

WATER PERMIT NO. 8526-3

Name of Applicant: **L G Everist Inc**

Address: **350 S Main Ave, Suite 400, Sioux Falls SD 57104**

Phone: **605 929-4017**

Amount of Water Claimed: **3.33 cfs**

Total Acres: **NA**

Source of Water Supply: **storm and groundwater**

Water to be used for: **industrial**

County: **Minnehaha**

Type of Waste Disposal System:

Location: **Northeast edge of Sioux Falls**

PRIORITY

Date Received: **7-12-21**

Application/License Fee: **\$ 1750**

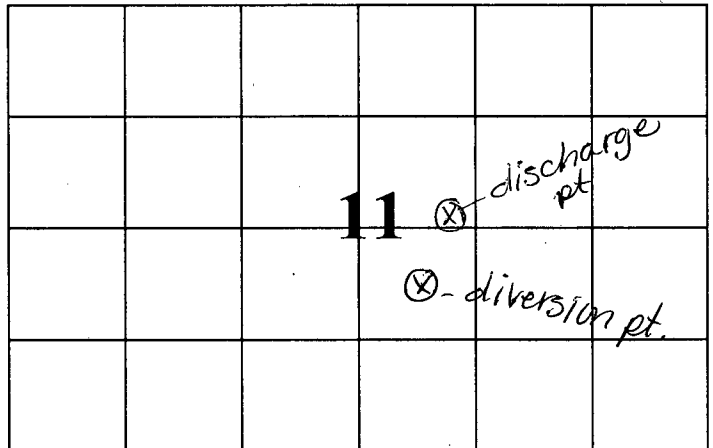
Corrected Application Received:

Period of Annual Use: **March 1 – November 30**

Remarks: **This is for the Nelson pit**

Diversion Point: **NW 1/4 SE 1/4 Sec 11-T101N-R49W**

Discharge location: **SW 1/4 NE 1/4 Sec 11-T101N-R49W**



Depth of Well: **NA**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **7-13-21**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8526-3**

Date of first receipt of application July 12, 2021.

Date of return to applicant for corrections, amendments or changes July 12, 2021.

Date of receipt of corrected application July 13, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8526-3 to L.G. Everist Inc., c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 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. 8526-3 appropriates 1,166 acre-feet of water annually at a maximum pump rate of 3.33 cubic feet of water per second from an existing pit into the Big Sioux:South Aquifer located in the NW 1/4 SE 1/4 Section 11-T101N-R49W. The water is for industrial use to dewater the area from accumulated storm runoff and groundwater infiltration. Water will be discharged to an unnamed tributary to the Big Sioux River located in the SW 1/4 NE 1/4 Section 11-T101N-R49W. This site is known as the Nelson Pit located in the northeastern part of Sioux Falls SD.
2. The water appropriated shall be used for the purpose of industrial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: March 1 – November 30.
4. The date from which applicant may claim right is July 12, 2021.
5. The date of approval of Permit No. 8526-3 is September 20, 2021.
6. One-fifth of the construction is to be completed on or before March 20, 2024.
7. All construction is to be completed on or before September 20, 2026.
8. Water is to be put to beneficial use on or before September 20, 2030.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Dewatering approved under Permit No. 8526-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner under this Permit shall control withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the excavation.
3. Water Permit No. 8526-3 authorizes a total annual diversion not exceeding 1,166 acre-feet of water annually from stormwater runoff and the Big Sioux South aquifer.

WATER MANAGEMENT BOARD

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

SEP 27 2021
date



RECEIVED

JUL 12 2021

PAID

JUL 12 2021

Ck# 243448

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8526-3</u>	(office use only) Hydrologic Unit <u>10170203</u>	WATER RIGHTS PROGRAM
	Basin <u>Sioux River</u>		
	Newspaper <u>Argus Leader</u>		

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

- | | | | |
|---|--|--|--|
| ☐ Municipal | ☐ Water Distribution System | ☐ Recreational | ☐ Institutional |
| ☐ Rural Water System | ☐ Commercial | ☐ Fish & Wildlife | ☐ Geothermal |
| ☐ Domestic (over 18 gpm) | ☒ Industrial | ☒ Other <u>Sand and Gravel Pit</u> | |

Type of Application: (check one)

- ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

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

Areas of excavation/active mining that accumulate storm water runoff and possibly ground water infiltration

1. Name to Appear on Water Permit L.G. Everist, Inc.

Mailing Address 350 S. Main Avenue, Suite 400 Sioux Falls SD 57104
(Address) (City) (State) (Zip Code)
Phone (605) 334-5000 Mobile (605) 929-4017 Email cmklein@LGEVERIST.com

2. Amount of water claimed 3.33 *CFS or 1500 **GPM and 1166 ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply Storm water and ground water Discharge pt. SW 1/4 NE 1/4 Sec 11 - T101N - R49W

4. Location of point of diversion NW 1/4 SE 1/4 of Section 11 - T101N - R49W County Minnehaha
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No

If "Yes," where will water be used? _____
(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Minnehaha

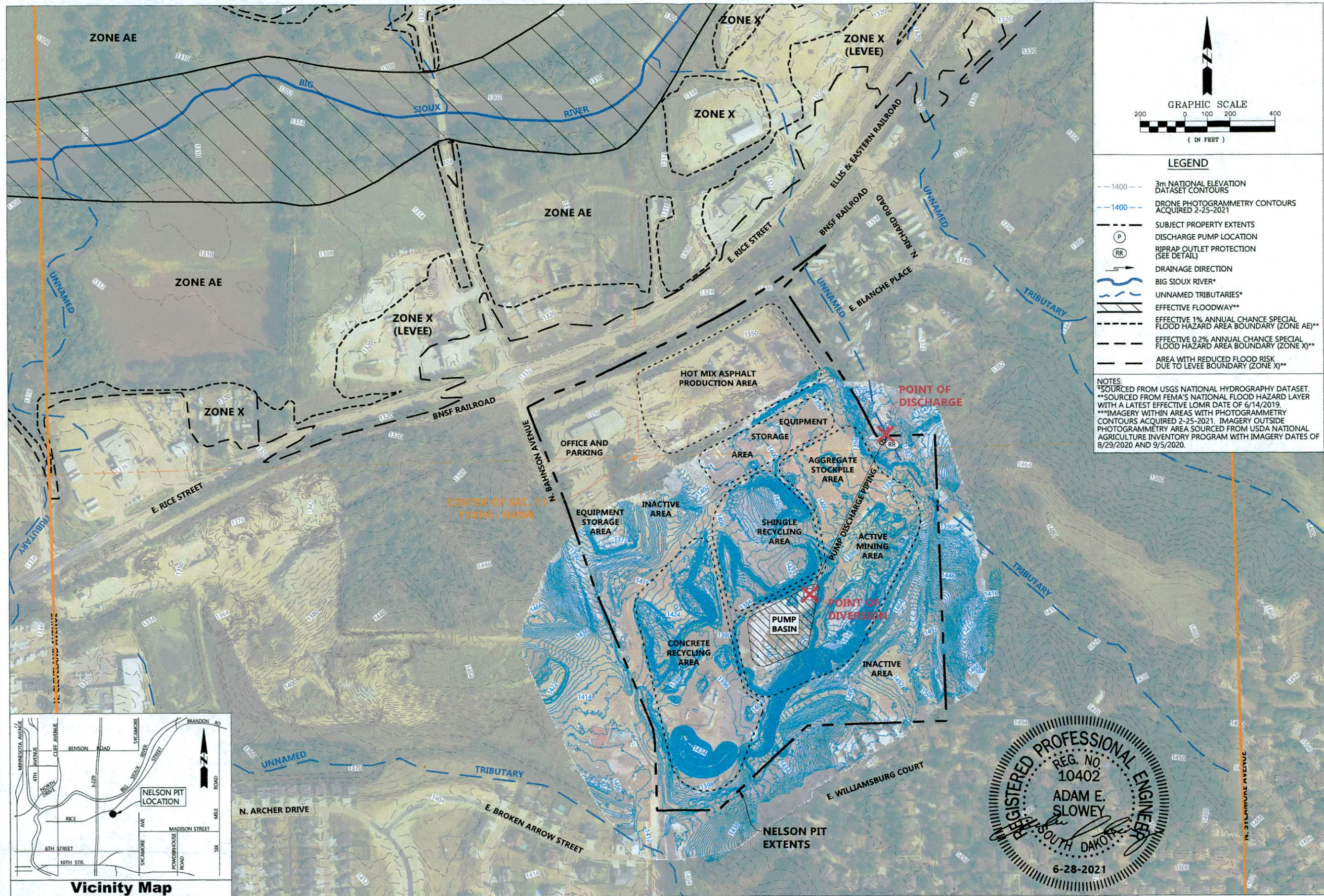
6. Annual period during which water is to be used march 1 - November 30

