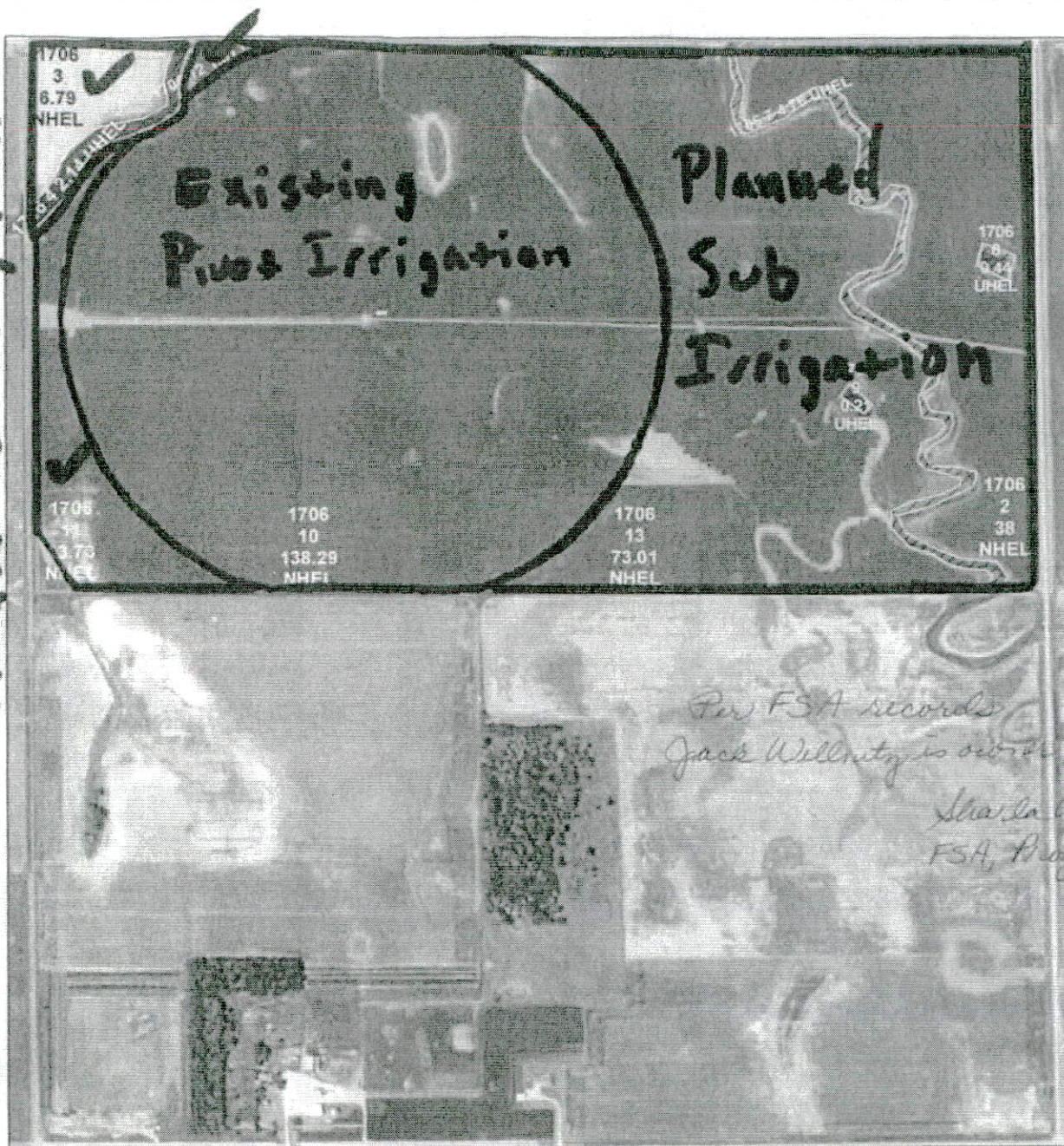


1:8,126

USDA 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 the 2008 certified imagery for South Dakota. The producer accepts the data "as is" and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside of FSA Programs. Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA 4026 and unaltered maps) for exact wetland boundaries and determinations, or contact NRCS.

Mar 12, 2009

✓ = Planned Sub Irrigation



USDA United States Department of Agriculture
Farm Service Agency
Beadle County, SD

PLSS: 31_112N_59W
Farm: 6264

1 inch equals 633 feet

January 19, 2010

Disclaimer: 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 wetland
boundaries and determinations, or contact NRCS.

RECEIVED

AUG 13 2012

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 16, 2019

RECEIVED OF Jack/Karen Wellnitz 2019 415th Ave Yale SD 57385-6301

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

Fee for Application for Permit No. <u>89119-3</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. **09285**

By Jeanne Goodman
Chief Engineer *JM*



**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. 8419-3, Jack Wellnitz**

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. 8419-3, Jack Wellnitz, 20195 415th Avenue, Yale SD 57386.

The Chief Engineer is recommending APPROVAL of Application No. 8419-3 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 Water Permit Nos. 6936A-3, 7400-3 and 8419-3 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. 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" and last name "Goodman" clearly distinguishable.

Jeanne Goodman, Chief Engineer
February 19, 2020

NOTE: It is anticipated that once developed, Water Permit Nos. 6936A-3, 7400-3 and 8419-3 will be incorporated into one water license.

REPORT TO THE CHIEF ENGINEER
ON WATER PERMIT APPLICATION NO. 8419-3

JACK WELLNITZ

February 3, 2020

Water Permit Application No. 8419-3 requests to reinstate portions of Water Permit No. 7400-3 that are subject to cancellation. The portions of Water Permit No. 7400-3 that are subject to cancellation due to the project not being completed by November 12, 2017, are 31 acres in the N $\frac{1}{2}$ of Section 31 and 157 acres in the SW $\frac{1}{4}$ of Section 28, all in T112N-R59W. If approved, Water Permit Application No. 8419-3 will reinstate portions of Water Permit No. 7400-3 subject to cancellation and extend the completion of works deadline by five years from its approval date. All associated permits currently held by the applicant include Water Permit Nos. 6936-3, 6936A-3 and 7400-3.

Water Permit No. 6936-3 authorized the appropriation of 2.0 cubic feet per second (cfs) from two wells to be completed into the Floyd: East James aquifer located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31 to irrigate 240 acres located in the N $\frac{1}{2}$ of Section 31; all in T112N-R59W. Water Permit No. 6936-3 had a priority date of January 15, 2008, and a construction completion date on or before March 10, 2013.

Water Permit No. 6936A-3 amended Water Permit No. 6936-3 by changing the location of one of the wells authorized by Water Permit No. 6936-3 with no change to the diversion rate or number of acres authorized for irrigation. Water Permit No. 6936A-3 moved the location of one well to the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 31-T112N-R59W.

Water Permit No. 7400-3 amended Water Permit No. 6936A-3 by extending the time for the completion of construction of works and the application of water to beneficial use. The applicant indicated the extension of time request was based on encountering complex engineering difficulties. Water Permit No. 7400-3 also authorized an additional diversion rate of 1.33 cfs from the existing well located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 31 to irrigate 188 additional acres located in the N $\frac{1}{2}$ of Section 31 and SW $\frac{1}{4}$ of Section 28; all in T112N-R59W.

