

**WATER PERMIT NO. 8508-3**

Name of Applicant: Mark or Lee Guthmiller

Address: 42850 Maxwell Rd, Menno SD 57045

Phone: 605 660-2174

Amount of Water Claimed: no add'l

Total Acres: 90

Source of Water Supply: 1 existing well

Water to be used for: irrigation

County: Hutchinson

Type of Waste Disposal System:

Location: 4 miles southwest of Menno

PRIORITY

Date Received: 4-19-21

Application/License Fee: \$ 700

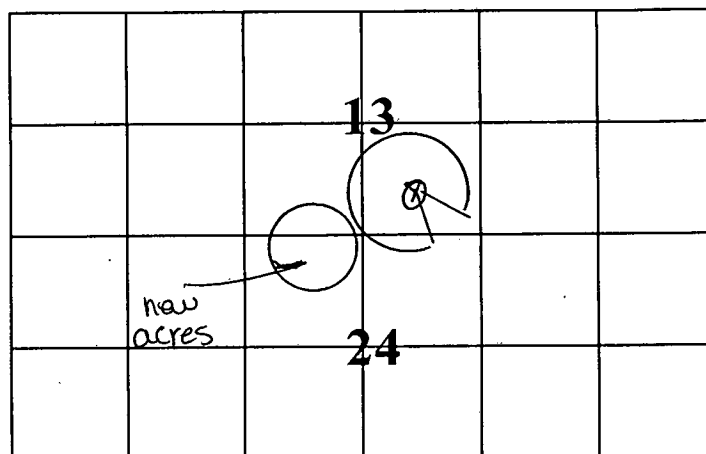
Corrected Application Received:

Period of Annual Use: May 1 – September

Remarks: Utilizing well authorized by Water Permit No. 7318-3 on a rotating basis

Diversion Point: approximate center of SE 1/4 Sec  
13-T97N-R58W

Land to be Irrigated: S 1/2 SW 1/4 Sec 13 and N  
1/2 NW 1/4 Sec 24; all in T97N-R58W



Depth of Well: 170 feet deep

Well Driller: Quality Well Service

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 4-19-21

By: Karen Schlaak

Notice of Hearing - date to intervene: \_\_\_\_\_

**SOUTH DAKOTA  
WATER PERMIT NO. 8508-3**

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Date of first receipt of application April 19, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8508-3 to Mark or Lee Guthmiller, 42850 Maxwell Rd, Menno SD 57045 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. 8508-3 authorizes irrigation of an additional 90 acres. Water Permit No. 7318-3 authorizes 2.0 cubic feet of water per second (cfs) from one well completed into the Lower James:Missouri Aquifer (170 feet deep) located in the approximate center of the SE 1/4 Section 13 for irrigation of acreage located in the E 1/2 SW 1/4, SE 1/4 Section 13 and N 1/2 NE 1/4 Section 24; all in T97N-R58W. Only 145 acres of the original 190 acres were developed for irrigation. This permit authorizes irrigation of an additional 90 acres located in the S 1/2 SW 1/4 Section 13 and the N 1/2 NW 1/4 Section 24; all in T97N-R58W from the existing well. This permit and Water Permit No. 7318-3 will authorize a total of 2.0 cfs for irrigation of 235 acres. This site is located approximately 4 miles southwest of Menno 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: May 1 – September 1.
3. The date from which applicant may claim right is April 19, 2021.
4. The date of approval of Permit No. 8508-3 is June 28, 2021.
5. One-fifth of the construction is to be completed on or before December 28, 2023.
6. All construction is to be completed on or before June 28, 2026.
7. Water is to be put to beneficial use on or before June 28, 2030.
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. 7318-3 and 8508-3 is 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 Agriculture and Natural Resources

JUL 13 2021

date



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

|                                                                                                         |                                                                |
|---------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| Mail to:<br><br>DENR - Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br>ph. (605) 773-3352 | No. <u>8508-3</u> (office use only)                            |
|                                                                                                         | Hydrologic Unit <u>10160011</u>                                |
|                                                                                                         | Basin <u>James River</u>                                       |
|                                                                                                         | Newspaper <u>Freeman Courier</u><br><u>Press &amp; Dakotan</u> |

PAID

APR 19 2021

 Clk# 5259  
 RECEIVED

APR 19 2021

WATER RIGHTS PROGRAM

**Application For Permit To Appropriate Water For Irrigation**

 Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 7318-3  
 (Use predates Mar 2, 1955)

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

Additional Irrigated acres causing just one well on Rotating Basis.

 1. Name to Appear on Irrigation Permit Mark or Lee Guthmiller

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

 Mailing Address 42850 Maxwell Rd Menno SD 57045  
 (Address) (City) (State) (Zip Code)

 Phone 605 6602174 Mobile 605 660-2174 Email m-guthmiller@yahoo.com

 2. Amount of water claimed \_\_\_\_\_ \*CFS or no add'l \*\*GPM \_\_\_\_\_ \*\*\*AF \_\_\_\_\_ Total Acreage 90  
 (\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

 3. Source of water supply well

 4. Location of point of diversion 1 well in SE 1/4 of section 13-T97N-R58W  
 (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

 County Hutchinson

 5. County or counties where water will be used Hutchinson

 6. Annual period during which water is to be used May 1 to September 1

 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)

| Capital               | Land Description                  | Acres         | Land Description        | Acres |
|-----------------------|-----------------------------------|---------------|-------------------------|-------|
| <del>Section 24</del> | <del>Section 24 - T97N-R58W</del> | <del>60</del> | <del>N 1/2 NW 1/4</del> |       |
| Section 13            | Section 13 - T97N-R58W            | 30            | S 1/2 SW 1/4            |       |
|                       |                                   |               |                         |       |
|                       |                                   |               |                         |       |

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

See map

 I, Mark Guthmiller Owner, 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.

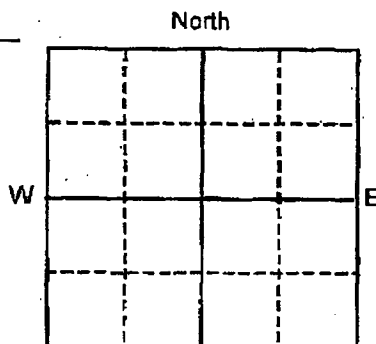
605-775-7067

7318-3

SD EForm - 1621LD V1

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 SE 1/4 Sec 13 Twp 97N Rg 58WCounty HutchinsonPlease mark well  
location with an "X"

Well Completion Date

7-31-2012

1 Mile

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

5,000.0 ft. from feedlot

(identify source)

## PROPOSED USE:

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

## METHOD OF DRILLING:

reverse rotary

## CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

| PIPEWEIGHT  | DIAMETER | FROM   | TO      | HOLE DIAMETER |
|-------------|----------|--------|---------|---------------|
| 160.0 LB/FT | 16.00 IN | 0.0 FT | 80.0 FT | 28.00 IN      |
| LB/FT       | IN       | FT     | FT      | IN            |
| LB/FT       | IN       | FT     | FT      | IN            |

## GROUTING DATA:

| Grout Type | No. of Sacks | Grout Weight | From   | To      |
|------------|--------------|--------------|--------|---------|
| cement     | 50           | Lb/gal       | 0.0 Ft | 80.0 Ft |
|            |              | Lb/gal       | Ft     | Ft      |

Describe grouting procedure

Premie pipe

## SCREEN:

☒ Perforated pipe ☐ Manufactured  
 Diameter 16.00 Inches Length 90.0 Feet  
 Material PVC  
 Slot Size .085 Set From 80.0 Feet to 170.0 Feet

Other information

## WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

## DISINFECTION:

Was well disinfected upon completion?

☒ Yes, How? chlorine tablets
☐ No, Why Not?

 Lab to which water  
 quality sample sent for analysis
Well Owner: Mark Guthmiller

Business Name:

Address: 28948 430th AvenueCity, State, Zip: Menno SD 57045

## WELL LOG:

| FORMATION               | DEPTH |     |
|-------------------------|-------|-----|
|                         | FROM  | TO  |
| top soil                | 0     | 4   |
| silty brown clay        | 4     | 19  |
| fine green sand         | 19    | 50  |
| blue clay and rocks     | 50    | 107 |
| med sand\ coarse gravel | 107   | 165 |
| Blue clay               | 165   | 170 |
|                         |       |     |
|                         |       |     |
|                         |       |     |

STATIC WATER LEVEL 88.0 FEET

If flowing: closed in pressure \_\_\_\_\_ PSI

GPM flow \_\_\_\_\_ through \_\_\_\_\_ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate \_\_\_\_\_ GPM

Can well be completely shut in?

## WELL TEST DATA:

☒ Pumped Describe: turbine pump and engine
☐ Bailed

☐ Other

Pumping Level Below Land Surface

94.0 Ft. After 6.0 Hrs. pumped 600.0 GPM100.0 Ft. After 8.0 Hrs. pumped 900.0 GPMIf pump installed, pump rate: 900.0 GPM

## REMARKS

This well was drilled under license # 773 and this report is true and accurate.Drilling firm: Quality Well Services

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date:



Project Name - Mark Guthmiller - Used 2021

Version Name - Mark Guthmiller - Used 2021\_Version

### Map Summary Report



Google

Imagery ©2021, Maxar Technologies, USDA Farm Service Agency, Terms of Use

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

# RECEIPT

## WATER RIGHTS PROGRAM South Dakota Department of Ag and Natural Resources

Date April 19, 2021

RECEIVED OF Mark/Emily Guthmiller 42850 Maxwell Rd Menno SD 57045

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

|                                                                                                                        |          |
|------------------------------------------------------------------------------------------------------------------------|----------|
| Fee for Application for Permit No. <u>8508-3</u> to Appropriate Water, to construct and to put water to beneficial use | \$750.00 |
| 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. _____                                                                   | \$       |
| 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                                                                                 | \$750.00 |

By *Eric Gronlund*  
Chief Engineer  
*EM*

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Monday, June 7, 2021 8:55 AM  
**To:** m\_guthmiller@yahoo.com  
**Subject:** Water Permit Application No. 8508-3  
**Attachments:** 1291.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. 8508-3, Mark or Lee Guthmiller**

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. 8508-3, Mark or Lee Guthmiller, 42850 Maxwell Rd, Menno SD 57045.

