

WATER PERMIT NO. 8534-3

Name of Applicant: Terry L Frick

Address: 30697 SW Jim River Rd, Yankton SD 57078

Phone: 605 661-9085

Amount of Water Claimed: no add'l

Total Acres: 23 acres

Source of Water Supply: groundwater (one existing well)

Water to be used for: irrigation

County: Yankton

Type of Waste Disposal System:

Location: 2 miles north of Yankton

PRIORITY

Date Received: 7-29-21

Application/License Fee: \$ 500

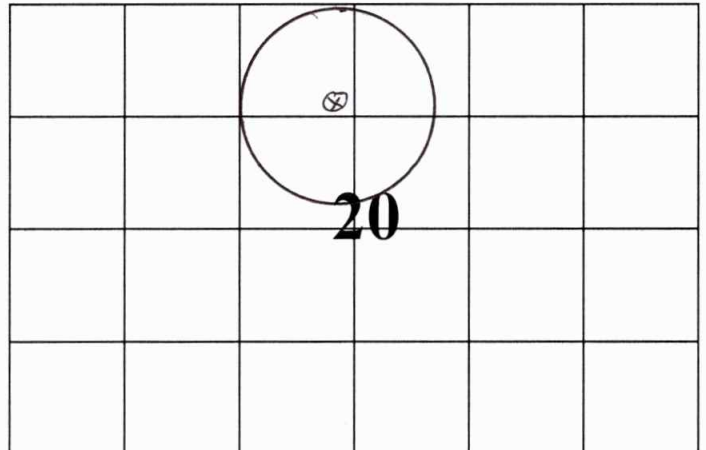
Corrected Application Received:

Period of Annual Use: April 1 – September 30

Remarks: Additional acres to Water Permit No. 7567-3

Diversion Point: NE 1/4 NW 1/4 Section 20-T94N-
R55W

Land to be Irrigated: W 1/2 NE 1/4 Sec 20-T94N-
R55W



Depth of Well: 240 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Keith DeJong

Reviewed and the Number Assigned on: 7-29-21

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

RECEIVED

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8534-3</u> (office use only) Hydrologic Unit <u>10160011</u>	JUL 29 2021 WATER RIGHTS PROGRAM
	Basin <u>James River</u>	
	Newspaper <u>Press & Dakotan</u>	

PAID
JUL 29 2021
Ck# 1020

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.)

Additional acres to Water Permit No. 7567-3

1. Name to Appear on Irrigation Permit Terry L Frick

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

Mailing Address 30697 SW Jim River Rd Yankton ☒ SD ☒ 57078
(Address) (City) (State) (Zip Code)

Phone ~~605 665 5006~~ Mobile 605 661-9058 Email mlfrick@me.com

2. Amount of water claimed no add'l *CFS or **GPM ***AF Total Acreage 23
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply groundwater - existing well authorized by No. 7567-3

4. Location of point of diversion NE 1/4 NW 1/4 Sec 20-T94N-R55W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Yankton ☒

5. County or counties where water will be used Yankton

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

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

Land Description	Acres	Land Description	Acres
W 1/2 NE 1/4 Sec 20-T94N-R55W	23		

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

X I, Terry Frick, 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.

**SOUTH DAKOTA
WATER PERMIT NO. 8534-3**

Date of first receipt of application July 29, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8534-3 to Terry L Frick, 30697 SW Jim River Rd, Yankton SD 57078 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. 8534-3 authorizes irrigation of an additional 23 acres. Water Permit No. 7567-3 authorizes 1.78 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (240 feet deep) located in the NE 1/4 NW 1/4 Section 20 for irrigation of 83 acres located in the W 1/2 NE 1/4, E 1/2 NW 1/4 Section 20; all in T94N-R55W. An investigation of the permit found the system irrigating an additional 23 acres located within the area described above. This permit and Water Permit No. 7567-3 will authorize a total of 1.60 cfs for irrigation of 106 acres to reflect the system as developed. This site is located approximately 2 miles north of Yankton SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – September 30.
3. The date from which applicant may claim right is July 29, 2021.
4. The date of approval of Permit No. 8534-3 is September 27, 2021.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under Water Permit Nos 7567-3 and 8534-3 is 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit Nos. 7567-3 and 8534-3, combined, authorize a maximum diversion rate of 1.60 cfs for the irrigation of 106 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
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

OCT 25 2021

date



STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8534-3

(1) Terry L Frick, 30697 SW Jim River Rd, Yankton SD 57078 made Application No. 8534-3, July 29, 2021 for a water permit to irrigate additional acres to what is currently authorized under Water Permit No. 7567-3 from groundwater (one well) Lower James Missouri Aquifer, Yankton County, South Dakota for irrigation purposes. Permit No. 8534-3, with a priority date of July 29, 2021 was approved September 27, 2021 and issued to the applicant for diversion of water with construction of the described water supply and the application to beneficial use completed.

Water Permit No. 7567-3, with a priority date of December 14, 2012 authorized 1.78 cubic feet of water per second for irrigation of 83 acres. The applicable portions of No. 7567-3 are incorporated into this water license.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.60 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 2,760'W and 1,110'S of the NW corner of Section 20-T94N-R55W (NE 1/4 NW 1/4)
Latitude 42.94933 Longitude -97.36809

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

Section 20-T94N-R55W	NE 1/4 NW 1/4	35 acres
	NW 1/4 NE 1/4	25 acres
	SE 1/4 NW 1/4	27 acres
	SW 1/4 NE 1/4	<u>19 acres</u>
	Total	106 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Terry L Frick, 30697 SW Jim River Rd, Yankton SD 57078 the holder and/or owner of Incorporated Water Right No. 8534-3 is issued a license to appropriate water, the right to use 1.60 cubic feet of water per second from groundwater (one well) Lower James Missouri Aquifer with priority dates of December 14, 2012 (83 acres) and July 29, 2021 (23 acres) from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota State Law, any limitations or conditions listed in Incorporated Water Right No. 8534-3 and subject to the following qualifications:

- The well approved under Water Permit Nos 7567-3 and 8534-3 is 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.
- Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit Nos. 7567-3 and 8534-3, combined, authorize a maximum diversion rate of 1.60 cfs for the irrigation of 106 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
- This water right is approved subject to the irrigation water use questionnaire being submitted each year.