Water Permit Nos. 6936-3, 6936A-3 and Water Permit Application No. 8419-3, if approved, would have a combined maximum instantaneous diversion rate of 3.33 cfs to irrigate 428 acres.

AQUIFER: Floyd East James (F: EJ)

HYDROGEOLOGY:

The Floyd: East James aquifer is an outwash consisting of a complex system of interconnected sand and gravel layers, intermixed and confined by a gray pebbly till, that was deposited by meltwater from receding glaciers (Hansen, 1983). The Floyd: East James aquifer is underlain by the Pierre Shale, Niobrara Formation, Carlile Shale, Sioux Quartzite and undifferentiated sediments of the cretaceous age (Holmes, 2019; SDGS, 2020; Tomhave and Schultz, 2004; Water Rights 2020a and 2020c). The aquifer underlies approximately 454,000 acres of Beadle, Hanson,

Kingsbury, McCook, Miner and Sanborn Counties (Figure 1) (Buhler, 2012; Holmes, 2019; Jensen, 2008). The estimated average aquifer thickness is approximately 30 feet with a documented maximum thickness of 118 feet (Buhler, 2012; Water Rights, 2020a and 2020c). The Floyd: East James aquifer is mainly under confined conditions, with water movement generally from east to west, and water levels varying from greater than 70 feet below ground to flowing at land surface (Water Rights, 2020a).

The well completion report for Water Permit Nos. 6936-3 and 7400-3 states the well being used for diversion was completed on December 19, 2007, and located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T112N-R59W. The report indicated glacial outwash was encountered from 14 to 52 feet below land surface and a static water level of 9 feet 3 inches below land surface (Water Rights, 2020c). The Floyd: East James aquifer was confined at the time of drilling with an artesian head pressure of approximately five feet (Water Rights, 2020c).

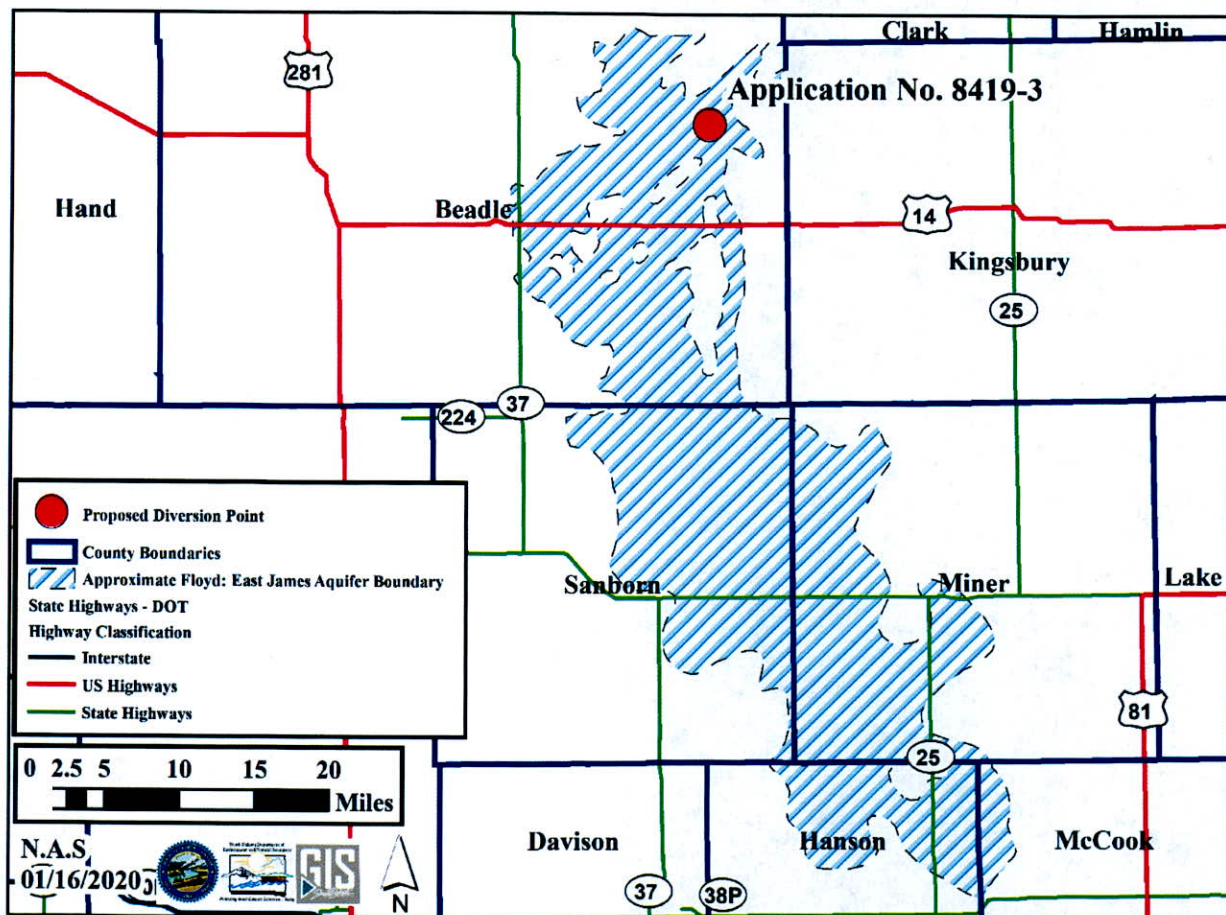


Figure 1. Map of the approximate Floyd: East James aquifer boundary with the proposed diversion point for Water Permit Application No. 8419-3 (modified from: Buhler, 2012; Holmes 2019; Jensen 2008)

SDCL 46-2A-8.1

Pursuant to SDCL 46-2A-8.1, "The Water Management Board may reinstate any water permit with a priority date after March 31, 1977, if unappropriated water is available and construction necessary to put water to beneficial use was not completed pursuant to SDCL 46-2A-8 or 46-5-26. Any application under this section shall be made within three years of the expiration of the original construction period pursuant to chapter 46-2A. The priority date of the application to reinstate a permit shall be the date the application to reinstate is filed."

SDCL 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 diversion point can be developed without unlawful impairment on 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 the potential for unlawful impairment on existing water rights within the Floyd: East James 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 Floyd: East James aquifer is not older or lower than the Greenhorn Formation, and the applicant is not a water distribution system. Therefore, average annual recharge and average annual withdrawal must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Floyd: East James aquifer is by subsurface inflow from areas of higher artesian head (Koch and McGarvie, 1988). In Miner County, the Floyd: East James aquifer is hydraulically connected to the Niobrara and Codell aquifers, which provide recharge to the aquifer through upward migration (McGarvie, 1983; Koch and McGarvie, 1988). Leakage from the Sioux Quartzite Wash in Hanson County and some direct infiltration of precipitation where the aquifer is under unconfined conditions also provide some recharge to the Floyd: East James aquifer (Hansen, 1983; Koch and McGarvie, 1988).

