

**WATER PERMIT NO. 8708-3**

Name of Applicant: Todd Heine

Address: 1020 E 320<sup>th</sup> St, Vermillion SD 57069

Phone: 605 677-8566

Amount of Water Claimed: no add'l

Total Acres: 15 add'l

Source of Water Supply: groundwater (1 existing well)

Water to be used for: irrigation

County: Clay

Type of Waste Disposal System:

Location: 3 miles southeast of Vermillion

PRIORITY

Date Received: 1-3-22

Application/License Fee: \$700

Corrected Application Received:

Period of Annual Use: May 1 – November 30

Remarks: Additional acres utilizing well authorized by No. 2053-3

Diversion Point and Land Irrigated: Accretion lying  
E & S Lots 2, 3 & 4 to Vermillion River Sec 13-  
T32N-R4E and accretion to Sec 24 lying E & S of  
Lot 1 to Sec line 24-T32N-R4E both in Vermillion  
twp.

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|  |  |  |  |  |  |

Depth of Well: 95 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Ron Duvall

Reviewed and the Number Assigned on: 1-4-22

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_

**SOUTH DAKOTA  
WATER PERMIT NO. 8708-3**

Date of first receipt of application January 3, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8708-3 to Todd Heine, 1020 E 320<sup>th</sup> Street, Vermillion SD 57069 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. 8708-3 authorizes irrigation of 15 acres using one existing well (95 feet deep) authorized by Water Right No. 2053-3. Water Right No. 2053-3 authorizes a maximum instantaneous diversion rate of 10.22 cfs from five existing wells completed into the Missouri: Elk Point aquifer for the irrigation of 929 acres located in portions of Section 33-T92N-R51W and Sections 11, 12, 13, 23, and 24; all in T32N-R4E (Nebraska Survey). The well proposed to be used to irrigate the additional acres and the additional acres are located in the accretion lying E & S Lots 2, 3, and 4 to Vermillion River Section 13-T32N-R4E and accretion to Section 24 lying E & S of Lot 1 to section line, Section 24-T32N-R4E in Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this permit. The site is located in Clay County approximately three miles southeast of Vermillion, SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is January 3, 2023.
4. The date of approval of Permit No. 8708-3 is March 6, 2023.
5. One-fifth of the construction is to be completed on or before September 6, 2025.
6. All construction is to be completed on or before March 6, 2028.
7. Water is to be put to beneficial use on or before March 6, 2032.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The wells approved under Water Permit No. 8708-3 and Water Right No. 2053-3 are located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

**WATER MANAGEMENT BOARD**

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

MAR 27 2023  
date





RECEIVED

JAN 03 2023

PAID

JAN 3 2022

Ck# 44088

Rec't#

**FORM 2: Application for irrigation in South Dakota**  
(type or print)OFFICE OF  
WATER

Mail to:

SD DANR, Water Rights  
523 E Capitol Ave  
Pierre, SD 57501-3182

ph. (605) 773-3352

No. 8708-3 Hydrologic Unit 10170101

Basin Missouri River

Newspaper Plain Talk Press &amp; Dakotans

(office use only)

**Application for Permit to Appropriate Water for Irrigation**Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. \_\_\_\_\_

(Use predates Mar 2, 1955)

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

1. Name to Appear on Irrigation Permit Todd Heine

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

Mailing Address 1020 E 320th Street Vermillion SD 57069  
(Address) (City) (State) (Zip Code)

Phone \_\_\_\_\_ Mobile \_\_\_\_\_ Email toddheine@gmail.com

2. Amount of water claimed No add'l \*CFS or \*\*GPM \*\*\*AF Total Acreage 15 add'l  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Well No. 2 authorized by Water Right No. 2053-3

4. Location of point of diversion See map and legal description in Item No. 8 below  
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Clay

5. County or counties where water will be used Clay

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

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

| Land Description                          | Acres | Land Description | Acres |
|-------------------------------------------|-------|------------------|-------|
| See legal description below in item No. 8 | 15    |                  |       |
|                                           |       |                  |       |
|                                           |       |                  |       |
|                                           |       |                  |       |

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

This application, if approved, will authorize irrigation of an additional 15 acres using Well No. 2 covered by Water Right No. 2053-3. No increase in diversion rate is authorized by this application. The well and acreage to be irrigated are located in Accretion lying E & S Lots 2, 3 & 4 to Vermillion River sec 13-32N-4E and accretion to section 24 lying E & S of Lot 1 to section line 24-32N-4E both in Vermillion TWP.

