

**WATER PERMIT NO. 8527-3**

Name of Applicant: **Finley Family LLLP**

Address: **10923 Stateline Rd, Oakes ND 58474**

Phone: **605 216-0817**

Amount of Water Claimed: **1.78 cfs**

Total Acres: **160 acres**

Source of Water Supply: **groundwater (one well)**

Water to be used for: **irrigation**

County: **Brown**

Type of Waste Disposal System:

Location: **4 miles northeast of Hecla SD**

**PRIORITY**

Date Received: **7-15-21**

Application/License Fee: **\$ 1050**

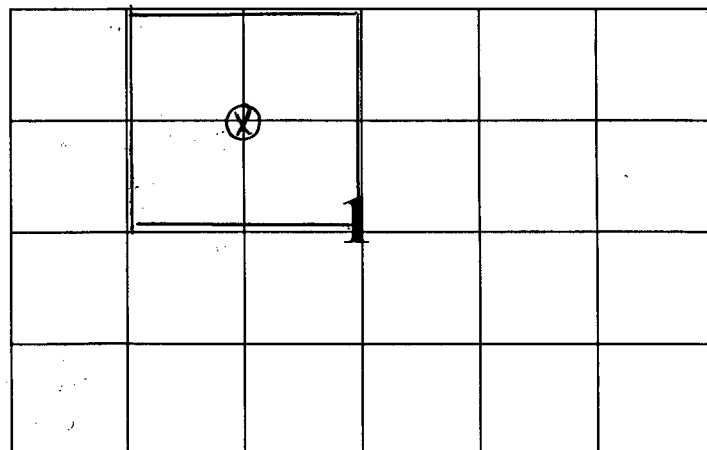
Corrected Application Received:

Period of Annual Use: **April 1 – October 31**

Remarks:

Diversion Point: **center of NW 1/4 Sec 1-T128N-  
R61W**

Land to be Irrigated: **NW 1/4 Sec 1 – T128N-  
R61W**



Depth of Well: **120 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **7-15-21**

By: **Karen Schlaak**

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

**SOUTH DAKOTA**  
**WATER PERMIT NO. 8527-3 FOR IRRIGATION**

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Date of first receipt of application July 15, 2021.

The Water Management Board approved Water Permit No. 8527-3 on December 8, 2021 for Finley Family LLLP, c/o David Finley, 10923 Stateline Rd, Oakes ND 58474 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. 8527-3 appropriates 1.78 cubic feet of water per second from one well to be completed into the Middle James:Columbia Aquifer (approximately 120 feet deep) located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This site is located approximately 4 miles northeast of Hecla SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is July 15, 2021.
4. One-fifth of the construction is to be completed on or before June 8, 2024.
5. All construction is to be completed on or before December 8, 2026.
6. Water is to be put to beneficial use on or before December 8, 2030.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The well approved under Water Permit No. 8527-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals under this Permit shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8527-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

**WATER MANAGEMENT BOARD**

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

1/13/2022  
date



JUL 15 2021

WATER RIGHTS  
PROGRAM

|                                                                                                         |                                                                        |
|---------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Mail to:<br><br>DENR - Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br>ph. (605) 773-3352 | No. <u>8527-3</u> (office use only)<br>Hydrologic Unit <u>10160003</u> |
|                                                                                                         | Basin <u>James River</u>                                               |
|                                                                                                         | Newspaper <u>American News</u>                                         |
|                                                                                                         |                                                                        |

PAID  
JUL 15 2021  
Ck# 12722

## Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit Finley Family LLP David Finley  
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.  
Mailing Address 10923 Stateline Rd Oakes ND 58474  
(Address) (City) (State) (Zip Code)  
Phone 701-992-2823 Mobile 605-216-0817 Email dFinley@nvc.net

2. Amount of water claimed 1.78 \*CFS or 800 \*\*GPM \*\*\*AF Total Acreage 160  
(\*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 have not drilled test holes yet hoping near center of quarter to be irrigated center NW 1/4 Sec 1-128N-R61W County Brown  
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

5. County or counties where water will be used Brown

6. Annual period during which water is to be used Apr 1st to Oct 31

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

| Land Description         | Acres      | Land Description | Acres |
|--------------------------|------------|------------------|-------|
| <u>NW 1/4 1-128N-61W</u> | <u>160</u> |                  |       |
|                          |            |                  |       |
|                          |            |                  |       |
|                          |            |                  |       |

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

center pivot irrigation

I, David Finley David Finley, the applicant, certify under  
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

**Supplemental Information**

(type or print)

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

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

For either Existing or Proposed Wells:

c) Well Depth (required) 120' Depth to Top of Water Bearing Material \_\_\_\_ Depth to Water from Surface \_\_\_\_

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

**2. Wastewater Disposal System Information**

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

b) System Capacity (gallons) \_\_\_\_ Year Constructed \_\_\_\_

c) Connected to the City of \_\_\_\_ Sanitary System

**3. Dugout Information**

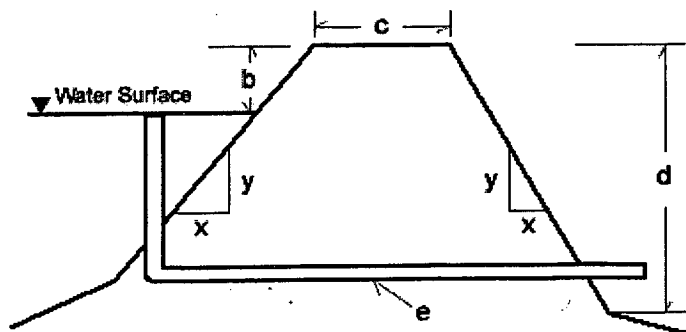
a) Surface Dimensions \_\_\_\_ Depth \_\_\_\_

b) Depth to water (ground surface to water level) \_\_\_\_

**4. Water Storage Dams**

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

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



b) Freeboard \_\_\_\_

c) Crest Width \_\_\_\_

Crest Length \_\_\_\_

d) Height \_\_\_\_

e) Primary Outlet Capacity \_\_\_\_

If pipe, diameter \_\_\_\_

f) Secondary Spillway Capacity \_\_\_\_

Spillway Width \_\_\_\_

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

Upstream \_\_\_\_

Downstream \_\_\_\_

h) Surface Area of Impoundment \_\_\_\_

i) Storage \_\_\_\_ Acre Feet

j) Drainage Area Above Dam \_\_\_\_ Acres



United States  
Department of  
Agriculture

## Dickey County, North Dakota

142.04 Farm 8680



**Common Land Unit**  
Tract Boundary  
Non-Cropland  
Cropland  
PLSS

### Wetland Determination Identifiers

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

### Unless Otherwise Noted:

All crops are for grain  
All crops are non-irrigated  
Shares are 100% to Operator

2021 Program Year

Map Created May 05, 2021

**S1 T128N R61W**

0 262.5 525 1,050  
Feet

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS). The imagery displayed on this map was collected in calendar year 2020.

