

WATER PERMIT NO. 8450-3

Name of Applicant: Tom Nuhsbaumer

Address: 17781 370th Ave, Zell SD 57469

Phone: 605 460-1368

Amount of Water Claimed: 1.78 cfs

Total Acres: 101.36 acres

Source of Water Supply: groundwater (2 wells)

Water to be used for: irrigation

County: Spink ~~Hand~~

Type of Waste Disposal System:

Location: 8 miles southwest of Zell

PRIORITY

Date Received: 2-8-21

Application/License Fee: \$ 950

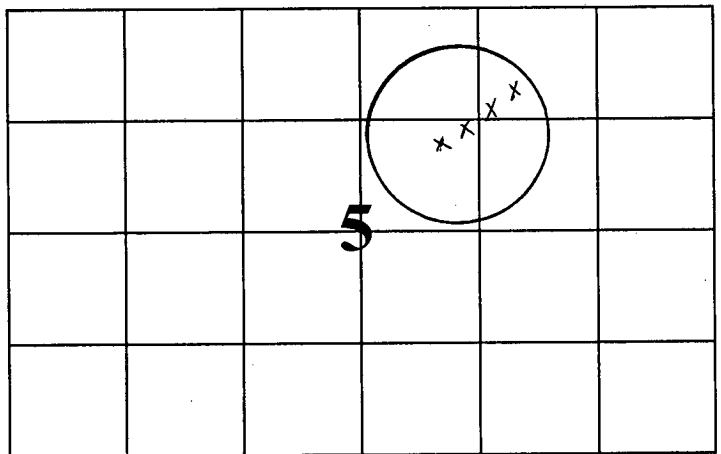
Corrected Application Received:

Period of Annual Use: April 1 – September 30

Remarks:

Diversion Point: NE 1/4 Sec 5-T115N-R66W

Land to be Irrigated: NE 1/4 Sec 5-T116N-R66W



Depth of Well: 60 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 2-8-21

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8450-3 FOR IRRIGATION

Date of first receipt of application February 8, 2021.

Date of return to applicant for corrections, amendments or changes February 9, 2021.

Date of receipt of corrected application February 16, 2021.

The Water Management Board approved Water Permit No. 8450-3 on July 7, 2021 for Tom Nuhsbaumer, 17781 370th Ave, Zell SD 57469 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. 8450-3 appropriates 1.78 cubic feet of water per second (cfs) from four wells to be completed into the Pleistocene Series: Unknown Aquifer (60 feet deep) located in the NE 1/4 Section 5 to irrigate 101.4 acres located in the NE 1/4 Section 5; all in T115N-R66W. This site is located approximately 7 miles southwest of Zell SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – September 30.
3. The date from which applicant may claim right is February 8, 2021.
4. One-fifth of the construction is to be completed on or before January 7, 2024.
5. All construction is to be completed on or before July 7, 2026.
6. Water is to be put to beneficial use on or before July 7, 2030.
7. 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 Water Permit No. 8450-3 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. 8450-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8450-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 101.4 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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 Agriculture and Natural Resources

JUL 13 2021

date



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

RECEIVED
FEB 08 2021
WATER RIGHTS PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8450-3</u> (office use only)
	Hydrologic Unit <u>10160009</u>
	Basin <u>James River</u>
	Newspaper <u>Miller Press</u> <u>Plainsman</u>

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.)

** This application replaces Tyson Nuhsbaumer's prior application*

1. Name to Appear on Irrigation Permit Tom Nuhsbaumer

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

Mailing Address 17781 370th Ave Zell SD 57469
460-1368 - Tyson (Address) (City) (State) (Zip Code)

Phone 460-0634 - Tom Mobile _____ Email tnuhsbaumer@hotmail.com

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 101.374
(*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 water

4. Location of point of diversion 4 wells in NE 1/4 section 5 - 115N - 66W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Hand

5. County or counties where water will be used Hand

6. Annual period during which water is to be used April 1 - September 30

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

Land Description	Acres	Land Description	Acres
NW 1/4 of NE 1/4 of 5 - 115N - 66W	25.37		
NE 1/4 of NE 1/4 of 5 - 115N - 66W	25.37		
SW 1/4 of NE 1/4 of 5 - 115N - 66W	25.37		
SE 1/4 of NE 1/4 of 5 - 115N - 66W	25.37		

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

We will irrigate 101.37 acres with a center pivot. Requesting diversion rate greater than statutory limit.

Tom Nuhsbaumer

I, _____, 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.

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Form 2A

(Complete required and applicable portions only)

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 2 Have test holes been drilled ☒ Yes ☐ No Drilled by Manikowski Well Drilling
(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) 60 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)

