

WATER PERMIT NO. 8621-3

Name of Applicant: Todd Maeschen

Address: 26641 402nd, Ethan SD 57334 Phone: 605 999-5196

Amount of Water Claimed: 1.33 cfs Total Acres: 160

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Davison

Type of Waste Disposal System:

Location: 8 miles west of Ethan

PRIORITY Date Received: 3-14-22

Application/License Fee: \$ 1050

Corrected Application Received: 3-28-22

Period of Annual Use: May 1 – September 30

Remarks:

Diversion Point: NW 1/4 NW 1/4 Sec 21-T101N-
R61W

Land to be Irrigated: NW 1/4 Sec 21-T101N-
R61W

Depth of Well: 130 feet deep

Well Driller:

Remarks:

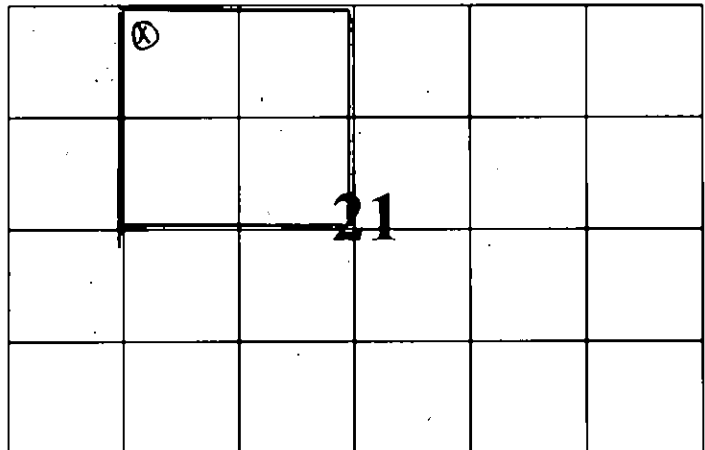
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 3-29-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 8621-3**

Date of first receipt of application March 14, 2022.

Date of return to applicant for corrections, amendments or changes March 15, 2022.

Date of receipt of corrected application March 28, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8621-3 to Todd Maeschen, 26641 402nd Ave, Ethan SD 57334 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. 8621-3 appropriates 1.34 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 130 feet deep) located in the NW 1/4 NW 1/4 Section 21 for irrigation of 160 acres located in the NW 1/4 Section 21; all in T101N-R61W. This site is located approximately 9 miles west of Ethan 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 March 14, 2022.
4. The date of approval of Permit No. 8621-3 is June 6, 2022.
5. One-fifth of the construction is to be completed on or before December 6, 2024.
6. All construction is to be completed on or before June 6, 2027.
7. Water is to be put to beneficial use on or before June 6, 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 well approved under Water Permit No. 8621-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8621-3 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 28 2022
date



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

RECEIVED

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8621-3</u> (office use only) Hydrologic Unit <u>10160011</u> Basin <u>James R</u> Newspaper <u>Daily Republic</u> <u>Plainsman</u>	MAR 28 2022 WATER RIGHTS PROGRAM
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RECEIVED
MAR 14 2022
WATER RIGHTS
PROGRAM
PAID
MAR 28 2022
10317

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 Todd Maeschen

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

Mailing Address 26641 - 402nd Ave Ethan SD 57334
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 6059995196 Email Todd M2@Hotmail

2. Amount of water claimed 1.34 *CFS or 600 **GPM ***AF Total Acreage 160
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Well NW 1/4

4. Location of point of diversion 1 well 1 NW 1/4 21 T101N R61W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Davison

5. County or counties where water will be used Davison

6. Annual period during which water is to be used Summer May 1 - Sept 30

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

Land Description	Acres	Land Description	Acres
NW 1/4 21 T101N R61W	160		

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

Center pivot request

I, Todd Maeschen Owner, 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 _____
(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) 130 Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

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

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

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

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

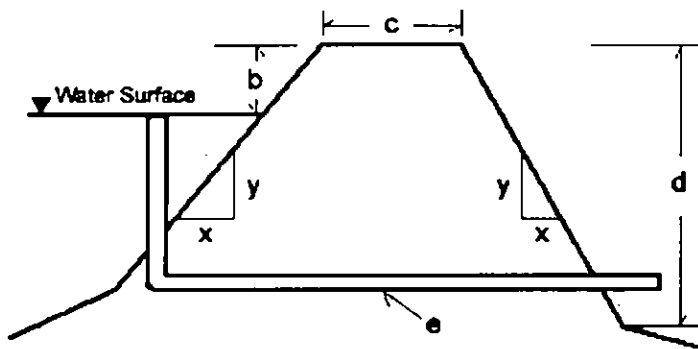
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