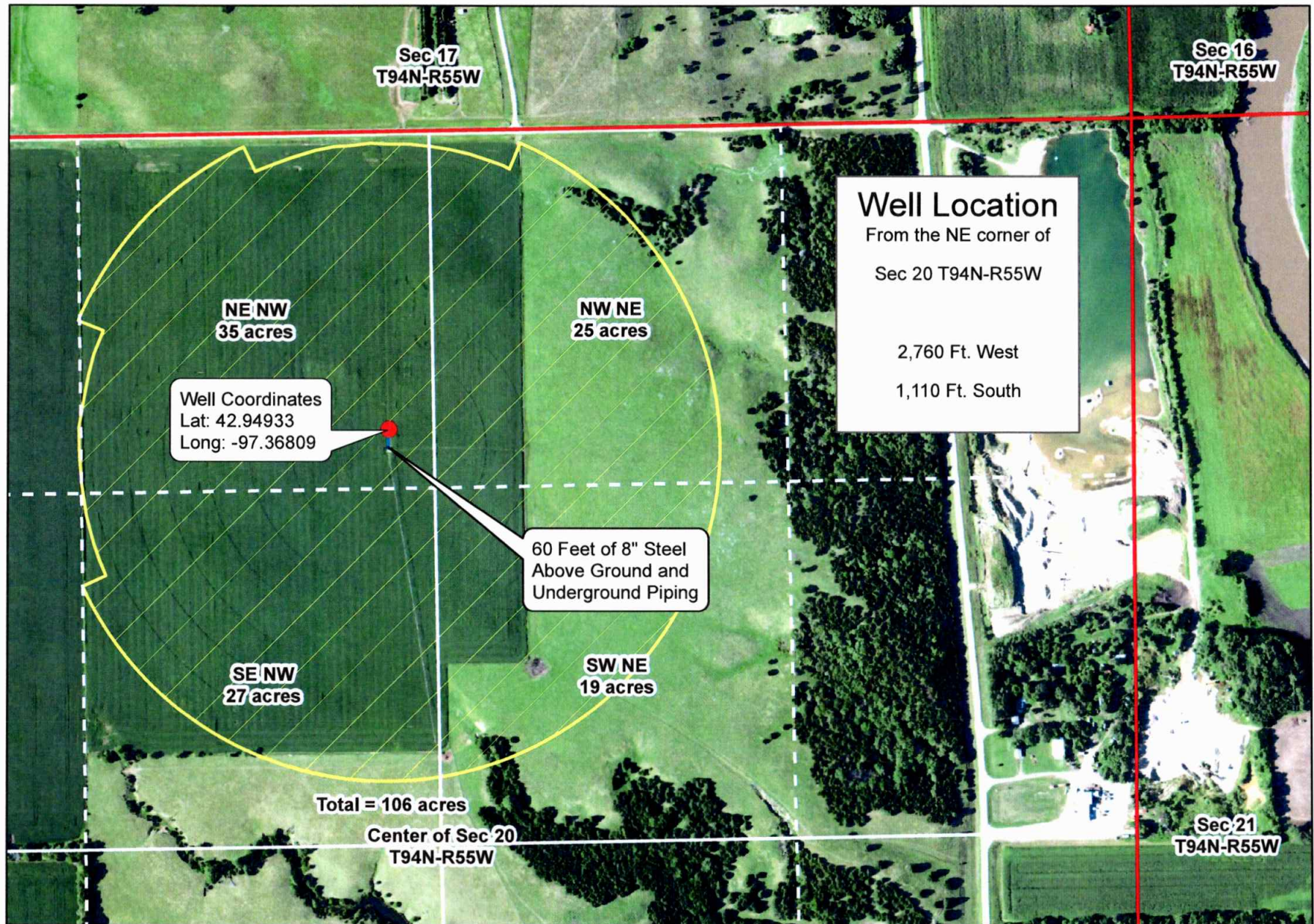
Eric Grönlund
Eric Grönlund, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 25 2021

date



Water Right No. 7567-3 & 8534-3



0 165 330 660 990 1,320
Feet
SCALE



Keith DeJong
Keith DeJong, PE
Staff Engineer
July 20, 2021

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 7567-3**

I have this day, July 20, 2021, made a thorough examination of the water use system constructed by Terry L. Frick, 30697 SW Jim River Rd, Yankton, SD 57078, holder of Permit No. 7567-3, bearing the priority of December 14, 2012 authorizing the diversion of 1.78 cu. ft. per second of the waters of groundwater (Lower James Missouri Aquifer) for the irrigation of 83 acres located in Yankton County.

Inspection contact: Terry Frick and Justin Frick

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Hammond Wetmore Drilling
- 2) No. of Wells: 1
- 3) Depth(s): 240 feet
- 4) Well log is available: Yes

Casing:

- 1) Diameter: 16 inches
- 2) Length: 160 feet
- 3) Type: Plastic

Screen:

- 1) Diameter: 16 inches
- 2) Length: 60 feet
- 3) Type: PVC
- 4) Static water level: 151 feet

Pump:

- 1) Make: Grundfos
- 2) Model: 625s600-3
- 3) Capacity: 720 GPM

Motor:

- 1) Make: Wilo
- 2) Model No.: Unknown
- 3) Horsepower rating: 60 hp

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

- 1) Type: Steel
- 2) Size: 8 inches
- 3) Length: 60 feet

C. Works used to apply water to beneficial use:

Center Pivot:

- 1) Make: Zimmatic
- 2) Overall length: 1,132 feet
- 3) Number of towers: 7
- 4) End gun: Yes

5) Capacity: 720 GPM

Chemigation Equipment:

1) Does chemigate: No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: No
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Yes
- 3) Exceptions to compliance are: Irrigating more acres than the permit allows.

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows:
The well is 2,760 feet west and 1,110 feet south of the northeast corner of Section 20-T94N-R55W (Latitude 42.94933, Longitude -97.36809 – NE1/4 of the NW1/4).
2. The works are capable of diverting and conveying to the place of use 1.60 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows: All in Section 20-T94N-R55W:

NE1/4NW1/4 35 acres

NW1/4NE1/4 25 acres

SE1/4NW1/4 27 acres

SW1/4NE1/4 19 acres

comprising a total of 106 acres of land and the license should be issued for 1.60 cfs.

3. All structures, wells, and lands on map: Yes

F. Comments or other permit(s) associated with the project: To irrigate the entire grain field, the pivot must complete a full circle. Thus, the Frick's end up irrigating some of their pastureland too. Because of this, the total acreage being irrigated is more than what was permitted.



Keith DeJong
Water Rights Inspector
DANR, Water Rights Program

Date report completed: July 20, 2021

NOTE: Terry Frick obtained Water Permit No. 8534-3 authorizing the additional 23 acres not covered under Water Permit No. 7567-3. License will be issued under No. 8534-3.

Genny



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 21, 2021

Terry Frick
30697 SW Jim River Rd
Yankton SD 57078

Dear Mr. Frick:

Enclosed is an *Application for a Permit to Appropriate Water* for irrigation. This partially completed form is being sent based on the inspection of your water permit conducted by Keith DeJong, staff engineer.