Hedges and others (1985) used two methods to estimate recharge of the Floyd: East James aquifer. A flow net analysis for the confined portions of the aquifer yielded a recharge rate of 0.3 in/year (Table 1) (Hedges et. al, 1985). Observation well data was used to determine the recharge rate to the unconfined portions of the aquifer, which are relatively small and undefined, with an estimated recharge rate of 3.4 in/year (Hedges et. al, 1985; Mathiowetz, 2016). Additionally, Buhler (2012) used a regional flow net analysis to determine the amount of water flowing through the Floyd: East James aquifer. Buhler (2012) concluded to maintain the amount of water moving through the aquifer, the recharge rate of the aquifer must be at least 0.42 in/year (Table 1). Emmons' (1988) model determined a recharge rate of 0.487 in/year, if the aquifer was under steady state conditions, with a broader range of 0.24 to 0.72 in/year to the confined portions of the aquifer (Table 1). Some assumptions made by Emmons' model were unrealistic. For instance, evapotranspiration from the aquifer and direct infiltration of precipitation to the aquifer taking place through 45 feet of relatively impermeable glacial till, are not comparable to real world conditions. Additionally, Emmons' treated four major aquifers (Cheyenne, Floyd, Tulare and Warren) as a single aquifer and did not account for only the Floyd: East James aquifer (Mathiowetz, 2016).

Table 1. Average annual recharge to the Floyd: East James aquifer (modified from: Buhler, 2012; Emmons, 1988)

Source	Rate (in/yr)	Recharge Volume (ac-ft/yr)
Hedges, Allen & Holly (1985)	0.3	11,350
Emmons (Steady State) (1988)	0.487	18,425
Emmons (Estimated Range) (1988)	0.24 - 0.72	9,080 - 27,240
Buhler (2012)	0.42	15,890

Discharge

Discharge from the Floyd: East James aquifer is through well withdrawal and leakage to underlying bedrock aquifers (Hansen, 1983; Koch and McGarvie, 1988). Currently, there are 67 water rights/permits appropriating water from the Floyd: East James aquifer (Water Rights, 2020b). Eight of those water rights/permits are for non-irrigation use (Table 2) (Water Rights, 2020b). The amount of water that can be expected to be withdrawn by the non-irrigation water rights/permits can be estimated by assuming water rights/permits limited by an annual volume will pump the entire volume appropriated annually and non-irrigation water rights/permits limited only by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time. The City of Huron is connected to Mid-Dakota Rural Water System (DENR, 2020). However, the City of Huron uses their wells completed into the Floyd: East James aquifer for approximately 20 percent of their total water supply (Table 2) (Friedeman, 2020). The City of Huron's Water Permits 6321-3 and 8214-3 are authorized to have a combined annual appropriation volume limit of five acre-feet.

Table 2. Estimated Annual Pumping for Non-Irrigation Appropriations in Floyd: East James aquifer (Water Rights, 2020b)

Permit No.	Name	County	Status	Use	CFS	Estimated Annual Volume (ac-ft)
5397-3	Our Home INC	BD	LC	INS	0.056	24.3
5488-3	Faith Mennonite Church	BD	LC	INS	0.05	21.7
5734-3	City of Huron	BD	LC	MUN	0.02	8.7
6025-3	Edney Distributing CO	BD	LC	COM	0.022	9.6
6290-3	Lindberg Specialties LLC	BD	LC	COM	0.022	9.6
6321-3	City of Huron	BD	LC	MUN	0.04	0.0**
8199-3	Donuahue Farms	MR	PE	COM	0.162	72.6*
8214-3	City of Huron	BD	PE	MUN	0.082	5.0**
				Total:		151.4

BD: Beadle, MR: Miner, LC: Licensed Water Right, PE: Water Permit, INS: Institutional, MUN: Municipal, COM: Commercial

*Annual volume limit

**This total volume was accounted for with Water Permit No. 8214-3.

The average annual appropriation for irrigation is 23,950.70 acre-feet (Table 3). However, the average annual reported pumping is 2,360.12 acre-feet (Table 3). Many domestic wells have been completed in the Floyd: East James aquifer, but domestic users are not required to report their annual water usage. Buhler (2012) estimated non-appropriated water use ranges between 88 to 243 ac-ft/year based on the average household's typical water usage.

Table 3. Historical irrigation appropriation and pumping record from Floyd: East James aquifer (Water Rights, 1979-2019)

Year	No. of Permits	Annual Appropriation (acre-ft)	Reported Pumpage (acre-feet)
1979	78	40,002.00	2,628.00
1980	83	42,399.00	2,854.00
1981	93	44,923.00	5,180.00
1982	57	25,059.20	2,228.00
1983	56	24,943.20	3,337.73
1984	68	32,877.20	1,842.00
1985	65	28,815.20	1,680.00
1986	63	27,027.20	1,078.00
1987	57	24,454.20	2,470.00
1988	55	23,386.20	4,782.20
1989	54	22,981.20	4,158.40
1990	55	22,325.20	2,146.70
1991	53	22,319.20	2,994.10
1992	49	20,737.00	1,774.50
1993	48	20,399.00	303.30
1994	47	20,062.00	2,636.75
1995	48	20,683.00	1,326.21
1996	47	20,050.00	2,412.31
1997	48	20,575.00	1,580.00
1998	46	19,936.00	1,718.61
1999	46	19,936.00	1,258.00
2000	46	19,793.00	1,535.38
2001	46	19,868.00	1,875.00
2002	48	20,508.00	3,591.92
2003	50	20,899.00	3,393.92
2004	55	22,332.00	2,704.98
2005	54	22,124.00	2,982.73
2006	54	22,122.00	3,799.91
2007	54	22,122.00	2,403.50
2008	53	21,944.00	2,356.11
2009	53	21,896.00	1,203.88
2010	50	20,882.00	312.05
2011	52	21,018.00	703.01
2012	53	21,500.00	2,911.63
2013	56	22,330.00	2,234.45
2014	58	22,950.00	2,364.78
2015	58	23,214.00	1,537.47
2016	58	23,214.00	2,735.04
2017	57	22,942.00	3,026.83
2018	56	22,480.00	2,343.31
Max	93	44,923.00	5,180.00
Min	46	19,793.00	303.30
Avg	55.68	23,950.70	2,360.12

Hydrologic Budget Summary

The Floyd: East James aquifer estimated average annual withdrawal rate is 2,754.56 acre-feet (irrigation: 2,360.12 acre-feet, non-irrigation: 151.4 acre-feet and average household: 243 acre-feet). The Floyd: East James aquifer estimated annual recharge rate is conservatively 11,350 acre-feet concluded from the best information available which is the Hedges, Allen and Holly (1985) report. These estimated average annual withdrawal and recharge rates are based off the minimum constraints and demonstrate a reasonable probability unappropriated water is available for this proposed appropriation.

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) Section 74:02:05:07 requires that “the board shall rely upon 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 57 observation wells completed into the Floyd: East James aquifer (Water Rights, 2020a). The hydrographs for observation wells BD-79E, BD-79D and BD-60M are shown in Figure 2. These hydrographs are representative of the Floyd: East James aquifer.