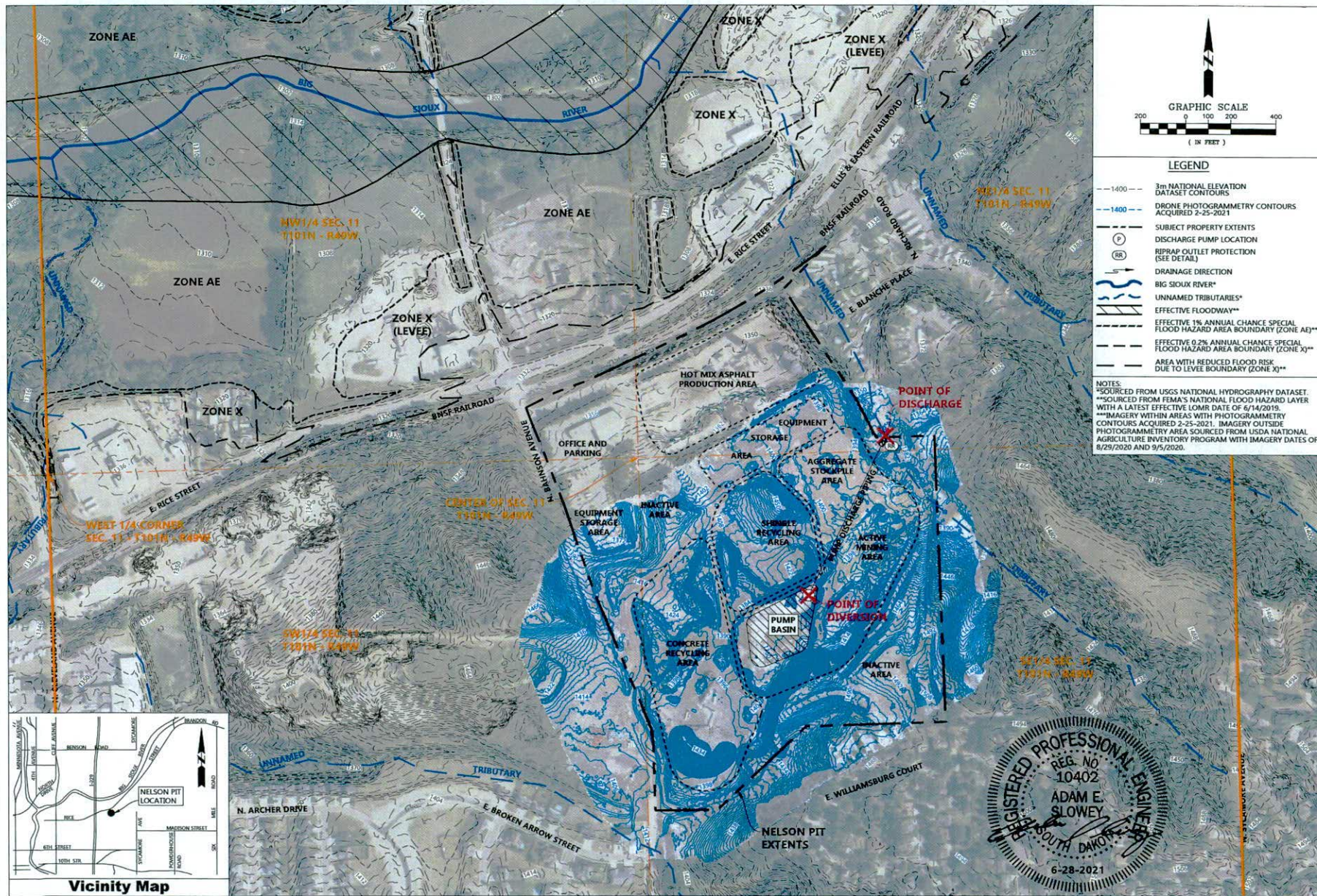
7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The Nelson Pit is an active sand and gravel mining site. Areas of active mining have excavated depressions that accumulate storm water runoff and ground water infiltration. This accumulated storm/ground water needs to be periodically discharged to continue mining operations. This accumulated storm/ground water will be discharged to adjacent unnamed tributaries of the Big Sioux River when required by mining activities.

I, Chris Klein MinePlanning/Regulatory Manager, 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.





101N 49W
Section: 03

101N 49W
Section: 02

101N 49W
Section: 01

101N 49W
Section: 10

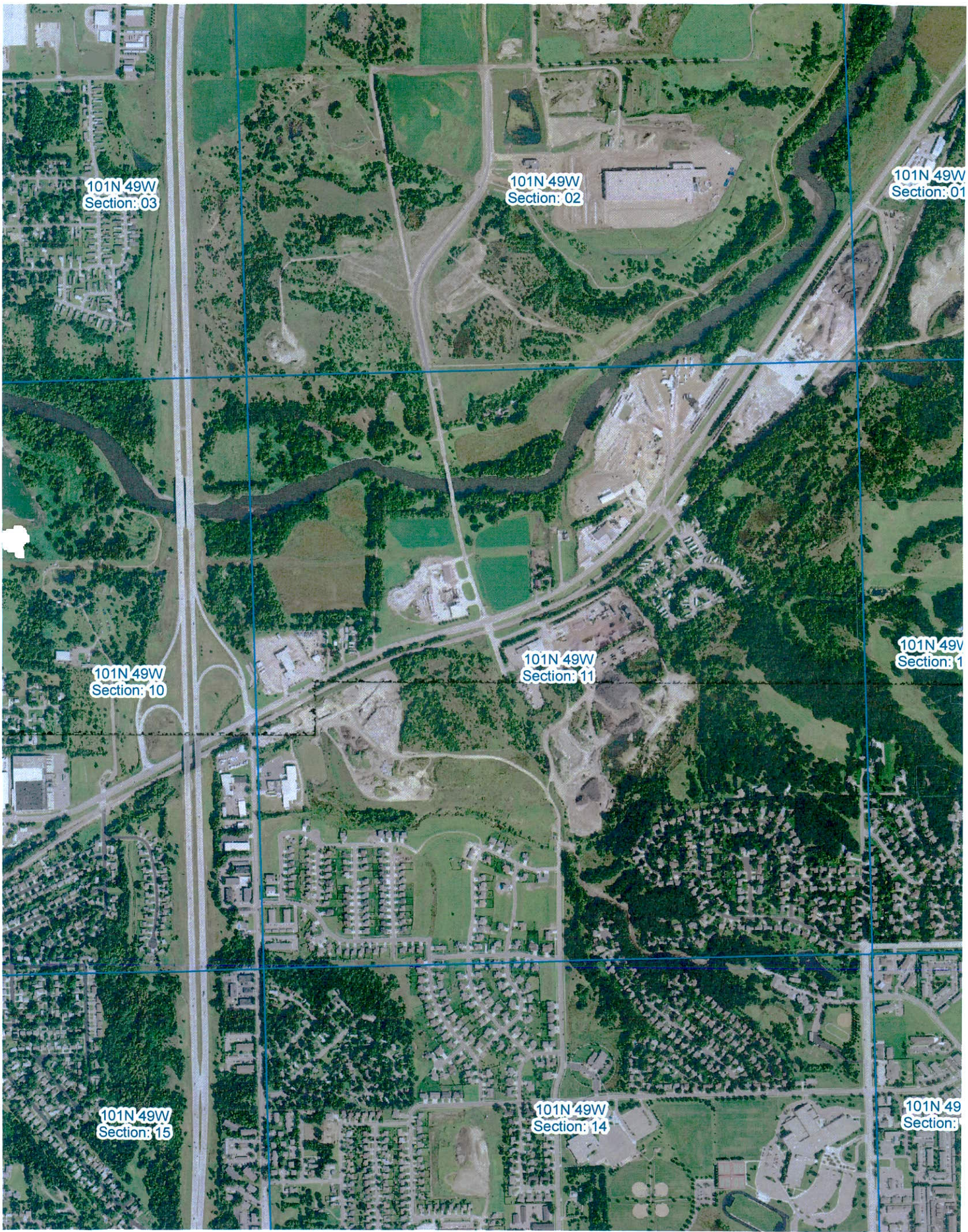
101N 49W
Section: 11

101N 49W
Section: 1

101N 49W
Section: 15

101N 49W
Section: 14

101N 49W
Section:



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date July 12, 2021

RECEIVED OF L G Everist, Inc. 350 S. Main Avenue, Suite 400 Sioux Falls SD 57104

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

Fee for Application for Permit No. <u>8526-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>1550.00</u>
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>8526-3</u>	\$ <u>200.00</u>
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	\$ <u>1750.00</u>

By *Eric Gronlund*
Chief Engineer
Uru

Schlaak, Karen

From: Chris Klein <cmklein@LGEVERIST.com>
Sent: Tuesday, July 13, 2021 9:47 AM
To: Schlaak, Karen; Adam Slowey
Subject: RE: [EXT] Water Rights Permit for L.G. Everist Site at E. Rice and N. Bahnson - Sioux Falls

Karen –

Our apologies on that. The annual period for usage would be from March through November.



CHRIS KLEIN, L.G. Everist, Inc. – Mine Planning & Regulatory Manager
350 S Main Ave, Suite 400, Sioux Falls, SD 57104
605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com
SAFE...RELIABLE...PRODUCTIVE

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Tuesday, July 13, 2021 9:43 AM
To: Adam Slowey <adams@sayreassociates.com>
Cc: Chris Klein <cmklein@LGEVERIST.com>
Subject: RE: Water Rights Permit for L.G. Everist Site at E. Rice and N. Bahnson - Sioux Falls

I just noted the Annual period of use was not completed. Is the pit used year round? Please indicate the months in which water is to be used.

