

WATER PERMIT NO. 8545-3

Name of Applicant: Larry Braun Farms Limited Ptr

Address: PO Box 108, Warner SD 57479 Phone: 605 380-0166

Amount of Water Claimed: 0.78 cfs Total Acres: 140

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Brown

Type of Waste Disposal System:

Location: 9 miles west of Warner

PRIORITY Date Received: 8-26-21

Application/License Fee: \$ 1050

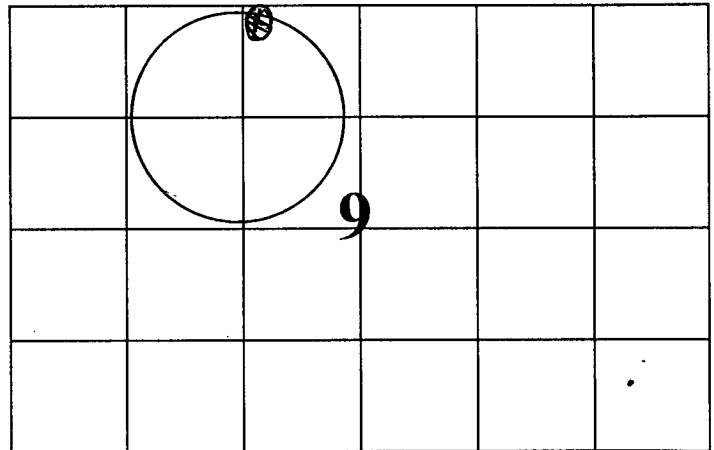
Corrected Application Received: 9-2-21

Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: NE 1/4 NW 1/4 Sec 9-T121N-R65W

Land to be Irrigated: NW 1/4 Sec 9-T121N-R65W



Depth of Well: 71 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 9-7-21

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8545-3**

Date of first receipt of application August 26, 2021.

Date of return to applicant for corrections, amendments or changes August 26, 2021.

Date of receipt of corrected application September 2, 2021.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8545-3 to Larry Braun Farms Limited Ptr, c/o Larry Braun, PO Box 108, Warner SD 57479 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. 8545-3 appropriates 2.00 cubic feet of water per second from one well to be completed into the Elm:South Brown Aquifer (71 feet deep) located in the NE 1/4 NW 1/4 Section 9 for irrigation of 140 acres located in the NW 1/4 Section 9; all in T121N-R65W. This site is located approximately 9 miles west of Warner SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is August 26, 2021.
4. The date of approval of Permit No. 8545-3 is November 15, 2021.
5. One-fifth of the construction is to be completed on or before May 15, 2024.
6. All construction is to be completed on or before November 15, 2026.
7. Water is to be put to beneficial use on or before November 15, 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 No. 8545-3 may be located near domestic wells. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells.
2. The well authorized by Permit No. 8545-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

NOV 30 2021
date



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

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8545-3</u> (office use only) Hydrologic Unit <u>10160008</u>
	Basin <u>James River</u>
	Newspaper <u>American News</u>

PAID
AUG 26 2021
Ck# 3094

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 Larry Braun Farms Limited Ptr.

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

Mailing Address PO BOX 108 Warner SD 57479
(Address) (City) (State) (Zip Code)

Phone 605-380-0166 Mobile 605-380-0166 Email Samuel@braunactive.com

2. Amount of water claimed 2.00 0.77 *CFS or 900 350 **GPM 1.25 ***AF Total Acreage 139140
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply aquifer

4. Location of point of diversion 1 well NW 9-121-65

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Brown

5. County or counties where water will be used Brown

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

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 9-121-65	34.775	35	
SW 1/4 NW 1/4 9-121-65	34.775	35	
NE 1/4 NW 1/4 9-121-65	34.775	35	
SE 1/4 NW 1/4 9-121-65	34.775	35	

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

Installing a new center pivot irrigation system.

I, Larry Braun 08-23-2021, 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 1 Have test holes been drilled ☒ Yes ☐ No Drilled by Manikowski Well Drilling Inc
 (if yes, please provide copies of logs)

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

For either Existing or Proposed Wells:

c) Well Depth (required) 11' Depth to Top of Water Bearing Material 27' Depth to Water from Surface 44'

d) Distance to nearest domestic well on applicant's property nothing w/i a mile 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)

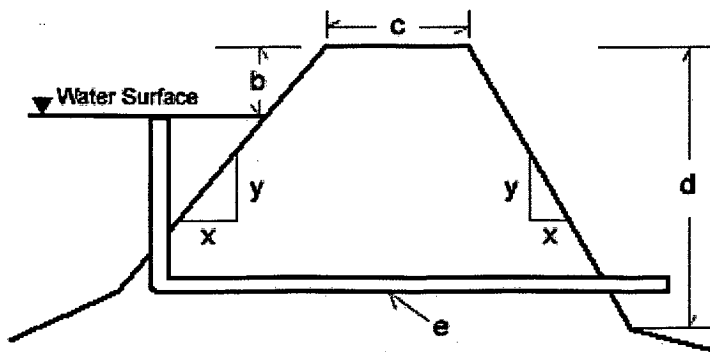
Upstream

Downstream

h) Surface Area of Impoundment

i) Storage Acre Feet

j) Drainage Area Above Dam Acres



SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location 1/4 NW 1/4 Sec 9 Twp 21 Rg 65

County Brown

Please mark well location with an "X"

Well completion Date 4-24-14

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

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

METHOD OF DRILLING:
Forward Rotary

CASING DATA: ☐ Steel ☒ Plastic ☐ Other
 If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>5 1/4 LB/FT</u>	<u>4 IN</u>	<u>0 FT</u>	<u>50 FT</u>	<u>6 3/4 IN</u>
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:
 Grout Type Bentonite No. of Sacks 4 Grout Weight 9.5 Lb/gal From 49 R To TOP FT
 Describe grouting procedure Pumped through 1"
Tremie

SCREEN: ☐ Perforated pipe ☒ Manufactured
 Diameter 4 Inches Length 20 Feet
 Material PVC
 Std Size 1070 Set From 50 Feet to 70 Feet
 Other information Manufactured De Perforated

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No
 If so, what material? _____
 Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?
☒ Yes, How? Chlorine
☐ No, Why Not? _____
 Lab sample sent to for water quality analysis _____

Well Owner: Sam Breed
Business Name: _____
Address1: _____
Address2: _____
City, State, Zip: _____

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Clay Till</u>	<u>0</u>	<u>44</u>
<u>Gravel</u>	<u>44</u>	<u>71</u>
<u>Shale</u>	<u>71</u>	<u>80</u>

STATIC WATER LEVEL: _____ FEET
 If flowing: closed in pressure _____ PSI
 GPM flow _____ through _____ inch pipe
 Controlled by ☐ Valve ☐ Reducers ☐ Other _____
 Reduced flow rate _____ GPM
 Can well be completely shut in? _____