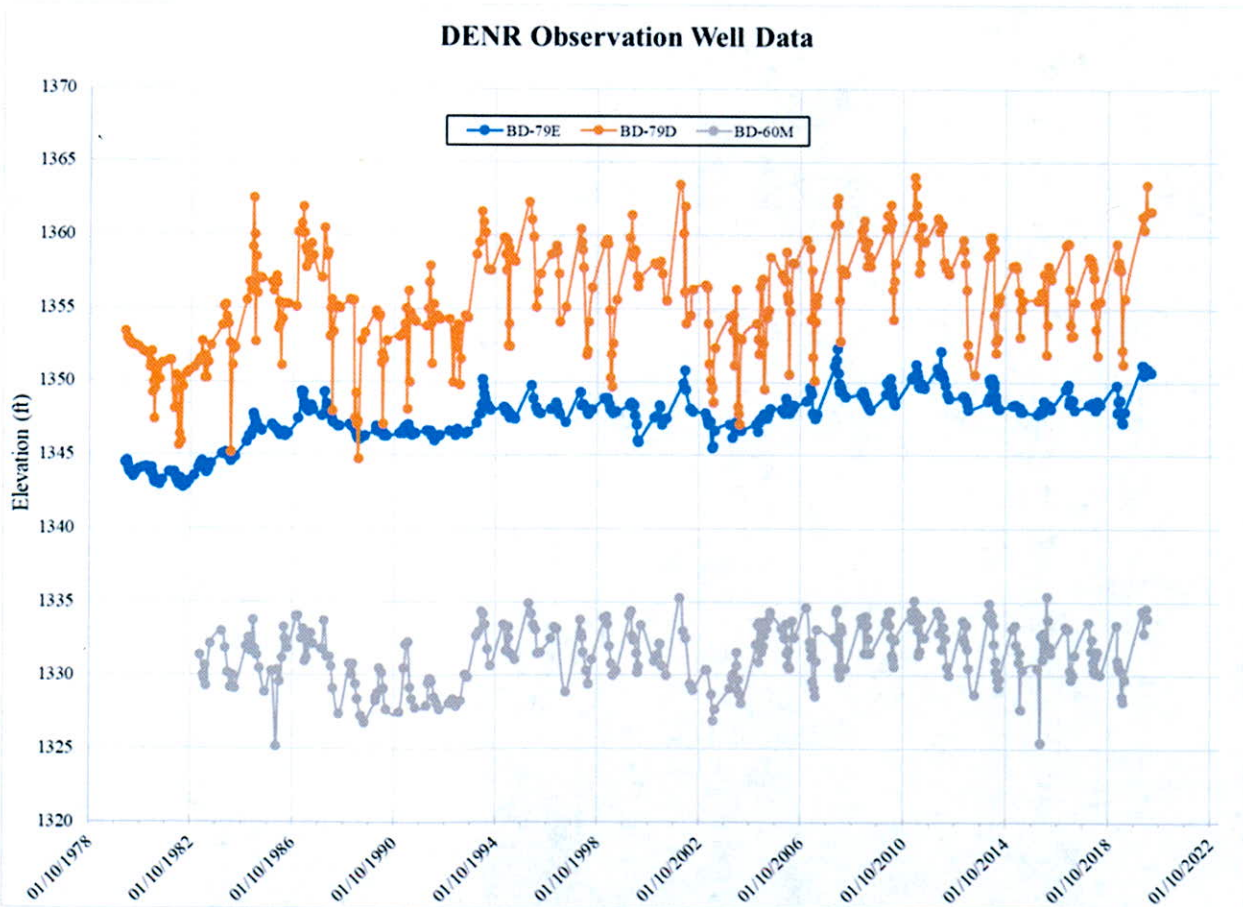


Figure 2. Hydrograph for Observation Wells BD-79E, BD-79D and BD-60M (Water Rights, 2020a)

Observation well hydrographs provide data on how an aquifer reacts to climatic conditions and local pumping. The hydrographs show the aquifer's response to climatic changes with rising water levels during wet years and declining water levels during dry years. The hydrographs show temporary impacts of well withdrawal on water levels in the observation wells from pumping during irrigation season (generally May – October) and the aquifer's recovery after the end of each pumping season. The effects of climatic conditions dominate changes in the water levels in the aquifer because recharge to the aquifer and natural discharge exceed discharge through well withdrawal. The observation well hydrographs document that there is a reasonable probability there is unappropriated water available from the Floyd: East James aquifer.

EXISTING WATER RIGHTS AND PERMITS:

Currently, there are 67 existing water rights/permits authorizing appropriation from the Floyd: East James aquifer. There are seven water rights/permits within a five-mile radius to the proposed diversion point requested by Water Permit Application No. 8419-3, with the closest water right/permit not held by the applicant being 0.4 miles away (to the north) (Figure 3) (Table 4) (Water Rights, 2020a and 2020b). Many domestic wells also exist in the vicinity of the diversion point requested by Water Permit Application No. 8419-3 and appear to be completed in the Floyd: East James aquifer (Water Rights, 2020c).

Table 4. Existing water rights/permits within five-mile radius of proposed diversion site for Water Permit Application No. 8419-3 (Water Rights, 2020b)

Permit No.	Name	Status	Use	Rate (cfs)	Acres
3863-3	Billy Hornig	LC	IRR	1	100
4010-3	Billy Hornig	LC	IRR	2	199
4487-3	James & Brian Toews	LC	IRR	2.2	200
4966-3	Delano Hofer	LC	IRR	2	238
6936-3	Jack Wellnitz	PE	IRR	2	240
6936A-3	Jack Wellnitz	PE	IRR	0	0
7400-3	Jack Wellnitz	PE	IRR	1.33	188
LC: Licensed Water Right, PE: Water Permit, IRR: Irrigation					

