

WATER PERMIT NO. 8660-3

Name of Applicant: Allard Trust & Walsh Farms

Address: 47844 County Rd 1B, Elk Point SD 57025

Phone: 605 670-0486

Amount of Water Claimed: 2.22 cfs

Total Acres: 160 acres

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Union

Type of Waste Disposal System:

Location: 2 miles east of Elk Point

PRIORITY

Date Received: 8-24-22

Application/License Fee: \$1050

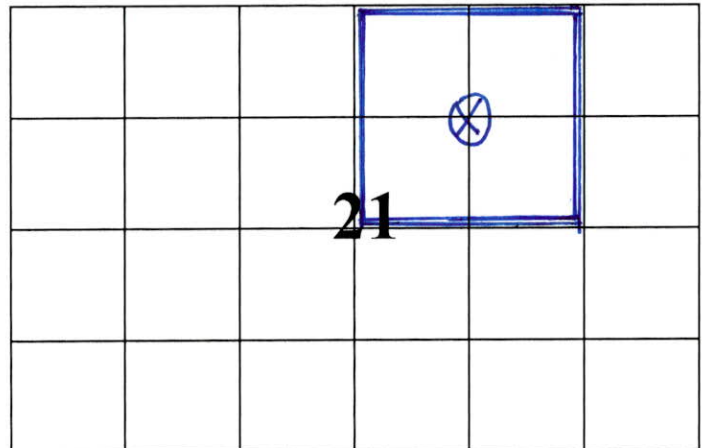
Corrected Application Received:

Period of Annual Use: April 1 – September 30

Remarks:

Diversion Point: center of NE 1/4 Sec 21-T91N-R49W

Land to be Irrigated: NE 1/4 Sec 21-T91N-R49W



Depth of Well: 120 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 8-24-22

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8660-3**

Date of first receipt of application August 24, 2022.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8660-3 to Allard Trust & Walsh Farms, c/o Patrick Walsh, 47844 County Rd 1B, Elk Point SD 57025 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. 8660-3 appropriates 2.22 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (approximately 120 feet deep) located in the approximate center of the NE 1/4 Section 21 for irrigation of 160 acres located in the NE 1/4 Section 21; all in T91N-R49W. This site is located approximately 2 miles east of Elk Point 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 – September 30.
3. The date from which applicant may claim right is August 24, 2022.
4. The date of approval of Permit No. 8660-3 is October 31, 2022.
5. One-fifth of the construction is to be completed on or before April 30, 2025.
6. All construction is to be completed on or before October 31, 2027.
7. Water is to be put to beneficial use on or before October 31, 2031.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

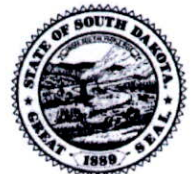
QUALIFICATIONS

1. The well approved under Water Permit No. 8660-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8660-3 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 Environment and Natural Resources

DEC 08 2022
date



RECEIVED

AUG 24 2022

PAID

AUG 24 2022

Ck# 2006

Rec't#

PAID

AUG 24 2022

Ck# 10301

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

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8660-3</u> Hydrologic Unit <u>10170203</u> Basin <u>Sioux River</u> Newspaper <u>Southern Union Co. Leader-Courier</u> <u>Press & Dakotan</u> (office use only) <u>356-2632</u> <u>465-7811</u>	OFFICE OF WATER
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Application for Permit to Appropriate Water for Irrigation

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

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

1. Name to Appear on Irrigation Permit Allard Trust & Walsh Farms (Steve & Jane Allard Living Trust and Walsh Farms LLLP)

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

Mailing Address 47844 County Rd 1B Elk Point SD 57025
(Address) (City) (State) (Zip Code)

Phone 605-670-0486 Mobile 605-670-0486 Email rpwalsh@vyn.midco.net

2. Amount of water claimed 2.22 *CFS or 1,000 **GPM _____ ***AF Total Acreage 144160
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam dugout or annual use if applicable)

3. Source of water supply Ground Water (Missouri-Elk Point Aquifer)

4. Location of point of diversion One well in the center of the NE 1/4 of Sec 21 T91N-R49W (Elk Point East TWP)
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Union

5. County or counties where water will be used Union

6. Annual period during which water is to be used April through September

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

Land Description	Acres	Land Description	Acres
NE 1/4, NE 1/4, Sec 21, T91N-R49W (Walsh)	36 40		
SE 1/4, NE 1/4, Sec 21, T91N-R49W (Walsh)	36 40		
SW 1/4, NE 1/4, Sec 21, T91N-R49W (Allard)	36 40		
NW 1/4, NE 1/4, Sec 21, T91N-R49W (Allard)	36 40		

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

Allard's and Walsh's intend to drill one well in the center of the NE 1/4 of Section 21 T91N-R49W for the purpose of irrigating agriculture crops on farm ground. Allard's and Walsh's will share the one well, three phase electrical service, and center pivot irrigation system. The center pivot will make a full circle. The west 80 acre parcel is Allard's and the east 80 acre parcel is Walsh's. See attached maps.

Steve Allard & Patrick Walsh Owners _____, the applicant, certify under
Name of Person 8-22-22 Title (if applicable) 8-22-22

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

DO NOT WRITE IN THESE SPACES

- 1. Well Information** (check one or both as applicable) ☒ Drilling new well(s) ☐ Using existing well(s)
- a) If new wells, how many 1 Have test holes been drilled? ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)
- b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____

For either existing or proposed wells:

- c) Well Depth (required) 120' Depth to Top of Water Bearing Material 30' Depth to Water from Surface 24'
- d) Distance to nearest domestic well on applicant's property N/A Property owned by others 1,650'

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

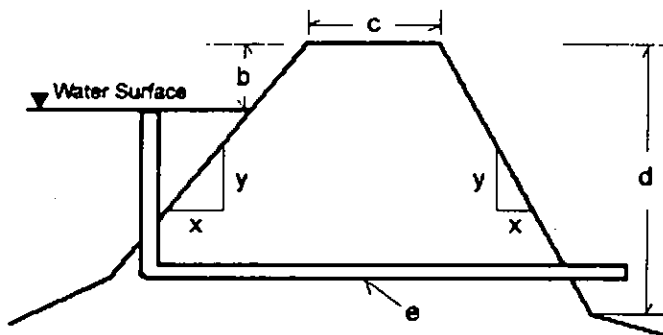
If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- 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) Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres



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

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AUG 24 2022

PAID

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Ck# 2006

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Ck# 10301

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. _____ Basin _____ Newspaper _____ (office use only)	Hydrologic Unit _____ OFFICE OF WATER
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Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

Mailing Address 47844 County Rd 1B Elk Point SD 57025
(Address) (City) (State) (Zip Code)

Phone 605-670-0486 Mobile 605-670-0486 Email rpwalsh@vyn.midco.net

2. Amount of water claimed _____ *CFS or 1,000 **GPM _____ ***AF 144 Total Acreage 144
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam dugout or annual use if applicable)

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County Union

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NW 1/4, NE 1/4, Sec 21, T91N-R49W (Allard)	36		

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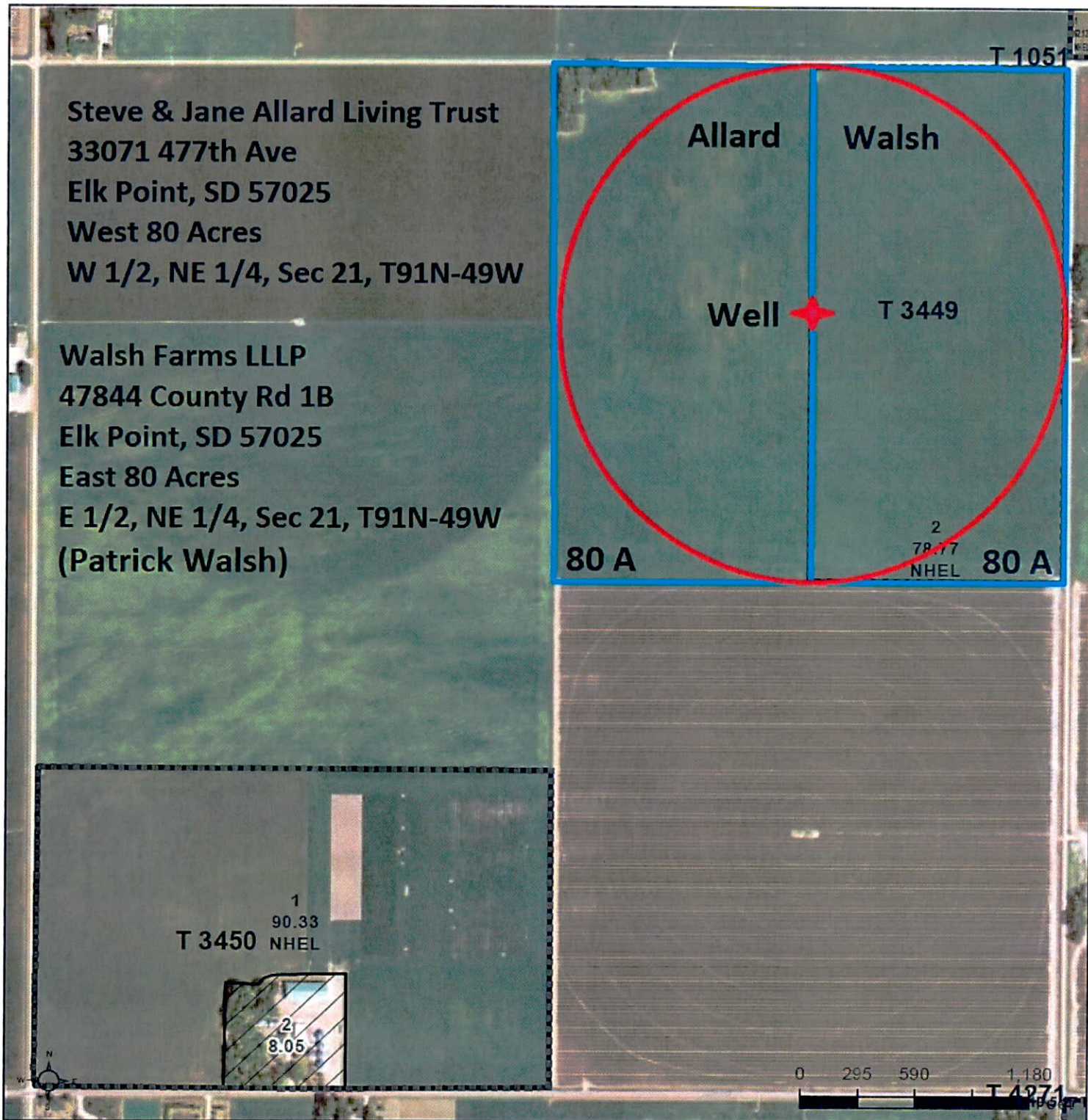
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8-22-22 Name of Person 8-22-22 Title (if applicable)
penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.



