

WATER PERMIT NO. 8628-3

Name of Applicant: **David E Hoops**

Address: **PO Box 462, Huron SD 57350**

Phone: **605 354-0560**

Amount of Water Claimed: **1.44 cfs**

Total Acres: **110**

Source of Water Supply: **groundwater (up to 3 wells)**

Water to be used for: **irrigation**

County: **Campbell**

Type of Waste Disposal System:

Location: **1 mile north of Pollock**

PRIORITY

Date Received: **4-8-22**

Application/License Fee: **\$100**

Corrected Application Received:

Period of Annual Use: **June 1 – Sept 30**

Remarks: **Reinstatement of No. 7970-3**

Diversion Point: **SE 1/4 NE 1/4 Sec 9-T128N-R78W**

Land to be Irrigated: **NE 1/4 Sec 9-T128N-R78W**

Depth of Well: **40 feet deep**

Well Driller:

Remarks:

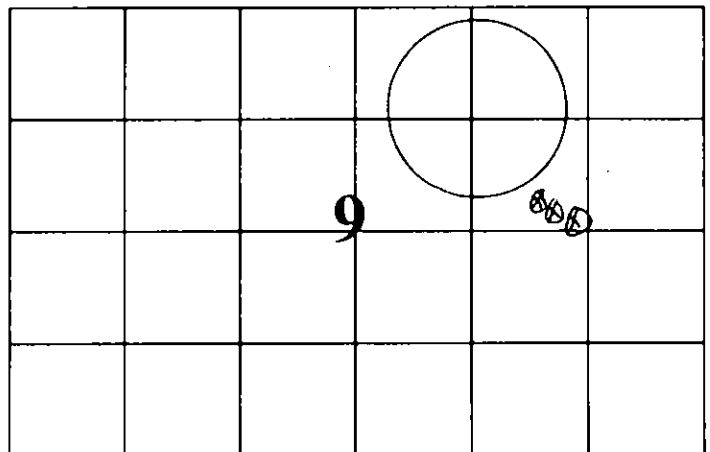
Type of Map:

Prepared by:

Reviewed and the Number Assigned on: **4-8-22**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 8628-3**

Date of first receipt of application April 8, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8628-3 to David E Hoops, PO Box 462, Huron SD 57350 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. 8628-3 reinstates Water Permit No. 7970-3. Water Permit No. 7970-3 appropriates 1.44 cubic feet of water per second from three wells to be completed into the Herreid Management Unit of the Spring Creek Aquifer (40 feet deep) located in the SE 1/4 NE 1/4 Section 9 for irrigation of 110 acres located in the NE 1/4 Section 9; all in T128N-R78W. The permit was approved May 5, 2014, and the project was to be completed May 5, 2019 with water being put to beneficial use by May 5, 2023. Permit No. 8628-3 reinstates Permit No. 7970-3 since the project has not been completed. This site is located approximately 1 mile north of Pollock SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: June 1 – September 30.
3. The date from which applicant may claim right is April 8, 2022.
4. The date of approval of Permit No. 8628-3 is June 20, 2022.
5. One-fifth of the construction is to be completed on or before December 20, 2024.
6. All construction is to be completed on or before June 20, 2027.
7. Water is to be put to beneficial use on or before June 20, 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. 8628-3 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. 8628-3 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

JUL 26 2022
date



RECEIVED

APR 08 2022

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8628-3</u>	(office use only) Hydrologic Unit <u>10130102</u>
	Basin <u>Missouri River</u>	
	Newspaper <u>Prairie Pioneer, Pollock</u>	
	<u>American News, Aberdeen</u>	

PAID

APR 8 2022

Ck#

Rec't#

Application For Permit To Appropriate Water For IrrigationType of Application: ☐ New ☐ Vested Right ☐ Amendment/Correction to Permit No. 7970-3

(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

Reinstatement application for Water Permit No. 7970-31. Name to Appear on Irrigation Permit David E Hoops

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

Mailing Address PO Box 462 Huron SD 57350

(Address)

(City)

(State)

(Zip Code)

Phone _____ Mobile 605 354-0560 Email dave.e.hoops@gmail.com2. Amount of water claimed 1.44 *CFS or 650 **GPM ***AF Total Acreage 110

(*Cubic Feet per Second)

(**Gallons per Minute)

(***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply up to 3 wells4. Location of point of diversion SE 1/4 NE 1/4 Section 9, T128N, R78W

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

County Campbell5. County or counties where water will be used Campbell6. Annual period during which water is to be used June 1 - September 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.