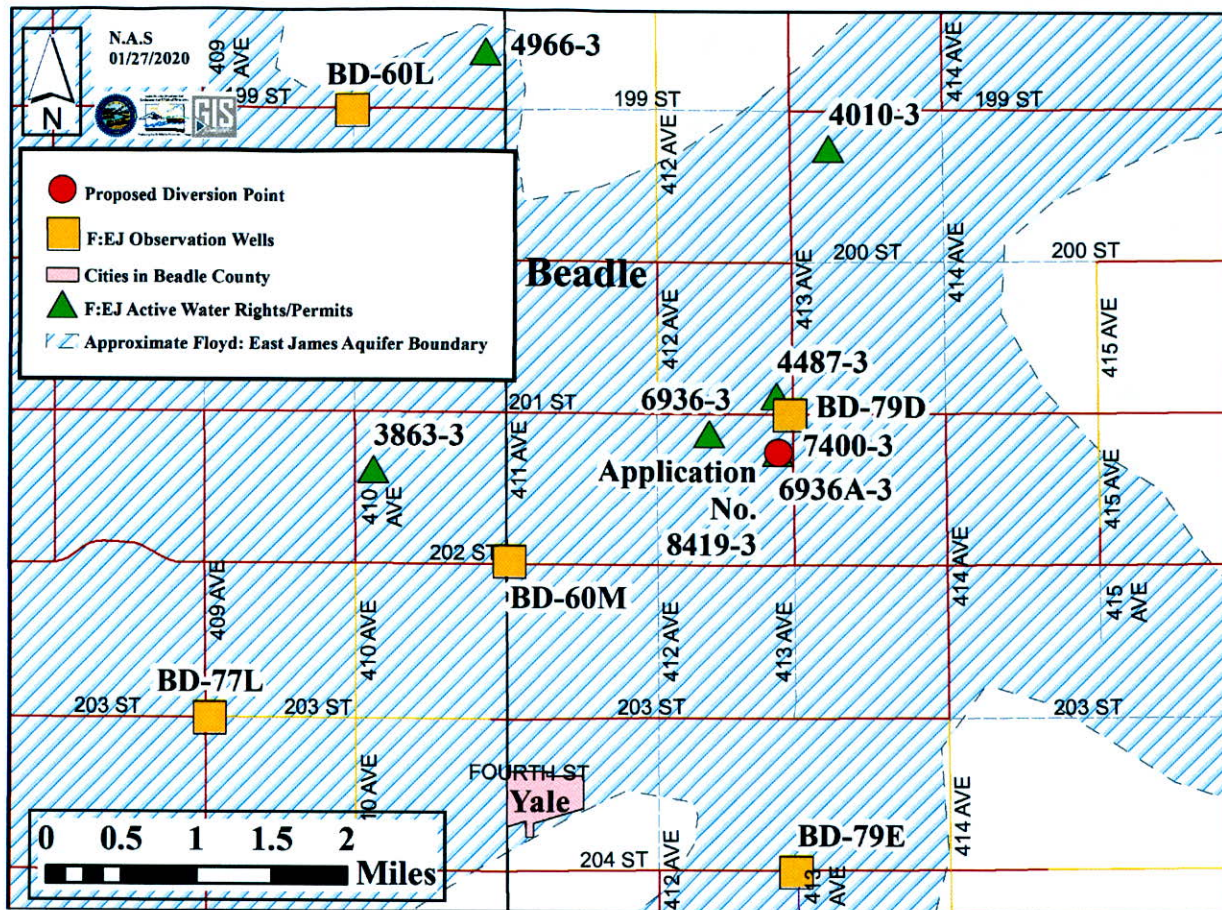


Figure 3. Active water rights/permits, observation wells and the proposed diversion point for Water Permit Application No. 8419-3 (Water Rights, 2020a and 2020b)

At observation well BD-79D (0.28 miles northeast), the aquifer is currently confined due to the hydrograph indicating a static water level at approximately 5 feet below grade, which is above the aquifer and into the confining till layer (Water Rights, 2020a). However, the water levels in the observation well have been measured approximately 22 feet below ground surface over the period of record into a gravel layer where the aquifer does become unconfined (Water Rights, 2020a). It is likely this area of the Floyd: East James aquifer has a very localized unconfined area and why the shape of the hydrograph for BD-79D shows the water level behaving like the well is completed into a confined aquifer. At the time that the well completion report was finalized for the proposed diversion point for the application, the well had a static water level of 9 feet 3 inches with approximately five feet of artesian head pressure above the top of the aquifer, indicating a confined aquifer (Water Rights, 2020c). Therefore, water levels vary at the location of the diversion point, and the aquifer can be confined or unconfined. Additionally, observation well BD-60M (2 miles to the southwest), has a depth to the top of the aquifer of 62 feet and a water level measured at five feet below grade on the observation well hydrograph (Water Rights, 2020a). This would result in an approximate artesian head pressure ranging between 45 to 55 feet. Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer; however, in a confined aquifer, drawdown from pumping could extend

a significant distance from the proposed diversion point. However, well interference has not been a reported issue in the Floyd: East James aquifer in the past (Buhler, 2012; Water Rights, 2020d).

The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” 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”.

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, “general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable...” (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to lower their pumps to accommodate for deeper water levels depending on the specific characteristics of the Floyd: East James aquifer at their location particularly since the aquifer is under confined conditions near the diversion point this application proposes to use. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20 (7)), and the lack of well complaints, any well drawdown created by pumping this proposed diversion is not expected to cause an unlawful impairment on existing water rights/permits or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference due to pumping for this appropriation will not impose unlawful impairments.

CONCLUSIONS:

1. Water Permit Application No. 8419-3 proposes to reinstate the portions of Water Permit No. 7400-3 subject to cancellation for non-construction, which appropriated an additional 1.33 cfs of water to irrigate 188 acres of land.
2. The applicant currently holds Water Permits 6936-3, 6936A-3 and 7400-3. If Water Permit Application No. 8419-3 were approved, the applicant would have a combined maximum instantaneous diversion rate of 3.33 cfs to irrigate 428 acres.
3. Based on the hydrologic budget and observation well data, there is reasonable probability that unappropriated water is available from the Floyd: East James aquifer to supply this proposed appropriation.
4. There is a reasonable probability that the diversion proposed by Water Permit Application No. 8419-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.

Nakaila Steen

Nakaila Steen

Natural Resources Engineer I

SD DENR – Water Rights Program

Reviewed by:

Adam Mathiowetz

Adam Mathiowetz PE

Natural Resources Engineer III

SD DENR -Water Rights Program

References

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Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

RECEIVED.

MAR 06 2020

WATER RIGHTS
PROGRAM

Legal Notice Number: 0104

I, McKendzie Castillo, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: WELLNITZ, JACK- WATER RIGHTS, was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 02/27/20. That the full amount of the fee charged for the publishing \$ 36.77 insures 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 thereof has been agreed to be paid to any person whom so ever.

McKendzie Castillo

Subscribed and sworn to me before this date 3/4/20.

[Signature]

Notary Public, South Dakota

My Term Expires 03/11/2022

2000 - Legals

F. P. 02-27-20

NOTICE OF APPLICATION

**NO. 8419-3 to
Reinstate Water
Permit No. 7400-3**

Notice is given that Jack Wellnitz, 20185 415th Ave, Yale SD 57386 has filed an application for a water permit to reinstate Permit No. 7400-3. Permit No. 7400-3 appropriates 1.33 cubic feet of water per second (cfs) from one well completed into the Floyd:East James Aquifer (52 feet deep) located in the E 1/2 NE 1/4 Section 31 to irrigate 188 acres located in portions of the N 1/2 Section 31 and the SW 1/4 Section 28; all in T112N-R59W. This is an existing well authorized by Water Permit No. 6936A-3 to irrigate neighboring land. The permit was approved November 12, 2012, and the project was to be completed by November 12, 2017, with water being put to beneficial use by November 12, 2021. Application No. 8419-3 proposes to reinstate portions of Water Permit No. 7400-3 subject to cancellation for non-construction. This project is located approximately 3 miles northeast of Yale SD.

Application No. 8419-3 to reinstate cancelled Permit No. 7400-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction necessary to put water to beneficial use is not completed within five years of approval of the permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends **APPROVAL** of Application No. 8419-3 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 the qualifications, the application, and staff report are available at http://denr.sd.gov/public_notices 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 March 9, 2020.

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.

