

WATER PERMIT NO. 8543-3

Name of Applicant: **Kokes Farms LLC**

Address: **42273 SD Hwy 50, Tabor SD 57063**

Phone: **605 660-9462**

Amount of Water Claimed: **no add'l**

Total Acres: **52**

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

Water to be used for: **irrigation**

County: **Yankton**

Type of Waste Disposal System:

Location: **3 miles north of Yankton**

PRIORITY

Date Received: **8-16-21**

Application/License Fee: **\$ 700**

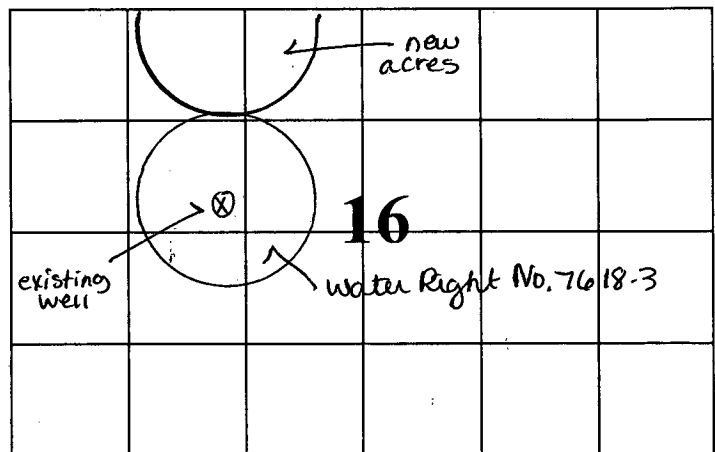
Corrected Application Received: **8-25-21**

Period of Annual Use: **July 1 – August 31**

Remarks: **Additional acres utilizing well authorized by Permit No. 7618-3**

Diversion Point: **SW 1/4 NW 1/4 Sec 16-T94N-
R55W**

Land to be Irrigated: **N 1/2 NW 1/4 Sec 16-T94N-
R55W**



Depth of Well: **140 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial**

Prepared by:

Reviewed and the Number Assigned on: **8-25-21**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8543-3

Date of first receipt of application August 19, 2021.

Date of return to applicant for corrections, amendments or changes August 19, 2021.

Date of receipt of corrected application August 25, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8543-3 to Kokes Farms LLC, c/o James C Kokes, 42273 SD Hwy 50, Tabor SD 57063 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. 8543-3 authorizes irrigation of an additional 52 acres. Water Right No. 7618-3 authorizes 1.67 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (140 feet deep) located in the SW 1/4 NW 1/4 Section 16 for irrigation of 101 acres located in the NW 1/4, N 1/2 SW 1/4 Section 16; all in T94N-R55W. This permit authorizes irrigation of an additional 52 acres located in the N 1/2 NW 1/4 Section 16-T94N-R55W from the existing well. This permit and Water Right No. 7618-3 will authorize a total of 1.67 cfs for irrigation of 153 acres. This site is located approximately 3 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: June 1 – September 30.
3. The date from which applicant may claim right is August 19, 2021.
4. The date of approval of Permit No. 8543-3 is October 18, 2021.
5. One-fifth of the construction is to be completed on or before March 18, 2024.
6. All construction is to be completed on or before October 18, 2026.
7. Water is to be put to beneficial use on or before October 18, 2030.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

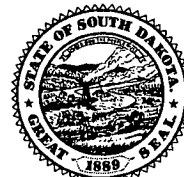
QUALIFICATIONS

1. The well approved under Water Permit Nos. 7618-3 and this Permit is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals 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. 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

11/13/2022
date



RECEIVED

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8543-3</u> (office use only) Hydrologic Unit <u>10160011</u>	AUG 25 2021
	Basin <u>James River</u>	WATER RIGHTS PROGRAM
	Newspaper _____	

PAID
AUG 19 2021
Ck# 1687

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 Kokes Farms LLC

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

Mailing Address 42273 SD Hwy 50 Tabor SD 57063
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605 660 9462 Email kokes-06@hotmail.com

2. Amount of water claimed _____ *CFS or 700 **GPM ***AF Total Acreage 52
(*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 (existing well on a rotating basis)

4. Location of point of diversion 1 well in center of sec 16 T94N R55W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
(SW1/4 NW1/4) County Yankton

5. County or counties where water will be used _____

6. Annual period during which water is to be used July - August June 1 - Sept 30

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

Land Description	Acres	Land Description	Acres
NW 1/4 NW 1/4 Sec 16 T94N R55W	35		
NE 1/4 NW 1/4 Sec 16 T94N R55W	17		

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

Adding half wiper pivot on the north
existing permit 7618-3
James C. Kokes member
I, James C. Kokes, 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 1 Provide copy of log(s), if available. Drilled by Thein

For either Existing or Proposed Wells:

c) Well Depth (required) 140 Depth to Top of Water Bearing Material 20 Depth to Water from Surface 1

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

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

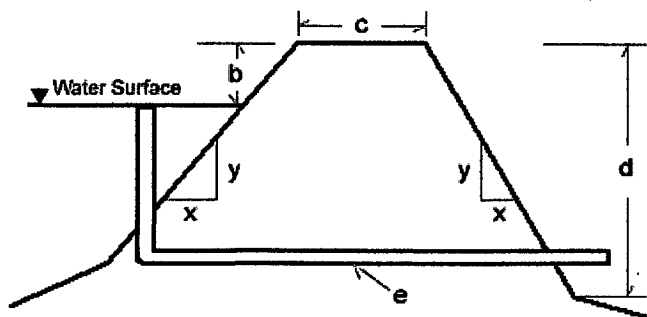
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