WELL TEST DATA:
☒ Pumped Describe: Pumped 350 GPM
☐ Bailed for 4 hours
☐ Other _____
 Pumping Level Below Land Surface
 _____ FL After _____ Hrs. pumped _____ GPM
 _____ FL After _____ Hrs. pumped _____ GPM
 If pump installed, pump rate: _____ GPM

REMARKS:
Test Pumped 350 GPM

This well was drilled under license # _____
 And this report is true and accurate.
 Drilling firm: Manville's Well Drilling Inc
 Signature of License Representative: _____
 Signature of Well Owner or Equitable Property Holder: _____
 Date: _____

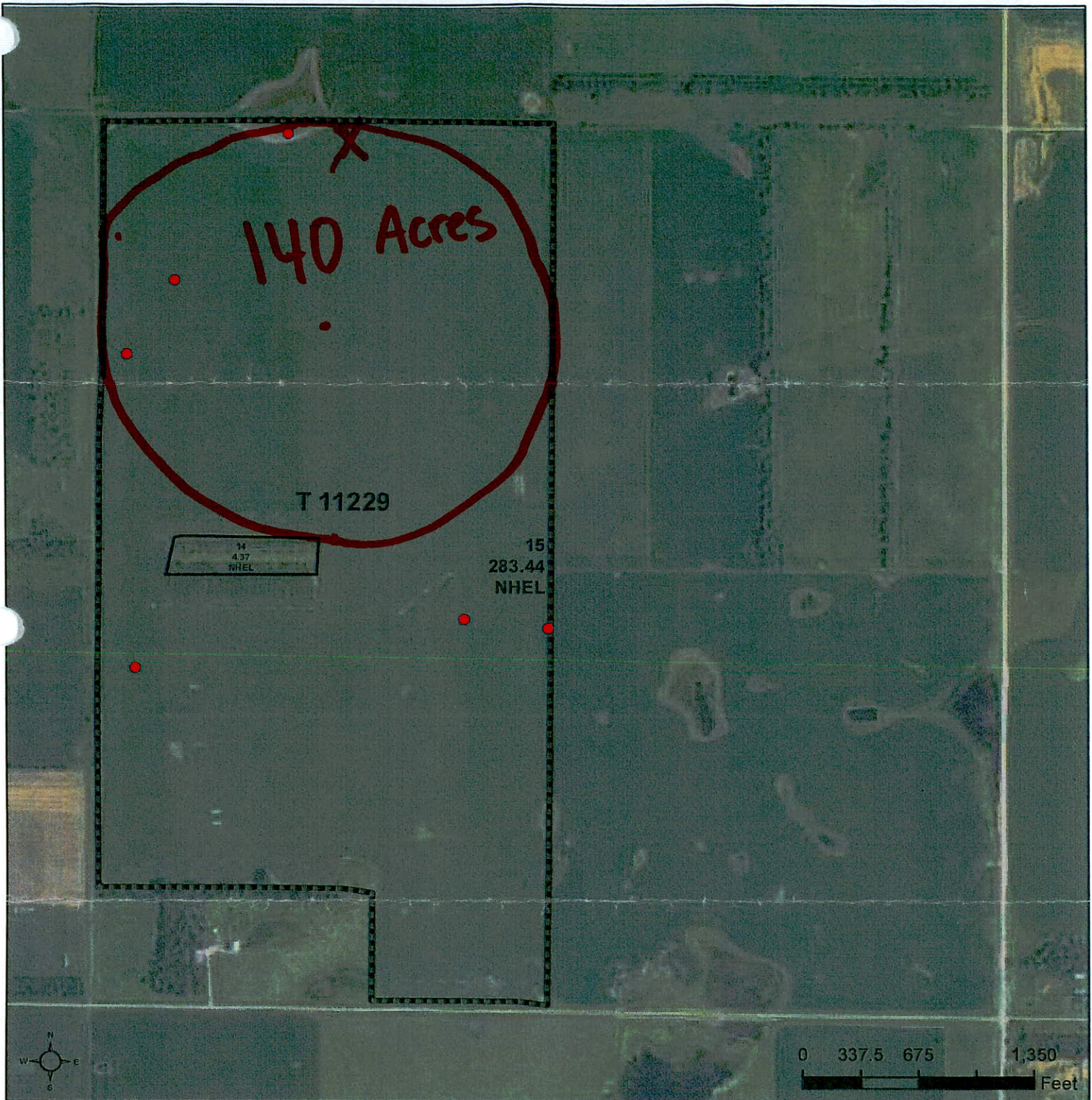
Please return White Copy to DENR Water Rights

523 E. Capitol Ave., Pierre SD 57501



United States
Department of
Agriculture

Brown County, South Dakota



Common Land Unit

PLSS

- Cropland
- Tract Boundary

Wetland Determination

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

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

2021 Program Year

Map Created March 25, 2021

Farm 13073

NW 1/4 9-121N-65W-Brown

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date August 26, 2021

RECEIVED OF Sam Braun PO Box 108 Warner SD 57479

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

Fee for Application for Permit No. <u>8545-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8545-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>1050.00</u>

By Eric Gronlund
Chief Engineer

EG

ANY EXEMPTION FROM REGISTRATION OR QUALIFICATION MUST BE ESTABLISHED BY AN OPINION AND COUNSEL FOR THE OWNER THEREOF, WHICH OPINION AND COUNSEL MUST BE REASONABLY SATISFACTORY TO LARRY BRAUN FARMS LIMITED PARTNERSHIP.

- 4. agree to be bound by the terms and conditions of the Partnership Agreement and Certificate of Limited Partnership.

Dated and effective this 13th day of September, 2010.

ACCEPTANCE BY LIMITED PARTNER

Larry Braun
Larry Braun

CERTIFICATE OF ACKNOWLEDGEMENT

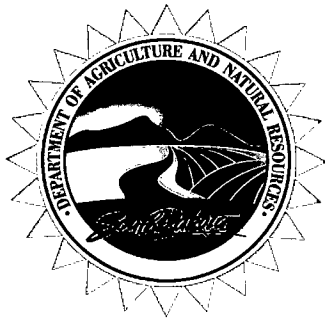
State of South Dakota)
 :SS
County of Brown)

On this the 13th day of September, 2010, before me, the undersigned officer, personally appeared Larry Braun, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Darlys Heilman
Notary Public, South Dakota
My Commission Expires: 7-2-14



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

RECEIVED

SEP 02 2021

**WATER RIGHTS
PROGRAM**

August 26, 2021

Larry Braun Farms Limited Ptr
c/o Larry Braun
PO Box 108
Warner SD 57479

Dear Mr. Braun

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

- Enclosed is the aerial photo map submitted with the application. On the map, please outline the acres to be irrigated. The area outlined needs to match the area described on the application (NW 1/4).
- The acreage breakdown on the application indicates 34.775 acres in each quarter-quarter. Do you agree with changing that number to 35 for a total of 140 acres? This does not change the fee.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosure

↓
Yes

Duvall, Ron

From: Samuel Braun <samuel@braunactive.com>
Sent: Monday, September 13, 2021 5:54 PM
To: Duvall, Ron
Subject: Re: [EXT] Water Permit Application

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Yes Ron that sounds like a really great idea. Lets go with the 900 gpm and see where the well ends up. Thanks for the advice.