Home

Search

Forms

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Data List Requests

# Business Search

Finley | 

Advanced 

Results: 1

## Form Info

FINLEY  
FAMILY LAND  
PARTNERSHIP,  
LLLP  
*Limited Liability  
Limited  
Partnership -  
Domestic*



SOS  
Con

000

## FINLEY FAMILY LAND PARTNERSHIP, LLLP

Limited Liability Limited Partnership - Domestic



Request  
Certificate

|                            |                                                             |
|----------------------------|-------------------------------------------------------------|
| <i>Filing Type</i>         | Limited Liability Limited Partnership - Domestic            |
| <i>Filing Subtype</i>      | Engaged in Farming                                          |
| <i>Status</i>              | Active                                                      |
| <i>Standing - AR</i>       | Good                                                        |
| <i>Standing - RA</i>       | Good                                                        |
| <i>Standing - Other</i>    | Good                                                        |
| <i>Formed In</i>           | NORTH DAKOTA                                                |
| <i>Term of Duration</i>    | Perpetual                                                   |
| <i>Initial Filing Date</i> | 08/14/2018                                                  |
| <i>Principal Address</i>   | 10923 STATE LINE RD<br>OAKES, ND 58474-9129                 |
| <i>Mailing Address</i>     | 10923 STATE LINE RD<br>OAKES, ND 58474-9129                 |
| <i>AR Due Date</i>         | 03/31/2022                                                  |
| <i>Registered Agent</i>    | DAVID FINLEY<br>10923 STATE LINE RD<br>OAKES, ND 58474-9129 |



View History

# RECEIPT

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

Date July 15, 2021

RECEIVED OF David/Connie Finley 10923 Stateline Rd. Oakes ND 58474

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

|                                                                                                                        |                   |
|------------------------------------------------------------------------------------------------------------------------|-------------------|
| Fee for Application for Permit No. <u>8527-3</u> to Appropriate Water, to construct and to put water to beneficial use | \$ <u>850.00</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>8527-3</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>1050.00</u> |

By Eric Gronlund  
Chief Engineer  
ERG



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

October 12, 2021

David Finley  
Finley Family Land LLLP  
10923 Stateline Rd  
Oakes, ND 58474

Dear Mr. Finley:

As requested by email on October 12, 2021, pursuant to South Dakota Well Construction Standard 74:02:04:21, you are authorized to have a South Dakota licensed well driller construct a test well, approximately 100 feet deep, prior to approval of a water permit. The test well will be located in the NW ¼ Section 1-T128N-R61W in Brown County. All test wells must be constructed in accordance with the SD Well Construction Standards. Any test holes or test wells that are abandoned must be plugged pursuant to the SD Well Construction Standards.

Authorization must be obtained before water from the well can be used in excess of domestic use as defined by South Dakota Codified Law 46-1-6(7) or for uses other than domestic use. All test or permanent wells to be constructed under this test well permission must be constructed using the methods described in Administrative Rule of South Dakota (ARSD) 74:02:04:28. Approval of this test well does not assure issuance of a water permit. Following review of a Water Permit Application and assessing the availability of water, the potential impacts to existing users, the beneficial use, and the public interest of a permit, the Chief Engineer will make a recommendation to the Water Management Board regarding the application. The recommendation to approve, deny, or defer the application will be publicly noticed and an opportunity afforded for the public to intervene. A public hearing may be required to consider the water permit. If you have questions regarding permitting, please call Ron Duvall at (605) 773-3352.

Sincerely,

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



**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. 8527-3, Finley Family LLLP**

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. 8527-3, Finley Family LLLP, 10923 Stateline Rd, Oakes ND 58474.

The Chief Engineer is recommending APPROVAL of Application No. 8527-3 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. The well approved under Water Permit No. 8527-3 will be located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals under this Permit shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8527-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer  
September 13, 2021

**REPORT TO THE CHIEF ENGINEER  
WATER PERMIT APPLICATION NO. 8527-3  
FINLEY FAMILY, LLLP  
AUGUST 25, 2021**

Water Permit Application No. 8527-3 proposes to appropriate water, for the irrigation of 160 acres, at a maximum instantaneous diversion rate of 1.78 cubic feet per second (cfs) from the Middle James: Columbia aquifer. The applicant intends to divert water from a single well, approximately 120 feet-deep, to be located in the NW ¼ Section 1 with the irrigated acres located in the NW ¼ Section 1; all in T128N-R61W. The site is located approximately four miles northeast of Hecla, SD.

**AQUIFER: Middle James: Columbia (MJ: C)**

**Aquifer Characteristics**

The Middle James: Columbia aquifer is a deposit of glacial outwash composed of sorted gravel, sand, and silt (Koch and Bradford, 1976). In South Dakota, it underlies approximately 315,900 acres of Brown and Marshall counties (Figure 1) with an estimated 1,376,000 million acre-feet of recoverable water in storage (Hedges et al., 1982). The aquifer is primarily under confined or artesian conditions with the movement of groundwater generally from the west to the east (Koch and Bradford, 1976). It is hydraulically connected to the Deep James and Elm aquifers (Koch and Bradford, 1976). Existing well completion reports in the vicinity of the proposed application show an average of 77 feet of silty, sandy clay overlying water bearing sand and gravel with an average depth to the groundwater surface of 12 feet (Water Rights, 2021a and 2021b). This indicates an average of 65 feet of artesian head pressure and that the proposed site is under confined conditions.

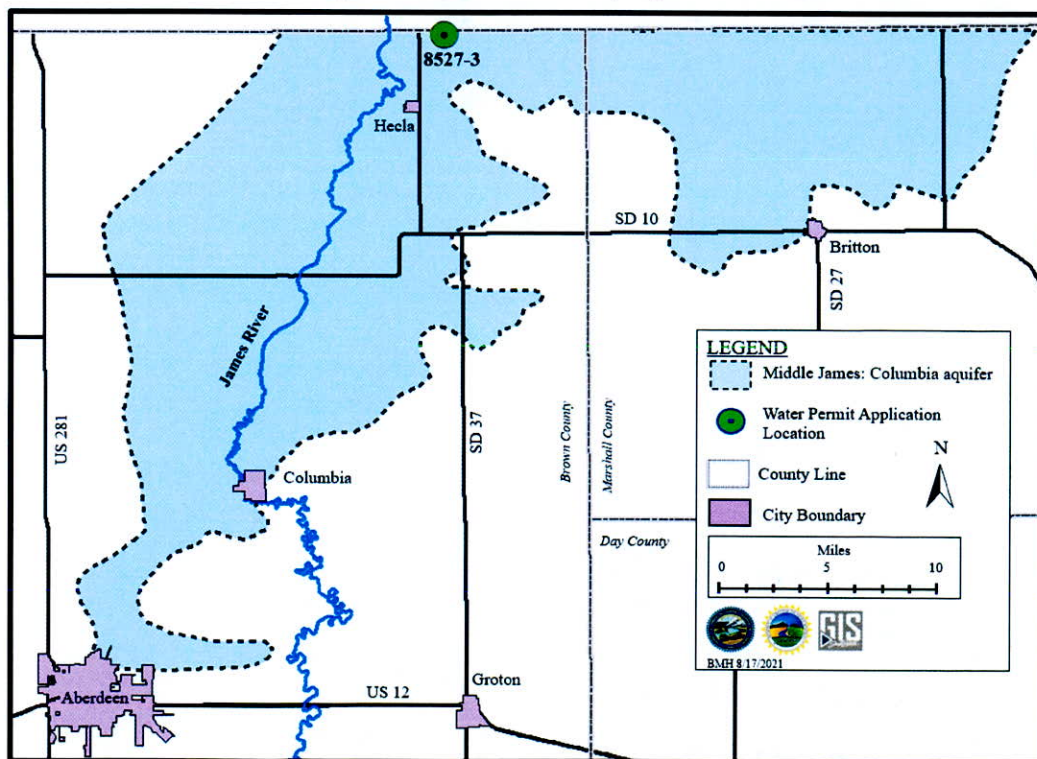


Figure 1. Water Permit Application No. 8527-3 shown within the Middle James: Columbia aquifer boundary (modified from: Hedges et al., 1982).