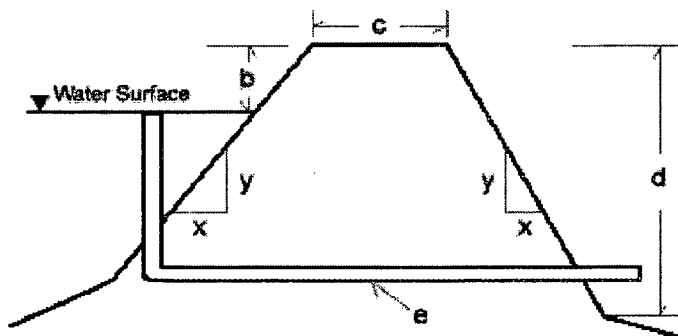
Upstream

Downstream

h) Surface Area of Impoundment

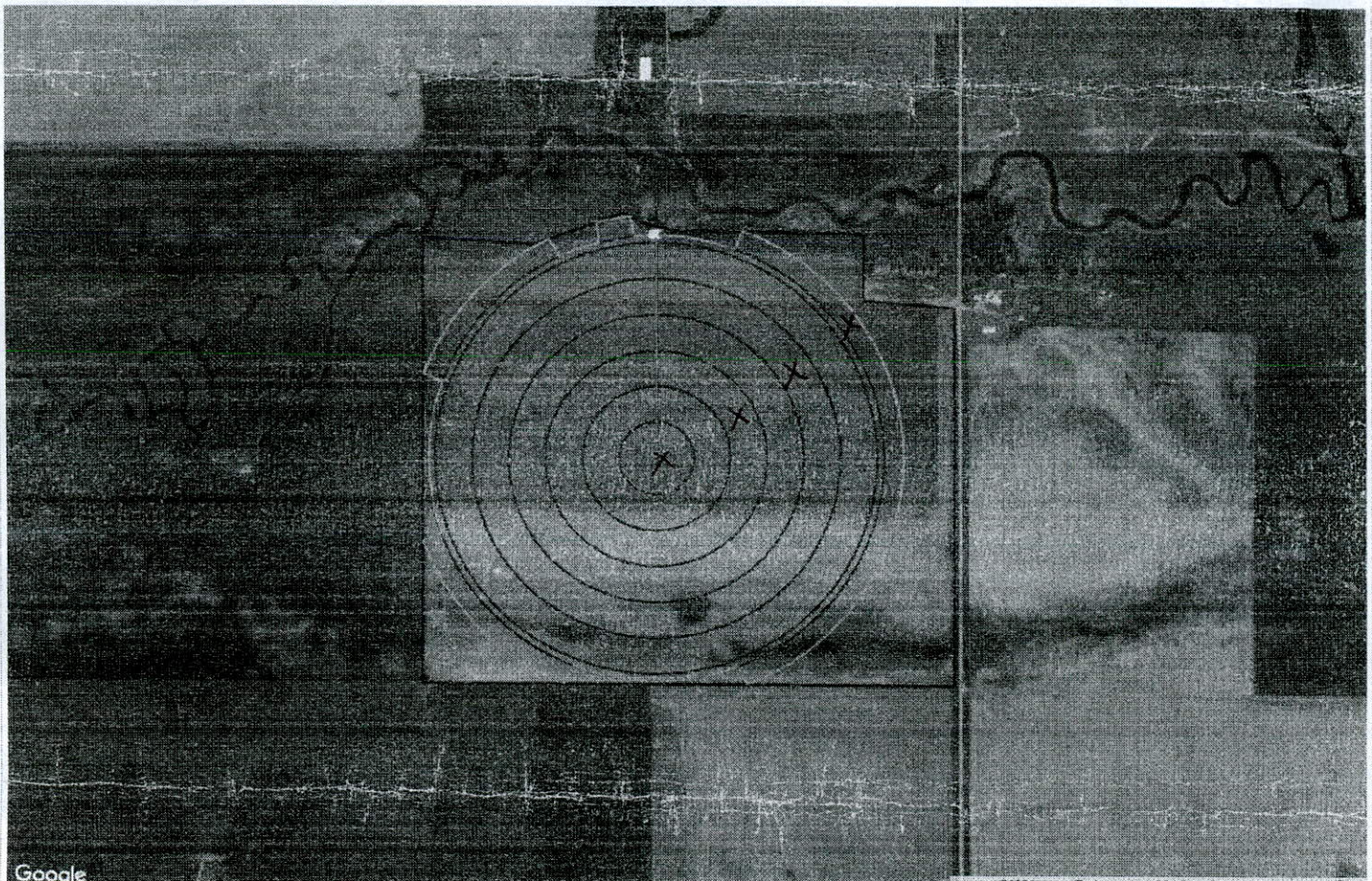
i) Storage Acre Feet

j) Drainage Area Above Dam Acres





Project Name - TYSON NUESBAUMER
Version Name - TYSON NUESBAUMER_Version
Map Summary Report - TYSON

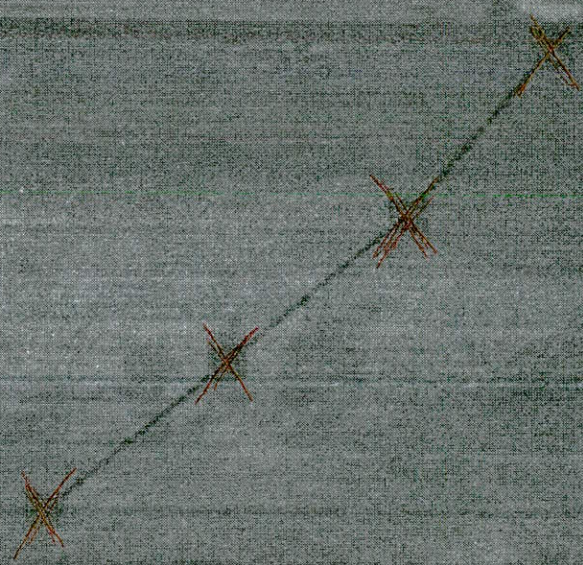


Google

DRIVE UNITS LARGEST POTENTIAL MACHINE GUIDANCE PATH END OF MACHINE PRIMARY ENDGUN SECONDARY ENDGUN FIELD BOUNDARY

Inman & McDowell, Inc. - 421 392nd Ave, Aberdeen, SD, 57401, UNITED STATES

870th Ave





116N 66W
Section: 31

116N 66W
Section: 32

116N 66W
Section: 33

115N 66W
Section: 06

115N 66W
Section: 05

115N 66W
Section: 04

115N 66W
Section: 07

115N 66W
Section: 08

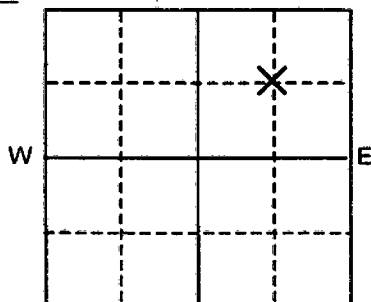
115N 66W
Section: 09

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location 1/4 NE 1/4 Sec 5 Twp 115N Rg 66WWell Owner: Tyson NuhsbaumerCounty Hand

North

Please mark well
location with an "X"

Well Completion Date

12-28-2020

1 Mile

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

1500 ft. from septic (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
200 psi LB/FT	4 IN	+1 FT	30 FT	7 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
bentonite	2	9.5 Lb/gal	0 Ft	25 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

pumped grout through 1" tremie

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 4 Inches Length 10 FeetMaterial PVCSlot Size .050 Set From 30 Feet to 40 Feet

Other information

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? 100 ppm chlorine☐ No, Why Not?Lab to which water
quality sample sent for analysis

Business Name:

Address: 17781 370th AveCity, State, Zip: Zell SD 57469

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil	0	1
Sandy yellow clay	1	6
Oxidized sand and gravel	6	10
Yellow clay	10	13
Brown Medium sand	13	17
Medium to coarse gray sand	17	23
Coarse sand to gravel	23	35
Coarse gravel	35	41
Blue Clay	41	60

STATIC WATER LEVEL 10.8 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: pumped with 2" centrifugal pump
☐ Bailed
☐ Other

Pumping Level Below Land Surface

16.0 Ft. After .5 Hrs. pumped 100 GPM16.1 Ft. After 1 Hrs. pumped 100 GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 285 and this report is true and accurate.Drilling firm: Manikowski Well Drilling Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

RECEIVED

Date: 12-31-2020

FEB 08 2021

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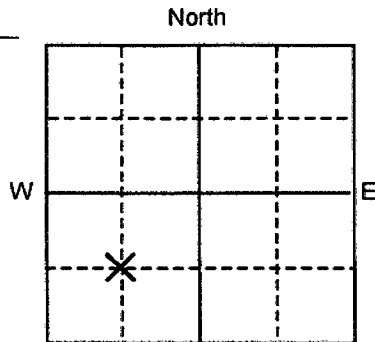
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location 1/4 SW 1/4 Sec 32 Twp 116N Rg 66W

County Hand

Please mark well location with an "X"



Well Completion Date

12-28-2020



Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
2000 ft. from septic (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA:

☐ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>bentonite</u>	<u>3</u>	<u>9.5</u> Lb/gal	<u>0</u> Ft	<u>60</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

pumped grout through 1" tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ Inches Length _____ Feet

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☐ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How? _____

☐ No, Why Not? _____

Lab to which water quality sample sent for analysis _____

Well Owner: Tyson Nuhsbaumer

Business Name: _____

Address: 17781 370th Ave

City, State, Zip: Zell SD 57469

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Topsoil	0	1
Yellow Clay	1	26
Blue Clay	26	35
Medium gray sand	35	42
Coarse Gravel	42	44
Blue Clay	44	67
Coarse sand to gravel	67	69
Shale	69	80

STATIC WATER LEVEL

_____ FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped Describe: _____

☐ Bailed _____

☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 285 and this report is true and accurate.

Drilling firm: Manikowski Well Drilling Inc.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

RECEIVED

Date: 12-31-2020

FEB 08 2021

WATER RIGHTS PROGRAM

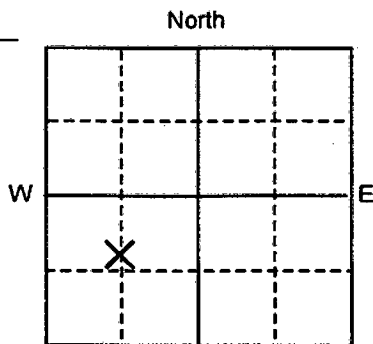
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location 1/4 SW 1/4 Sec 2 Twp 115N Rg 67W

County Hand

Please mark well location with an "X"



Well Completion Date

12-28-2020

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

PROPOSED USE:

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

METHOD OF DRILLING:

Forward Rotary

CASING DATA:

If other describe ☐ Steel ☐ Plastic ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>bentonite</u>	<u>3</u>	<u>9.5</u> Lb/gal	<u>0</u> Ft	<u>60</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

pumped grout through 1" tremie

SCREEN:

☐ Perforated pipe ☐ Manufactured
Diameter _____ Inches Length _____ Feet
Material _____
Slot Size _____ Set From _____ Feet to _____ Feet
Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☐ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☐ Yes, How?