Water Permit No. 7567-3 authorizes 1.78 cubic feet of water per second from one well to irrigate 83 acres located in the W 1/2 NE 1/4, E 1/2 NW 1/4 Section 20-T94N-R55W. The inspection found the center pivot making a complete rotation and irrigating 106 acres. Since you are irrigating more than the permitted 83 acres, a water permit will be required for the additional 23 acres.

Please review the enclosed form, make any necessary corrections, list an email address if available, and sign at the bottom of the form. Enclosed is a map prepared by Mr. DeJong of the irrigation system as developed.

Return the signed application and the application fee of \$500.00. The license fee of \$200.00 submitted for Permit No. 7567-3 will be applied towards this application. You should be aware that you will be responsible for payment of the public notice once a staff report and the Chief Engineer's recommendation are complete. We will be in contact with you at that time.

If you have any questions, please contact me.

Sincerely,

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

enclosures

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date July 29, 2021

RECEIVED OF Terry L. Frick 30697 SW Jim River Rd. Yankton SD 57078

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

Fee for Application for Permit No. 7567-3 <u>8534-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</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. _____	\$ _____
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>500.00</u>

By *Eric Gronlund*
Chief Engineer

vm



**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. 8534-3, Terry L. Frick**

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. 8534-3, Terry L Frick, 30697 SW Jim River Rd, Yankton SD 57078.

The Chief Engineer is recommending APPROVAL of Application No. 8534-3 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 Nos 7567-3 and 8534-3 is 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit Nos. 7567-3 and 8534-3, combined, authorize a maximum diversion rate of 1.60 cfs for the irrigation of 106 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
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 8, 2021

Report to the Chief Engineer
On Water Permit Application No. 8534-3

Terry L. Frick

August 25, 2021

Water Permit Application No. 8534-3 proposes to irrigate 23 acres located in the W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 20-T94N-R55W from the same well authorized by Water Permit No. 7567-3. These 23 acres that are not currently permitted were determined as being irrigated during a licensing inspection of Water Permit No. 7567-3. No additional diversion rate authority was requested by the applicant; however, the diversion rate requested is greater than the statutory limit.

Water Permit No. 7567-3, held by Terry L. Frick, authorizes a maximum instantaneous diversion rate of 1.78 cubic feet of water per second (cfs) from one existing well (240 feet deep) completed into the Lower James Missouri aquifer located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20-T94N-R55W for the irrigation of 83 acres located in the W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 20-T94N-R55W. During a licensing inspection for Water Permit No. 7567-3, it was determined the system was capable of diverting water at a rate of 1.60 cfs.

If approved, Water Permit Application No. 8534-3 and Water Permit No. 7567-3 would collectively authorize a maximum instantaneous diversion rate of 1.60 cfs for the irrigation of 106 acres. The site is located in Yankton County approximately two miles north of Yankton, SD.

AQUIFER: Lower James Missouri (LJM)

HYDROGEOLOGY:

The Lower James Missouri aquifer contains deposits of glacial outwash composed of coarse sands and gravels (Bugliosi, 1986). The Lower James Missouri aquifer is underlain by till, the Niobrara Formation, the Carlile Shale, and the Sioux Quartzite (Lindgren and Hansen, 1990). The Lower James Missouri aquifer underlies approximately 191,700 acres and contains approximately 2,795,400 million acre-feet (ac-ft) of recoverable water in storage within Clay, Hutchinson, and Yankton Counties in South Dakota (Hedges et. al, 1982). The Lower James Missouri aquifer can be under unconfined conditions; however, the aquifer can be buried by as much as 355 ft of till (Lindgren and Hansen, 1990). The Lower James Missouri aquifer is hydraulically connected to the Lower Vermillion-Missouri, Lower James Missouri: Scotland, Choteau: Tyndall, Dakota, Niobrara, Missouri: Elk Point aquifers and other bedrock aquifers, glacial aquifers, and surface water features (Bugliosi, 1986; Lindgren and Hansen, 1990; Stonesifer, 2014). The saturated thickness of the Lower James Missouri aquifer can range from approximately 50 to 150 ft (Bugliosi, 1986). The flow of groundwater in the Lower James Missouri aquifer is commonly to the south toward the James and Missouri Rivers (Bugliosi, 1986; Hedges et. al, 1982; Lindgren and Hansen, 1990). In Yankton County, the Lower James Missouri aquifer underlies approximately 92,500 acres and contains approximately 2,081,250

million ac-ft of recoverable water in storage (Hedges et al., 1982). The areal extent of the Lower James Missouri aquifer along with the location of the existing well is shown in Figure 1.

A well completion report was submitted with the application for Water Permit No. 7567-3. The report lists “topsoil” from 0 to 2 feet below the land surface, “silty brown clay” from 2 to 22 feet, “glacial till” from 22 to 98 feet, “gravel with some glacial till” from 98 to 105 feet, “glacial till” from 105 to 127 feet, “pebbly sandy gravel” 127 to 137 feet, “sandy gavel” from 137 to 154 feet, “pebbly small gravel” from 154 to 178 feet, and “small to medium gravel with sand” from 178 to 240 feet (Water Rights, 2021d). The measured static water level in the well was 151 feet below the land surface at the time of well completion (March 2013). The Lower James Missouri aquifer is buried-unconfined at the location of the existing well based on the submitted well completion report, water levels, and lithologic logs on file for nearby observation wells (SDGS, 2021; Water Rights, 2021b and 2021d).