### **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 domestic uses and water rights, and 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 water availability and potential for unlawful impairment of existing domestic uses and water rights within the Middle James: Columbia aquifer.

### **WATER AVAILABILITY**

Water Permit Application No. 8527-3 proposes to appropriate water from the Middle James: Columbia 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 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 Middle James: Columbia aquifer is recharged by infiltration of precipitation through overlying materials and inflow from adjacent glacial aquifers (Koch and Bradford, 1976). Recharge for confined aquifers was estimated by Hedges et al. (1985) to range between 0.15 and 0.60 inches per year for use by management and development programs. With the areal extent of the aquifer estimated at 315,900 acres (Hedges et al., 1982), the annual recharge rate can be estimated between 3,950 and 15,800 acre-feet/year (ac-ft/yr) for the South Dakota portion of the aquifer.

#### **Discharge:**

Discharge from the Middle James: Columbia aquifer occurs through well withdrawals and leakage into adjacent aquifers and sediments (Koch and Bradford, 1976). Currently, there are a total of 27 water rights/permits (12 non-irrigation, 13 irrigation, and 2 future use) appropriating water from the Middle James: Columbia aquifer (Water Rights, 2021a). A summary of the non-irrigation water rights/permits are listed in 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. Permit Nos. 6371-3 and 8392-3 are required to report their annual usage from the Middle James: Columbia aquifer. Because there are only a few years of reported use data for each, their full authorized appropriation is shown in Table 1. Permit Nos. 1903-3, 3915-3, and 5047-3 are municipal use permits that purchase their water from a rural water system (Drinking Water, 2021) and maintain their water right for emergency purposes. Therefore, they do not contribute to an annual total volume usage for the aquifer. The

total estimated volume of 2,801 ac-ft/yr will be included in the water balance for non-irrigation permits.

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

| Permit No.                                                                                                                         | Name                            | Appropriation limited by Annual Volume (ac-ft/yr) | Appropriation limited by Diversion Rate (cfs) | Annual Estimated Volume (ac-ft/yr) | Use <sup>b</sup> | Status <sup>b</sup> |
|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|---------------------------------------------------|-----------------------------------------------|------------------------------------|------------------|---------------------|
| 7130-3                                                                                                                             | SD WHEAT GROWERS                |                                                   | 0.022                                         | 10                                 | COM              | LC                  |
| 5220-3                                                                                                                             | SUNSET HUTTERIAN BRETHREN       |                                                   | 0.220                                         | 96                                 | DOM              |                     |
| 5881-3                                                                                                                             | ABE SOUTH DAKOTA LLC            |                                                   | 1.000                                         | 434                                | IND              |                     |
| 1903-3                                                                                                                             | CITY OF HECLA <sup>a</sup>      |                                                   | 0.300                                         | 0                                  | MUN              |                     |
| 3915-3                                                                                                                             | CITY OF BRITTON <sup>a</sup>    |                                                   | 1.120                                         | 0                                  | MUN              |                     |
| 4908-3                                                                                                                             | BROWN DAY MARSHALL RWS          |                                                   | 1.000                                         | 434                                | MUN              |                     |
| 5047-3                                                                                                                             | CITY OF HECLA <sup>a</sup>      |                                                   | 0.030                                         | 0                                  | MUN              |                     |
| 5740-3                                                                                                                             | WHITE TOWNSHIP                  |                                                   | 0.030                                         | 13                                 | COM              | PE                  |
| 6528-3                                                                                                                             | LARSON LIVESTOCK INC            |                                                   | 0.333                                         | 145                                | COM              |                     |
| 6657-3                                                                                                                             | WESTWOOD HUTTERIAN BRETHREN INC |                                                   | 0.670                                         | 291                                | DOM              |                     |
| 8392-3                                                                                                                             | SUNSET HUTTERIAN BRETHREN       | 78                                                |                                               | 78                                 | DOM              |                     |
| 6371-3                                                                                                                             | BROWN DAY MARSHALL RWS          | 1300                                              |                                               | 1300                               | RWS              |                     |
| <b>Total:</b>                                                                                                                      |                                 |                                                   |                                               | <b>2801</b>                        |                  |                     |
| a - these permits purchase water from a rural water system and maintain their water right for a standby use (Drinking Water, 2021) |                                 |                                                   |                                               |                                    |                  |                     |
| b - COM: Commercial; DOM: Domestic; IND: Industrial; MUN: Municipal; RWS: Rural Water Supply; LC: License; PE: Permit              |                                 |                                                   |                                               |                                    |                  |                     |

Well withdrawals from the Middle James: Columbia aquifer are also for irrigation use with actual pumpage from the aquifer reported to the DANR-Water Rights Program through annual irrigation questionnaires. Currently, there are 13 irrigation water rights/permits authorizing the irrigation of 3185 acres with a total appropriation of 8,450 acre-feet annually for irrigation (Water Rights, 2021a). Figure 2 shows the historical relation between annual permitted usage and actual pumpage reported usage from annual irrigation summaries. Historically, the average annual reported pumping is approximately 716 ac-ft/yr (Water Rights, 1979-2020).

There are two future use permits, No. 5940-3 and No. 5940A-3 both maintained by the Brown Day Marshall RWS, appropriating water from the Middle James: Columbia aquifer. Currently, no water is reserved under these permits because their authorized appropriation was placed to beneficial use by Water Permit No. 6371-3 (Water Rights, 2021a).