United States
Department of
Agriculture

Union County, South Dakota



Steve & Jane Allard Living Trust
33071 477th Ave
Elk Point, SD 57025
West 80 Acres
W 1/2, NE 1/4, Sec 21, T91N-49W

Walsh Farms LLLP
47844 County Rd 1B
Elk Point, SD 57025
East 80 Acres
E 1/2, NE 1/4, Sec 21, T91N-49W
(Patrick Walsh)

80 A

T 3449

2
78.77
NHSL

80 A

1
90.33
T 3450 NHSL

2
8.05

0 295 590 1,180

T 4271

Common Land Unit Tract Boundary PLSS

Non-Cropland
 Cropland

Wetland Determination Identifiers

Restricted Use
 Limited Restrictions
 Exempt from Conservation Compliance Provisions

Unless otherwise noted,
crops listed below are:
Non-irrigated
Intended for Grain
Corn = Yellow
Soybeans = Common
Wheat - HRS or HRW
Sunflowers = Oil or Non-oil

Producer initial _____

Date _____

2022 Program Year

Map Created March 30, 2022

Farm 7288

21-91N-49W-Union

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

ELK POINT EAST
TOWNSHIP

SECTION 6

1. Kroeger, Bruce etal 8
2. Holden, Keise etal 10
3. Collier, Beverly 11

SECTION 8

1. Steckelberg, Lori 6

SECTION 14

1. Marimac Inc 10

SECTION 16

1. Goddard, Randall 15

SECTION 17

1. Steckelberg, David 5

SECTION 19

1. Curry, William etux 8

SECTION 20

1. Fennel Trust, Mona et al
7

2. Fennel

3. North, Todd 10

SECTION 22

1. Wagner, Douglas etux 5

SECTION 23

1. Apple, Anthony 20

SECTION 26

1. Duhaime, Gerald et ux

15

- SECTION 28**
1. Limoges, Dennis etux
10

2. Limoge

3. Duhaime Farms LLC 7
SECTION 29

1. Fitch Tr

- SECTION 30W**

1. Ries, R.

2. Smith, James 7

SECTION 31

1. George, Gregory etux 8

SECTION 33

1. Rosenbaum, Alta 15
2. Walsh, Patrick etux 7

3. Walsh,

- ## SECTION 34

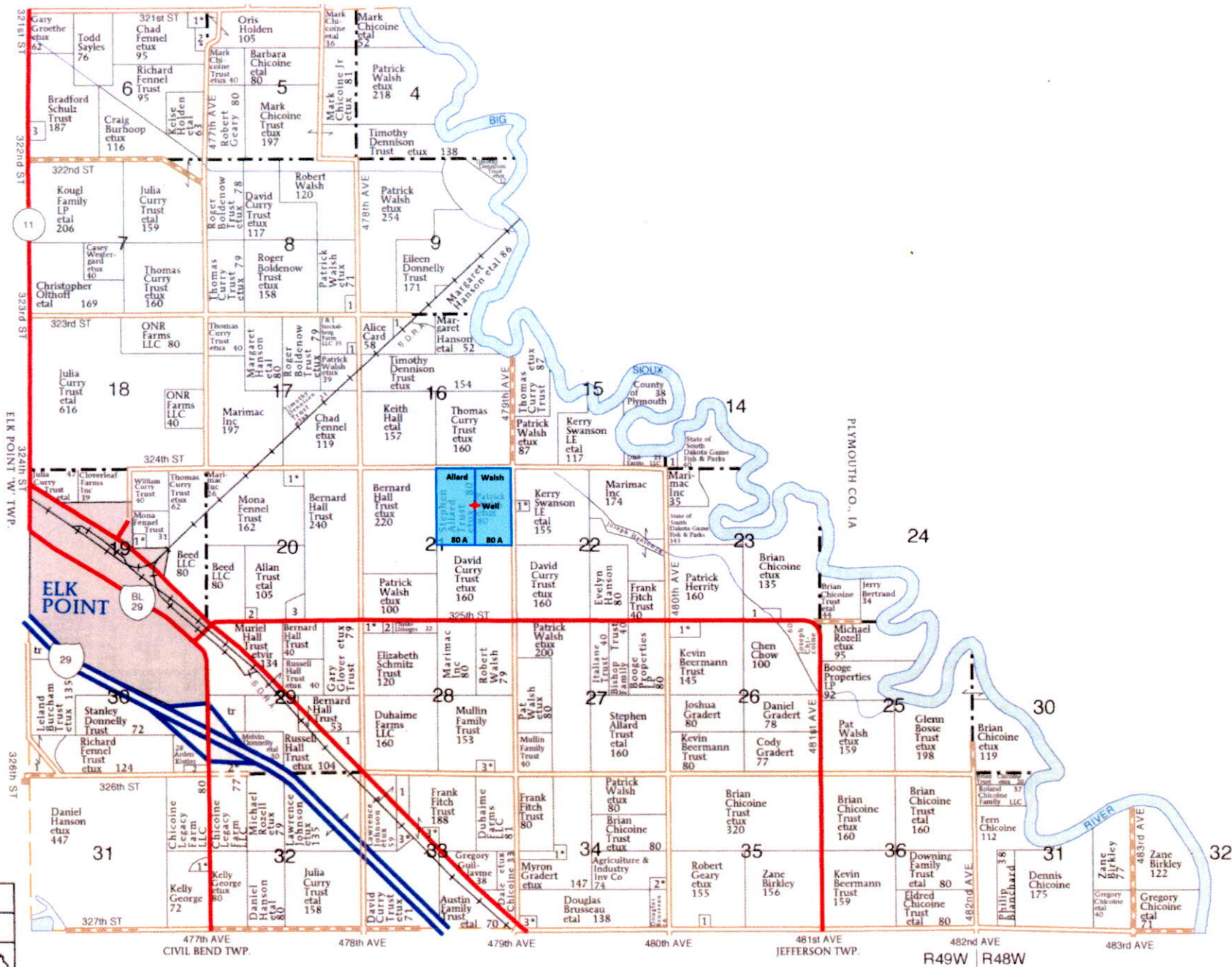
1. Humme

2. Welch, Jason et ux 6

3. Stouffe

- SECTION 35**

1. Gubber



T-91-N

ELK POINT EAST PLAT

R-48-49-W

Schlaak, Karen

From: Robert Walsh <rpwalsh@vyn.midco.net>
Sent: Wednesday, August 24, 2022 5:35 PM
To: Schlaak, Karen
Subject: Re: [EXT] Water Permit Application

Ms. Schlaak,

The reason we applied for 1,000 GPM vs 800 GPM is because we may add a corner arm tower to this pivot in the future. There is quite a bit of seed corn raised next to this farm and seed companies prefer, but do not require, corner arm pivots to irrigate the additional acres that a standard seven tower quarter mile long pivot miss. We were told that an additional 200 GPM for the addition of a corner arm is preferable. A standard quarter mile system will irrigate about 132 to 134 acres. We anticipate if we added the corner arm we would be able to irrigate at least 144 acres, and possibly a bit more.

We plan on constructing a standard seven tower quarter mile long pivot that is compatible to add the corner arm to at a later date. The well and pump that we will be installing will be set for 800 GPM, but the pump will be capable of being adjusted up to 1,000 GPM if we add a corner arm in the future.

That is why we requested the additional gallons per minute. It would simply save us the time and paperwork of modifying the permit in the future if we added the corner arm.

The plan is currently to just have a standard quarter mile long pivot and a well that pumps 800 GPM and covers about 134 acres.

I hope that answers your question.

Talk to you later,

Robert Walsh

On Aug 24, 2022, at 1:42 PM, Schlaak, Karen <Karen.Schlaak@state.sd.us> wrote:

Mr. Walsh,

We received your water permit application today. One question – You have requested a pump rate greater than the statutory limit of 1 cubic foot per second (cfs) per 70 acres. The application states $144 \text{ acres}/70 = 927 \text{ gallons per minute (gpm)}$. You applied for 1,000 gpm, which is over the limit. It is possible to apply for a greater rate than 1 cfs per 70 acres. Usually, a typical low-pressure pivot can operate in the 700 to 800 gpm range so there is no need to justify a greater amount if it is not needed. If the system you intend to install requires 1,000 gpm, please indicate so, then we have a basis for proceeding with the higher amount.

If you have questions, please let me know.

Karen Schlaak

Schlaak, Karen

From: Robert Walsh <rpwalsh@vyn.midco.net>
Sent: Thursday, August 25, 2022 9:07 AM
To: Schlaak, Karen
Subject: [EXT] Re[2]: Water Permit Application

Ms. Schlaak,

Yes for now just **adjust the permit to 160 acres.** Then if we don't construct the corner arm then your team can just reduce the acres down to 134 acres of a standard length pivot.

Sincerely,

Robert Walsh

On Thu, Aug 25, 2022 at 08:18 AM, "Schlaak, Karen" <karen.schlaak@state.sd.us> wrote:
Good Morning,

That definitely answers the question. If there is a chance that more than 144 acres would be developed, I would suggest you apply to irrigate the entire 160 acres. If or when the permit is approved, you will have 5 years to develop the system and another 4 years to put water to beneficial use. Once the project is developed and we inspect your system, the water right would be reduced to the number of acres and diversion rate as developed.

Would you like to change your application to 160 acres?

Karen



OFFICE OF THE SECRETARY OF STATE

STEVEN J. BARNETT, SECRETARY OF STATE

JASON LUTZ, DEPUTY SECRETARY OF STATE

Filing Information

Name: **Walsh Farms, LLLP**

General Information

SOS Business ID DP211014
Filing Type: Limited Partnership - Domestic
09/24/2021
Status: Good Standing
Duration Term: Expires: 12/31/2121

Registered Agent Address

PATRICK V. WALSH
47844 COUNTY RD 1B
ELK POINT, SD 57025

Principal Address

47844 COUNTY RD. 1B
ELK POINT, SD 57025

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
09/24/2021	Initial Filing	B0187-6716
09/24/2021	Articles of Amendment	B0187-6719

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 24, 2022

RECEIVED OF Allard Trust & Walsh Farms 33071 477th Ave., Elk Point SD 57025

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

Fee for Application for Permit No. <u>8660-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>425.00</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>8660-3</u>	\$ <u>100.00</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>525.00</u>

By Eric Gronlund
Chief Engineer
Em

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 24, 2022

RECEIVED OF Pat Walsh/Cheryl Walsh/Allard Trust & Walsh Farms 33071 477th Ave., Elk Point SD 57025

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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>525.00</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. 8660-3, Allard Trust & Walsh Farms**

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. 8660-3, Allard Trust & Walsh Farms, c/o Patrick Walsh, 47844 County Rd 1B, Elk Point SD 57025.

The Chief Engineer is recommending APPROVAL of Application No. 8660-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 8660-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8660-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
October 11, 2022

Report to the Chief Engineer
On Water Permit Application No. 8660-3

Allard Trust & Walsh Farms

c/o Patrick Walsh

October 12, 2022

Water Permit Application No. 8660-3 proposes to divert water at a maximum instantaneous diversion rate of 2.22 cubic feet of water per second (cfs) from one well to be completed into the Missouri: Elk Point aquifer (approximately 120 feet deep) located in the approximate center of the NE $\frac{1}{4}$ of Section 21 for the irrigation of 160 acres located in the NE $\frac{1}{4}$ of Section 21; all in T91N-R49W. The site of interest is located in Union County approximately two miles east of Elk Point, SD.

AQUIFER: Missouri: Elk Point (M: EP)

HYDROGEOLOGY:

The Missouri: Elk Point aquifer is a glacial deposit outwash consisting of fine sand to very coarse gravel (Niehus, 1997). The Missouri: Elk Point aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties in South Dakota, and the aquifer contains approximately 3,287,100 acre-feet of recoverable water in storage (Hedges et al., 1982). The Missouri: Elk Point aquifer is hydraulically connected to the Lower Vermillion Missouri and Lower James Missouri aquifers, and the Big Sioux, James, Missouri, and Vermillion Rivers (Niehus, 1994; Stephens, 1967).

In Union County, the average saturated thickness of the Missouri: Elk Point aquifer is approximately 84 feet, with a documented maximum aquifer thickness of approximately 146 feet (Niehus, 1997). The Missouri: Elk Point aquifer is generally under confined conditions in the northwestern part of the aquifer, and generally under unconfined conditions in the southern part of the aquifer, and the direction of groundwater movement in the aquifer is generally from the northwest to the southeast (Niehus, 1994 and 1997).

No water well or test hole completion report was submitted with Water Permit Application No. 8660-3. Well completion reports on file with the DNR-Water Rights Program for wells completed into the Missouri: Elk Point aquifer within approximately two miles of the proposed diversion point for this application have saturated aquifer thicknesses ranging from approximately 20 to 50 feet, with the depth to the top of aquifer materials ranging from approximately 50 to 90 feet below the ground surface, and static water levels at well completion varying from approximately 10 to 25 feet below the ground surface (SDGS, 2022: Water Rights, 2022b and 2022d). The Missouri: Elk Point aquifer is expected to be under confined conditions near the proposed diversion point based on the water well and test hole completion reports, and lithologic logs on file for nearby observation wells (SDGS, 2022; Water Rights, 2022b and 2022d).

Figure 1 displays a map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges et al., 1982) and the location of the proposed diversion point for Water Permit Application No. 8660-3 (Water Rights, 2022c).

