

8590-3
WATER PERMIT NO. 8589-3

Name of Applicant: **Benjamin A. and Helen M. Family Trust**

Address: **40360 235th St., Forestburg SD 57314** Phone: **605 351-5937**

Amount of Water Claimed: **No add'l cfs** Total Acres: **160**

Source of Water Supply: **groundwater (up to three wells)**

Water to be used for: **Irrigation** County: **Sanborn**

Type of Waste Disposal System:

Location: **9 miles southeast of Woonsocket**

PRIORITY Date Received: **2-2-22** Application/License Fee: **\$ 1050**

Corrected Application Received: Period of Annual Use: **January 1 – December 31**

Remarks:

Diversion Point: **Up to 3 wells within the W 1/2 W
1/2 Sec 12-T106N-R61W**

Land to be Irrigated: **W1/2 W1/2 Sec 12-T106N-
R61W**

Depth of Well: **100 feet deep**

Well Driller:

Remarks:

Type of Map: **aerial photo**

Prepared by:

		3 wells	12	

Reviewed and the Number Assigned on: **2-8-22**

By: **Ron Duvall**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8590-3**

Date of first receipt of application February 2, 2022.

Date of return to applicant for corrections, amendments or changes February 2, 2022.

Date of receipt of corrected application February 8, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8590-3 to Benjamin A. & Helen M. Zoss Family Trust, 40360 235th St, Forestburg SD 57314 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. 8590-3 appropriates water at a maximum pump rate of 2.28 cubic feet of water per second from up to three wells to be completed into the Warren:West James Aquifer (approximately 100 feet deep) located in the W1/2 W1/2 section 12 for irrigation of 160 acres located in the W1/2 W1/2 section 12; all in T106N-R61W. This site is located approximately 9 miles southeast of Woonsocket 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: January 1 – December 31.
3. The date from which applicant may claim right is February 2, 2022.
4. The date of approval of Permit No. 8590-3 is May 2, 2022.
5. One-fifth of the construction is to be completed on or before November 2, 2024.
6. All construction is to be completed on or before May 2, 2027.
7. Water is to be put to beneficial use on or before May 2, 2031.
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 wells approved under Water Permit No. 8590-3 are 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. The wells authorized by Permit No. 8590-3 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

JUN 01 2022
date



RECEIVED

FEB 02 2022

PAID

FEB 2 2022

Ck#

Rec't#

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8590-3</u>	(office use only) Hydrologic Unit	WATER RIGHTS PROGRAM
	Basin <u>James River</u>		
	Newspaper <u>Sanborn Weekly</u>		
	<u>Plainsman</u>		

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.)

Operator: Boy Rutherford, 7283 County Rd 6, Grafton ND 58237
701 520-0863 2055

1. Name to Appear on Irrigation Permit Benjamin A. & Helen M. Family Trust

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

Mailing Address 40360 235th St. Forestburg SD 57314
(Address) (City) (State) (Zip Code)

Phone (605) 495-4268 Mobile (605) 599-7448 Email helen2055@hotmail.com

2. Amount of water claimed 2.28 *CFS or **GPM ***AF Total Acreage 160
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 3 wells

4. Location of point of diversion W 1/2 W 1/2 Section 12 106W - 61N Logan Township
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
County Sanborn

5. County or counties where water will be used Sanborn

6. Annual period during which water is to be used year around

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

Land Description	Acres	Land Description	Acres
<u>W 1/2 NW 1/4 Sec 12</u>	<u>80</u>		
<u>W 1/2 SW 1/4 Sec 12</u>	<u>80</u>		

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

Benjamin A. Trust
Helen M. Trust

Name of Person

Title (if applicable)

, the applicant, certify under

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 3 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

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

For either Existing or Proposed Wells:

c) Well Depth (required) ~100 ft Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

d) Distance to nearest domestic well on applicant's property _____ Property owned by others ~1/2 mile south

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)

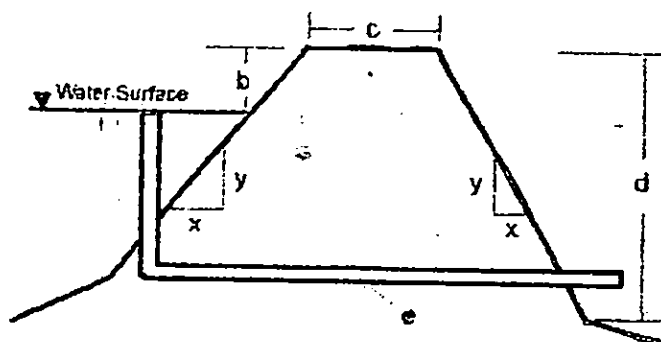
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Sanborn County, South Dakota



Common Land Unit ☐ Tract Boundary
☐ Non-Cropland
☐ Cropland

Wetland Determination Identifiers

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

ALL CORN IS YELLOW
ALL BEANS ARE COMMON
ALL NON IRRIGATED UNLESS NOTED
ALL GRAIN UNLESS NOTED
PLANTING PATTERN SOLID UNLESS NOTED
SHARES _____
SIGNATURE & DATE _____

ALL GRAZING UNLESS NOTED
ALFALFA 60% OR MORE Y/ N

2021 Program Year

Map Created February 08, 2021

Farm 4817

12-106N-61W-Sanborn

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).

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date February 2, 2022

RECEIVED OF Roy Rutherford/Benjamin A & Helen M Family Trust 7283 County Rd 6 Grafton ND 58237

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

Fee for Application for Permit No. <u>8590-3</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>8590-3</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 Iris Gronlund
Chief Engineer
IRG

Duvall, Ron

From: Helen Zoss <helenzoss@hotmail.com>
Sent: Tuesday, February 8, 2022 2:59 PM
To: Duvall, Ron
Subject: Re: [EXT] Water Permit Application for Benjamin A. and Helen M. Family Trust

I just talked to Roy re your questions about the water permit application. We sent you an updated application, but unfortunately you haven't received it yet.

Here are the answers to your questions:

1. 1026 gpm (gallons per minute)
2. 3 wells within the W 1/2 of the W 1/2 of Section 12
3. 100 feet deep

Hope this helps. You have Roy's cell; mine is (605)999-7448. Call if any questions.

Thank you,
Helen Zoss

via phone on 2/8/22 Roy indicated nearest domestic well on property owned by neighbor is 1/2 mile south
Ron D

From: Duvall, Ron <Ron.Duvall@state.sd.us>
Sent: Wednesday, February 2, 2022 4:25 PM
To: helenzoss@hotmail.com <helenzoss@hotmail.com>
Cc: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: Water Permit Application for Benjamin A. and Helen M. Family Trust

Good afternoon,

I am emailing you concerning your water permit application. We received the application today along with the application fee from Roy. I just have a couple questions and then we can get busy working on a report and recommendation concerning your application.