(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>NE 1/4 Section 9, T128N, R78W</u>	<u>110</u>		

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

I, David E Hoops, 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 3 Have test holes been drilled ☒ Yes ☐ No Drilled by Geoprobe Inc
(if yes, please provide copies of logs)b) If existing wells, how many Provide copy of log(s), if available. Drilled by

For either Existing or Proposed Wells:

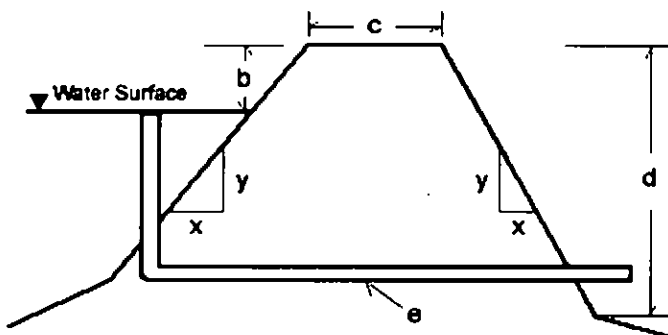
c) Well Depth (required) 40 Depth to Top of Water Bearing Material 29 Depth to Water from Surface 10d) Distance to nearest domestic well on applicant's property Property owned by others **2. Wastewater Disposal System Information**a) Type of System (i.e. septic tank, drain field) b) System Capacity (gallons) 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 Feetj) Drainage Area Above Dam Acres