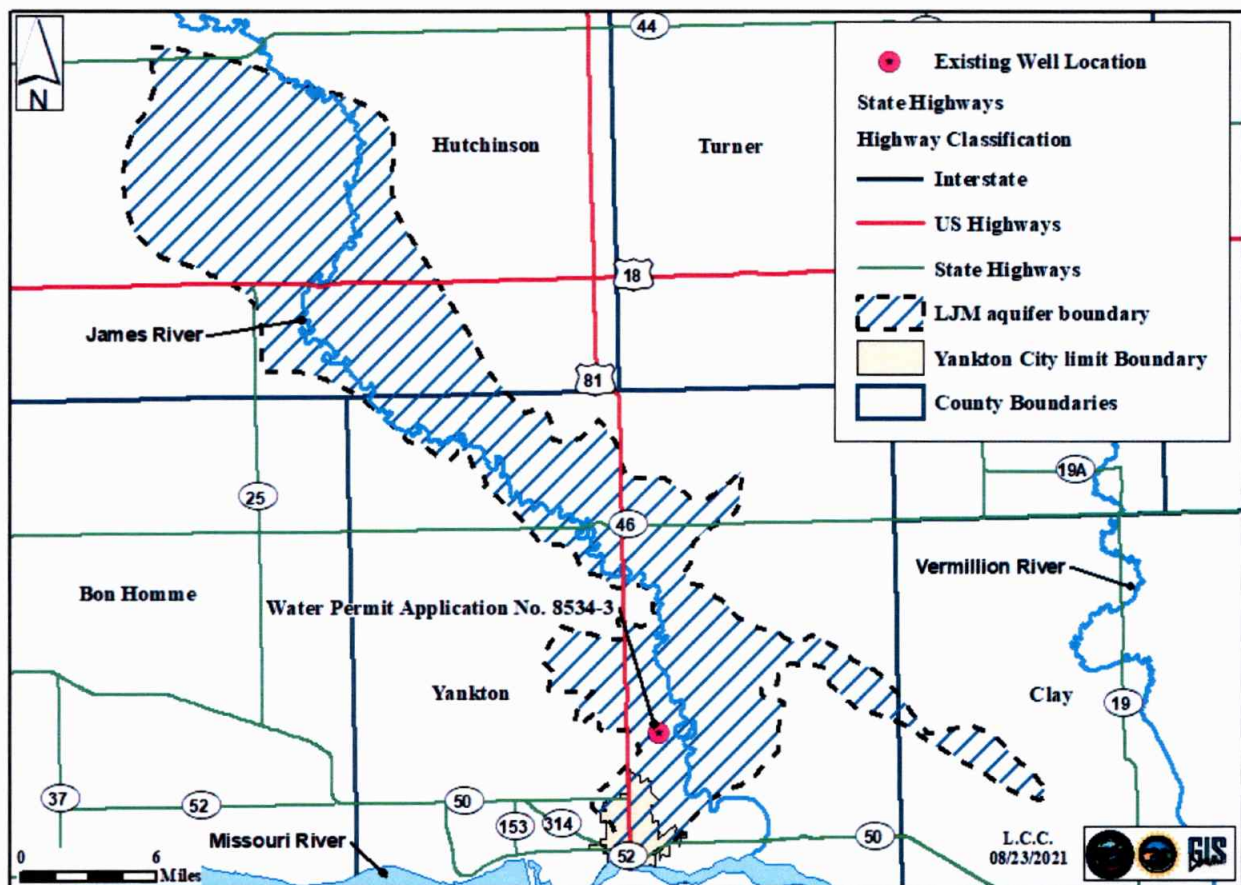


Figure 1: Map of the approximate areal extent of the Lower James Missouri aquifer including the existing well location of Water Permit Application No. 8534-3 (Hedges et al., 1982; Water Rights, 2021b and 2021c).

South Dakota Codified Law (SDCL) 46-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of 1 cfs for every 70 acres, or “the equivalent thereof.” The statute does provide that: “The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of

irrigation, any time constraints on diversion of water, or the type of soil so requires....” Water Permit No. 7567-3 and Water Permit Application No. 8534-3, if approved will divert water at a maximum rate of 1.60 cfs for the irrigation of 106 acres or at a rate of 1.06 cfs per 70 acres. No reason was provided by the applicant for the request. It is probable that this is based on a simple system requirement of 1.60 cfs to operate properly and is only slightly in excess of the statutory limit. That reason has been historically accepted as a valid reason for exceeding the statutory limitation by the Water Rights Program and the Water Management Board.

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, 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 as defined by SDCL 46-2-9 and 46-2-11.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Lower James Missouri aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8534-3 proposes to appropriate water from the Lower James Missouri aquifer for irrigation. 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. However, an application may be approved for a water distribution system 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.” The Lower James Missouri aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al, 2010), 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 Lower James Missouri aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Lower James Missouri aquifer in Yankton County is primarily through seepage from streams and rivers and by infiltration of precipitation where the aquifer is at or near land surface (Bugliosi, 1986; Lindgren and Hansen, 1990). Other sources of recharge to the Lower James Missouri aquifer are from the Sioux Quartzite, Choteau, Dakota, and Niobrara aquifers in places where it is hydraulically connected to the Lower James Missouri aquifer (Lindgren and Hansen, 1990).

The recharge rate to the Lower James Missouri aquifer was estimated by utilizing observation well data and flow-net analysis (Hedges et al., 1985). Utilizing flow-net analysis, the annual recharge rate to the Lower James Missouri aquifer was estimated to be approximately 1.5 in/yr (Hedges et al., 1985). The areal extent of the Lower James Missouri aquifer was estimated to be approximately 191,700 acres in total (Hedges et al., 1982). Therefore, the estimated recharge to the Lower James Missouri aquifer is approximately 23,963 acre-feet/year (ac-ft/yr) using flow net analysis. Observation well data was utilized to estimate the annual recharge rate to the unconfined portions of the Lower James Missouri aquifer. The annual recharge rate to the Lower James Missouri aquifer that was estimated from the observation well data was approximately 3.9 in/yr. The areal extent of the unconfined portions of the Lower James Missouri aquifer was estimated to be approximately 82,200 acres (Stonesifer, 2014). Therefore, the estimated recharge to the unconfined portions of the Lower James Missouri aquifer is approximately 26,715 ac-ft/yr. The areal extent that was estimated for the unconfined portions of the Lower James Missouri aquifer included sections of the Plum Creek and Choteau: East aquifers that were identified by Hedges et al. (1982). This implies that the estimated areal extent of the unconfined portions of the Lower James Missouri aquifer is estimated to be greater than the actual extent. The recharge estimate should be considered a likely maximum recharge rate for the Lower James Missouri aquifer. Thus, the estimated average annual recharge to the Lower James Missouri aquifer ranges between approximately 23,963 to 26,715 ac-ft/yr.

Discharge

Discharge from the Lower James Missouri aquifer is primarily through leakage to the James River, evapotranspiration where the aquifer is at or near land surface, groundwater outflow to nearby aquifers, and well withdrawals (Bugliosi, 1986; Lindgren and Hansen, 1990). Currently, there are 133 water rights/permits authorized to appropriate water from the Lower James Missouri aquifer, plus one pending application - Water Permit Application No. 8524-3 is estimated to use 72 ac-ft/yr on average from the Lower James Missouri aquifer for irrigation purposes (Water Rights, 2021c). Of the 133 water rights/permits, 125 are for irrigation purposes and eight are for commercial (COM), industrial (IND), or domestic (DOM) use (Water Rights, 2021c). There are no future use permits reserving water from the Lower James Missouri aquifer currently (Water Rights, 2021c). The non-irrigation water rights/permits authorized to withdraw from the Lower James Missouri aquifer are identified in Table 1 and reported annual irrigation withdrawals from the Lower James Missouri aquifer are shown in Table 2.

Table 1: Estimated annual water use for non-irrigation water rights/permits authorized to appropriate water within the Lower James Missouri aquifer (Water Rights, 2021c).

