

WATER PERMIT NO. 8642-3

Name of Applicant: John R & Melissa R Schutte

Address: 48390 281st St, Canton SD 57013 Phone: 605 310-9440

Amount of Water Claimed: no add'l Total Acres: 16.5 acres

Source of Water Supply: Big Sioux River

Water to be used for: irrigation County: Lincoln

Type of Waste Disposal System:

Location: 3 miles northeast of Canton

PRIORITY Date Received: 7-1-22 Application/License Fee: \$ 700

Corrected Application Received: Period of Annual Use: April 1 – October 31

Remarks: Add'l acres to Water Right No. 1454-3

Diversion Point: NE 1/4 NE 1/4 Sec 8-T98N-R48W

Land to be Irrigated: NE 1/4 NW 1/4, NW 1/4 NE
1/4 Sec 8, SE 1/4 SW 1/4, W 1/2 SE 1/4 Sec 5; all
in T98N-R48W

Depth of Well: NA

Well Driller:

Remarks:

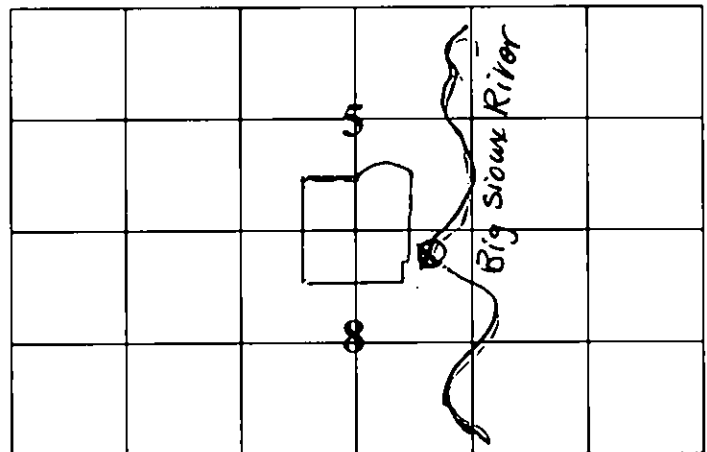
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 7-5-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 8642-3**

Date of first receipt of application July 1, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8642-3 to John T and Melissa R Schutte, 48390 281st St, Canton SD 57013 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. 8642-3 irrigates an additional 16.5 acres. Water Right No. 1454-3 authorizes 2.03 cubic feet of water per second (cfs) from the Big Sioux River located in the NE 1/4 NE 1/4 Section 8 for irrigation of 144 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 5 and the NE 1/4 NW 1/4, NW 1/4 NE 1/4 Section 8; all in T98N-R48W. This permit authorizes irrigation of an additional 16.5 acres located in the NW 1/4 SE 1/4 Section 5-T98N-R48W and in the area described above from the existing Big Sioux River diversion point. This permit and Water Right No. 1454-3 will authorize a total of 2.03 cfs for irrigation of 160.5 acres. This site is located approximately 3 miles northeast of Canton 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: April 1 – October 31.
3. The date from which applicant may claim right is July 1, 2022 (16.5 acres).
4. The date of approval of Permit No. 8642-3 is September 6, 2022.
5. one-fifth of the construction is to be completed on or before March 6, 2025.
6. All construction is to be completed on or before September 6, 2027.
7. Water is to be put to beneficial use on or before September 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. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Water Right No. 1454-3 and this Permit, combined, authorize a diversion rate of 2.03 cubic feet of water per second for irrigation of 160.5 acres.
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 Environment and Natural Resources

SEP 26 2022
date



RECEIVED

JUL 01 2022

PAID

JUL 1 2022

Ck# 10528

Rec't#

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8642-3</u>	(office use only) Hydrologic Unit <u>10170203</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Sioux Valley News</u>	
	<u>Argus Leader</u>	

OFFICE OF
WATER

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 1454-3
(Use predates Mar 2, 1955)

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

Installing a new center pivot with a cornering system, so I am increasing the number of acres1. Name to Appear on Irrigation Permit John T. Schutte and Melissa R. Schutte

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

Mailing Address 48390 281st St. Canton SD 57013
(Address) (City) (State) (Zip Code)Phone _____ Mobile 605-310-9444 Email johnschutte@kw.com (16.5 add'l)
(no add'l)2. Amount of water claimed 2.03 *CFS or 800 **GPM ***AF Total Acreage 160.5
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)3. Source of water supply Big Sioux River4. Location of point of diversion Same as existing permit # 1454-3
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R51W)Scemap 1NE 1/4 NE 1/4 Sec 8 - T98N-R48W County Lincoln5. County or counties where water will be used Lincoln6. Annual period during which water is to be used April 1 to Oct 317. 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)