I, Todd Heine, the applicant, certify under  
Name of Person Title (if applicable)

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

2021-08

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

## Supplemental Information

(type or print)

**1. Well Information** (check one or both as applicable) ☐ Drilling new well(s) ☒ Using existing well(s)

a) If new wells, how many \_\_\_\_\_ 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:** See No. 2053-3

c) Well Depth (required) 95 ft Depth to Top of Water Bearing Material \_\_\_\_\_ Depth to Water from Surface \_\_\_\_\_

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

**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)

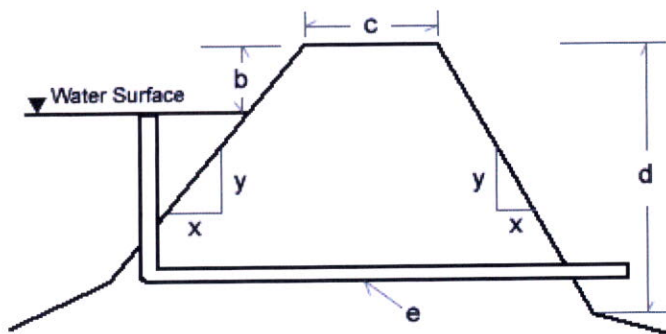
Upstream \_\_\_\_\_

Downstream \_\_\_\_\_

h) Area of Impoundment \_\_\_\_\_

i) Storage \_\_\_\_\_ Acre Feet

j) Drainage Area Above Dam \_\_\_\_\_ Acres





Scale: 1 inch = 883 feet

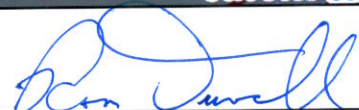
1,200

Feet



**DANR**  
SOUTH DAKOTA

Completed by:

  
Ron Duvall, W.R. Permitting Administrator  
SD DANR, Water Rights Program

Date:



Additional acres being irrigated.