☐ No, Why Not?

Lab to which water quality sample sent for analysis

Well Owner: Tyson Nuhsbaumer

Business Name:

Address: 17781 370th Ave

City, State, Zip: Zell SD 57469

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Yellow Clay	0	25
Blue Clay	25	35
Fine gray sand	35	38
Blue clay	38	39
Coarse sand to gravel	39	40
Blue Clay	40	56
Fine To med gray sand	56	61
Blue clay	61	72
Shale	72	80

STATIC WATER LEVEL

_____ FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: _____
☐ Bailed
☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Test hole

This well was drilled under license # 285 and this report is true and accurate.

Drilling firm: Manikowski Well Drilling Inc.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

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FEB 08 2021

Date: 12-31-2020

WATER RIGHTS PROGRAM

12-29-2020
T115N- Rg.66W Sec 5 NE ¼

Test hole #1

1530' West and 820' South of NE corner of Sec 5

0-7.	Sandy yellow clay
7-12.	Yellow clay
12-20.	Med to coarse brown sand
20-29.	Fine to med gray sand washed in
29-35.	Med to coarse sand
35-41.	Coarse clean gravel. Drilled good took water
41-60	Blue clay

Test hole #2

830' East and 420' North of SW corner of NE ¼

0-5.	Yellow clay
5-10.	Brown gravel. Coarse
10-13.	Yellow Clay
13-15.	Clay
15-25	Coarse clean gravel
25-40.	Blue clay

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 30, 2020

RECEIVED OF Tyson Nuhsbaumer 17781 370th Ave. Zell SD 57469

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

Fee for Application for Permit No. <u>8450-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$1050.00
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>8450-3</u>	\$200.00
Fee for Filing Transfer Form _____	\$
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$1250.00

By Eric Gronlund
Chief Engineer vm



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

February 9, 2021

Tom Nuhsbaumer
17781 370th Ave
Zell SD 57469

Dear Mr. Nuhsbaumer:

Thank you for submitting the *Application for a Permit to Appropriate Water* which replaces the original application submitted in September, 2020. In order to complete the application, the following is required.

- Enclosed is the aerial photo map for the location of the irrigation. On the map, please mark each proposed well location with an "X".

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosure

2505: 6: A'

RECEIVED

FEB 16 2021

**WATER RIGHTS
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Dear Karen Schlakk,

Enclosed is an aerial map with marked well locations. I talked to Nick Manikowski of Manikowski Well Drilling and he said I might need 3 to 4 wells. He advised me that usually it takes 6 GPM per irrigated acre and that if I'm doing 101 acres I could possibly get away with only 3 wells, but 4 would be better. The wells themselves would be spaced at 425 feet apart.

Sincerely,

Töm Nühsbaumer

Tyson Nuhsbaumer

Schlaak, Karen

From: Gronlund, Eric
Sent: Thursday, February 4, 2021 1:05 PM
To: Schlaak, Karen; Farmer, John
Subject: Nuhsbaumer - 8450-3

Spoke with Tyson Nuhsbaumer. Will be sending in an application to replace the present one under No. 8450-3 – file on John's desk.

This application will be in his dad's name since that is who owns the land.

The acreage will be only 101 acres instead of 264 acres so we will need to refund some of the money back.

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



DENR
SOUTH DAKOTA

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 12, 2021 7:45 AM
To: tnuhsbaumer@hotmail.com
Subject: Water Permit Application No. 8450-3
Attachments: 1210.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8450-3, Tom Nuhsbaumer**

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. 8450-3, Tom Nuhsbaumer, 17781 370th Ave, Zell SD 57469.

The Chief Engineer is recommending APPROVAL of Application No. 8450-3 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 Water Permit No. 8450-3 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. 8450-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8450-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 101.4 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund

Eric Gronlund, Chief Engineer
May 10, 2021

REPORT TO THE CHIEF ENGINEER

Water Permit Application No. 8450-3

Tom Nuhsbaumer

April 29, 2021

Water Permit Application No. 8450-3 proposes to appropriate water at a maximum instantaneous diversion rate of 1.78 cubic feet per second (cfs) for the irrigation of 101.4 acres. The proposed diversion points are four wells to be completed into the Pleistocene Series: Unknown aquifer with well depths less than 60 feet. The location of the proposed wells and the proposed acres is in the NE ¼ of Section 5 T115N-R66W. This application is requesting a diversion rate that exceeds the statutory limit of 1 cfs per 70 acres. This application is in Hand County and located approximately 6.5 miles south of Rockham, SD.

Aquifer: Pleistocene Series: Unknown (PS:U)

HYDROGEOLOGY

The glacial geology in the area of the application was deposited during the Late Wisconsin glaciation. In Hand County, these deposits range in thickness from zero to 500 feet (Helgeson and Duchossois, 1987). The hydrogeology in the area of this application has been studied in the past as part of the Oahe Unit of the Missouri River Basin Project in the 1950's and again in the 1980's as part of the Central South Dakota Water Supply System (abbreviated as CENDAK). As part of the 1980's investigations into the aquifer, additional drilling was completed in Hand County to identify a site to conduct a pumping test of the Tulare aquifer. This additional drilling found that the areal extent of the Tulare aquifer that can produce significant yields was significantly less than area delineated in Koch's (1980) and Hedges' et al. (1982) reports (James M. Montgomery, 1986). Later mapping of the geology and aquifer materials in Hand County shows a much-reduced area of aquifer materials within the county (James M. Montgomery, 1986; CENDAK, 1987; Rich, 2013).

The well log submitted with the application shows that the driller encountered yellow clay from 1 to 6 feet, sand and gravel from 6 to 10 feet, yellow clay from 10 to 13 feet, brown medium sand from 13 to 17 feet, medium to coarse gray sand from 17 to 23 feet, coarse sand to gravel from 23 to 35 feet, coarse gravel from 35 to 41 feet, and blue clay from 41 to 60 feet. The static water level at the time of well completion (Dec. 28, 2020) was 10.8 feet below ground surface, indicating that the aquifer in the immediate area of this application may be under locally confined conditions.

The location of this well is within the boundaries of the Tulare aquifer as identified by Koch (1980) and within the boundaries of the Western Spink management unit of the Tulare aquifer as identified by Hedges et al. (1982). However, with the reduced aquifer areas as identified by James M. Montgomery (1986) and Rich (2013), and the variability in thickness and lateral continuity of the outwash (CENDAK Drainage Steering Committee, 1987), a look into local geology near the application was warranted. All available lithologic logs and well completion reports were reviewed in townships T115N R66W (Wheaton), T116N R66W (Plato), T116N R67W (Linn), and T115N 67W (Carlton) (SD Geological Survey, 2021; Water Rights, 2021b). After reviewing the lithologic logs and well completion reports, a cross-section through the area

was constructed and an areal extent of this material was estimated (Figure 1) with an approximate area of 5,000 acres. The lithologic logs and well completion reports show that a body of outwash material exists below an approximate elevation of 1,340 feet with a thickness ranging from 9 to 43 feet. This interval of outwash material corresponds to the outwash material that the proposed well is completed into. Above this body of outwash lies approximately 30 to 60 feet of additional glacial material consisting primarily of weathered and unweathered glacial till with a smaller body of outwash located near the surface. At the location of this application, the body of outwash is covered by less than 15 feet of yellow clay, which is likely weathered till.