Thanks

Sam

On Sep 13, 2021, at 3:32 PM, Duvall, Ron <Ron.Duvall@state.sd.us> wrote:

Hello,

I am looking over your application for a water right permit to irrigate 140 acres in the NW1/4 section 9-T121N-R65W. On the application you are requesting 350 gallons per minute (gpm) which seems on the low side for operating a center pivot. Do you want to proceed with that amount or apply for the maximum rate of 900 gpm allowed for irrigating 140 acres? If the application is approved for 900 gpm and you develop a lessor amount, then the permit will be licensed for that lessor amount and no further action is needed on your part. If you get permitted for 350 gpm and actually use a higher amount because the well produces better than anticipated, or you drill a second well, then you will need to apply for a new permit for the increase in gpm.

How do you want to proceed?

Thank you,

Ron Duvall
Dept. of Agriculture & Natural Resources
Office of Water, Water Rights Program
605.773.3352
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. 8545-3, Larry Braun Farms Limited Ptr.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8545-3, Larry Braun Farms Limited Ptr., PO Box 108, Warner SD 57479.

The Chief Engineer is recommending APPROVAL of Application No. 8545-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 8545-3 may be located near domestic wells. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells.
2. The well authorized by Permit No. 8545-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
October 25, 2021

Report to the Chief Engineer
On Water Permit Application No. 8545-3

Larry Braun Farms Limited Ptr

c/o Larry Braun

October 26, 2021

Water Permit Application No. 8545-3 proposes to appropriate water at a maximum instantaneous diversion rate of 2.0 cubic feet per second (cfs) from one well to be completed into the Elm: Southern Brown aquifer (approximately 71 feet deep) in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9 for the irrigation of 140 acres located in the NW $\frac{1}{4}$ of Section 9; all in T121N-R65W. The site is located in Brown County approximately nine miles west of Warner, South Dakota.

AQUIFER: Elm: Southern Brown (E:SB)

HYDROGEOLOGY:

The Elm aquifer is composed of buried outwash (sand and gravel) that is under both confined and unconfined conditions (Koch and Bradford, 1976). In general, the deposits of sand and gravel that make up the Elm aquifer are less lenticular and contain fewer clay layers than deposits in other glacial aquifers in Brown County (Koch and Bradford, 1976). The Elm aquifer overlies the western part of the Middle James aquifer and in some areas where both aquifers occur, the two aquifers are hydraulically connected (Koch and Bradford, 1976; Tipton, 1977). The saturated aquifer thickness ranges from approximately 2 to 112 feet, with an average thickness of 25 feet (Koch and Bradford, 1976). The static water level in wells completed into the Elm aquifer range from approximately 4 to 50 feet below the ground surface (Koch and Bradford, 1976). Groundwater movement in the aquifer is generally from the northwest to the southeast (Koch and Bradford, 1976).

In Brown County, the Southern Brown management unit of the Elm aquifer underlies approximately 62,400 acres and contains approximately 234,000 acre-feet of recoverable water in storage (Hedges et al., 1982). Figure 1 displays the delineation of the Elm: Southern Brown aquifer in Brown County based on the study completed by Hedges and others (1982), with the location of the proposed diversion point, and the Elm: Southern Brown aquifer water rights/permits and observation wells (Water Rights, 2021b and 2021c).

A water well completion report was submitted with Water Permit Application No. 8545-3 for a well completed into Elm: Southern Brown aquifer in the NW $\frac{1}{4}$ of Section 9-T121N-R65W. The report lists "Clay Till" from 0 to 44 feet below the ground surface, "Gravel" from 44 to 71 feet, and "Shale" from 71 to 80 feet. The well was screened from 50 feet to 70 feet in "Gravel" and no static water level was listed on the report (Water Rights, 2021d). The applicant estimated the depth to water to be approximately 20 feet below the ground surface, which would result in approximately 30 feet of artesian head pressure in the well near the proposed diversion point. Based on the submitted well completion report and lithologic logs on file for nearby observation wells, the Elm: Southern Brown aquifer is confined at the proposed diversion point (SDGS,

2021; Water Rights, 2021b and 2021d). Additional well completion reports on file with the DANR-Water Rights Program indicate the Elm: Southern Brown aquifer can also be unconfined near Foot Creek (SDGS, 2021; Water Rights, 2021b and 2021d). It is worth noting the proposed diversion point for Water Permit Application No. 8545-3 plots on the western edge of the Elm: Southern Brown aquifer boundary.