The application specifies it is for irrigation of 160 acres but does not identify a diversion (pump) rate. By statute, you are entitled up to 1.0 cubic feet of water per second (cfs) for each 70 acres. Dividing 160 acres by 70 amounts to 2.28 cfs which is just over 1,000 gallons per minute (1,026 gpm to be exact). Would you like to specify that amount of water on the application or some other amount?

The application is for up to three wells and identifies the same area for the wells to be located as the 160 acres. Usually the well locations are denoted by an "X" marks the spot on map and it provides a check against the legal description placed on the application – in this case, the W1/2 W1/2 of section 12-106N-61W. Please just confirm that the wells are to be located anywhere in the W1/2 W1/2 and that will be fine.

The second page of the application asks some information about the proposed well construction. We need to have some idea of the depth of the wells. The application indicated "Warren aquifer" but providing a proposed depth will allow us to confirm that we are talking about the same aquifer. I did a search of our database and I found three well logs

within section 12. The depths of those wells is 97 feet deep, 115 feet deep, and 975 feet deep. Here are links to the well completion reports if you are interested in looking at the logs.

<https://danr.sd.gov/wrimage/WellCompletionReports/images60k/00054024.pdf> 115 feet deep

<https://danr.sd.gov/wrimage/WellCompletionReports/images45k/00033354.pdf> 97 feet deep

<https://danr.sd.gov/wrimage/WellCompletionReports/images60k/00057665.pdf> 975 feet deep

My guess is you are looking at the 100 feet deep range but want you to confirm that. Also, please identify the approximate distance to the nearest domestic well on property owned by others that is likely into the same aquifer provided you believe you know what that distance is.

Please contact me if you have any questions. My desk phone number is 605-773-5670.

Thank you,

Ron Duvall
Dept. of Agriculture & Natural Resources
Office of Water, Water Rights Program
605.773.3352
danr.sd.gov



DANR
SOUTH DAKOTA

**Water Rights Program
Dam File Documentation**

NAME OF PERSON OR FILE: Water Permit Application No. 8590-3

DATE: March 14, 2022

RE: Water Permit Application No. 8590-3

COMMENTS:

Water Rights Staff Engineers Kilts and Mathiowetz called Roy Rutherford to verify the target aquifer for Application No. 8590-3. Ms. Kilts explained the location for the application is near the boundary of the Warren aquifer (the aquifer indicated as the target in the application). The Water Rights observation well (SA-571D) for the West James management unit of Warren aquifer on the NW corner of the area for the well only had 17 feet of sand and gravel and saturated thicknesses have ranged over the period of record from 4.5 ft to 13.6 ft. This indicated that during dryer conditions getting the requested diversion rate would likely be a problem. And asked if he still wanted to pursue the Warren aquifer or if he would prefer to switch to the Niobrara aquifer. Mr. Mathiowetz then described the possible options for Mr. Rutherford to take from here. Mr. Rutherford indicated that he wants to stick with the Warren aquifer since he believed that it likely had better water quality than the Niobrara aquifer. At the end of the conversation Mr. Rutherford also indicated that he understood that if when the wells were drilled the driller had to go to a deeper water source like the Niobrara aquifer, a new permit would be needed for the Niobrara aquifer before he could irrigate.

Whitney Kilts
Natural Resources Engineer



**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. 8590-3, Benjamin A. and Helen M. Family Trust**

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. 8590-3, Benjamin A. and Helen M. Family Trust, 40360 235th Street, Forestburg SD 57314.

The Chief Engineer is recommending APPROVAL of Application No. 8590-3 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 wells approved under Water Permit No. 8590-3 are 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. The wells authorized by Permit No. 8590-3 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
April 8, 2022

continued

NOTE: The water source for this application is the West James Management Unit of the Warren aquifer. If any of the wells are completed into a different water source, such as the surficial alluvial deposit or the deeper Niobrara aquifer, a separate water permit will need to be obtained.

Please read the staff engineer's report carefully. The wells are to be located near the known southeastern boundary of this aquifer. It is anticipated that the aquifer is relatively thin with a limited amount of saturated thickness at the proposed location. Well yield may be limited such that attaining the requested diversion rate may not be possible.

Report to the Chief Engineer
Water Permit Application No. 8590-3
Benjamin A. & Helen Zoss Family Trust

Water Permit Application No. 8590-3 proposes to appropriate water for the irrigation of 160 acres at a maximum instantaneous diversion rate of 2.28 cubic feet per second (cfs) from up to three proposed wells (approximately 100 ft deep) to be completed into the Warren: West James aquifer. Both the proposed wells and proposed acres for irrigation are located in the W $\frac{1}{2}$ W $\frac{1}{2}$ Section 12-T106N-R61W in Sanborn County. This site is located approximately nine miles southeast of Woonsocket, SD. The applicant is also requesting year round usage rather than the typically May through September irrigation season.

Aquifer: West James management unit of the Warren aquifer (W: WJ)

Hydrogeology and Aquifer Characteristics

The West James management unit of the Warren (Warren: West James) aquifer underlies approximately 268,700 acres of portions of Beadle, Jerauld, and Sanborn Counties (Hedges et al., 1982). Hedges et al. (1982) estimates the amount of recoverable water in the Warren: West James at approximately 1,404,150 acre-feet. The aquifer is a buried outwash consisting of material ranging from a fine sand to gravel that can be mixed with silt in areas (Hedges et al., 1982 and Steece and Howells, 1965). The aquifer is primarily found under confined conditions but can be found under water table conditions in the Sand Creek (in Jerauld and Sanborn Counties) stream valley and other ephemeral stream valleys (Howells and Stephens, 1968). The approximate areal extent of the aquifer as delineated by Hedges et al., 1982 is shown in Figure 1.