Karen

From: Adam Slowey <adams@sayreassociates.com>
Sent: Monday, July 12, 2021 5:16 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Cc: Chris Klein <cmklein@LGEVERIST.com>
Subject: RE: [EXT] Water Rights Permit for L.G. Everist Site at E. Rice and N. Bahnson - Sioux Falls

Hello Karen,

Attached is the updated location map. I've labeled the west ¼ corner of Section 11 – T101N – R49W near the left edge of the sheet. The center of section 11 as well as the respective quarters are also labeled.

I agree with your assessment that the point of diversion shown is in the NW ¼ SE ¼ Section 11 and that the point of discharge shown is in the SW ¼ NE ¼ Section 11.

I also agree with your assessment that the Nelson Pit is composed of parcels owned by L.G. Everist located in the SE ¼ NW ¼, SW ¼ NE ¼, W ½ SE ¼, NE ¼ SW ¼ of Section 11-T101N-R49W. I would add that all portions of the SE ¼ NW ¼ and the NE ¼ SW ¼ west of the N. Bahnson Avenue Right of Way are inactive at this time. I've CC'd Chris Klein on this email in case he has anything to add or if any of my statements need correcting.

Thanks Karen, and let us know if you need anything else to proceed.

Adam Slowey, PE
Project Engineer
Sayre Associates, Inc.
Phone: (605) 332-7211

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Monday, July 12, 2021 4:29 PM
To: Adam Slowey <adams@sayreassociates.com>
Subject: FW: Water Rights Permit for L.G. Everist Site at E. Rice and N. Bahnson - Sioux Falls

[EXTERNAL EMAIL]

Adam,
We received the water permit application for L.G. Everist today. The map submitted with the application does not reference a government section corner or quarter corner including section, township and range. Please submit a map with those references.

It appears the point of diversion would be located in the NW ¼ SE ¼ Section 11 and the discharge point would be located in the SW ¼ NE ¼ Section 11. Do you agree?

Also do you agree that the Nelson pit site encompasses portions of the SE ¼ NW ¼, SW ¼ NE ¼, W ½ SE ¼, NE ¼ SW ¼ of Section 11-T101N-R49W?

Let me know if you have questions.

Karen

From: Schlaak, Karen
Sent: Tuesday, June 29, 2021 8:07 AM
To: adams@sayreassociates.com
Cc: 'cmklein@lgeverist.com' <cmklein@lgeverist.com>; ldpollman@LGEVERIST.com
Subject: FW: [EXT] Water Rights Permit for L.G. Everist Site at E. Rice and N. Bahnson - Sioux Falls

Adam,
Eric forwarded your email to me.
The application/license fee based on 1166 AF will be \$1,750.00. We prefer payment by check. There is a fee associated with using a credit card.
Please mail the application and fee to the Water Rights Program, 523 E Capitol, Pierre SD 57501.
Once the application is received, I will do the initial review and contact you with any questions.

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



From: Adam Slowey <adams@sayreassociates.com>
Sent: Monday, June 28, 2021 6:02 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: Chris Klein <cmklein@LGEVERIST.com>; Lance Pollman <ldpollman@LGEVERIST.com>
Subject: [EXT] Water Rights Permit for L.G. Everist Site at E. Rice and N. Bahnson - Sioux Falls

Hello again Eric,

I believe I spoke to you a few weeks back regarding the permitting requirements for the pumping discharge of accumulated storm and groundwater from the sand/gravel site mentioned. In addition to several permits that we're preparing for the Surface Water Quality Program, we're also preparing a Water Rights Permit for Nonirrigation uses to cover these discharges over the anticipated operational life of this facility.

Once we have our application materials prepared, can we email them to you for submittal, or would you prefer we submit them another way?

On the application form, we are list an annual water claim of 1166 ac*ft. I believe this calls for an \$1550 application fee, correct? Could you let us know how you would prefer we make that payment, and if we need to make it before or after the application?

Thanks,

Adam Slowey, PE
Project Engineer
Sayre Associates, Inc.
Phone: (605) 332-7211



**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. 8526-3, L. G. Everist Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8526-3, L. G. Everist Inc., 350 S Main Ave, Suite 400, Sioux Falls SD 57104.

The Chief Engineer is recommending APPROVAL of Application No. 8526-3 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. Dewatering approved under Permit No. 8526-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner under this Permit shall control withdrawals from the excavation so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the excavation.
3. Water Permit No. 8526-3 authorizes a total annual diversion not exceeding 1,166 acre-feet of water annually from stormwater runoff and the Big Sioux South aquifer.

See report on application for additional information.

Eric Gronlund
Eric Gronlund, Chief Engineer
August 27, 2021

Report to the Chief Engineer

On Water Permit Application No. 8526-3

L. G. Everist Inc, c/o Chris Klein

August 11, 2021

Water Permit Application No. 8526-3 proposes to appropriate up to 1,166 acre-feet (ac-ft) of water annually at a maximum instantaneous diversion rate of 3.33 cubic feet per second (cfs) from an existing sand and gravel pit (known as Nelson pit) completed into the Big Sioux: South aquifer and is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11; all in T101N-R94W. The water is for industrial use to dewater the surrounding area from accumulated storm runoff and groundwater infiltration. The water will be discharged to an unnamed tributary to the Big Sioux River located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11-T101N-R49W. The site is located in Minnehaha County in the northeast part of Sioux Falls, SD.

AQUIFER: Big Sioux: South (BS:S)

HYDROGEOLOGY:

The Big Sioux aquifer contains deposits of glacial outwash composed of fine to coarse sand and pebble gravel with certain areas containing thin interbedded clay and till layers (Niehus and Lindgren, 1994). The Big Sioux aquifer has a recorded maximum cumulative thickness of approximately 71 ft but averages a cumulative thickness of 22 ft (Niehus and Lindgren, 1994). The top of the Big Sioux aquifer materials is on average approximately 12 feet below land surface (Niehus, 1997). The Big Sioux aquifer is generally under unconfined conditions and is at or near land surface in most areas but can be overlain by either alluvium or till (Niehus, 1997). The Big Sioux aquifer is hydraulically connected with the Shindler, Newton Hills, and Missouri aquifers and with the Big Sioux River (Niehus, 1997). The direction of groundwater movement of the Big Sioux aquifer is generally to the south towards the Big Sioux River (Niehus, 1997).

The Big Sioux aquifer is comprised of twelve management units. The diversion point for Water Permit Application No. 8526-3 is completed into the South management unit of the Big Sioux aquifer. The Big Sioux: South aquifer underlies approximately 49,000 acres in Lincoln County, Minnehaha County, and Union County and contains approximately 163,740 ac-ft of recoverable water in storage (Hedges et al., 1982). The areal extent of the Big Sioux: South aquifer is displayed in Figure 1 along with the location of the diversion point.

No water well completion report or test hole log was submitted with Water Permit Application No. 8526-3. Well completion reports on file with the DANR-Water Rights Program for wells completed into the Big Sioux: South aquifer within approximately two miles of the diversion point for this application have saturated aquifer thickness ranging from approximately 20 to 40 feet, with the depth to the top of aquifer materials ranging from approximately 15 to 20 feet below land surface, and static water levels at well completion varying from approximately 15 to 25 feet below land surface (SDGS, 2021; Water Rights 2021b and 2021d). The existing pit for this application was created by the excavation of material in a sand and gravel aggregate mining

operation. While no depth of the pit was given by the applicant, the available information indicates that shallow mining excavations encountering saturated sand or gravel in the area of the diversion point for this application have likely incised the Big Sioux: South aquifer thus allowing water to enter the excavation. The Big Sioux: South aquifer is unconfined at the diversion point based on lithologic logs on file for nearby observation wells and well completion reports for nearby wells (SDGS, 2021; Water Rights 2021b and 2021d).