Permit No.	Name	County	Status	Use	Div. Rate (cfs)	Estimated Volume (ac-ft/yr)
840-3	Stuelpnagels Inc	YA	LC	COM	1.11	482.2
1288-3	National Food Stores Inc	YA	LC	IND	0.16	69.5
4556-3	Concrete Materials	YA	LC	COM	0.44	191.1
6264-3	Yankton Land & Cattle Co	YA	LC	COM, LCO	0.56	243.3
6320-3	Wolf Creek Httrn Brth	HT	LC	COM, DOM	0.08	34.8
6925-3	Tschetter Colony	HT	LC	COM, LCO	0.07	30.4
7827-3	Maxwell Colony	HT	PE	COM, LCO	0.33	143.4
8412-3	Concrete Materials Company	YA	LC	IND	7.80	400*
YA: Yankton; HT: Hutchinson; LC: Licensed Water Permit; PE: Water Permit					TOTAL	1,595
COM: Commercial; IND: Industrial; LCO: Livestock Confinement Operation; DOM: Domestic						
*Limited by annual volume						

The estimated average annual withdrawals for the eight non-irrigation water rights/permits authorized to appropriate water from the Lower James Missouri aquifer can be determined by their limiting 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. Overall, the estimated average annual withdrawal rate for the Lower James Missouri aquifer for non-irrigation water rights/permits is approximately 1,595 ac-ft/yr (Table 1) (Water Rights, 2021c).

Table 2: Reported historic irrigation use from the Lower James Missouri aquifer (Water Rights, 2021a).

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)	Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	25	706	2002	53	4,061.52
1980	26	1,372	2003	53	2,843.15
1981	32	1,954	2004	47	2,886.65
1982	28	1,427.2	2005	48	2,866.63
1983	34	1,426	2006	50	3,630.92
1984	34	1,546	2007	56	3,425.91
1985	33	1,724	2008	79	4,494.03
1986	37	1,179.6	2009	84	1,463.27
1987	37	1,236	2010	85	665.37
1988	38	3,104.3	2011	89	4,147.47
1989	38	2,441.8	2012	93	13,058.45
1990	42	3,345.1	2013	118	7,855.75
1991	49	2,882	2014	125	3,347.27
1992	52	1,279	2015	127	4,822.86
1993	53	256.4	2016	126	5,747.01
1994	45	1,918.2	2017	126	5,727.12
1995	41	1,483.3	2018	126	1,035.87
1996	49	2,103	2019	127	328.01
1997	50	2,320	2020	121	3,864.53
1998	53	2,787	Min	25	256
1999	50	2,102.2	Max	53	3,751
2000	51	3,751.1	Avg	41	1,969
2001	53	2,940.1	Avg (2008-2020)	115	4,351

The average annual withdrawal rate within the Lower James Missouri aquifer for irrigation water rights/permits that have reported over the period of record is approximately 1,969 ac-ft/yr (Table 2) (Water Rights, 2021a). Since the number of irrigation water rights/permits authorized to appropriate water from the Lower James Missouri aquifer 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 2008 to 2020 was estimated to represent the current level of irrigation development in the Lower James Missouri aquifer. The estimated average annual withdrawal rate for irrigation appropriations from the Lower James Missouri aquifer from 2008 to 2020 is approximately 4,351 ac-ft/yr (Table 2) (Water Rights, 2021a).

There are domestic wells completed into the Lower James Missouri aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2021d). Withdrawals from domestic wells on average annual basis are not considered to be a significant portion of the hydrologic budget as a result of their relatively low diversion rates. Additionally, with the development of rural water systems in areas where the Lower James Missouri 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 Lower James Missouri aquifer.

Hydrologic Budget Summary

The estimated average annual withdrawals from the Lower James Missouri aquifer totals approximately 6,041 ac-ft/yr (irrigation: 4,351 ac-ft/yr; non-irrigation: 1,595 ac-ft/yr; pending applications: 72 ac-ft/yr; Water Permit Application No. 8534-3 (if approved) (assuming an application rate of 1 ft/ac): 23 ac-ft/yr). The estimated average annual recharge to the Lower James Missouri at minimum is 23,963 ac-ft/yr and 26,715 ac-ft/yr at maximum. Overall, the estimated average annual recharge rate to the Lower James Missouri aquifer is greater than the estimated average annual withdrawal rate from the aquifer. Therefore, there is a 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 33 observation wells completed into the Lower James Missouri aquifer (Water Rights, 2021b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. There are three observation wells within approximately two miles of the existing well. The closest observation well to the existing well is observation well YA-800 (approximately 0.8 miles northeast). The hydrographs for these three observation wells are displayed in Figures 2 through 4 (Water Rights, 2021b).

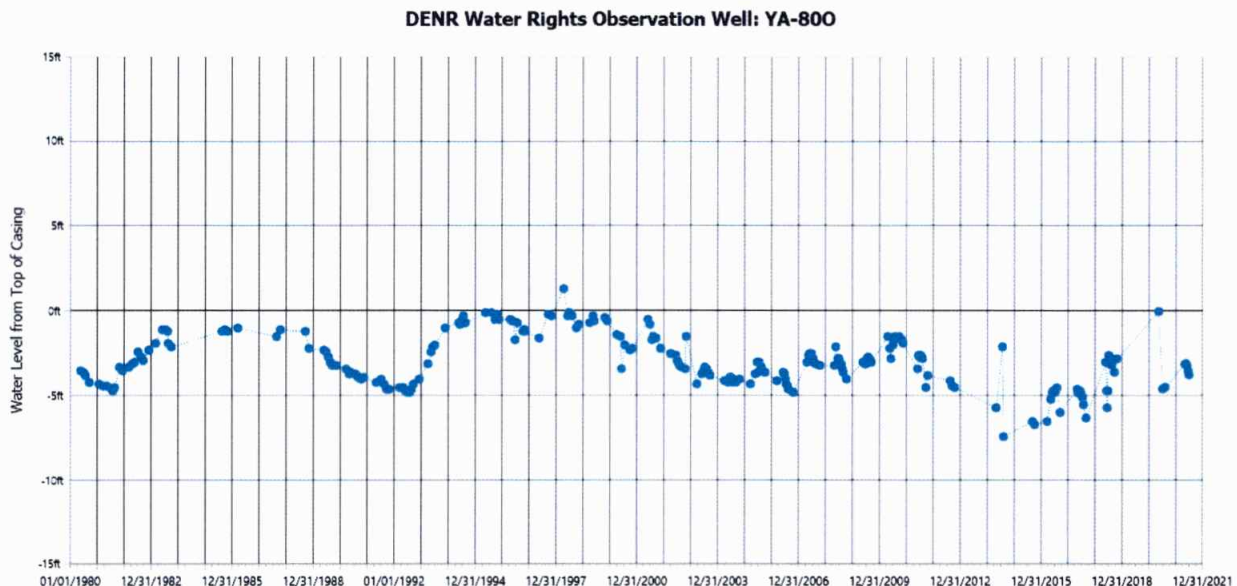


Figure 2: Hydrograph of the Lower James Missouri aquifer observation well YA-800, located approximately 0.8 miles northeast of the existing well (Water Rights, 2021b).