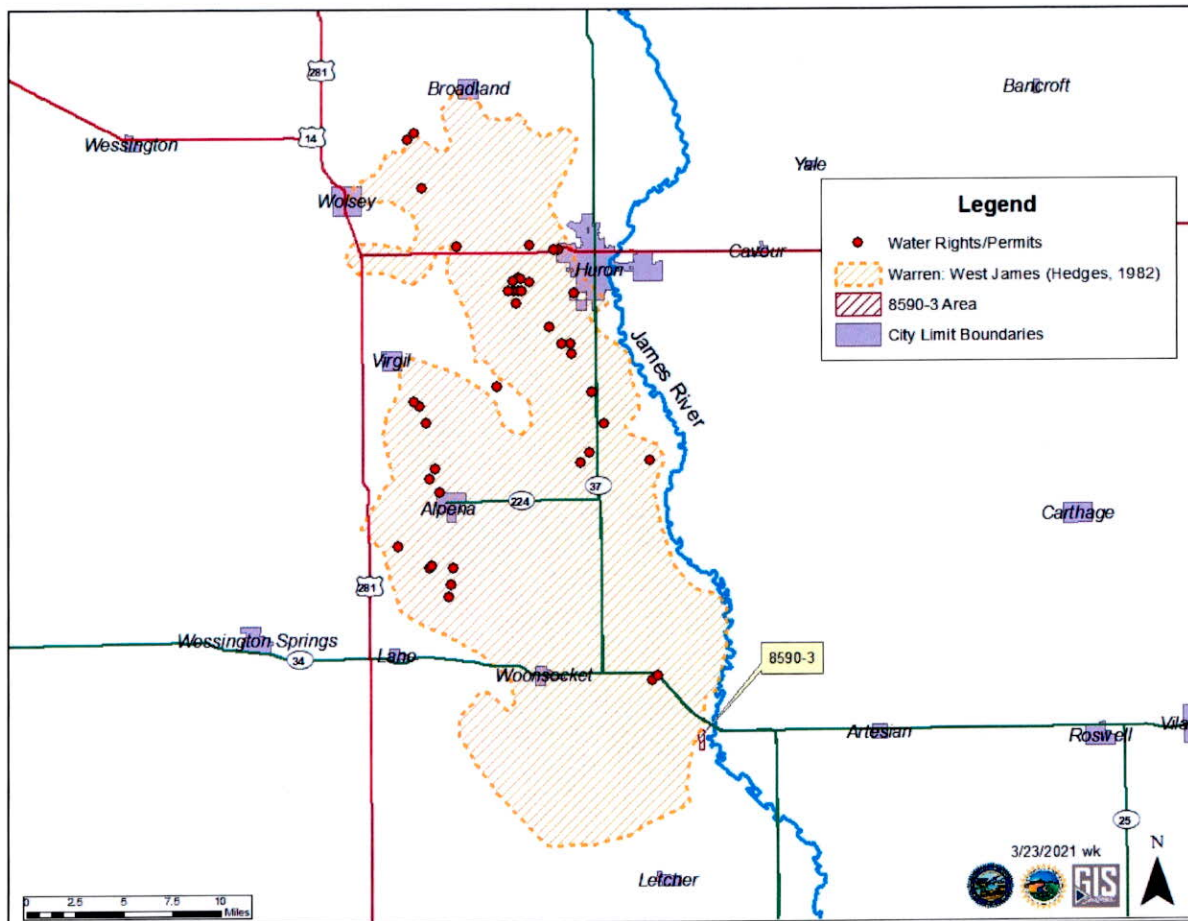


Figure 1: Location of the area for the proposed well sites for this application and the approximate extent of the Warren: West James aquifer (modified from Hedges, et al., 1982)

This application did not include any test hole or well completion report information; however, there is existing geologic information in the area for the proposed wells (Water Rights, 2022a; SDGS, 2022). The well log for Water Rights observation well SA-57D historically identified as monitoring the Warren: West James aquifer, located near the northwest corner of the area for the proposed wells for this application, reports fine sand from 0 to 7 ft and gravel from 7 to 12 ft (Water Rights, 2022a). Water level records are available for SA-57D from 1956 to 2021, the water level readings range from 3.6 feet below the top of the well casing in June of 2010 to 12.5 feet below the top of the well casing in August of 2017, indicating saturated thickness in this well ranges from 4.5 to 13.4 feet (Water Rights, 2022a). Although, historically identified as monitoring the Warren: West James aquifer given how shallow the SA-57D is it could be monitoring the surficial alluvium along the James River or surficial eolian sand deposits (Martin, et al., 2004; Schulz, 2001). South Dakota Geological Survey (SDGS) test hole number R2-2001-12 is located near the southwest corner of the area for the proposed wells for this application and test hole R2-2001-09 is located approximately 0.14 miles north of the northwest corner of the area for the proposed wells for this application. The glacial deposits portion of these test holes are summarized in Table 1. The test holes indicate that the glacial sands and gravels in the area are relatively thin, so well yield from the Warren: West James aquifer in this area could be limited.

Table 1: Summary of Test Hole Information for R2-2001-12 and R2-2001-09 (SDGS, 2022)			
R2-2001-12		R2-2001-09	
Depth (ft)	Description	Depth	Description
0-4	sand	0-6	sand and gravel
4-15	clay	6-79	clay
15-26	silt and sand, very fine to fine sand	79-82	sand and gravel
26-88	clay	82-128	clay
88-101	silt and sand, fine sand	128-133	gravel
101-124	clay	133	top of the Niobrara
124-144	silt and sand, very fine sand		
144-148	clay		
148-152	gravel		
152	top of the Niobrara		

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 this portion of the Warren: West James aquifer.

Water Availability

Water Permit Application No. 8590-3 proposes to appropriate water from the Warren: West James aquifer for irrigation use. The probability of unappropriated water being available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires, "No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source." If the source of the water is older or lower than the Greenhorn Formation and the application is for a water distribution system defined in SDCL 46-1-6 (17), the Board need not consider the recharge/withdrawal issue. The Warren: West James aquifer is not older or lower than the Greenhorn Formation and this application is not for a water distribution system; therefore, the withdrawal/recharge issue must be considered.

Observation Well Data

In determining the availability of unappropriated water for a permit application Administrative Rule 74:02:05:07 requires the Water Management Board to rely on 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 annual recharge.

The Water Rights Program monitors water levels in 42 observation wells completed into the Warren: West James aquifer. The observation wells for the aquifer generally show stable to slightly increasing water levels over the period of record (Water Rights, 2022a). The nearest observation well, located on the northwest corner of the area for the proposed wells, is observation well SA-57D. Although, historically identified as monitoring the Warren: West James aquifer given how shallow the SA-57D is it could be monitoring the surficial alluvium along the James River or surficial eolian sand deposits (Martin, et al., 2004; Schulz, 2001). The hydrograph for SA-57D is shown in Figure 2. The next nearest observation well is SA-66B located approximately 4.4 miles to the northwest and shown in Figure 3. Observation well SA-66B has limited recent readings, so the hydrographs for observation wells SA-68A (Figure 4 located 4.6 miles to the northwest) and SA-57C (Figure 5 located 6.3 miles to the northwest) are also included.