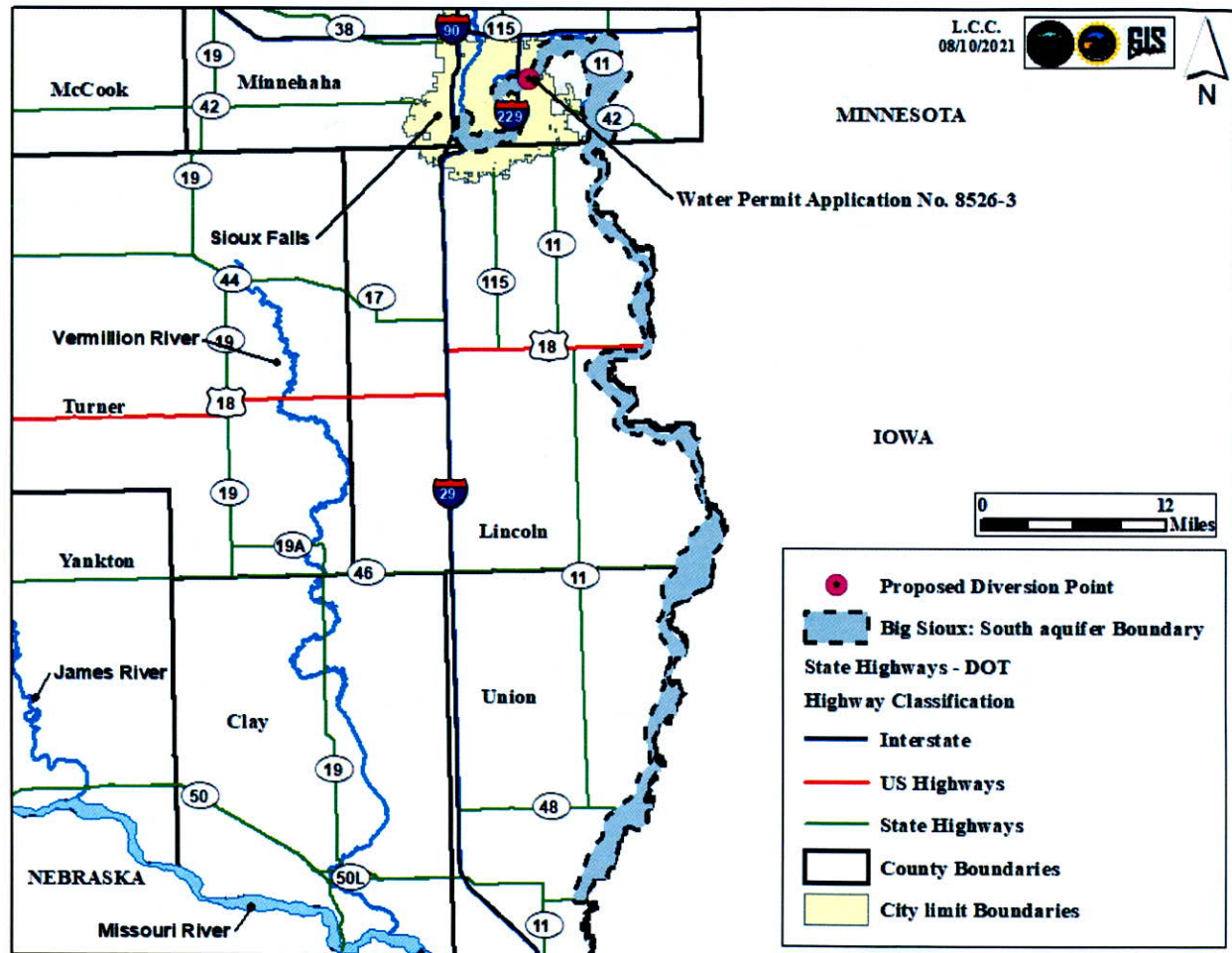


Figure 1: Map showing the approximate areal extent of Big Sioux: South aquifer including the diversion point location of Water Permit Application No. 8526-3 (Hedges et al., 1982, Water Rights, 2021b and 2021c).

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 diversion point can be developed without unlawful impairment of existing domestic water uses and water rights, that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board." This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within Big Sioux: South aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8526-3 proposes to appropriate water from the Big Sioux: South aquifer for industrial use. The probability of unappropriated water being available from the 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. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Big Sioux: South aquifer is not older than or stratigraphically lower than the Greenhorn Formation, and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Big Sioux: South aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Big Sioux: South aquifer is primarily through infiltration of precipitation within the flood plain of the Big Sioux River and subsequent percolation of snowmelt and rainfall where the aquifer is at or near land surface as well as when the river stage of the Big Sioux River is higher than the water table of the aquifer (Niehus, 1997; Niehus and Lindgren, 1994). The Big Sioux: South also may receive recharge through seepage from the Big Sioux: Southern Skunk Creek aquifer, Beaver Creek aquifer, Brandon aquifer, Brule Creek aquifer, Newton Hills aquifer, Split Rock Creek aquifer, Sioux Quartzite aquifer, and Wall Lake aquifer (Niehus, 1997; Niehus and Lindgren, 1994).

The recharge rate to the Big Sioux: South aquifer was estimated by utilizing observation well data. The average annual recharge rate that was estimated for the Big Sioux: South aquifer was 4.1 inches per year (Hedges et al., 1985). The estimated areal extent of the Big Sioux: South aquifer is 49,000 acres (Hedges et al., 1982). Therefore, the approximate average annual recharge to the Big Sioux: South aquifer is 16,742 ac-ft/yr.

Discharge

Discharge from the Big Sioux: South aquifer is primarily through evapotranspiration where the aquifer is at or near land surface, interaction with the Big Sioux River and Missouri aquifer, and well withdrawals (Niehus, 1997). Currently, there are 63 water rights/permits authorized to appropriate water from the Big Sioux: South aquifer (Water Rights, 2021c). There are two future use permits held by Permit Nos. 4002-3 and 6696-3 reserving water from the Big Sioux: South aquifer currently. For the purpose of estimating the average annual withdrawals from the Big Sioux: South aquifer, the two future use permits are assumed to be fully developable for a total of 1,912.7 ac-ft/yr (Water Rights, 2021c).

Table 1 summarizes the 24 non-irrigation water rights/permits authorized to appropriate water from the Big Sioux: South aquifer with the estimated annual use for each water right/permit as determined by their maximum permitted diversion rate or annual volume. The amount of water that can be withdrawn was estimated by assuming the non-irrigation water rights/permits limited by an annual volume will withdraw their entire appropriated volume every year. It is estimated that the non-irrigation water rights/permits limited only by a diversion rate will pump at their maximum permitted diversion rate for 60 percent of the time. Two municipal water rights were identified as being connected to a rural water system and maintain their wells for standby purposes (Friedeman, 2020; Water Rights, 2021c); as such, the average annual water use for these water rights has been estimated to be zero ac-ft/yr in Table 1. Overall, the average annual withdrawal rate for the Big Sioux: South aquifer for non-irrigation water rights/permits is approximately 5,432 ac-ft/yr (Table 1) (Water Rights, 2021c).

Table 1: Estimated annual non-irrigation water rights/permits from the Big Sioux: South aquifer (Water Rights, 2021c).

Permit No.	Name	County	Status	Use	Div. Rate (cfs)	Permitted Volume (ac-ft)	Estimated Volume (ac-ft/yr)
1139-3	Town of Hudson	LN	LC	MUN	0.71	N/A	0*
1618-3	Concrete Materials	MA	LC	COM	1.00	N/A	434
1908-3	Valley View Mobile Home Park	MA	LC	COM	0.10	N/A	43
3454-3	Lincoln County RWS	LN	LC	RWS	0.50	N/A	217
4792-3	L. G. Everist Inc	MA	LC	COM	1.00	N/A	434
4842-3	Brandon Materials Co	MA	LC	IND	1.11	N/A	482
4883-3	City of Harrisburg	LN	LC	MUN	0.50	N/A	0*
5133-3	Concrete Materials	MA	LC	COM	0.04	N/A	17
5242-3	City of Sioux Falls	MA	LC	IND	1.56	110	110
5517-3	Zoological Society	MA	LC	COM	0.03	N/A	13
5591-3	Amoco Corporation	MA	LC	GWR	0.16	N/A	70
5684-3	Great Plains Zoo/Museum	MA	LC	COM	0.067	N/A	29
5755-3	Amoco Corporation	MA	LC	GWR	0.24	N/A	104
5842-3	Michael Dale Coughlin	MA	LC	COM	0.02	N/A	9
5869-3	City of Brandon	MA	LC	MUN	0.78	N/A	339
6093-3	Lyon & Sioux RWS Inc	LN	LC	RWS	1.33	530	530
6423-3	Poet Biorefining - Hudson Llc	LN	LC	IND	1.78	1,000	1,000
6924-3	Lincoln County RWS	LN	PE	RWS	2.5	1344	1,344
7181-3	City of Brandon	MA	LC	MUN	N/A	N/A	0
7203-3	Lincoln County RWS	LN	PE	RWS	N/A	N/A	0
7787-3	L. G. Everist Inc	MA	PE	IND	0.17	70	70
8366-3	Gage Brothers	MA	PE	IND	0.44	10.4	10
8462-3	Ace Ready Mix	MA	PE	IND	0.44	79.8	80
1262B-3	City of Canton	LN	LC	MUN	0.22	N/A	96
LN: Lincoln County; MA: Minnehaha County						TOTAL:	5,432
LC: Licenced Water Right; PE: Permitted Water Right							
MUN: Municipal; COM: Commercial; RWS: Rural Water System; GWR: Groundwater; IND: Industrial							
*Identified as being connected to Rural Water System							

Currently, there are 39 irrigation water rights/permits appropriating water from the Big Sioux: South aquifer (Water Rights, 2021c). The average annual irrigation withdrawals from the Big Sioux: South aquifer are shown in Table 2. The average annual withdrawal rate for the Big Sioux: South aquifer irrigation water rights/permits that have reported over the period of record

is approximately 1,113 ac-ft/yr (Table 2) (Water Rights, 2021a). Since the number of irrigation water rights/permits has continued to increase over the period of record, the estimated average annual withdrawal rate for irrigation appropriations for the entire period of record may not accurately reflect the current level of development. The average annual withdrawal rate for irrigation appropriations from 2011 to 2021 was estimated to reflect the current level of irrigation developments in the Big Sioux: South aquifer. The average annual withdrawal rate for the Big Sioux: South aquifer from 2011 to 2020 is approximately 1,484 ac-ft/yr (Table 2) (Water Rights, 2021a). It is worth noting that these two estimates could be considered slightly conservative since Water Permit Nos. 8491-3 and 8509-3 were approved in 2021 have not reported a respective annual withdrawal rate yet (Water Rights, 2021c).