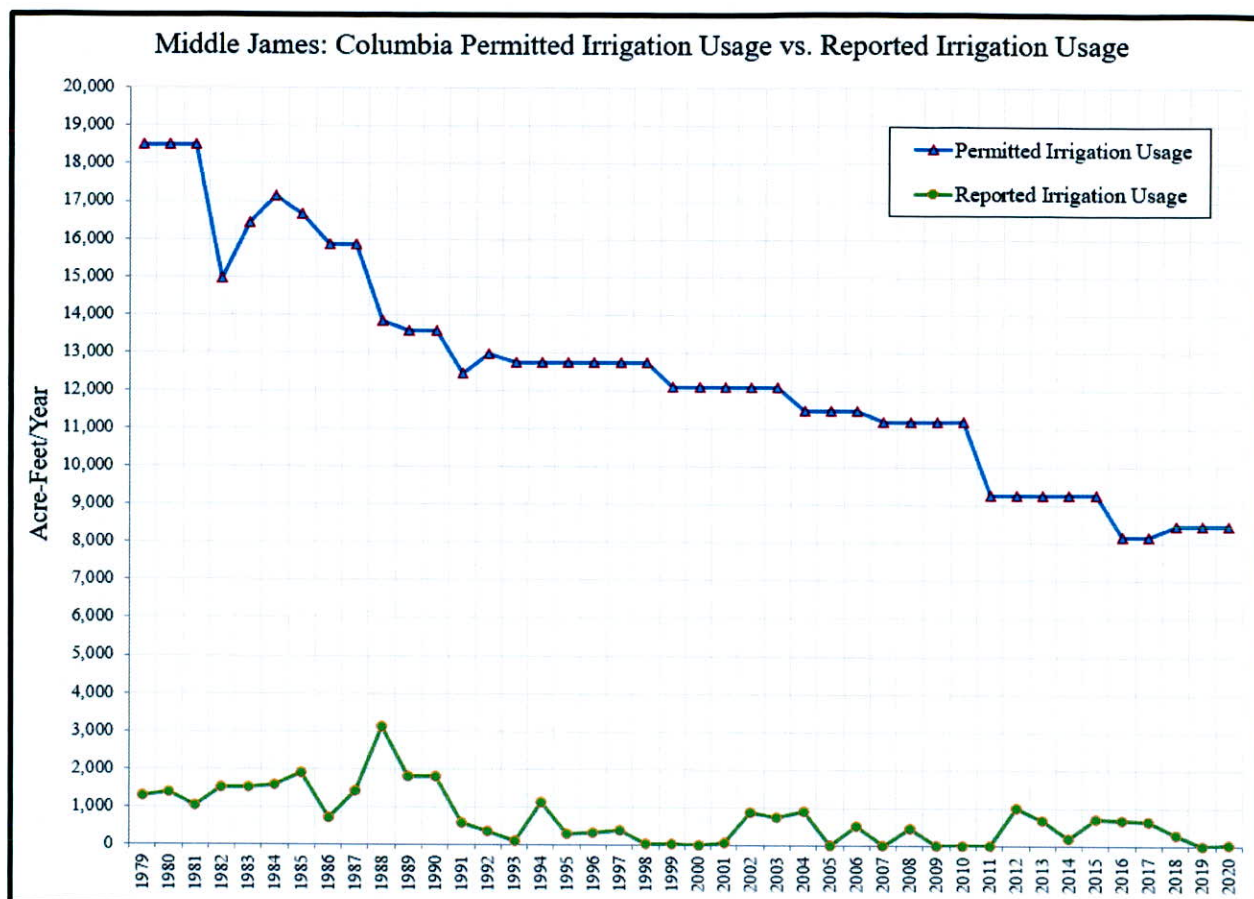


Figure 2. Permitted irrigation usage versus reported irrigation usage for the Middle James: Columbia aquifer (Water Rights, 2021a, Water Rights 1979-2020)

There is one pending application, Water Permit Application No. 8533-3 proposing to irrigate 600 acres of crops. For aquifers east of the Missouri River, an application rate of 1 ac-ft/acre (12 inches/acre) for center pivot crop irrigation is utilized to estimate use. Therefore, 600 ac-ft/yr will be included in the water balance for the pending applications.

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

#### Water Balance:

The Middle James: Columbia aquifer estimated average annual withdrawal rate is 4,117 ac-ft/yr (non-irrigation: 2,801; irrigation: 716; pending: 600). Average annual recharge is estimated between 3,950 and 15,800 ac-ft/yr. The expected use of 160 ac-ft/yr (irrigating 160 acres at the 12 in/ac application rate) by this application results in a total exceedance of 327 ac-ft/year above the low end of the recharge rate for this aquifer. To satisfy the pending application and this application, an annual recharge rate of 0.1564 in/yr would be required for the estimated recharge to exceed the

estimated withdrawals. Because this aquifer receives some recharge from the percolation of precipitation through overlying material (Koch and Bradford, 1976), Hedges et al. (1985) indicates that both the minimum and maximum recharge rates may be higher and more reflective of a non-buried aquifer. Because of this and that the required recharge rate of 0.1564 is only slightly higher than the admittedly conservative low value for the recharge range provided by Hedges et al. (1985), there is reasonable probability unappropriated water is available for this application. Assuming the recharge rate is greater than 0.15 in/yr is supported by the observation well data as described later in this report.

### **Observation Well Data**

Administrative Rule of South Dakota (ARSD) 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 monitors 25 observation wells completed into the Middle James: Columbia aquifer (Water Rights, 2021c). The hydrographs for the observation wells within approximately one mile of Water Permit Application No. 8527-3 are shown in Figures 2 through 4.

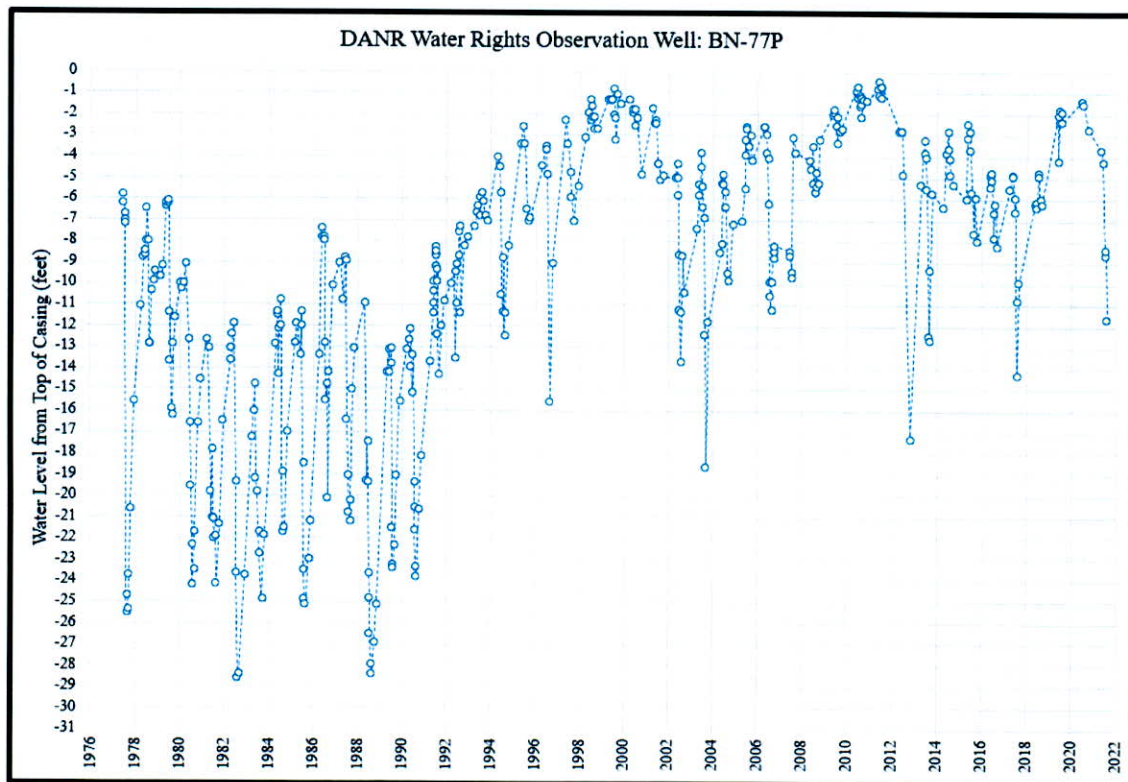


Figure 2. Hydrograph for observation well BN-77P located approximately 0.3 miles northwest of the proposed well location for Water Permit Application No. 8527-3 (Water Rights, 2021c).