Sec 5
T128N
R78W

Sec 4
T128N
R78W

Sec 3
T128N
R78W

Sec 8
T128N
R78W

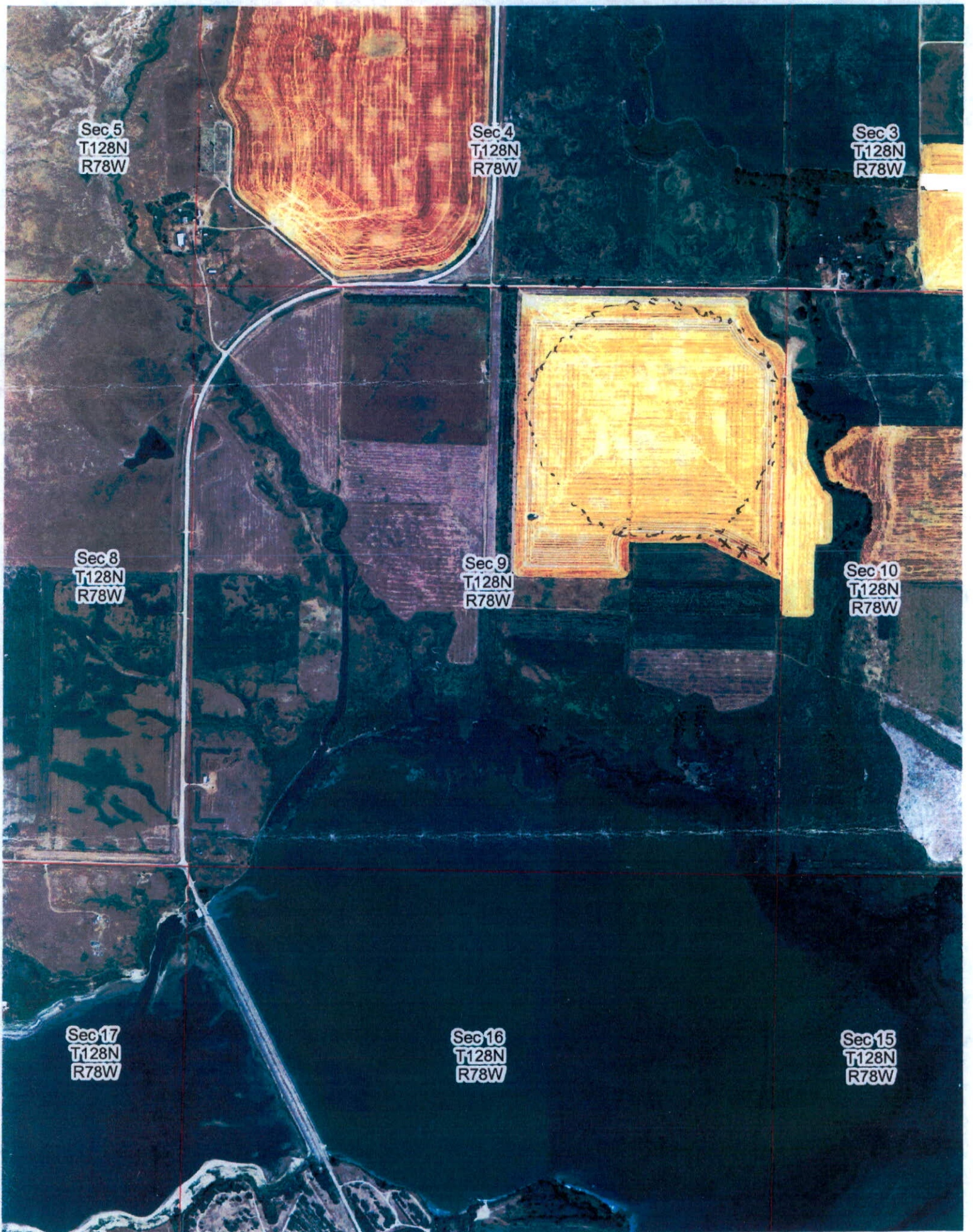
Sec 9
T128N
R78W

Sec 10
T128N
R78W

Sec 17
T128N
R78W

Sec 16
T128N
R78W

Sec 15
T128N
R78W



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date April 8, 2022

RECEIVED OF David E. Hoops PO Box 462 Huron SD 57350

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

Fee for Application for Permit No. <u>8628-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>100.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>100.00</u>

By Eric Gronlund
Chief Engineer

um



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 28, 2022

David E Hoops
PO Box 462
Huron SD 57350

Dear Mr. Hoops:

In follow-up to our phone conversation, enclosed is a partially completed permit application to file for a reinstatement of Water Permit No. 7970-3. Please review and make any corrections or additions you want to make.

The date for completion of works as specified in the original permit expired May 5, 2019. A permit holder can apply to have the permit reinstated within three years of the date construction was to be completed. In this case, an application will need to be submitted on or before **May 5, 2022**.

The process for filing the application is the same as when you originally applied for a water permit. The only thing the reinstatement application saves you is on the filing fee. The filing fee is **\$100** instead of \$950. During our phone conversation you mentioned you would like to pay that amount by credit card. That option is available. When you submit the application, you can pay the fee by calling our Fiscal Office at 605 773-4216. The lady who typically handles fees is Linda Fratzke.

I have also included a copy of the original application you filed and the corresponding permit. If you have any questions on any of the enclosed information, please contact us. Karen Schlaak is the person who handles incoming applications, she can be reached at the same number listed below.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@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. 8628-3, David E. Hoops**

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. 8628-3, David E. Hoops, PO Box 462, Huron SD 57350.

The Chief Engineer is recommending REINSTATEMENT of Application No. 8628-3 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. 8628-3 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. 8628-3 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 26, 2022

Report to the Chief Engineer
On Water Permit Application No. 8628-3

David E. Hoops

May 26, 2022

Water Permit Application No. 8628-3 proposes to reinstate Water Permit No. 7970-3. Water Permit Application No. 8628-3 proposes to divert water at a maximum instantaneous diversion rate of 1.44 cubic feet of water per second (cfs) from three wells to be completed into the Herreid management unit of the Spring Creek aquifer (approximately 40 feet deep) located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9 for the irrigation of 110 acres located in the NE $\frac{1}{4}$ of Section 9; all in T128N-R78W. The site of interest is located in Campbell County approximately one mile north of Pollock, SD.

Water Permit No. 7970-3 was approved May 5, 2014, and the project was to be completed May 5, 2019, with water being put to beneficial use by May 5, 2023. Water Permit Application No. 8628-3 proposes to reinstate Water Permit No. 7970-3 since the construction period authorized for Water Permit No. 7970-3 has expired (Water Rights, 2022c). Water Permit No. 7970-3 is subject to cancellation due to expiration of the construction period.

AQUIFER: Herreid management unit of the Spring Creek aquifer (SC: H)

HYDROGEOLOGY:

In Campbell County, the Spring Creek aquifer is composed mainly of glacial outwash and alluvium that is generally found at or near the ground surface (Koch, 1970). The Herreid management unit of the Spring Creek aquifer underlies approximately 55,000 acres of Campbell County and contains an estimated 239,830 acre-feet of recoverable water in storage (Hedges et al., 1982). The Spring Creek aquifer is hydrologically connected to Spring Creek and varies between confined and unconfined aquifer conditions (Koch, 1970).