SE	Land Description	Acres	Land Description	Acres
SE 1/4 SW 1/4	5-98N-48W	40 (4)	NW 1/4 SE 1/4	5-98N-48W 6
NE 1/4 NW 1/4	8-98N-48W	40 (4)		
NW 1/4 NE 1/4	8-98N-48W	38.5	(2.5)	
SW 1/4 SE 1/4	5-98N-48W	36		

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

Installing / replacing an old center pivot with a new one and adding a cornering system

1. John Schutte Owner, the applicant, certify under
Name of Person Title (if applicable)

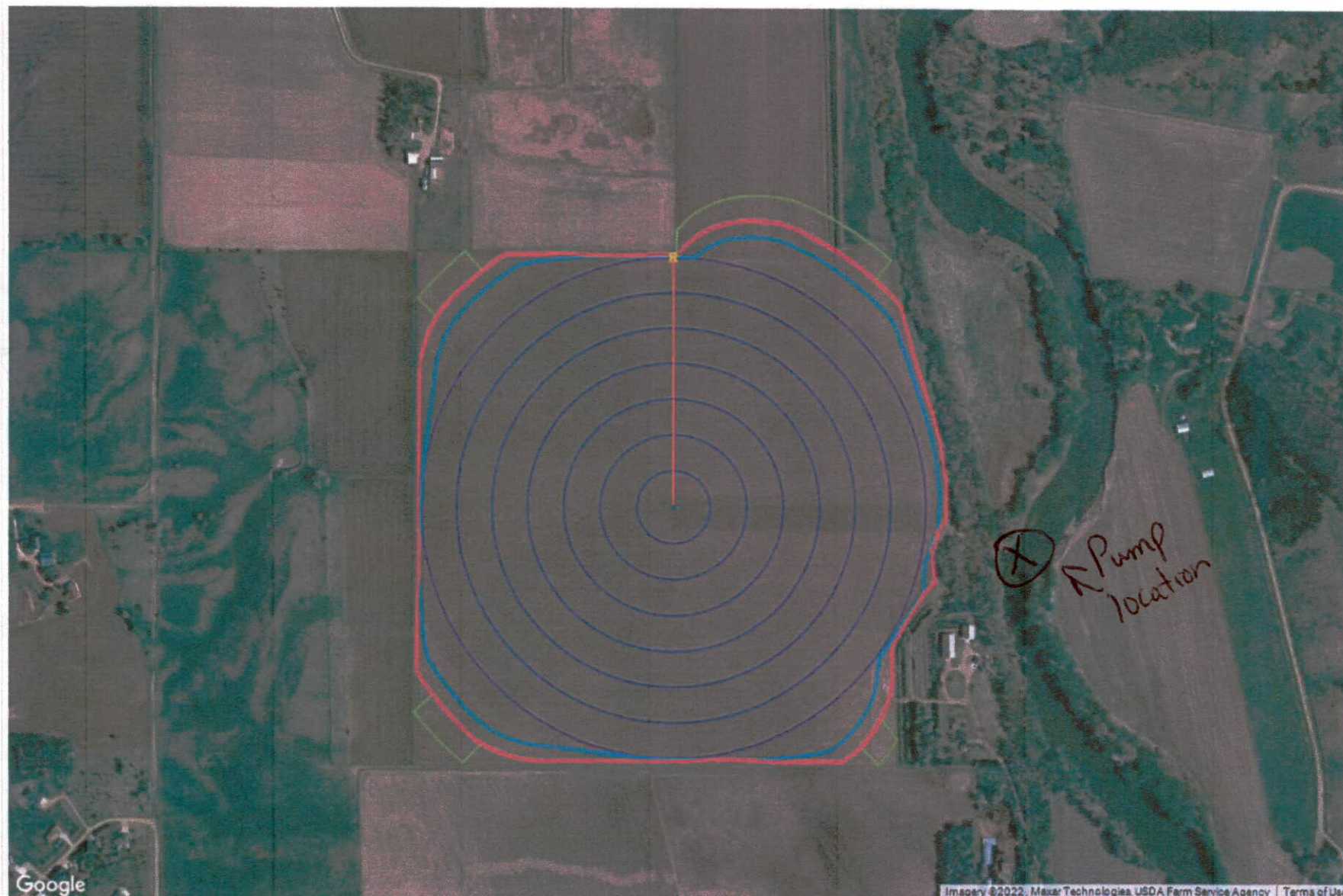
penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.