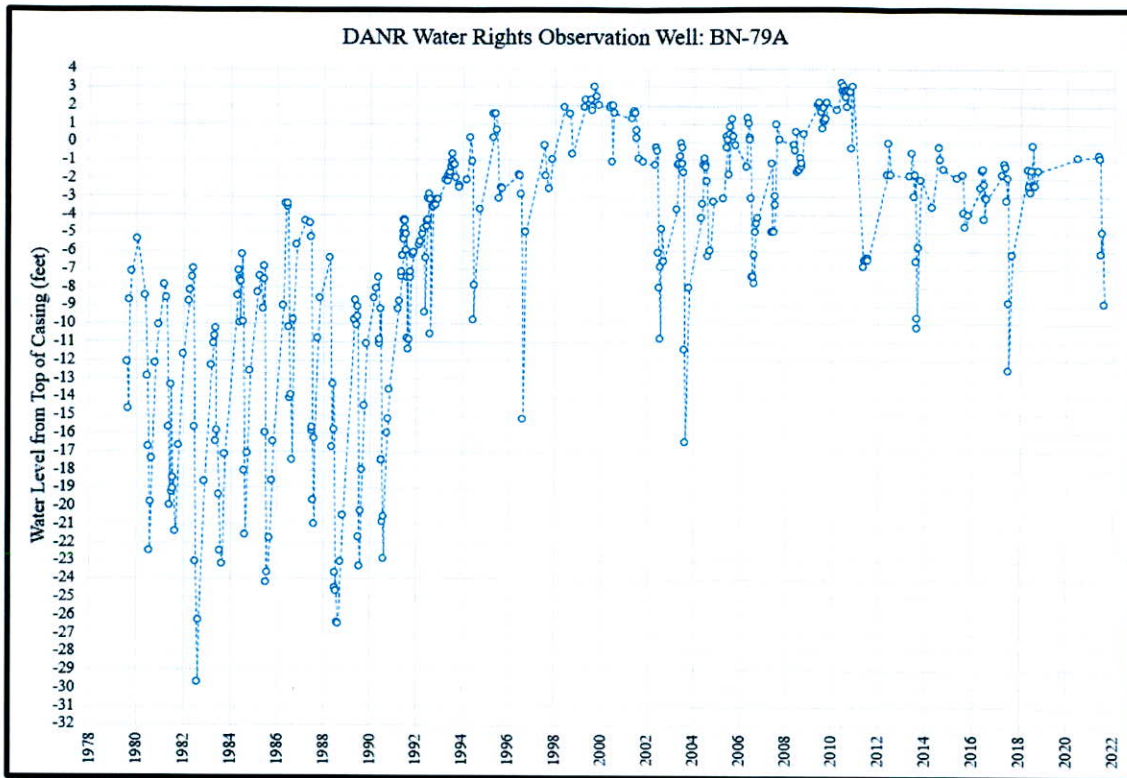


Figure 3. Hydrograph for observation well BN-79A located approximately 0.3 miles northeast of the proposed well location for Water Permit Application No. 8527-3 (Water Rights, 2021c).

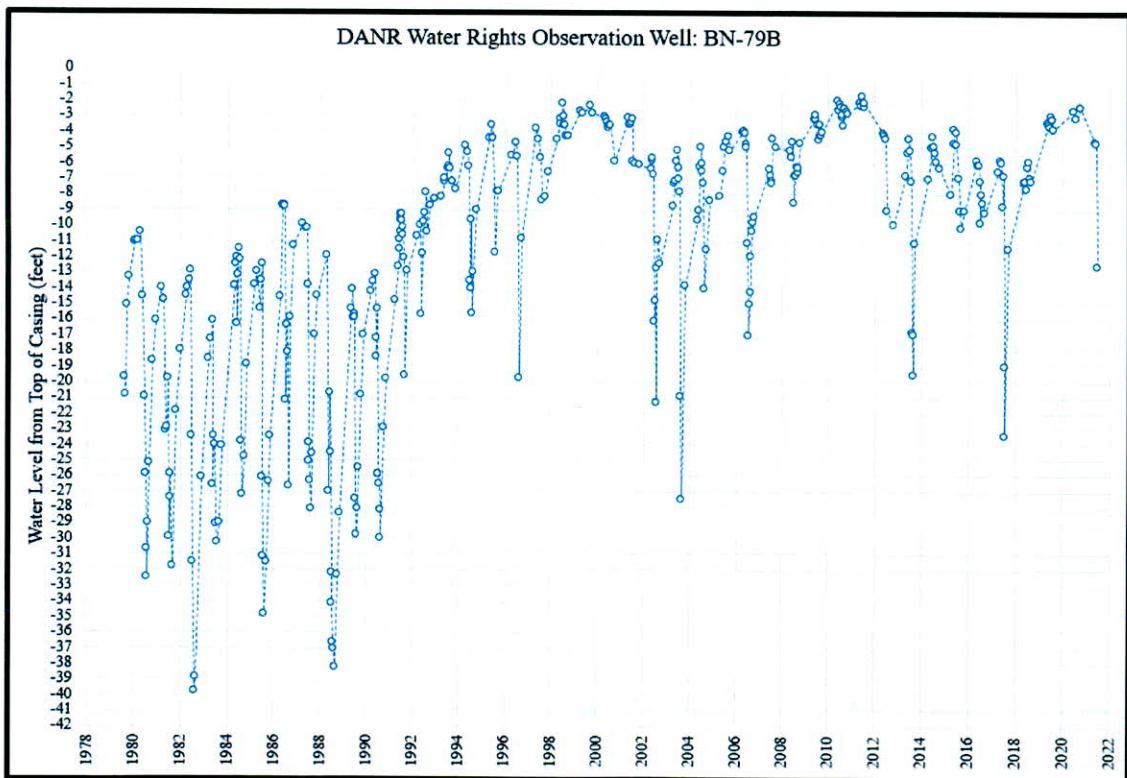


Figure 4. Hydrograph for observation well BN-79B located approximately 0.8 miles southwest of the proposed well location for Water Permit Application No. 8527-3 (Water Rights, 2021c).

The hydrographs shown in Figures 2 through 4 are representative of the hydrographs for other observation wells completed in the Middle James: Columbia aquifer. They 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. The hydrographs also show the water level of the aquifer is relatively stable to rising over the period of record, even after development of the aquifer. This implies that the aquifer is likely recharging at a rate higher than the minimum value presented in Hedges et al. (1985). Therefore, there is reasonable probability unappropriated water available for this proposed appropriation

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

Currently, there are a total of 27 water rights/permits appropriating or reserving water from the Middle James: Columbia aquifer (Water Rights, 2021a). The closest water rights/permit is located approximately 1.2 miles southeast of the proposed application. Table 3 lists the Middle James: Columbia aquifer water rights/permits shown in Figure 5 within approximately six miles of the proposed well location for Application No. 8527-3.