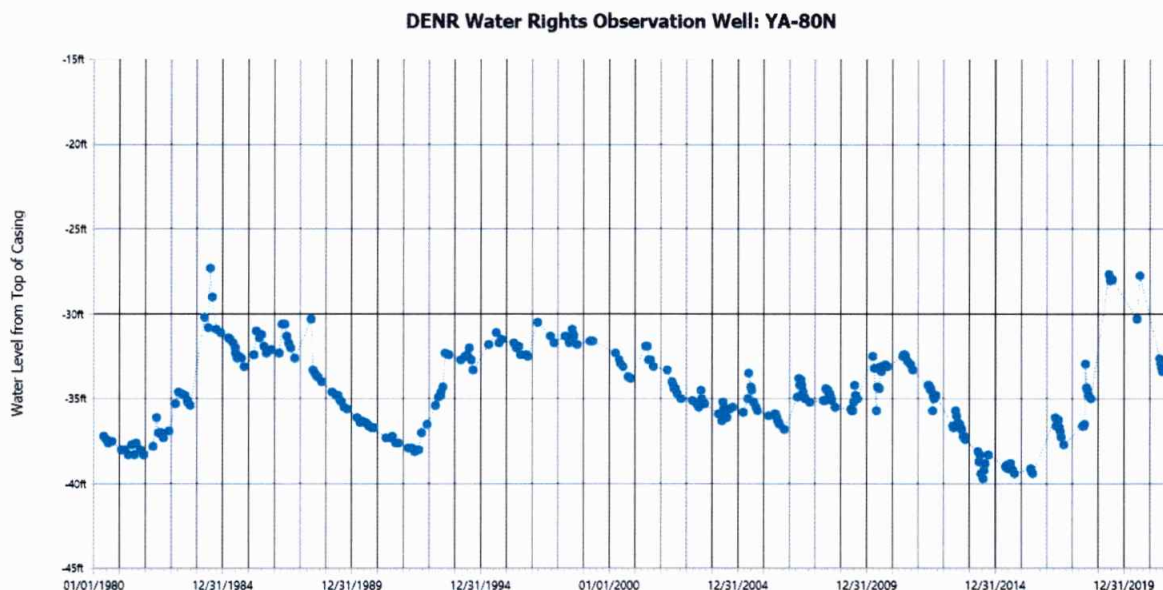


Figure 3: Hydrograph of the Lower James Missouri aquifer observation well YA-80N, located approximately 1.9 miles northwest of the existing well (Water Rights, 2021b).

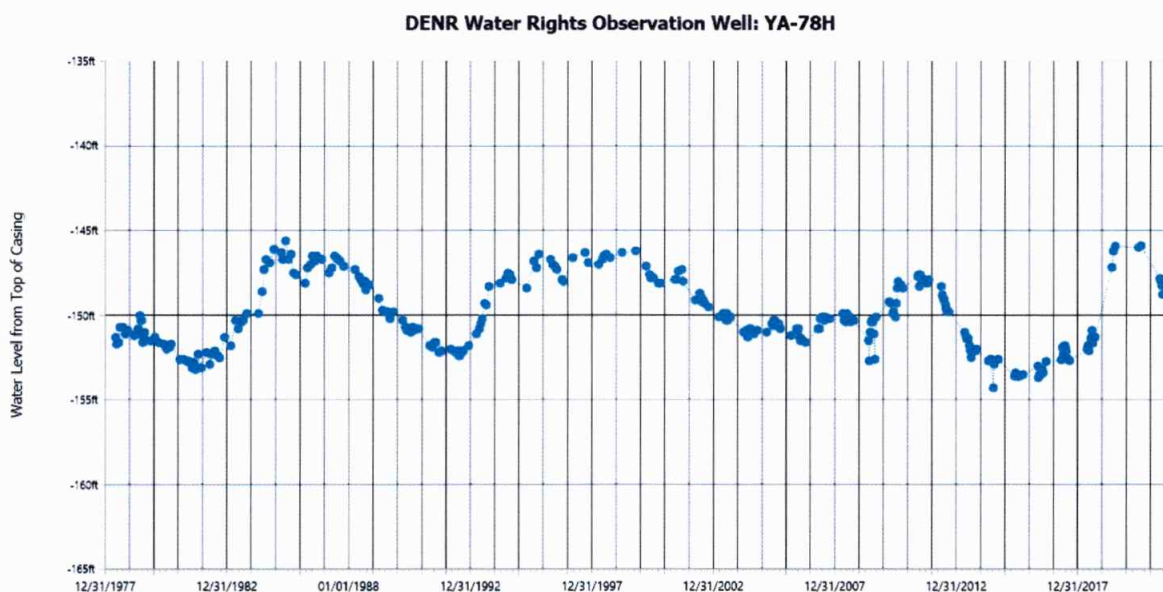


Figure 4: Hydrograph of the Lower James Missouri aquifer observation well YA-78H, located approximately 1.4 miles west of the existing well (Water Rights, 2021b).

The hydrographs for the nearby observation wells display stable water levels over their respective periods of record. There are other observation wells in the Lower James Missouri aquifer that present a slight decreasing trend in their static water levels. This decreasing trend has been attributed to separate events occurring in the northern and southern portions of the Lower James Missouri aquifer. In the northern portion of the aquifer, the decreasing trend was attributed to the development of the aquifer for appropriative use over the previous decade (Mathiowetz,

2021). However, this slightly decreasing trend is not indicative of the aquifer being over appropriated. It is instead an indication that the artesian head in that area is reaching a new equilibrium with the increased withdrawals in that area. This decreasing trend can be seen in certain observation wells such as HT-81D and HT-83D. In the southern portion of the aquifer, the decreasing trend was attributed to the increased entrenchment on the Missouri River below Gavin's Point dam (Stonesifer, 2014). The Lower James Missouri and Missouri: Elk Point aquifers, and the Missouri River are all in hydraulic connection (Bugliosi, 1986; Lindgren and Hansen, 1990; Stonesifer, 2014). The lowering of the water level in the southern Lower James Missouri aquifer is because of the entrenchment below Gavin's Point dam and thus the subsequent lowering of the Missouri River, and then the James River as a result. This decrease in water level can be seen on the hydrographs for wells completed into the Lower James Missouri and Missouri: Elk Point aquifers (Water Rights, 2021b).