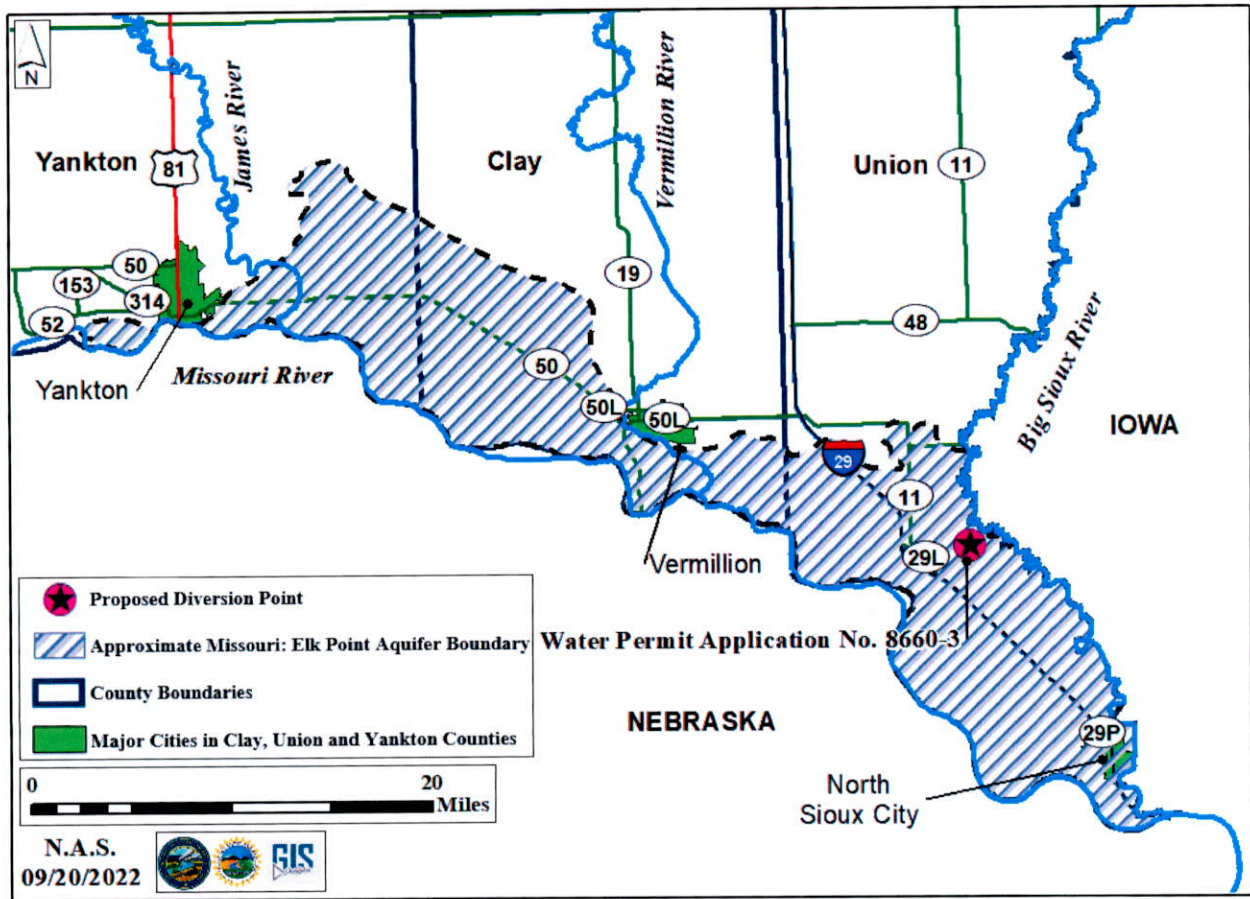


Figure 1. Map of the approximate Missouri: Elk Point aquifer boundary modified from Hedges and others (1982) with the location of the proposed diversion point for Water Permit Application No. 8660-3 (Water Rights, 2022c)

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 Missouri: Elk Point aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8660-3 proposes to appropriate water from the Missouri: Elk Point 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 Missouri: Elk Point 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 Missouri: Elk Point aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Missouri: Elk Point aquifer is primarily through the infiltration of precipitation where the aquifer is at or near the ground surface, seepage from the Big Sioux, James, Missouri, and Vermillion Rivers, inflow from the Lower Vermillion-Missouri aquifer at the northern boundary of the Missouri aquifer and inflow from the Big Sioux aquifer at the extreme northeastern boundary of the Missouri aquifer, and from the underlying Dakota aquifer in Union County (Niehus, 1994 and 1997).

Using observation well analysis, Hedges and others (1985) estimated a recharge rate to the Missouri: Elk Point aquifer of approximately 3.8 inches per year. The Elk Point management unit is estimated to underly approximately 219,100 acres (Hedges et al, 1982); therefore, the average annual recharge rate of the Missouri: Elk Point aquifer is approximately 69,382 acre-feet per year.

Stephens (1967) noted that pumping of the Missouri: Elk Point aquifer will induce recharge from the Missouri River. Stonesifer (2013) estimated that the Missouri River contributed 22,582 acre-feet per year of recharge induced from the pumping operation at Lewis and Clark RWS. This

estimate is based off inducing at least 50% recharge of the water pumped at full development of the existing and future use permits held by Lewis and Clark RWS. Depending on location and diversion rate, this percentage of induced recharge is likely much greater than 50% (Mathiowetz, 2021). This results in a total estimated recharge rate of approximately 92,000 acre-feet per year to the Missouri: Elk Point aquifer. There are other wells, both domestic and appropriative, in close vicinity to the Missouri River that can induce recharge from the river, but that amount of induced recharge has not been quantified.

The South Dakota Geological Survey (SDGS) is currently investigating a study regarding the induced recharge from the Missouri River resulting from the increased development of the Lewis & Clark Regional Water System project. The study is expected to be completed in the Fall of 2022. Preliminary findings of the SDGS report indicate the induced recharge from the Missouri River associated with the pumping by Lewis & Clark Regional Water System will increase the estimated average annual recharge significantly higher than the current estimate of 92,000 acre-feet per year.

Discharge

Discharge from the Missouri: Elk Point aquifer is primarily through well withdrawals, evapotranspiration where the aquifer is at or near the ground surface, outflow to the Big Sioux and Missouri Rivers during periods of low flow and stage, and leakage to the underlying Dakota aquifer (Nichus, 1994 and 1997; Water Rights, 2022c).

Currently, there are 630 water rights/permits authorized to appropriate water from Missouri: Elk Point aquifer, plus three pending applications – Water Permit Application No. 8652-3 requesting to irrigate 14 acres in Yankton County, Water Permit Application No. 8656-3 requesting to irrigate 143.61 acres in Yankton County (Water Rights, 2022c), and Water Permit Application No. 8614-3, a deferred, pending application applied for by Lewis & Clark Regional Water System, requesting to appropriate up to 8,318 acre-feet per year. The application is currently deferred, awaiting completion of a study by the SDGS regarding the induced recharge from the Missouri River resulting from the increased development of the Lewis & Clark Regional Water System project.

Additionally, there are five future use permits (Nos. 5832-3, 6237-3, 6869-3, 6869A-3, and 7208-3) reserving 1,900 acre-feet of water annually from the Missouri: Elk Point aquifer (Water Rights, 2022c). For the purpose of estimating average annual withdrawals, the future use permits are assumed to be fully developable for a total of 5,435 acre-feet per year.

Table 1 summarizes the 42 non-irrigation water rights/permits (including two irrigation water permits, see paragraph below) authorized to appropriate water from the Missouri: Elk Point aquifer with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method

used by the DNR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2022c).

Water Permit No. 5998-3 is permitted for turf irrigation and Water Permit No. 5998A-3 extends the amount of time allowed for water to be put to beneficial use as authorized by Water Permit No. 5998-3 (Water Rights, 2022c). The estimated use for these two irrigation permits is included with the non-irrigation water rights/permits listed on Table 1, as the permit holder is not required to submit an annual irrigation questionnaire. However, Water Permit No. 5998-3 is authorized for use in a rural water system and the permit holder reports the estimated use by Water Permit No. 5998-3 with their other rural water system Missouri: Elk Point permits, listed on Table 2 (Water Rights, 2022c).

Three municipal water rights were identified as being connected to a rural water system and likely maintain their wells for standby purposes (Drinking Water Program, 2022; Water Rights, 2022c); as such, the average annual water use for these water rights has been estimated to be zero acre-feet per year on Table 1.

Water Permit No. 7059-3 is permitted for recreational use for maintaining the water level of a small lake with a surface area of 17.6 acres (Water Rights, 2022c). It is assumed that the only consumptive use of this water is due to evaporation (Water Rights, 2022c). Annual evaporation of water from shallow lakes is estimated to be approximately 42 inches per year at the location of the authorized diversion point for Water Permit No. 7059-3 (NOAA, 1982), and average annual total precipitation at the Sioux City, Iowa airport was determined to be approximately 29.27 inches over the 30-year period of record (1991 to 2020) (Arguez et al., 2020), which results in the lake to fluctuate approximately 12.73 inches per year. To maintain the water level of the small lake, the estimated use of Water Permit No. 7059-3 is approximately 18.7 acre-feet per year.

Overall, the average annual withdrawal rate for the 42 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire) authorized to appropriate water from the Missouri: Elk Point aquifer is approximately 61,338 acre-feet per year (Table 1) (Water Rights, 2022c and 2022f).

Report on Water Permit Application No. 8660-3

Table 1. Estimated annual use for the non-irrigation water rights/permits (plus two irrigation water permits) authorized to divert water from the Missouri Elk Point aquifer (Drinking Water Program, 2022; Water Rights, 2022c and 2022f)

Permit No.	Name	Status	Priority Date	Use	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet/year)	Total Estimated Use (acre-feet/year)
4501-3	Eddie Wohl	LC	03/27/1980	COM	0.05		21.7
5616-3	Cimply Inc	LC	01/31/1992	COM	0.44		191.1
5827-3	Don Lante	LC	06/08/1994	COM	0.022		9.6
5953-3	H & K Oil Co	LC	08/19/1996	COM	0.037		16.1
6151-3	Vernon & Norma Vakoc	LC	10/04/1999	COM	0.67		291
6580-3	West Shores Acres LLC	LC	01/28/2005	COM	0.10		43.4
8031-3	Dakota Protein Conversion Inc	PE	06/18/2014	COM	0.22		95.6
8147-3	Doug Lafleur	PE	04/06/2015	COM, LCO	1.0	160	162
8381-3	RP Constructors	PE	11/19/2018	COM	0.04	1	1
8403-3	Stockmen's Livestock Inc	PE	06/27/2019	COM	2.0	40	40
8415-3	RC Investments Inc	PE	11/14/2019	COM	0.10	25	25
8435-3	Sioux City Insulation	PE	07/30/2012	COM	0.33	1	1
6744-3	Judith I Grant	PE	07/24/2006	DOM, COM	0.78		338.8
7388-3	Clay RWS Inc	PE	07/30/2012	DOM, IRR	2.0		281
5998-3	Clay RWS Inc	PE	04/21/1997	IRR, DOM	2.2		
5998A-3	Clay RWS Inc	PE	04/21/1997	IRR, DOM	0.0		
5490-3	USGS CERC Field Research Station	LC	11/15/1990	FWP	0.09		39.1
5907-3	US Fish and Wildlife Service	LC	01/26/1996	FWP	3.78		1,642
6733-3	US Fish and Wildlife Service	LC	06/07/2006	FWP	1.11		482.2
7094-3	US Fish and Wildlife Service	LC	12/01/2008	FWP	2.67		1,159.8
5021-3	Vishay-Dale Electronics Inc	LC	05/04/1984	IND	0.10		43.4
5388-3	LG Everest Inc	LC	01/30/1990	IND	0.45		195.5
5453-3	Aaladin Industries Inc	LC	05/24/1990	IND	0.05		21.7
5593-3	Vishay-Dale Electronics Inc	LC	10/31/1991	IND	0.056		24.3
6170-3	Concrete Materials	LC	01/03/2000	IND	0.222		96.4
1255-3	City of Elk Point	LC	01/01/1914	MUN	1.13		490.9
143-3	City of Vermillion	LC	01/21/1956	MUN	1.78		773.2
147-3	City of Vermillion	LC	01/01/1935	MUN	2.66		1,237
6236-3	City of Vermillion	LC	11/06/2000	MUN	2.6	1,161	
6354-3	City of Vermillion	LC	08/12/2002	MUN	0.022		10
1965-3	Town of Gayville	LC	01/01/1914	MUN	0.37		0*
4207-3	Town of Jefferson	LC	01/01/1916	MUN	0.90		391
5118-3	Town of Gayville	LC	01/28/1987	MUN	0.33		0*
5437-3	Dakota Dunes Community Improvement District	LC	04/12/1990	MUN	3.33		1,446.6
5782-3	City of North Sioux City	LC	08/12/1993	MUN	1.14		495.2
8212-3	City of Yankton	LC	03/25/2016	MUN	20.12	6,050	6,050
7059-3	WE Investments LLC	PE	08/28/2008	REC	3.11		18.7
6736-3	Lewis and Clark RWS	PE	07/08/1994	RWS	27.85	20,165	45,165
7207-3	Lewis and Clark RWS	PE	07/08/1994	RWS	20	12,000	
8613-3	Lewis and Clark RWS	PE	07/16/2007	WDS	29.8	13,000	
5581-3	Larson's Landing	LC	07/30/1991	SHD	0.089		38.7
5592-3	East Winds Court Inc	LC	10/09/1991	SHD	0.11		0*
						TOTAL:	61,338
*Identified as being connected to a RWS							
COM: Commercial, DOM: Domestic, FWP: Fish and Wildlife Propagation, IND: Industrial, IRR: Irrigation, LCO: Livestock Confinement Operation,							
MUN: Municipal, REC: Recreation, RWS: Rural Water System, SHD: Suburban Housing Development							

The average annual withdrawal rate for the 42 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire) estimated on Table 1, 61,338 acre-feet per year, takes into consideration the 15 non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer (Water Rights, 2022c and 2022f).