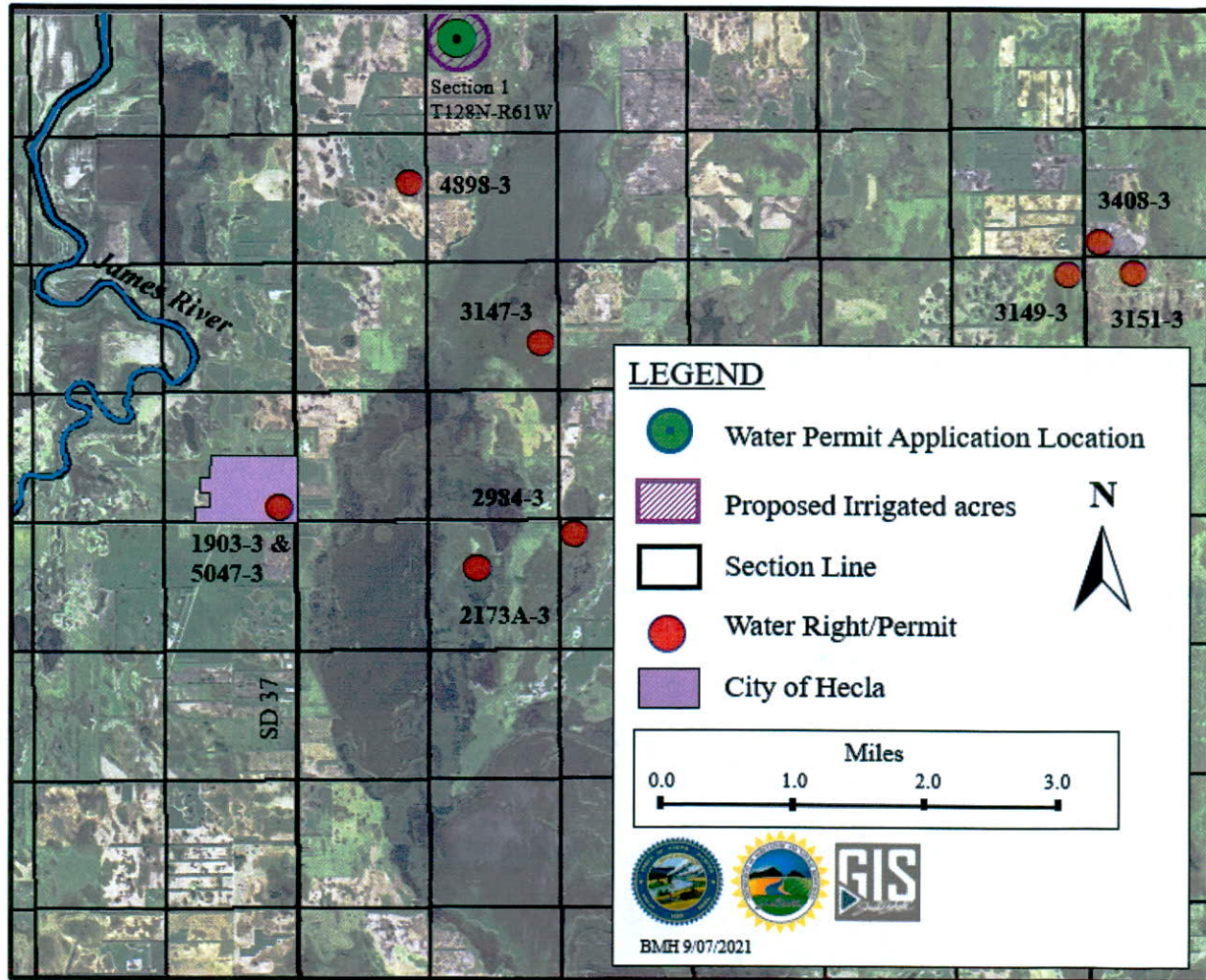


Figure 5. Existing South Dakota Middle James: Columbia aquifer water rights/permits in the vicinity of Water Permit Application No. 8527-3 (Water Rights 2021a).

Table 3. Water rights/permits shown in Figure 5 (Water Rights, 2021a).

| Permit Number | Name                                     | Rate (cfs) | Acres | Use <sup>a</sup> | Status <sup>a</sup> |
|---------------|------------------------------------------|------------|-------|------------------|---------------------|
| 2173A-3       | ANN BUSHBY IRREVOCABLE LAND TRUST        | 1.89       | 264   | IRR              | LC                  |
| 2984-3        | ROY BUSHBY IRREVOCABLE REAL ESTATE TRUST | 1.88       | 260   |                  |                     |
| 3147-3        | ROY BUSHBY IRREVOCABLE REAL ESTATE TRUST | 1.88       | 260   |                  |                     |
| 3149-3        | BUSHBY BROTHERS IRREVOCABLE FARM TRUST   | 1.88       | 260   |                  |                     |
| 3151-3        | HAROLD GERDES                            | 1.89       | 240   |                  |                     |
| 3408-3        | HAROLD TREEBY                            | 1.33       | 125   |                  |                     |
| 4898-3        | TREEBY RANCH INC                         | 6.66       | 734   | MUN              | LC                  |
| 5047-3        | CITY OF HECLA                            | 0.03       | 0     |                  |                     |
| 1903-3        | CITY OF HECLA                            | 0.30       | 0     |                  |                     |

a - IRR: Irrigation; MUN: Municipal; LC: Licensed 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 domestic well users, 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 Middle James: Columbia 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 and there is no history of well interference complaints in Brown County involving the Middle James: Columbia 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 (65 feet), the hydrographs of nearby observation wells not showing detrimental impact of pumping, and the lack of well interference complaints due to pumping, there is reasonable probability that the proposed diversion can be developed without unlawfully impairing existing appropriative or domestic water users with adequate wells.

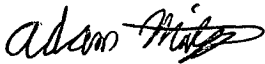
## CONCLUSIONS:

1. Water Permit Application No. 8527-3 proposes to appropriate water, for the irrigation of 160 acres, at a maximum instantaneous diversion rate of 1.78 cubic feet per second (cfs) from the Middle James: Columbia aquifer. The applicant intends to divert water from a single well, approximately 120 feet-deep, to be located in the NW ¼ Section 1 with the irrigated acres located in the NW ¼ Section 1; all in T128N-R61W. The site is located approximately four miles northeast of Hecla, SD.
2. Based on the hydrologic budget and observation well data, there is a reasonable probability unappropriated water is available for this proposed application.
3. 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:

Drinking Water. (2021). *Drinking Water System Information*. SD DANR-Drinking Water Program Online Database. Accessed August 20, 2021.  
<<http://DANR.sd.gov/des/dw/sysinfomap.aspx>>.

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*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., and 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.* 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, SD.

Water Rights. (2021c). *Observation Well Files.* SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.

Water Rights. (2021d). *Brown County Files.* SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.

## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Monday, September 13, 2021 12:42 PM  
**To:** dfinley@nvc.net  
**Subject:** Water Permit No. 8527-3  
**Attachments:** 1839.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>



# LOCALiQ

Aberdeen News  
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

## PROOF OF PUBLICATION

Water Rights Program  
David Finley  
Finley Family Llp  
10923 Stateline Rd  
Oakes ND 58474

RECEIVED

OCT - 4 2021

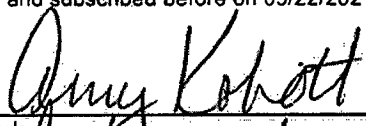
WATER RIGHTS  
PROGRAM

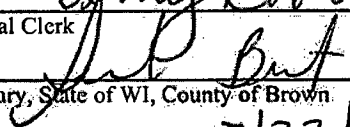
STATE OF SOUTH DAKOTA, COUNTY OF BROWN

The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers in the issue dated:

09/22/2021

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.  
Sworn to and subscribed before on 09/22/2021

  
\_\_\_\_\_  
Legal Clerk

  
\_\_\_\_\_  
Notary, State of WI, County of Brown

7/27/25

My commission expires

Publication Cost: \$47.28

Order No: 6287647

# of Copies:

Customer No: 609798

1

PO #:

**THIS IS NOT AN INVOICE!**

*Please do not use this form for payment remittance.*

SARAH BERTELSEN  
Notary Public  
State of Wisconsin

**NOTICE OF  
APPLICATION NO. 8527 to  
Appropriate Water**

Notice is given that Finley Family LLLP, c/o David Finley, 10923 Stateline Rd, Oakes ND 58474 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Middle James-Columbia Aquifer (approximately 120 feet deep) located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This site is located approximately 4 miles northeast of Hecla SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8527-3 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 October 4, 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 October 4, 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 \$47.28.  
Sept. 22, 2021 #6287647

## Schlaak, Karen

---

**From:** Schlaak, Karen  
**Sent:** Monday, September 13, 2021 11:52 AM  
**To:** Aberdeen News Legals (aan-legals@aberdeennews.com)  
**Subject:** 8527-3, Finley Family LLLP  
**Attachments:** 8527-3public.short\_final.docx; FORM8.FRM.doc

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

Finley Family LLLP, c/o David Finley, 10923 Stateline Rd, Oakes ND 58474 (605 216-0817) has been notified to contact you to authorize publication and arrange for payment.

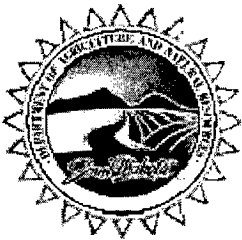
Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

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.**

September 13, 2021

Finley Family LLLP  
c/o David Finley  
10923 Stateline Rd  
Oakes ND 58474

Dear Mr. Finley:

Water Permit Application No. 8527-3 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 American News printed at Aberdeen SD (Ph # 605 225-4100). 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.