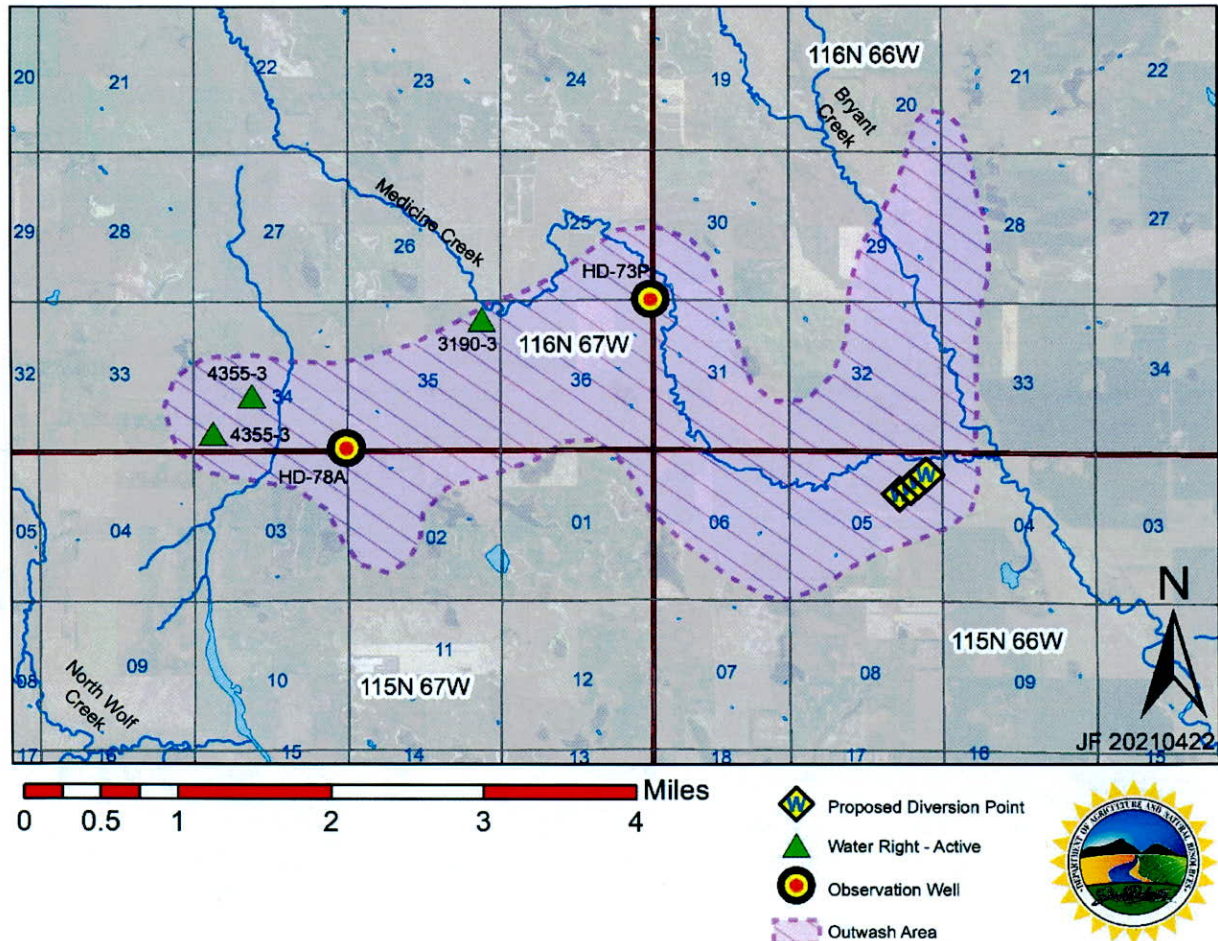


Figure 1. Map showing the location of the proposed diversions, active water rights and observation wells completed into this deposit of Pleistocene Series: Unknown aquifer, and the identified approximate extents of the Pleistocene Series: Unknown aquifer (Water Rights, 2021a; Water Rights, 2021c)

The surficial geology at the applicant's location is identified as being "outwash-alluvium" (CENDAK Drainage Steering Committee, 1987) or as part of the "Alluvium/Outwash Complex" (Helgeson and Duchossois, 1987). Outwash-alluvium occurs in stream channels and meltwater channels and may contain outwash sand and gravel that is overlain by finer-grained alluvial material. Outwash-alluvium is a highly variable geologic unit due to the variability of the individual thicknesses of the sand and gravel deposits; the combined thicknesses may reach 50

feet (CENDAK Drainage Steering Committee, 1987). The well log and test holes completed by the applicant in Section 5 show that the driller encountered several layers of yellow clay (weathered till) down to 12-15 feet below ground surface. Interspersed within the layers of yellow clay were layers of brown sand and/or gravel, indicating that the sand and gravel that the applicant's well is completed into can be considered as part of the outwash-alluvium.

Considering the complex geology in the area of this application due to parts of this outwash deposit being buried beneath unweathered till and other parts considered as part of the outwash-alluvium, the aquifer that this application proposes to withdraw water from is the Pleistocene Series: Unknown (PS:U). The Pleistocene Series: Unknown aquifer is not a contiguous aquifer body, it is a name applied to aquifers of glacial origin that are found to not be a part of a larger previously identified aquifer. This portion of the Pleistocene Series: Unknown aquifer is a distinct and separate portion from other Pleistocene Series: Unknown aquifers across South Dakota.

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

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued only if there is a reasonable probability 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 existing rights within this portion of the Pleistocene Series: Unknown aquifer.

Water Availability

The probability of unappropriated water available from an aquifer can be evaluated by considering SDCL 46-6-3.1, which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older than or stratigraphically lower than the Greenhorn Formation and a water distribution system as defined by SDCL 46-1-6 (17) has applied for a permit, the Board need not take into consideration the balance of aquifer recharge and withdrawal. Here, the water source is not older or lower than the Greenhorn Formation and a water distribution system is not involved. Therefore, the balance of withdrawal and recharge must be considered.

Hydrologic Budget

Recharge

Recharge to this deposit of Pleistocene Series: Unknown aquifer is likely to occur through infiltration of precipitation and by groundwater inflow from adjacent and hydrologically connected pieces of outwash. Studies analyzing water movement through the glacial till have found that the water movement through the weathered portions is three to four orders of magnitude greater than the water movement through the unweathered portions (CENDAK Drainage Steering Committee, 1987). A pumping test conducted as part of the CENDAK project found that the water moved too slowly through the confining glacial till layers to allow proper drainage of the proposed CENDAK irrigation project (James M. Montgomery, 1986). However, given enough time with a vertical hydraulic gradient, water does infiltrate through the unweathered till (Cowman, 1996). Cowman (1996) used a typical hydraulic vertical gradient for

unweathered till of 0.4 to calculate an average Darcy velocity, or the rate that water can be transmitted through the till, which ranged between 0.10 and 0.13 inches per year. Multiplying the Darcy velocity by the area of recharge produces an estimate of the volume of water that is being recharged per year through infiltration. Considering that this deposit of Pleistocene Series: Unknown is only partially beneath unweathered till, a composite recharge rate will need to be used to estimate the average annual recharge.

The most conservative estimate of recharge to this piece of Pleistocene Series: Unknown aquifer would be to estimate it as if the entire area of 5,000 acres received recharge through unweathered till. Using the Darcy velocity of 0.10 inches per year, the estimated average annual recharge would be 42 acre-feet per year. However, the eastern portion of this piece of aquifer is shallower and not located beneath unweathered till, this area can be conservatively estimated as encompassing 1,000 acres. The recharge rate to this shallower material that may be identified as outwash-alluvium has not been estimated; however, recharge to the unconfined portions of what was identified as the Tulare: Hand aquifer by Hedges et al. (1985) was estimated to be 3.4 inches per year. It is unknown which observation wells were included in the analysis by Hedges et al. (1985), but the geology of the other unconfined observation wells in Hand County is hydrologically similar. The recharge to these 1,000 acres at an estimated recharge rate of 3.4 inches per year results in 283.3 acre-feet of water being recharged on average annually. The remaining 4,000 acres at a recharge rate of 0.10 inches per year would add an additional 33.3 acre-feet of water to the estimated average annual recharge. The total estimated average annual recharge to this portion of the Pleistocene Series: Unknown aquifer is 316.6 acre-feet per year.