No. 0104 (adv.)
Published once at the total approximate cost of \$36.77.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

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

February 19, 2020

Jack Wellnitz
20195 415th Ave
Yale SD 57386

Dear Mr. Wellnitz:

Water Permit Application No. 8419-3 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 Plainsman printed at Huron SD (Ph # 605 353-7414). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, February 24, 2020 9:30 AM
To: Ruby Crandall
Subject: RE: [EXT] 8419-3, Jack Wellnitz
Attachments: 8419-3public.short.docx

Last week I emailed this notice to you to be published February 27, 2020. Could you please replace that notice with the one that is attached to this email.

The first sentence of the 3rd paragraph has a correction.

Please acknowledge receiving this.

Thanks,

Karen Schlaak

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



From: Ruby Crandall <rcrandall@plainsman.com>
Sent: Wednesday, February 19, 2020 1:16 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: Re: [EXT] 8419-3, Jack Wellnitz

I received your email.
Thank you.

Ruby Crandall
Creative Services Supervisor

Plainsman/Payday/Print Shop
49 3rd Street SE
Huron, SD 57350
605-353-7412
rcrandall@plainsman.com

On Feb 19, 2020, at 10:10 AM, Schlaak, Karen <Karen.Schlaak@state.sd.us> wrote:

Attached is a notice to be published on February 27, 2020.

Jack Wellnitz, 20195 415th Ave, Yale SD 57386 (605 350-0205) 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

<image001.gif>

<8419-3public.short.docx><FORM8.FRM.doc>

NOTICE OF APPLICATION NO. 8419-3 to Reinstate Water Permit No. 7400-3

Notice is given that Jack Wellnitz, 20195 415th Ave, Yale SD 57386 has filed an application for a water permit to reinstate Permit No. 7400-3. Permit No. 7400-3 appropriates 1.33 cubic feet of water per second (cfs) from one well completed into the Floyd:East James Aquifer (52 feet deep) located in the E 1/2 NE 1/4 Section 31 to irrigate 188 acres located in portions of the N 1/2 Section 31 and the SW 1/4 Section 28; all in T112N-R59W. This is an existing well authorized by Water Permit No. 6936A-3 to irrigate neighboring land. The permit was approved November 12, 2012, and the project was to be completed by November 12, 2017, with water being put to beneficial use by November 12, 2021. Application No. 8419-3 proposes to reinstate portions of Water Permit No. 7400-3 subject to cancellation for non-construction. This project is located approximately 3 miles northeast of Yale SD.

Application No. 8419-3 to reinstate cancelled Permit No. 7400-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction necessary to put water to beneficial use is not completed within five years of approval of the permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8419-3 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 March 9, 2020.

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 _____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, February 19, 2020 10:10 AM
To: 'rcrandall@plainsman.com'
Subject: 8419-3, Jack Wellnitz
Attachments: 8419-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on February 27, 2020.

Jack Wellnitz, 20195 415th Ave, Yale SD 57386 (605 350-0205) has been notified to contact you to authorize publication and arrange for payment.

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

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

Karen Schlaak

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



NOTICE OF APPLICATION NO. 8419-3 to Reinstate Water Permit No. 7400-3

Notice is given that Jack Wellnitz, 20195 415th Ave, Yale SD 57386 has filed an application for a water permit to reinstate Permit No. 7400-3. Permit No. 7400-3 appropriates 1.33 cubic feet of water per second (cfs) from one well completed into the Floyd:East James Aquifer (52 feet deep) located in the E 1/2 NE 1/4 Section 31 to irrigate 188 acres located in portions of the N 1/2 Section 31 and the SW 1/4 Section 28; all in T112N-R59W. This is an existing well authorized by Water Permit No. 6936A-3 to irrigate neighboring land. The permit was approved November 12, 2012, and the project was to be completed by November 12, 2017, with water being put to beneficial use by November 12, 2021. Application No. 8419-3 proposes to reinstate portions of Water Permit No. 7400-3 subject to cancellation for non-construction. This project is located approximately 3 miles northeast of Yale SD.

Application No. 8419-3 to reinstate cancelled Permit No. 7400-3 is made pursuant to SDCL 46-2A-8.1 which allows for reinstatement with a new priority date, if unappropriated water is available when construction necessary to put water to beneficial use is not completed within five years of approval of the permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. xx 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 March 9, 2020.

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_____.



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and NATURAL RESOURCES

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PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

MAR 13 2020

Jack Wellnitz
20195 415th Ave
Yale SD 57386

Dear Mr. Wellnitz:

Enclosed is Water Permit No. 8419-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: JACK WELLNITZ, 20195 415TH AVE, YALE, SD 57386

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6936-3, 7400-3 & 8419-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6936-3, 7400-3 & 8419-3 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6936-3, 7400-3 & 8419-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: FIPQQH**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 6, 2023

6936-3
7400-3
8419-3

Jack Wellnitz
20195 415th Ave
Yale SD 57386

Dear Mr. Wellnitz:

I am writing to acknowledge receipt of your 2022 irrigation questionnaires.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit Nos. 6936-3, 7400-3 & 8419-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



6936-3
7400-3
8419-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2026

NOTICE

TO: JACK WELLNITZ, 20195 415TH AVE, YALE, SD 57386

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

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 6936-3, 7400-3 & 8419-3. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 6936-3, 7400-3 & 8419-3 qualification:

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

The hearing will be held on **Wednesday, March 4, 2026 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 6936-3, 7400-3 & 8419-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 4, 2026** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: QFBWMZ**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 6936-3, 7400-3 & 8419-3**

I have this day, June 9, 2025, made a thorough examination of the water use system constructed by Jack Wellnitz, 20195 415th Ave, Yale, SD 57386 of Permit No. 6936-3, 7400-3 & 8419-3, bearing the priority of January 15, 2008 authorizing the diversion of 3.33 cu. ft. per second of the waters of the Floyd:East James Aquifer for irrigation purposes, in Beadle County.

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Manikowski Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 64 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 12 inches
- 2) Length 44 feet
- 3) Type PVC

Screen:

- 1) Type Stainless steel
- 2) Length 20 feet
- 3) Static water level unknown feet

Pump:

- 1) Make Submersible
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 1600 GPM

Motor:

- 1) Make Unknown
- 2) Model No. Unknown
- 3) Horsepower rating Unknown hp

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

- 1) Type Buried PVC 2) Size 8 & ?? inches 3) Length 2350 + 750 feet

Comments: xx

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make 3 - Valleys
- 2) Overall length 1300, 1450 & 350 feet
- 3) Number of towers 7, 9, 3
- 4) End gun Y
- 5) Capacity 800, 1000, 600 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: well diversion greater than statutory limit of 1 cfs per 70 acres

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: WELL LOCATION
From the NE corner Sec 31 T112N R59W, 1235 ft S & 900 ft W, Lat 44.46634 Long -97.95717 (SE 1/4 NE 1/4).
2. The works are capable of diverting and conveying to the place of use 2.89 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

<u>legal description/acreage</u>	<u>legal description/acreage</u>
All land in Sec 31 T112N R59W	
NW 1/4 NW 1/4 – 10.5 acres	
NE 1/4 NW 1/4 – 39.5 acres	
SE 1/4 NW 1/4 – 39.5 acres	
SW 1/4 NW 1/4 – 11.5 acres	
NW 1/4 NE 1/4 - 33 acres	
NE 1/4 NE 1/4 – 6.5 acres	
SE 1/4 NE 1/4 – 21.5 acres	
SW 1/4 NE 1/4 - 40 acres	

comprising a total of 202 acres of land and the license should be issued for 2.89 cfs.