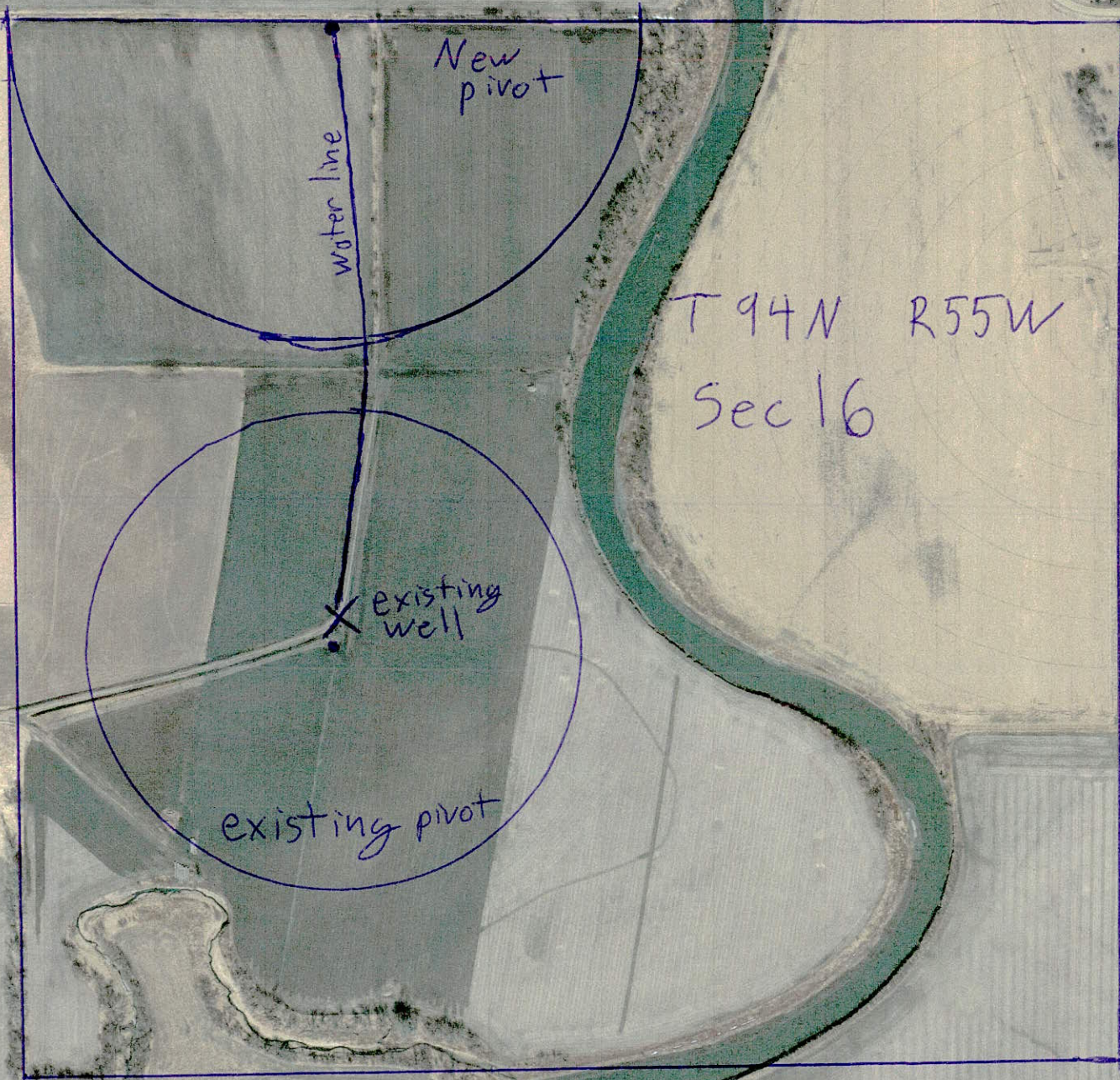
i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Jim River

Legend



**WRITING IN LIEU OF SPECIAL MEETING
OF MANAGERS AND MEMBERS OF
KOKES FARMS, LLC**

RECEIVED

AUG 25 2021

**WATER RIGHTS
PROGRAM**

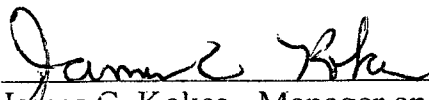
The undersigned, being all of the Managers and Members of Kokes Farms, LLC, a South Dakota limited liability company (the "Company"), entitled to notice of the meeting of Managers and Members, waive all requirements of notice of the meeting and consent to the adoption of this Writing in Lieu of Special Meeting of Company.

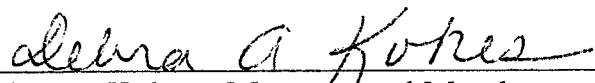
The actions set forth below are adopted and shall be of the same effect as if adopted at a meeting of Managers and Members of the Company duly called and held for the purposes of taking such actions. This Writing in Lieu of Special Meeting is ordered filed with the minutes of the meetings of Managers and Members.

BE IT RESOLVED, that James C. Kokes and Debra A. Kokes, each are Managing Members of the Company, and each are authorized to act independently of one another to execute and deliver to the appropriate parties any and all documents required to consummate any transaction, including entering into Contracts with individuals, entities (including government agencies, such as the Department of Agriculture), and others.

BE IT FURTHER RESOLVED, that this resolution shall be effective the date hereof and shall continue in effect until revoked or modified by any of the Managers of the Company.

Dated this 1st day of February, 2014.


James C. Kokes - Manager and Member


Debra A. Kokes - Manager and Member

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 19, 2021

RECEIVED OF Kokes Farms 42273 SD Hwy 50 Tabor SD 57063

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

Fee for Application for Permit No. <u>8543-3</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. <u>8543-3</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>700.00</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

July 21, 2021

James & Jason Kokes
42273 SD Hwy 50
Tabor SD 57063

Dear Sirs:

The Water Rights Program recently became aware that you are irrigating acreage that is not covered on your existing Water Right No. 7618-3. Water Right No. 7618-3 authorizes 1.67 cubic feet of water per second (750 gpm) from one well to irrigate 101 acres located in portions of the NW 1/4, N 1/2 SW 1/4 Section 16-T94N-R55W (copy of map enclosed). It is my understanding you may have talked with a staff member regarding irrigation of the additional acres also.

Enclosed is an application form and instruction sheet to apply for a Permit to Appropriate Water within the State of South Dakota. Please indicate on the application if you are utilizing the existing well.

If you have any questions, please contact me. We want to work with you to get the necessary permitting in place.

Sincerely,

Karen Schlaak

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 19, 2021

Kokes Farms LLC
Jason Kokes
42273 SD Hwy 50
Tabor SD 57063

Dear Mr. Kokes

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation in Yankton County. In order to complete the application, the following is required.

- This application requests 700 gallons per minute (gpm). Is this amount in addition to the 750 gpm authorized by Water Right No. 7618-3 or will you be using the existing well on a rotating basis and therefore requiring no additional diversion rate? Please clarify.
- A review of the Secretary of State's corporation website finds Kokes Farms LLC listed. Your name is not listed as one of its partners. James Kokes and Debra Kokes are listed. DANR will need the application to be signed by a listed partner or a statement of authority that the person signing the application has the authority to act on behalf of Kokes Farms LLC on all matters involving the water permit application.