A test hole completion report was submitted with Water Permit No. 7970-3 for a test hole completed into the Spring Creek: Herreid aquifer in 2014 (Water Rights, 2022c). The report lists "top soil" from 0 to 2 feet below the ground surface, "Yellow Clay" from 2 to 9 feet, "Blue Clay" from 9 to 29 feet, and "Sand" from 29 to 46 feet (Water Rights, 2022d). The test hole was screened from 26 to 46 feet below the ground surface in "Sand" and had an estimated static water level of 10 feet below the ground surface (Water Rights, 2022d). Additional test holes were completed into the Spring Creek: Herreid aquifer in 2017 by the applicant that encountered sand and gravel water bearing deposits occurring at various depths approximately 15 to 40 feet below the ground surface (Water Rights, 2022c and 2022d). Based on the test hole completion reports on file, and the nearby water well and test hole completion reports and lithologic logs on file, the Spring Creek: Herreid aquifer is expected to be confined at the proposed diversion points (SDGS, 2022; Water Rights, 2022d).

Figure 1 displays a map of the proposed diversion points and the observation well completed into the Spring Creek: Herreid aquifer (Water Rights, 2022b).

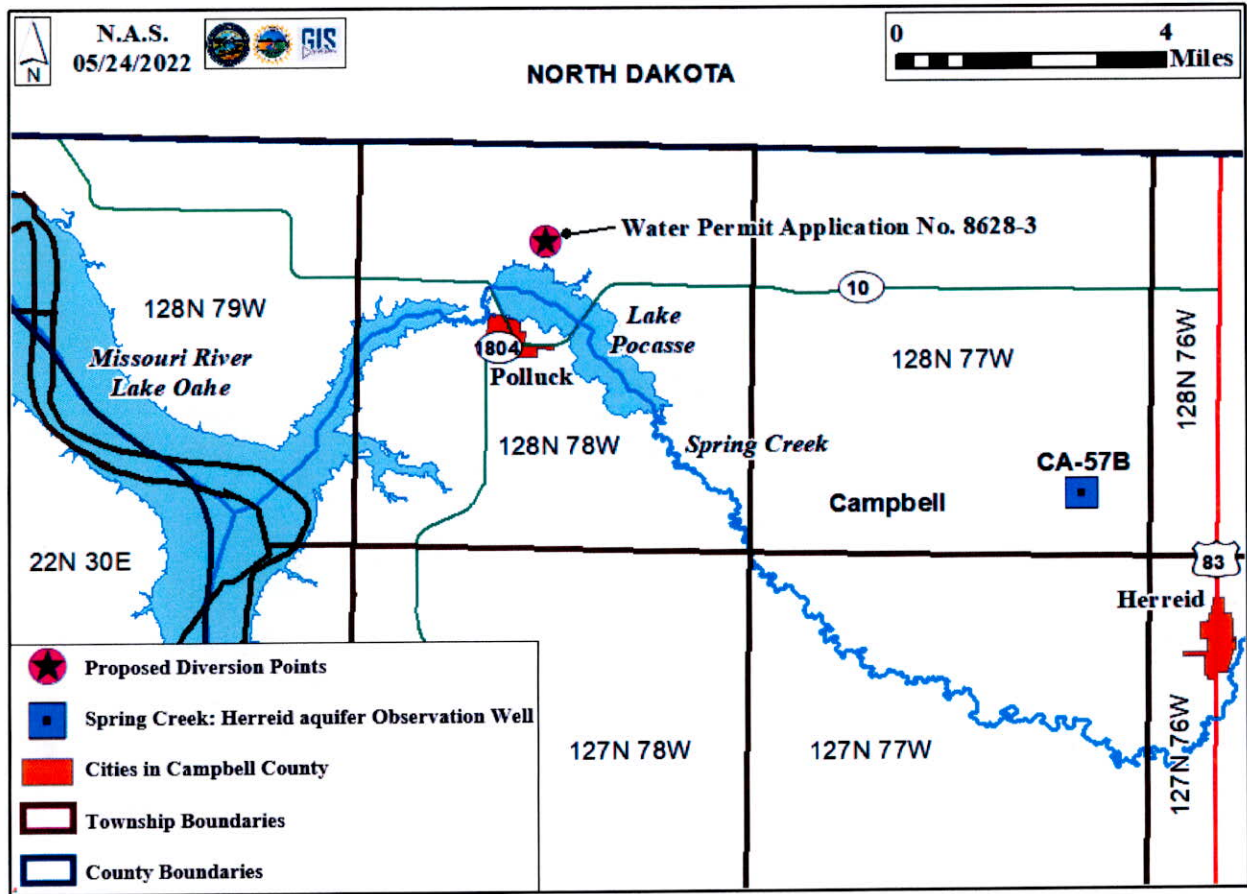


Figure 1. Location of the proposed diversion points for Water Permit Application No. 8628-3 with the Spring Creek: Herreid aquifer observation well (Water Rights, 2022b)