Table 2: Reported historic irrigation use from the Big Sioux: South aquifer (Water Rights, 2021a).

Year	No. of Permits	Reported Pumpage (acre-feet)	Year	No. of Permits	Reported Pumpage (acre-feet)
1979	29	603	2002	32	1,193.39
1980	29	575	2003	29	1,727.72
1981	30	885	2004	29	1,279.94
1982	22	467.84	2005	30	1,541.11
1983	26	648.45	2006	30	1,709.10
1984	25	805.50	2007	29	1,918.11
1985	25	987.70	2008	30	1,157.44
1986	26	873.70	2009	31	419.48
1987	26	1,007.20	2010	32	139.15
1988	27	2,112.15	2011	31	1,721.93
1989	23	1,308.05	2012	32	2,403.22
1990	26	1,188.30	2013	36	2,190.83
1991	27	728.79	2014	36	1,011.89
1992	28	206.15	2015	36	1,332.83
1993	30	165.50	2016	37	1,494.16
1994	29	898.30	2017	37	2,140
1995	30	894.90	2018	37	478.70
1996	30	957.31	2019	37	335.70
1997	29	1,311	2020	36	1,732.91
1998	29	817.90	MIN	22	139
1999	30	1,024.77	MAX	37	2,403
2000	31	1,351.59	AVG	30	1,113
2001	31	1,001.67	AVG (2011-2020)	36	1,484

There are domestic wells completed into the Big Sioux: South aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2021d). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Big Sioux: South aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the Big Sioux: South aquifer.

Hydrologic Budget Summary

The estimated average annual withdrawals from the Big Sioux: South aquifer totals approximately 9,995 ac-ft/yr (irrigation: 1,484 ac-ft/yr; non-irrigation: 5,432 ac-ft/yr; future use: 1,912.7 ac-ft/yr; Water Permit Application No.8526-3 (if approved) (assuming full appropriation): 1,166 ac-ft/yr) (Water Rights 2021a and 2021c). The estimated annual recharge to the Big Sioux: South aquifer is approximately 16,742 ac-ft/yr. This estimated annual recharge to the Big Sioux: South aquifer is greater than the estimated annual withdrawals. Therefore, there is reasonable probability that unappropriated water is available for the appropriation proposed by this permit application.

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

The DANR-Water Rights Program monitors 15 observation wells completed into the Big Sioux: South aquifer (Water Rights, 2021b). There are seven observation wells approximately five miles from the diversion point. The closest observation well to the diversion point is observation well MA-80AA (approximately 0.6 miles northwest). The hydrographs for these seven observation wells are displayed in Figures 2 through 8 (Water Rights, 2021b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping.

The hydrographs for the seven observation wells nearest to the diversion point demonstrate that the aquifer responds well to climatic conditions of water levels, rising during wet periods and declining during dry periods. These hydrographs are representative of the other observation wells completed into the Big Sioux: South aquifer. The generally stable water levels in these observation wells indicate that the amount of recharge and natural discharge from the Big Sioux: South aquifer governs the long-term fluctuations in water level of the aquifer rather than the impacts of pumping within the aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs document unappropriated water is available for this proposed appropriation.

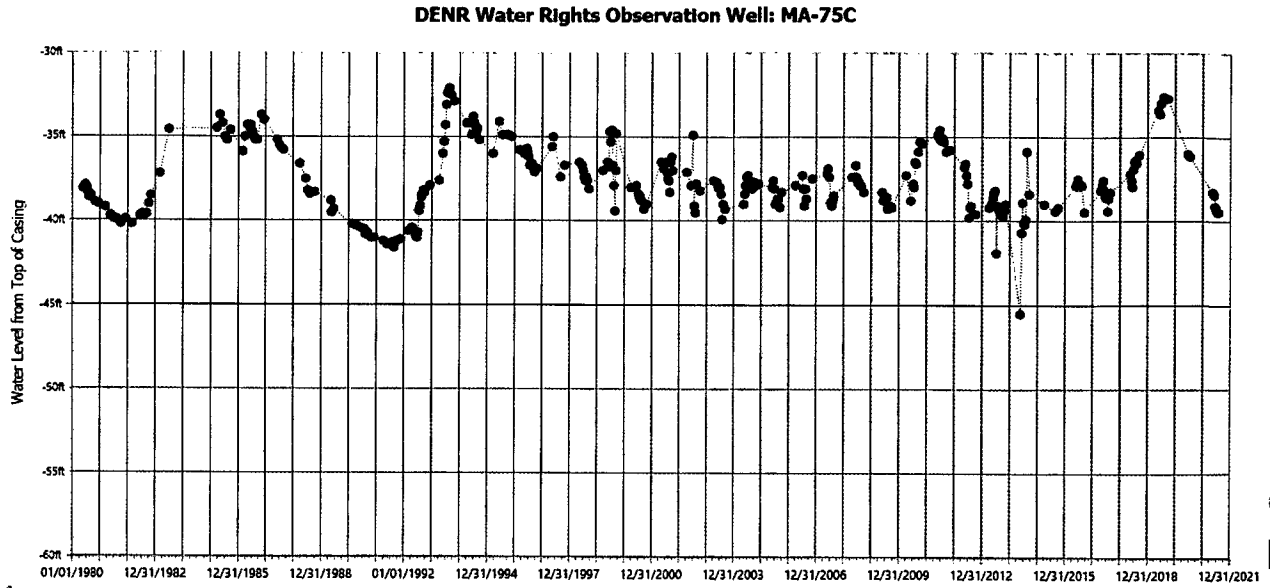


Figure 2: Hydrograph of the Big Sioux: South aquifer observation well MA-75C, located approximately 4.7 miles northeast of the diversion point (Water Rights, 2021b).

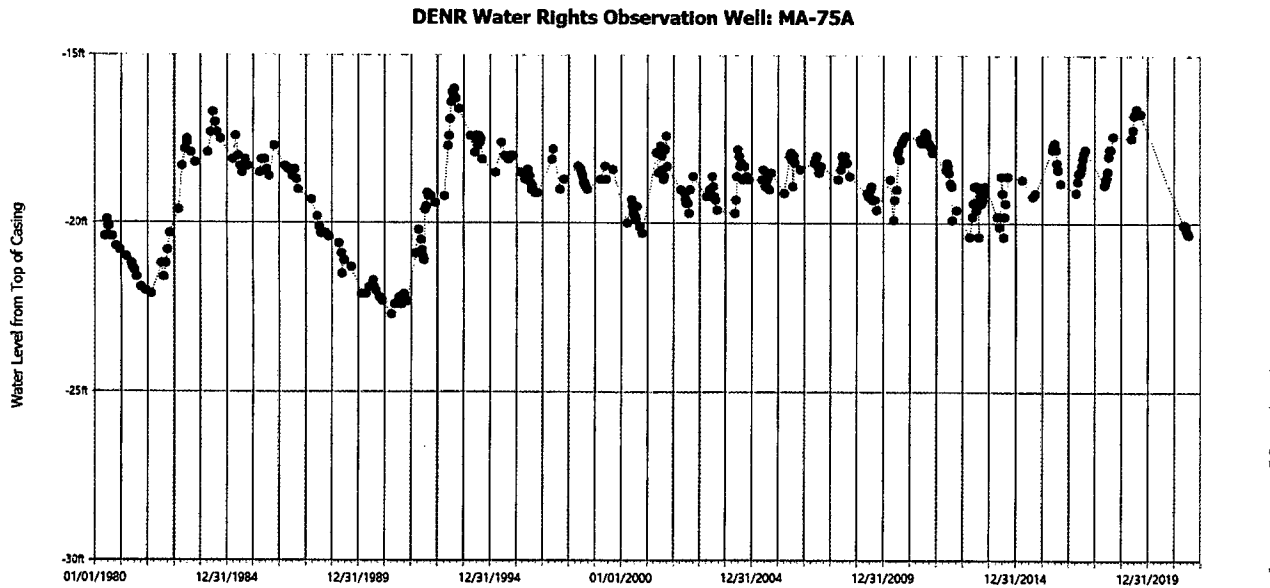


Figure 3: Hydrograph of the Big Sioux: South aquifer observation well MA-75A, located approximately 4.9 miles northeast of the diversion point (Water Rights, 2021b).