Three of the non-irrigation water rights/permits that are required to report (Nos. 8031-3, 8415-3, and 8435-3) are currently under development and have not reported any withdrawals from the Missouri: Elk Point aquifer to the DNR-Water Rights Program (Water Rights, 2022c). The remaining twelve non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer are shown on Table 2 (Water Rights, 2022c and 2022f). The reported usage (as shown on Table 2) for Permit Nos. 8381-3 and 8403-3 (approved in 2018 and 2019) is not necessarily reflective of the future usage of these permits based on information within their respective water permit files (Water Rights, 2022c), and only three years of reported withdrawals (Water Rights, 2022f). Therefore, the estimated use for Permit Nos. 8031-3, 8415-3, 8435-3, 8381-3, and 8403-3 will be based on the method used above: water rights/permits limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate; water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. Their estimated average annual withdrawal rate is listed on Table 1.

Next, the reported use for the City of Yankton (8212-3) and Lewis and Clark RWS (6736-3, 7207-3, and 8613-3) (as shown on Table 2) is steadily increasing (Water Rights, 2022f), as these water users are continually undergoing development (Water Rights, 2022c). It is likely these water users will use up to their entire respective annual volume limitation in the future; therefore, the average annual withdrawal rate for these water rights/permits is assumed to be their entire respective annual volume listed on Table 1 (Water Rights, 2022c).

Lastly, the annual withdrawal rate for Clay RWS Inc (Permit Nos. 5998-3, 5998A-3 and 7388-3), Doug Lafleur (8147-3), and City of Vermillion (147-3, 6236-3) on Table 2 are relatively steady over their respective periods of record (Water Rights, 2022c and 2022f); therefore, the average annual withdrawal rate based on the reported values from each of these water users (as shown on Table 2) is reasonably reflective of the future withdrawals likely to be made by these appropriative users. The average annual withdrawal rate based off the reported annual withdrawal rates averaged on Table 2 for these water rights/permits will be used in this analysis.

Table 2. Non-irrigation water rights/permits required to report their respective annual use from the Missouri: Elk Point aquifer (Water Rights, 2022c and 2022f)

	RP Constructors	Stockmen's Livestock Inc	Clay RWS Inc	Doug Lafleur	City of Vermillion	City of Yankton	Lewis and Clark RWS
	8381-3	8403-3	5998-3, 5998A-3, 7388-3	8147-3	147-3, 6236-3	8212-3	6736-3, 7207-3, 8613-3
2003			238		1,363		
2004			483		1,226		
2005			21		1,247		
2006			170		1,252		
2007			217		1,344		0
2008			213		1,199		0
2009			215		1,140		0
2010			183		1,071		0
2011			137		1,127		92
2012			525		1,317		3,836
2013			301		1,183		9,368
2014			307		1,121		11,532
2015			278	202	1,161		15,591
2016			231	202	1,175	66	17,091
2017			276	202	1,215	531	18,051
2018			305	98	1,168	504	18,143
2019	0.0171	1	292	135	1,440	1,370	20,397
2020	0.0224	4.2	461	121	1,373	2,923	21,039
2021	0.2332	5.5	486	170	1,378	3,065	23,537
Max	0.2	5.5	525	202	1,440	3,065	23,537
Min	0.0171	1	21	98	1,071	66	0
Avg	0.091	3.57	281	162	1,237	1,410	14,425*
RWS: Rural Water System *Excluded reported zero values							

Currently, there are 590 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus two pending applications - Water Permit Application No. 8652-3 requesting to irrigate 14 acres in Yankton County and Water Permit Application No. 8656-3 requesting to irrigate 143.61 acres in Yankton County (Water Rights, 2022c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Missouri: Elk Point aquifer irrigation water rights/permits that have reported over the period of record is approximately 18,503 acre-feet per year (Table 3) (Water Rights, 2022a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations that have reported from 2012 to 2021 is approximately 26,973 acre-feet per year (Table 3) (Water Rights, 2022a).

The usage for two irrigation water permits (Nos. 5998-3 and 5998A-3) was accounted for on Table 1 with the non-irrigation water rights/permits, as the permit holder is not required to submit an annual irrigation questionnaire (Water Rights, 2022c), resulting in only 588 of the Missouri: Elk Point aquifer irrigation water rights/permits being currently required to submit an annual irrigation questionnaire (Water Rights, 2022c).

Table 3 lists only 572 water rights/permits as reporting in 2021 (Water Rights, 2022a and 2022c). These 572 water rights/permits listed as reporting in 2021 includes three water rights/permits (Nos. 3722-3, 7066-3, and 7800-3) that were incorporated into another water right in 2022 (Water Rights, 2022c), resulting in only 569 of the water rights/permits listed as reporting in 2021 being currently active.

Nineteen water permits/rights did not submit an irrigation questionnaire form in 2021 that are currently active, accounting for the difference between the 569 currently active water rights/permits listed as reporting in 2021 and the 588 irrigation water rights/permits currently required to submit an annual irrigation questionnaire (Water Rights, 2022a and 2022c). Of these 19 permits, 16 were issued in 2021 or 2022 and have not submitted an irrigation questionnaire at this time. Of the remaining three water rights (Nos. 3154-3, 4745-3, and 5935-3), Water Right No. 5935-3 is not required to submit an irrigation questionnaire and Water Right Nos. 3154-3 and 4745-3 did not submit an irrigation questionnaire in 2021 for an unknown reason. Overall, these nineteen water permits/rights are authorized to irrigate approximately 1,992 acres. Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year. However, to account for the fluctuation in wet and dry cycles from year to year, the one foot of water per acre per year application rate will be used to somewhat overestimate the annual withdrawal rate for these irrigation water rights/permits. Therefore, the estimated average annual withdrawal rate for the nineteen irrigation water rights/permits (not included as listed as reporting) is approximately 1,992 acre-feet per year (Water Rights, 2022c). Additionally, the estimated use for the pending applications, Water Permit Application No. 8652-3 requesting to irrigate 14 acres and Water Permit Application No. 8656-3 requesting to irrigate 143.61 acres, is approximately 157.61 acre-feet per year (Water Rights, 2022c).

The collective estimated average annual withdrawal rate for the irrigation appropriations that have reported from 2012 to 2021 (26,973 acre-feet/year) (Table 3), plus the estimated average annual withdrawal rate for the nineteen irrigation water rights/permits (not included as listed as reporting on Table 3), plus two pending applications (2,149.6 acre-feet/year), is approximately 29,123 acre-feet/year (Water Rights, 2022a and 2022c).

Table 3. Reported historic irrigation use from Missouri: Elk Point aquifer (Water Rights, 2022a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	259	9,859
1980	263	15,045
1981	297	13,096
1982	269	18,822.4
1983	273	10,834
1984	281	9,194.3
1985	282	13,718.5
1986	286	6,252.1
1987	281	13,163.7
1988	282	28,184.6
1989	292	25,651.9
1990	297	19,425
1991	300	18,798.6
1992	295	1,882
1993	298	1,475.2
1994	295	10,221.4
1995	292	18,320.2
1996	296	9,412.8
1997	305	17,182
1998	313	11,127.2
1999	308	14,748
2000	309	26,640.1
2001	313	19,071.9
2002	315	23,547.2
2003	314	26,734.7
2004	322	23,862.3
2005	335	23,964.5
2006	353	27,974.5
2007	366	30,482.8
2008	396	16,261.9
2009	410	6,121
2010	419	2,723.9
2011	431	12,107.6
2012	445	56,538.2
2013	543	34,838.5
2014	557	12,084.2
2015	563	17,751.9
2016	564	27,638.6
2017	567	37,013.5
2018	570	8,855.7
2019	575	8,847.3
2020	570	26,140
2021	572	40,017.1
Min	259	1,475
Max	575	56,538
Avg (1979 to 2020)	369	18,503
Avg (2012 to 2021)	553	26,973

Farmer (2018a) initially utilized an application rate of 0.35 acre-feet per permitted acre to estimate an average annual use from the Missouri: Elk Point aquifer for both crop and turf irrigation water rights/permits. Farmer (2018b) later established that turf irrigation should be estimated separately because turf irrigators tend to utilize their full authorized appropriation (Water Rights, 2022a). Farmer (2021) estimated an application rate of 0.97 feet per year for turf irrigation and 0.343 feet per year for crop irrigation. Currently, there are approximately 82,300 acres authorized to be irrigated from the Missouri: Elk Point aquifer (plus two pending applications - Water Permit Application No. 8652-3 requesting to crop irrigate 14 acres and Water Permit Application No. 8656-3 requesting to crop irrigate 143.61 acres), with approximately 809.6 of those acres authorized for turf irrigation (Water Rights, 2022c). Table 4 contains the turf irrigation permits with their respective authorized permitted acres and an estimated average annual use based on Farmer's (2021) application rate (Water Rights, 2022c).

By applying the application rate of 0.97 feet per year (Farmer, 2021) by the 809.6 acres being turf irrigated (minus the 300 acres authorized by Water Permit Nos. 5998-3 and 5998A-3 – estimated use accounted for on Table 1) (Water Rights, 2022c), the annual use for turf irrigation yields approximately 494.3 acre-feet per year (Table 4).

By applying the application rate of 0.343 feet per year (Farmer, 2021) by the 81,490 (total acres minus turf irrigated acres) acres being crop irrigated (Water Rights, 2022c), plus the pending applications - Water Permit Application No. 8652-3 requesting to crop irrigate 14 acres and Water Permit Application No. 8656-3 requesting to crop irrigate 143.61 acres, the annual use for crop irrigation yields approximately 28,005 acre-feet per year.

Collectively, the average annual use from the Missouri: Elk Point aquifer for both crop and turf irrigation water rights/permits utilizing Farmer's (2021) application rate is approximately 28,499 acre-feet per year.

Table 4. Water rights/permits authorized for irrigation of turf (Water Rights, 2022c)

Permit No.	Name	Status	County	Acres	Total Estimated Use (acre-feet/year)
1294-3	Recreation Development Assn. Inc.	LC	Union	102	98.9
2011-3	TR Golf LLC	LC	Union	95	92.2
5786-3	Dakota Dunes Golf Course	LC	Union	173	167.8
5998-3	Clay Rural Water System Inc	PE	Union	300	0*
5998A-3	Clay Rural Water System Inc	PE	Union	0	0*
5935-3	Ted Watt	LC	Union	1	0.97
5936-3	Applied Engineering	LC	Yankton	1.8	1.7
8010-3	Ryan Rusher	LC	Yankton	2.5	2.4
8029-3	Dakota Dunes Comm Improvement District	PE	Union	17.8	17.3
8040-3	Heine Electric & Irrigation Inc	LC	Clay	1	0.97
8354-3	TR Golf LLC	PE	Union	30	29.1
8407-3	Gayville-Volin School District 63-1	LC	Yankton	4.5	4.4
8530-3	National Field Archery Association Foundation	LC	Yankton	16	15.5
8560-3	TR Golf LLC	PE	Union	65	63.1
			TOTAL:	809.6	494.3
* Volume for this permit holder accounted for on Table 1					

There are domestic wells completed into the Missouri: Elk Point aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2022d). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Missouri: Elk Point 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 Missouri: Elk Point aquifer.