Although water levels have slightly decreased within the Lower James Missouri aquifer, the hydrographs for the three nearest observation wells to the existing well demonstrate that the aquifer responds well to climatic conditions of water levels, rising during wet periods and declining during dry periods. The water levels indicate that any drawdowns from pumping are temporary because the water levels typically recover to pre-pumping levels after the irrigation season. This recovery of the aquifer indicates that the amount of recharge and natural discharge from the Lower James Missouri aquifer governs the long-term fluctuations within the aquifer instead of pumping. By recognizing that both recharge to and natural discharge from an aquifer can be captured from pumping, the observation well hydrographs document unappropriated water is available for this proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 133 water rights/permits authorized to appropriate water from the Lower James Missouri aquifer, plus one pending application -Water Permit Application No. 8524-3 (Water Rights, 2021c). There are eleven water rights/permits authorized to appropriate water from the Lower James Missouri aquifer within two miles of the existing well (Water Rights, 2021c). The eleven water rights/permits are shown in Figure 5 and identified in Table 3. The nearest water right/permit (not held by the applicant) to the existing well completed into the Lower James Missouri aquifer is Water Right No. 7544-3 located approximately 0.6 miles southwest of the existing well.

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Lower James Missouri aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.4 miles northeast of the existing well (Water Rights, 2021d). There could potentially be other domestic wells completed into the Lower James Missouri aquifer near the existing well that are not on file with the DANR-Water Rights Program.

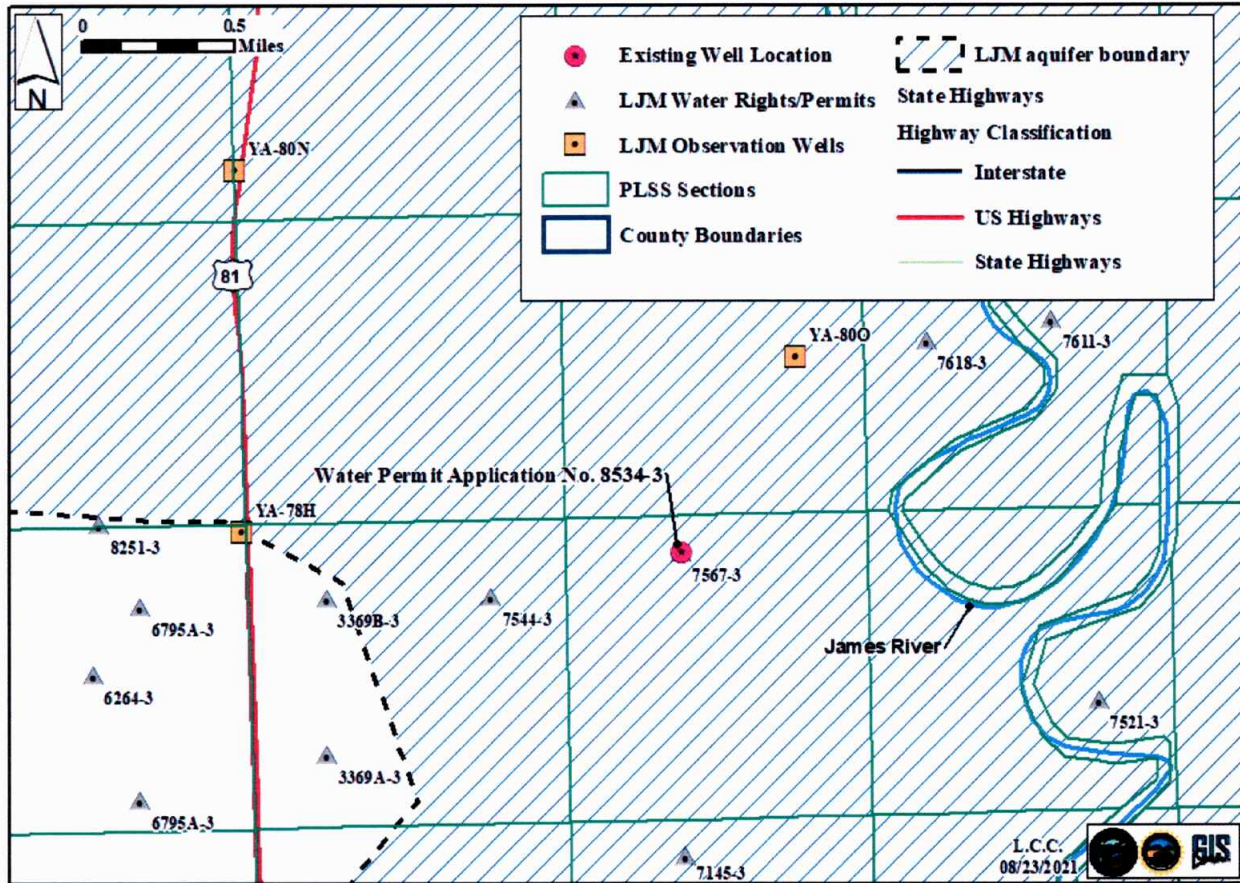


Figure 5: Map of the site location of Water Right Permit Application No. 8534-3, nearby observation wells, and nearby water rights/permits completed into the Lower James Missouri aquifer (Water Rights, 2021b and 2021c).

Table 3: Water rights/permits from the Lower James Missouri aquifer within approximately two miles of the existing well (Water Rights, 2021c).

Permit No.	Name	Use	Status	Rate (cfs)	Acres
3369A-3	Delores Nelson	IRR	LC	1.44	129
3369B-3	Morris Nelson	IRR	LC	1.67	140
6264-3	Yankton Land & Cattle Co	COM	LC	0.56	N/A
6795A-3	Yankton Land & Cattle Co	IRR, COM	PE	1.64	115
7145-3	Delos Warriner	IRR	PE	1.78	140
7521-3	John & Jacki Smith	IRR	PE	1.44	101
7544-3	Nelson Family Partnership	IRR	LC	1.78	205
7567-3	Terry Frick	IRR	PE	1.78	83
7611-3	Dan Hacecky	IRR	PE	1.89	77
7618-3	James C & Jason Kokes	IRR	LC	1.67	101
8251-3	Willard Schmidt	IRR	LC	1.56	236
COM: Commercial; IRR: Irrigation					
LC: Licensed Water Right; PE: Permitted Water Right.					