The Chief Engineer is recommending APPROVAL of Application No. 8508-3 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. 7318-3 and 8508-3 is 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.

Eric Gronlund, Chief Engineer  
June 3, 2021

**REPORT TO THE CHIEF ENGINEER  
WATER PERMIT APPLICATION NO. 8508-3  
MARK OR LEE GUTHMILLER  
JUNE 1, 2021**

Water Permit Application No. 8508-3 proposes to irrigate 90 additional acres from what is currently authorized under Water Permit No. 7318-3. Water Permit No. 7318-3 appropriates water at a maximum instantaneous diversion rate of 2.0 cubic feet per second (cfs) from the Lower James Missouri aquifer from a single, 170 feet deep, well located in the approximate center of the SE  $\frac{1}{4}$  Section 13 T97N-R58W. The applicant intends to utilize this well and diversion rate to irrigate 90 acres located in the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  Section 13 and N  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 24; all in T97N-R58W. Water Permit No. 7318-3 was initially authorized to irrigate 190 acres located in the E  $\frac{1}{2}$  SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 13 and N  $\frac{1}{2}$  NE  $\frac{1}{4}$  Section 24; all in T97N-R58W. However, only 145 acres were developed for irrigation. This application, if approved, and Water Permit No. 7318-3 will authorize a total of 2.0 cfs for the irrigation of 235 acres. The site is located approximately 4 miles southwest of Menno, SD.

**AQUIFER: Lower James Missouri (LJM)**

**Aquifer Characteristics**

The Lower James Missouri aquifer was deposited as glacial outwash and is composed primarily of sand and gravel (Bugliosi, 1986; Lindgren and Hansen, 1990). It underlies approximately 191,700 acres of Clay, Hutchinson, and Yankton counties with an estimated 2,795,400 million acre-feet of recoverable water in storage (Hedges et al., 1982). Bugliosi (1986) and Lindgren and Hansen (1990) both note the extensive hydraulic connection between the Lower James Missouri aquifer with surrounding bedrock and surficial aquifers, as-well-as the James and Missouri Rivers. Confined and unconfined groundwater conditions are present in the aquifer. Unconfined conditions are generally along the James River where the aquifer is exposed to the surface but, in other locations, the aquifer can be buried by as much as 355 feet of till (Bugliosi, 1986; Lindgren and Hansen, 1990). The general direction of water movement in the aquifer is to the south and towards the James River (Hedges et al., 1982; Lindgren and Hansen, 1990).

The well completion report included with the application states that there is 4 feet of topsoil overlying silty, brown clay to 19 feet. This is atop fine-grained, green sand to 50 feet followed by blue clay and rocks to a depth of 107 feet. Medium-grained sand and coarse-grained gravel are present to a depth of 165 feet before the blue clay is once again encountered (Water Rights, 2021a). The static water level was measured at 88 feet below ground surface at the time of completion in July, 2012. The top of the aquifer material is at 107 feet below the ground surface. This indicates there was 19 feet of artesian head pressure at the time of well completion and that the proposed site is under confined conditions.

**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 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 water availability and potential for unlawful impairment of existing water rights within the Lower James Missouri aquifer.

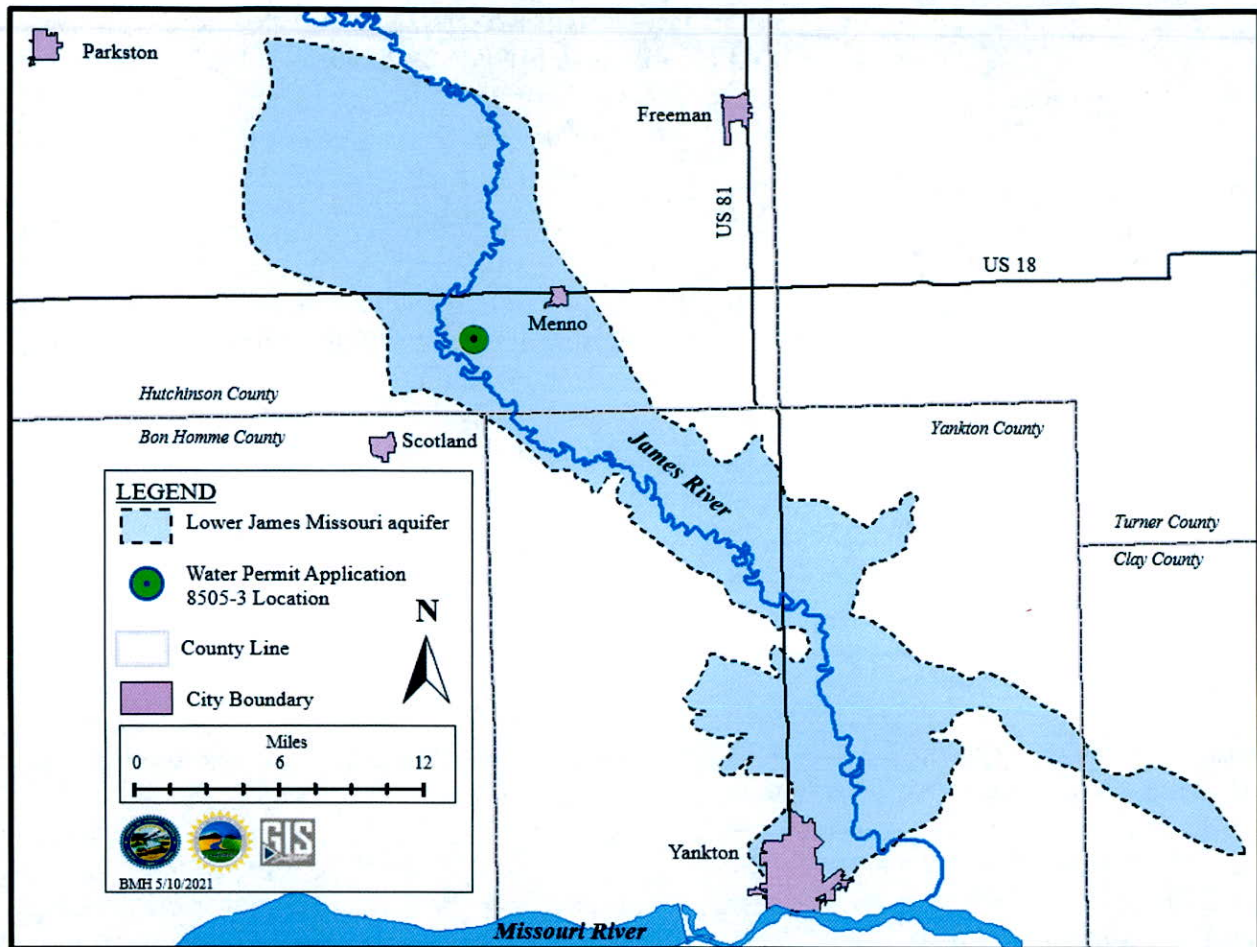


Figure 1. Water Permit Application No. 8508-3 shown within the Lower James Missouri aquifer boundary (modified from: Hedges et al., 1982).

## **WATER AVAILABILITY**

Water Permit Application No. 8508-3 proposes to appropriate water from the Lower James Missouri aquifer. The probability of unappropriated water being available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source..." If the source of the water is older or lower than the Greenhorn Formation and a water distribution system as defined by SDCL 46-1-6(17) has applied for a permit, the Board need not consider the balance of recharge to and withdrawal from the aquifer. For this application, a water distribution system is not involved and the aquifer is not older or lower than the Greenhorn Formation; therefore, the balance of recharge and withdrawal must be considered.

## **Hydrologic Budget**

### **Recharge:**

The Lower James Missouri aquifer is recharged from infiltration by precipitation where the aquifer is at or near land surface, inflow from surface water, and leakage from underlying and adjacent aquifers (Bugliosi, 1986; Lindgren and Hansen, 1990). This results in both confined and

unconfined conditions throughout the aquifer (Hedges, et al., 1982). Hedges, et al. (1985) utilized a regional flow-net analysis to estimate a recharge rate of 1.5 inches per year (in/yr) for the aquifer. When this is applied to area of the aquifer (191,700 acres), a recharge value of 23,960 acre-feet/year (ac-ft/yr) is obtained for the aquifer. Hedges, et al. (1985) performed observation well analysis to estimate a recharge rate of 3.9 in/yr for the unconfined portions of the aquifer. Stonesifer (2014) estimated the areal extent of the unconfined portion to be approximately 82,200 acres. This results in recharge to the unconfined portion of the aquifer at approximately 26,715 ac-ft/yr. It should be noted that Stonesifer (2014) used a larger estimated areal extent for the aquifer than Hedges et al. (1982). This larger areal extent also included unconfined portions of what Hedges et al. (1982) identified as the Plum Creek and Choteau: East aquifers. Stonesifer's (2014) recharge estimate should be considered a likely maximum recharge rate for the Lower James Missouri aquifer. These values produce an annual recharge range between 23,960 to 26,715 ac-ft/yr for the Lower James Missouri aquifer.