If you have any questions, please contact me.

Sincerely,

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

enclosure

Water Rights Program - File Documentation

NAME: James Kokes

ADDRESS: Tabor

DATE: 1-12-22

RE: Period of annual use

COMMENTS:

I called Mr. Kokes and asked if he concurred with me changing the period of annual use on his permit from July – August to June 1 – September 30. This change would be consistent with his existing permit No. 7618-3. Mr. Kokes was okay with the change.

Karen Schlaak

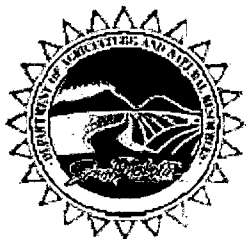
Karen Schlaak
Water Rights Program

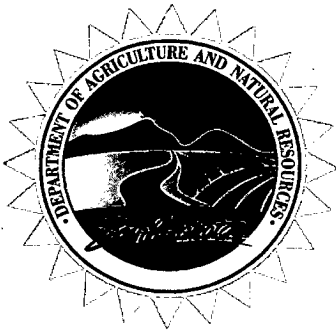
Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 28, 2021 11:00 AM
To: kokes_06@hotmail.com
Subject: Water Permit Application No. 8543-3
Attachments: 1923.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>





**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. 8543-3, Kokes Farms LLC**

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. 8543-3, Kokes Farms LLC, 42273 SD Hwy 50, Tabor SD 57063.

The Chief Engineer is recommending APPROVAL of Application No. 8543-3 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. 7618-3 and this Permit is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals 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. 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 24, 2021

Report to the Chief Engineer

On Water Permit Application No. 8543-3

Kokes Farms LLC c/o James C Kokes

September 7, 2021

Water Permit Application No. 8543-3 proposes to irrigate 52 acres located in the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 16-T94N-55W from the same well authorized by Water Right No. 7618-3. These 52 acres that are not currently permitted were determined as being irrigated during a licensing inspection of Water Permit No. 7618-3. No additional diversion rate authority was requested by the applicant.

Water Right No. 7618-3, held by James and Jason Kokes, authorizes a maximum instantaneous diversion rate of 1.67 cubic feet of water per second (cfs) from one well (140 feet deep) completed into the Lower James Missouri aquifer located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16 for the irrigation of 101 acres located in the NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 16; all in T94N-R55W.

If approved, Water Permit Application No. 8543-3 and Water Right No. 7618-3 would collectively authorize a maximum instantaneous diversion rate of 1.67 cfs for the irrigation of 153 acres. The site is located in Yankton County approximately three miles north of Yankton, SD.

AQUIFER: Lower James Missouri (LJM)

HYDROGEOLOGY:

The Lower James Missouri aquifer is comprised of deposits of glacial outwash that is composed of relatively uniform medium to coarse sands and gravels (Bugliosi, 1986; Tipton, 1983). The glacial outwash was deposited by meandering streams and as result, the deposits can be absent in some areas of the aquifer (Tipton, 1983). The Lower James Missouri aquifer is typically overlain by sandy till apart from areas of the Missouri River and James River valleys where it is overlain by alluvium or numerous feet of soil; however, the aquifer can normally be encountered within 100 feet below the land surface (Tipton, 1983). 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 can be under unconfined conditions; however, since the aquifer can be buried by as much as 355 ft of till, this can create either buried-unconfined or confined conditions (Lindgren and Hansen, 1990). The Lower James Missouri aquifer is hydraulically connected to the 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 River (Bugliosi, 1986; Hedges et. al, 1982; Lindgren and Hansen, 1990). The Lower James Missouri aquifer underlies approximately 191,700 acers

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 approximate areal extent of the Lower James Missouri aquifer along with the location of the existing well is shown in Figure 1.