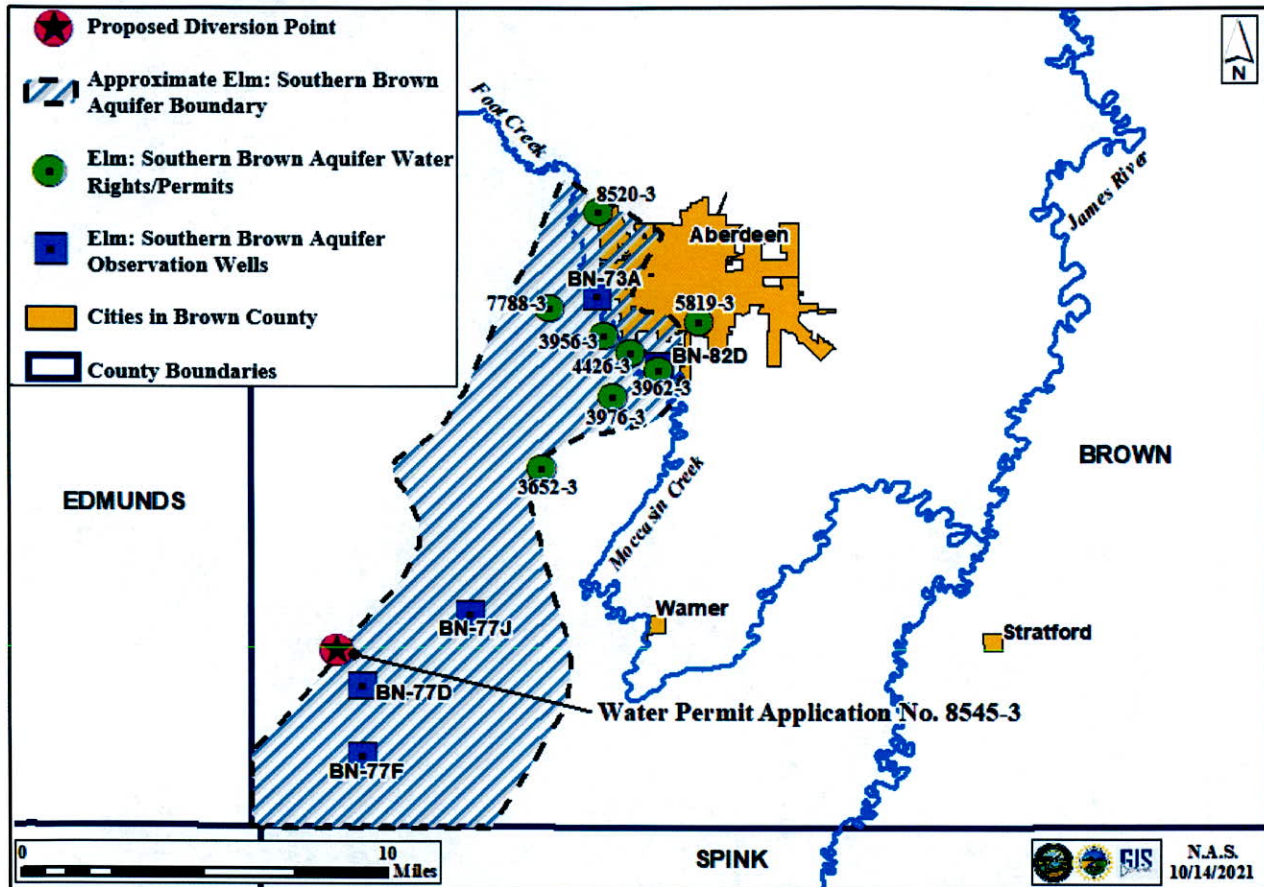


Figure 1. Map of the approximate Elm: Southern Brown aquifer in Brown County delineated from Hedges and others (1982), the proposed diversion point for Water Permit Application No. 8545-3, and the Elm: Southern Brown aquifer water rights/permits and observation wells (Water Rights, 2021b and 2021c)

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

Pursuant to SDCL 46-2A-9, “A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant’s proposed use, that the diversion point can be developed without unlawful impairment of existing domestic water uses and water rights, 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 Elm: Southern Brown aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8545-3 proposes to appropriate water from the Elm: Southern Brown aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Elm: Southern Brown 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 Elm: Southern Brown aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Elm aquifer is primarily through the percolation of precipitation, snowmelt, and surface water through overlying outwash, lake sediments, and till (Koch and Bradford, 1976). Recharge takes place rapidly in level areas where permeable sediments overlie the aquifer, but slowly where till overlies the aquifer (Koch and Bradford, 1976).

Utilizing regional flow-net analysis, Hedges and others (1985) estimated a recharge rate of 0.42 inches per year to the Elm: Southern Brown aquifer. By multiplying the recharge rate of 0.42 inches per year by the areal extent, 62,400 acres, the average annual recharge rate to the Elm: Southern Brown aquifer is approximately 2,184 acre-feet per year (Hedges et al., 1982; Hedges et al., 1985).

Discharge

Discharge from the Elm: Southern Brown aquifer is primarily through well withdrawals (Water Rights, 2021c and 2021d), natural discharge to the Elm River and Foot Creek, evapotranspiration, recharge into the Middle James aquifer, and by eastward flow into lacustrine deposits underlying the Lake Dakota plain (Koch and Bradford, 1976; Leap, 1986). Currently, there are eight water rights/permits authorized to appropriate water from the Elm: Southern Brown aquifer (Table 1) (Water Rights, 2021c).

Table 1. Water rights/permits authorize to appropriate water from the Elm: Southern Brown aquifer (Water Rights, 2021c)

Permit No.	Name	Status	Use	Authorized Diversion Rate (cfs)	Authorized Volume (acre-feet)
3652-3	Ronne Tarrell	LC	IRR	0.81	
3956-3	Keith Lowary	LC	IRR	1.78	
3962-3	Northwestern Public Service Co.	LC	IRR, DOM	0.03	
3976-3	A N Anderson	LC	IRR	0.62	
4426-3	Lakeside Estates Association	LC	COM	0.33	
5819-3	Bethesda Home of Aberdeen	LC	IRR	0.09	
7788-3	Jon Swenson	PE	IRR	0.35	
8520-3	City of Aberdeen	PE	REC, FWP	0.33	9.15
LC: Licensed Water Right; PE: Water Permit					
COM: Commercial; DOM: Domestic; FWP: Fish & Wildlife Propagation; IRR: Irrigation; REC: Recreation					

Table 2 summarizes the water rights/permits authorized to appropriate water for non-irrigation use from the Elm: Southern Brown aquifer with the estimated annual use for each water right/permit as 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 by only a diversion rate will pump at their maximum permitted diversion rate for 60 percent of the time. However, Water Right No. 4426-3 was identified as being connected to WEB Rural Water System and maintains the well for standby purposes (Friedeman, 2020; Water Rights, 2021c); as such, the average annual water use for this water right has been estimated to be zero acre-feet per year on Table 2. Overall, the average annual withdrawal rate for the Elm: Southern Brown aquifer water rights/permits authorized for non-irrigation use is approximately 22.18 acre-feet per year (Table 2) (Water Rights, 2021c).

Table 2. Estimated average annual water use from the non-irrigation water rights authorized to appropriate water from the Elm: Southern Brown aquifer (Friedeman, 2020; Water Rights, 2021c)

Permit No.	Name	Status	Use	Authorized Diversion Rate (cfs)	Authorized Volume (acre-feet)	Estimated Use (acre-feet/year)
3962-3	Northwestern Public Service Co.	LC	IRR, DOM	0.03		13.03
4426-3	Lakeside Estates Association	LC	COM	0.33		0*
8520-3	City of Aberdeen	PE	REC, FWP	0.33	9.15	9.15
LC: Licensed Water Right; PE: Water Permit					TOTAL:	22.18
COM: Commercial; FWP: Fish & Wildlife Propagation; REC: Recreation						
*Identified as being connected to a rural water system						

Currently, there are six water rights/permits authorized to appropriate water from the Elm: Southern Brown aquifer for irrigation use (Water Rights, 2021c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. Water Right No. 3962-3 is not required to submit an annual irrigation questionnaire, which accounts for only 5 permits listed as reporting on Table 3 (Water Rights, 2021c). Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year. However, to account for the fluctuation in wet and dry cycles from year to year, a one foot of water per acre per year application rate will be used to liberally estimate the annual withdrawal rate for Water Right No. 3962-3. Water Right No. 3962-3 is authorized to irrigate 3.5 acres; therefore, by using an application rate of one foot per authorized acre per year, the estimated annual withdrawal rate for Water Right No. 3962-3 is approximately 3.5 acre-feet per year. The average annual withdrawal rate for the Elm: Southern Brown aquifer irrigation water rights/permits that have reported over the period of record, plus the estimated use for Water Right No. 3962-3, is approximately 83.3 acre-feet per year (Table 3) (Water Rights, 2021a).