#### Discharge:

Discharge from the Lower James Missouri aquifer is by leakage to the James River, evapotranspiration where the aquifer is near land surface, groundwater outflow to adjacent aquifers, and well withdrawals (Bugliosi, 1986; Lindgren and Hansen, 1990). Currently, there are 131 water rights/permits authorized to appropriate water from the Lower James Missouri aquifer (Water Rights, 2021a). Eight are for non-irrigation use and are comprised of six commercial (COM) and two industrial (IND) water rights (Table 1). The total estimated volume of water to be withdrawn can be determined by assuming that water rights/permits limited by an annual volume will pump the entire volume appropriated annually or that water rights/permits limited by diversion rate will pump at the maximum permitted diversion rate 60 percent of the time. All permits in Table 1 are assumed to pump 60 percent of their authorized diversion rate except for 8412-3, which is limited by its annual volume. There are no future use permits reserving water from the Lower James Missouri aquifer (Water Rights, 2021a).

Table 1. Non-irrigation water rights/permits from the Lower James Missouri aquifer with permitted appropriation and estimated volume water use (Water Rights, 2021a).

| Permit Number                                                                       | Name                      | County     | Status <sup>a</sup> | Use <sup>a</sup> | CFS    | Estimated Volume <sup>b</sup><br>(acre-feet/year) |
|-------------------------------------------------------------------------------------|---------------------------|------------|---------------------|------------------|--------|---------------------------------------------------|
| 840-3                                                                               | Stuelpnagels Inc.         | Yankton    | LC                  | COM              | 1.11   | 482.2                                             |
| 1288-3                                                                              | National Food Stores Inc. | Yankton    | LC                  | IND              | 0.16   | 69.5                                              |
| 4556-3                                                                              | Concrete Materials        | Yankton    | LC                  | COM              | 0.44   | 191.3                                             |
| 6264-3                                                                              | Yankton Land & Cattle Co. | Yankton    | LC                  | COM              | 0.56   | 243.3                                             |
| 6320-3                                                                              | Wolf Creek Colony         | Hutchinson | LC                  | COM              | 0.08   | 34.8                                              |
| 6925-3                                                                              | Tschetter Colony          | Hutchinson | LC                  | COM              | 0.07   | 30.4                                              |
| 7827-3                                                                              | Maxwell Colony            | Hutchinson | PE                  | COM              | 0.33   | 143.4                                             |
| 8412-3                                                                              | Concrete Materials Co.    | Yankton    | LC                  | IND              | 7.80   | 400.0 <sup>c</sup>                                |
|                                                                                     |                           |            |                     |                  | Total: | 1,594.9                                           |
| a - LC: Licensed Water Right; PE: Water Permit; COM: Commercial; IND: Industrial    |                           |            |                     |                  |        |                                                   |
| b - These permits are all assumed to pump at 60% of their volume except where noted |                           |            |                     |                  |        |                                                   |
| c - This permit is by limited annual volume                                         |                           |            |                     |                  |        |                                                   |

Table 2- Historic irrigation pumpage from the Lower James Missouri aquifer (Water Rights, 1979-2019).

| Year                        | Number of Permits Reporting | Appropriation (acre-feet/year) | Pumpage (acre-feet/year) |
|-----------------------------|-----------------------------|--------------------------------|--------------------------|
| 1979                        | 22                          | 11,265.0                       | 588.00                   |
| 1980                        | 23                          | 11,561.0                       | 1,299.13                 |
| 1981                        | 33                          | 14,407.8                       | 1,834.06                 |
| 1982                        | 23                          | 9,440.1                        | 1,301.25                 |
| 1983                        | 27                          | 9,883.1                        | 1,306.54                 |
| 1984                        | 28                          | 12,283.1                       | 1,360.00                 |
| 1985                        | 27                          | 10,033.1                       | 1,483.00                 |
| 1986                        | 30                          | 11,613.5                       | 989.60                   |
| 1987                        | 30                          | 11,613.5                       | 1,041.60                 |
| 1988                        | 31                          | 11,769.5                       | 2,744.90                 |
| 1989                        | 31                          | 10,909.1                       | 2,144.80                 |
| 1990                        | 35                          | 12,673.1                       | 2,928.10                 |
| 1991                        | 42                          | 15,497.9                       | 2,599.00                 |
| 1992                        | 45                          | 16,791.9                       | 1,159.00                 |
| 1993                        | 45                          | 16,241.9                       | 230.44                   |
| 1994                        | 45                          | 17,094.1                       | 1,918.17                 |
| 1995                        | 41                          | 15,088.1                       | 1,483.32                 |
| 1996                        | 49                          | 17,240.1                       | 2,102.99                 |
| 1997                        | 50                          | 17,072.1                       | 2,320.00                 |
| 1998                        | 53                          | 16,915.1                       | 2,787.03                 |
| 1999                        | 50                          | 15,992.1                       | 2,102.15                 |
| 2000                        | 51                          | 17,048.1                       | 3,751.08                 |
| 2001                        | 53                          | 17,208.1                       | 2,940.09                 |
| 2002                        | 53                          | 17,108.1                       | 4,061.52                 |
| 2003                        | 53                          | 17,373.1                       | 2,843.15                 |
| 2004                        | 47                          | 14,525.1                       | 2,886.65                 |
| 2005                        | 48                          | 14,749.1                       | 2,866.63                 |
| 2006                        | 50                          | 15,627.1                       | 3,630.92                 |
| 2007                        | 56                          | 17,477.7                       | 3,425.91                 |
| 2008                        | 79                          | 23,891.7                       | 4,494.03                 |
| 2009                        | 84                          | 25,451.1                       | 1,463.27                 |
| 2010                        | 85                          | 25,731.1                       | 665.37                   |
| 2011                        | 89                          | 27,367.1                       | 4,147.47                 |
| 2012                        | 93                          | 28,626.7                       | 13,058.45                |
| 2013                        | 118                         | 33,664.1                       | 7,855.75                 |
| 2014                        | 125                         | 36,286.1                       | 3,347.27                 |
| 2015                        | 127                         | 37,695.2                       | 4,822.86                 |
| 2016                        | 126                         | 37,607.2                       | 5,747.01                 |
| 2017                        | 126                         | 37,142.4                       | 5,727.12                 |
| 2018                        | 126                         | 36,758.4                       | 1,035.87                 |
| 2019                        | 127                         | 36,958.4                       | 328.01                   |
| <b>Maximum:</b>             | 127                         | 37,695.2                       | 13,058.45                |
| <b>Minimum:</b>             | 22                          | 9,440.1                        | 230.44                   |
| <b>Historical Average:</b>  | 60                          | 19,602.0                       | 2,800.5                  |
| <b>Average (2012-2019):</b> | 121                         | 35,592.3                       | 5,240.3                  |

The well withdrawals from the Lower James Missouri aquifer are primarily for irrigation use. Table 2 shows the historic irrigation water use from the aquifer as reported to the DANR-Water Rights Program through annual irrigation questionnaires. For aquifers east of the Missouri River where irrigation application rates have been calculated, the application rates have historically been less than 1 ac-ft/acre (12 inches/acre) for center pivot crop irrigation. Therefore, if this application is approved, it will average 90 ac-ft/yr or less. The average historical annual irrigation use from the Lower James Missouri aquifer is 2,800.5 ac-ft/yr. Starting in 2012, there was a significant increase in irrigation permits and irrigated acres which suggests that the historical average pumpage is not necessarily representative of current average pumpage. Therefore, the average irrigation use of 5,240.3 ac-ft/yr (from 2012 through 2019) is considered more representative of current average use for this aquifer.

There is one pending application for the Lower James Missouri. Water Permit Application No. 8501-3 proposes to irrigate of 80 acres and utilizing the application rate of 1.0 feet per permitted acre, 80 ac-ft/yr will be included in the water balance for the pending application.

There are numerous domestic wells on file with the Water Rights Program within the Lower James Missouri aquifer (Water Rights 2021b). Domestic users are not required to report their annual water usage and their low diversion rates are not considered a significant portion of the hydrologic budget. Additionally, some domestic wells may no longer be in use after development of rural water systems in the area.

#### Water Balance:

The Lower James Missouri aquifer estimated average annual withdrawal rate is 6,915 ac-ft/yr (non-irrigation: 1,595; irrigation: 5,240; pending: 80). If approved, the expected use of 90 ac-ft/yr (irrigating 90 acres at the 12 in/ac application rate) by this application results in a total of 7,005 ac-ft/yr of water. With a minimum estimated average annual recharge of 23,960 ac-ft/yr, this application does not result in an exceedance of the estimated average annual recharge for this aquifer. Therefore, there is reasonable probability unappropriated water is available for this application.

#### Observation Well Data

Administrative Rule of South Dakota Section 74:02:05:07 requires that the Water Management Board 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 of the aquifer.

The DANR-Water Rights Program maintains 33 observation wells completed into the Lower James Missouri aquifer (Water Rights, 2021c). The hydrographs for the observation wells within approximately seven miles of Water Permit Application No. 8508-3 are shown in Figures 2 through 7 with their locations, in relation to the application location, shown in Figure 8.