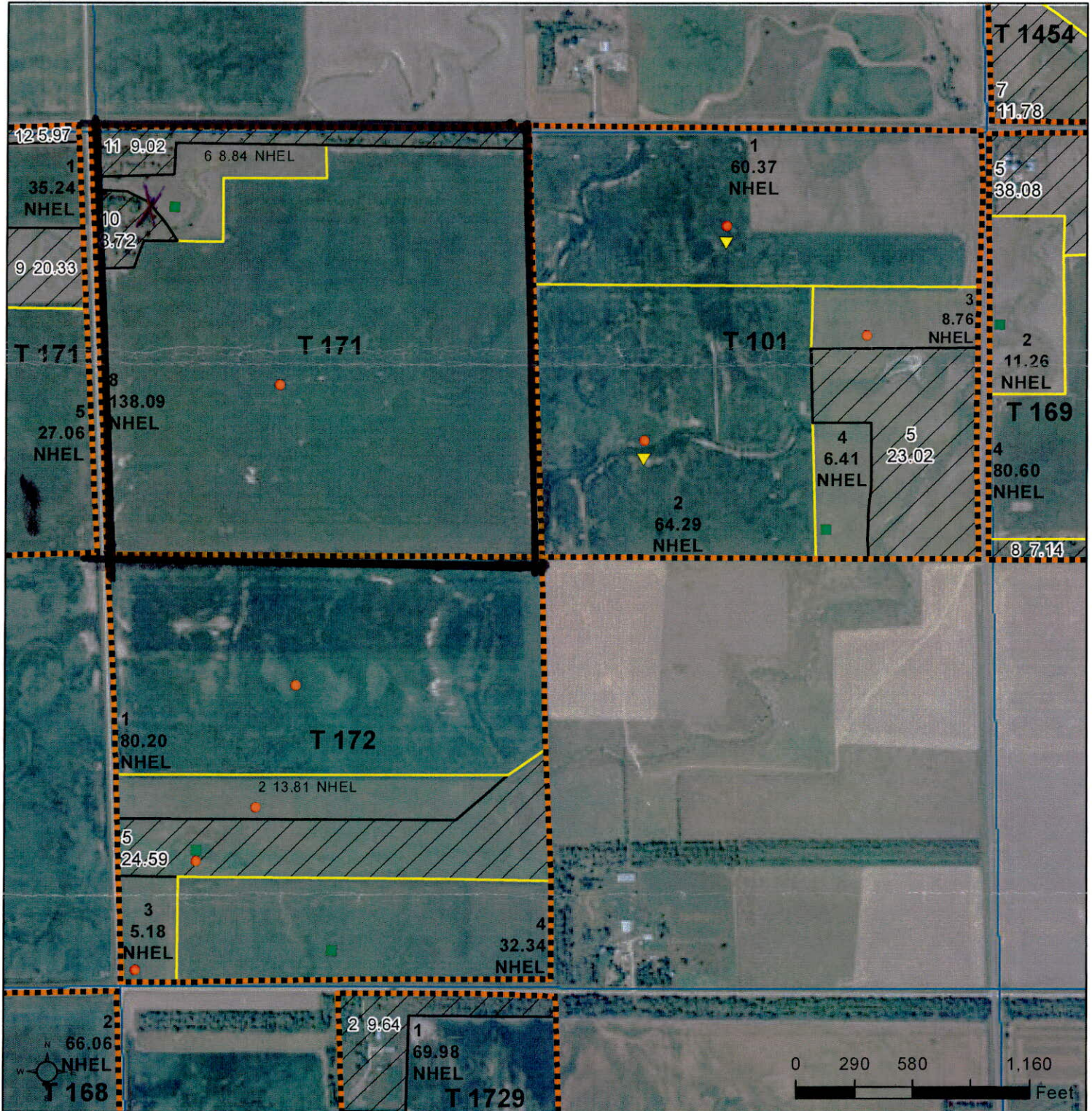
j) Drainage Area Above Dam _____ Acres





United States
Department of
Agriculture

Davison County, South Dakota



Common Land Unit
Non-Cropland
Cropland

Tract Boundary
PLSS

2022 Program Year

Map Created January 10, 2022

Farm 2716

21 -101N -61W

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 March 28, 2022

RECEIVED OF Todd A Maeschen 26641-402 Ethan SD 57334

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

Fee for Application for Permit No. <u>8621-3</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>8621-3</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

me



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 15, 2022

Todd Maeschen
26641 402nd
Ethan SD 57334

Dear Mr. Maeschen:

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

- Please complete Item No. 2, Amount of Water Claimed in gallons per minute.
- On Item No. 6, Annual period during which water is to be used. Do you agree with changing summer to May 1 – September 30?
- On Form 2A, Supplemental Information. Please complete No. 1. Well Information. Item c) Well Depth is required.
- On the map, please mark the proposed well location with an "X".
- The application/license fee for irrigation of 160 acres \$1,050.00.

If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8621-3, Todd Maeschen**

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. 8621-3, Todd Maeschen, 26641 402nd Avenue, Ethan SD 57334.

The Chief Engineer is recommending APPROVAL of Application No. 8621-3 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. 8621-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8621-3 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
May 17, 2022

Report to the Chief Engineer
On Water Permit Application No. 8621-3

Todd Maeschen

May 17, 2022

Water Permit Application No. 8621-3 proposes to divert water at a maximum instantaneous diversion rate of 1.34 cubic feet per second (cfs) from one well to be completed into the Niobrara aquifer (approximately 130 feet deep) located in the NW ¼ NW ¼ of Section 21 for the irrigation of 160 acres located in the NW ¼ of Section 21; all in T101N-R61W. The site of interest is located in Davison County approximately nine miles west of Ethan, SD.