Hydrologic Budget Summary

Preliminary findings of the SDGS report indicate the induced recharge from the Missouri River associated with the pumping by Lewis & Clark Regional Water System will increase the estimated average annual recharge significantly higher than the current estimate of 92,000 acre-feet per year; such that, the average annual recharge rate is expected to be greater than the average annual withdrawal rate from the Missouri: Elk Point aquifer and the hydrologic budget is expected to be satisfied.

The average annual withdrawal rate for the water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer totals approximately 100,110 acre-feet per year (including the estimated use for Water Permit Application No. 8660-3, if approved) (listed on Table 5). There is likely more induced recharge than what has been calculated. Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Missouri: Elk Point aquifer for the proposed appropriation.

Table 5. Estimated use from Missouri: Elk Point aquifer (Water Rights, 2022a, 2022c, and 2022f)

Type of Water Right/Permit	Estimated Use (acre-feet/year)
Future Use Reservations	1,900
Non-Irrigation	61,338
Deferred Pending Application No. 8614-3	8,318
Irrigation (Farmer's (2021) turf and crop application rates) plus pending applications: Nos. 8652-3 and 8656-3	28,499
Application No. 8660-3 (if approved, assuming Farmer's (2021) crop application rate of 0.343 per acre)	54.9
TOTAL:	100,110

OBSERVATION WELL DATA:

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

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DNR-Water Rights Program monitors 36 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2022b). The six closest observation wells to the proposed diversion point are UN-77M (approximately 1.5 miles northwest),

UN-80E (approximately 1.9 miles southwest), UN-57B (approximately 1.9 miles southwest), UN-87I (approximately 2.4 miles northwest), UN-87H (approximately 2.9 miles northwest), and UN-77N (approximately 2.9 miles southeast) (Water Rights, 2022b). The hydrographs for these observation wells are displayed in Figures 2 to 7 (Water Rights, 2022b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. It is worth noting the hydrograph titles display DENR Water Rights Observation Well on the hydrographs when the titles should display DNR Water Rights Observation Well on the hydrographs.

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

It is worth noting, several Missouri: Elk Point aquifer observation well hydrographs show a gradual downward trend. These observation wells are located near the Missouri River, and the downward trend seen on the hydrographs is due to the entrenchment of the river channel, below Gavins Point Dam (Yankton, SD), that has lowered the water surface elevation of the river (Goodman, 2007). The entrenchment has resulted in a lowering of water levels in the hydraulically connected, Missouri: Elk Point aquifer, as the water level in the aquifer equilibrates to the lower average water surface elevation of the river. Therefore, the downward trends seen on some observation well hydrographs are likely caused by the entrenchment of the Missouri River change, and not from over-appropriation of the Missouri: Elk Point aquifer.

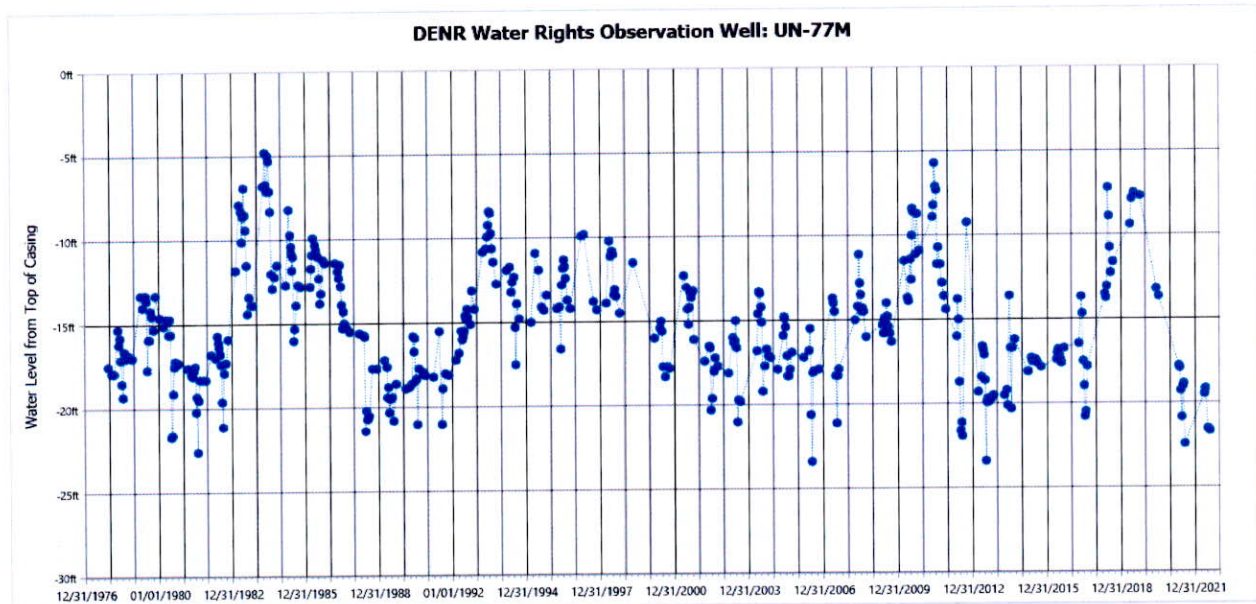


Figure 2. Hydrograph for observation well UN-77M (Water Rights, 2022b)

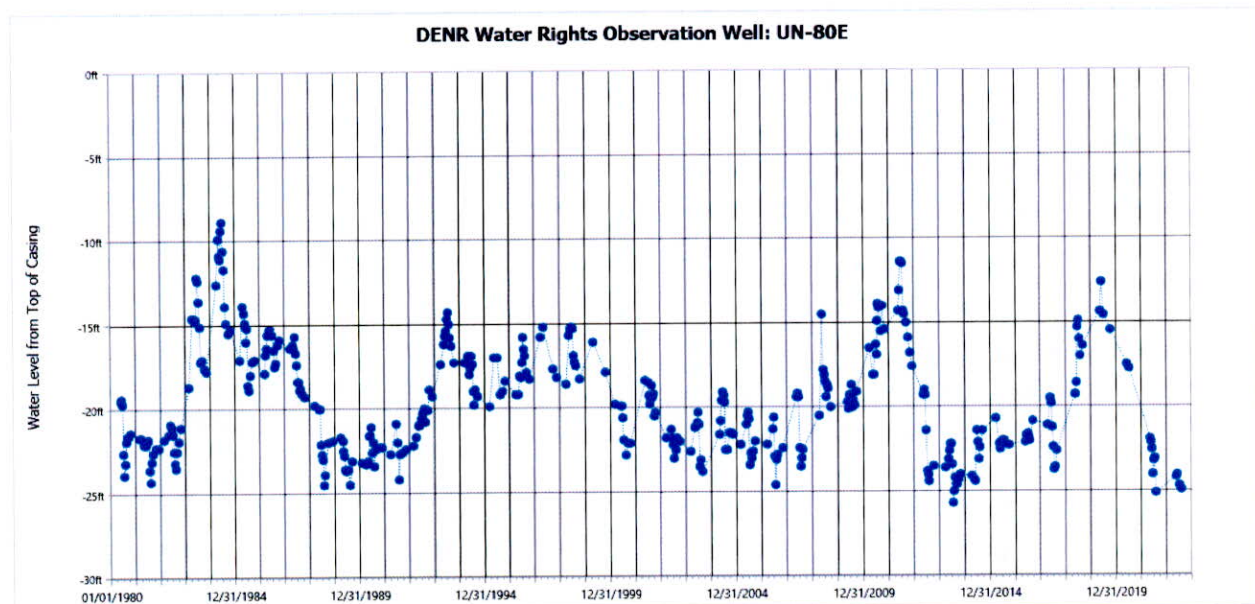


Figure 3. Hydrograph for observation well UN-80E (Water Rights, 2022b)

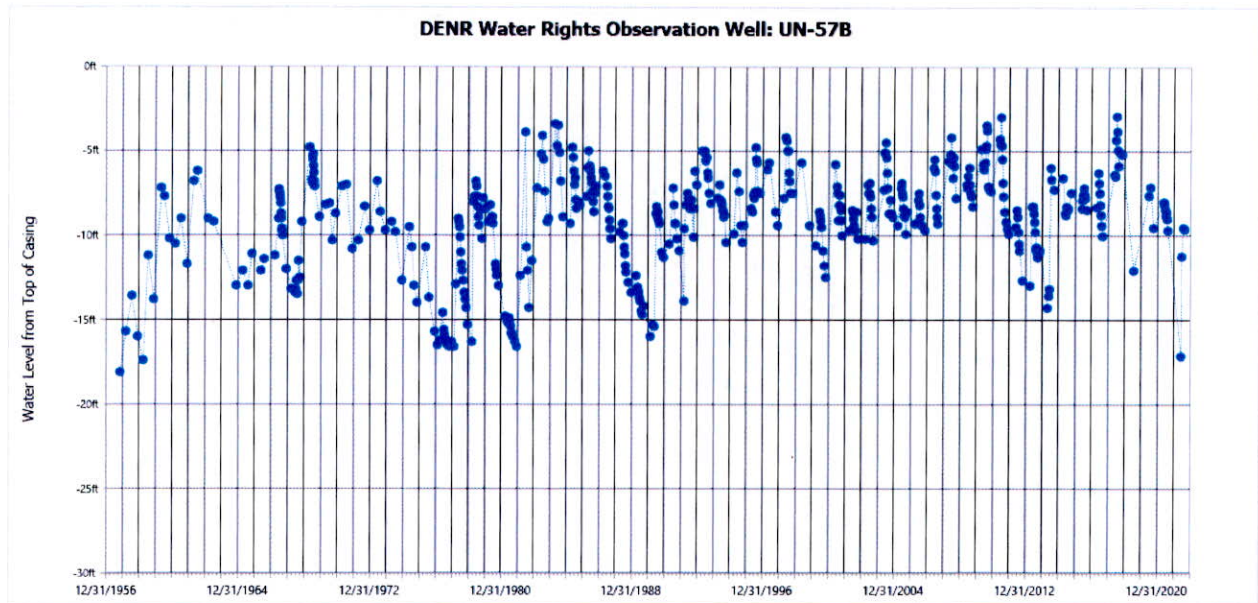


Figure 4. Hydrograph for observation well UN-57B (Water Rights, 2022b)

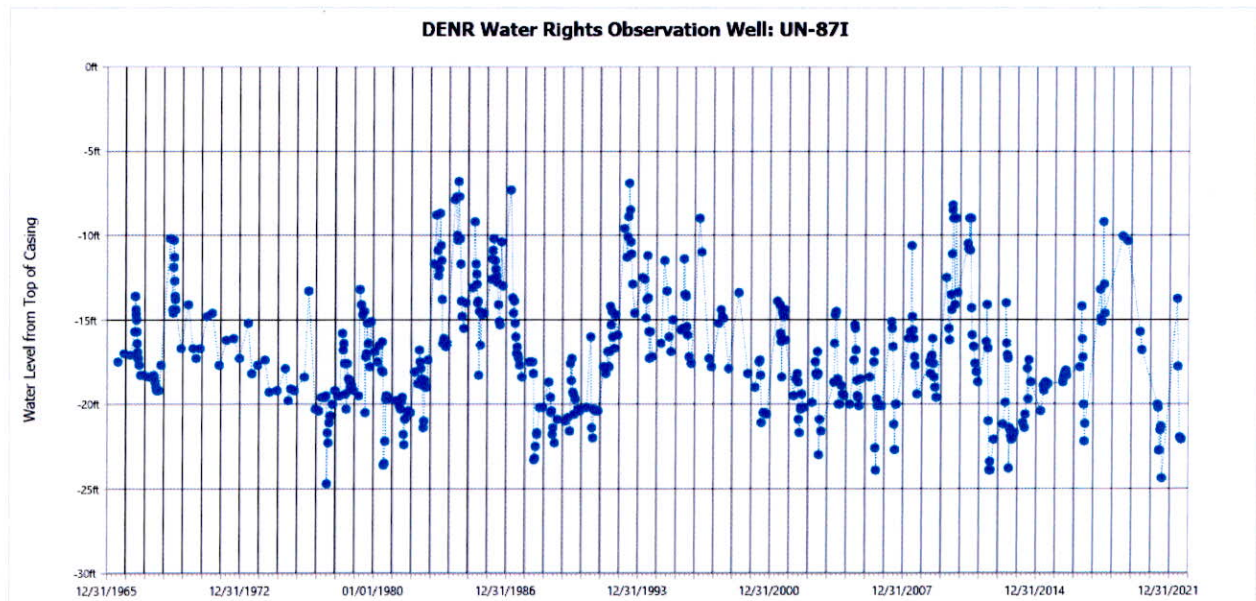


Figure 5. Hydrograph for observation well UN-87I (Water Rights, 2022b)