Project Name - John Schutte - Vflex

Proposal Name - John Schutte - Vflex

Map Summary Report - Pivot_1_119202213119463



DRIVE UNITS LARGEST POTENTIAL MACHINE GUIDANCE PATH END OF MACHINE PRIMARY ENDGUN SECONDARY ENDGUN FIELD BOUNDARY

99N 48W
Section: 31

99N 48W
Section: 32

98N 48W
Section: 06

98N 48W
Section: 05

98N 48W
Section: 07

98N 48W
Section: 08

98N 48W
Section: 09

98N 48W

98N 48W



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

File No. 8642-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: John Schutte

ADDRESS: 48390 281st Street, Canton SD 57013

DATE: July 11, 2022 **PHONE:** 605.310.9440

RE: Water Permit Application No. 8642-3

COMMENTS:

I called John Schutte to discuss the amount of water claimed on Application No. 8642-3 to add 16.5 acres to an existing Water Right No. 1454-3. The existing water right is licensed for 2.03 cubic feet of water per second (cfs) and Application No. 8642-3 specifies a diversion rate of 1.78 cfs. I asked Mr. Schutte if it was his intent to reduce the diversion rate from the 2.03 cfs authorized under No. 1454-3. Mr. Schutte indicated he specified 1.78 cfs based on the nozzle size of the sprinklers on his new center pivot. However, Mr. Schutte indicated a desire to leave the diversion rate at 2.03 cfs until the system is operational and it is known what the final diversion rate will be.

RECOMMENDED ACTION:

Mr. Schutte gave me permission to modify the application to identify a total diversion rate of 2.03 cfs for Water Right No. 1454-3 and Application No. 8642-3, combined.

Ron Duvall, Water Rights Permitting Administrator
SD DANR, Water Rights Program

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date July 1, 2022

RECEIVED OF John/Melissa Schutte 48390 281st St., Canton SD 57013

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

Fee for Application for Permit No. <u>8642-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8642-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	TOTAL
	\$ <u>700.00</u>

By Eric Gronlund
Chief Engineer
Em



**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. 8642-3, John T. Schutte and Melissa R. Schutte**

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. 8642-3, John T. Schutte and Melissa R. Schutte, 48390 281st Street, Canton SD 57013.

The Chief Engineer is recommending APPROVAL of Application No. 8642-3 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. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Water Right No. 1454-3 and this Permit, combined, authorize a diversion rate of 2.03 cubic feet of water per second for irrigation of 160.5 acres.
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
August 15, 2022

**Report to the Chief Engineer
On Water Permit Application No. 8642-3**

John T and Melissa R Schutte

August 8th, 2022

Water Permit Application No. 8642-3 proposes to increase the number of acres irrigated from 144 to 160.5 in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8; all in T98N-R48W of Lincoln County. Water Right No. 1454-3, held by the applicants, authorizes 2.03 cubic feet of water per second (cfs) from the Big Sioux River to irrigate 144 acres in areas described above. The application seeks to irrigate an additional 16.5 acres. No increase in the diversion rate is authorized by this application. However, an additional volume of water will be diverted to irrigate the additional acres. This site is located approximately 3 miles northeast of Canton SD.

WATER SOURCE: Big Sioux River

HYDROGEOLOGY:

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 Big Sioux River.

SDCL 46-5-5

Pursuant to SDCL 46-5-5, "Subject to vested rights and prior appropriations, all waters flowing in definite streams of the state may be appropriated only as provided in chapters 46-1 to 46-10, inclusive. A water right does not constitute absolute ownership of the water but shall remain subject to the principle of beneficial use. No appropriation in excess of the reasonable needs of the appropriators may be allowed."

The Big Sioux River meets conditions necessary to be classified as a definite stream; defined by Benson V. Cook, 1924, as the "presence or existence of running water with some permanent source of supply running along a fixed channel". Furthermore, Water Right No. 1454-3 (priority date November 6th, 1967) is held by the applicants and is authorized to pump 2.03 cfs from the Big Sioux River (Water Rights. 2022). Information provided on the application by Mr. and Mrs. Schutte indicate that no increase in diversion rate is authorized by this application. The application states a new center pivot with a cornering system is being installed which will increase the acres being irrigated.

WATER AVAILABILITY:

Water Permit Application No. 8642-3 proposes to appropriate water from the Big Sioux River in Lincoln County, SD. The Big Sioux originates in Roberts County, SD and flows 419 miles south into the Missouri River in Sioux City, Iowa. The United States Geological Survey (USGS) monitors several stream flow gages at along the Big Sioux River, including three in Sioux Falls immediately upstream from the location of this application. The closest of the gages, Big Sioux River at North Cliff Avenue stream flow gage registered an annual mean of 340.3 cubic feet per second (cfs) in 2021, less than the overall annual mean of 828.4 cfs spanning from 1972-2021 (USGS. 2022).