AQUIFER: Niobrara (NBRR)

HYDROGEOLOGY:

The Niobrara aquifer consists of the permeable and saturated portions of the late-Cretaceous-aged Niobrara formation (Fahrenbach et al., 2010). The Niobrara formation is a fine-grained, “white to dark-gray argillaceous chalk, marl, and shale” that ranges from 160 to 225 feet in thickness in South Dakota (Martin et al., 2004). A more thorough discussion of the aquifer is detailed in the hydrogeology section within the report for Water Permit No. 8465-3 (Water Rights, 2022c).

The Niobrara aquifer has several portions that are hydrologically disconnected from the main body of the formation (Hedges et al., 1982). The proposed diversion point is expected to be completed into the Niobrara aquifer within the main body of the Niobrara Formation.

No water well or test hole completion report was submitted with Water Permit Application No. 8621-3. Well completion reports on file with the DANR-Water Rights Program for wells completed into the Niobrara aquifer within approximately two miles of the proposed diversion point for this application have saturated aquifer thicknesses ranging from approximately 30 to 75 feet, with the depth to the top of aquifer materials ranging from approximately 50 to 115 feet below the ground surface, and static water levels at well completion varying from approximately 6 to 115 feet below the ground surface (SDGS, 2022; Water Rights, 2022b and 2022d). The Niobrara aquifer is expected to be under confined conditions near the proposed diversion point based on the water well and test hole completion reports, and lithologic logs on file for nearby observation wells (SDGS, 2022; Water Rights, 2022b and 2022d).

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 Niobrara aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8621-3 proposes to appropriate water from the Niobrara 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 Niobrara 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 Niobrara aquifer must be considered.

HYDROLOGIC BUDGET:

The hydrologic budget completed in this analysis will exclude the water rights/permits completed into the Niobrara aquifer but not located in the main body of the Niobrara Formation.

Recharge

Recharge to the Niobrara aquifer in Davison County is primarily through the infiltration of precipitation and snowmelt on the outcrop, which is located in the flood plain of the North Fork of Twelve Mile Creek (approximately ten miles east of the proposed diversion point) (Hansen, 1983). Additional recharge to the aquifer is likely through the infiltration of precipitation when the aquifer is at or near the land surface. There is also potential for leakage from the Choteau: West and Lower James Missouri: Scotland aquifers into the Niobrara aquifer (Water Rights, 2022b).

No average annual recharge rate has been estimated for the Niobrara aquifer within the main body of the Niobrara Formation, or the aquifer in its entirety, and a source (such as, Hedges and others, 1985) that normally gives an estimate of the porosity of other bedrock aquifer does not attempt to do so for the Niobrara aquifer, likely due to how variable the aquifer’s characteristics are across South Dakota. Hedges and others (1985) also noted east of the Missouri River in South Dakota, the “Niobrara Formation” has such high storage with low use, it is unlikely that withdrawals are approaching or exceeding recharge from the aquifer. Additionally, there is no evidence of a significant decrease in artesian head pressure for the water right/permit holder wells and observation wells completed into Niobrara aquifer (Hedges et al., 1985; Water Rights, 2022b).

Discharge

Discharge from the Niobrara aquifer in Davison County is primarily through well withdrawals (Water Rights, 2022c and 2022d), evapotranspiration in areas where the aquifer is at or near the ground surface, and outflow to the Ethan aquifer (Hansen, 1983). Currently, there are 31 water rights/permits authorized to appropriate water from the Niobrara aquifer within the main body of the Niobrara Formation, plus one pending application – Water Permit Application No. 8624-3 requesting to irrigate 136 acres in Bon Homme County (Water Rights, 2022c). Water Permit No. 8413-3 is authorized to complete two wells into either the Dakota or Niobrara aquifer and will be included in this analysis (Water Rights, 2022c).

Table 1 summarizes the 19 non-irrigation water rights/permits authorized to appropriate water from the Niobrara aquifer with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DNR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2022c). Four municipal water rights were identified as being connected to a rural water system and likely maintain their wells for standby purposes (Drinking Water Program, 2022; Water Rights, 2022c); as such, the average annual water use for these water rights has been estimated to be zero acre-feet per year in Table 1. Overall, the estimated average annual withdrawal rate for the Niobrara aquifer non-irrigation water rights/permits is approximately 855 acre-feet per year (Table 1) (Water Rights, 2022c).