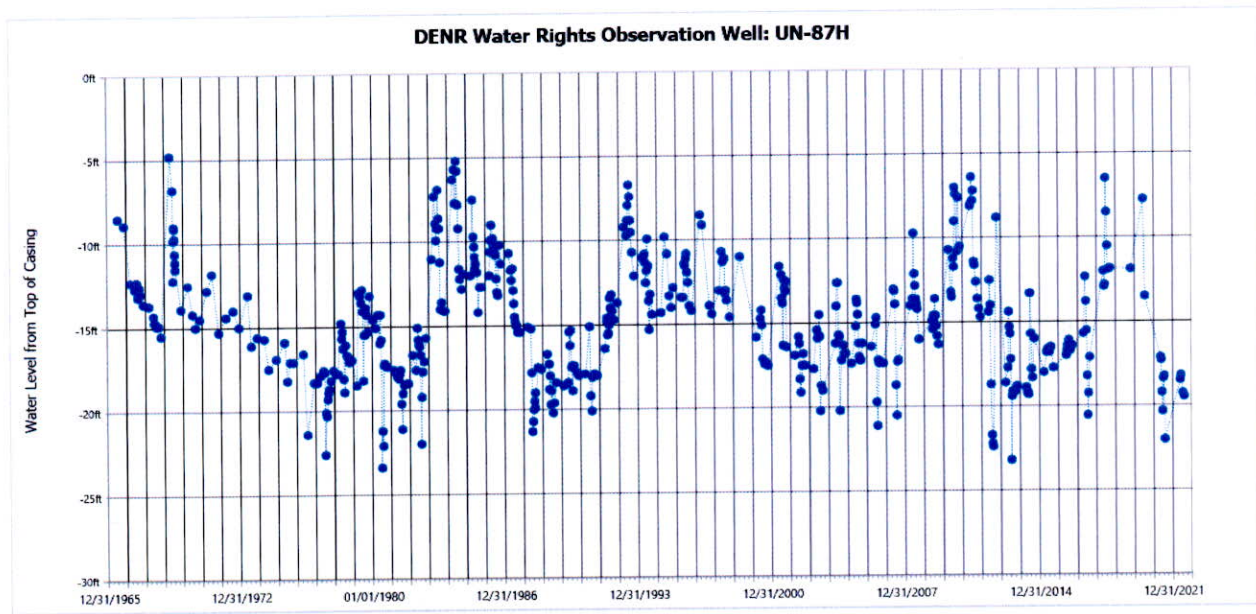


Figure 6. Hydrograph for observation well UN-87H (Water Rights, 2022b)

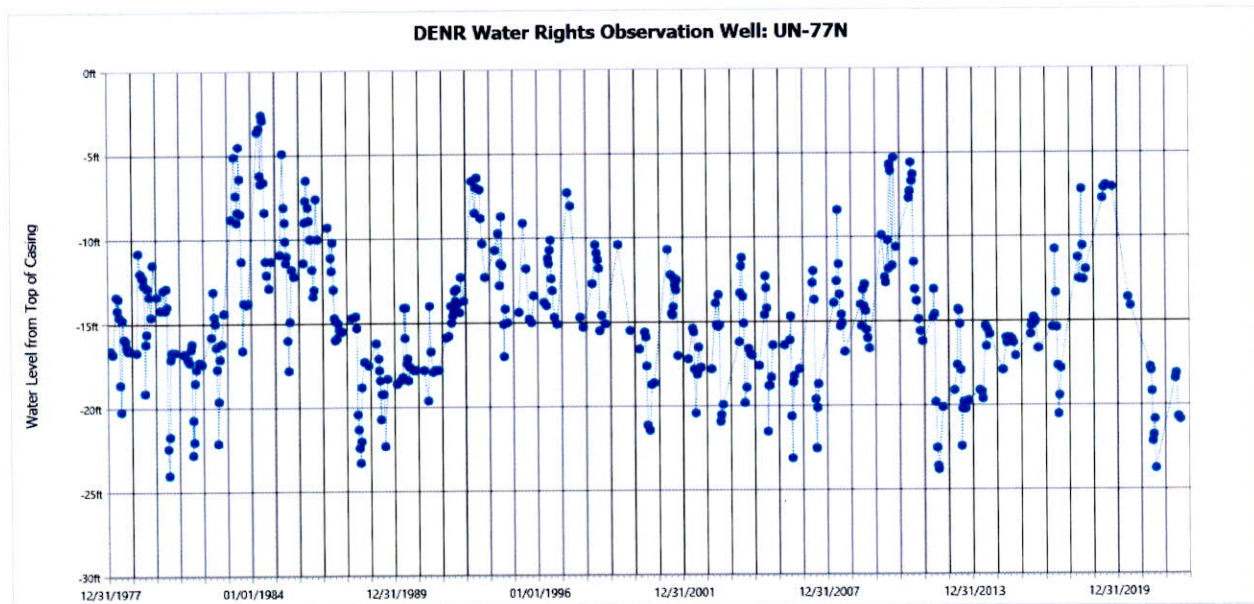


Figure 7. Hydrograph for observation well UN-77N (Water Rights, 2022b)

The United States Geological Survey (USGS) maintains Stream Gage #06467500, located on the Missouri River at Yankton, SD, and the hydrographs for this gage are shown in Figures 8 to 10 (USGS, 2022). By comparing the hydrographs for Stream Gage #06467500 to the observation well hydrographs of the Missouri: Elk Point aquifer (Figures 2 to 7), both show the river and aquifer react to climatic conditions by rising and falling over similar trends (USGS, 2022; Water Rights, 2022b). Additionally, during flood events (such as, the years 2011 and 2019), the water level in the Missouri: Elk Point aquifer, especially where in closer proximity to the Missouri River, rises very quickly beyond what is typically seen for glacial outwash aquifers (Water Rights, 2022b). This indicates there is a hydraulic connection between the Missouri: Elk Point aquifer and the Missouri River. Therefore, when the elevation of the water in the Missouri River is higher than the elevation of water in the aquifer, the river will recharge the aquifer. In contrast, when the elevation of water is higher in the Missouri: Elk Point aquifer, the aquifer naturally discharges to the Missouri River.

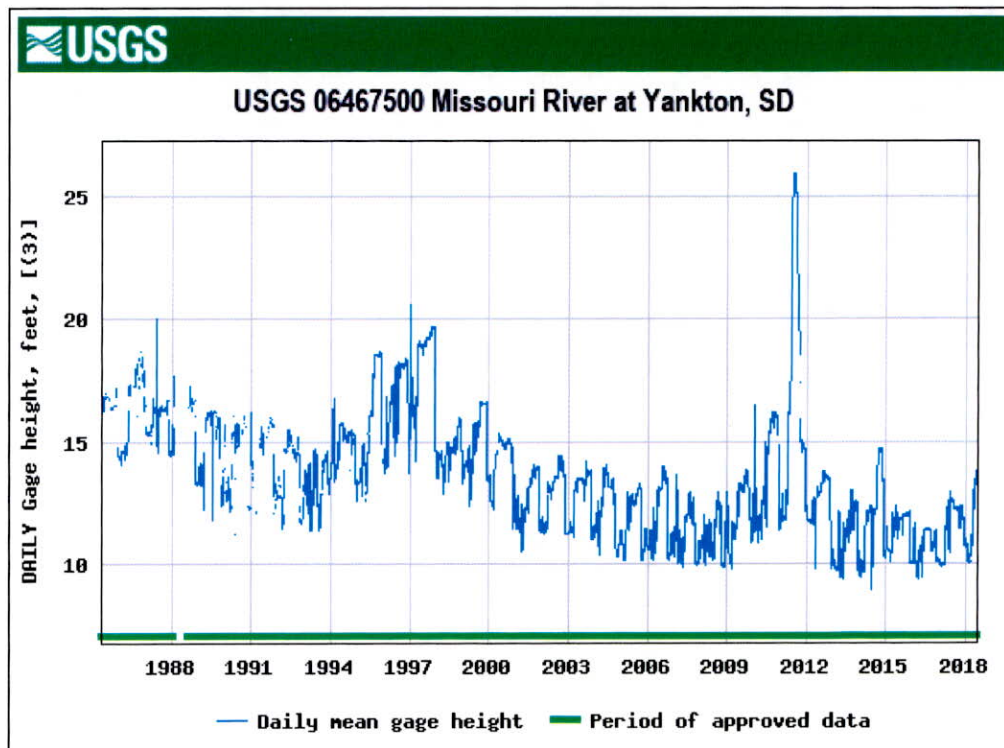


Figure 8. Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 1985 to 2018 (USGS, 2022)

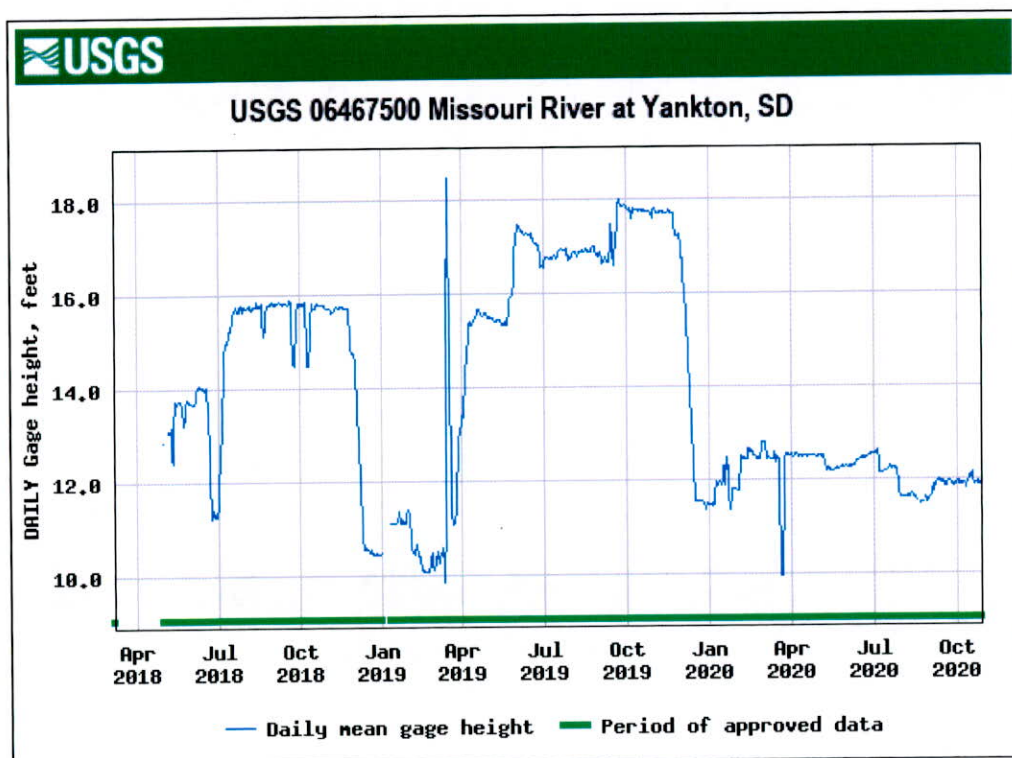


Figure 9. Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 2018 to 2020 (USGS, 2022)