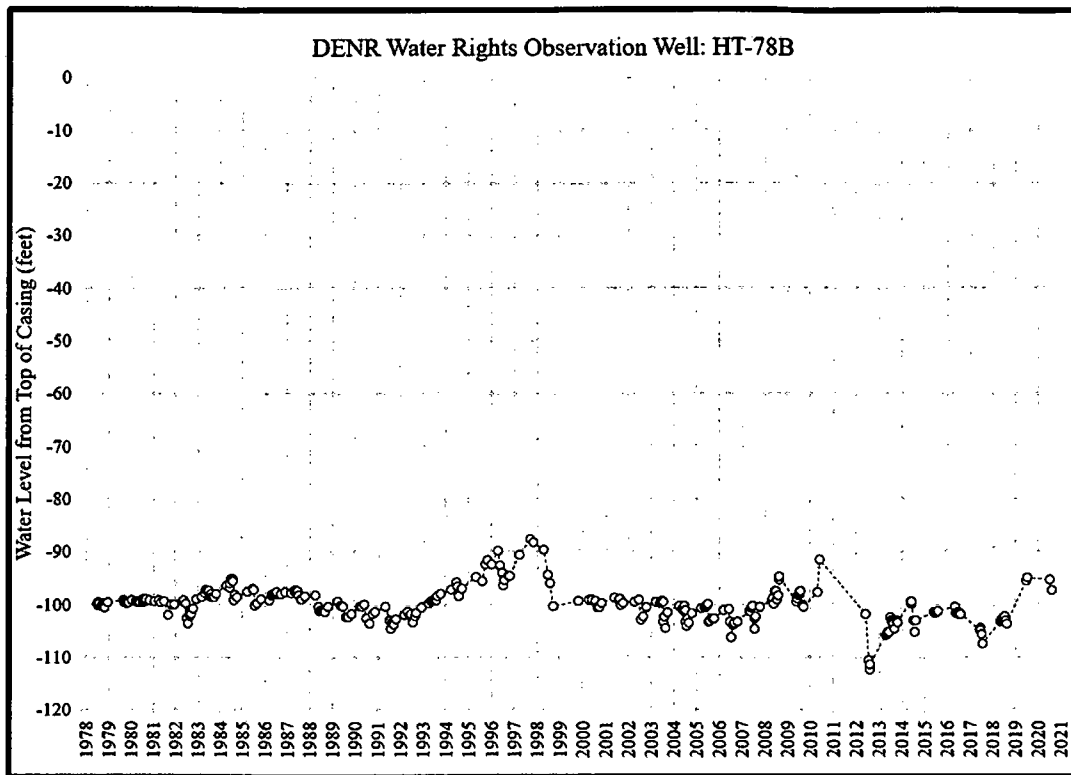


Figure 2. Hydrograph for observation well HT-78B located approximately 1.3 miles northwest of the proposed well location for Water Permit Application No. 8508-3 (Water Rights, 2021c).

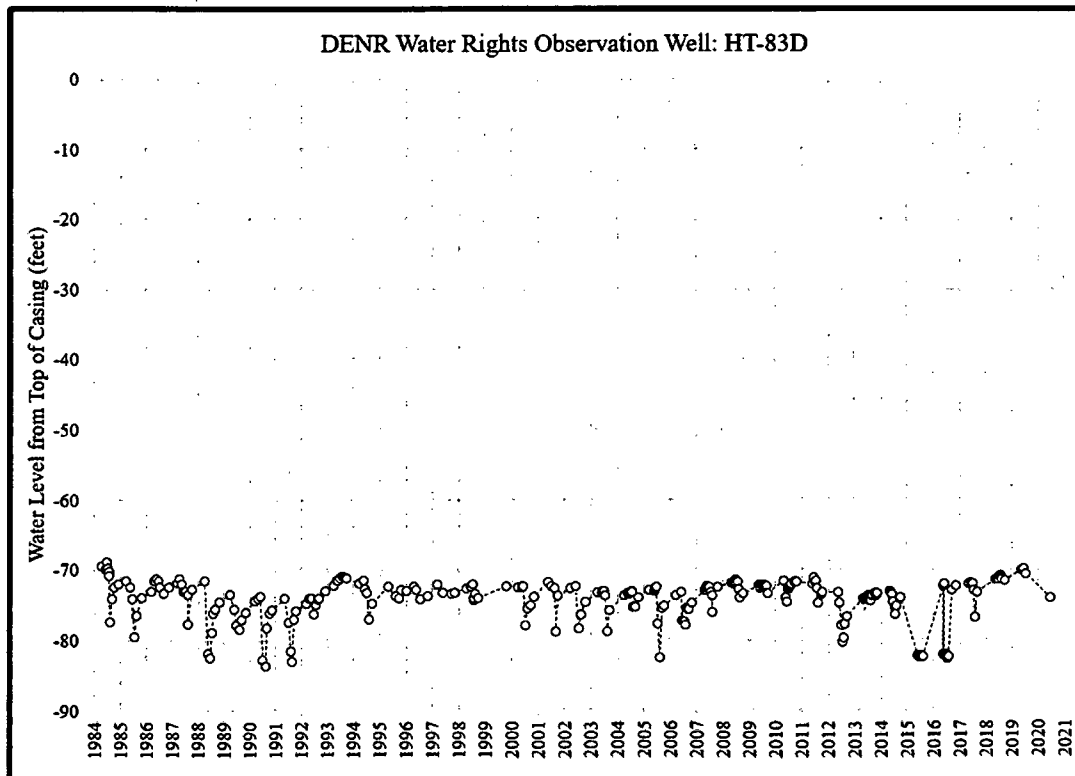


Figure 3. Hydrograph for observation well HT-83D located approximately 4.7 miles northeast of the proposed well location for Water Permit Application No. 8508-3 (Water Rights, 2021c).

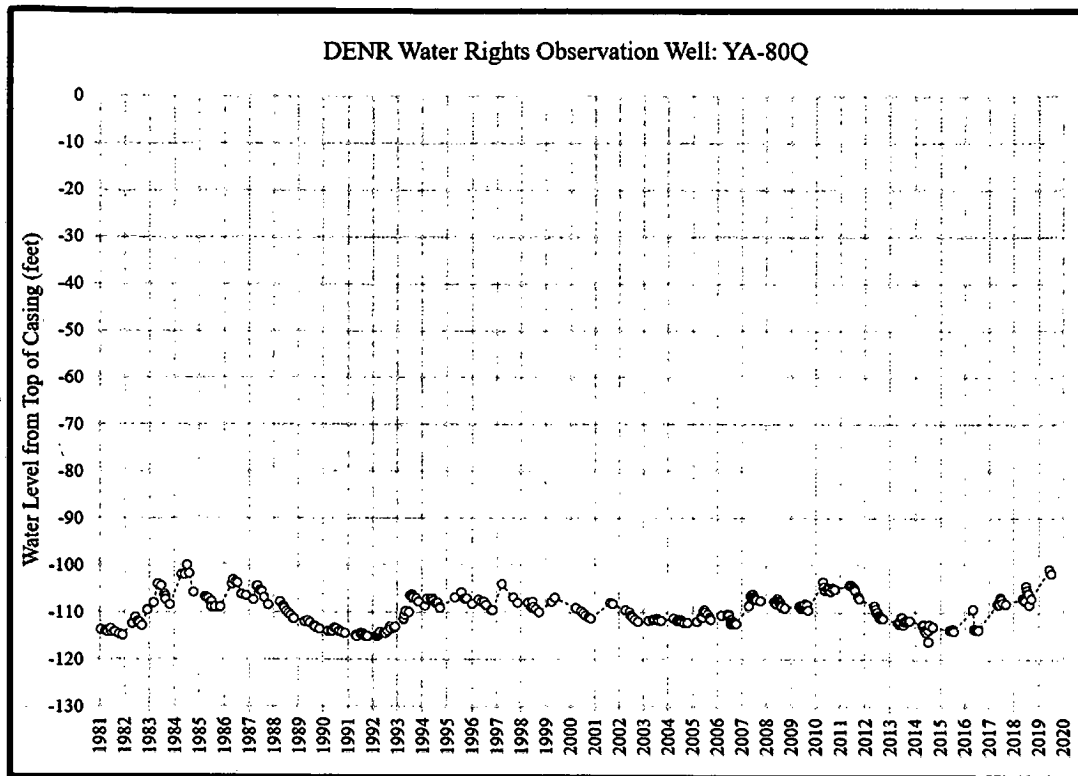


Figure 4. Hydrograph for observation well YA-80Q located approximately 4.8 miles southeast of the proposed well location for Water Permit Application No. 8508-3 (Water Rights, 2021c).

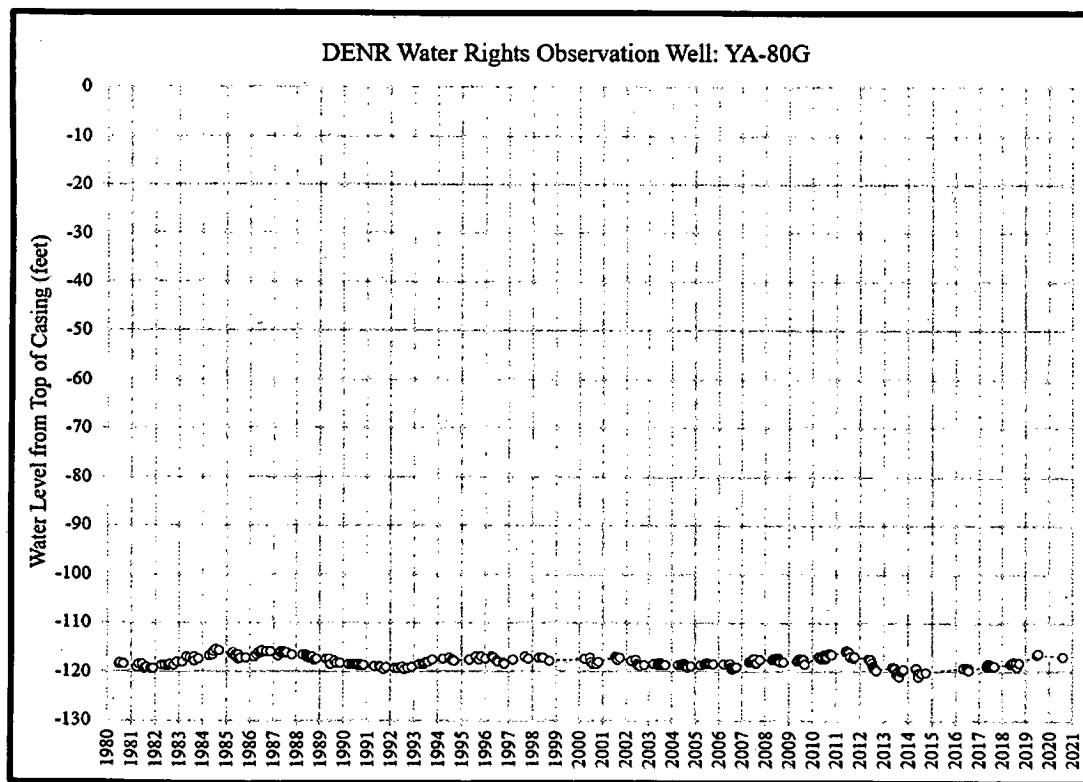


Figure 5. Hydrograph for observation well YA-80G located approximately 7.1 miles southeast of the proposed well location for Water Permit Application No. 8501-3 (Water Rights, 2021c).