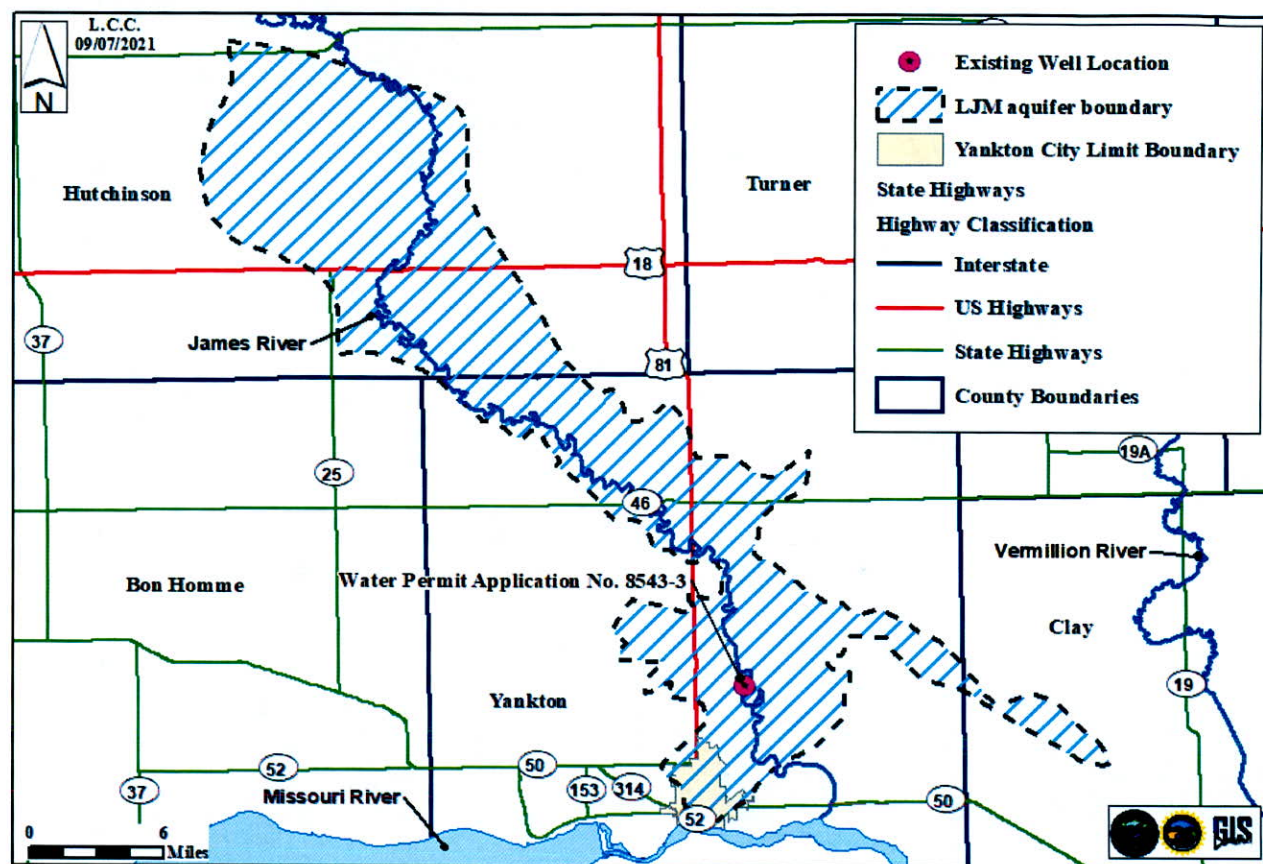


Figure 1: Map of the approximate areal extent of the Lower James Missouri aquifer including the existing well location of Water Permit Application No. 8543-3 (Hedges et al., 1982, Water Rights, 2021b and 2021c).

A well completion report was submitted with the application for Water Right No. 7618-3. The report lists “topsoil” from 0 to 4 feet below the land surface, “hard brown clay” from 4 to 12 feet, “blue clay” from 12 to 48 feet, “medium sand” from 48 to 78 feet, and “medium to fine sand” from 78 to 140 feet. The static water level in the well was near land surface at the time of well completion (July 2013). The Lower James Missouri aquifer is generally unconfined in the flood plain of the James River. However, at the location of the existing well and based on the submitted well completion report, the Lower James Missouri aquifer is confined, but based on water levels and lithologic logs on file for nearby observation wells, the Lower James Missouri aquifer is generally unconfined in the area of the floodplain of the James River (SDGS, 2021; Water Rights, 2021b and 2021d).

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

Pursuant to SDCL 46-2A-9, “A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant’s proposed

use, that the diversion point can be developed without unlawful impairment of existing domestic water uses and water rights, 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. 8543-3 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 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 was estimated by Hedges and others (1985) by utilizing observation well data and flow-net analysis. 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). 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 and others (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 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 three pending applications - Water Permit Application No. 8524-3 is estimated to use 72 ac-ft/yr on average, Water Permit Application No. 8534-3 is estimated to use 23 ac-ft/yr on average, and Water Permit Application No. 8535-3 is estimated to use 92 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. The non-irrigation water rights/permits authorized to withdrawal from the Lower James Missouri aquifer are identified in Table 1 and the 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 Htrn 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 better represents 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 an average annual basis are not considered to be a

significant portion of the hydrologic budget as due to 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 average annual withdrawal rate from the Lower James Missouri aquifer totals approximately 6,185 ac-ft/yr (irrigation: 4,351 ac-ft/yr; non-irrigation: 1,595 ac-ft/yr; pending applications: 187 ac-ft/yr; Water Permit Application No. 8543-3 (if approved) (assuming an application rate of 1 ft/ac): 52 ac-ft/yr) (Water Rights 2021a and 2021c). 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 four observation wells within approximately two-and one-half miles of the existing well. The closest observation well to the existing well is observation well YA-800 (approximately 0.4 miles west). The hydrographs for these four observation wells are displayed in Figures 2 through 5 (Water Rights, 2021b).

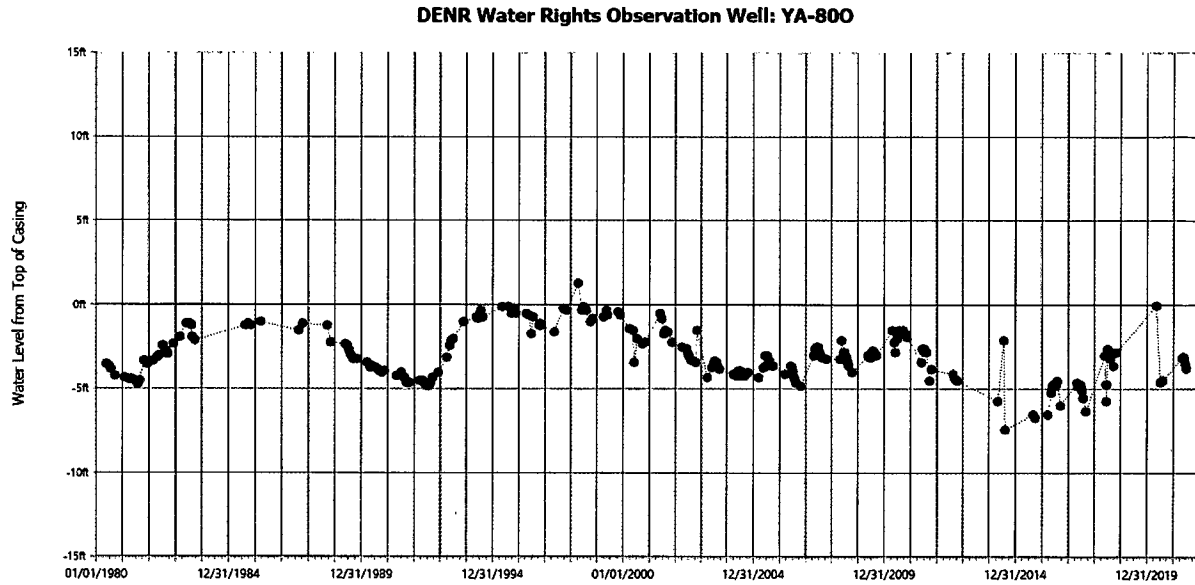


Figure 2: Hydrograph of the Lower James Missouri aquifer observation well YA-80O, located approximately 0.4 miles west of the existing well (Water Rights, 2021b).