Figure 1 illustrates daily percentile flow hydrographs over a 51-year period, where the typical period of use includes irrigation, livestock watering, and municipal draws. At the 10th percentile level where flows are at or below this level an average of 1 out of 10 years, flow values are above 20 cfs during the typical period of use, dropping slightly below during non-irrigating months (USGS. 2022). The highest discharge rates occurring in the spring reflect what is expected for streams in the Great Plains, when snowmelt and runoff feed the watercourse the most. This application does not request an increase in the diversion rate but the additional 16.5 acres of irrigation will result in an additional volume of water being diverted. Based upon the historical stream gaging data there is sufficient flow available for this project.

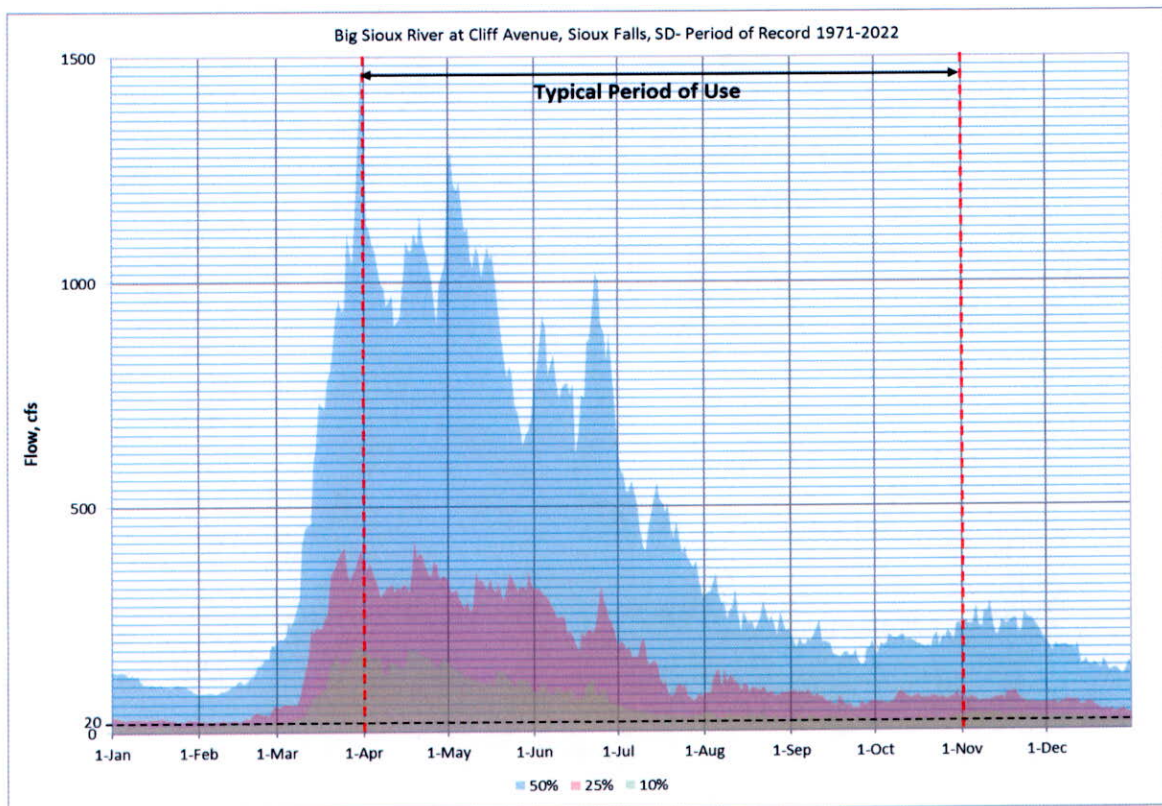


Figure 1: Daily percentile flow hydrographs for the USGS 06482020 gaging station Big Sioux River at North Cliff Ave at Sioux Falls, SD (USGS. 2022).

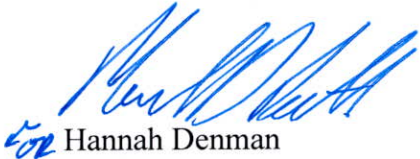
POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 64 water rights/permits authorized to appropriate 2153.62 cfs from the Big Sioux River (Water Rights, 2022), however two of these are held by the SD Department of Game Fish and Park appropriating a combined 2000 cfs of flood flow for stabilization of water in Lake Poinsett. The closest water right to the proposed diversion point downstream is Water Permit No. 2255-3, which is held by James H. Cole. The diversion point for Water Right No. 5018-3 is located approximately 40 miles downstream of the existing diversion point for this application (Water Rights, 2022).

The USGS monitors 11 stream flow gauging stations along the entirety of the Big Sioux River to provide real time flow records to monitor river flow to ensure domestic users and/or existing water rights are protected. The location of the nearest downstream gage is approximately 30 miles south, near Hawarden, Iowa.