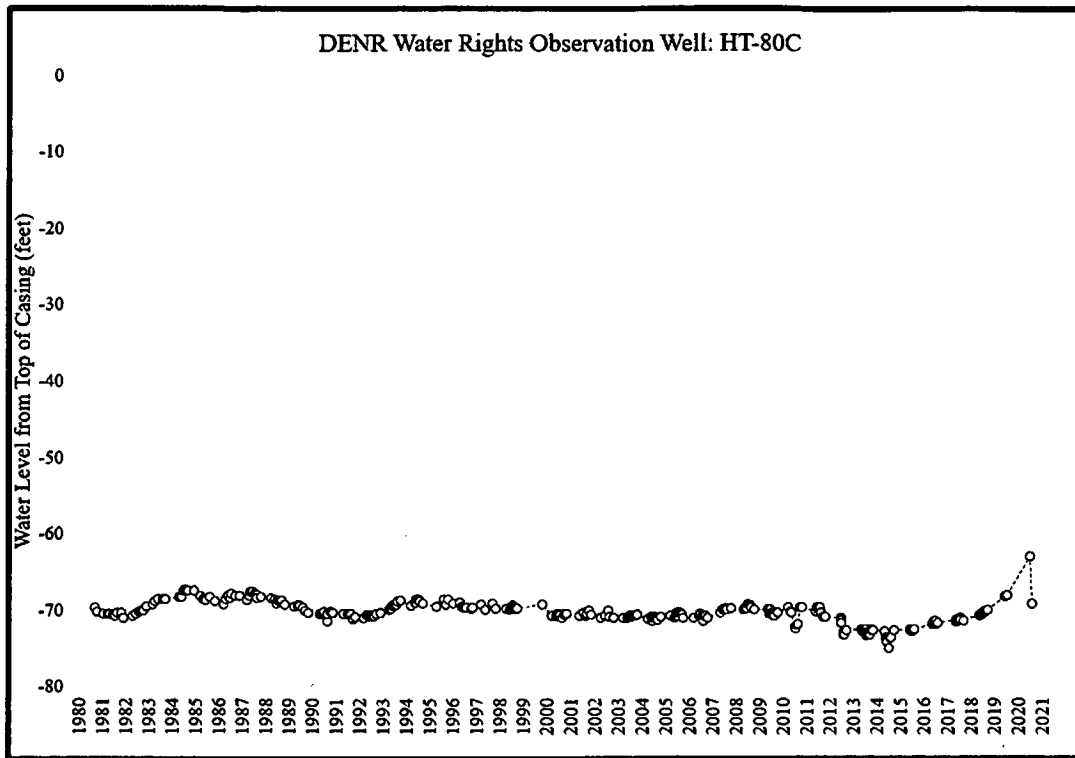


Figure 6. Hydrograph for observation well HT-80C located approximately 3.0 miles south of the proposed well location for Water Permit Application No. 8508-3 (Water Rights, 2021c).

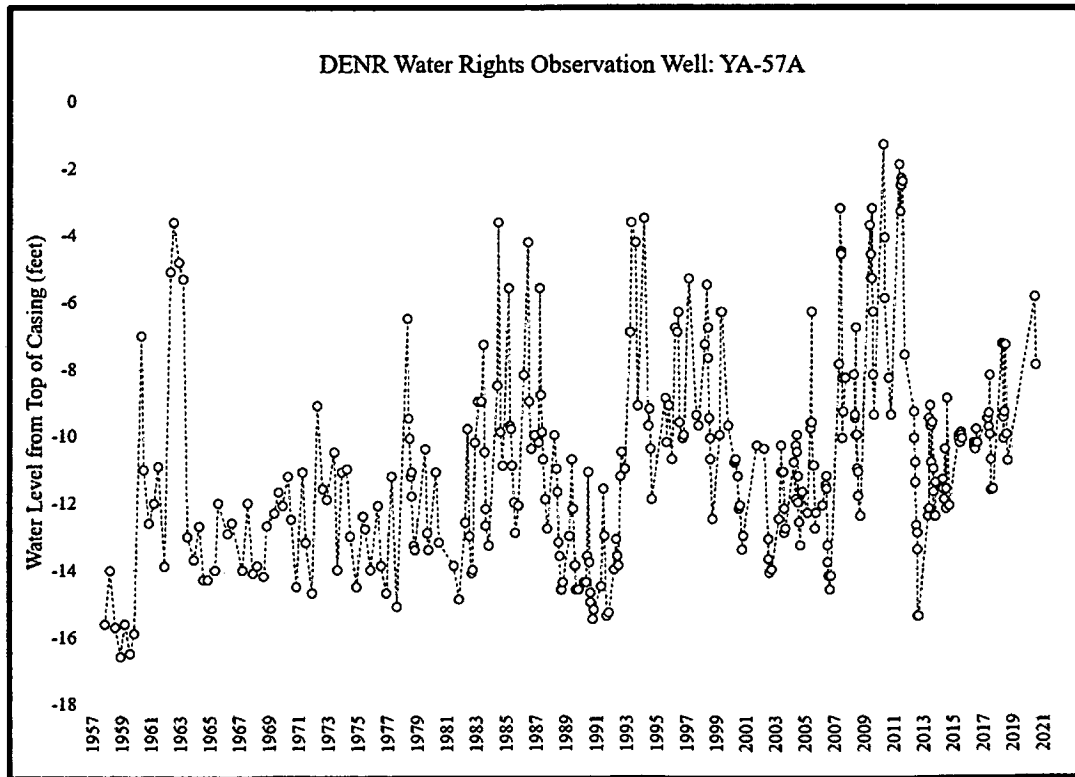


Figure 7. Hydrograph for observation well YA-57A located approximately 5.6 miles southeast of the proposed well location for Water Permit Application No. 8508-3 (Water Rights, 2021c).

The hydrographs shown in Figures 2 through 7 are representative of hydrographs for other observation wells completed into the Lower James Missouri aquifer near the application site. The hydrographs show the water level of the aquifer is relatively stable over the period of record. The hydrographs indicate that the aquifer responds well to climatic conditions with rising water levels during wet periods and declining water levels during drier periods. They also demonstrate that any drawdowns from pumping are temporary because the water levels typically recover to pre-pumping levels after the irrigation season. This recovery indicates that climatic conditions (the natural effects of recharge to and discharge from the aquifer) generally govern the long-term fluctuations in water level of the aquifer rather than the impacts of pumping from the Lower James Missouri aquifer.

There are other conditions within the aquifer that effect water levels in addition to the climatic influence. Several observation wells document a slight declining trend in their water level data. Mathiowetz (2021) attributed this declining trend in the northern portion of the aquifer to development of the aquifer for appropriative use within the last 10 years. Stonesifer (2014) attributed declining water levels in the southern end of the aquifer to the hydraulic connection to the Missouri River and the entrenchment of the Missouri River below Gavin's Point dam. As the entrenchment has increased, the water levels of the Missouri River and the Missouri: Elk Point aquifer below the dam have lowered. Given that there is a significant hydrologic connection between the Missouri: Elk Point aquifer and the Lower James Missouri aquifer, the slight lowering of the Missouri: Elk Point aquifer water level due to entrenchment of the Missouri River would also affect the southern portion of the Lower James Missouri aquifer. As mentioned above, unconfined conditions do exist where the aquifer is exposed at or near the surface along the James River. Observation wells near the James River generally exhibit unconfined but can occasionally exhibit artesian conditions. This is demonstrated in several observation wells close to the James River and particularly noted in the hydrograph for observation well YA-57A (Figure 7). It shows that the water level of the well is near the top of casing with potential to flow at land surface occasionally. However, the water levels as shown in the hydrographs for the five observation wells nearest to the applicants proposed diversion points (see Figures 2 through 6), as well as the other observation wells, document the changes in water level are governed more by climatic conditions than well withdrawals. Recognizing that recharge to and natural discharge from the aquifer can be captured for pumping, the observation well data shows there is a reasonable probability there is unappropriated water available for this proposed appropriation.