There are domestic wells completed into the Elm: Southern Brown aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2021d). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Elm: Southern Brown 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 Elm: Southern Brown aquifer.

Hydrologic Budget Summary

The average annual recharge rate to the Elm: Southern Brown aquifer is approximately 2,184 acre-feet per year (Hedges et al., 1982; Hedges et al., 1985). The average annual withdrawal rate from the Elm: Southern Brown aquifer totals approximately 246 acre-feet per year (non-irrigation: 22.18 acre-feet/year, irrigation: 83.3 acre-feet/year, and Water Permit Application No. 8545-3 (if approved, assuming one-foot application rate): 140 acre-feet/year) (Water Rights, 2021a and 2021c). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available for the proposed appropriation.

Table 3. Reported historic irrigation use from the Elm: Southern Brown aquifer (Water Rights, 2021a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	5	27
1980	5	38
1981	5	26
1982	4	0
1983	5	86.02
1984	5	313
1985	5	269
1986	5	274
1987	5	319.3
1988	4	526.4
1989	4	262
1990	4	385
1991	4	95
1992	4	175
1993	4	28
1994	5	123.13
1995	3	66.38
1996	3	43.69
1997	3	2
1998	2	61.78
1999	2	16.9
2000	2	17.35
2001	2	0
2002	2	0
2003	2	0
2004	2	0
2005	2	0
2006	2	0
2007	2	0
2008	2	0
2009	2	0
2010	2	0
2011	2	0
2012	4	0
2013	5	28.28
2014	5	21.21
2015	5	22.98
2016	5	17.68
2017	5	31.82
2018	5	33.59
2019	5	19.44
2020	5	21.21
Min	2	0
Max	5	526.4
Avg	3.7	79.8

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.

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors five observation wells completed into the Elm: Southern Brown aquifer (Water Rights, 2021b). The five observation wells are BN-77D (approximately 1.2 miles southeast), BN-77F (approximately 3.1 miles southeast), BN-77J (approximately 3.8 miles northeast), BN-82D (approximately 12 miles northeast), and BN-73A (approximately 12.3 miles northeast) (as shown in Figure 1). The hydrographs for these observation wells are displayed in Figures 2 to 6 (Water Rights, 2021b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing.

The hydrographs for the observation wells display stable to increasing water levels over their respective periods of record. The hydrographs for the Elm: Southern Brown aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods (early spring snowmelt and precipitation) and declining to a stable water level during drier periods. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of water levels in the aquifer rather than the impacts of pumping from the Elm: Southern Brown aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation.

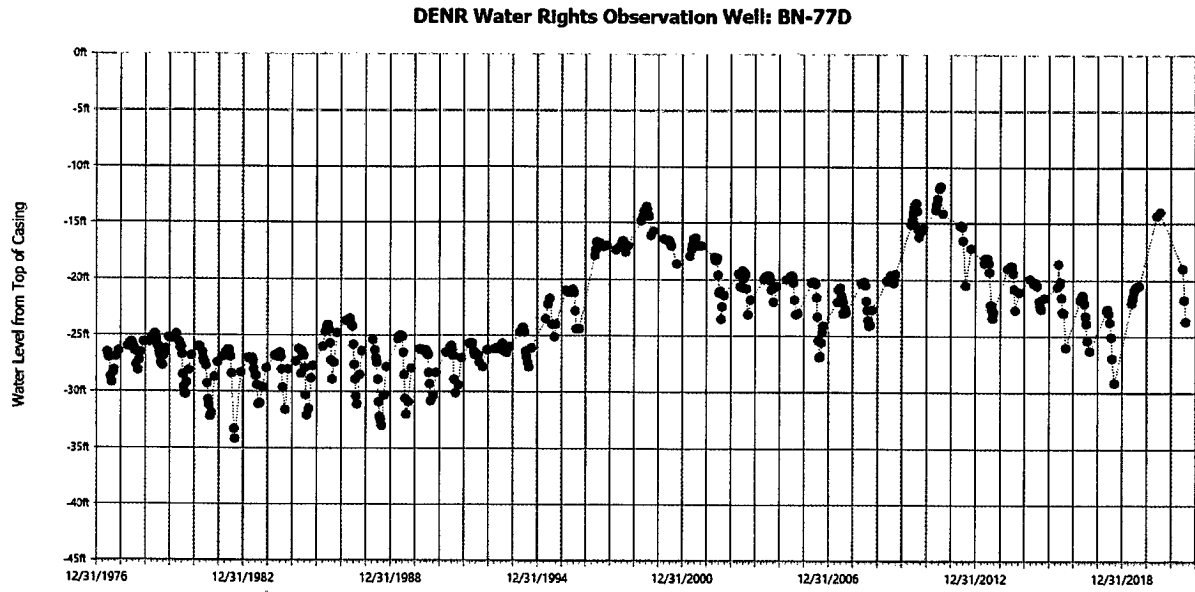


Figure 2. Hydrograph for observation well BN-77D (Water Rights, 2021b)

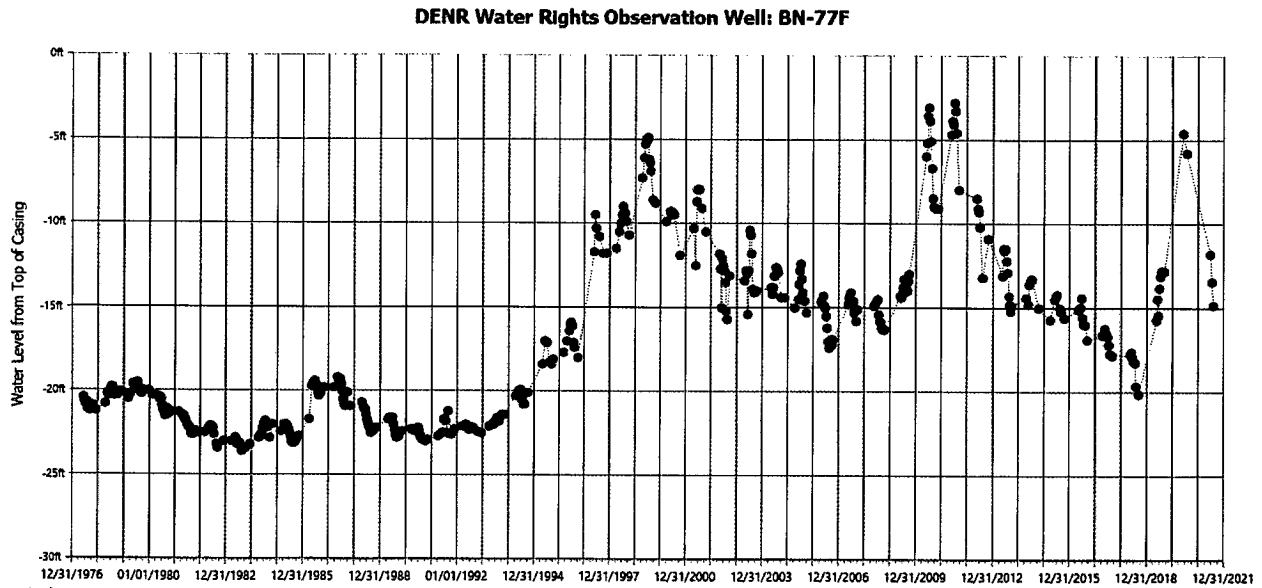


Figure 3. Hydrograph for observation well BN-77F (Water Rights, 2021b)