Instruction to Newspaper - Publish the Notice on September 22, 2021. The applicant is responsible for payment.

---

NOTICE OF APPLICATION NO. 8527 to Appropriate Water

Notice is given that Finley Family LLLP, c/o David Finley, 10923 Stateline Rd, Oakes ND 58474 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Middle James:Columbia Aquifer (approximately 120 feet deep) located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This site is located approximately 4 miles northeast of Hecla SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8527-3 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 October 4, 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 October 4, 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\_\_



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

## Petition

### Opposing Application for a Water Right Permit

Application No. 8327-3

Name of Applicant David Finley

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

**Note.** According to South Dakota Codified Law section 46-2A-4(5), all the following information is required.

**Describe the unique injury approval of this application will have upon you:**

We own a property near this area and have a surface well that we use as our water source. Rural water does not come to our property. This proposal could take our water out of service and easily drain our aquifer.

**List the reasons for your opposition to this application:**

1. Ruining our water source and aquifer
2. No research done to see if the area can handle this much irrigation

**Provide name and mailing address of the person filing this petition or the petitioner's legal counsel:**

First Name: Lyndse Last Name: Dellman

Mailing Address: 10048 404th Ave

City: Hecla State: SD Zip: 57446

**Note.** This petition needs to be submitted via mail or personally served upon Water Rights no later than the deadline date provided in the public notice. The mailing address is provided above and should be sent to "Attention - Water Rights Program." A copy of this petition also needs to be mailed to, or personally served upon, the applicant whose mailing address is provided in the public notice.

Application No. 8327-3

Petitioner's Name Lyndse Dellman

**Any additional description of the unique injury or reasons for opposing this application:**



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danr.sd.gov

## Petition

### Opposing Application for a Water Right Permit

Application No. 8527-3 Name of Applicant Finley LLLP Cakes D. Dak

The Application No. and applicant's name can be found in the public notice at <https://danr.sd.gov/public>.

**Note.** According to South Dakota Codified Law section 46-2A-4(5), all the following information is required.

**Describe the unique injury approval of this application will have upon you:**

Our Cocent is additional strain on aquifer!

**List the reasons for your opposition to this application:**

The irrigation water Finley puts on will be drained  
on our land and lots of the adjoining landowners. A impact  
study should be done to protect landowners in Heck Township  
Lansing Township. Detroit Township and Portage Township.

**Provide name and mailing address of the person filing this petition or the petitioner's legal counsel:**

First Name: Hal + Brad Last Name: Treeby  
Mailing Address: 10221 404th Ave  
City: Heck State: SD Zip: 57446

**Note.** This petition needs to be submitted via mail or personally served upon Water Rights no later than the deadline date provided in the public notice. The mailing address is provided above and should be sent to "Attention - Water Rights Program." A copy of this petition also needs to be mailed to, or personally served upon, the applicant whose mailing address is provided in the public notice.

Application No. \_\_\_\_\_

Petitioner's Name \_\_\_\_\_

**Any additional description of the unique injury or reasons for opposing this application:**



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

November 4, 2021

**NOTICE OF HEARING**

TO:           Finley Family LLLP                           Hal and Brad Treeby                           Lyndse Dellman  
              c/o David Finley                           10221 404<sup>th</sup> Ave                           10048 404<sup>th</sup> Ave  
              10923 Stateline Rd.                           Hecla SD 57446                           Hecla SD 57446  
              Oakes ND 58474

FROM:       Eric Gronlund, Chief Engineer       *Eric Gronlund*  
              SD DANR, Water Rights Program

SUBJECT:    Notice of Hearing on Water Permit Application No. 8527-3, Finley Family LLLP

Petitions have been filed in the matter of Water Permit Application No. 8527-3 in response to the Notice of Application published in the Aberdeen American News on September 22, 2021. This notice schedules a hearing on Application No. 8527-3 before the South Dakota Water Management Board.

Water Permit Application No. 8527-3 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Middle James Columbia aquifer (approximately 120 feet deep) located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This site is located approximately 4 miles northeast of Hecla SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8527-3 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 Water Management Board will conduct a hearing to consider Application No. 8527-3 at 10:30 AM (Central Time), on Wednesday, December 8, 2021, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda. Notice will be provided to parties if there is a change in the time or date of the hearing. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny the application after it reaches a conclusion based on the facts presented at the public hearing.

The December 8, 2021 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition opposing the application. A request for an automatic delay must be filed by November 15, 2021. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol Ave, Pierre SD 57501." If an automatic

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

The hearing is an adversary proceeding and any party has the right to be present at the hearing and may be represented by legal counsel. These and other due process rights will be forfeited if they are not exercised at the hearing. As a legal entity (Finley Family LLLP), the applicant is required to be represented by legal counsel in this administrative proceeding. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Contact Ron Duvall at the above Chief Engineer's address to request a copy of the staff report, recommendation, application or other information related to the application. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Enclosed is a copy of the report, recommendation, affidavit of publication, and the petitions filed in the matter of Water Permit Application No. 8527-3. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The information being provided to you is also being sent to the Board members in advance of the hearing. Notices, orders and other pleadings filed in this matter are posted on DANR's contested case page at <https://danr.sd.gov/public/ContestedCase.aspx>. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules." You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is November 15, 2021. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Ron Duvall, Water Rights Program at (605) 773-3352 or [ron.duvall@state.sd.us](mailto:ron.duvall@state.sd.us).

c: Ann Mines Bailey, Assistant Attorney General

CERTIFICATION

I hereby certify that on November 4, 2021, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated November 4, 2021, regarding the scheduling of a hearing in the matter of Water Permit Application No. 8527-3, including attachments as addressed below:

Finley Family LLLP  
c/o David Finley  
10923 Stateline Rd.  
Oakes ND 58474

Hal and Brad Treeby  
10221 404<sup>th</sup> Ave  
Hecla SD 57446

Lyndse Dellman  
10048 404<sup>th</sup> Ave  
Hecla SD 57446

Above also Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

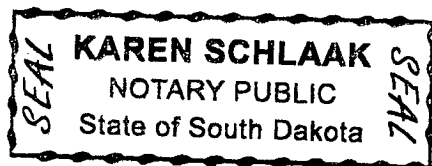


Vickie Maberry  
Water Rights Program, DANR

STATE OF SOUTH DAKOTA     )  
                                                  ) SS  
COUNTY OF HUGHES         )

Sworn to, before me, this 4<sup>th</sup> day of November, 2021.