### **POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS**

Currently, there are 131 water rights/permits (8 non-irrigation and 123 irrigation) authorized to appropriate water from the Lower James Missouri aquifer (Water Rights, 2021a). There are three water rights/permits within 1.0 mile of this application, with the closest being Water Right No. 7318-3 located approximately 0.4 miles to the northeast. This permit is the existing Guthmiller permit associated with this application. The closest permit not maintained by Guthmiller is Water Right No. 5451-3 and is located approximately 0.7 miles southwest of the proposed application. Table 3 lists the Lower James Missouri aquifer water rights/permits shown in Figure 8 near the proposed well location for Application No. 8508-3. The nearest domestic well on file that appears to be completed into the aquifer is also a Guthmiller well at approximately 0.4 miles northeast of the proposed well location (Water Rights, 2021b).

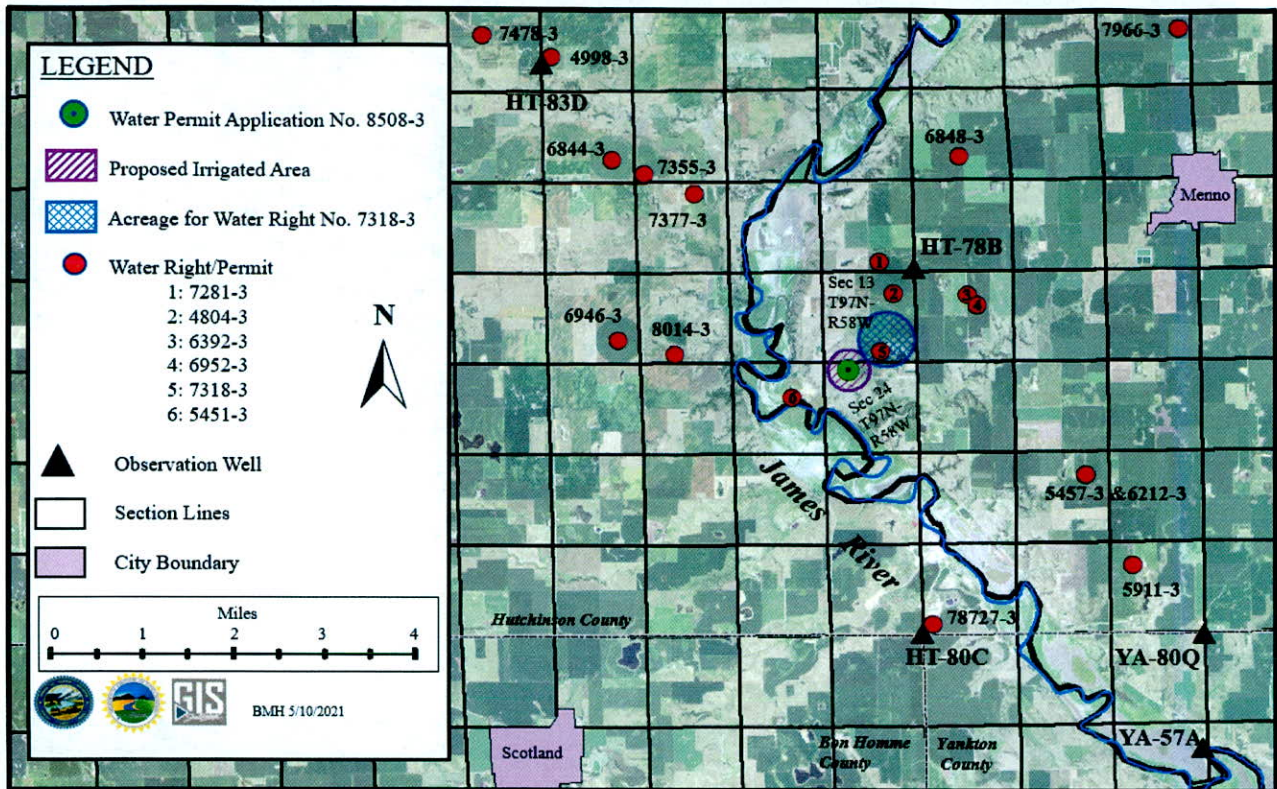


Figure 8. Existing Lower James Missouri aquifer water rights/permits and observation well in the vicinity of Water Permit Application No. 8508-3 (modified from Hedges, et al., 1982; Water Rights 2021a & 2021c).

Table 3. Water rights/permits shown in Figure 8 (Water Rights, 2021a).

| Permit Number | Name              | Rate (cfs) | Acres | Use <sup>a</sup> | Status <sup>a</sup> |
|---------------|-------------------|------------|-------|------------------|---------------------|
| 4804-3        | MARK ALLEN ULMER  | 1.78       | 131   | IRR              | LC                  |
| 4998-3        | LLOYD G SORLIEN   | 1.74       | 122   |                  |                     |
| 5451-3        | MERRITT E ULMER   | 1.10       | 77.5  |                  |                     |
| 5457-3        | JOHN ULMER        | 1.88       | 132   |                  |                     |
| 5911-3        | JOHN ULMER        | 1.40       | 98    |                  |                     |
| 6392-3        | BRIAN HERRBOLDT   | 3.56       | 272   |                  |                     |
| 6946-3        | BRETT GUTHMILLER  | 1.17       | 133   |                  |                     |
| 6212-3        | JOHN ULMER        | 0.89       | 20    |                  |                     |
| 6844-3        | PAUL J MEHLHAF    | 2.22       | 160   |                  | PE                  |
| 6848-3        | MARK RAMES        | 2.22       | 240   |                  |                     |
| 6952-3        | BRIAN HERRBOLDT   | 0.00       | 90    |                  |                     |
| 7281-3        | BRIAN METTLER     | 1.78       | 134   |                  |                     |
| 7318-3        | RONALD GUTHMILLER | 2.00       | 190   |                  |                     |
| 7355-3        | LEE FRIESEN       | 2.34       | 164   |                  |                     |
| 7377-3        | LEE FRIESEN       | 1.67       | 160   |                  |                     |
| 7478-3        | LEE FRIESEN       | 1.87       | 132   |                  |                     |
| 7699-3        | DAVID HUBER       | 2.22       | 120   |                  |                     |
| 8014-3        | KEVIN SCHAEFFER   | 1.56       | 120   |                  |                     |
| 7827-3        | MAXWELL COLONY    | 0.33       | 0     | COM              |                     |

a - IRR: Irrigation; COM: Commercial; LC: Licensed Water Right; PE: Permitted Water Right

There are numerous domestic wells on file with the Water Rights Program within the vicinity of the proposed well site (Water Rights 2021b). To protect a domestic user with an adequate well, 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 No. 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 is 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 because of impacts on artesian head pressure by legitimate users is considered as an unlawful impairment, it conflicts with SDCL 46-1-4 (Water Rights, 1995). Consequently, some existing well owners may need to lower their pumps due to deeper water levels depending on the specific characteristics of the Lower James Missouri aquifer at their location; particularly since the aquifer is under confined conditions near the proposed diversion point for this application. However, many domestic wells may no longer be the primary water source since rural water systems have been introduced to the area. Additionally, there are several high capacity appropriative users in the area of this application and there is no history of well interference complaints in Hutchinson County involving the Lower James Missouri aquifer (Water Rights, 2021d). Nearby adequate wells are not expected to be adversely impacted as defined in ARSD 74:02:04:20(7).

When considering the large amount of artesian head pressure (27 feet), saturated thickness of the aquifer in this area, the hydrographs of nearby observation wells not showing detrimental impact of pumping and, the lack of well interference complaints due to pumping from this aquifer, there is reasonable probability that the proposed diversion can be developed without unlawfully impairing existing appropriative or domestic water users with adequate wells.

## CONCLUSIONS:

1. Water Permit Application No. 8508-3 proposes to irrigate 90 additional acres from what is currently authorized under Water Permit No. 7318-3. The well authorized by Water Permit No. 7318-3 is 170 feet deep, completed into the Lower James Missouri, and located in the approximate center of the SE ¼ Section 13 T97N-R58W. The applicant intends to utilize this well and diversion rate to irrigate 90 acres located in the S ½ SW ¼ Section 13 and N ½ NW ¼ Section 24; all in T97N-R58W.
2. Water Permit No. 7318-3 authorizes the diversion of water at a maximum instantaneous diversion rate of 2.0 cfs from the Lower James Missouri aquifer from one well located in the approximate center of the SE ¼ Section 13 T97N-R58W for the irrigation of 190 acres

located in the E ½ SW ¼ SE ¼ Section 13 and N ½ NE ¼ Section 24; all in T97N-R58W. However, only 145 acres were developed for irrigation.

3. This application, if approved, and Water Permit No. 7318-3 will authorize a total of 2.0 cfs for irrigation of 235 acres.
4. Based on the hydrologic budget and the observation well data, there is a reasonable probability unappropriated water is available for this proposed application.
5. There is a reasonable probability the diversions proposed by this application can be made without unlawfully impairing existing appropriative or domestic users with adequate wells.



Blaise Hansen  
SD DANR – Water Rights Program

Reviewed By:



Adam Mathiowetz, PE  
SD DANR-Water Rights Program

#### REFERENCES:

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- Hedges, L.S., S.L. Burch, D.L. Iles, R.A. Barari, and R.A. Schoon. 1982. *Evaluation of Ground-water Resources in Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report*. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.

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- Water Rights. 2021b. *Well Completion Reports*. SD DANR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.
- Water Rights. 2021c. *Observation Well Files*. SD DANR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.
- Water Rights. 2021d. *Hutchinson County Files*. SD DANR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.

RECEIVED  
JUN 21 2021  
WATER RIGHTS  
PROGRAM

# AFFIDAVIT OF PUBLICATION

County of Hutchinson )

) ss.