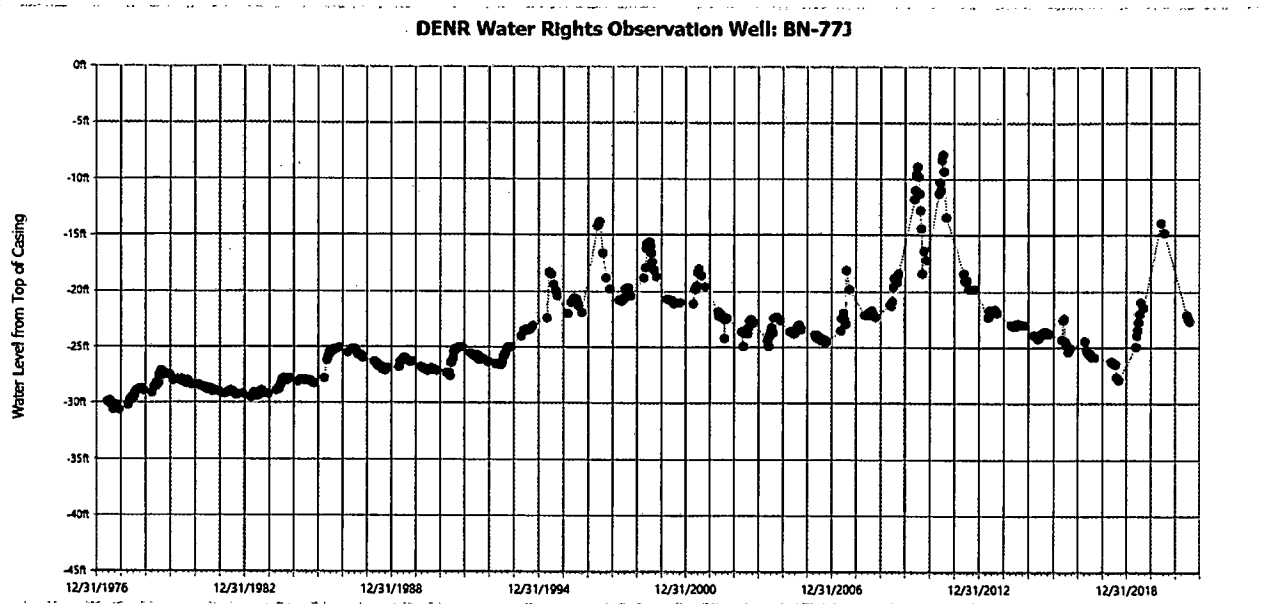


Figure 4. Hydrograph for observation well BN-77J (Water Rights, 2021b)

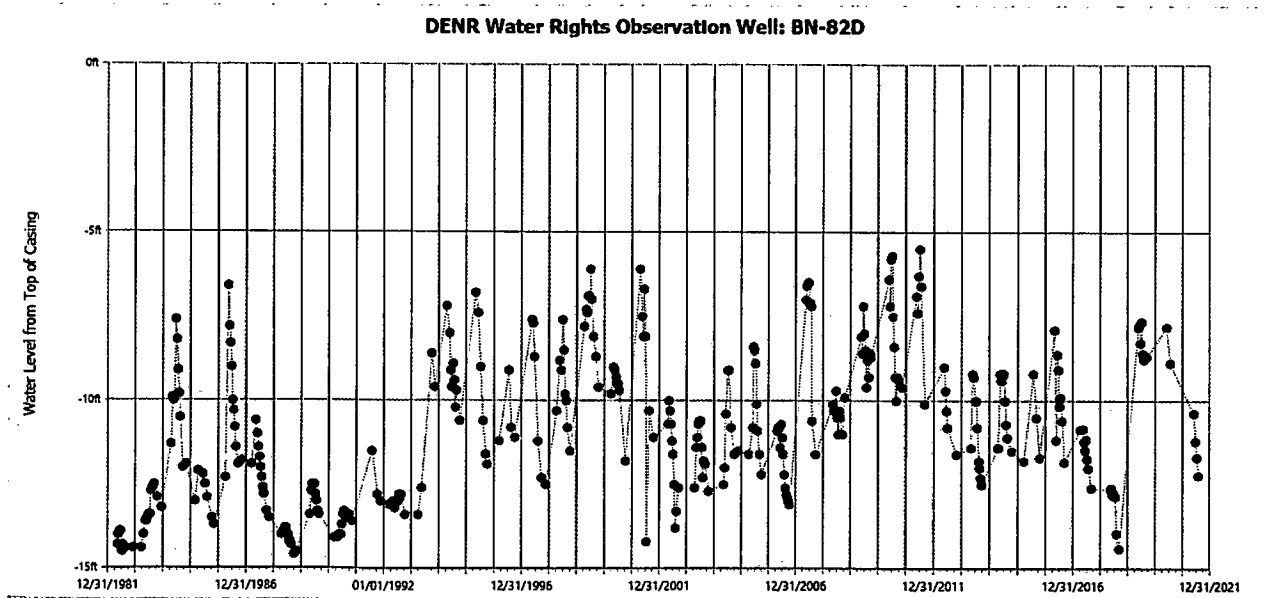


Figure 5. Hydrograph for observation well BN-82D (Water Rights, 2021b)