Discharge

This application is seeking to irrigate 101.4 acres. Assuming that the soil types are similar to the soil encountered in the area of the Western Spink Hitchcock management unit of the Tulare aquifer, located to the southeast of this application, the estimated amount of water applied to crop irrigation has averaged less than 10 inches per year (Farmer, 2020). This application would require an estimated average of 85 acre-ft of water annually with an estimated average application rate of 10 inches per year.

There are five other water rights that have appropriated water out of this portion of the Pleistocene Series: Unknown aquifer. These five water rights are all currently identified as being completed into the Tulare: Hand aquifer, however with the data that is currently available, they should be identified as being completed into this portion of the Pleistocene Series: Unknown aquifer. All five were for irrigation use and their current status is included in Table 1. Annual irrigation withdrawals as reported by the irrigators is shown in Figure 2.

Report on Water Permit Application No. 8450-3

Table 1: Summary of irrigation water rights/permits (Water Rights, 2021a)

Water Right Holder	Water Right Number	Water Right Status	Approved Acres [acres]	Diversion Rate Limit [cfs]	Active Irrigation Years ^{ve}	Average Withdrawal [acre-feet]
Daelyn Sanger	3110-3	IL	152*	2.1	1979-1988 ^{IL}	See 3190-3
Daelyn Sanger	3190-3	LC	264	1.55	1979-2013 ^{ve}	65.0
Clifford Jackson	3423-3	CA	160*	2.0	NC	N/A
Daelyn Sanger	4016-3	CA	160*	2.2	NC	N/A
Kraig Jackson	4355-3	LC	133	1.67	1979-2020	99.6
LC = License, IL = Incorporated into another License, PE = Permit, CA = Canceled						
* = Acres no longer approved under this water right, NC = Not Constructed, N/A = Not Applicable						
ve = Active irrigation years excluding continuous years of non-irrigation independent of valid legal excuse status						

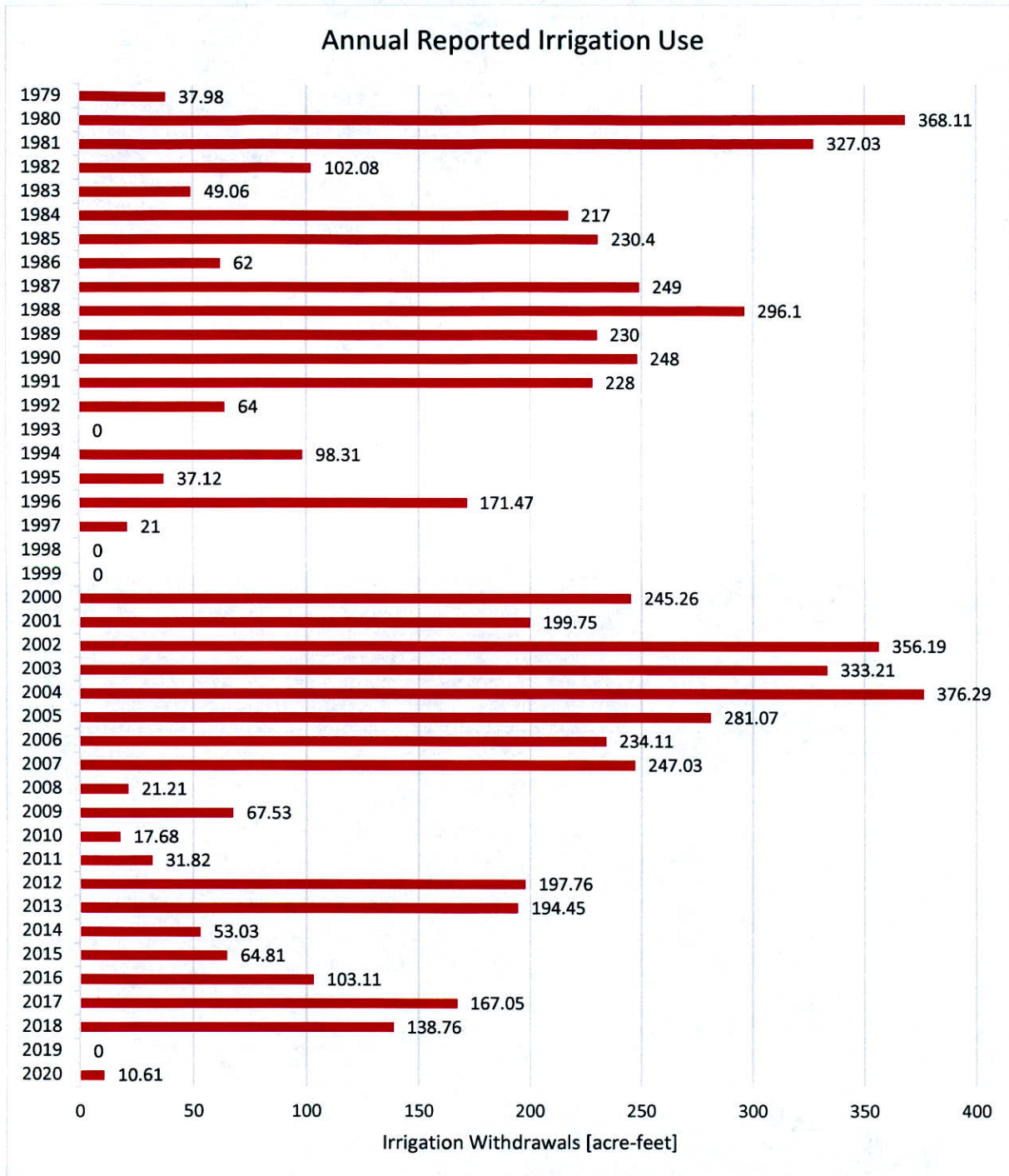


Figure 2: Reported irrigation use from this portion of the Pleistocene Series: Unknown aquifer (Water Rights, 2021d; Water Rights, 2021e)

The average withdrawal calculation for Water Right No. 3190-3 is only for the period of 1979-2013 as it has not been used for irrigation since the 2013 irrigation season. The annual irrigation questionnaires for Water Right No. 3190-3 for the years of 2016, 2017, and 2019 all indicate that the irrigation system was damaged, and the irrigation questionnaire for 2018 was marked as “use abandoned” (Water Rights, 2021d). The calculation for Water Right No. 3190-3 also includes the withdrawals from Water Permit No. 3110-3 as it was eventually incorporated into Water Right No. 3190-3.

For the purposes of estimating average annual withdrawals, the calculated average irrigation withdrawals of Water Right Nos. 3190-3 and 4355-3 in Table 1 are assumed to be reflective of their ongoing use. The estimated average annual withdrawal from these two water rights is 164.6 acre-feet per year. There is likely some domestic use from this portion of the Pleistocene Series: Unknown aquifer; however, it is negligible to the hydrologic budget. The estimated average annual withdrawal from this application is 85 acre-feet per year. In total, the estimated average annual withdrawals, if this application is approved, is 249.6 acre-feet per year.

Hydrologic Budget

The estimated average annual withdrawal from this portion of Pleistocene Series: Unknown aquifer is 249.6 ac-ft/yr, including the use for irrigating the 101.4 acres as proposed by this application. The estimated average annual recharge to this portion of Pleistocene Series: Unknown aquifer is 316.6 ac-ft/yr. Therefore, based upon the estimated average annual recharge being greater than the estimated average annual withdrawals, there is a reasonable probability there is unappropriated water available from this portion of Pleistocene Series: Unknown aquifer for this application.

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 annual recharge.