State of South Dakota )

Jeremy Waltner, of said county and state, being duly sworn, on his oath, deposes and says: That the Freeman Courier is a weekly newspaper of general circulation and a legal newspaper as required by law, printed and published in the town of Freeman in said county and state by Jeremy Waltner, and has been such newspaper during the time hereinafter mentioned: That I, Jeremy Waltner, the undersigned, am publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the advertisement headed Application to Irrigate

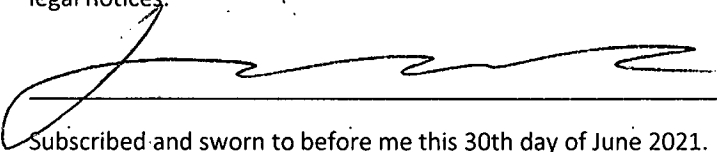
a printed copy of which is hereto attached, was printed and published in the said newspaper for one successive issues to-wit:

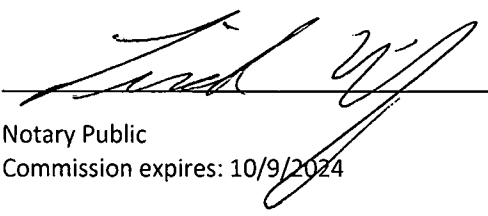
The first publication on:  
June 17, 2021

the second publication on:

and the third publication on:

That the full amount of the fees charged for publishing the same to-wit: The sum of \$27.59 insures solely to the benefit of the publisher of the Freeman Courier, that no agreement or understanding for any division thereof has been made with any other person whomsoever, and the amount of \$27.59 is the rate for publishing legal notices.

  
Subscribed and sworn to before me this 30th day of June 2021.

  
Notary Public  
Commission expires: 10/9/2024

Publication fee: \$27.59

Notary fee:

Total: \$27.59

## **NOTICE OF APPLICATION**

### **Guthmillers file application to irrigate additional 90 acres**

Notice is given that Mark or Lee Guthmiller, 42850 Maxwell Rd, Menno, SD 57045 has filed an application to irrigate an additional 90 acres. Water Permit No. 7318-3 authorizes 2.0 cubic feet of water per second (cfs) from one well completed into the Lower James:Missouri Aquifer (170 feet deep) located in the approximate center of the SE 1/4 Section 13 for irrigation of acreage located in the E 1/2 SW 1/4, SE 1/4 Section 13 and N 1/2 NE 1/4 Section 24; all in T97N-R58W. Only 145 acres of the original 190 acres were developed for irrigation. This application proposes to irrigate an additional 90 acres located in the S 1/2 SW 1/4 Section 13 and the N 1/2 NW 1/4 Section 24; all in T97N-R58W from the existing well. This application if approved, and Water Permit No. 7318-3 will authorize a total of 2.0 cfs for irrigation of 235 acres. This site is located approximately 4 miles southwest of Menno, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8508-3 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.

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 June 28, 2021.

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.

Printed once at a cost of \$27.59  
1-12FC

# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

MARK GUTHMILLER  
LEE GUTHMILLER  
42850 MAXWELL RD  
MENNO SD 57045

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JUN 21 2021

WATER RIGHTS  
PROGRAM

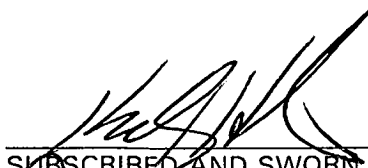
STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

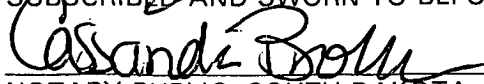
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER  
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY  
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID  
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED  
6+17 NOTICE OF APPLICATIO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 17th DAY OF June, 2021  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$27.79 ENSURES TO THE  
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO  
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS  
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF  
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 06/17/2021

FILED ON: 06/17/2021

  
SUBSCRIBED AND SWORN TO BEFORE ME THIS 17th DAY OF June, 2021

  
NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 07/04/2026

NOTED & FILED  
DEPT. OF AGRICULTURE  
YANKTON, S.D.  
JUN 21 2021  
JANET L. BROWN, CLERK

Ad text : 6 + 17

NOTICE OF APPLICATION  
NO. 8508-3

RECEIVED

JUN 21 2021

WATER RIGHTS  
PROGRAM

Notice is given that Mark or Lee Guthmiller, 42850 Maxwell Rd, Menno SD 57045 has filed an application to irrigate an additional 90 acres. Water Permit No. 7318-3 authorizes 2.0 cubic feet of water per second (cfs) from one well completed into the Lower James:Missouri Aquifer (170 feet deep) located in the approximate center of the SE 1/4 Section 13 for irrigation of acreage located in the E 1/2 SW 1/4, SE 1/4 Section 13 and N 1/2 NE 1/4 Section 24; all in T97N-R58W. Only 145 acres of the original 190 acres were developed for irrigation. This application proposes to irrigate an additional 90 acres located in the S 1/2 SW 1/4 Section 13 and the N 1/2 NW 1/4 Section 24; all in T97N-R58W from the existing well. This application if approved, and Water Permit No. 7318-3 will authorize a total of 2.0 cfs for irrigation of 235 acres. This site is located approximately 4 miles southwest of Menno SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8508-3 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 Engineers 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.

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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 \$27.79

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Monday, June 7, 2021 8:48 AM  
**To:** 'courier@gwtc.net'  
**Subject:** 8508-3, Mark or Lee Guthmiller  
**Attachments:** 8508-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on June 17, 2021.

Mark or Lee Guthmiller, 42850 Maxwell Rd, Menno SD 57045 (605 660-2174) 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:** Monday, June 7, 2021 8:49 AM  
**To:** Jackie Lammers (jackie.lammers@yankton.net)  
**Subject:** 8508-3, Mark or Lee Guthmiller  
**Attachments:** 8508-3public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on June 17, 2021.

Mark or Lee Guthmiller, 42850 Maxwell Rd, Menno SD 57045 (605 660-2174) 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>





**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.**

June 7, 2021

Mark or Lee Guthmiller  
42850 Maxwell Rd  
Menno SD 57045

Dear Sirs:

Water Permit Application No. 8508-3 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 Freeman Courier printed at Freeman SD (Ph # 605 925-7033) and the Press & Dakotan printed at Yankton SD (Ph # 605 665-7811). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the 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.

---

NOTICE OF APPLICATION NO. 8508-3

Notice is given that Mark or Lee Guthmiller, 42850 Maxwell Rd, Menno SD 57045 has filed an application to irrigate an additional 90 acres. Water Permit No. 7318-3 authorizes 2.0 cubic feet of water per second (cfs) from one well completed into the Lower James:Missouri Aquifer (170 feet deep) located in the approximate center of the SE 1/4 Section 13 for irrigation of acreage located in the E 1/2 SW 1/4, SE 1/4 Section 13 and N 1/2 NE 1/4 Section 24; all in T97N-R58W. Only 145 acres of the original 190 acres were developed for irrigation. This application proposes to irrigate an additional 90 acres located in the S 1/2 SW 1/4 Section 13 and the N 1/2 NW 1/4 Section 24; all in T97N-R58W from the existing well. This application if approved, and Water Permit No. 7318-3 will authorize a total of 2.0 cfs for irrigation of 235 acres. This site is located approximately 4 miles southwest of Menno SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8508-3 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.

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 June 28, 2021.

The petition may be informal but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of\_



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

**JUL 13 2021**

Mark or Lee Guthmiller  
42850 Maxwell Rd  
Menno SD 57045

Dear Mr. Guthmiller:

Enclosed is Water Permit No. 8508-3 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, Chief Engineer  
Water Rights Program  
(605) 773-3352

enclosures

8508-3

RECEIVED

AUG 19 2021

WATER RIGHTS  
PROGRAMNOTICE OF COMPLETION OF WORKS AND  
APPLICATION OF WATER TO BENEFICIAL USEDate 8-6-2021TO: Water Rights Program, DANR  
523 E. Capitol  
Pierre, SD 57501-3181FROM: Mark Guthrie  
(name)42850 Maxwell Rd  
(address)Menno SD 57045  
(city, state, zip)605-660-2174  
(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. 7318-3  
8508-3 states that the water use system is to be constructed byJan 28-2026 , and water is to be put to beneficial use by Jan 28 2030  
(date) (date)The water use system was completed on 6-28-2021  
(date)Applying the water to beneficial use was completed on 6-28-2021  
(date)

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

  
(signature)

8508-3



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

January 20, 2023

### NOTICE

TO: MARK OR LEE GUTHMILLER, 42850 MAXWELL RD, MENNO, SD 57045  
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) 8508-3. 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) 8508-3 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) 8508-3 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](mailto: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: PAONDD**

**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**

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

January 30, 2023

8508-3

Mark or Lee Guthmiller  
42850 Maxwell Rd  
Menno SD 57045

Dear Sirs:

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

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Permit No. 8508-3. 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

**Report of Examination of Works and/or Application of Water to Beneficial Use  
For Permit No. 8508-3**

I have this day, September 8, 2023, made a thorough examination of the water use system owned by Mark or Lee Guthmiller, 42850 Maxwell Rd., Menno, SD 57045, holders of Permit No. 8508-3, bearing the priority date of April 19, 2021. Permit No. 8508-3 authorizes the diversion of 0.0 cu. ft. per second and the irrigation of 90 acres in Hutchinson County. This permit uses the waters of groundwater (Lower James: Missouri Aquifer) that is authorized by Water Permit No. 7318-3.