Currently, there are 12 irrigation water rights/permits authorized to appropriate water from the Niobrara aquifer within the main body of the Niobrara Formation, plus one pending application - Water Permit Application No. 8624-3 requesting to irrigate 136 acres in Bon Homme County (Water Rights, 2022c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. Table 2 lists only 11 water rights/permits as reporting in 2020, as Water Permit No. 8465-3 was approved in 2021. Water Permit No. 8465-3 is authorized to irrigate 91 acres (Water Rights, 2022c). 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, the one foot of water per acre per year application rate will be used to somewhat overestimate the annual withdrawal rate for these irrigation water rights/permits. Therefore, the estimated average annual withdrawal rate for Water Permit No. 8465-3 is approximately 91 acre-feet per year (Water Rights, 2022c). The collective estimated average annual withdrawal rate for the irrigation appropriations that have reported from 1979 to 2020 (Table 2) (375.1 acre-feet/year), plus the estimated average annual withdrawal rate for Water Permit No. 8465-3 and Water Permit Application No. 8624-3 (227 acre-feet/year), is approximately 602.1 acre-feet/year (Water Rights, 2022a and 2022c).

Table 1. Estimated annual use for the non-irrigation water rights/permits authorized to divert water from the Niobrara aquifer within the main body of the Niobrara Formation (Drinking Water Program, 2022; Water Rights, 2022c)

Permit No.	Name	Status	Use	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimated Use (acre-feet/year)
4121A-3	City of White Lake	LC	MUN	0.13		0*
4264A-3	City of Mount Vernon	LC	MUN	0.07		0*
4264B-3	City of Mount Vernon	LC	MUN	0.14		0*
4278-3	Town of Cavour	LC	MUN	0.23		0*
5061-3	Battle Creek Campground	LC	COM	0.02		8.7
5111A-3	Sunshine Bible Academy	LC	INS	0.04		17.4
5594-3	Gerald V/Joan M Elstran	LC	COM	0.01		4.3
5624-3	South Dakota Wheat Growers	LC	COM	0.055		23.9
5625-3	White's Drive In	LC	COM	0.022		9.6
5757-3	Scott R Rink	LC	COM	0.022		9.6
5859-3	Dakota Pump Inc	LC	IND	0.134		58.2
5872-3	Forestburg Well Co	LC	MUN	0.06		26.1
5876-3	City of Woonsocket	LC	MUN	0.78		338.8
5977-3	Country Pumper	LC	COM	0.022		9.6
6119-3	Storla Sunset Home	LC	INS	0.067		29.1
6137-3	Our Home Inc	LC	INS	0.11		47.8
6703-3	Todd Worrell	PE	FWP, REC	0.17		73.8
7273-3	Sanborn Central #55-5	PE	INS	0.28		121.6
8413-3	Ratio LLC	PE	COM	0.134	77	77
					TOTAL:	855
LC: Licensed Water Right, PE: Water Permit, COM: Commercial, FWP: Fish and Wildlife Propagation, IND: Industrial, INS: Institutional, MUN: Municipal, REC: Recreation, *Identified as being connected to a rural water system						

There are domestic wells completed into the Niobrara aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2022d). 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 Niobrara 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 Niobrara aquifer within the main body of the Niobrara Formation.

Hydrologic Budget Summary

No average annual recharge rate has been estimated for the Niobrara aquifer within the main body of the Niobrara Formation, or the aquifer in its entirety. The estimated average annual withdrawal rate from the Niobrara aquifer is approximately 1,617.1 acre-feet per year (non-irrigation: 855 acre-feet/year; irrigation (including pending application): 602.1 acre-feet/year; Water Permit Application No. 8621-3 (if approved, assuming one foot application rate per authorized acre): 160 acre-feet/year). As no average annual recharge rate for the Niobrara aquifer within the main body of the Niobrara Formation has been estimated at this time, a hydrologic budget cannot show whether recharge exceeds the estimated average annual withdrawal rate.

Report on Water Permit Application No. 8621-3

Table 2. Reported historic irrigation use from Niobrara aquifer within the main body of the Niobrara Formation (Water Rights, 2022a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	11	362.21
1980	12	613.24
1981	12	847.62
1982	12	822.92
1983	12	346.35
1984	12	247
1985	12	431
1986	12	471
1987	12	470
1988	11	1,352.2
1989	11	966
1990	10	738
1991	10	654.6
1992	10	522
1993	10	3
1994	9	473.85
1995	9	286
1996	9	303.4
1997	9	245
1998	8	272.36
1999	8	80.65
2000	8	238.67
2001	8	102.86
2002	7	296.97
2003	7	298.92
2004	6	159.03
2005	8	262.65
2006	8	468.45
2007	8	449.9
2008	8	342.4
2009	8	64.08
2010	8	119.84
2011	8	175.2
2012	8	579.47
2013	9	135.9
2014	9	133.85
2015	10	278.2
2016	10	406.58
2017	10	389.06
2018	10	143.31
2019	11	48.23
2020	10	153.58
Min	6	3
Max	12	1,352.1
Avg	9.5	375.1

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 DNR-Water Rights Program monitors 59 observation wells completed into the Niobrara aquifer, with 38 of the observation wells being completed into the main body of the Niobrara aquifer (Water Rights, 2022b). The three closest observation wells to the proposed diversion point are DN-79G (approximately 1.4 miles southwest), DN-79H (approximately 2.1 miles southeast), and DN-69D (approximately 2.4 miles southeast) (Water Rights, 2022b). The hydrographs for these observation wells are displayed in Figures 1 to 3 (Water Rights, 2022b). 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. It is worth noting the hydrograph titles display DENR Water Rights Observation Well on the hydrographs when the titles should display DNR Water Rights Observation Well on the hydrographs.