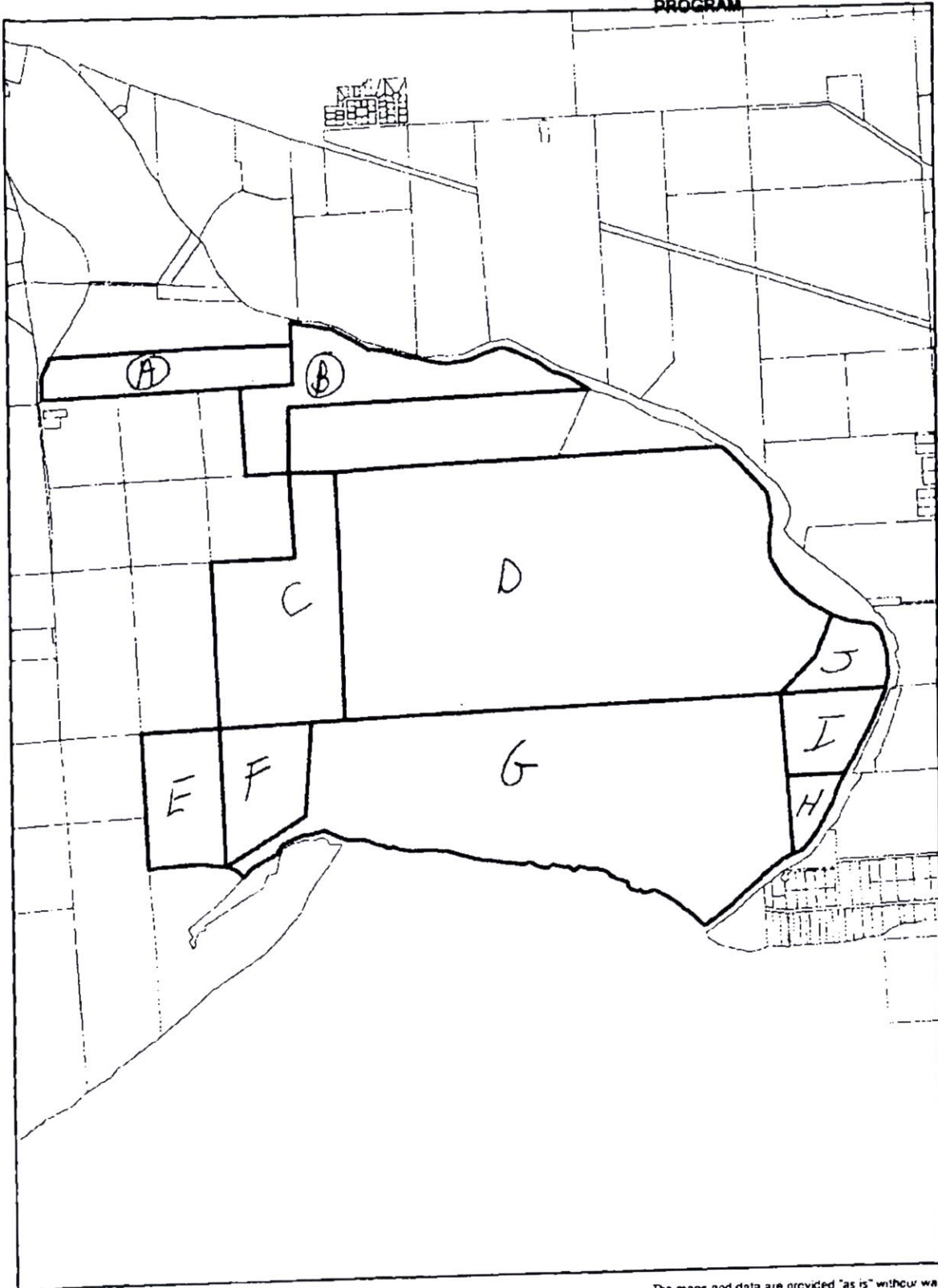
**Appl. No.** 8708-3



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WATER RIGHTS  
PROGRAM



CLAY COUNTY SD

The maps and data are provided "as is" without warranty or representation of accuracy, timeliness, or completeness. There are no warranties, expressed or implied, as to the appropriate use of the maps and data or the fitness for a particular purpose. The maps and associated data do not represent a survey and are compiled from official records, including plat, surveys, recorded deeds and contracts and only contain information required for government purposes. See the recorded documents for more detailed legal information.



3/2/2012

| PARCEL                                                                              | OWNER                      | CARE OF           | ADDRESS      | CITY, STATE   | ZIP_CODE   |
|-------------------------------------------------------------------------------------|----------------------------|-------------------|--------------|---------------|------------|
| J 12000-09251-333-00                                                                | BURGESS LYMAN              | %FRANCIS HEINE    | 314 STERLING | VERMILLION SD | 57069-0000 |
| PT NW 1/4 SW 1/4 33-92-51 FAIRVIEW TWP                                              |                            |                   |              |               |            |
| I 12000-09251-332-06                                                                | HEINE FRANCIS              |                   | 412 STERLING | VERMILLION SD | 57069-0000 |
| ONLY THAT PORTION W OF VERMILLION RIVER OF LOT 1 NW 1/4 33-92-51 FAIRVIEW TWP       |                            |                   |              |               |            |
| 11000-03204-130-00                                                                  | HEINE FRANCIS ETAL         |                   | 412 STERLING | VERMILLION SD | 57069-     |
| W 12 A OF LOT 2 & LOTS 3 & 4 13-32-04 VERMILLION TWP                                |                            |                   |              |               |            |
| 11000-03204-240-03                                                                  | HEINE FRANCIS ETAL         |                   | 412 STERLING | VERMILLION SD | 57069-     |
| LOT 1 IN NW 1/4 24-32-04 VERMILLION TWP                                             |                            |                   |              |               |            |
| 11000-03204-130-06                                                                  | HEINE FRANCIS ETAL         |                   | 412 STERLING | VERMILLION SD | 57069-     |
| ACCRETION LYING E & S LOTS 2, 3 & 4 TO VERMILLION RIVER 13-32-04 VERMILLION TWP     |                            |                   |              |               |            |
| 11000-03204-240-00                                                                  | HEINE FRANCIS ETAL         |                   | 412 STERLING | VERMILLION SD | 57069-     |
| ACCRETION TO SEC 24 LYING E & S OF LOT 1 TO SECTION LINE 24-32-04 VERMILLION TWP    |                            |                   |              |               |            |
| A 11000-03204-120-01                                                                | HEINE PARTNERSHIP          |                   | 412 STERLING | VERMILLION SD | 57069-     |
| ISLAND FARM ADDN IN SEC 11 & 12-32-04 VERMILLION TWP                                |                            |                   |              |               |            |
| 11000-03204-130-18                                                                  | HEINE TIMOTHY T & TODD F & | NICK J %BUD HEINE | 412 STERLING | VERMILLION SD | 57069-     |
| PARCEL B OF LOT 1 SEC 12-32-04 & PARCEL C & E 1/2 LOT 1 SEC 13-32-04 VERMILLION TWP |                            |                   |              |               |            |
| E 11000-03204-231-00                                                                | HEINE TIMOTHY T & TODD F & | NICK J %BUD HEINE | 412 STERLING | VERMILLION SD | 57069-     |
| NE 1/4 NE 1/4 & LOT 1 23-32-04 VERMILLION TWP                                       |                            |                   |              |               |            |
| H 12000-09251-333-08                                                                | HEINE TIMOTHY T & TODD F & | NICK J %BUD HEINE | 412 STERLING | VERMILLION SD | 57069-     |
| HECKENLIVELY TRACT 110 33-92-51 FAIRVIEW TWP                                        |                            |                   |              |               |            |