South Dakota Codified Law (SDCL) 46-2A-8.1

Pursuant to SDCL 46-2A-8.1, “The Water Management Board may reinstate any water permit with a priority date after March 31, 1977, if unappropriated water is available and construction necessary to put water to beneficial use was not completed pursuant to 46-2A-8 or 46-5-26. Any application under this section shall be made within three years of the expiration of the original construction period pursuant to chapter 46-2A. The priority date for the application to reinstate a permit shall be the date the application to reinstate is filed.” The construction period authorized for Water Permit No. 7970-3 was to be completed on or before May 5, 2019 (Water Rights, 2022c).

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 Spring Creek: Herreid aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8628-3 proposes to appropriate water from the Spring Creek: Herreid 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 Spring Creek: Herreid 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 Spring Creek: Herreid aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Spring Creek: Herreid aquifer is primarily through the infiltration of precipitation where the aquifer is at or near the ground surface, seepage from Spring Creek, and groundwater inflow from McPherson County (Koch, 1970). The Spring Creek: Herreid aquifer is estimated to underlie approximately 55,000 acres (Hedges et al., 1982). Hedges and others (1985) have developed a recharge rate range of 0.15 to 0.6 inches per year to the confined portions of buried aquifers for use in development and management programs. The confined and unconfined portions of the Spring Creek: Herreid aquifer have not been delineated at this time. The confined portions of an aquifer are expected to recharge at a slower rate than unconfined portions of an aquifer, so Hedges and others’ (1985) recharge rate of 0.15 to 0.6 inches per year is expected to underestimate an average annual recharge rate to the Spring Creek: Herreid aquifer. When multiplying the estimated areal extent (55,000 acres) of the aquifer by Hedges and others (1985) recharge rate range (0.15 to 0.6 inches per year) to the confined portions of buried aquifers, the average annual recharge rate to the Spring Creek: Herreid aquifer is approximately 687 to 2,750 acre-feet per year.

Discharge

Discharge from the Spring Creek: Herreid aquifer is primarily through well withdrawals (Water Rights, 2022d), evapotranspiration where the aquifer is at or near the ground surface, and outflow to Spring Creek (Koch, 1970). Currently, the applicant holds the only water right/permit authorized to withdraw water from the Spring Creek: Herreid aquifer – Water Permit No. 7970-3 (Water Rights, 2022c). However, Water Permit No. 7970-3 is subject to cancellation due to expiration of the construction period (Water Rights, 2022c).

Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year (Water Rights, 2022a). 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 Water Permit Application No. 8628-3. Water Permit Application No. 8628-3 requests to irrigate 110 acres; therefore, the estimated average annual withdrawal rate for this application (if approved) is approximately 110 acre-feet per year.

There are domestic wells completed into the Spring Creek: Herreid 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 generally not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Spring Creek: Herreid 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 Spring Creek: Herreid aquifer.

Hydrologic Budget Summary

The estimated average annual recharge rate to the Spring Creek: Herreid aquifer is approximately 687 to 2,750 acre-feet per year. Currently, the applicant holds the only water right/permit authorized to withdraw water from the Spring Creek: Herreid aquifer Water Permit No. 7970-3 (Water Rights, 2022c). However, Water Permit No. 7970-3 is subject to cancellation due to expiration of the construction period (Water Rights, 2022c). The estimated average annual withdrawal rate from the Spring Creek: Herreid aquifer if Water Permit Application No. 8628-3 is approved, is approximately 110 acre-feet per year, assuming a one-foot application rate per authorized acre. Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Spring Creek: Herreid aquifer for the proposed appropriation

OBSERVATION WELL DATA:

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board shall rely upon the record of observation well measurements in addition to other data to determine that the quantity of water withdrawn annually from the aquifer does not exceed the estimated average annual recharge of the aquifer.

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors one observation well completed into the Spring Creek: Herreid aquifer (Water Rights, 2022b). The observation well, CA-57B, is located approximately 8.9 miles southeast of the proposed diversion points (Water Rights, 2022b and 2022c). The hydrograph for this observation well is displayed in Figure 2 (Water Rights, 2022b). The data points utilized to construct 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 title displays DENR Water Rights Observation Well on the hydrograph when the title should display DANR Water Rights Observation Well on the hydrograph.