The hydrographs for the observation wells display stable water levels over their respective periods of record. The hydrographs for the Niobrara aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods 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 Niobrara 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.

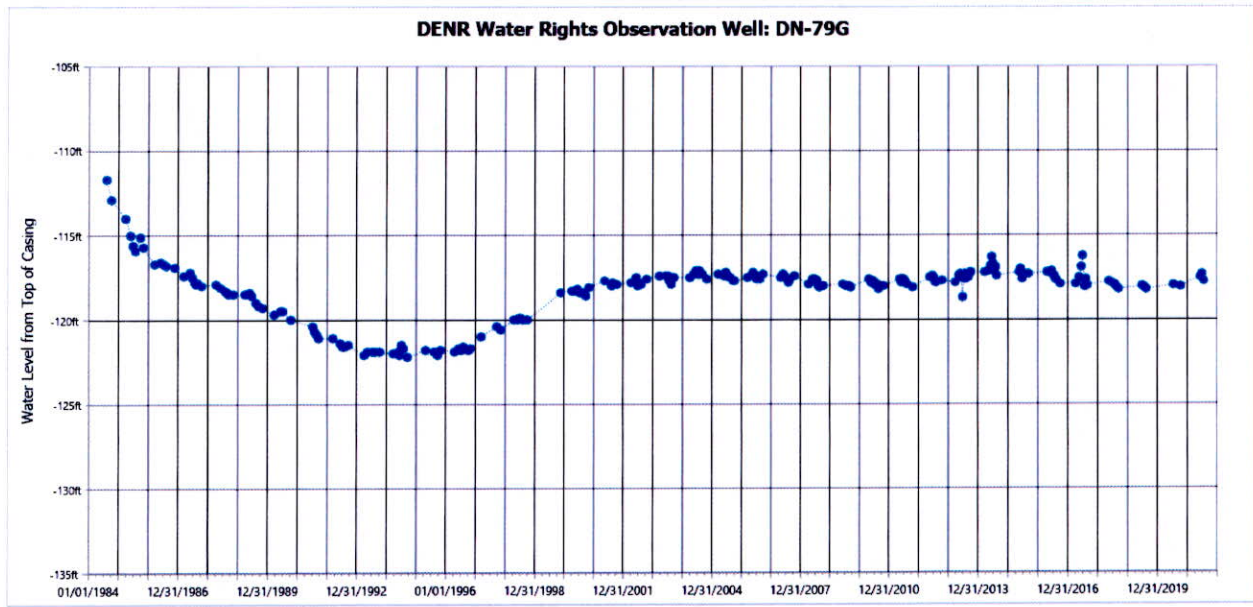


Figure 1. Hydrograph for observation well DN-79G (Water Rights, 2022b)

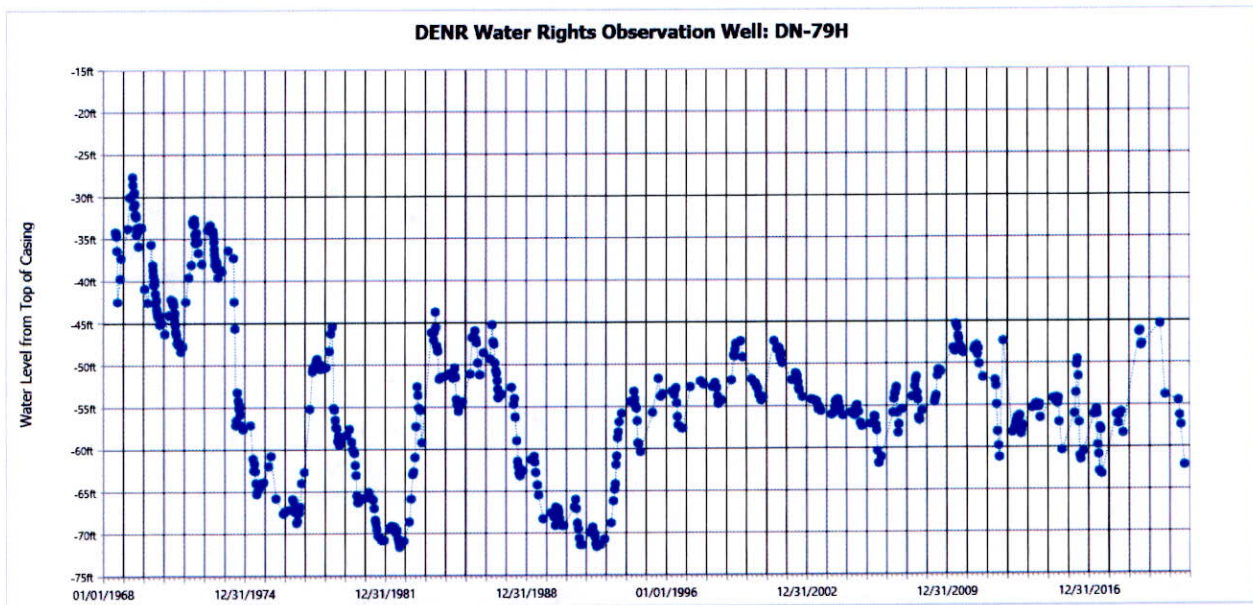


Figure 2. Hydrograph for observation well DN-79H (Water Rights, 2022b)