Inspection contact: Mark Guthmiller

**A. Works used to divert the water:**

**West Well Information (from Water Permit No. 7318-3)**

- 1) Well Drilling Firm: Quality Well Services
- 2) No. of Wells: 1
- 3) Depth(s): 170 feet
- 4) Well log is available: Yes

**Casing:**

- 1) Diameter: 16 inches
- 2) Length: 80 feet
- 3) Type: Plastic

**Screen:**

- 1) Diameter: 16 inches
- 2) Length: 90 feet
- 3) Type: PVC
- 4) Static water level: 88 feet

**Pump:**

- 1) Make: Grundfos
- 2) Model: 800S500-2
- 3) Capacity: 800 GPM

**Motor:**

- 1) Make: Grundfos
- 2) Model No: 11L20
- 3) Horsepower rating: 50 hp

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

- 1) Type: PVC                      Size: 8 inches                      Length: 2,520 feet

**C. Works used to apply water to beneficial use:**

**Center Pivot:**

- 1) Make: Valley
- 2) Overall length: 1,030 feet
- 3) Number of towers: 6
- 4) End gun: Yes
- 5) Capacity: 800 GPM

**Chemigation Equipment:**

- 1) Does chemigate: No

**D. Compliance with Permit Requirements:**

- 1) Permit qualifications being abided by: Yes  
 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Yes  
 3) Exceptions to compliance are: None

**E. Condition and Location:**

- 1) The systems are in good condition with the point(s) of diversion located as follows:  
The well is 1,670 feet west and 1,190 feet north of the southeast corner of Section 13-T97N-R58W (Latitude 43.21550, Longitude -97.64439- SW1/4 of the SE1/4).  
 2) The works are capable of diverting and conveying to the places of use 1.78 cu. ft. per second of water from the well which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

Section 13-T97N-R58WSW1/4SW1/4 12 acresSE1/4SW1/4 19 acresSection 24-T97N-R58WNW1/4NW1/4 23 acresNE1/4NW1/4 36 acres

comprising a total of 90 acres of land and the license should be issued for 0.0 cfs.

- 3) All structures, wells and lands on map: Yes

**F. Comments or other permit(s) associated with the project:** The land irrigated by the well associated with Water Permit No. 7318-3. The owners request that Water Permit No. 8508-3 and Water Permit No. 7318-3 not be combined into one license. Water Permit No. 8508-3 is owned by Mark and Lee Guthmiller's dad, Ron Guthmiller.

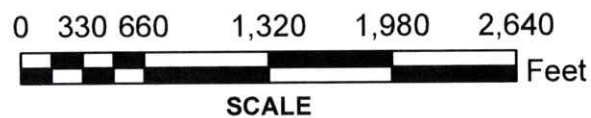
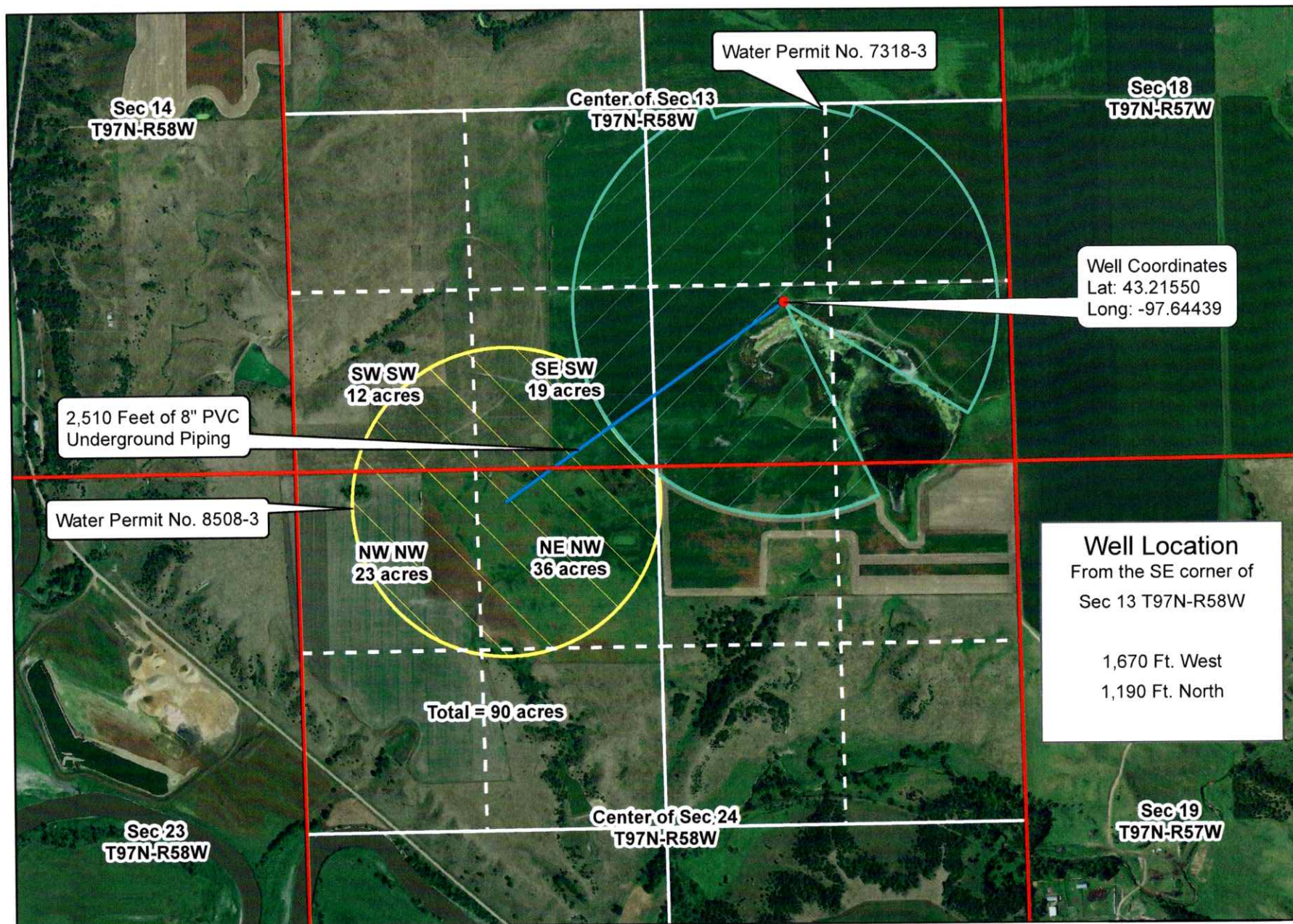
*Keith DeJong*

Keith DeJong, PE Ret.  
 Water Rights Inspector  
 DANR, Water Rights Program

Date report completed: September 8, 2023

↑  
 permit gets water  
 change to 1.78?  
 or ok to leave as is

# Water Permit No. 8508-3



*Keith DeJong*  
Keith DeJong, PE Ret.  
Staff Engineer  
September 8, 2023



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

SEP 13 2003

8508-3

Mark & Lee Guthmiller  
42850 Maxwell Rd  
Menno SD 57045

Dear Sirs:

Enclosed is Water License No. 8508-3. 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 our office.

Sincerely,

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

*enclosures*

**STATE OF SOUTH DAKOTA  
WATER LICENSE NO. 8508-3**

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(1) Mark & Lee Guthmiller; 42850 Maxwell Rd, Menno SD 57045, made Application No. 8508-3, April 19, 2021, for a water permit to authorize the irrigation of 90 acres in the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  Section 13 and the N  $\frac{1}{2}$  NW  $\frac{1}{4}$  Section 24, all in T97N, R58W, Hutchinson County, South Dakota. Permit No. 8508-3, with a priority date of April 19, 2021, was approved June 28, 2021, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 28, 2026, and for the application to beneficial use of water on or before June 28, 2030.

Water Right No. 7318-3, held by Ronald Guthmiller, authorizes the diversion of water from groundwater, one well (Lower James: Missouri Aquifer) at a rate of 1.78 cubic feet of water per second (cfs). The well authorized under Water Right No. 7318-3 will be used to supply water to the irrigation system covered under Water Right No. 8508-3.

(2) It is certified that the permit holders have complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and are entitled to divert 1.78 cubic feet of water per second, authorized by Water Right No. 7318-3, for beneficial use. The amount of the appropriation may not exceed 2 acre feet annually for each authorized irrigated acre. The location of the diversion point is:

- 1,670 ft W & 1,190 ft N of the SE corner of Section 13, T97N, R58W (SW  $\frac{1}{4}$  SE  $\frac{1}{4}$ )  
(Latitude 43.21550 & Longitude -97.64439)

(3) The permit holders have complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

|                                            |                                            |
|--------------------------------------------|--------------------------------------------|
| Section 13, T97N, R58W                     | Section 24, T97N, R58W                     |
| SW $\frac{1}{4}$ SW $\frac{1}{4}$ 12 acres | NW $\frac{1}{4}$ NW $\frac{1}{4}$ 23 acres |
| SE $\frac{1}{4}$ SW $\frac{1}{4}$ 19 acres | NE $\frac{1}{4}$ NW $\frac{1}{4}$ 36 acres |

TOTAL: 90 acres

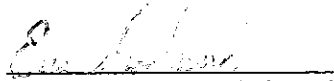
(4) Pursuant to South Dakota Water Law 46-5-30.1 Mark & Lee Guthmiller, the holders and/or owners of Water Right No. 8508-3 are issued a license to appropriate water, the right to use 1.78 cubic feet of water per second, authorized by Water Right No. 7318-3, from groundwater, one well (Lower James: Missouri Aquifer), with a priority date of April 19, 2021, 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. 8508-3 and subject to the following qualifications:

1. The well approved under Water Right Nos. 7318-3 & 8508-3 is located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Water Right shall control their withdrawals so there is not a reduction of water supplies in adequate domestic wells or adequate wells having prior water rights.

*continued*

2. This Water Right is approved subject to the irrigation water use questionnaire being submitted each year.



Eric Gronlund, Chief Engineer

Water Rights Program

Department of Agriculture and Natural Resources

SEP 13 2023

date