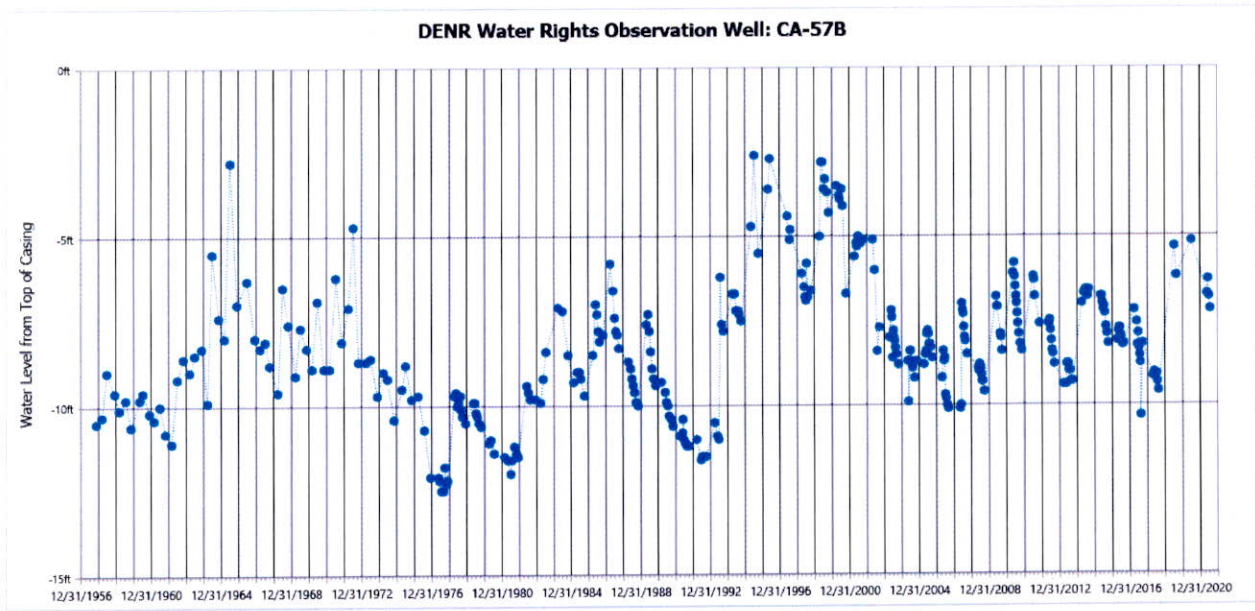


Figure 2. Hydrograph for observation well CA-57B (Water Rights, 2022a)

The hydrograph for the observation well displays stable to increasing water levels over its period of record. The hydrograph for the Spring Creek: Herreid aquifer indicates 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 well display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer recovering water levels during the times of year when there is significant recharge (spring and early summer). 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 waters levels in the aquifer rather than the impacts of pumping from the Spring Creek: Herreid aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrograph demonstrates unappropriated water is available for the proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, the applicant holds the only water right/permit authorized to appropriate water from the Spring Creek: Herreid aquifer - Water Permit No. 7970-3 (Figure 1) (Water Rights, 2022c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Spring Creek: Herreid aquifer, with the closest domestic well on file (not held by the applicant) approximately 4.2 miles southeast of the proposed diversion points (Water Rights, 2022d). There could potentially be other domestic wells completed into the Spring Creek: Herreid aquifer near the proposed diversion points that are not on file with the DANR-Water Rights Program.

The Spring Creek: Herreid aquifer is under confined conditions at the proposed diversion points based on the test hole completion reports on file for Water Permit No. 7970-3, and the nearby water well and test hole completion reports and lithologic logs on file with the DANR-Water

Rights Program (SDGS, 2022; Water Rights, 2022c and 2022d). Since the Spring Creek: Herreid aquifer is expected to be confined near the proposed diversion points, drawdown can extend some distance but the exact drawdown behavior of a well cannot be known without an aquifer performance test.

Based on the test hole completion reports on file for Water Permit No. 7970-3, the Spring Creek: Herreid aquifer has a saturated aquifer thickness ranging from approximately 10 to 20 feet (Water Rights, 2022c and 2022d). Within approximately ten miles of the proposed diversion points, water well and test hole completion reports on file with the DANR-Water Rights Program have saturated aquifer thicknesses ranging from approximately 6 to 30 feet (Water Rights, 2022d). Any drawdown as a result of the proposed diversion is not expected to unlawfully impair nearby adequate wells. An adequate well is defined by ARSD 74:02:04:20(6) as “a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.” In Campbell County, there have been no substantiated complaints submitted to the DANR-Water Rights Program regarding well interference for adequate wells completed into the Spring Creek: Herreid aquifer (Water Rights, 2022e).