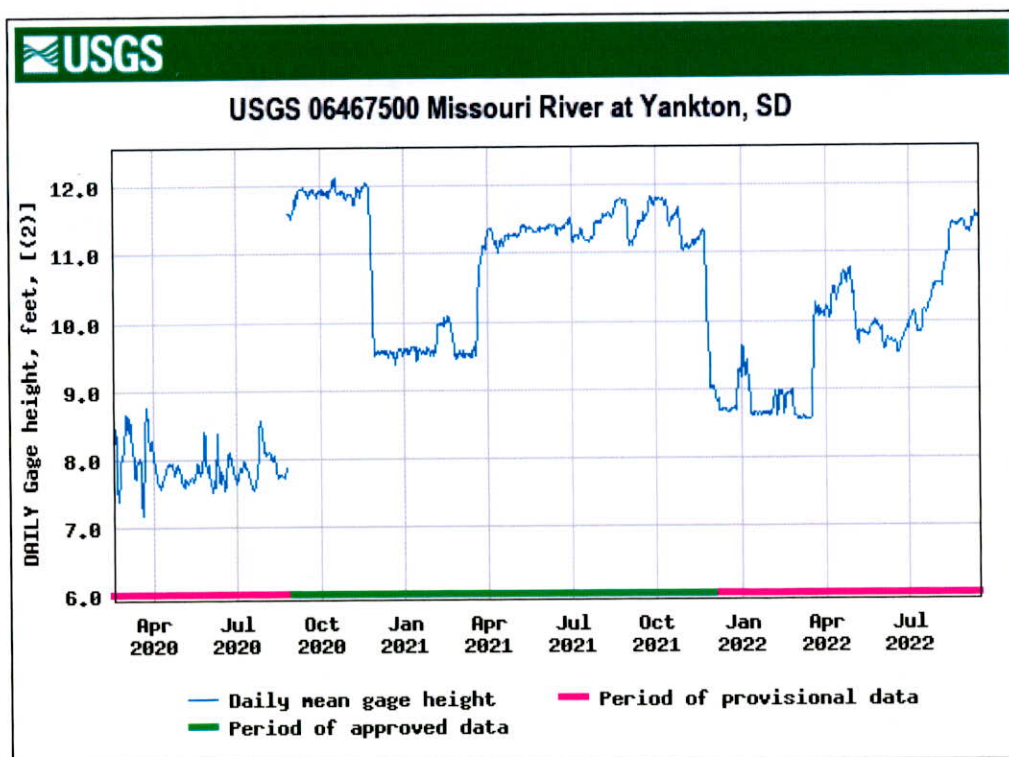


Figure 10. Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 2020 to 2022 (USGS, 2022)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 630 water rights/permits authorized to appropriate water from Missouri: Elk Point aquifer, plus three pending applications – Water Permit Application Nos. 8614-3, 8652-3 and 8656-3 (Water Rights, 2022c). The closest water right/permit to the proposed diversion point is Water Right No. 6801-3, which is held by Keith Hall. The diversion point for Water Right No. 6801-3 is located approximately 0.2 miles east of the proposed diversion point for this application (Figure 11) (Table 6) (Water Rights, 2022c).

There are domestic wells on file with the DNR-Water Rights Program that are completed into the Missouri: Elk Point aquifer, with the closest domestic well on file (not held by the applicant) approximately 0.9 miles southwest of the proposed diversion point (Water Rights, 2022d). There could potentially be other domestic wells completed into the Missouri: Elk Point aquifer near the proposed diversion point that are not on file with the DNR-Water Rights Program.

The Missouri: Elk Point aquifer ranges from confined to unconfined aquifer conditions, but is primarily under unconfined conditions (Niehus, 1994 and 1997). Based on the well and test hole competition reports on file, and lithologic logs on file for nearby observation wells, the Missouri: Elk Point aquifer is expected to be confined near the proposed diversion point (SDGS, 2022; Water Rights, 2022b and 2022d). Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer; however, in a confined aquifer, drawdown from pumping could extend a distance from the diversion point. The exact drawdown behavior of a well cannot be known without an aquifer performance test. Examination of the hydrographs for observation wells completed into the Missouri: Elk Point aquifer show no signs of being significantly impacted by drawdown caused by pumping, despite usually being located within a mile of several high-yield wells (assumed to be a well with an authorized diversion rate greater than 0.2 cfs) (Water Rights, 2022b and 2022c).

Near the proposed diversion point, the Missouri: Elk Point aquifer has a saturated aquifer thickness of approximately 20 to 50 feet (Water Rights, 2022d). This would generally allow for enough thickness for a pump to be placed 20 feet below the top of the aquifer, which is required for the well to be considered adequate under ARSD 74:02:04:20(6). Any drawdown as a result of the proposed diversion for this application is not expected to unlawfully impair nearby adequate wells. In Clay, Union, and Yankton Counties, there are no substantiated complaints on file with the DNR-Water Rights Program regarding well interference for adequate wells completed into the Missouri: Elk Point aquifer (Water Rights, 2022c).

The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer

has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs."

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, "general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable..." (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Missouri: Elk Point aquifer at their location. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), the saturated thickness of the Missouri: Elk Point aquifer near the proposed diversion point, and the lack of well interference complaints from the Missouri: Elk Point aquifer in the area, 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.

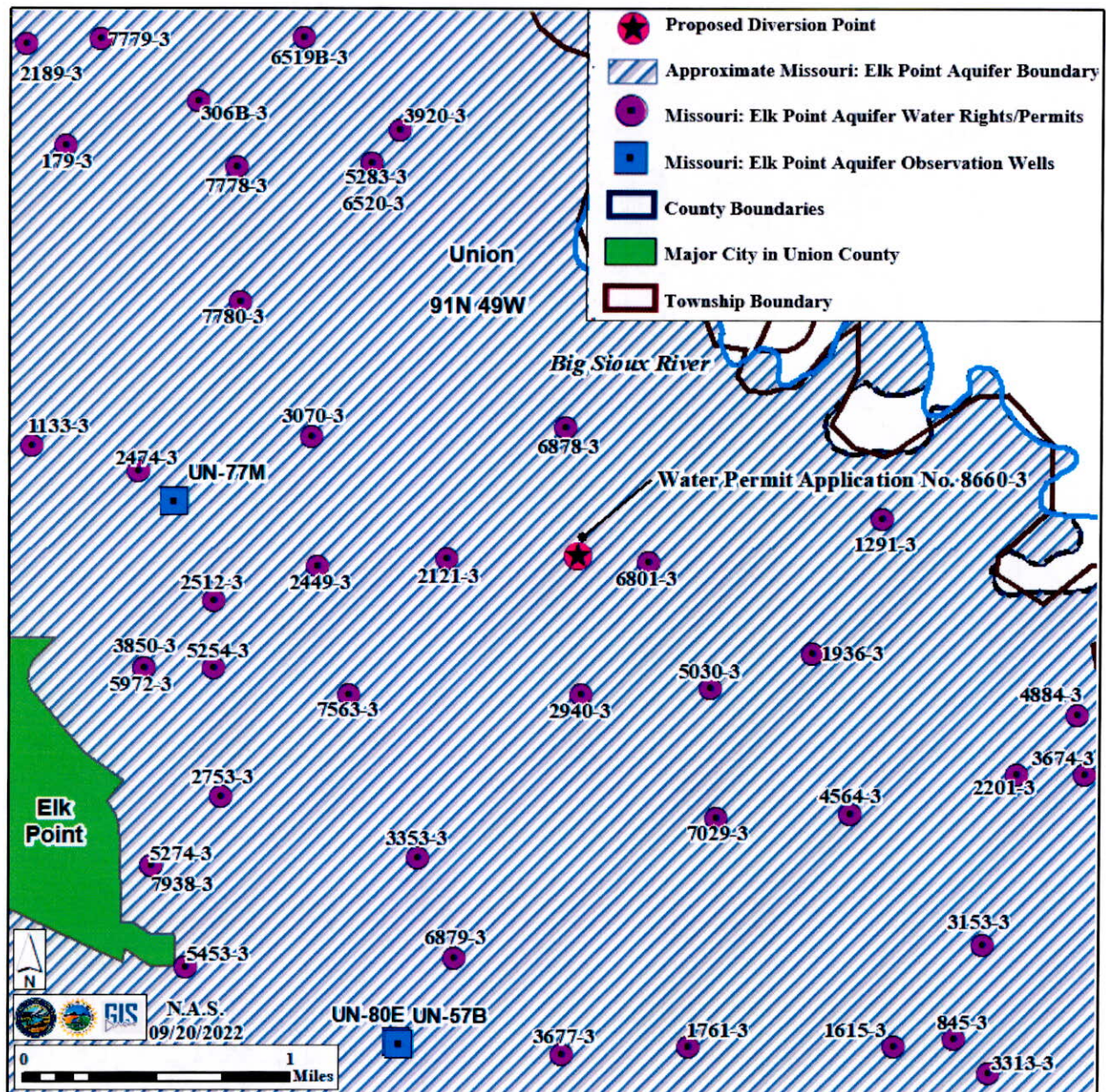


Figure 11. Location of the proposed diversion point for Water Permit Application No. 8660-3, with the Missouri: Elk Point aquifer water rights/permits and observation wells within approximately two miles (Water Rights, 2022b and 2022c)

Table 6. Water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer within approximately two miles of the proposed diversion point, as shown in Figure 11 (Water Rights, 2022c)

Permit No.	Name	Status	Use	Authorized Acres if IRR	Authorized Diversion Rate (cfs)
179-3	JJ Curry & Sons	LC	IRR	200	2.85
306B-3	David M Curry Trust	LC	IRR	120	1.71
845-3	Brian Chicoine	LC	IRR	227.3	2.67
1133-3	JJ Curry & Sons	LC	IRR	130	1.86
1291-3	Marimac Inc	LC	IRR	108	1.55
1615-3	Patrick Walsh	LC	IRR	80	1.14
1761-3	Mary Eby Trust	LC	IRR	80	1.1
1936-3	Evelyn Hanson	LC	IRR	80	1.14
2121-3	Keith Hall	LC	IRR	142	2.03
2189-3	William J/David Curry	LC	IRR	108	1.54
2201-3	Kevin G Beermann	LC	IRR	154	2.22
2449-3	Keith Hall	LC	IRR	90	1.3
2474-3	Marimac Inc	LC	IRR	132	1.9
2512-3	Richard Fennel	LC	IRR	122	1.7
2753-3	Russell M Hall	LC	IRR	106	1.5
2940-3	William J/David Curry	LC	IRR	136	1.94
3070-3	Chad Shearon	LC	IRR	120	1.7
3153-3	Kevin Beermann	LC	IRR	80	1.14
3313-3	Brian Chicoine	LC	IRR	309	2.7
3353-3	DV Schmitz	LC	IRR	90	1.29
3674-3	Chen Beverly Chow	LC	IRR	140	2
3677-3	Mary Eby Trust	LC	IRR	103	1.47
3850-3	John Curry	LC	IRR	60	0.86
3920-3	Lawrence Donnelly	LC	IRR	180	2.22
4564-3	Wendell H Bishop	LC	IRR	128	1.78
4884-3	Brian Chicoine	LC	IRR	111	1.49
5030-3	William J/David Curry	LC	IRR	128	1.82
5254-3	Curry Seed Company	LC	IRR	71	1.01
5274-3	Russell M Hall	LC	IRR	112	1.34
5283-3	Pat Walsh	LC	IRR	78	1.11
5453-3	Aaladin Industries Inc	LC	IND		0.05
5972-3	Curry Seed Company	LC	IRR	145	2
6519B-3	Robert Peter Walsh	LC	IRR	120	3.08
6520-3	Pat Walsh	LC	IRR	64	2.67
6801-3	Keith Hall	LC	IRR	122	1.67
6878-3	Thomas W Curry	LC	IRR	104	1.49
6879-3	Sandra Duhaime	LC	IRR	124	1.78
7029-3	Pat Walsh	LC	IRR	264	1.78
7563-3	Keith Hall	LC	IRR	88	2.22
7778-3	Roger Boldenow	LC	IRR	123	1.76
7779-3	Roger Boldenow	LC	IRR	65	1.33
7780-3	Roger Boldenow	LC	IRR	132	1.78
7938-3	Russell M Hall	PE	IRR	53	0
LC Licensed Water Right, PE Water Permit, IND Industrial, IRR Irrigation					

CONCLUSIONS:

1. Water Permit Application No. 8660-3 proposes to divert water at a maximum instantaneous diversion rate of 2.22 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 120 feet deep) for the irrigation of 160 acres. The site of interest is located in Union County approximately two miles east of Elk Point, SD.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8660-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.