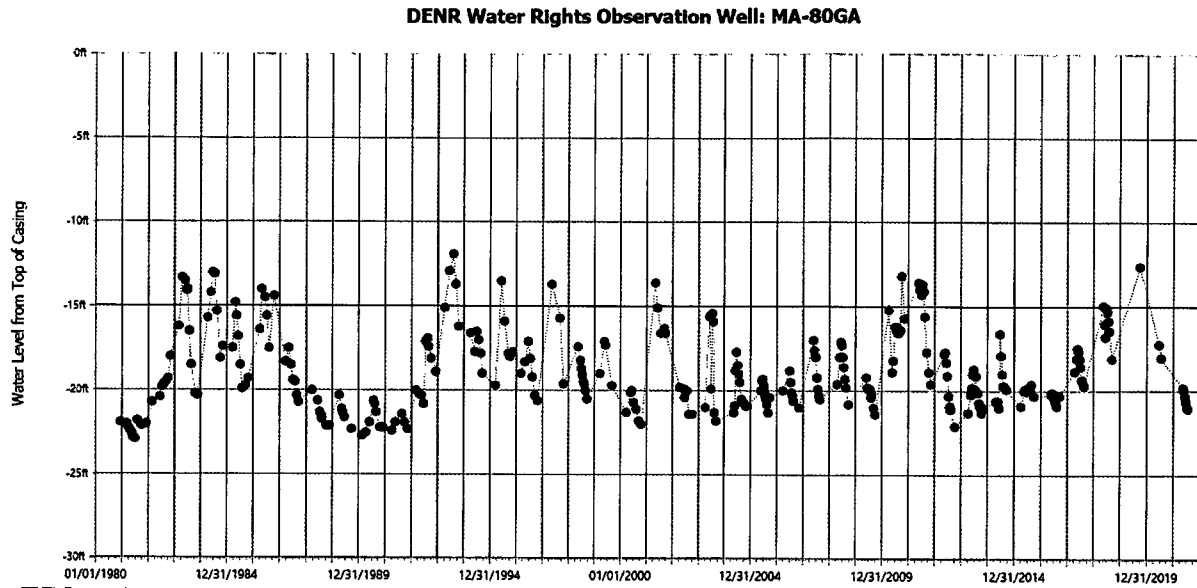


Figure 4: Hydrograph of the Big Sioux: South aquifer observation well MA-80GA, located approximately 4.7 miles northeast of the diversion point (Water Rights, 2021b).

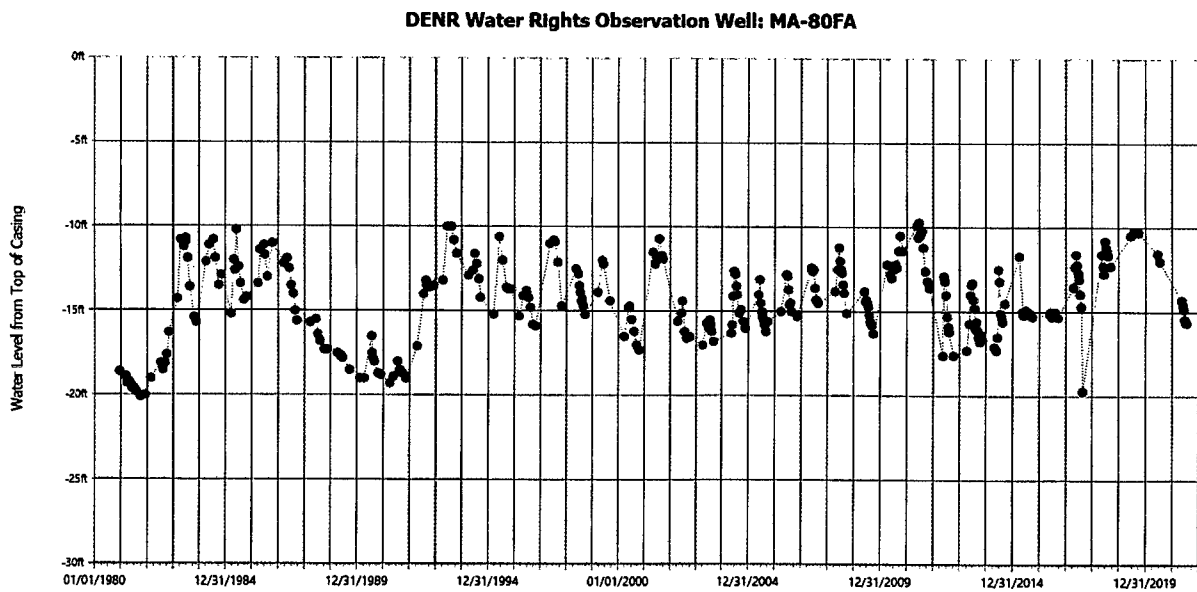


Figure 5: Hydrograph of the Big Sioux: South aquifer observation well MA-80-FA, located approximately 4.4 miles northeast of the diversion point (Water Rights, 2021b).

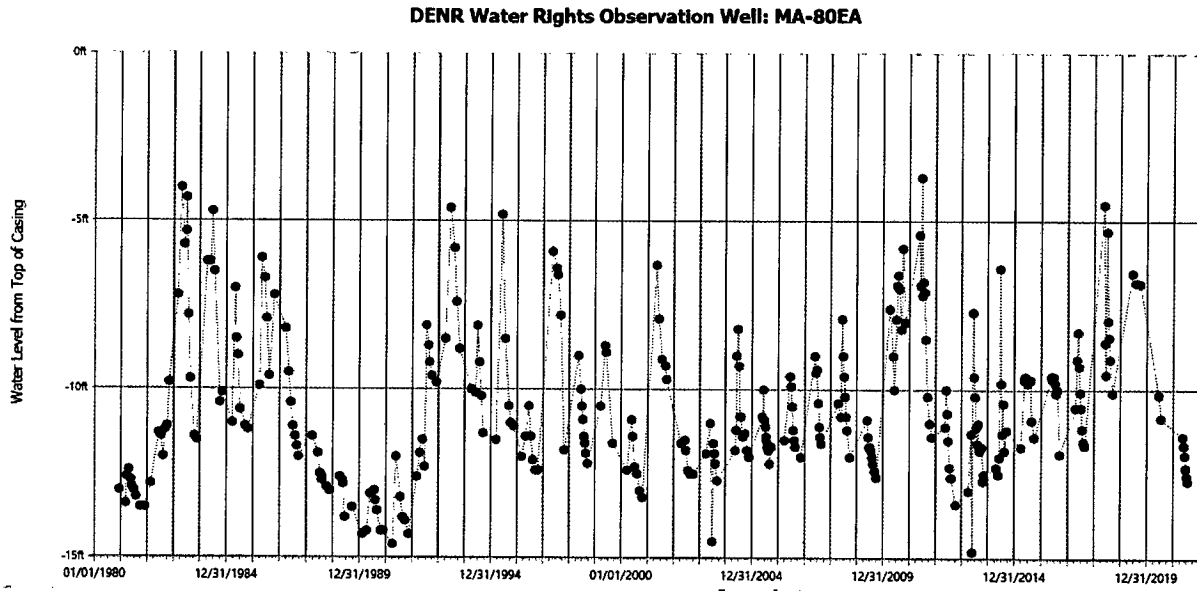


Figure 6: Hydrograph of the Big Sioux: South aquifer observation well MA-80EA, located approximately 4.0 miles northeast of the diversion point (Water Rights, 2021b).

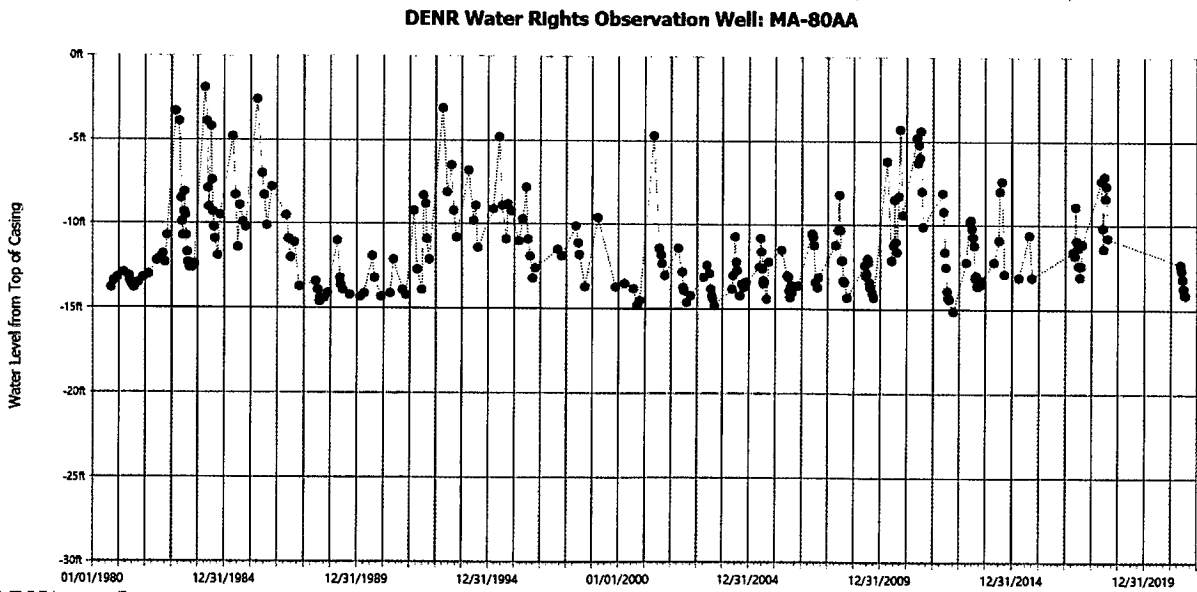


Figure 7: Hydrograph of the Big Sioux: South aquifer observation well MA-80AA, located approximately 0.6 miles northwest of the diversion point (Water Rights, 2021b).