CONCLUSIONS:

1. This application proposes to increase the number of acres irrigated from 144 to 160.5, utilizing 2.03 cfs authorized by Water Right No. 1454-3.
2. The water source for this application is the Big Sioux River near Canton, SD. This application does not request an increase in diversion rate. Unappropriated water is available.
3. SDCL 46-2A-9, 46-5-5, allow for the diversion of water from a definite stream, understanding that the water is subject to the principle of beneficial use. There is reasonable probability that the increase in irrigated acres will not unlawfully impair existing appropriative water rights or domestic users.



Hannah Denman
SD DANR - Water Rights Program

Reviewed by:



Mark Rath
Natural Resources Engineer III
SD DANR - Water Rights Program

References

Benson v. Cook, Reports of Cases Decided in the Supreme Court of the State of South Dakota
Vol. 41 201 N.W.526 (S. Dak. 1924)

USGS. 2022. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.

Water Rights. 2022. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Williamson, George N., et al. The South Dakota Revised Code, 1919. United States, Hipple Printing Company, 1919.

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, August 16, 2022 3:57 PM
To: johnschutte@kw.com
Subject: Water Permit Application No. 8642-3
Attachments: 3878.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>



Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF LINCOLN

RECEIVED

SEP 16 2022

OFFICE OF
WATER

TERESA ZOMER

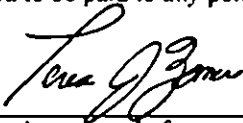
being first duly sworn on his oath says; that the Sioux Valley News is a legal weekly newspaper of general circulation as required by South Dakota Code of Nineteen Hundred Thirty-Nine, and any acts amendatory thereto, printed and published by the Sioux Valley News, Inc., in Canton, in said county and State, and has been such legal newspaper during the time hereinafter mentioned; that he is and during all of said time was publisher of said newspaper and has personal knowledge of the facts stated in this affidavit; that the advertisement headed:

Notice of Application
John T & Melissa R Schutte

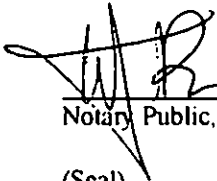
a printed copy of which is hereto attached, was printed and published in said newspaper for ONE successive week(s) upon the following dates, to-wit:

August 25, 2022

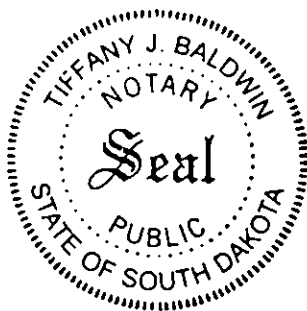
that the full amount of the fees charged for publishing the same to-wit: the sum of \$45.31 inures solely to the benefit of the publishers of said newspaper; that no agreement or understanding for any division of this sum has been made with any other person; and that no part of said sum has been agreed to be paid to any person whomsoever.



Ascribed and sworn to before me this 25th day of
August, 2022


Notary Public, South Dakota

(Seal)



My Commission Expires
January 12, 2024

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 September 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.

Published in the Sioux Valley News on August 25, 2022 at the total approximate cost of \$45.31 and may be viewed free of charge at www.sdpublicnotices.com.

NOTICE OF APPLICATION NO. 8642-3 to Appropriate Water

Notice is given that John T & Melissa R Schutte, 48390 281st St, Canton SD 57013 has filed an application for a water permit to irrigate an additional 16.5 acres. Water Right No. 1454-3 authorizes 2.03 cubic feet of water per second (cfs) from the Big Sioux River located in the NE 1/4 NE 1/4 Section 8 for irrigation of 144 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 5 and the NE 1/4 NW 1/4, NW 1/4 NE 1/4 Section 8; all in T98N-R48W. This application proposes to irrigate an additional 16.5 acres located in the NW 1/4 SE 1/4 Section 5-T98N-R48W and in the area described above from the existing Big Sioux River diversion point. This application, if approved, and Water Right No. 1454-3 will authorize a total of 2.03 cfs for irrigation of 160.5 acres. This site is located approximately 3 miles northeast of Canton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8642-3 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 September 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.

Argus Leader

P O Box 677349, Dallas, TX 75267-7349

RECEIVED

SEP 12 2022

OFFICE OF
WATER

Account No. 6053109440

Ad No.: 0005379911

PO # 8642-3

Lines 163

Ad Total: \$52.27

SCHUTTE, JOHN T
48390 281ST ST
CANTON, SD 57013

This is not an invoice

of Affidavits: 1

Account No.: 6053109440

Ad No.: 0005379911

Argus Leader AFFIDAVIT OF PUBLICATION

State of Wisconsin

County of Brown

I being duly sworn, says: That The Argus Leader is, and during all the times hereinafter mentioned was, a daily legal newspaper published at Sioux Falls, Minnehaha County, South Dakota; that affiant is and during all of said times, was an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is hereto attached, was published in said newspaper issue(s) :

Thursday, August 25, 2022

Sworn to and subscribed before me this 9 day of September, 2022.