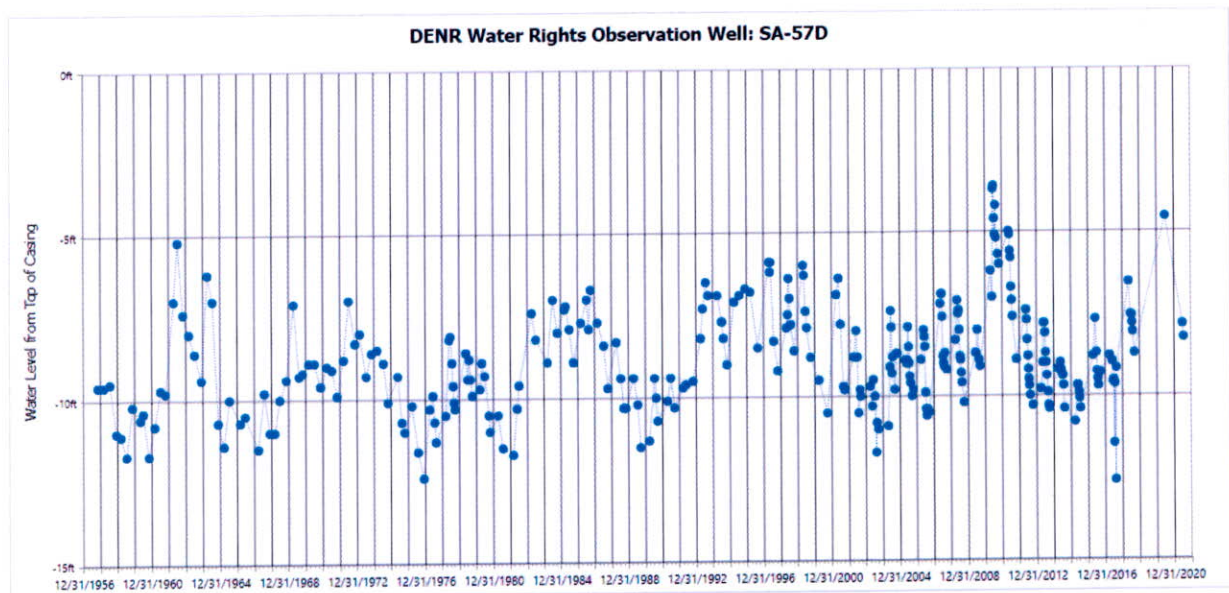


Figure 2: Hydrograph for observation well SA-57D (Water Rights, 2022a)

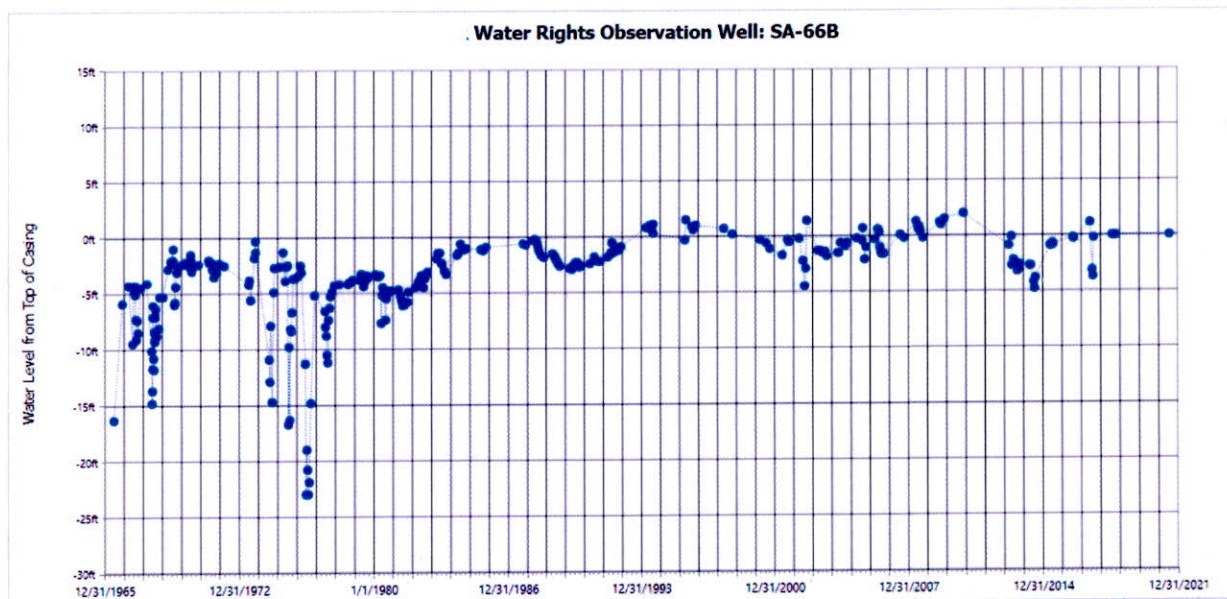


Figure 3: Hydrograph for observation well SA-66B (Water Rights, 2022a)