The Water Rights Program currently maintains 2 observation wells completed in this portion of Pleistocene Series: Unknown aquifer (Water Rights, 2021c). These two observation wells are currently identified as being completed into the Tulare: Hand aquifer; however, with the data that is currently available, they should be identified as being completed into this portion of the Pleistocene Series: Unknown aquifer. The nearest observation well is HD-73P, located just over 2 miles northwest of the proposed well locations for this application.

The observation well hydrographs shown in Figure 3 and 4 are representative of this portion of Pleistocene Series: Unknown aquifer. The hydrographs show that the aquifer responds well to hydrologic conditions, recharging during wetter periods and declining during drier periods. The observation well measurements show that the effects from seasonal changes in hydrologic conditions and pumping are temporal, and that the aquifer has remained relatively stable over the period of record. Observation Well HD-78A is located near the two water rights within this portion of the Pleistocene Series: Unknown aquifer and shows the seasonal drawdown effects of irrigation and subsequent recovery of the aquifer. The observation well data indicates that there

is a reasonable probability unappropriated water is available from this portion of Pleistocene Series: Unknown aquifer.

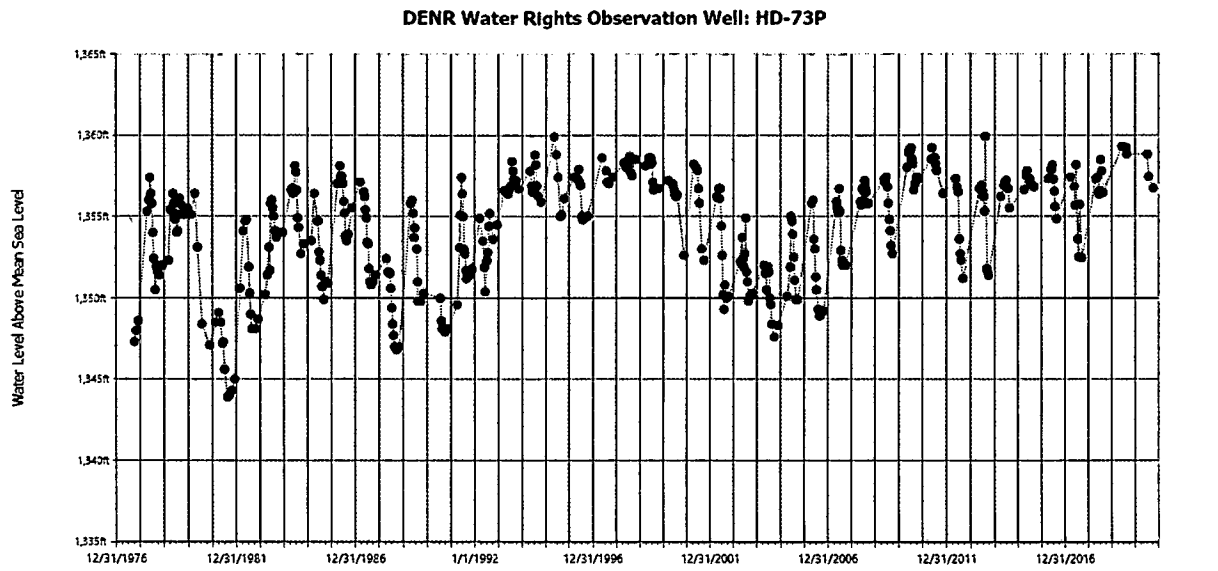


Figure 3: Hydrograph for Observation Well HD-73P (Water Rights, 2021c)

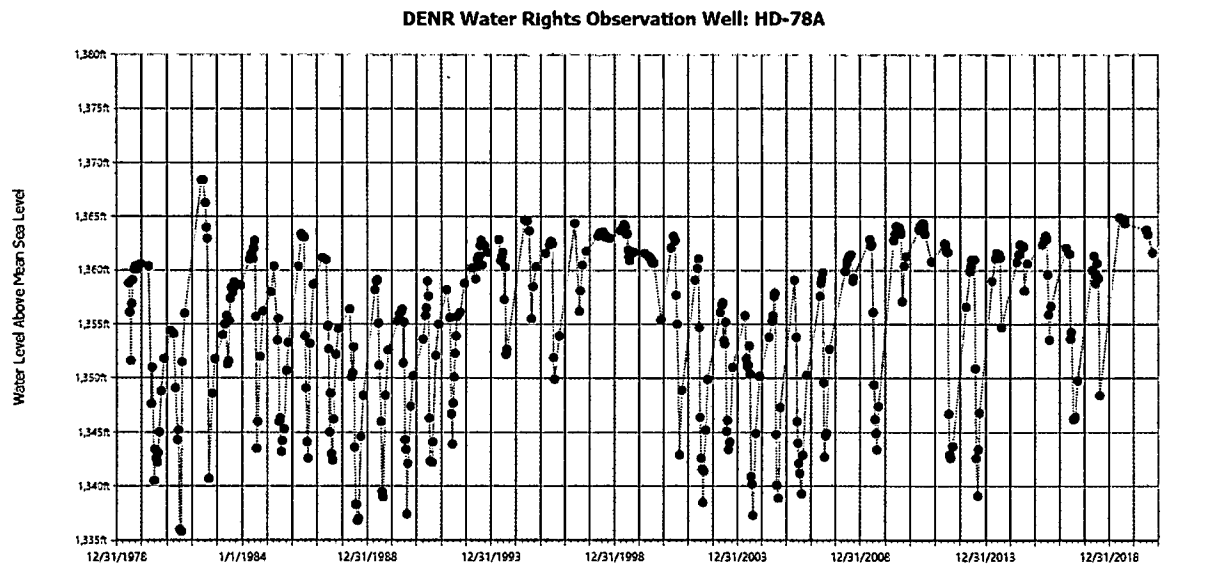


Figure 4: Hydrograph for Observation Well HD-78A (Water Rights, 2021c)

Potential for unlawful impairment of existing water rights

There are 2 water rights/permits appropriating water from this portion of Pleistocene Series: Unknown aquifer (Water Rights, 2021a). The location of the diversion points for water rights/permits authorized to withdraw water in the vicinity of this application are shown in Figure 1. The nearest existing water right/permit is held by Daelyn Sanger and is located 3 miles to the west-northwest of the applicant's proposed diversion. The nearest domestic well on file with the SD DANR is located just over half of a mile north of the proposed diversion location for

this application (Water Rights, 2021b). This domestic well was drilled for Carl Nuhsbaumer and is on land owned by the applicant. There are other domestic wells in the area; however, they are much deeper and likely completed into the Dakota Formation.

This application is in an area of this portion of the Pleistocene Series: Unknown aquifer that is likely under conditions that behave like an unconfined aquifer; however, there may be locations where the aquifer may exhibit locally confined conditions. Due to the behavior of unconfined aquifers, drawdown from well withdrawals within unconfined aquifers is generally not significant at distances far from the pumping well. In the past, the Water Management Board has recognized that to place water to the maximum beneficial use, a certain amount of drawdown may occur. With no history of well interference complaints from users in this portion of the Pleistocene Series: Unknown aquifer, adequate wells (ARSD 74:02:04:20(6)) are not expected to be unlawfully impaired if this proposed appropriation is approved.

SDCL 46-5-6:

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of one cfs for every 70 acres, or "the equivalent thereof." The statute does provide that: "The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires. However, no annual volume may be greater than three acre-feet per acre delivered to the land." Water Permit Application No. 8450-3 proposes to divert water at a maximum rate of 1.78 cfs for the irrigation of 101.4 acres or at a rate of 1.229 cfs per 70 acres. The application is for a center pivot irrigation system; however, the pivot length is shorter than a typical quarter section pivot system. Due to the operational requirements of the irrigation system, a certain amount of diversion rate is required, independent of the number of acres the system covers. The reason for this request is reasonable and has been accepted by the Water Management Board in the past.