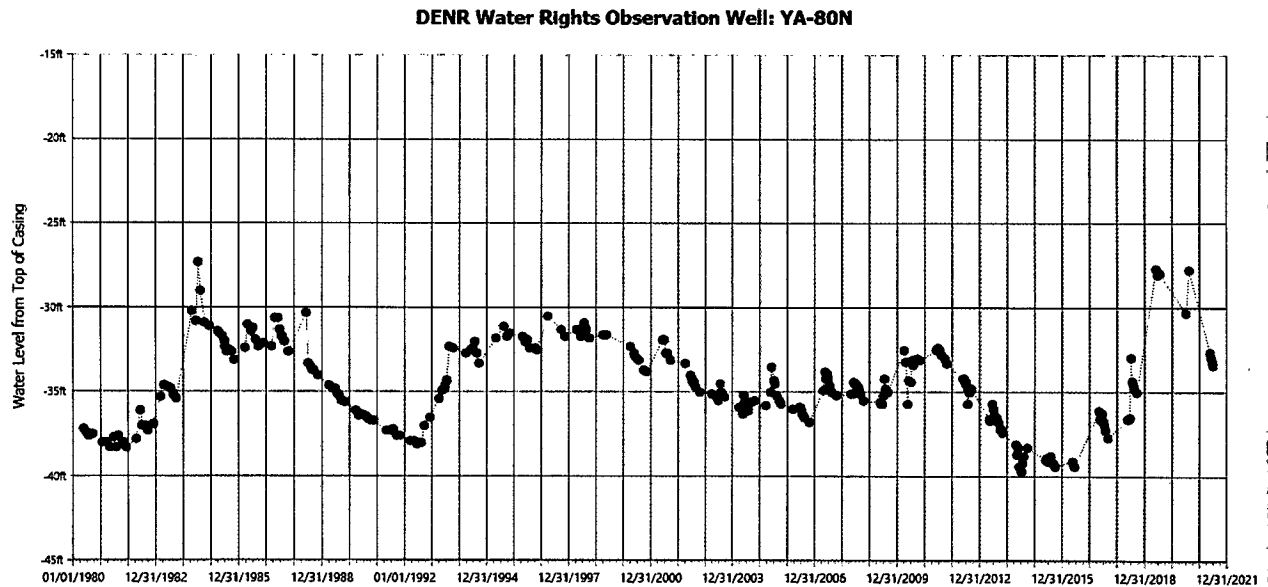


Figure 3: Hydrograph of the Lower James Missouri aquifer observation well YA-80N, located approximately 2.3 miles northwest of the existing well (Water Rights, 2021b).

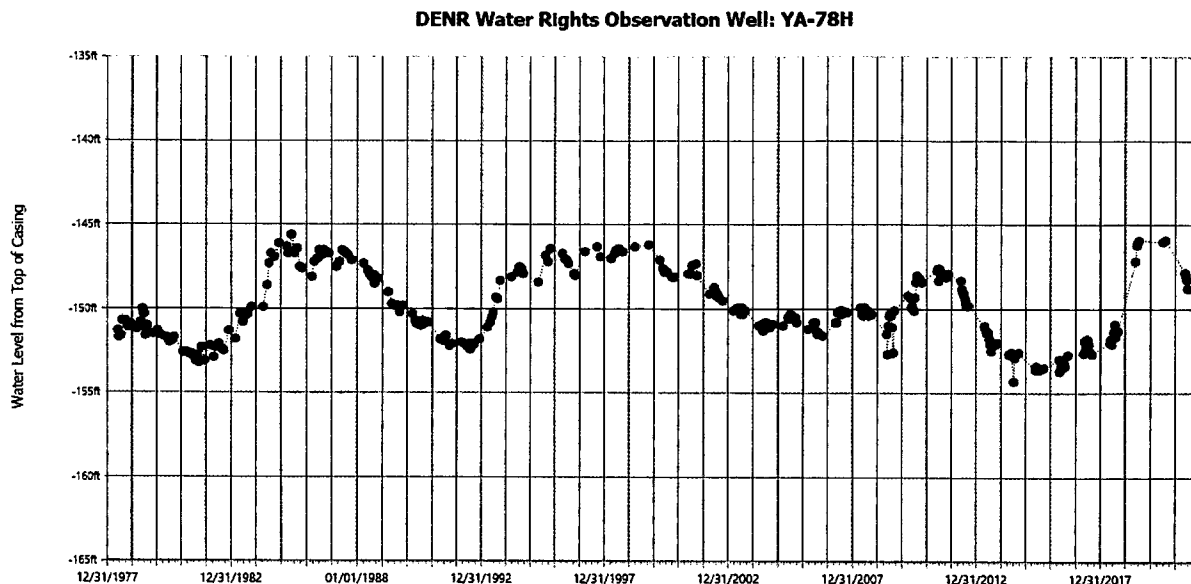


Figure 4: Hydrograph of the Lower James Missouri aquifer observation well YA-78H, located approximately 2.3 miles southwest of the existing well (Water Rights, 2021b).

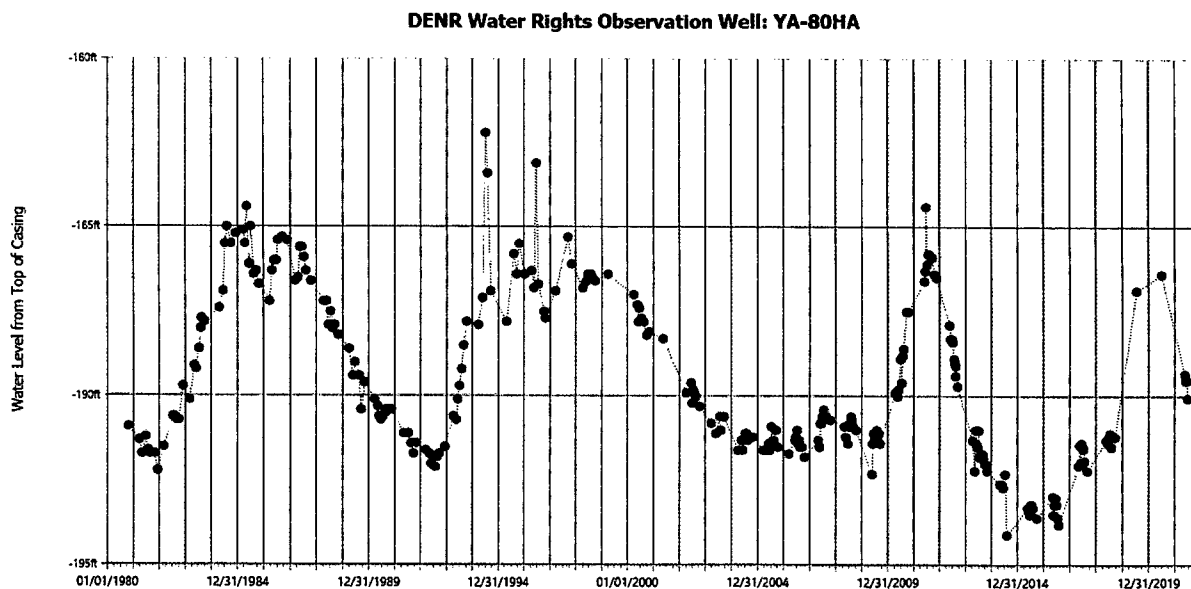


Figure 5: Hydrograph of the Lower James Missouri aquifer observation well YA-80HA, located approximately 1.6 miles northeast of the existing well (Water Rights, 2021b).