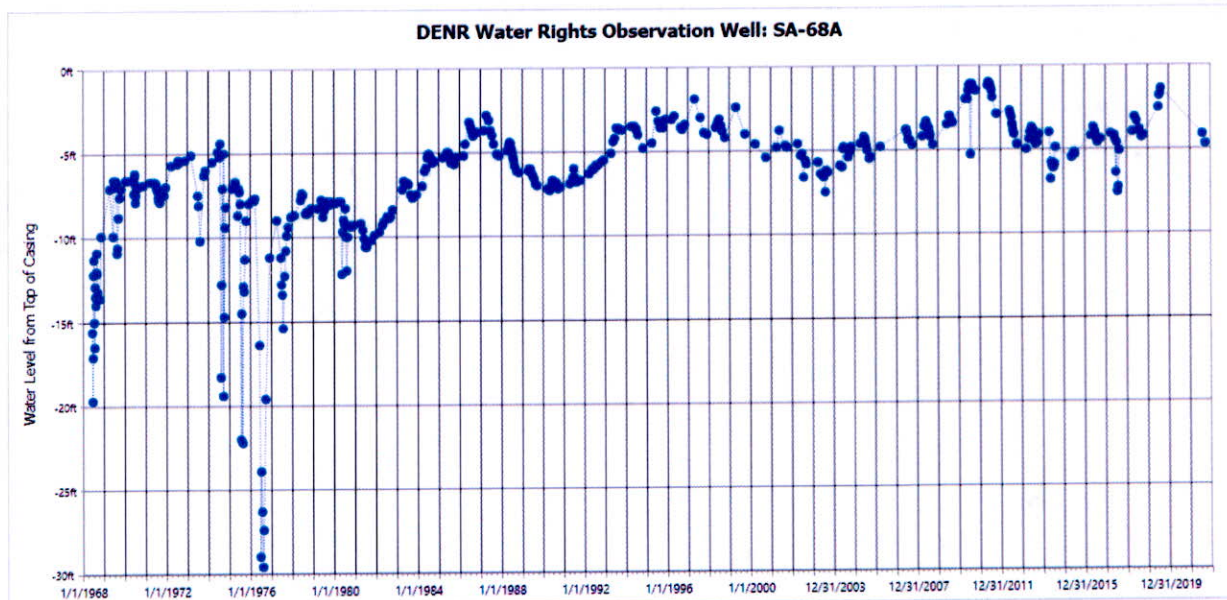


Figure 4: Hydrograph for observation well SA-68A (Water Rights, 2022a)

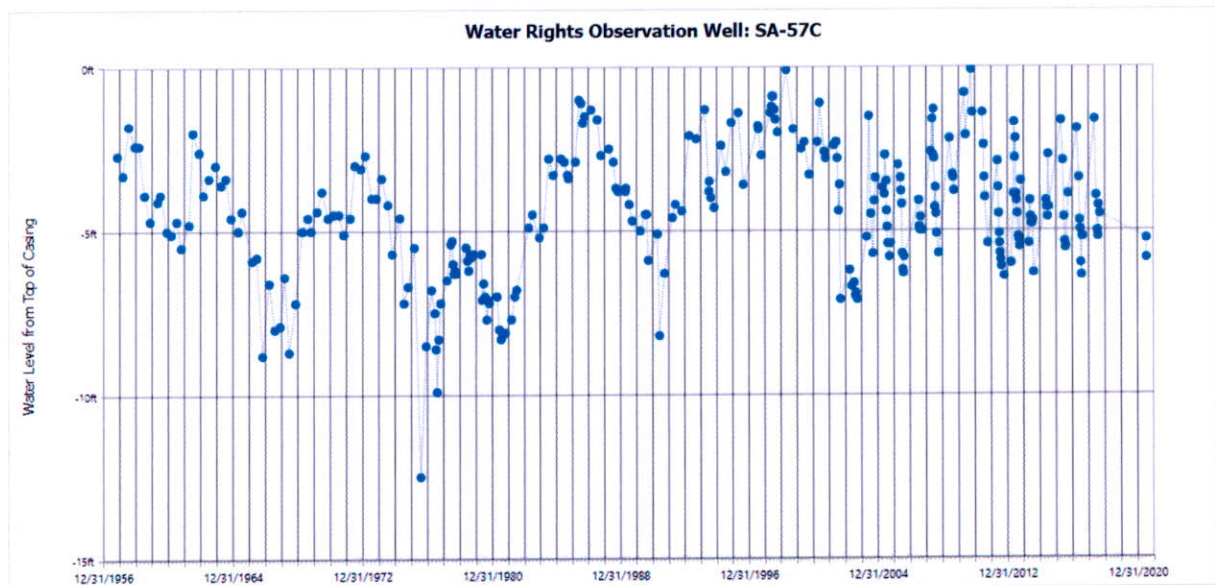


Figure 5: Hydrograph for observation well SA-57C (Water Rights, 2022a)

The observation wells for the aquifer generally show stable to slightly increasing water levels over the period of record (Water Rights, 2022a). The response of water levels to climatic conditions can be noted, although the magnitude of the response to climatic condition varies due to localized conditions within the aquifer. Several observation wells that are close to irrigation wells show localized seasonal dips in water levels during the irrigation season in response to pumping. However, water levels recover after the end of the irrigation season. This can be seen in the hydrographs for SA-66B and SA-68A during the late 1970's when a now cancelled irrigation permit was pumping (Water Rights, 2022b). Water levels in the observation wells monitoring the aquifer generally rise during wet periods and decline to stable levels during drier periods. This type of behavior, along with aquifer recovery following the irrigation season, is indicative that climatic conditions, and therefore the effects of recharge to and natural discharge from the aquifer, govern the long term fluctuations in water level in the aquifer instead of pumping. Since recharge to and natural discharge from an aquifer can be captured for pumping, there is a reasonable probability that unappropriated water is available from the Warren: West James aquifer for the proposed appropriation.

Hydrologic Budget

Withdrawals

Withdrawals from the Warren: West James aquifer occur via well withdrawals, seepage to Sand Creek, evapotranspiration, and groundwater outflow (Hamilton, 1985). The amount of water withdrawn by domestic uses is not considered a significant portion of the hydraulic budget of the aquifer due to the relatively low diversion rate of domestic wells; additionally with the development of rural water systems in the area many domestic wells may no longer be in use. The remainder of withdrawals can be split into irrigation and non-irrigation uses.

There are seven non-irrigation water rights/permits and one future use permit appropriating water from the Warren: West James aquifer. The future use permit for the City of Huron has been

fully developed, therefore this permit is no longer reserving any water. Historically, average water use by non-irrigation appropriations limited by maximum instantaneous diversion rate has been less than 60% of full time pumping at the permitted maximum diversion rate. Of seven non-irrigation water rights three (Water Right Nos. 565-3, 4269-3, and 4962-3) are held by the City of Huron. The value for 60% of the maximum instantaneous diversion associated with these three water rights is 2,607 acre-feet per year. The 2020 Drinking Water Report for the City of Huron indicates that the city purchased 77% of their water from Mid-Dakota Rural Water System (Drinking Water Program, 2022) and therefore actual use of their water rights may be less than estimated. The remaining four non-irrigation water rights have an estimated average annual water use of 151 acre-feet per year. The total estimated average annual appropriative non-irrigation withdrawal from the aquifer is to be approximately 2,758 acre-feet.

The Water Rights Program collects and maintains irrigation data from across the state. Yearly appropriations and reported irrigation pumpage for water rights/permits in the Warren: West James aquifer for 1979 to 2020 are shown in Appendix A in Table A1. Average reported irrigation pumpage over the period of record is 1,959 acre-feet per year.