Legal Clerk

Notary Public, State of Wisconsin, County of Brown

8-21-210
My Commission expires

NICOLE JACOBS
Notary Public
State of Wisconsin

NOTICE OF
APPLICATION NO. 8642-3
to Appropriate Water

Notice is given that John T. & Melissa R. Schutte, 48390 281st St, Canton SD 57013 has filed an application for a water permit to irrigate an additional 16.5 acres. Water Right No. 1454-3 authorizes 2.03 cubic feet of water per second (cfs) from the Big Sioux River located in the NE 1/4 NE 1/4 Section 8 for irrigation of 144 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 5 and the NE 1/4 NW 1/4, NW 1/4 NE 1/4 Section 8, all in T98N-R48W. This application proposes to irrigate an additional 16.5 acres located in the NW 1/4 SE 1/4 Section 5-T98N-R48W and in the area described above from the existing Big Sioux River diversion point. This application, if approved, and Water Right No. 1454-3 will authorize a total of 2.03 cfs for irrigation of 160.5 acres. This site is located approximately 3 miles northeast of Canton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8642-3 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://dwr.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://dwr.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 September 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://dnr.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 September 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. Published once at the total approximate cost of \$52.27 and may be viewed free of charge at www.sdpublicnotices.com.

5379911

August 25, 2022

Schlaak, Karen

From: Schlaak, Karen
Sent: Tuesday, August 16, 2022 2:41 PM
To: 'legals@argusleader.com'
Subject: 8642-3, John T & Melissa R Schutte
Attachments: 8642-3public.short_final.docx; FORM8.FRM.doc

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

John T & Melissa R Schutte, 48390 281st ST, Canton SD 57013 (605 310-9440) have 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, August 16, 2022 2:40 PM
To: siouxvalleynews@vastbb.net
Subject: 8642-3, John T & Melissa R Schutte
Attachments: 8642-3public.short_final.docx; FORM8.FRM.doc

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**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.**

August 17, 2022

John T & Melissa R Schutte
48390 281st St
Canton SD 57013

Dear Mr. & Mrs. Schutte:

Water Permit Application No. 8642-3 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 Sioux Valley News printed at Canton SD (Ph # 605 764-2000) and the Argus Leader printed at Sioux Falls SD (Ph # 605 331-2200). 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. 8642-3 to Appropriate Water

Notice is given that John T & Melissa R Schutte, 48390 281st St, Canton SD 57013 has filed an application for a water permit to irrigate an additional 16.5 acres. Water Right No. 1454-3 authorizes 2.03 cubic feet of water per second (cfs) from the Big Sioux River located in the NE 1/4 NE 1/4 Section 8 for irrigation of 144 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 5 and the NE 1/4 NW 1/4, NW 1/4 NE 1/4 Section 8; all in T98N-R48W. This application proposes to irrigate an additional 16.5 acres located in the NW 1/4 SE 1/4 Section 5-T98N-R48W and in the area described above from the existing Big Sioux River diversion point. This application, if approved, and Water Right No. 1454-3 will authorize a total of 2.03 cfs for irrigation of 160.5 acres. This site is located approximately 3 miles northeast of Canton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8642-3 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 September 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 September 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.

Published once at the total approximate cost of_



**DEPARTMENT of AGRICULTURE
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PIERRE SD 57501-3182
danr.sd.gov

SEP 26 2022

John T & Melissa R Schutte
48390 281 St
Canton SD 57013

Dear Mr. & Mrs. Schutte:

Enclosed is Water Permit No. 8642-3 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



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STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8642-3

Name of Applicant: John T & Melissa R Schutte

Date of Posting: 8/22/2022

Date of Removal: 9/26/2022



Ron Duvall, Water Rights Permitting Administrator

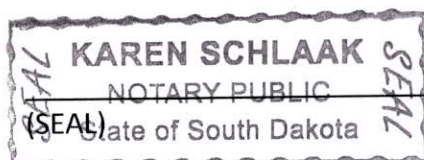
9/26/22

Date

Subscribed and sworn to before me, a notary public, this 26th day of Sept, 2022.



Notary Public - South Dakota
My commission expires: 4/1/2025



Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 8642-3

I have this day, August 28, 2024, made a thorough examination of the water use system constructed by John & Melissa Schutte, 48390 281st St, Canton, SD 57013 of Permit No. 8642-3, bearing the priority of July 1, 2022 authorizing the diversion of 2.03 cu. ft. per second of the waters of Big Sioux River for irrigation purposes, in Lincoln County.