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 Spring Creek: Herreid 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)), and the lack of well interference complaints for adequate wells completed into the Spring Creek: Herreid

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.

CONCLUSIONS:

1. Water Permit Application No. 8628-3 proposes to reinstate Water Permit No. 7970-3. Water Permit Application No. 8628-3 proposes to divert water at a maximum instantaneous diversion rate of 1.44 cfs from three wells to be completed into the Herreid management unit of the Spring Creek aquifer (approximately 40 feet deep) for the irrigation of 110 acres. The site of interest is located in Campbell County approximately one mile north of Pollock, SD.
2. The construction period authorized for Water Permit No. 7970-3 has expired (Water Rights, 2022c). Water Permit No. 7970-3 is subject to cancellation due to expiration of the construction period (Water Rights, 2022c).
3. Based on the observation well data and hydrologic budget, there is a reasonable probability that unappropriated water is available from the Spring Creek: Herreid aquifer to supply the proposed appropriation.
4. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8628-3 will not unlawfully impair adequate wells for existing water right/permit holders and domestic users.



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

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.

- 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.
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- 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: Tuesday, May 31, 2022 12:47 PM
To: 'dave.e.hoops@gmail.com'
Subject: Water Permit Application No. 8628-3
Attachments: 3510.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.

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



RECEIVED

JUL 11 2022

OFFICE OF
WATER

Affidavit of Publication

STATE OF SOUTH DAKOTA,
COUNTY OF CAMPBELL, ss.

Application filed to reinstate water permit

NOTICE OF APPLICATION NO. 8628-3 to Reinstate Water Permit No. 7970-3. Notice is given that David E Hoops, PO Box 462, Huron SD 57350 has filed an application to reinstate Water Permit No. 7970-3. Water Permit No. 7970-3 appropriates 1.44 cubic feet of water per second from three wells to be completed into the Herreid Management Unit of the Spring Creek Aquifer (40 feet deep) located in the SE 1/4 NE 1/4 Section 9 for irrigation of 110 acres located in the NE 1/4 Section 9; all in T128N-R78W. The permit was approved May 5, 2014, and the project was to be completed May 5, 2019 with water being put to beneficial use by May 5, 2023. Application No. 8628-3 proposes to reinstate Permit No. 7970-3 since the project has not been completed. This site is located approximately 1 mile north of Pollock SD.

Application No. 8628-3 to reinstate Permit No. 7970-3 is made pursuant to SDCL 46-2A-8.1 which allows reinstatement of a permit with a new priority date provided unappropriated water is available and the construction necessary to put water to beneficial use was not completed within the five years of approval of the original permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends REINSTATEMENT of Application No. 8628-3 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 20, 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 20, 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 \$48.60 and can be viewed free of charge at www.sdpublicnotices.com

-060922

I, Lori Cox, being first duly sworn, on oath says, that she is the bookkeeper of the Prairie Pioneer, a weekly newspaper published in Pollock, County of Campbell, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies weekly, and has been published within said county for fifty-two successive weeks next prior to the publication of the notice herein mentioned; that the

Application filed to reinstate water permit

David E Hoops

a printed copy of which, taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 1 successive week, on the day of each week on which said newspaper was regularly published to-wit:

1- Prairie Pioneer: 6/9/2022

That the full amount of the fees for the publication of the annexed notice is \$48.60

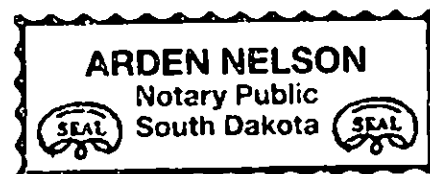
Lori Cox

Subscribed and sworn to before me this 6/22/2022

Arden Nelson

Arden Nelson, Notary Public
State of South Dakota

My commission expires August 1, 2025



LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

PROOF OF PUBLICATION

Sd Dept Of Environment
Sd Dept Of Environment
WATER RIGHTS PROGRAM
523 E. CAPITOL
Pierre SD 57501

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

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

06/09/2022

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 06/09/2022

March Verhagen
Legal Clerk

John B. T.
Notary, State of WI, County of Brown

My commission expires

Publication Cost:	\$51.48	
Order No:	7358916	# of Copies
Customer No:	561450	1

PO #:

THIS IS NOT AN INVOICE!