Recharge

Recharge to the Warren: West James aquifer is from infiltration of precipitation and snowmelt, groundwater inflow, and possibly seepage from the Niobrara and Codell aquifers (Howells and Stephens, 1968). Major recharge areas for the aquifer include the outwash plain and dune sand area south of Sand Creek and outwash and alluvium near Broadland (Steece and Howells, 1965 and Howells and Stephens, 1968).

Hedges et al. (1985), Hamilton (1985), and Emmons (1988) all estimated recharge to the Warren: West James aquifer. The estimates from these publications are summarized in Table 2 with the average annual recharge estimated utilizing the area of the aquifer as estimated by Hedges et al. (1982). The accuracy of these estimates varies by methodology. Emmons (1988) treated the four major aquifers (Warren, Floyd, Bad Cheyenne, and Tularc) within the study area as a single aquifer system rather than individual aquifers. As a result, the recharge estimate of Emmons (1988) is more reflective of recharge to the portion of the aquifer system simulated within the study area, rather than Warren: West James aquifer. Hamilton (1985) estimated recharge using discharge calculations, assuming no change in storage and ignoring evapotranspiration. Of the regional flownet analysis Hedges et al. (1985) comments, "It should be noted that recharge rates calculated using flownet analysis are suspect and conclusions based on this method are questionable." Of these methods the observation well analysis is considered to be the most reflective of actual conditions since it utilized management unit specific data and was most closely based on real world observation; however, the areal extent of the unconfined portions of the aquifer have not been delineated.

Table 2: Summary of Recharge Estimates

Publication	Method	Recharge Rate (in/yr)	Estimated Volume (acre-feet/year)
Hedges et al., 1985	Observation Well analysis (unconfined portion)	3.00	unconfined area undefined
	Regional flow-net analysis (confined portion)	0.35	7,837
Emmons, 1988	Digital Model (unconfined portion)	0.90-3.40	unconfined area undefined
	Digital Model (confined portion)	0.24-0.72	5,374 to 16,122
Hamilton, 1985	discharge calculations	0.70	15,674

Balance

Total estimated average annual withdrawals from the aquifer by water right/permit holders is estimated at approximately 4,717 acre-feet per year (non-irrigation: 2,758 acre-feet and irrigation: 1,959 acre-feet). Since this application indicated year round use rather than the traditional May through September irrigation season, this application is estimated to use the statutory limit on irrigation application rate of two acre-feet per year. Therefore, average annual water use by this application, if approved, is estimated at 320 acre-feet per year. In comparing the estimated average annual withdrawals from the aquifer to the estimated average annual recharge values presented in Table 1, average annual recharge estimates exceed estimated average annual withdrawals by more than the amount of water requested by this application. Therefore, there is a reasonable probability that water is available.

Potential for Unlawful Impairment of Existing Water Rights

Water rights/permits currently authorized to appropriate water from the Warren: West James in the area of the proposed wellsite for this application are shown in Figure 5 and summarized in Table 3. The nearest water right/permit is Water Rights No. 1269-3 located 3.5 miles to the northwest. There are domestic wells on file with the Water Rights Program located within one mile of the area for the proposed wells for this application; however, the majority of those wells appear to be completed into lower bedrock aquifers such as the Niobrara or Dakota aquifers (Water Rights, 2022c). Schulz (2001) suggests that the Warren: West James in this area may extend slightly more south and east than mapped by Hedges, et al. (1982). There are no domestic wells on file with the Water Rights Program between the area for the proposed well locations and the aquifer boundary; however, domestic wells could exist in the area that are not on file with the Water Rights Program.

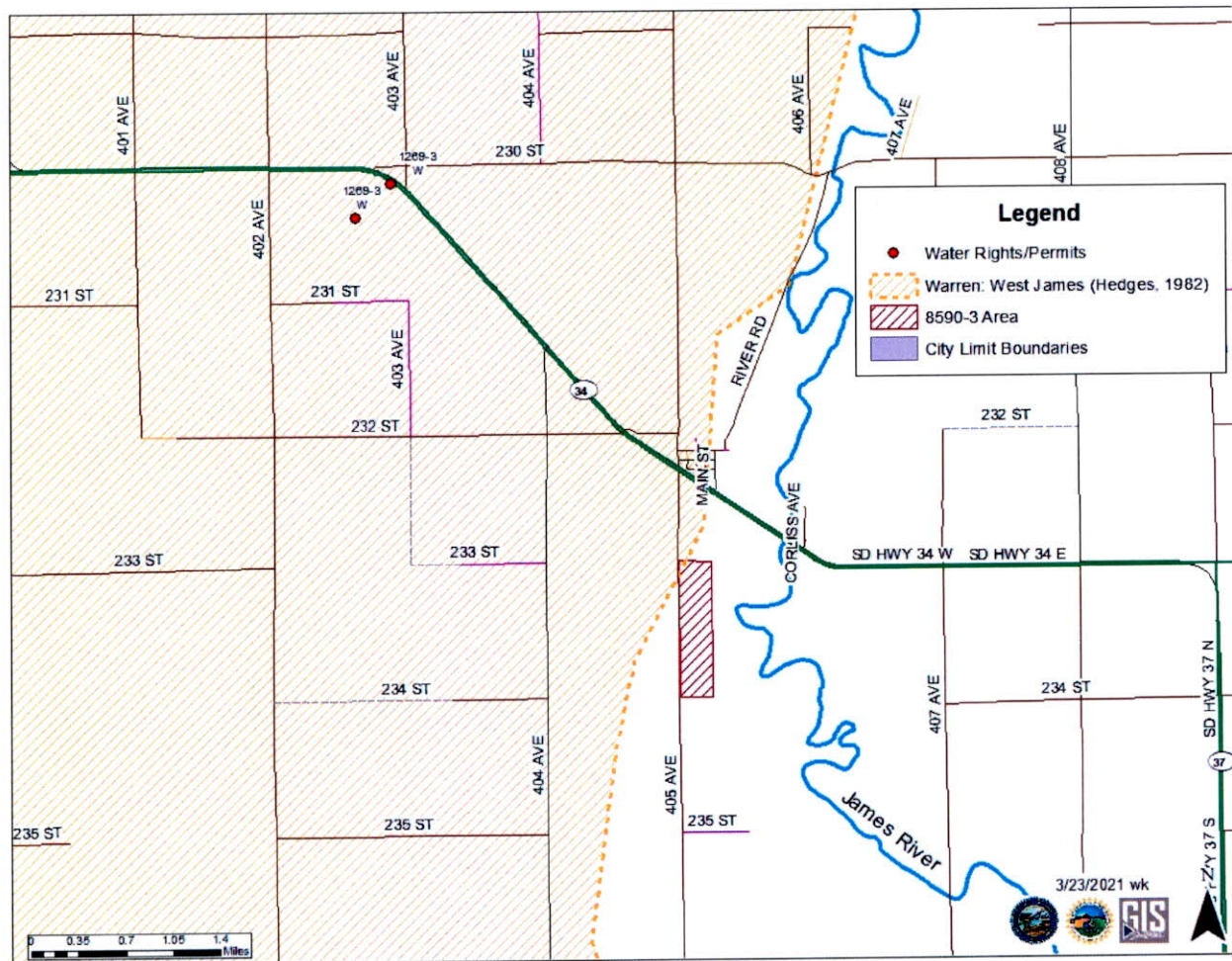


Figure 6: Water Rights/Permit currently authorized to appropriate water from the Warren: West James in the area of the proposed well site for this application (Water Rights, 2022b)