A. Works used to divert the water: Surface Pumping Unit

Pump:

- 1) Make Cornell
- 2) Model Unknown
- 3) Size Unknown
- 4) Capacity 910 GPM

Motor:

- 1) Make Balder Reliance
- 2) Model No. Unknown
- 3) Horsepower rating 40 hp

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

- 1) Type Buried PVC
- 2) Size 8 inches
- 3) Length 1700 feet

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make Valley
- 2) Overall length 1400 feet
- 3) Number of towers 7
- 4) End gun Y
- 5) Capacity 800 GPM

Chemigation Equipment:

- 1) Does chemigate N

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y

- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y
- 3) Exceptions to compliance are: None

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: RIVER PUMP LOCATION From the NW corner Sec 8 T98N R48W, 335 ft S & 4300 ft E, Lat 43.32901 Long - 96.53352 (NE 1/4 NE 1/4).
2. The works are capable of diverting and conveying to the place of use 2.03 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:
legal description/acreage
Sec 5 T98N R48W
NW 1/4 SE 1/4 - 5.5 acres
SW 1/4 SE 1/4 - 38 acres
SE 1/4 SW 1/4 - 39 acres
Sec 8 T98N R48W
NW 1/4 NE 1/4 - 38 acres
NE 1/4 NW 1/4 - 40 acres
comprising a total of 160.5 acres of land and the license should be issued for 2.03 cfs
3. All structures, wells and lands on map Y

F. Comments or other permit(s) associated with the project:

FSA maps and the ArcGIS program were used to construct the attached well location and irrigated area map which was used to estimate irrigated acreage.

The reported system discharge in the 2023 Irrigation Questionnaire was used to establish the system capacity in this report.

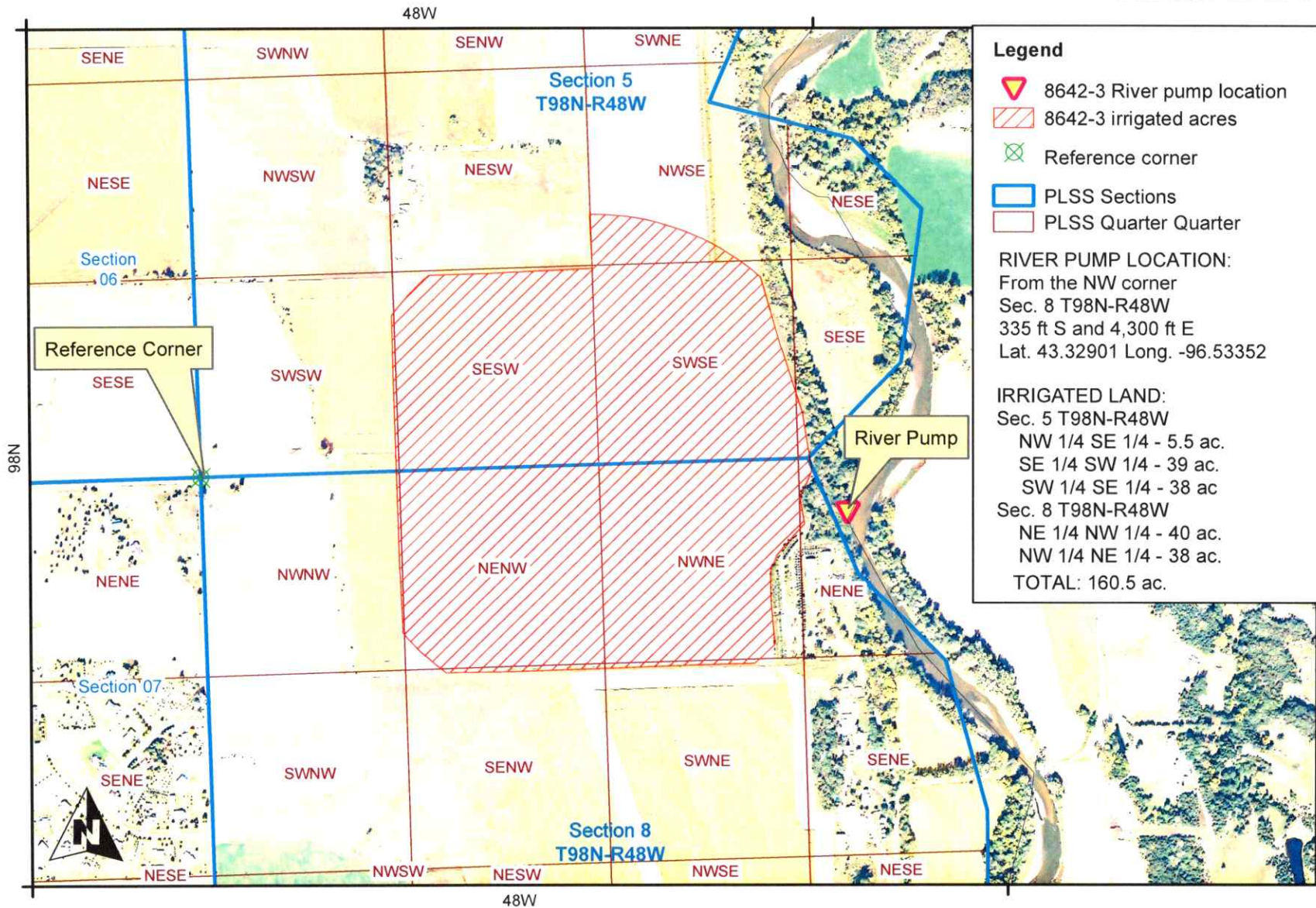
I talked to Mr. John Schutte (605/310-9440) on the phone regarding Water Permit information.