Please do not return this invoice
SARA H. BERTHESEN
Notary Public
State of Wisconsin

NOTICE OF APPLICATION NO. 8628-3 to Reinstate Water Permit No. 7970-3

Notice is given that David F. Hoops, PO Box 462, Huron SD 57350 has filed an application to reinstate Water Permit No. 7970-3. Water Permit No. 7970-3 appropriates 1.44 cubic feet of water per second from three wells to be completed into the Irrigation Management Unit of the Spring Creek Aquifer (40 feet deep) located in the SE 1/4 NE 1/4 Section 9, all in T128N-R78W. The permit was approved May 5, 2014, and the project was to be completed May 5, 2019 with water being put to beneficial use by May 5, 2023. Application No. 8628-3 proposes to reinstate Permit No. 7970-3 since the project has not been completed. This site is located approximately 1 mile north of Pullack SD.

Application No. 8628-3 to reinstate Permit No. 7970-3 is made pursuant to SDCL 46-2A-8.1 which allows reinstatement of a permit with a new priority date provided unappropriated water is available and the construction necessary to put water to beneficial use was not completed within the five years of approval of the original permit. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends REINSTATEMENT of Application No. 8628-3 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 permits 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://dnr.sd.gov/public-or-contact/Rar-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 advise 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://dnr.sd.gov/public-or-by-contacting-the-Chief-Engineer>. The Chief Engineer's address is: Water Rights Program, Post 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 22, 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://dnr.sd.gov/public-or-by-contacting-the-Chief-Engineer> 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 20, 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 \$51.48. June 9, 2022 #7358916

RECEIVED

JUN 16 2022

OFFICE OF
WATER

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, May 31, 2022 11:00 AM
To: Aberdeen American News (aan-legals@aberdeennews.com)
Subject: 8628-3, David E Hoops
Attachments: 8628-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 9, 2022.

David E Hoops, PO Box 462, Huron SD 57350 (605 354-0560) 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: Tuesday, May 31, 2022 10:59 AM
To: Paire Pioneer Pollock (pioneer@valleytel.net)
Subject: 8628-3, David E Hoops
Attachments: 8628-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 9, 2022.

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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.**

May 31, 2022

David E Hoops
PO Box 462
Huron SD 57350

Dear Mr. Hoops:

Water Permit Application No. 8628-3 to reinstate Water Permit No. 7970-3 have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Prairie Pioneer printed at Pollock SD (Ph # 605 889-2320) and the American News printed at Aberdeen SD (Ph # 605 225-4100). 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. 8628-3 to Reinstate Water Permit No. 7970-3

Notice is given that David E Hoops, PO Box 462, Huron SD 57350 has filed an application to reinstate Water Permit No. 7970-3. Water Permit No. 7970-3 appropriates 1.44 cubic feet of water per second from three wells to be completed into the Herreid Management Unit of the Spring Creek Aquifer (40 feet deep) located in the SE 1/4 NE 1/4 Section 9 for irrigation of 110 acres located in the NE 1/4 Section 9; all in T128N-R78W. The permit was approved May 5, 2014, and the project was to be completed May 5, 2019 with water being put to beneficial use by May 5, 2023. Application No. 8628-3 proposes to reinstate Permit No. 7970-3 since the project has not been completed. This site is located approximately 1 mile north of Pollock SD.

Application No. 8628-3 to reinstate Permit No. 7970-3 is made pursuant to SDCL 46-2A-8.1 which allows reinstatement of a permit with a new priority date provided unappropriated water is available and the construction necessary to put water to beneficial use was not completed within the five years of approval of the original permit.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends REINSTATEMENT of Application No. 8628-3 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 20, 2022.

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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 20, 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

JUL 26 2022

David E Hoops
PO Box 462
Huron SD 57350

Dear Mr. Hoops:

Enclosed is Water Permit No. 8628-3 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

January 19, 2024

NOTICE

TO: DAVID E HOOPS, PO BOX 462, HURON, SD 57350 0462

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaire(s)

Our records indicate your 2023 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8628-3. The request for the Questionnaire was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 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) 8628-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 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) 8628-3 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 6, 2024** 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 Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: ADBCSV**

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 12, 2024

8628-3

David E Hoops
PO BOX 462
Huron SD 57350

Dear Mr. Hoops:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 8628-3. The information was received prior to the March 6, 2024, Water Management Board meeting and this permit number has been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

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