Table 3: Summary of Water Rights in Figure 6 (Water Rights, 2022b)					
Permit No.	Name	Status	Use	Rate (cfs)	Acres
1269-3	Ervin Wollman	LC	IRR	0.89	72

In general, this aquifer is under confined conditions, the Water Management Board has promulgated rules that allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Board has defined an adversely impacted domestic well 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.” In the case of Water Permit Application No. 2313-2 for the Coca-Cola Bottling Company of the Black Hills the Water Management Board adopted findings that noted that if the increased costs or decreased production as a result of the impacts of legitimate users on artesian head pressure could be considered an adverse impact it would conflict with SDCL 46-1-4 (Water Rights, 1995). SDCL 46-1-4 requires the water resources of the state be put to beneficial use to the maximum extent of which they are

capable (Water Rights, 1995). There is not a history of substantiated well interference complaints in the Warren: West James in Sanborn County (Water Rights, 2022d).

In the area of the proposed location for the wells for this application, the Warren: West James aquifer can be relatively thin with a limited amount of saturated thickness. While long term average annual withdrawals would not exceed average annual recharge to the aquifer, short term conditions may occur when withdrawals exceed recharge. When this occurs, water will be removed from storage, consequently reducing the saturated thickness of the aquifer. If this occurs for an extended period of time such that the saturated thickness is reduced to the extent that the water rights/permits can no longer pump at their developed or "historically established" rates, this may be considered an adverse impact. Where there is the most potential for this to occur is between the pumping wells for this application and the nearby edge of the aquifer, however, there are no domestic wells on file with the Water Rights Program between the area for the proposed well locations and the aquifer boundary. If this occurred, the water source would need to be managed to mitigate the potential adverse impact as much as possible to prevent any unlawful impairment. Since the applicant is proposing up to three wells it is in the applicant's best interest to manage their own wells so they do not impact each other, which should in turn limit impacts on other nearby wells, if any, in the Warren: West James aquifer. Given the lack of well interference issues, the need for the applicant to manage their withdrawals so as not to impact their own wells, and the lack of domestic wells competed into the Warren: West James on file with the Water Right Program in the area, there is limited potential for unlawful impairment of existing users.

Conclusions

1. Water Permit Application No. 8590-3 proposes to appropriate water for the irrigation of 160 acres at a maximum instantaneous diversion rate of 2.28 cfs from up to three proposed wells to be completed into the Warren: West James aquifer. Both the proposed wells and proposed acres for irrigation are located in the W $\frac{1}{2}$ W $\frac{1}{2}$ Section 12-T106N-R61W in Sanborn County.
2. Based on the hydrologic budget and observation well data, there is a reasonable probability that water is available in the Warren: West James aquifer to meet the water use proposed by this application.
3. There is a reasonable probability that, based on the available information for the area, that this application will not unlawfully impair existing water rights/permits with adequate wells or domestic users with adequate wells.



Whitney Kilts

SDDANR-Water Rights Program

References

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Report on Application No. 8590-3

Water Rights. 2022b. Water Right/Permit Files. SD DNR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2022c. Well Completion Reports. SD DNR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Water Rights. 2022d. Sanborn County Complaint File. SD DNR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

Appendix A: Reported Irrigation Pumping from the Warren: West James

Table A1: Irrigation Permits and Reported Irrigation Pumping from the Warren: West James Aquifer (Water Rights, 1980-2021)		
Year	Permits	Pumpage
1979	62	3238.00
1980	67	3800.00
1981	77	5783.00
1982	57	1866.04
1983	51	2392.45
1984	63	2240.50
1985	60	1641.50
1986	55	696.00
1987	48	1807.00
1988	47	4690.70
1989	45	4095.00
1990	45	2520.70
1991	42	1833.30
1992	41	820.50
1993	40	283.00
1994	39	1478.88
1995	39	416.88
1996	38	2007.67
1997	39	416.00
1998	38	844.93
1999	38	1487.46
2000	39	1824.28
2001	38	1315.63
2002	38	3503.78
2003	36	2991.61
2004	33	2066.19
2005	33	2145.58
2006	32	3040.78
2007	32	2055.58
2008	32	2265.15
2009	32	424.91
2010	31	134.88
2011	31	347.33
2012	31	2173.12
2013	30	1826.64
2014	29	1865.74
2015	30	1551.21
2016	28	1947.28
2017	28	3026.09
2018	27	2798.64
2019	27	82.32
2020	27	540.62
Min	27	82
Max	77	5783
Avg	40	1959

RECEIVED

MAY 04 2022

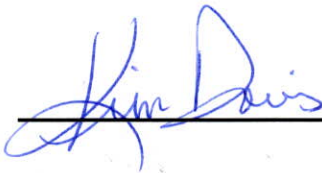
Proof Of Publication

WATER RIGHTS
PROGRAM

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402

Legal Notice Number: 1364

I, Kim Davis, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Coordinator of said newspaper and know that facts herein state. The annexed notice headed: Ben Zoss Family Trust – Notice of Application was published for one day, in said newspaper and not in any supplement of the said newspaper; the publication was on 4/20/2022. That the full amount of the fee charged for the publishing \$ 44.85 insures to the benefit of the publisher of said newspaper; that no agreement or 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 whom so ever.

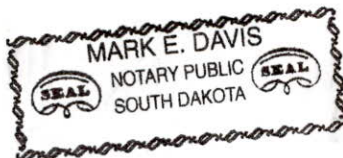


Subscribed and sworn to me before this date 5/2/22.