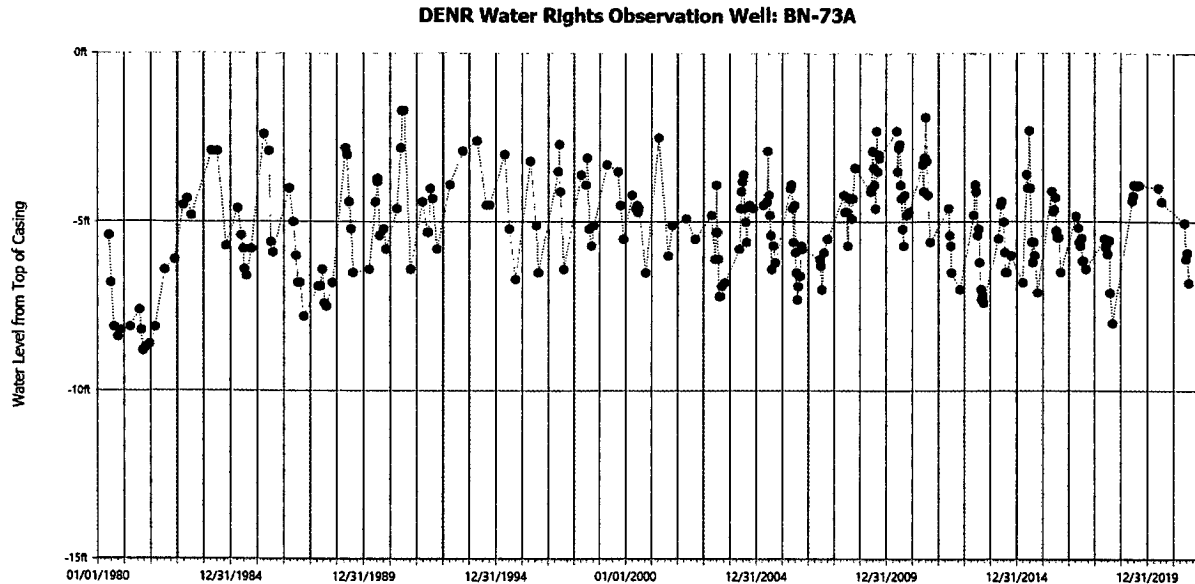


Figure 6. Hydrograph for observation well BN-73A (Water Rights, 2021b)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are eight water rights/permits authorized to appropriate water from the Elm: Southern Brown aquifer (Water Rights, 2021c). The closest water right/permit to proposed diversion point is Water Right No. 3652-3, which is held by Ronne Tarrell. The diversion point for Water Right No. 3652-3 is located approximately 7.5 miles northeast of the proposed diversion point for this application (Table 4) (Figure 7) (Water Rights, 2021c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Elm: Southern Brown aquifer, with the closest domestic well on file (not held by the applicant) approximately 1.1 miles northeast of the proposed diversion point (Water Rights, 2021d). There could potentially be other domestic wells completed into the Elm: Southern Brown aquifer near the proposed diversion point that are not on file with the DANR-Water Rights Program.

Table 4. Water rights/permits authorized to withdraw water from the Elm: Southern Brown aquifer within approximately fifteen miles of the proposed diversion point, as shown in Figure 7 (Water Rights, 2021c)

Permit No.	Name	Status	Use	Authorized Diversion Rate (cfs)
3652-3	Ronne Tarrell	LC	IRR	0.81
3956-3	Keith Lowary	LC	IRR	1.78
3962-3	Northwestern Public Service Co.	LC	IRR, DOM	0.03
3976-3	A N Anderson	LC	IRR	0.62
4426-3	Lakeside Estates Association	LC	COM	0.33
5819-3	Bethesda Home of Aberdeen	LC	IRR	0.09
7788-3	Jon Swenson	PE	IRR	0.35
LC: Licensed Water Right; PE: Water Permit				
COM: Commercial; DOM: Domestic; IRR: Irrigation				

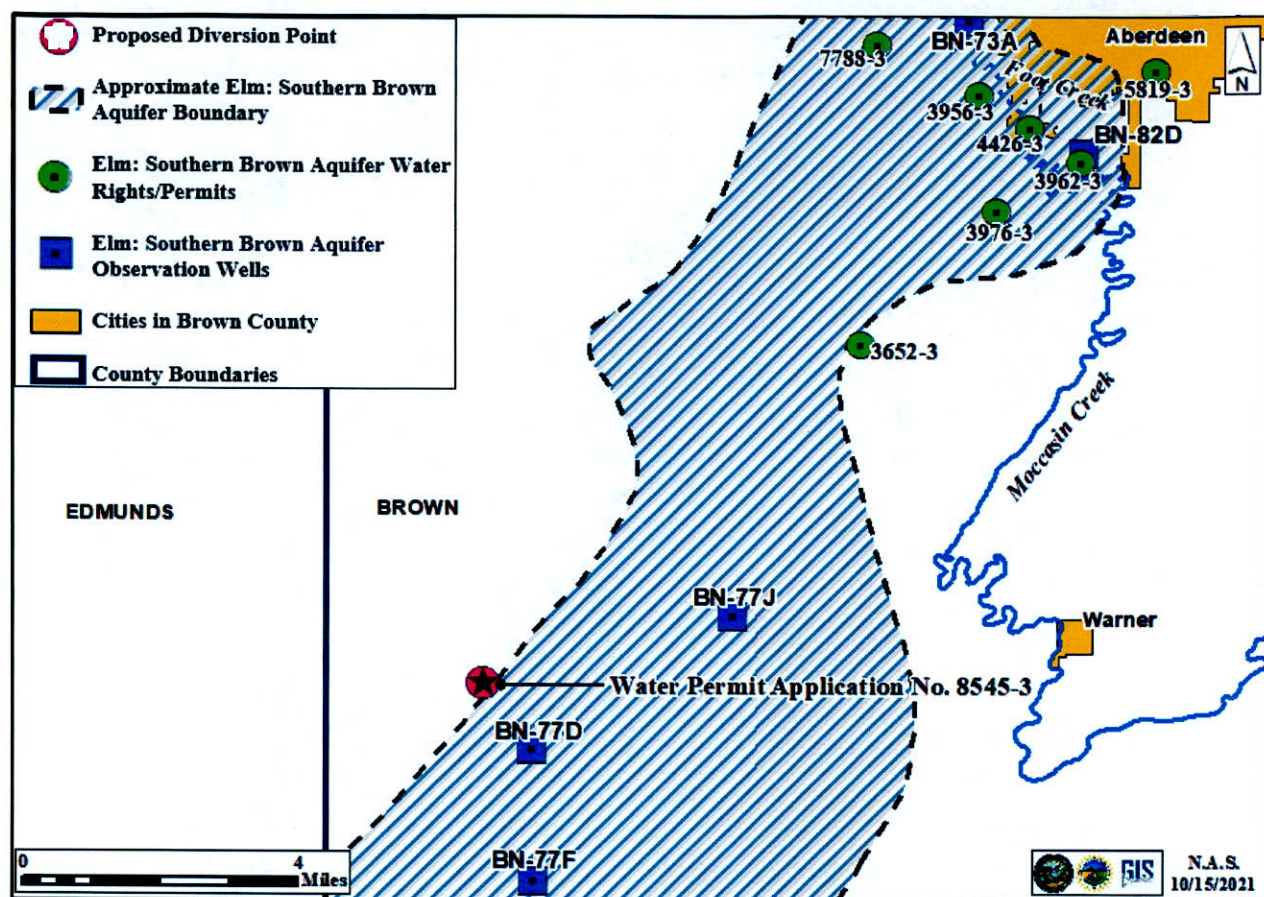


Figure 7. Location of the proposed diversion point for Water Permit Application No. 8545-3 with the Elm: Southern Brown aquifer water rights/permits and the observation wells within approximately fifteen miles (Water Rights, 2021b and 2021c)

The Elm: Southern Brown aquifer varies from confined to unconfined conditions depending on location (Water Rights, 2021c and 2021d). The aquifer is confined at the proposed diversion point based on the submitted well completion report and the lithologic logs on file for nearby observation wells (SDGS, 2021; Water Rights, 2021b and 2021d). 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 of a well cannot be known without an aquifer performance test. The water level fluctuations seen on the hydrographs for observation wells BN-73A and BN-82D (Figures 5 and 6) is likely based on a hydraulic connection between the Elm: Southern Brown aquifer and Foot Creek and by climatic conditions, and not a result of local appropriative users pumping (Water Rights, 2021b and 2021c).