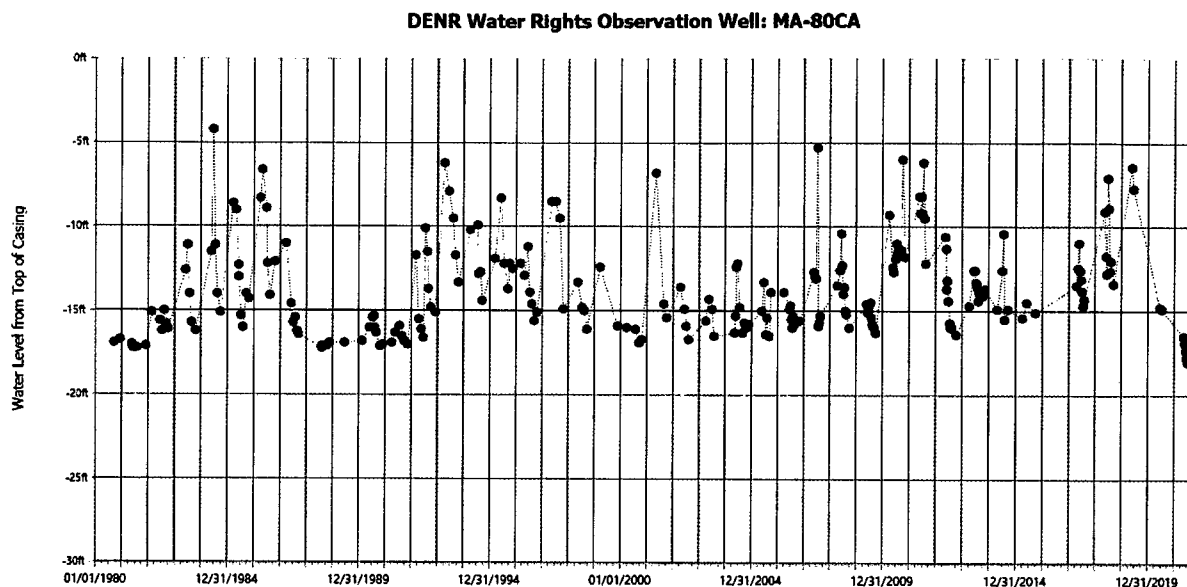


Figure 8: Hydrograph of the Big Sioux: South aquifer observation well MA-80CA, located approximately 4.6 miles southeast of the diversion point (Water Rights, 2021b).

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 63 water rights/permits authorized to appropriate water from the Big Sioux: South aquifer, including two future use permits reserving water from the Big Sioux: South aquifer (Water Rights, 2021c). There are 20 water rights/permits authorized to appropriate water from the Big Sioux: South aquifer within six miles of the diversion point (Water Rights, 2021c). The 20 water rights/permits are shown in Figure 9 and identified in Table 3. The nearest water right/permit (not held by the applicant) to the diversion point completed into the Big Sioux: South aquifer is Water Right No. 1908-3 located approximately 0.4 miles northwest of the diversion point.

There are a number of well completions reports on file for domestic wells with the SD-DANR-Water Rights Program within this area. The nearest domestic well on file with the SD-DANR-Water Rights Program (not held by the applicant) completed into the Big Sioux: South aquifer is approximately 1 mile southwest of the diversion point (Water Rights, 2021d). There may be other wells completed into the Big Sioux: South aquifer that are not on file with the Water Rights Program in the area of the diversion point for this application.

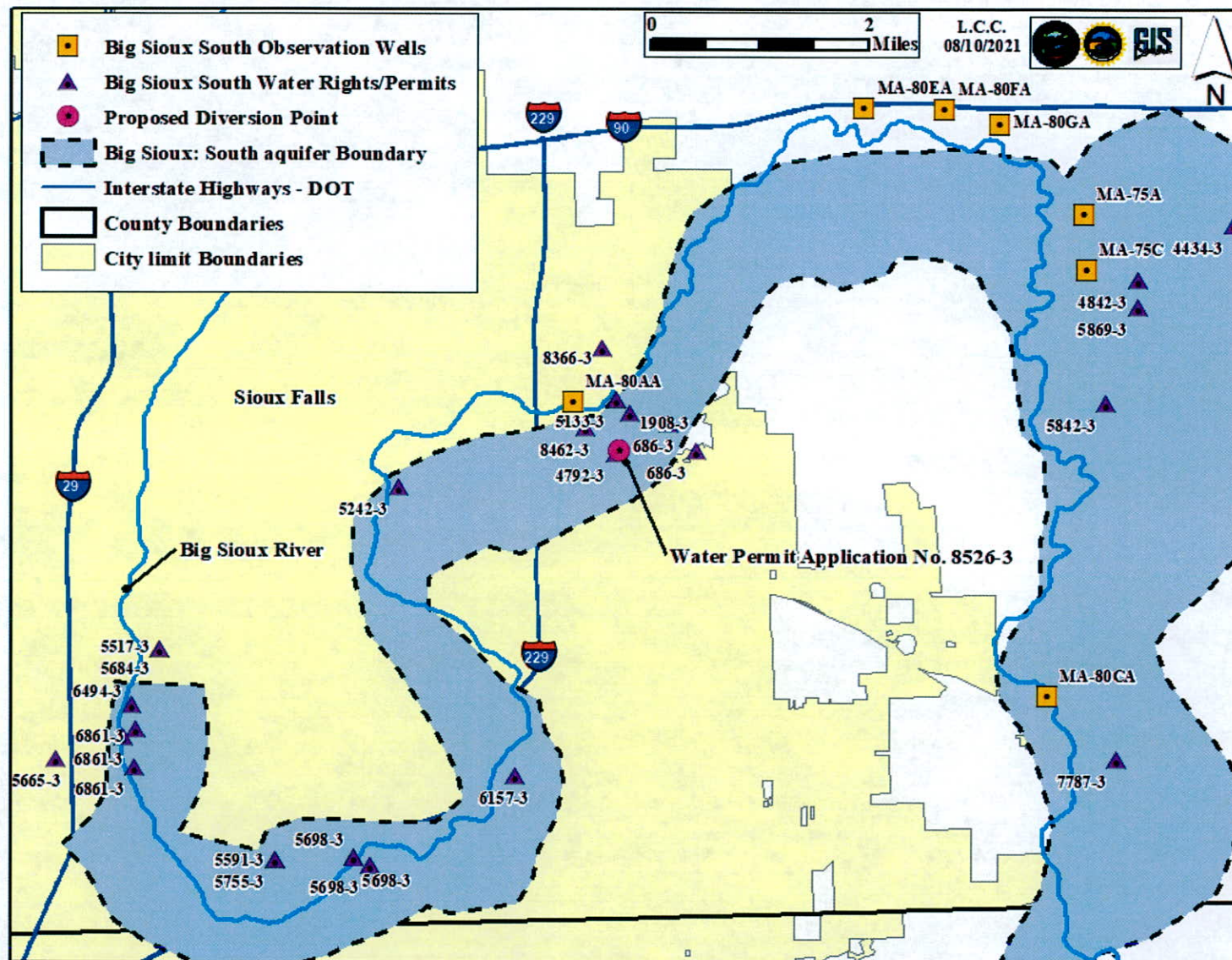


Figure 9: Map Showing the site location of Water Right Permit Application No. 8526-3, nearby observation wells, and nearby water rights/permits completed into the Big Sioux: South aquifer (Water Rights, 2021b and 2021c).

Table 3: Water rights/permits from the Big Sioux: South aquifer within approximately 6 miles of the diversion point (Water Rights, 2021c).

Permit No.	Name	Use	Status	Rate (cfs)	Permitted Volume (ac-ft)	Acres
686-3	Richard T. Peterson	IRR	LC	0.67	N/A	65
1618-3	Concrete Materials	COM	LC	1	N/A	N/A
1908-3	Vally View Mobile Home Park	COM	LC	0.1	N/A	N/A
4792-3	L.G. Everist Inc	COM	LC	1	N/A	N/A
4434-3	Gage Brothers	IND	PE	N/A	N/A	N/A
4842-3	Brandon Materials Co	IND	LC	1.111	N/A	N/A
5133-3	Concrete Materials	COM	LC	0.04	N/A	N/A
5242-3	City of Sioux Falls	IND	LC	1.56	N/A	N/A
5517-3	Zoological Society	COM	LC	0.03	N/A	N/A
5591-3	Amoco Corporation	GWR	LC	0.16	N/A	N/A
5665-3	Warren Friessen	IRR	LC	0.043	N/A	37
5684-3	Great Plains Zoo/Museum	COM	LC	0.067	N/A	N/A
5698-3	City of Sioux Falls	IRR	LC	1.67	N/A	170
5755-3	Amoco Corporation	GWR	LC	0.24	N/A	N/A
5869-3	Michael Dale Coughlin	COM	LC	0.02	N/A	N/A
6157-3	City of Brandon	MUN	LC	0.78	N/A	N/A
6494-3	City of Sioux Falls	IRR	LC	0.17	N/A	19
6861-3	The Country Club of Sioux Falls	IRR	LC	0.67	N/A	N/A
7787-3	Minnehaha Country Club	IRR	LC	1.53	N/A	N/A
8366-3	L.G. Everist Inc	IND	PE	N/A	N/A	N/A
8462-3	Ace Ready Mix	IND	PE	0.44	79.8	N/A
IRR: Irrigation; COM: Commercial; IND: Industrial; GWR: Groundwater; MUN: Municipal						
LC: Licenced Water Permit; PE: Permitted Water Right						

The Big Sioux: South aquifer is generally under unconfined conditions in Minnehaha County and at or near land surface in most areas (Niehus, 1997). The diversion point is expected to be under unconfined conditions based on lithologic logs for the nearby observation wells (Water Rights, 2021d). Observation well data (see Figures 2 through 8) documents minimal drawdown from withdrawals of existing wells near the diversion point. Therefore, pumping from the diversion point is not expected to significantly lower water levels within the aquifer. Drawdown created by pumping generally does not extend for from the pumped diversion point in an unconfined aquifer. The exact drawdown behavior cannot be known without an aquifer performance test. In Minnehaha County, there have been no complaints submitted to the DNR-Water Rights Program Regarding potential well interference for wells completed into the Big Sioux: South aquifer (Water Rights, 2021e).