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MAR - 7 2012

WATER RIGHTS  
PROGRAM

# RECEIPT

## WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 3, 2023

RECEIVED OF Francis Doris/Tim, Todd & Nick Heine 1020 E 320<sup>th</sup> Street Vermillion SD 57069

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

|                                                                                                                        |                  |
|------------------------------------------------------------------------------------------------------------------------|------------------|
| Fee for Application for Permit No. <u>8708-3</u> to Appropriate Water, to construct and to put water to beneficial use | \$ <u>500.00</u> |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                           | \$ _____         |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                 | \$ _____         |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8708-3</u>            | \$ <u>200.00</u> |
| Fee for Filing Transfer Form _____                                                                                     | \$ _____         |
| Fee for _____                                                                                                          | \$ _____         |
| Fee for Issuing New Well Driller's License No. _____                                                                   | \$ _____         |
| Fee for Renewal of Well Driller's License No. _____                                                                    | \$ _____         |
| Fee for Issuing Well Pump Installer's License No. _____                                                                | \$ _____         |
| Fee for Renewal of Well Pump Installer's License No. _____                                                             | \$ _____         |
| (Any Other Work Provided by Law)                                                                                       | TOTAL            |
|                                                                                                                        | \$ <u>700.00</u> |

By *Eric Gronlund*  
Chief Engineer  
*vm*





**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. 8708-3, Todd Heine**

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. 8708-3, Todd Heine, 1020 E 320<sup>th</sup> Street, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 8708-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The wells approved under Water Permit No. 8708-3 and Water Right No. 2053-3 are located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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  
February 14, 2023

## Report to the Chief Engineer

On Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3

Todd Heine

February 16, 2023

Water Permit Application No. 8700-3 proposes to irrigate 67 acres using one existing well (100 feet deep) authorized by Water Right No. 1006-3. Water Right No. 1006-3 authorizes a maximum instantaneous diversion rate of 2.9 cubic feet of water per second (cfs) from two wells completed into the Missouri: Elk Point aquifer located in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 27 for the irrigation of 204.2 acres located in the W  $\frac{1}{2}$  NW  $\frac{1}{4}$ , N  $\frac{1}{2}$  SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , W  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 27; all in T92N-R51W. This application proposes to irrigate an additional 67 acres located in the E  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 27-T92N-R51W from the south existing well located in the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 27-T92N-R51W. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8701-3 proposes to irrigate 48 acres using one existing well (approximately 100 feet deep) authorized by Water Permit No. 6993-3. Water Right No. 2947-3 and Water Permit No. 6993-3 collectively authorize a maximum instantaneous diversion rate of 3.87 cfs from three wells completed into the Missouri: Elk Point aquifer located in the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 23 and the NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 26 for the irrigation of 271 acres located in portions of Section 23 and Section 26; all in T92N-R52W. This application proposes to irrigate an additional 48 acres located in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 14 and W  $\frac{1}{2}$  NW  $\frac{1}{4}$  of Section 23; all in T92N-R52W. This application also corrects the location of the well authorized by Water Permit No. 6993-3 from the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  to the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 23-T92N-R52W which is used to irrigate the 48 additional acres. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile southwest of Vermillion, SD.