In Brown County, the Elm aquifer is expected to have an average saturated aquifer thickness of approximately 25 feet and a static water level ranging from approximately 4 to 50 feet below the ground surface (Koch and Bradford, 1976). Based on the submitted well completion report, the Elm: Southern Brown aquifer is approximately 27 feet thick at the proposed diversion point, and no static water level was provided on the report (Water Rights, 2021d). Generally, this would

allow for enough 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). Any drawdown as a result of the diversion for this application is not expected to unlawfully impair nearby adequate wells.

In 1980, there were three complaints submitted to the DANR-Water Rights Program regarding potential well interference within Brown County (Water Rights, 2021e). After investigation, the three complaints were determined to be unsubstantiated (Water Rights, 2021e). One of the complaints involved Water Right No. 3652-3, which has authorized diversion points completed into the Elm: Southern Brown aquifer located approximately 7.5 miles northeast of proposed diversion point (Water Rights, 2021c and 2021e). There have been no other complaints submitted to the DANR-Water Rights Program regarding well interference for adequate wells completed into the Elm: Southern Brown aquifer within Brown County (Water Rights, 2021e).

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 Elm: Southern Brown 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 aquifer thickness of the Elm: Southern Brown aquifer in Brown County, and the lack of substantiated well interference complaints for adequate wells completed into the Elm: Southern Brown aquifer in Brown County, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. 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. 8545-3 proposes to appropriate water at a maximum instantaneous diversion rate of 2.0 cfs from one well to be completed into the Elm: Southern Brown aquifer (approximately 71 feet deep) for the irrigation of 140 acres. The site is located in Brown County approximately nine miles west of Warner, South Dakota.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Elm: Southern Brown aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8545-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer I
SD DANR - Water Rights Program

Reviewed by:

Adam Mathiowetz

Adam Mathiowetz, PE
Natural Resources Engineer IV
SD DANR - Water Rights Program

References

- Fahrenbach, M.D., Steece, F.V., Sawyer, J.F., McCormick, K.A., McGillivray, G.L., Schulz, L.D., and Redden, J.A. 2010. South Dakota Stratigraphic Correlation Chart. Oil and Gas Investigations 3. SD DENR-Geological Survey, Vermillion, SD.
- Friedeman, B., 2020, February 27. Personal Communication. Environmental Scientist DENR-Drinking Water Program, Joe Foss Bldg, Pierre, SD.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A., 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Allen, J., Holly, D.E., 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; United States Army Corps of Engineers Contract DACW 45-80-C-0185.
- Koch, N.C., and Bradford, W., 1976. Geology and Water Resources of Brown County, South Dakota. Part II: Water Resources. Bulletin 25. Science Center. University of South Dakota. Vermillion, SD.
- Leap, D.I., 1986. Geology and Water Resources of Brown County, South Dakota. Part I: Geology. Bulletin 25. Science Center. University of South Dakota. Vermillion, SD.
- SDGS, 2021. South Dakota Geological Survey Lithologic Logs Database. Accessed October 15, 2021. <http://cf.sddanr.net/lithdb/>.
- Water Rights, 1995. Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. DANR-Water Rights Program file for Water Right No. 2313-2. Pierre, SD.
- Water Rights, 2021a. "1979-2020 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2021b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2021c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2021d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2021e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, October 26, 2021 12:57 PM
To: samuel@braunactive.com
Subject: Water Permit Application No. 8545-3
Attachments: 2102.pdf

Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

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



LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

PROOF OF PUBLICATION

Water Rights Program
Larry Braun Family Farms
PO BOX 108
WARNER SD 57479-0108

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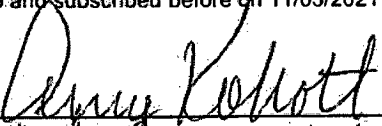
WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

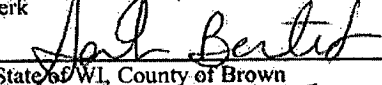
The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers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

11/03/2021

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 11/03/2021



Legal Clerk



Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$47.28

Order No: 6464298

Customer No: 564635

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of Copies:

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THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

SARAH BERTELSEN
Notary Public
State of Wisconsin

**NOTICE OF
APPLICATION NO. 8545-3
to Appropriate Water**

Notice is given that Larry Braun Farms Limited Ptr, c/o Larry Braun, PO Box 108, Warner SD 57479 has filed an application for a water permit to appropriate 2.00 cubic feet of water per second from one well to be completed into the Elm:South Brown Aquifer (71 feet deep) located in the NE 1/4 NW 1/4 Section 9 for irrigation of 140 acres located in the NW 1/4 Section 9; all in T121N-R65W. This site is located approximately 9 miles west of Warner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8545-3 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 November 15, 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 November 15, 2021.

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

Published once at the total approximate cost of \$47.28.
Nov. 3, 2021 #6464298

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, October 26, 2021 11:00 AM
To: Aberdeen News Legals (aan-legals@aberdeennews.com)
Subject: 8545-3, Larry Braun Farms Limited Ptr
Attachments: 8545-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on November 3, 2021.

Larry Bruan Farms Limited Ptr, c/o Larry Braun, PO Box 108, Warner SD 57479 (605 380-0166) 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.**

October 26, 2021

Larry Braun Farms Limited Ptr
c/o Larry Braun
PO Box 108
Warner SD 57479

Dear Mr. Braun

Water Permit Application No. 8545-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the American News printed at Aberdeen SD (Ph # 605 225-4100). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 8545-3 to Appropriate Water

Notice is given that Larry Braun Farms Limited Ptr, c/o Larry Braun, PO Box 108, Warner SD 57479 has filed an application for a water permit to appropriate 2.00 cubic feet of water per second from one well to be completed into the Elm:South Brown Aquifer (71 feet deep) located in the NE 1/4 NW 1/4 Section 9 for irrigation of 140 acres located in the NW 1/4 Section 9; all in T121N-R65W. This site is located approximately 9 miles west of Warner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8545-3 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 November 15, 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 November 15, 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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NOV 3 0 2021

Larry Braun Farms Limited Ptr
c/o Larry Braun
PO Box 108
Warner SD 57479

Dear Mr. Braun:

Enclosed is Water Permit No. 8545-3 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