The address and phone number in the permit application materials are current.



Darrell DeBoer
Water Rights Inspector
DENR, Water Rights Program

Date report completed: September 3, 2024



0 500 1,000 2,000 3,000 4,000 Feet



09/27/2024 KCD for
 Darrell DeBoer
 Water Right Inspector
 DANR-Water Rights Program

Licensing of Acreage Outside of Permitted Area

NAME: John T & Melissa R Schutte

ADDRESS: 48390 284st St, Canton SD 57013

DATE: September 27, 2024 COUNTY: Lincoln

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is the full 160.5 acres as authorized by the permit.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

The permit holder relocated 11 acres into the SE ¼ SW ¼, SW ¼ SE ¼ Section 5 & NW ¼ NE ¼, NE ¼ NW ¼ Section 8, contiguous to the NW ¼ SE ¼ Section 5; all in T98N-R48W.

- **Owned by Same Property Owner**

All the property involved is listed under John & Melissa Schutte, according to the Lincoln County Platbook.

- **Developed Prior to Expiration of Construction Period**

The construction completion date was to be completed by September 6, 2027. According to annual irrigation questionnaire submissions, irrigation began in 2013.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the 11 acre area be included in the water license.



Amanda M Dewell, Permitting Administrator
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
danr.sd.gov

SEP 30 2024

1454-3
8642-3

John & Melissa Schutte
48390 281st St
Canton SD 57013

Dear Mr. & Ms. Schutte:

Enclosed is Water License No. 8642-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

NOTE: The applicable portions of Water Right No. 1454-3 have been incorporated into Water Right No. 8642-3.

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8642-3

(1) Water Right No. 1454-3, held by John T & Melissa R Schutte, 48390 281st St, Canton SD 57013, and bearing a priority date of November 6, 1967, appropriates 2.03 cubic feet of water per second (cfs) from the Big Sioux River, Lincoln County South Dakota for the irrigation of 144 acres. The applicable portions of Water Right No. 1454-3 have been incorporated into this license.

John T & Melissa R Schutte, made Application No. 8642-3, July 1, 2022, for a water permit to irrigate an additional 16.5 acres to what was already authorized under Water Right No. 1454-3, with no increase to the rate of diversion. Permit No. 8642-3, with a priority date of July 1, 2022, was approved September 6, 2022, and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before September 6, 2027, and for the application to beneficial use of water on or before September 6, 2031.

An investigation conducted for licensing purposes found acreage developed outside of the permitted area. Pursuant to SDCL 46-5-30.5 and ARSD 74:02:01:14.01, the Chief Engineer made a finding that the change in acreage did not impair existing water rights and the overall project, as developed, is consistent with the original application.

(2) It is certified that the permit holders have complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 2.03 cubic feet of water per second for beneficial use. The location of the diversion point is:

- River Pump: 335 ft S & 4,300 ft E of the NW corner Section 8, T98N, R48W (NE ¼ NE ¼)
(Latitude 43.32901 & Longitude -96.53352)

(3) The amount of 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: April 1 – October 31.

(4) The permit holders have complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate to following land: *all in T98N-R48W*

Section 5		Section 8	
SE ¼ SW ¼	39 acres	NW ¼ NE ¼	38 acres
NW ¼ SE ¼	5.5 acres	NE ¼ NW ¼	40 acres
SW ¼ SE ¼	38 acres		
TOTAL: 160.5 acres			

(5) Pursuant to South Dakota Water Law 46-5-30.1 John T & Melissa R Schutte, the holders and/or owners of Water Right No. 8642-3 are issued a license to appropriate water, the right to use 2.03 cubic feet of water per second from the Big Sioux River, with priority dates of November 6, 1967 (144 acres & 2.03 cfs) and July 1, 2022 (16.5 acres), from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8642-3 and subject to the following qualifications:

continued

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Water Right No. 1454-3 and this Permit, combined, authorize a diversion rate of 2.03 cubic feet of water per second for the irrigation of 160.5 acres. *(The applicable portions of Water Right No. 1454-3 have been incorporated into Water Right No. 8642-3.)*
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Eric Gronlund

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

SEP 30 2024

date