The hydrographs for the nearby observation wells display generally stable water levels over their respective periods of record. There are other observation wells in the Lower James Missouri 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. 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 in some areas, the hydrographs for the five nearest observation wells to the diversion point demonstrate that the water levels of the aquifer respond well to climatic conditions, 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 irrigation season. This recovery of the aquifer indicates that the amount of recharge to 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, including three pending applications to appropriate water from the Lower James Missouri aquifer - Water Permit Application No. 8524-3, Water Permit Application No. 8534-3, and Water Permit Application No. 8535-3 (Water Rights, 2021c). There are 26 water rights/permits authorized to appropriate water from the Lower James Missouri aquifer within approximately three miles of the proposed diversion point (Water Rights, 2021c). The 26 Lower James Missouri water rights/permits are shown in Figure 6 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. 7611-3 located approximately 0.4 miles east 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 0.8 miles northwest of the proposed diversion point (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.

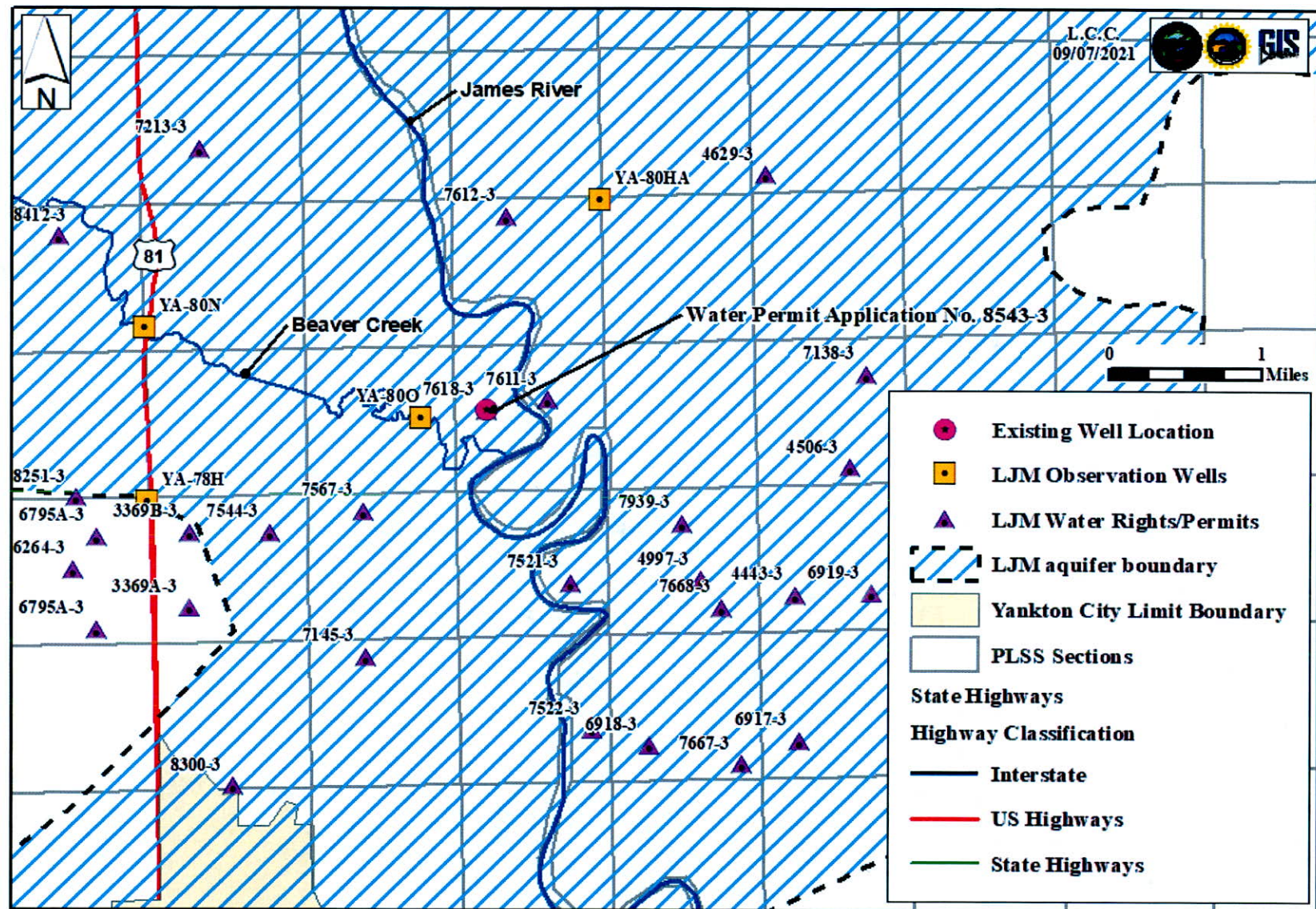


Figure 6: Map of the site location of Water Right Permit Application No. 8543-3, nearby observation wells, and nearby water rights/permits completed into the Lower James Missouri aquifer (Water Rights, 2021b and 2021c).