Within approximately two miles of the diversion point for this application, the Big Sioux: South aquifer has saturated aquifer thickness ranging from approximately 20 to 40 feet, with the depth to the top of aquifer materials ranging from approximately 15 to 20 feet below land surface, and static water levels at well completion varying from approximately 15 to 25 feet below land surface (SDGS, 2021; Water Rights 2021b and 2021d). This would allow for sufficient saturated thickness for a pump to be placed 20 feet below top of aquifer in most situations. The

Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

Any drawdown created from pumping this diversion point is not expected to cause unlawful impairment on impairment on existing water right/permit holders or domestic users with adequate wells considering the location of the diversion point, the saturated thickness, and the lack of complaints for adequate wells completed into the Big Sioux: South aquifer. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

The Big Sioux: South aquifer is a relatively thin aquifer with a limited amount of water in storage. While the average annual withdrawal would not exceed average annual recharge to the aquifer, conditions may occur when the withdrawal exceeds recharge. When this occurs, water will be removed from storage; consequently, reducing the saturated thickness of the aquifer. If the saturated thickness is reduced to the extent that water rights/permits can no longer pump at their developed or “historically established” diversion rates, this may be considered an adverse impact. If approved, the water permit should include a qualification that the well owner should control their withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

CONCLUSIONS:

1. Water Permit Application No. 8526-3 proposes to appropriate up to 1,166 ac-ft of water annually at a maximum instantaneous diversion rate of 3.33 cfs from an existing sand and gravel pit completed into the Big Sioux: South aquifer located in Minnehaha County in the northeast part of Sioux Falls, SD.
2. There is a reasonable probability that unappropriated water is available from the Big Sioux: South aquifer for this proposed appropriation based on the hydrological budget and observation well data.
3. There is a reasonable probability this diversion will not unlawfully impair adequate wells authorized by existing water rights or domestic use wells.


Lindsey Cederberg
Natural Resources Engineer I
SD DANR - Water Rights Program

Reviewed by:



Adam Mathiowetz, PE

Natural Resources Engineer IV

SD DANR -Water Rights Program

References

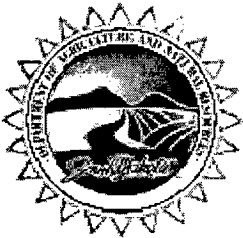
- Friedeman, B., 2020. "Public Water Systems on Full-Time Basis List." Environmental Scientist DANR-Drinking Water Program, Joe Foss Bldg, Pierre, SD.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A., 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big 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.
- Hedges, L.S., Allen, J., Holly, D.E., 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; United States Army Corps of Engineers Contract DACW 45-80-C-0185.
- Niehus, C. A., 1997. Major Aquifers in Lincoln and Union Counties, South Dakota, U.S. Geological Survey Information Pamphlet 49. U.S. Geological Survey. Vermillion, SD.
- Niehus, C. A. and Lindgren R. J., 1994. Major Aquifers in Minnehaha County, South Dakota. U.S. Geological Survey Information Pamphlet No. 46. U.S. Geological Survey. Vermillion, SD.
- SDGS, 2021. South Dakota Geological Survey Lithologic Logs Database. Accessed August 11, 2021. <http://cf.sddanr.net/lithdb/>.
- Water Rights, 2021a. "1979-2020 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2021b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2021c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2021d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2021e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, August 30, 2021 1:15 PM
To: 'cmklein@lgeverist.com'
Subject: Water Permit Application No. 8526-3
Attachments: 1787.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 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>



Argus Leader

P.O. Box 677349, Dallas, TX 75267-7349

RECEIVED

SEP 13 2021

WATER RIGHTS
PROGRAM

Account No.: 6053306570

Ad No.: 0004891218

PO #: 8526-3

Lines : 156

Ad Total: \$50.45

This is not an invoice

of Affidavits 1

L. G. EVERIST, INC.
350 S MAIN AVE, SUITE 400
SIOUX FALLS, SD 57104

RECEIVED

SEP 13 2021

SIOUX FALLS
OFFICE

Account No.: 6053306570

Ad No.: 0004891218

Argus Leader AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MINNEHAHA

I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper upon

Thursday, September 9, 2021

Sworn to and subscribed before me this 9 day of September,
2021.

Linda Tutt

Legal Clerk

Vicky Felty

Notary Public, State of Wisconsin, County of Brown

9/19/21
My Commission expires

VICKY FELTY
Notary Public
State of Wisconsin

NOTICE OF
APPLICATION NO. 8525-3
to Appropriate Water

Notice is given that L. G. Everist Inc., db Chris Klein, 350 S Main Ave, Suite 200, Sioux Falls SD 57104 has filed an application for a water permit to appropriate 1,166 acre-feet of water annually at a maximum pump rate of 3.33 cubic feet of water per second from an existing pit into the Big Sioux South Aquifer located in the NW 1/4 SE 1/4 Section 11-T10N-R15W. The water is for industrial use to cool the area from accumulated storm runoff and groundwater infiltration. Water will be discharged to an unnamed tributary to the Big Sioux River located in the SW 1/4 NE 1/4 Section 11-T10N-R15W. This site is known as the Nelson Pit located in the northeastern part of Sioux Falls SD.

Pursuant to SDCL 45-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8525-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unduly impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://dnr.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 this application or recommendation shall advise that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 45-2A-4 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 45-2-9 and 45-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://dnr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Pass Building, 523 E Capitol, Pierre SD 57501" or call 605/773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 20, 2021.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engi-

reer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://canr.ca.gov/public>, or by calling (800) 773-3332 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 16, 2021.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to contest 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 \$51.45.

4371218 Sept. 9, 2021

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, August 30, 2021 10:31 AM
To: 'legals@argusleader.com'
Subject: 8526-3, L. G. Everist Inc
Attachments: 8526-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on September 9, 2021.

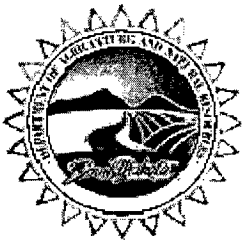
L.G. Everist Inc, c/o Chris Klein, 350 S Main Ave, Sioux Falls SD 57104 (605 929-4017) has been notified to contact you to authorize publication and arrange for payment.

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 NEWSPAPER RIGHT AWAY.**

August 30, 2021

L.G. Everist Inc.
c/o Chris Klein
350 S Main Ave
Sioux Falls SD 57104

Dear Mr. Klein:

Water Permit Application No. 8526-3 for industrial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Argus Leader printed at Sioux Falls SD (Ph # 605 331-2200). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

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. 8526-3 to Appropriate Water

Notice is given that L. G. Everist Inc, c/o Chris Klein, 350 S Main Ave, Suite 400, Sioux Falls SD 57104 has filed an application for a water permit to appropriate 1,166 acre-feet of water annually at a maximum pump rate of 3.33 cubic feet of water per second from an existing pit into the Big Sioux:South Aquifer located in the NW 1/4 SE 1/4 Section 11-T101N-R49W. The water is for industrial use to dewater the area from accumulated storm runoff and groundwater infiltration. Water will be discharged to an unnamed tributary to the Big Sioux River located in the SW 1/4 NE 1/4 Section 11-T101N-R49W. This site is known as the Nelson Pit located in the northeastern part of Sioux Falls SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8526-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.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 this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 20, 2021.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 20, 2021.

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

Published once at the total approximate cost of_

Schlaak, Karen

From: Chris Klein <cmklein@LGEVERIST.com>
Sent: Monday, September 13, 2021 1:14 PM
To: Schlaak, Karen
Cc: Adam Slowey
Subject: [EXT] Affidavit Of Publication For Water Right 8526-3
Attachments: Argus Leader Affidavit Of Publication.pdf

Karen –

Attached is the Affidavit of Publication for Water Right 8526-3 from the Argus Leader. If you need the original sent let me know and I'll get that sent to you.

Thanks!



CHRIS KLEIN, L.G. Everist, Inc. – Mine Planning & Regulatory Manager
350 S Main Ave, Suite 400, Sioux Falls, SD 57104
605.929.4017 || cmklein@lgeverist.com || www.lgeverist.com
SAFE...RELIABLE...PRODUCTIVE



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

SEP 27 2021

L. G. Everist Inc.
c/o Chris Klein
350 S Main Ave, Suite 400
Sioux Falls SD 57104

Dear Mr. Klein:

Enclosed is Water Permit No. 8526-3 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