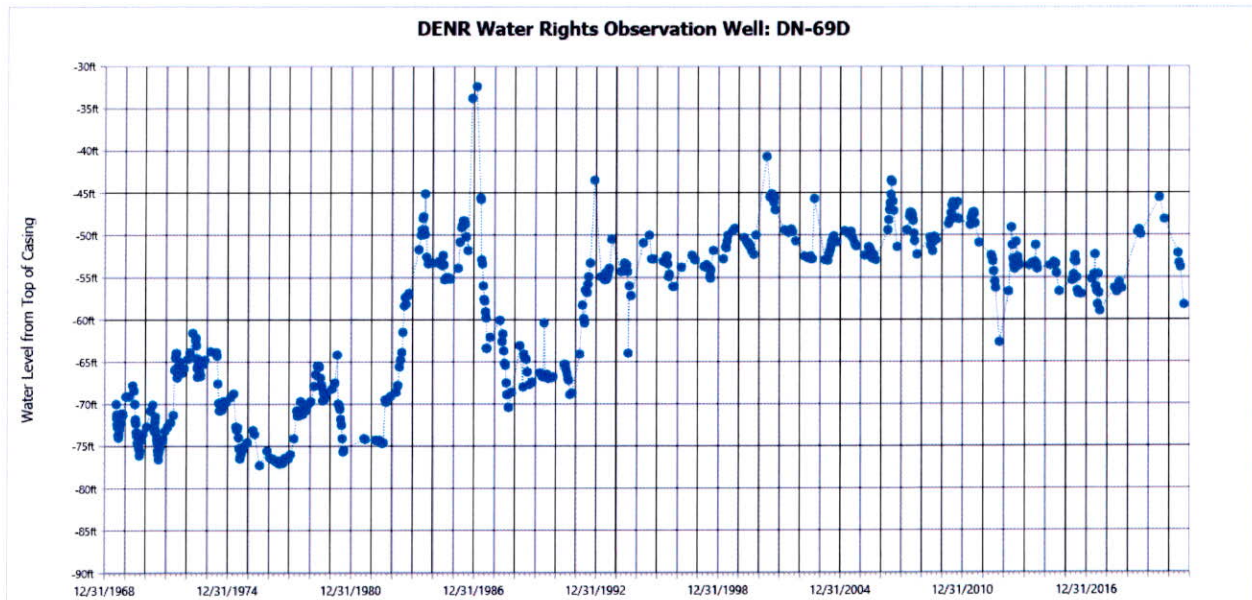


Figure 3. Hydrograph for observation well DN-69D (Water Rights, 2022b)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 31 water rights/permits authorized to appropriate water from the Niobrara aquifer within the main body of the Niobrara Formation, plus one pending application – Water Permit Application No. 8624-3 (Water Rights, 2022c). The closest water right/permit to the proposed diversion point is Water Right No. 1280-3, which is held by Marty Neugebauer. The diversion point for Water Right No. 1280-3 is located approximately 2.1 miles southeast of the proposed diversion point for this application (Water Rights, 2022c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Niobrara aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.35 miles south of the proposed diversion point (Water Rights, 2022d). There could potentially be other domestic wells completed into the Niobrara aquifer near the proposed diversion point that are not on file with the DANR-Water Rights Program.

In Davison County, the Niobrara aquifer varies between confined and unconfined conditions with some variation in depth to the top of the aquifer and saturated aquifer thickness (Hansen, 1983; SDGS, 2022; Water Rights, 2022b, 2022c and 2022d). The Niobrara aquifer within the main body of the Niobrara Formation is expected to be confined near the proposed diversion point based on the water well and test hole completion reports, and lithologic logs on file for nearby observation wells (SDGS, 2022; Water Rights, 2022b, 2022c and 2022d). 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.

Within two miles of the proposed diversion point, the Niobrara aquifer is expected have a saturated aquifer thickness ranging from approximately 30 to 75 feet (SDGS, 2022; Water

Rights, 2022b, 2022c and 2022d). This would generally allow for enough 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 because of the proposed diversion is not expected to unlawfully impair nearby adequate wells. In Davison County, there are no complaints on file with the DNR-Water Rights Program regarding well interference for adequate wells completed into the Niobrara aquifer (Water Rights, 2022c).

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 Niobrara 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 near the proposed diversion point, and the lack of well interference complaints for adequate wells completed into the Niobrara aquifer, 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.

If this application is approved, a qualification requiring the applicant to control their water withdrawals, so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights, should be included.