3. All structures, wells and lands on map Y

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

Used FSA maps and ArcGIS to estimate irrigated acres.

The mailing address and the telephone number in the permit materials is current but the phone number for Mr. Jack Wellnitz is 605/350-0205.

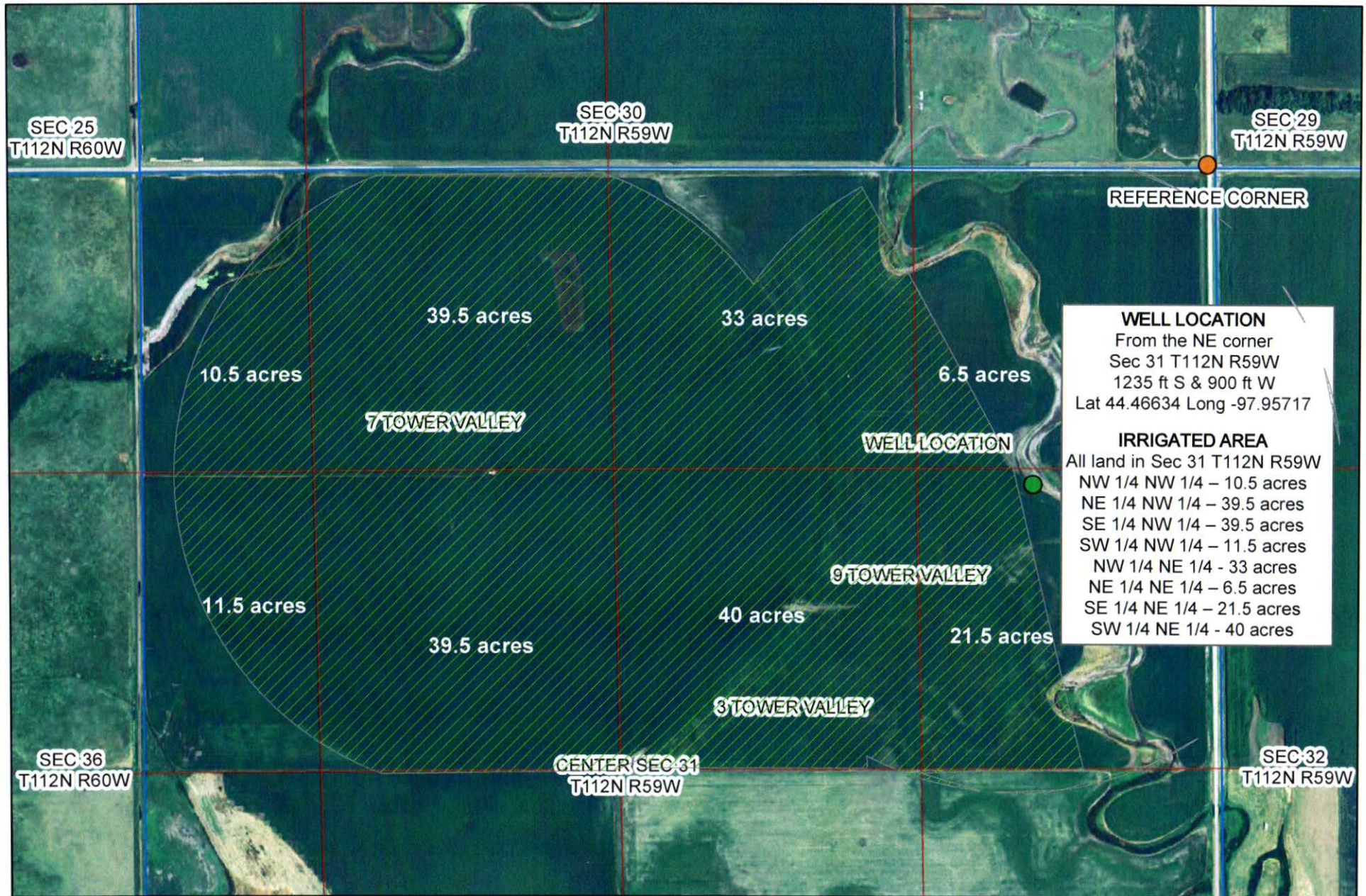
Talked to Mr. John Wellnitz, son, who is the contact person for the permits, during the field visit and his phone number is 605/350-5431.

There has been no irrigation development of the SW quarter of Section 28 which is mentioned in Permits 7400-3 and 8419-3.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: June 10, 2025



0 485 970 1,940 2,910 3,880 Feet

Dewell, Amanda

From: John Wellnitz <johnwellnitz@gmail.com>
Sent: Monday, September 22, 2025 12:19 PM
To: Dewell, Amanda
Subject: Re: [EXT] FW: Jack Wellnitz Irrigation Permits
Attachments: Wellnitz irrigation on N half 31.png

Follow Up Flag: Follow up
Flag Status: Flagged

On Mon, Sep 22, 2025 at 12:17 PM John Wellnitz <johnwellnitz@gmail.com> wrote:

Hello Amanda, I finally got my computer back from the repair man and had a chance to sit down at it. I've drawn a diagram of the irrigation pivots, their date developed, gpm, and acres covered, both with and without overlap

They are all in Section 31, no development was made in Sect 28 at this time.

Pivot #1 was the first, a full circle, 800 gpm, 142 ac, developed in 2008.

Pivot #2 was second, a half circle, 1,000 gpm, 72 ac total, 54 ac net, when excluding overlap with pivot #1. Developed in 2018.

Pivot #3 was the most recent, a half circle, 600 gpm, 16 ac total, 6 ac net, when excluding overlap with pivots #1 & #2. Developed in 2022.

In short, net acres developed:

142ac in 2008 @ 800 gpm

54ac in 2018 @ 1,000 gpm

6ac in 2022 @ 600 gpm

Total net acres, 202 ac

Gross ac under irrigation, not excluding overlap.

142 ac in 2008, @ 800 gpm

72 ac in 2018, @ 1,000 gpm

16 ac in 2022 @ 600 gpm

Total under pivots, not excluding overlap, 230 ac.

All three pivots are capable of operating separately, all at once, or in a combination. Currently, I run them one at a time to avoid collision due to them overlapping. I don't have GPS on them yet. If they were all run together the total would exceed our applied for diversion rate, but running pivot #1 and #3 would put us at 1,400 gpm. So we currently have the irrigation pivot systems in place to utilize the maximum diversion rate that was applied for. Let me know how that is addressed with systems that overlap and if we are able to get rights for the whole 1,500 gpm. If possible, that would be great. I hope the description and diagram is clear enough. Note, the pins on the map are not at the pivot center points, they're just there so I could move the text. Thanks! John Wellnitz

On Mon, Sep 15, 2025 at 12:32 PM Dewell, Amanda <Amanda.Dewell@state.sd.us> wrote:

John, I got your voicemail last week. You'd indicated that Friday was going to be a hard day to pin you down so I'm just shooting you an email. I've got a few meetings this afternoon but will be in the office all day tomorrow 8AM-5PM (away over the noon hour). Give me a call when it best works for you, and we'll sort it out.