The Lower James Missouri aquifer is generally under confined conditions but can be unconfined in portions of the aquifer (Lindgren and Hansen, 1990). The existing well is expected to be under buried-unconfined conditions based on the submitted well completion report, water levels, and lithologic logs on file for the nearby observation wells (SDGS, 2021; Water Rights, 2020b and 2021d). Observation well data (see Figures 2 through 4) documents minimal drawdown from withdrawals of existing wells near the existing well. Therefore, pumping from the existing well is not expected to significantly lower water levels within the aquifer. Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer. The exact drawdown behavior cannot be known without an aquifer performance test. In Yankton County, there have been no complaints submitted to the DANR-Water Rights Program regarding potential well interference for wells completed into the Lower James Missouri aquifer (Water Rights, 2021e).

Within approximately two miles of the existing well for this application, the Lower James Missouri aquifer has saturated aquifer thickness ranging from approximately 45 to 70 feet, with the depth to the top of aquifer materials ranging from approximately 5 to 160 feet below land surface, and static water levels at well completion varying from approximately 10 to 170 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; which is required for the well to be considered adequate under ARSD 74:02:04:20(6).

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 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 Lower James Missouri aquifer. Additionally, the Lower James Missouri well that the applicant proposes to use is an existing well that has been in place and is presumed to have been in use for some time without any reported well interference complaints on file with the DANR -Water Rights Program (Water Rights, 2021d and 2021e). Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 8534-3 proposes to irrigate 23 additional acres from the same well authorized by Water Permit No. 7567-3. No additional diversion rate authority was requested by the applicant; however, the diversion rate requested is slightly greater than the statutory limit.
2. Water Permit No. 7567-3, held by Terry L. Frick, authorized a maximum instantaneous diversion rate of 1.78 cfs from one well (240 feet deep) completed into the Lower James Missouri aquifer for the irrigation of 83 acres.
3. If approved, Water Permit Application No. 8534-3 and Water Permit No. 7567-3 would collectively authorize a maximum instantaneous diversion rate of 1.60 cfs for the irrigation of 106 acres. The site is located in Yankton County approximately two miles north of Yankton, SD.
4. There is a reasonable probability that unappropriated water is available from the Lower James Missouri aquifer for this proposed appropriation based on the hydrological budget and observation well data.
5. 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

- Bugliosi, E. F. 1986. Water Resources of Yankton County, South Dakota. Water resources Investigations Report 84-4241. US. Geological Survey, Huron, South Dakota.
- 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.
- Lindgren, R. J. and Hansen, D. S. 1985. Water Resources of Hutchinson and Turner Counties, South Dakota. Water Resources Investigations Report 90-4093. U.S. Geological Survey. Huron, South Dakota.
- Mathiowetz, A., 2021. Report to the Chief Engineer on the Water Application No. 8483-3, Frank Kralicek Jr. and Frank T. Kralicek. SD DANR-Water Rights Program, Joe Foss Building, Pierre, South Dakota.
- Stonesifer, J. R. 2014. Report to the Chief Engineer Water Permit Application No. 7077-3, Dahlerup Family Trust. April 25, 2014. SD DANR-Water Rights Program. Pierre, South Dakota.
- SDGS, 2021. South Dakota Geological Survey Lithologic Logs Database. Accessed August 4, 2021. <http://cf.sddanr.net/lithdb/>.
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- Water Rights, 2021a. "1979-2019 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: Thursday, September 9, 2021 11:18 AM
To: mdfrick@me.com
Subject: Water Permit Application No. 8534-3
Attachments: 1827.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>



AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

SEP 20 2021

WATER RIGHTS
PROGRAM

TERRY L FRICK
30697 SW JIM RIVER RD
YANKTON SD 57078

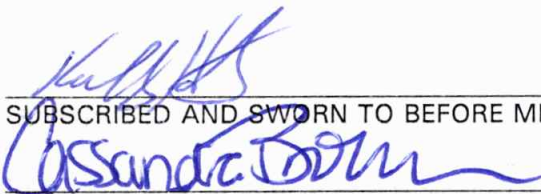
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
9+16 NOTICE OF APPLICATIO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 16th DAY OF September, 2021
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$38.85 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 09/16/2021

FILED ON: 09/16/2021


SUBSCRIBED AND SWORN TO BEFORE ME THIS 16th DAY OF September, 2021

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



NOTICE OF APPLICATION NO. 8534-3 to Appropriate Water

RECEIVED

SEP 20 2021

WATER RIGHTS
PROGRAM

Notice is given that Terry L Frick, 30697 SW Jim River Rd, Yankton SD 57078 has filed an application for a water permit to irrigate an additional 23 acres. Water Permit No. 7567-3 authorizes 1.78 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (240 feet deep) located in the NE 1/4 NW 1/4 Section 20 for irrigation of 83 acres located in the W 1/2 NE 1/4, E 1/2 NW 1/4 Section 20; all in T94N-R55W. An investigation of the permit found the system irrigating an additional 23 acres located within the area described above. This application, if approved, and Water Permit No. 7567-3 will authorize a total of 1.60 cfs for irrigation of 106 acres to reflect the system as developed. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 2 miles north of Yankton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8534-3 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 Engineers 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 27, 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 27, 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 \$38.85.

Schlaak, Karen

From: Schlaak, Karen
Sent: Thursday, September 9, 2021 10:36 AM
To: Sam Berres
Subject: 8534-3, Terry L Frick
Attachments: 8534-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on September 16, 2021 in the Press and Dakotan.

Terry L Frick, 30697 SW Jim River Rd, Yankton SD 57078 (605 661-9058) 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 9, 2021

Terry L Frick
30697 SW Jim River Rd
Yankton SD 57078

Dear Mr. Frick:

Water Permit Application No. 8534-3 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 Press & Dakotan printed at Yankton SD (Ph # 605 665-7811). 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
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 16, 2021. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8534-3 to Appropriate Water

Notice is given that Terry L Frick, 30697 SW Jim River Rd, Yankton SD 57078 has filed an application for a water permit to irrigate an additional 23 acres. Water Permit No. 7567-3 authorizes 1.78 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (240 feet deep) located in the NE 1/4 NW 1/4 Section 20 for irrigation of 83 acres located in the W 1/2 NE 1/4, E 1/2 NW 1/4 Section 20; all in T94N-R55W. An investigation of the permit found the system irrigating an additional 23 acres located within the area described above. This application, if approved, and Water Permit No. 7567-3 will authorize a total of 1.60 cfs for irrigation of 106 acres to reflect the system as developed. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 2 miles north of Yankton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8534-3 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 27, 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 27, 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_



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

OCT 25 2021

Terry L Frick
30697 SW Jim River Rd
Yankton SD 57078

Dear Mr. Frick:

Enclosed are Water Permit and License No. 8534-3. The license is the final water right document completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if in the future the owner drills a replacement well and has no plan to use the old existing well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

Note: The applicable portions of No. 7567-3 are incorporated into Water License No. 8534-3.

enclosures