Table 3: Water rights/permits from the Lower James Missouri aquifer within approximately three 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
4443-3	Dennis, Darrell Nelson	IRR	LC	1.78	148
4506-3	Karl M Schenk	IRR	LC	2.45	203
4629-3	Mary Anne Boyd	IRR	LC	1.78	154
4997-3	Dale Hebda	IRR	LC	0.28	32
6264-3	Yankton Land & Cattle Co	COM	LC	0.56	N/A
6795A-3	Yankton Land & Cattle Co	IRR, COM	PE	1.64	115
6917-3	Karl M Schenk	IRR	LC	1.78	140
6918-3	Karl M Schenk	IRR	LC	1.33	55
6919-3	John & Jacqueline Smith	IRR	LC	2	327
7138-3	Nelson Farms Inc	IRR	LC	1.89	134
7145-3	Delos Warriner	IRR	PE	1.78	140
7213-3	Marquardt Farms	IRR	PE	2.44	360
7521-3	John & Jacki Smith	IRR	PE	1.44	101
7522-3	John & Jacki Smith	IRR	PE	1.33	94
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
7612-3	Dan Hacecky	IRR	PE	2.22	153
7667-3	Karl M Schenk	IRR	PE	0.67	32
7668-3	Karl M Schenk	IRR	LC	1.33	80
7939-3	Karl M Schenk	IRR	PE	1.78	128
8251-3	Willard Schmidt	IRR	LC	1.56	236
8300-3	Samual & Adam Arens	IRR	PE	1.56	100
8412-3	Concrete Materials Company	IND	LC	7.8	N/A
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 confined conditions based on the submitted well completion report, However based on water levels, and lithologic logs on file for the nearby observation wells unconfined conditions can be encountered in close proximity to the applicant's well (Water Rights, 2021d). Observation well data (see Figures 2 through 5) documents minimal drawdown from withdrawals of other 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; however, in a confined aquifer, drawdown from pumping could extend a distance from the diversion point. 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 three miles of the existing well for this application, the Lower James Missouri aquifer has saturated aquifer thickness ranging from approximately 10 to 115 feet, with the depth to the top of aquifer materials ranging from approximately 5 to 155 feet below land surface, and static water levels at well completion varying from approximately 10 to 155 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 the top of the aquifer; which is required for the well to be considered adequate under ARSD 74:02:04:20(6).

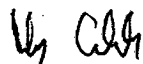
The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management 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.”

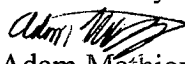
The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be 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 as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Lower James Missouri aquifer at their location. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), the saturated thickness of the aquifer, the amount of artesian head pressure in observation wells and appropriate user’s well completed into the Lower James Missouri aquifer, any drawdown created from the existing diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. 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. 8543-3 proposes to irrigate 52 additional acres from the same well authorized by Water Right No. 7618-3. No additional diversion rate authority was requested by the applicant.
2. Water Right No. 7618-3, held by James and Jason Kokes, authorized a maximum instantaneous diversion rate of 1.67 cfs from one well (140 feet deep) completed into the Lower James Missouri aquifer for the irrigation of 101 acres.
3. If approved, Water Permit Application No. 8543-3 and Water Permit No. 7618-3 would collectively authorize a maximum instantaneous diversion rate of 1.67 cfs for the irrigation of 153 acres. The site is located in Yankton County approximately three 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 hydrologic 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

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- Water Rights, 2021e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

OCT 13 2021

WATER RIGHTS
PROGRAM

JAMES KOKES
42273 SD HWY 50
TABOR SD 57063

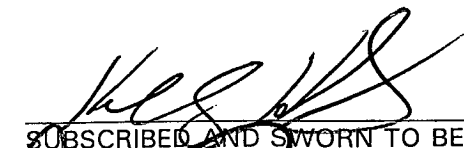
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

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
10 + 6 NOTICE OF APPLICATIO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 8th DAY OF October, 2021
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$37.69 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: 10/08/2021

FILED ON: 10/08/2021


SUBSCRIBED AND SWORN TO BEFORE ME THIS 8th DAY OF October, 2021


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

NOTICE OF APPLICATION NO. 8543-3 to Appropriate Water

Notice is given that Kokes Farms LLC, c/o James C Kokes, 42273 SD Hwy 50, Tabor SD 57063 has filed an application to irrigate an additional 52 acres. Water Right No. 7618-3 authorizes 1.67 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (140 feet deep) located in the SW 1/4 NW 1/4 Section 16 for irrigation of 101 acres located in the NW 1/4, N 1/2 SW 1/4 Section 16; all in T94N-R55W. This application proposes to irrigate an additional 52 acres located in the N 1/2 NW 1/4 Section 16-T94N-R55W from the existing well. This application, if approved, and Water Right No. 7618-3 will authorize a total of 1.67 cfs for irrigation of 153 acres. This site is located approximately 3 miles north of Yankton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8543-3 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 October 18, 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 18, 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 \$37.69.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, September 28, 2021 10:57 AM
To: Sam Berres
Subject: 8543-3, Kokes Farms LLC
Attachments: 8543-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 6, 2021 in the Press & Dakotan.

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 28, 2021

Kokes Farms LLC
c/o James C Kokes
42273 SD Hwy 50
Tabor SD 57063

Dear Mr. Kokes:

Water Permit Application No. 8543-3 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

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

NOTICE OF APPLICATION NO. 8543-3 to Appropriate Water

Notice is given that Kokes Farms LLC, c/o James C Kokes, 42273 SD Hwy 50, Tabor SD 57063 has filed an application to irrigate an additional 52 acres. Water Right No. 7618-3 authorizes 1.67 cubic feet of water per second (cfs) from one well completed into the Lower James Missouri Aquifer (140 feet deep) located in the SW 1/4 NW 1/4 Section 16 for irrigation of 101 acres located in the NW 1/4, N 1/2 SW 1/4 Section 16; all in T94N-R55W. This application proposes to irrigate an additional 52 acres located in the N 1/2 NW 1/4 Section 16-T94N-R55W from the existing well. This application, if approved, and Water Right No. 7618-3 will authorize a total of 1.67 cfs for irrigation of 153 acres. This site is located approximately 3 miles north of Yankton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8543-3 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 18, 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 18, 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.

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 13, 2022

Kokes Farms LLC
c/o James C Kokes
42273 SD Hwy 50
Tabor SD 57063

Dear Mr. Kokes:

Enclosed is Water Permit No. 8543-3 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

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 8543-3**

I have this day, June 27, 2022, made a thorough examination of the water use system constructed by Kokes Farms LLC, 42273 SD Hwy 50, Tabor, SD 57063, holder of Permit No. 8543-3, bearing the priority of August 19, 2021 authorizing the irrigation of an additional 52 acres to Water Right No. 7618-3 which authorized the diversion of 1.67 cu. ft. per second of the waters of groundwater (Lower James Missouri Aquifer) for the irrigation of 101 acres located in Yankton County.