CONCLUSIONS:

1. Water Permit Application No. 8621-3 proposes to divert water at a maximum instantaneous diversion rate of 1.34 cfs from one well to be completed into the Niobrara aquifer (approximately 130 feet deep) for the irrigation of 160 acres. The site of interest is located in Davison County approximately nine miles west of Ethan, SD.
2. Based on the observation well data, there is a reasonable probability that unappropriated water is available from the Niobrara aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8621-3 will not unlawfully impair adequate wells for existing water right/permit holders and domestic users.
4. If this application is approved, a qualification requiring the applicant to control their water withdrawals, so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights, should be included.



Nakaila Steen

Natural Resources Engineer II

SD DANR - Water Rights Program

Reviewed by:



Adam Mathiowetz, PE

Natural Resources Engineer IV

SD DANR - Water Rights Program

References

- Drinking Water Program. 2022. Drinking Water System Information. SD DANR · Drinking Water Program Online Database. Accessed May 9, 2022.
<<http://danr.sd.gov/des/dw/sysinfomap.aspx>>
- 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 DANR-Geological Survey, Vermillion, SD.
- Hansen, D.S., 1983. Water Resources of Hanson and Davison Counties, South Dakota. Water-Resources Investigations Report 83-4108. U.S. Geological Survey.
- 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.
- 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.
- Martin, J.E., Sawyer, J.F., Fahrenbach, M.D., Tomhave, D.W., and Schulz, L.D., 2004. "Geologic Map of South Dakota," SD-DANR Geological Survey Program, Vermillion, SD.
- SDGS, 2022. South Dakota Geological Survey Lithologic Logs Database. Accessed May 4, 2022. <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, 2022a. "1979-2020 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- Water Rights, 2022b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2022c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2022d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2022e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 18, 2022 9:19 AM
To: toadm2@hotmail.com
Subject: Water Permit Application No. 8621-3
Attachments: 3463.pdf

Todd,

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.

Karen Schlaak

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



RECEIVED

JUN 13 2022

Proof Of Publication

OFFICE OF
WATER

pd
5/25/22

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

Legal Notice Number: 1440

I, Cadee Schelske, 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: Todd Maeschen-Water No. 8621-3 was published for one day, in said newspaper and not in any supplement of the said newspaper; the publication was on 5/25/2022. That the full amount of the fee charged for the publishing \$ 42.81 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.

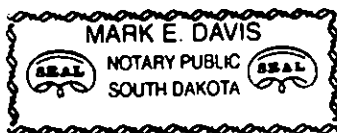
Cadee Schelske

Subscribed and sworn to me before this date 6/1/22.

Mark E. Davis

Notary Public, South Dakota

My Term Expires 12/27/2024



**NOTICE OF
APPLICATION
NO. 8621-3 to**

Appropriate Water

Notice is given that Todd Maeschen, 26841 402nd Ave, Ethan SD 57334 has filed an application for a water permit to appropriate 1.34 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 130 feet deep) located in the NW 1/4 NW 1/4 Section 21 for irrigation of 160 acres located in the NW 1/4 Section 21; all in T101N-R61W. This site is located approximately 9 miles west of Ethan SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8621-3 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 June 6, 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 June 6, 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. 1440 (adv.)
Published one time at the total approximate cost of \$42.81.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

ss.

COUNTY OF DAVISON

RECEIVED

JUN 03 2022

OFFICE OF
WATER

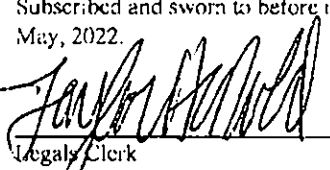
Taylor Herhold,, of said county, being first duly sworn,
on oath, states as follows:

1. I am the designated agent of *The Mitchell Republic*, a daily newspaper published in the city of Mitchell, in said County of Davison, and State of South Dakota; I have 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 Davison and State of South Dakota, for at least one year next prior to the first publication of the attached public notice.

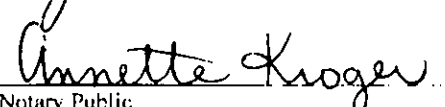
2. The newspaper listed on the exhibit published the advertisement of: ***Legal Notice; (1) time: Saturday May 28, 2022***, as required by law or ordinance.

3. That the full amount of the fee charged for the publication of the attached public notice insures to the sole benefit of the publisher or publishers; 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 whomsoever, that the fees charged for the publication thereof are: \$38.00

Subscribed and sworn to before me this 28th day of May, 2022.



Legal Clerk



Notary Public

My Commission Expires: 5-15-26



RECEIVED

JUN 03 2022

OFFICE OF
WATER

**NOTICE OF APPLICATION
NO. 8621-3 to Appropriate
Water**

Notice is given that Todd Maeschen, 2864 402nd Ave, Ethan SD 57234 has filed an application for a water permit to appropriate 1.34 cubic foot of water per second from one well to be completed into the Niobrara Aquifer (approximately 130 feet deep) located in the NW 1/4 NW 1/4 Section 21 for irrigation of 160 acres located in the NW 1/4 Section 21; all in T10N-R61W. This site is located approximately 8 miles west of Ethan SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8621-3 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, 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 June 7, 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 June 7, 2022.