Notary Public, South Dakota

My Term Expires 12/27/2024



2000 - Legals

F. P. 04-20-22

**NOTICE OF
APPLICATION
NO. 8590-3 to**

Appropriate Water

Notice is given that Benjamin A. and Helen M. Zoss Family Trust, 40360 235th St., Forestburg SD 57314 has filed an application for a water permit to appropriate water at a maximum pump rate of 2.28 cubic feet of water per second from up to three wells to be completed into the Warren-West James Aquifer (approximately 100 feet deep) located in the W1/2 W1/2 section 12 for irrigation of 180 acres located in the W1/2 W1/2 section 12; all in T106N-R61W. This site is located approximately 9 miles southeast of Woonsocket SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8590-3 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 Duval for this information, at the Water Rights Program address provided below.

Any person interested in

2000 - Legals

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 May 2, 2022.

The petition shall include a statement describing the unique injury upon approval of the application on the

2000 - Legals

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 May 2, 2022.

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.

No. 1384 (adv.)

Published one time at the total approximate cost of \$44.85.

AFFIDAVIT OF PUBLICATION

State of South Dakota

RECEIVED

MAY 16 2022

SS

WATER RIGHTS
PROGRAM

County of Sanborn

Carrie Howard of said county, being, first duly sworn, on oath, says: That she is the publisher of the Sanborn Weekly, a weekly newspaper, published in the City of Woonsocket, in said County of Sanborn, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 Inclusive; that said newspaper has been published within the said County of Sanborn and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the _____

Helen Zoss Family Application to

Appropriate Water

a printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for _____ successive week(s) to wit:

Apr. 22

, 20 22

, 20 _____

, 20 _____

, 20 _____

, 20 _____

, 20 _____

, 20 _____

, 20 _____

That was full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; that no agreement or 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 whosoever; that the fees charged for the publication thereof are: \$ 40.83

Signed: _____

Subscribed and sworn before me this 12th day of May, 20 22

Robert F. Davis

Notary public in and for the County of Sanborn, South Dakota Sanborn

My Commission expires Apr. 1 24th, 20 24

NOTICE OF APPLICATION NO. 8590-3

to Appropriate Water

Notice is given that Benjamin A. and Helen M. Zoss Family Trust, 40360 235th St., Forestburg, SD 57314 has filed an application for a water permit to appropriate water at a maximum pump rate of 2.28 cubic feet of water per second from up to three wells to be completed into the Warren West James Aquifer (approximately 100 feet deep) located in the W1/2 W1/2 section 12 for irrigation of 160 acres located in the W1/2 W1/2 section 12, all in T106N-R61W. This site is located approximately nine miles southeast of Woonsocket, S.D.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8590-3 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 May 2, 2022.

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.

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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 \$41.25.

SJ36-1tb

Instruction to Newspaper - Publish the Notice on April 20 or 21, 2022. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8590-3 to Appropriate Water

Notice is given that Benjamin A. and Helen M. Zoss Family Trust, 40360 235th St., Forestburg SD 57314 has filed an application for a water permit to appropriate water at a maximum pump rate of 2.28 cubic feet of water per second from up to three wells to be completed into the Warren:West James Aquifer (approximately 100 feet deep) located in the W1/2 W1/2 section 12 for irrigation of 160 acres located in the W1/2 W1/2 section 12; all in T106N-R61W. This site is located approximately 9 miles southeast of Woonsocket SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8590-3 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 May 2, 2022.

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 May 2, 2022.

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

Published once at the total approximate cost of_

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 11, 2022 11:17 AM
To: 'rcrandall@plainsman.com'
Subject: 8590-3, Benjamin & Helen Zoss Family Trust
Attachments: 8590-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 20, 2022

Benjamin A & Helen M Zoss Family Trust, 40360 235th St, Forestburg SD 57314 (605 999-7448) 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>



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 11, 2022 11:17 AM
To: Carrie Howard
Subject: 8590-3, Benjamin & Helen Zoss Family Trust
Attachments: 8590-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 21, 2022

Benjamin A & Helen M Zoss Family Trust, 40360 235th St, Forestburg SD 57314 (605 999-7448) 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 NEWSPAPERS RIGHT AWAY.**

April 11, 2022

Benjamin A & Helen M Zoss Family Trust
40360 235th St
Forestburg SD 57314

Dear Sir:

Water Permit Application No. 8590-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Sanborn Weekly Journal printed at Woonsocket (Ph # 605 796-4221) and the Plainsman printed at Huron (Ph # 605 353-7414). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have 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

c: Roy Rutherford, 7283 County Rd 6, Grafton ND 58237

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.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, April 11, 2022 11:21 AM
To: helenzoss@hotmail.com
Subject: Water Permit Application No. 8590-3
Attachments: 3266.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(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

I have also mailed a copy of this same information to Roy Rutherford.

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

JUN 01 2022

Benjamin A. & Helen M Zoss Family Trust
40360 235th St
Forestburg SD 57314

Dear Mr. & Mrs. Zoss:

Enclosed is Water Permit No. 8590-3 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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

October 21, 2025

8590-3

Benjamin & Helen Zoss Family Trust
810 Park St W, Apt 106
Park River ND 58270

Dear Mr. or Ms. Zoss:

Enclosed is a "Notice" dated October 8, 2025, concerning the 2025 Irrigation Questionnaire.

The notice was originally mailed to you at 40360 235th St, Forestburg SD 57314. The post office notified our office that your address has changed, and your records have been updated accordingly.

This is a time sensitive matter. Please complete and return the enclosed questionnaire or submit your report online at <https://danr.sd.gov/iq/> using this password **ZVHRCZ**.

If this change of address is in-correct, please contact our office immediately to update your contact information.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

enclosures

* 581 NDE 114132510110/14/25
RETURN TO SENDER
ZOSS
810 PARK ST W APT 106
PARK RIVER ND 58270-4609
RETURN TO SENDER



8590-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2026

NOTICE

TO: BENJAMIN & HELEN ZOSS FAMILY TRUST, 810 PARK ST W, APT 106, PARK RIVER, ND 58270

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8590-3. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8590-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held on **Wednesday, March 4, 2026 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8590-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 4, 2026** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: ZVHRCZ**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 23, 2026

8590-3

Zoss Family Trust
C/O Benjamin & Helen Zoss
810 Park St W, Apt 106
Park River, ND 58270

Dear Zoss Family Trust,

I am writing to acknowledge receipt of your 2025 irrigation questionnaire(s).

You may disregard the January 20, 2026, "Notice" concerning irrigation reporting requirements for your water permit/right(s). The information was received in our office prior to the Water Management Board meeting, and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Shannon Konst
Water Rights Program
605 773-8204
Shannon.konst@state.sd.us