Water Permit Application No. 8702-3 proposes to irrigate 30 acres using one existing well (95 feet deep) authorized by Water Right No. 5435-3. Water Right No. 5435-3 authorizes a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 20 for the irrigation of 140 acres located in the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 17 and W  $\frac{1}{2}$  NE  $\frac{1}{4}$ , E  $\frac{1}{2}$  NW  $\frac{1}{4}$  of Section 20; all in T92N-R52W. This application proposes to irrigate an additional 30 acres located in the southern portion of the accretion area below Lots 2 and 3 except the CMR Addition in Section 17-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles west of Vermillion, SD.



Water Permit Application No. 8703-3 proposes to irrigate 53 acres using one existing well (110 feet deep) authorized by Water Permit No. 7297-3. Water Permit No. 7297-3 authorizes a maximum instantaneous diversion rate of 1.11 cfs from one well completed into the Missouri: Elk Point aquifer located in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 15 for the irrigation of 80 acres located in the W  $\frac{1}{2}$  NW  $\frac{1}{4}$  of Section 15; all in T92N-R52W. This application proposes to irrigate an additional 53 acres located in the E  $\frac{1}{2}$  SE  $\frac{1}{4}$  (Tract B Heine Addition) of Section 16-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately two miles west of Vermillion, SD.

Water Permit Application No. 8704-3 proposes to irrigate 33.5 acres using one existing well (116 feet deep) authorized by Water Right No. 1624-3. Water Right No. 1624-3 authorizes a maximum instantaneous diversion rate of 1.14 cfs from one well completed into the Missouri: Elk Point aquifer located near the center of the NE  $\frac{1}{4}$  of Section 33 for the irrigation of 80 acres located in the E  $\frac{1}{2}$  NE  $\frac{1}{4}$  of Section 33; all in T92N-R51W. This application proposes to irrigate an additional 33.5 acres located in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 33-T92N-R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8705-3 proposes to irrigate 17 acres using one existing well (100 feet deep) authorized by Water Right No. 6679-3 and Water Permit No. 7301-3. Water Right No. 6679-3 and Water Permit No. 7301-3 collectively authorize a maximum instantaneous diversion rate of 2.23 cfs from one well completed into the Missouri: Elk Point aquifer located in the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 30 for the irrigation of 172 acres located in portions of Section 12 and 13; all in T32N-R4E in Vermillion township. This application proposes to irrigate an additional 17 acres located within Parcel B of Lot 1 in Section 12; and Parcel C and E  $\frac{1}{2}$  Lot 1 in Section 13; Heine Addition and Island Farm Addition in Sections 11 and 12; all in T32N-R4E, Vermillion Township. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8706-3 proposes to irrigate 48.5 acres using one existing well (120 feet deep) authorized by Water Permit Nos. 7578-3 and 7980-3. Water Permit Nos. 7578-3 and 7980-3 collectively authorize a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 21 for the irrigation of 85 acres located in the S  $\frac{1}{2}$  NW  $\frac{1}{4}$ , N  $\frac{1}{2}$  SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 21; all in T92N-R51W. This application proposes to irrigate an additional 48.5 acres located within Heine Lot 1 and 2 in the E  $\frac{1}{2}$  of Section 20 and Tract 1 Heine Addition, NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 21; all in T92N-R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile east of Vermillion, SD.

Water Permit Application No. 8707-3 proposes to irrigate 58 acres using two existing wells (approximately 115 feet deep) authorized by Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3. Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3 collectively authorize a