Inspection contact: James and Jason Kokes

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Thein Well Co., Inc.
- 2) No. of Wells: 1
- 3) Depth(s): 140 feet
- 4) Well log is available: Yes

Casing:

- 1) Diameter: 12 inches
- 2) Length: 90 feet
- 3) Type: PVC

Screen:

- 1) Diameter: 12 inches
- 2) Type: 20 feet of PVC and 20 feet of Stainless Steel
- 3) Static water level: 0.0 feet

Pump:

- 1) Make: Franklin
- 2) Model: 13E19-0106076A
- 3) Capacity: 700 GPM

Motor:

- 1) Make: Franklin
- 2) Model No.: 700D40-2B
- 3) Horsepower rating: 40 hp

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

- 1) Type: PVC
- 2) Size: 8 inches
- 3) Length: 2,270 feet

F. Comments or other permit(s) associated with the project: This water right could be combined with licensed Water Right No. 7618-3 since they use the same well, the pivots overlap each other and the properties have the same owner. The overlap area is not included in the 51 acres since it is already included in Water Right 7618-3.



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

Date report completed: June 28, 2022

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

- 1) Make: T&L
- 2) Overall length: 1,103 feet
- 3) Number of towers: 7
- 4) End gun: Yes
- 5) Capacity: 750 GPM

Chemigation Equipment:

- 1) Does chemigate: Yes
- 2) Main line check valve: Yes
- 3) Inspection port/air relief: Yes
- 4) Low pressure drain: Yes
- 5) Discharge is 20' from source: Yes
- 6) Interlock type: Electrical
- 7) Injection pump: Piston
- 8) Injection check valve: Yes
- 9) Injection line check valve or positive displacement pump Yes

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: Will irrigate in July of 2022.
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows:
The well is 1,160 feet east and 2,310 feet south of the northwest corner of Section 16-T94N-R55W (Latitude 42.960439, Longitude -97.353542 – SW1/4 of the NW1/4).
2. The works are capable of diverting and conveying to the place of use 1.67 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 16-T94N-R55W:

<u>NW1/4NW1/4</u>	<u>32 acres</u>
<u>NE1/4NW1/4</u>	<u>19 acres</u>

comprising a total of 51 acres of land and the license should be issued for 1.67 cfs.
3. All structures, wells and lands on map Yes

8543-3

Form 10

NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date June 27, 2022

MAIL TO: PMB 2020
DANR - Water Rights Program
523 E. Capitol Ave
Pierre, SD 57501-3182

Ph: (605) 773-3352

FROM: Kokes Farms LLC
(name)42273 SD Hwy 50
(address)

<u>Tabor</u>	<u>SD</u>	<u>57063</u>	<u>605-660-9462</u>
(city)	(state)	(zip)	(phone)

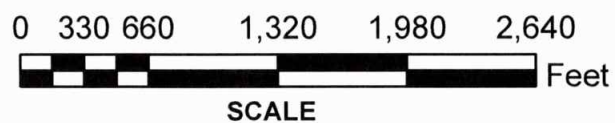
I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 8543-3 states that the water use system is to be constructed byOctober 18, 2026, and water is to be put to beneficial use by October 18, 2030.
(date) (date)The water use system was completed on July, 2022.
(date)Applying the water to beneficial use was completed on July, 2022.
(date)

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

James C Kokes Farms LLC
(signature)

Water Right No. 8543-3



Keith DeJong

Keith DeJong, PE Ret.
Staff Engineer
June 28, 2022

8543-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 05 2022

7618-3
8543-3

James & Jason Kokes
Kokes Farms LLC
42273 SD Hwy 50
Tabor SD 57063

Dear Sirs:

Enclosed is Water License No. 8543-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

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

Sincerely,

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

enclosures

Note: Upon licensing, the applicable portions of Water Right No. 7618-3 were incorporated into Water License No. 8543-3.

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8543-3

(1) Kokes Farms LLC, 42273 SD Hwy 50, Tabor SD 57063 made Application No. 8543-3, August 19, 2021, for a water permit to authorize irrigation of an additional 52 acres onto the system authorized under Water Right No. 7618-3. The acreage will be irrigated from an existing well completed into the Lower James Missouri Aquifer located in Yankton County, South Dakota. Permit No. 8543-3, with a priority date of August 19, 2021, was approved October 18, 2021, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 18, 2026, and for the application to beneficial use of water on or before October 18, 2030.

The Permit holder submitted a "Notice of Completion of Works and Application of Water to Beneficial Use" on June 27, 2022. The "Notice" stated the water use system was completed and the water placed to beneficial use.

Water Right No. 7618-3, with a priority date of December 26, 2012, authorizes 1.67 cfs from one well to irrigate 101 acres. Water Permit No. 8543-3 increased the acreage up to 153 acres with no additional diversion rate required.

The applicable portions of Water Right No. 7618-3 have been incorporated into this license. A priority date of December 26, 2012 will be retained for 1.67 cfs and the original 101 acres.

(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 1.67 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 1,160'E and 2,310'S of the NW corner of Section 16, T94N, R55W (SW $\frac{1}{4}$ NW $\frac{1}{4}$)
Latitude 42.960439, Longitude -97.353542

(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:

T94N, R55W Section 16	* NW $\frac{1}{4}$ NW $\frac{1}{4}$	35 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$	20 acres
	* NE $\frac{1}{4}$ NW $\frac{1}{4}$	20 acres	NE $\frac{1}{4}$ SW $\frac{1}{4}$	13 acres
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	38 acres		
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	26 acres	Total	152 acres

* 51 acres within the N $\frac{1}{2}$ NW $\frac{1}{4}$ carry a priority date of August 19, 2021;

The remaining 101 acres retain a priority date of December 26, 2012 as established under No. 7618-3

(4) Pursuant to South Dakota Water Law 46-5-30.1 Kokes Farms LLC, 42273 SD Hwy 50, Tabor SD 57063 the holder and/or owner of Incorporated Water Right No. 8543-3 is issued a license to appropriate water, the right to use 1.67 cubic feet of water per second from ground water, one well (Lower James Missouri Aquifer) with priority dates of December 26, 2012 (101 acres & 1.67 cfs) and August 19, 2021 (51 acres) from the location specified in (2) of this license for irrigation purposes.

continued

This license is subject to South Dakota Water Law, any limitations or conditions listed in Incorporated Water Right No. 8543-3 and subject to the following qualifications:

- The well approved under this water right will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this water right shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- This Water Right is approved subject to the irrigation water use questionnaire being submitted each year.

Eric Gronlund

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

JUL 05 2022

date