  
Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025





**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

January 13, 2022

Finley Family LLLP  
c/o David Finley  
10923 Stateline Rd  
Oakes ND 58474

Dear Mr. Finley:

Enclosed is Water Permit No. 8527-3 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

8527-3

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location  $\frac{1}{4}$  NW  $\frac{1}{4}$  Sec 1 Twp 128 Rg 61  
 County Brown North

Please mark well location with an "X"

#45.932567

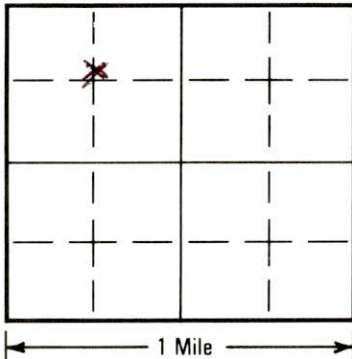
W

- 98.118591

E

Well Completion Date

10-20-21



## LOCATION:

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

## PROPOSED USE:

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

## METHOD OF DRILLING:

Forward Rotary

CASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe \_\_\_\_\_

| PIPEWEIGHT   | DIAMETER | FROM      | TO       | HOLE DIAMETER |
|--------------|----------|-----------|----------|---------------|
| SPR-21 LB/FT | 5 IN     | -1 1/2 FT | 65 FT    | 9 IN          |
| _____ LB/FT  | _____ IN | _____ FT  | _____ FT | _____ IN      |
| _____ LB/FT  | _____ IN | _____ FT  | _____ FT | _____ IN      |

## GROUTING DATA

| Grout Type | No. of Sacks | Grout Weight  | From      | To        |
|------------|--------------|---------------|-----------|-----------|
| _____      | _____        | _____ lb./gal | _____ ft. | _____ ft. |
| _____      | _____        | _____ lb./gal | _____ ft. | _____ ft. |

Describe grouting procedure \_\_\_\_\_

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 5 IN Length 20 FEETMaterial SPR-21Slot Size 50 Set From 65 Feet to 85 FeetOther information Will use Bigger screen for Production WellWAS 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

\_\_\_\_\_ NO, Why Not? \_\_\_\_\_

Laboratory sent to for water quality analysis \_\_\_\_\_

Well Owner: David Finley  
 Business Name: Finley Family LLLP  
 Address: 10923 State Line Rd.  
Oakes, ND 58474

## WELL LOG:

| FORMATION                                      | DEPTH     |           |
|------------------------------------------------|-----------|-----------|
|                                                | FROM      | TO        |
| <u>Top</u>                                     | <u>0</u>  | <u>2</u>  |
| <u>Fine Brown sand</u>                         | <u>2</u>  | <u>5</u>  |
| <u>Brown Clay</u>                              | <u>5</u>  | <u>20</u> |
| <u>fat gray clay</u>                           | <u>20</u> | <u>65</u> |
| <u>Fine - coarse gravel - some coarse sand</u> | <u>65</u> | <u>85</u> |
|                                                |           |           |
|                                                |           |           |

STATIC WATER LEVEL 2.6 Feet

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

GPM flow \_\_\_\_\_ through \_\_\_\_\_ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other \_\_\_\_\_

Reduced Flowrate \_\_\_\_\_ GPM

Can well be completely shut in? \_\_\_\_\_

## WELL TEST DATA:

☒ Pumped Describe: \_\_\_\_\_☐ Bailed \_\_\_\_\_☐ Other Specific Capacity - 3654 gpm

Pumping Level Below Land Surface

4.3 ft. After 4 Hrs. pumped 100 GPM

\_\_\_\_\_ ft. After \_\_\_\_\_ Hrs. pumped \_\_\_\_\_ GPM

If pump installed, pump rate \_\_\_\_\_ GPM

## REMARKS

Will Pull test well and Grout when done with it.

This well was drilled under license # 434

And this report is true and accurate.

Drilling firm M & W Drilling

Signature of License Representative:

Wayne Doty

Signature of Well Owner or Equitable Property Holder:

David FinleyDate: 10-25-21

RECEIVED

OCT 28 2021

WATER RIGHTS PROGRAM

8527-3

## SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

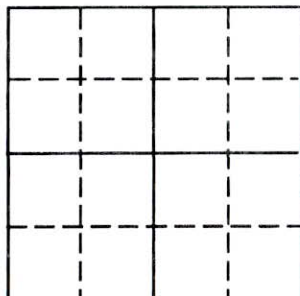
Location  $\frac{1}{4}$  NW  $\frac{1}{4}$  Sec 1 Twp 128 Rg 61

County

North

Brown-45.932567-98.118591

Please mark well location with an "X"



Well completion Date

09-19-22

Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

? ft. from \_\_\_\_\_ (identify source)

## PROPOSED USE:

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

## METHOD OF DRILLING:

Forward Rotary

## CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

| PIPEWEIGHT    | DIAMETER     | FROM             | TO           | HOLE DIAMETER    |
|---------------|--------------|------------------|--------------|------------------|
| <u>508-24</u> | <u>12</u> IN | <u>-1 1/2</u> FT | <u>65</u> FT | <u>17 7/8</u> IN |
| LB/FT         | IN           | FT               | FT           | IN               |
| LB/FT         | IN           | FT               | FT           | IN               |

## GROUTING DATA:

| Grout Type     | No. of Sacks | Grout Weight    | From        | To           |
|----------------|--------------|-----------------|-------------|--------------|
| <u>WYO-BBN</u> | <u>13</u>    | <u>0</u> Lb/gal | <u>0</u> Ft | <u>60</u> Ft |
|                |              | Lb/gal          | Ft          | Ft           |

Describe grouting procedure Tremie to 60 ft  
Grout till perforated  
1 1/2 tremie

## SCREEN:

☐ Perforated pipe ☐ Manufactured
Diameter 12 Inches Length 20 FeetMaterial Stainless SteelSlot Size 80 Set From 65 Feet to 85 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
☐ No, Why Not?

Lab sample sent to for water quality analysis

Well Owner:

David Finley

Business Name:

Finley Family LLLP

Address1:

10923 State Line Rd.

Address2:

City, State, Zip:

Oakes, ND 58474

## WELL LOG:

DEPTH

FORMATION

FROM

TO

|                         |           |           |
|-------------------------|-----------|-----------|
| <u>Top</u>              | <u>0</u>  | <u>2</u>  |
| <u>Fine Brown sand</u>  | <u>2</u>  | <u>5</u>  |
| <u>Brown clay</u>       | <u>5</u>  | <u>20</u> |
| <u>fat gray clay</u>    | <u>20</u> | <u>65</u> |
| <u>Course gray sand</u> | <u>65</u> | <u>85</u> |
| <u>+ fine gravel</u>    |           |           |

## STATIC WATER LEVEL

2.6

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:

Centrifugal Pump☐ Bailed☐ Other

Pumping Level Below Land Surface

4.1

Ft. After

2

Hrs. pumped

100

GPM

Ft. After

Hrs. pumped

GPM

If pump installed, pump rate:

GPM

## REMARKS

pulled 5" test well and grouted!

This well was drilled under license #

434

And this report is true and accurate.

Drilling firm:

M & W Drilling

Signature of License Representative:

Wayne Doty

Signature of Well Owner or Equitable Property Holder:

David Finley

Date:

12-27-22

Please return White Copy to DENR Water Rights

523 E. Capitol Ave., Pierre SD 57501

RECEIVED  
DEC 30 2022OFFICE OF  
WATER



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

November 13, 2023

8527-3

Finley Family LLLP  
c/o David Finley  
10923 Stateline Rd  
Oakes ND 58474

Dear Mr. Finley:

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

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

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

Sincerely,

Amanda Dewell  
Water Rights Program  
(605) 773-3352  
email: Amanda.Dewell@state.sd.us

NOV 13 2023

NOTICE OF COMPLETION OF WORKS AND  
APPLICATION OF WATER TO BENEFICIAL USEOFFICE OF  
WATERDate Nov-13-23TO: Water Rights Program, DANR  
523 E. Capitol  
Pierre, SD 57501-3181

FROM:

David Finley Finley Family LLLP  
(name)10923 Stateline Rd  
(address)Dakota ND 58474  
(city, state, zip)701-992-2823  
(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. 85273 states that the water use system is to be constructed by9-15-22  
(date), and water is to be put to beneficial use by 5-1-23  
(date)

The water use system was completed on

9-15-22  
(date)

Applying the water to beneficial use was completed on

5-1-23  
(date)

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

David Finley  
(signature)