Conclusions

1. Water Permit Application No. 8450-3 proposes to appropriate water for the irrigation of 101.4 acres at a maximum diversion rate of 1.78 cubic feet per second (cfs) from up to four wells to be completed into the Pleistocene Series: Unknown aquifer in Hand County.
2. The portion of the Pleistocene Series: Unknown aquifer that this application proposes to use has been estimated to encompass an area of 5,000 acres using the best reasonably available information from well completion reports, test holes, and lithologic logs.
3. Water Permit Application No. 8450-3 has requested a diversion rate exceeding the statutory limit of one cfs per 70 acres. It is a reasonable request and similar requests have been accepted by the Water Management Board in the past.
4. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from this portion of the Pleistocene Series: Unknown aquifer.

5. There is a reasonable probability that the diversion proposed by this application will not unlawfully impair adequate wells for existing water rights and domestic uses.



John Farmer
SD DANR – Water Rights Program

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Water Rights. 2021d. Irrigation Questionnaire Database. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

**AFFIDAVIT OF
PUBLICATION**
The Miller Press

STATE OF SOUTH DAKOTA)
)SS
County of Hand)

Michael G. Caviness of said county being first duly sworn, on oath, says that he is the publisher of *The Miller Press*, a weekly newspaper published in Miller, said County of Hand by Hand County Publishing Co., Inc. and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has been published within said County for fifty weeks next prior to the publication of the notice, herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

Tom Nuhsbaumer to
appropriate water

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 1 successive week(s), on the day of each week on which said newspaper was regularly published, to wit:

6/12 2021; _____ 20____
_____ 20____; _____ 20____
_____ 20____; _____ 20____

that the full amount of the fees for the publication of the annexed notice is

\$ 58.47

Michael G. Caviness, Publisher

Subscribed and sworn to before me this _____ day of _____, 2021

Jane L. Kittelson, Notary Public
My Commission expires: 7-25-26

Tom Nuhsbaumer to appropriate water

NOTICE OF APPLICATION NO. 8450-3 to Appropriate Water

Notice is given that Tom Nuhsbaumer, 17781 370th Ave, Zell SD. 57469 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from four wells to be completed into the Pleistocene Series: Unknown Aquifer (60 feet deep) located in the NE 1/4 Section 5 to irrigate 101.4 acres located in the NE 1/4 Section 5; all in T115N-R66W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 7 miles southwest of Zell SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 8450-3 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 Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 9:30 am on July 7, 2021 in the Matthew

Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 June 28, 2021.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 7, 2021 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by June 28, 2021. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be

provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is June 22, 2021. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25:02; 74:02:01:35:01.

Published June 12, 2021 at approximate cost of \$58.4-.

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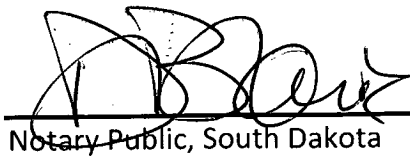
WATER RIGHTS
PROGRAM

Legal Notice Number: 0872

I, Kim Davis, 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: SD ENVIRONMENTAL & NATURAL- NUHSBAUMER, was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on - 5/22/21. That the full amount of the fee charged for the publishing \$ 60.96 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.



Subscribed and sworn to me before this date 5/26/21.


Notary Public, South Dakota

My Term Expires 03/11/2022

F.P. 05-22-21
NOTICE OF
APPLICATION
NO. 8450-3 to
Appropriate Water

Notice is given that Tom Nutsbeumer, 17781 370th Ave, Zell SD 57459 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from four wells to be completed into the Pleistocene Series/Unknown Aquifer (80 feet deep) located in the NE 1/4 Section 5 to irrigate 101.4 acres located in the NE 1/4 Section 5, all in T154N-R50W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 7 miles southwest of Zell SD.

South Dakota Codified Law (SDCL) 46-2A-4(f) provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 8450-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unreasonably 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 Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 9:30 am on July 7, 2021 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (805 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 28, 2021.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 7, 2021 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by June 28, 2021.

If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (805) 773-3352.

Under SDCL 1-26-17(7) notices must state that "If the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service to being provided by publication, and the applicable date to give notice to the Chief Engineer is June 1, 2021. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-18 thru 1-26-20; SDCL 46-1 thru 46-18; 46-13 thru 46-18; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17, 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-22, 46-5-1, 46-5-2 thru 46-5-28, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02.01:01 thru 74:02.01:25.02; 74:02.01:33.01. No. 0872 (adv.) Published once at the total approximate cost of \$90.95.

RECEIVED
JUN 01 2021
WATER RIGHTS
PROGRAM

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, June 9, 2021 9:49 AM
To: Miller Press News
Subject: RE: [EXT] 8450-3, Tom Nuhsbaumer
Attachments: 8450-3public.wmb1.docx

John

Attached is the notice to be published on June 12, 2021.

Thanks

Karen

From: Miller Press News <news@themillerpress.com>
Sent: Tuesday, June 8, 2021 1:46 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: Re: [EXT] 8450-3, Tom Nuhsbaumer

After a brief investigation I discovered that the notice was received however it did not get placed on the page. We will run it this week and send you an affidavit immediately after publication.

John T. Page
The Miller Press
605-853-3575
114 W. 3rd * PO Box 196
Miller, SD 57362

On Fri, Jun 4, 2021 at 9:10 AM Schlaak, Karen <Karen.Schlaak@state.sd.us> wrote:

Please send me an affidavit for this publication. My address is highlighted below

Thank you,

Karen

From: Miller Press News <news@themillerpress.com>
Sent: Wednesday, May 12, 2021 10:51 AM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: Re: [EXT] 8450-3, Tom Nuhsbaumer

Received, thank you.

John T. Page

The Miller Press

605-853-3575

114 W. 3rd * PO Box 196

Miller, SD 57362

On Tue, May 11, 2021 at 4:04 PM Schlaak, Karen <Karen.Schlaak@state.sd.us> wrote:

Attached is a notice to be published on May 22, 2021.

Tom Nuhsbaumer, 17781 370th Ave, Zell SD 57469 (605 460-0634) 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

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>

NOTICE OF APPLICATION NO. 8450-3 to Appropriate Water

Notice is given that Tom Nuhsbaumer, 17781 370th Ave, Zell SD 57469 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from four wells to be completed into the Pleistocene Series:Unknown Aquifer (60 feet deep) located in the NE 1/4 Section 5 to irrigate 101.4 acres located in the NE 1/4 Section 5; all in T115N-R66W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 7 miles southwest of Zell SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends Approval of Application No. 8450-3 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 Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 9:30 am on July 7, 2021 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the application and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 June 28, 2021.

The petition may be informal, but shall be in writing and shall 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 7, 2021 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by June 28, 2021. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published once at an approximate cost of _____.

NOTICE OF APPLICATION NO. 8450-3 to Appropriate Water

Notice is given that Tom Nuhsbaumer, 17781 370th Ave, Zell SD 57469 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from four wells to be completed into the Pleistocene Series:Unknown Aquifer (60 feet deep) located in the NE 1/4 Section 5 to irrigate 101.4 acres located in the NE 1/4 Section 5; all in T115N-R66W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 7 miles southwest of Zell SD.

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June 21, 2021

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published once at an approximate cost of _____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, May 11, 2021 4:05 PM
To: 'rcrandall@plainsman.com'
Cc: 'dhelvik@plainsman.com'
Subject: 8450-3, Tom Nuhsbaumer
Attachments: 8450-3public.wmb1.docx; FORM8.FRM.doc

Attached is a notice to be published on May 22, 2021.