Thanks!

Amanda Dewell

DANR - Water Rights Program

Permitting Administrator

Main Phone: 605 773-3352

Website: danr.sd.gov



From: Dewell, Amanda
Sent: Tuesday, September 2, 2025 9:42 AM
To: johnwellnitz@gmail.com
Subject: Jack Wellnitz Irrigation Permits

John,

Thank you for taking a few minutes this morning to discuss Jack's permits, which were recently inspected by Program staff. The purpose of my questions are to ensure that all the permits are accurately issued, reflecting proper values and priority dates. Below, I will attempt to briefly outline what I have on my end, and you can confirm, or tell me how it's differs.

- In 2008, Jack applied for irrigation of 240 acres (N ½ Sec 31-T112N-R59W) @ 2.0 cfs (900 gpm). Construction of the project was to be completed by March 10, 2013; by which time irrigation of 142 acres @ 1.84 cfs (825 gpm) had been developed.
- In 2012, he applied for another permit that would extend the construction period of the first for an additional 5 years, authorize irrigation of an additional 188 acres (N ½ Sec 31 & SW ¼ Sec 28; all in T112N-R59W), and increase the diversion rate by an additional 1.33 cfs (600 gpm). Construction was to

be completed By November 12, 2017. In 2017 Jack reported that the additional acres and cfs were not developed.

- In 2019, he applied for the final permit to this project, reinstating the 2012 permit which was not developed in time. The construction deadline for this final permit was March 2025 (you were correct). Based on our records an additional 0.4 cfs & 54 acres were developed in 2018, with no increases to either since.

To summarize, the inspection and review found a total of 196 acres @ 2.24 cfs (1000 gpm) have been developed in the N ½ Sec 31 & SW ¼ Sec 28; all in T112N-R59W. Does that appear to be accurate?

Finally, you had inquired about adding more acres with an older irrigation system. Since the time for construction has already expired for Jack's existing permits, a new application would have to be submitted. I've attached a blank one for your convenience.

Amanda Dewell

DANR - Water Rights Program

Permitting Administrator

Main Phone: 605 773-3352

Website: danr.sd.gov



201st St

201st St

 pivot 1, 2008, 800 gpm, 142 ac

 pivot 2, 2018, 1,000 gpm, 72 ac gross, 54 ac net

 pivot 3, 2022, 600 gpm, 16 ac net, 6 ac gross



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 21 2026

8419-3

Jack Wellnitz
20195 415th Ave
Yale SD 57386

Dear Mr. Wellnitz:

Enclosed is Water License No. 8419-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old 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.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact Amanda Dewell, Water Rights Permitting Administrator at (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE
Chief Engineer
SD DANR – Water Rights Program

NOTE: The investigation found your irrigation system is capable of diverting 3.56 cubic feet of water per second (cfs) which is equivalent to approximately 1,600 gallons per minute. The statutory limit for 202 acres is 2.89 cfs (equivalent to 1,300 gpm). Diversion of water under this water license is limited to 2.89 cfs.

NOTE: The applicable portions of Water Permit Nos. 6936-3, 6936A-3, 7400-3, and 8419-3 have been incorporated into Water Right No. 8419-3.

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8419-3

(1) Jack Wellnitz, 20195 415th Ave, Yale SD 57386, made Application No. 6936-3, January 15, 2008, for a water permit to divert 2.0 cubic feet of water per second (cfs) from groundwater, two wells (Floyd: East James Aquifer) for irrigation purposes in Beadle County, South Dakota. Permit No. 6936-3 was approved March 10, 2008, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 10, 2013, and for the application to beneficial use of water on or before March 10, 2017. The applicable portions of Permit No. 6936-3 have been incorporated into this license.

Jack Wellnitz made Application No. 6936-3A, June 2, 2008, for a water permit to amend Permit No. 6936-3 to change the location of one of the authorized wells with no increase to the diversion rate or number of irrigated acres authorized under Permit No. 6936-3. Permit No. 6936A-3 was approved July 7, 2008, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 10, 2013, and for the application to beneficial use of water on or before March 10, 2017. The applicable portions of Permit No. 6936A-3 have been incorporated into this license.

Jack Wellnitz made Application No. 7400-3, August 13, 2012, for a water permit to divert an additional 1.33 cfs and irrigate an additional 188 acres to what was already authorized under Permit Nos. 6936-3 & 6936A-3. Permit No. 7400-3 also extended the length of time allowed to complete the remaining construction of the project authorized under Permit Nos. 6936-3 & 6936A-3 for an additional five years. Permit No. 7400-3 was approved November 12, 2012, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before November 12, 2017, and for the application to beneficial use of water on or before November 12, 2021. The applicable portions of Permit No. 7400-3 have been incorporated into this license.

Jack Wellnitz made Application No. 8419-3, December 13, 2019, for a water permit to reinstate the undeveloped portions of Permit No. 7400-3 since the project had not been completed by the construction completion deadline. Permit No. 8419-3 was approved March 9, 2020, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 9, 2025, and for the application to beneficial use of water on or before March 9, 2029. The applicable portions of Permit No. 8419-3 have been incorporated into this license.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 2.89 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,235 ft S & 900 ft W of the NE corner Section 31-T112N-R59W (SE ¼ NE ¼)
(Latitude 44.46634 & Longitude -97.95717)

(3) The amount of appropriation may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation purposes. The water is to be used during the following described annual period: April 1 – October 31.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate to following land:

continued

Section 31-T112N-R59W

NE ¼ NE ¼	6.5 acres	NE ¼ NW ¼	39.5 acres
NW ¼ NE ¼	33 acres	NW ¼ NW ¼	10.5 acres
SW ¼ NE ¼	40 acres	SW ¼ NW ¼	11.5 acres
SE ¼ NE ¼	21.5 acres	SE ¼ NW ¼	39.5 acres

TOTAL: 202 acres

(5) Pursuant to South Dakota Water Law 46-5-30.1 Jack Wellnitz, the holder and/or owner of Water Right No. 8419-3 is issued a license to appropriate water, the right to use 2.89 cubic feet of water per second from groundwater, one well (Floyd: East James Aquifer), with priority dates of July 15, 2008 (2.0 cfs & 134 acres) and December 13, 2019 (0.89 cfs & 68 acres) from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8419-3 and subject to the following qualifications:

1. The wells approved under this Permit 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 their withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights. *(Only one well was developed for this project.)*
2. The wells authorized by Permit No. 6936-3 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. *(The well was drilled in 2007 by Manikowski Well Drilling. A copy of the Well Completion Report is on file with the Water Rights Program.)*
3. This Permit is subject to the irrigation water use questionnaire being submitted each year.



Adam Mathiowetz, PE
Chief Engineer
SD DANR – Water Rights Program

JUL 21 2026

date