Nakaila Steen

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

Reviewed by:

Adam Mathiowetz

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

References

- Arguez, A., I. Durre, S. Applequist, R. Vose, M. Squires, X. Yin, R. Heim, and T. Owen, 2020. NOAA's U.S. Climate Normals (1991-2020). Annual Precipitation Normals for Station USW00014943 Sioux City Airport, Iowa. NOAA National Center's for Environmental Information. Accessed August 29, 2022.
- Drinking Water Program, 2022. Drinking Water System Information. SD DANR – Drinking Water Program Online Database. Accessed September 20, 2022.
<<http://danr.sd.gov/des/dw/sysinfomap.aspx>>
- Fahrenbach, M.D., Steece, F.V., Sawyer, J.F., McCormick, K.A., McGillivray, G.L., Schulz, L.D., and Redden, J.A. 2010. South Dakota Stratigraphic Correlation Chart. Oil and Gas Investigations 3. SD DANR-Geological Survey, Vermillion, SD.
- Farmer, J., 2018a. Report on Water Permit Application No. 8322-3: Shawn Guthmiller. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

- Farmer, J., 2018b. Report on Water Permit Application No. 8364-3: Daniel and Scott Hanson. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Farmer, J., 2021. Report on Water Permit Application No. 8503-3: Sorensen Family Farm, LLC. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Goodman, J.A., 2007. Report on Water Permit Application No. 6869-3, Lewis and Clark RWS. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, 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.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A., 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa. Task 1: Bedrock Topography and Distribution, Task 2: Extent of Aquifers, Task 3: Ground-Water Storage, Task 4: Computerized Data Base, Final Report. U.S. Army Corps of Engineers Contract DACW 45-80-C-0185.
- Mathiowetz, A.W., 2021. Personal Communication. Engineer IV. SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Niehues, C.A., 1994. Water Resources of Lincoln and Union Counties, South Dakota. U.S. Geological Survey Water-Resources Investigations Report 93-4195. U.S. Geological Survey. Vermillion, SD.
- Niehues, C.A., 1997. Major Aquifers in Lincoln and Union Counties, South Dakota. U.S. Geological Survey - Information Pamphlet 49. U.S. Geological Survey. Vermillion, SD.
- NOAA, 1982. Evaporation Atlas for the Contiguous 48 United State. NOAA Technical Report NWS 33.
- SDGS, 2022. South Dakota Geological Survey Lithologic Logs Database. Accessed September 21, 2022. <http://cf.sddanr.net/lithdb/>.
- Stephens, J.C., 1967. Geology and Water Resources of Clay County, South Dakota, Part II. Water Resources. South Dakota DANR-Geological Survey Bulletin 19, Vermillion, SD.
- Stonesifer, J.R., 2013. Water Availability of the Missouri: Elk Point Aquifer. SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- USGS, 2022. USGS Surface-Water Daily Statistics for the Nation, Stream Gage #06467500, Missouri River at Yankton, SD. Accessed September 20, 2022.
- Water Rights, 1995. Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. DANR-Water Rights Program file for Water Right No. 2313-2. Pierre, SD.
- Water Rights, 2022a. "1979-2021 Irrigation Summaries by Aquifer". SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.

Water Rights, 2022b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

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

Water Rights, 2022d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2022e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2022f. "2003-2021 Non-Irrigation Yearly Reports", SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

AFFIDAVIT OF PUBLICATION

State of South Dakota)

:SS

County of Union)

Shannon L. Jost,

the publisher of the Leader-Courier, deposes and says that

The Leader-Courier

is a legal weekly newspaper of a general circulation, printed and published in Elk Point, County of Union, State of South Dakota, and has been such legal newspaper during the time hereinafter mentioned, and that affiant is and was during all the time hereinafter mentioned in charge of the advertising department thereof, and has personal knowledge of all the facts stated in this affidavit: and that the notice and advertisement headed:

Water Rights 10-20-22

Allard Trust & Walsh Farms

a printed copy of which is hereunto attached and made a part hereof, was printed and published in the said newspaper at least once in

each week for 1 successive weeks; that said newspaper at the time of the first publication of said notice hereinafter stated, had, and still has, a bona fide circulation of over two hundred paid copies weekly, and had been published in the said County of Union for more than one year immediately prior to the date of the said publication of said notice, and that said newspaper during said times, was, and is, printed in part in an office maintained at said city of Elk Point, the said place of publication; that the first publication of said notice in said newspaper was

on Thursday, the 20 day of October, 2022

and that the succeeding publications were

on Thursday, the _____ day of _____,

on Thursday, the _____ day of _____,

on Thursday, the _____ day of _____,

that the fees for the printing and publishing of said notice and advertisement in said newspaper as aforesaid were

\$ 40.98, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Shannon L. Jost

Subscribed and sworn to before me

this 20 day of October, 2022

M. R. Jost

Notary Public

RECEIVED

OCT 27 2022

OFFICE OF
WATER

NOTICE OF APPLICATION NO. 8660-3 TO APPROPRIATE WATER

Notice is given that Allard Trust & Walsh Farms, c/o Patrick Walsh, 47844 County Rd 1B, Elk Point SD 57025 have filed an application for a water permit to appropriate 2.22 cubic feet of water per second from one well to be completed into the Missouri Elk Point Aquifer (approximately 120 feet deep) located in the approximate center of the NE 1/4 Section 21 for irrigation of 160 acres located in the NE 1/4 Section 21; all in T91N-R49W. This site is located approximately 2 miles east of Elk Point SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8660-3 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 October 31, 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,



My Commission Expires August 08, 2025

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 October 31, 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.

Publish: October 20, 2022
Published once at the total approximate cost of \$40.98 and may be viewed free of charge at www.sdpublicnotices.com
42-1-127

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

OCT 26 2022

OFFICE OF
WATER

PATRICK WALSH
47844 COUNTRY RD 1B
ELK POINT SD 57025

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
NOTICE OF APPLICATION NO.

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 20th DAY OF October, 2022
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$40.00 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 10/20/2022

FILED ON: 10/20/2022


SUBSCRIBED AND SWORN TO BEFORE ME THIS 20th DAY OF October, 2022

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 06/15/2028

Ad text : **NOTICE OF APPLICATION**
NO. 8660-3 to Appropriate Water

Notice is given that Allard Trust & Walsh Farms, c/o Patrick Walsh, 47844 County Rd 1B, Elk Point SD 57025 have filed an application for a water permit to appropriate 2.22 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (approximately 120 feet deep) located in the approximate center of the NE 1/4 Section 21 for irrigation of 160 acres located in the NE 1/4 Section 21; all in T91N-R49W. This site is located approximately 2 miles east of Elk Point SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8660-3 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 Engineers 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 October 31, 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 October 31, 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 \$40.00 and can be viewed free of charge at www.sdpublicnotices.com.

Published October 20, 2022.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, October 12, 2022 1:17 PM
To: G5 (leader1@iw.net)
Subject: 8660-3, Allard Trust & Walsh Farms
Attachments: 8660-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 20, 2022 in the Southern Union County Leader-Courier.

Patrick Walsh, 47844 Country Rd 1B, Elk Point SD 57025 (605 670-0486) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, October 12, 2022 1:18 PM
To: Cassandra Brockmoller (cassandra@yankton.net)
Subject: 8660-3, Allard Trust & Walsh Farms
Attachments: 8660-3public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 20, 2022.

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Let me know if you have questions. Please acknowledge receipt of this email.

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

October 19, 2022

Allard Trust & Walsh Farms
c/o Patrick Walsh
47844 County Rd 1B
Elk Point SD 57025

Dear Mr. Walsh:

Water Permit Application No. 8660-3 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 Leader Courier printed at Elk Point (Ph # 605 356-2632) and the Press & Dakotan printed at Yankton (Ph # 605 665-7811). 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
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. 8660-3 to Appropriate Water

Notice is given that Allard Trust & Walsh Farms, c/o Patrick Walsh, 47844 County Rd 1B, Elk Point SD 57025 have filed an application for a water permit to appropriate 2.22 cubic feet of water per second from one well to be completed into the Missouri:Elk Point Aquifer (approximately 120 feet deep) located in the approximate center of the NE 1/4 Section 21 for irrigation of 160 acres located in the NE 1/4 Section 21; all in T91N-R49W. This site is located approximately 2 miles east of Elk Point SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8660-3 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 October 31, 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 October 31, 2022.

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

Published once at the total approximate cost of_

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, October 12, 2022 1:23 PM
To: Robert Walsh
Subject: Water Permit Application No. 8660-3
Attachments: 4189.pdf

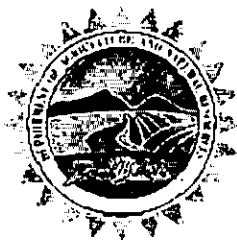
Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information is being mailed to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

Karen Schlaak

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

DEC 08 2022

Allard Trust & Walsh Farms
c/o Patrick Walsh
47844 County Rd 1B
Elk Point SD 57025

Dear Mr. Walsh:

Enclosed is Water Permit No. 8660-3 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
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danr.sd.gov

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
on DANR Website**

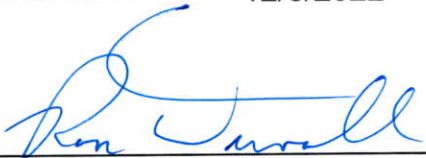
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.: 8660-3

Name of Applicant: Allard Trust & Walsh Farms, Patrick Walsh

Date of Posting: 10/17/2022

Date of Removal: 12/8/2022



Ron Duvall, Water Rights Permitting Administrator

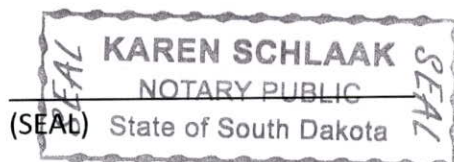
12/8/22

Date

Subscribed and sworn to before me, a notary public, this 8th day of Dec, 2022.



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



8660-3

SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW ¼ NE ¼ Sec 21 Twp 91N Rg 49W

Well Owner: Robert Walsh

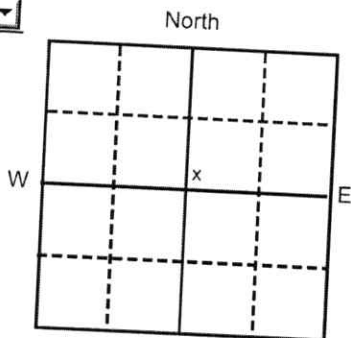
Business Name:

Address: 47844 County Road 1B

City, State, Zip: Elk Point SD 57025

County Union

Please mark well location with an "X"



Well Completion Date

5/16/2023

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 1500 ft. from septic tank (Identify source)

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Rotary

CASING DATA:

If other describe ☐ Steel ☒ Plastic ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	16 IN	0 FT	80 FT	22 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Groutwell DF	18	Lb/gal	0 Ft	55 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
Tremmie

SCREEN:

☐ Perforated pipe ☒ Manufactured
 Diameter 16 Inches Length 20 Feet

Material PVC

Slot Size .060 Set From 80 Feet to 100 Feet

Other information Diameter 16", Length 20", PVC, Slot Size .050 From 100' to 120'

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH Tablets☐ No, Why Not?

Lab to which water quality sample sent for analysis

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Top Soil	0	3
Tan Clay	3	22
Sandy Brown Clay	22	35
Sandy Gray Clay	35	55
Fine Gray Sand Some Small	55	65
Medium Gravel	65	69
Fine Brown Sand	69	75
Medium Gravel	75	90
Continued in remarks		

STATIC WATER LEVEL

20 FEET

If flowing: closed in pressure PSI

GPM flow through Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:☐ Bailed☐ Other

Pumping Level Below Land Surface

Ft. After Hrs. pumped GPM

Ft. After Hrs. pumped GPM

If pump installed, pump rate: GPM

REMARKS

 Latitude: 42.689359, Longitude: -96.630841, Elevation: 1117
 Well Log Continued: Small to Fine Sand 90'-98', Medium Sand 98'-120'

This well was drilled under license # 810 and this report is true and accurate.

Drilling firm: Heine Electric & Irrigation, Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

RECEIVED

AUG 08 2023

OFFICE OF WATER

Date: 6-26-23