Tom Nuhsbaumer, 17781 370th Ave, Zell SD 57469 (605 460-0634) 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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, May 11, 2021 4:04 PM
To: 'news@themillerpress.com'
Subject: 8450-3, Tom Nuhsbaumer
Attachments: 8450-3public.wmb1.docx; FORM8.FRM.doc

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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

DANR - Water Rights Program
(605) 773-3352
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

May 12, 2021

Tom Nuhsbaumer
17781 370th Ave
Zell SD 57469

Dear Mr. Nuhsbaumer:

Water Permit Application No. 8450-3 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 Miller Press printed at Miller SD (Ph # 605 853-3575) and the Plainsman printed at Huron SD (Ph # 605 353-7414). 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 publishers have been instructed to publish your notice. The newspapers have 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,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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.

July 12, 2021

PAYMENT REQUEST FORM

PAYEE: Tom Nuhsbaumer
17781 370th Ave
Zell, SD 57469

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Over Payment for Application/License Fee

AMOUNT: \$300.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION: *Eric Hundert* 7/12/2021

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 13 2021

Tom Nuhsbaumer
17781 370th Ave
Zell SD 57469

Dear Mr. Nuhsbaumer:

Enclosed is Water Permit No. 8450-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

An application/license filing fee of \$1,250.00 was submitted with the application. Based on the number of acres irrigated, the fee for this permit should be \$950.00. \$300.00 will be refunded to you. The refund check should be received within the next couple of weeks.

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

enclosures

8450-3
RECEIVED

JUN 08 2022

OFFICE OF
WATERNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate 6-2-22TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Tom Nuhsebaumer

(name)

17781 370 Avenue

(address)

Zell, South Dakota 57469

(city, state, zip)

605 460 0634

(phone)

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

Water Permit No. 8450-3 states that the water use system is to be constructed by1-7-24

(date)

, and water is to be put to beneficial use by

7-7-26

(date)

The water use system was completed on 6-2-22

(date)

Applying the water to beneficial use was completed on 6-2-22

(date)

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

Tom Nuhsebaumer

(signature)





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 8, 2022

8450-3

Tom Nuhsbaumer
17781 370th Ave
Zell SD 57469

Dear Mr. Nuhsbaumer:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your irrigation system.

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

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

Sincerely,

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

3190-3
8450-3

Water Rights Program File Documentation

Permit/Right No. and Owner:

Permit No.	Owner	Status	Uses
3190-3	Daelyn R. Sanger	License	Irrigation
8450-3	Tom Nuhsbaumer	Permit	Irrigation

Date: April 3, 2025 County: Hand

RE: aquifer designation

COMMENTS:

Jensen (2025) as part of a review of the Quaternary aged Alluvium aquifer (ALQ) determined that Water Right Nos. 3190-3 & 8450-3, should have the aquifer reassigned. In reviewing the best information currently available for aquifer and management unit naming conventions, the best aquifer designation for Water Rights previously listed is the Quaternary aged Alluvium aquifer shown in Figure 1.

This change of aquifer designation, to the Quaternary aged Alluvium aquifer, does not represent a physical change in the water source. It is an update to the name of the aquifer materials to reflect the currently best available information for aquifer extents. This update to the aquifer name does not authorize any increase in the amount of water appropriated by Water Right Nos. 3190-3 & 8450-3, relocation of existing wells, or completion of additional wells into the aquifer. Going forward, issuance of any pertinent documents will reflect the updated aquifer designation.

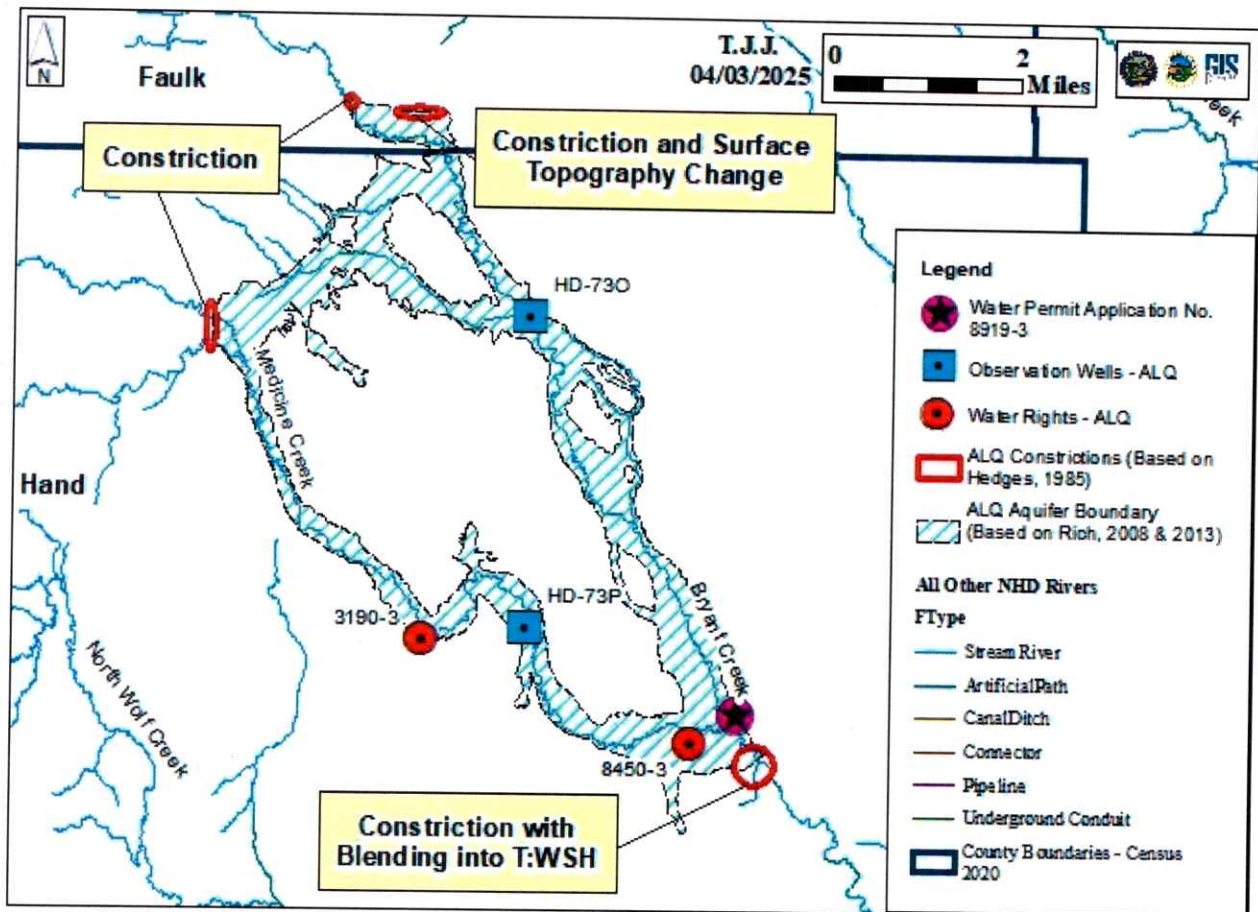


Figure 1. Approximate areal extent with constraints of the Quaternary aged Alluvium aquifer available to Application No. 8919-3 and the other surficial aquifer water right in the area of Medicine Creek and Bryant Creek (Water Rights, 2025; modified from: Rich, 2013 & 2008)

Tyler Jensen

Tyler Jensen
Natural Resources Engineer I

Mark Mayer

Mark Mayer
Director of the Office of Water

References

- Jensen, T. 2025. Report to the Chief Engineer on Water Permit Application No. 8919-3. SD DANR-Water Rights Program. Joe Foss Building, Pierre, South Dakota.
- Rich, T.B. 2008. First Occurrence of Aquifer Materials in Faulk County, South Dakota. Aquifer Materials Map 30. SD DANR Geological Survey. Vermillion, South Dakota
- Rich, T.B. 2013. First Occurrence of Aquifer Materials in Hand County, South Dakota. Aquifer Materials Map 35. SD DANR Geological Survey. Vermillion, South Dakota
- Water Rights, 2025. Water Right/Permit Files, SD DANR Water Rights Program, Joe Foss Building, Pierre, SD.