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

Published once at the total approximate cost of \$38.00.
(May 28, 2022) 66487



**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.**

May 18, 2022

Todd Maeschen
26641 402nd Ave
Ethan SD 57334

Dear Mr. Maeschen:

Water Permit Application No. 8621-3 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 Daily Republic printed at Mitchell (Ph # 605 996-5514) and the Plainsman printed at Huron (Ph # 605 353-7450). 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

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. 8621-3 to Appropriate Water

Notice is given that Todd Maeschen, 26641 402nd Ave, Ethan SD 57334 has filed an application for a water permit to appropriate 1.34 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 130 feet deep) located in the NW 1/4 NW 1/4 Section 21 for irrigation of 160 acres located in the NW 1/4 Section 21; all in T101N-R61W. This site is located approximately 9 miles west of Ethan SD.

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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 _

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, May 18, 2022 9:14 AM
To: legals@mitchellrepublic.com
Subject: 8621-3, Todd Maeschen
Attachments: 8621-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 25, 2022.

Todd Maeschen, 26641 402nd Ave, Ethan SD 57334 (605 999-5196) 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: Wednesday, May 18, 2022 9:14 AM
To: 'rcrandall@plainsman.com'
Subject: 8621-3, Todd Maeschen
Attachments: 8621-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 25, 2022.

Todd Maeschen, 26641 402nd Ave, Ethan SD 57334 (605 999-5196) 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: Idolan@forumcomm.com on behalf of FCC Legals <legals@forumcomm.com>
Sent: Monday, May 23, 2022 3:31 PM
To: Schlaak, Karen
Subject: Re: [EXT] 8621-3, Todd Maeschen
Attachments: 9408a346-f4fa-4ecc-9a92-9bed94c3385e.pdf

Hello,

Here's an updated proof. Please call us at 701-241-5509 to submit the prepayment of \$38.00. Let us know if there's anything else.

Thanks!
Lindsay

Want to receive notifications for early deadlines? Sign up here: <https://modulist.info/legalnotifications>

Legals Team

t: 701-241-5509 | e: legals@forumcomm.com

Modulist, a Forum Communications Company

101 5th St. N. Fargo, ND 58102



On Mon, May 23, 2022 at 12:53 PM Schlaak, Karen <Karen.Schlaak@state.sd.us> wrote:

Please delete the original notice and use the attached one.

As soon as I receive the public notice information back from you I'll forward or call Mr. Maeschen and hopefully will meet the Wednesday deadline.

From: therhold@forumcomm.com <therhold@forumcomm.com> **On Behalf Of** FCC Legals
Sent: Monday, May 23, 2022 12:08 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: Re: [EXT] 8621-3, Todd Maeschen

Hi Karen,

Unfortunately we never heard back from anyone regarding this. So this will not be published on May 25. Our deadline to get that changed and paid for would be 3pm this Wednesday to get it published in the Saturday, May 28th edition. Please let us know what you would like to do. Thank you!

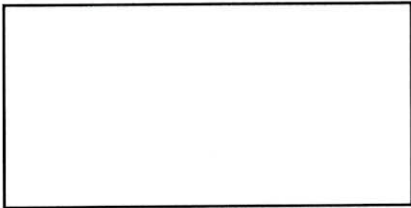
Want to receive notifications for early deadlines? Sign up here: <https://modulist.info/legalnotifications>

Legals Team

t: 701-241-5509 | e: legals@forumcomm.com

Modulist, a Forum Communications Company

101 5th St. N. Fargo, ND 58102



On Mon, May 23, 2022 at 7:58 AM Schlaak, Karen <Karen.Schlaak@state.sd.us> wrote:

I was out of the office, Friday afternoon. Will this be published on May 25? If not, a time sensitive date within the notice will need to be changed if published this Saturday. Let me know.

Thanks,

Karen

From: mjasperse@forumcomm.com <mjasperse@forumcomm.com> **On Behalf Of** FCC Legals

Sent: Friday, May 20, 2022 2:10 PM

To: Schlaak, Karen <Karen.Schlaak@state.sd.us>

Subject: Re: [EXT] 8621-3, Todd Maeschen

Hi Karen,

Attached is a memo invoice and a proof of the legal notice set to print May 25 in the **Mitchell Republic**. We will need to get payment by 5 p.m. today, Friday, May 20 or this will not print. We can be reached at 701-241-5509 to make card payment over the phone. You will receive an affidavit by mail shortly after the last publication date.

Please review:

- The ad text

NOTICE OF APPLICATION NO. 8621-3 to Appropriate Water

Notice is given that Todd Maeschen, 26641 402nd Ave, Ethan SD 57334 has filed an application for a water permit to appropriate 1.34 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 130 feet deep) located in the NW 1/4 NW 1/4 Section 21 for irrigation of 160 acres located in the NW 1/4 Section 21; all in T101N-R61W. This site is located approximately 9 miles west of Ethan SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8621-3 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 June 7, 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 June 7, 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__



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUN 28 2022

Todd Maeschen
26641 402nd Ave
Ethan SD 57334

Dear Mr. Maeschen:

Enclosed is Water Permit No. 8621-3 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