maximum instantaneous diversion rate of 3.88 cfs from two wells completed into the Missouri: Elk Point aquifer for the irrigation 282 acres located in portions of Section 25-T92N-R52W and Sections 30 and 31; both in T92N-R51W or as described in the Nebraska survey property description; Sutterland Farm in Sections 10, 11, 14, and 15; NE  $\frac{1}{4}$ , E  $\frac{1}{2}$  SE  $\frac{1}{4}$  of Section 14; Island Farm and Heine Addition in Sections 11 and 12; and within parcel described as West 12 acres of Lot 2 and Lots 3 and 4 of Section 13; all in T32N-R4E, Vermillion township. This application proposes to irrigate an additional 58 acres located in portions of Island Farm Addition in Sections 11 and 12; Lot 1; N  $\frac{1}{2}$  NE  $\frac{1}{4}$  of Section 14; W  $\frac{1}{2}$  Lot 1 and West 40 acres of Lot 2 in Section 13; all in T32N-R4E of the Nebraska survey in Vermillion township. This application also identifies the correct locations of the two wells utilized to irrigate the above-described lands. The two wells are located in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  and W  $\frac{1}{2}$  SW  $\frac{1}{4}$  of Section 30-T92N-R51W; or, as based on the Nebraska Survey, in the Island Farm Addition in Sections 11 and 12; and near the boundary between the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  and SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 14; both in T32N-R4E, Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8708-3 proposes to irrigate 15 acres using one existing well (95 feet deep) authorized by Water Right No. 2053-3. Water Right No. 2053-3 authorizes a maximum instantaneous diversion rate of 10.22 cfs from five existing wells completed into the Missouri: Elk Point aquifer for the irrigation of 929 acres located in portions of Section 33-T92N-R51W and Sections 11, 12, 13, 23, and 24; all in T32N-R4E (Nebraska Survey). The well proposed to be used to irrigate the additional acres and the additional acres are located in the accretion lying E & S Lots 2, 3, and 4 to Vermillion River Section 13-T32N-R4E and accretion to Section 24 lying E & S of Lot 1 to section line, Section 24-T32N-R4E in Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8714-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 100 feet deep) located in the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 22 for the irrigation of 34 acres located in the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 22; all in T92N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately 0.5 miles west of Vermillion, SD.

Water Permit Application No. 8715-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 120 feet deep) for the irrigation of 29 acres, all located in portions of Lot D of Frost Tract 1 SW  $\frac{1}{4}$  and SE  $\frac{1}{4}$  of Section 15-T32N-R4E and NW  $\frac{1}{4}$  and NE  $\frac{1}{4}$  of Section 22-T32N-R4E. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately two miles south of Vermillion, SD.

**AQUIFER:** Missouri: Elk Point (M: EP)



## **HYDROGEOLOGY:**

The Missouri: Elk Point aquifer is a glacial outwash deposit 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 hydrologically connected to the Lower Vermillion Missouri and Lower James Missouri aquifers, and the Big Sioux, James, Missouri, and Vermillion Rivers (Niehus, 1994; Stephens, 1967).

The Missouri: Elk Point aquifer is generally under confined conditions in the northwestern part of the aquifer and 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).

**8700-3:** A well completion report is on file for the existing well (authorized by Water Right No. 1006-3) proposed to be used by Water Permit Application No. 8700-3 (Water Rights, 2023c). The report identifies a sand deposit from 68 to 100 feet below the ground surface for a well completed around September 5, 1960. The Missouri: Elk Point aquifer is unconfined at the existing well site for the well referenced above (Water Rights, 2023c).

**8701-3:** A well completion report is on file for the existing well (authorized by Water Permit No. 6993-3) proposed to be used by Water Permit Application No. 8701-3 (Water Rights, 2023c and 2023d). The report identifies a sand and gravel deposit from 53 to 103 feet below the ground surface. The well was screened from 60 to 100 feet and had a static water level of approximately 21 feet at the time of well completion (May 3, 2007) (Water Rights, 2023d). The Missouri: Elk Point aquifer is confined at the existing well site for the well referenced above (Water Rights, 2023c and 2023d).

**8702-3:** A well completion report is on file for the existing well (authorized by Water Right No. 5435-3) proposed to be used by Water Permit Application No. 8702-3 (Water Rights, 2023c and 2023d). The report identifies a gravel deposit from 70 to 95 feet below the ground surface. The well was screened from 75 to 95 feet and had a static water level of approximately 19 feet at the time of well completion (May 14, 1970) (Water Rights, 2023d). The Missouri: Elk Point aquifer is confined at the existing well site for the well referenced above (Water Rights, 2023c and 2023d).

**8703-3:** A well completion report is on file for the existing well (authorized by Water Permit No. 7297-3) proposed to be used by Water Permit Application No. 8703-3 (Water Rights, 2023c and 2023d). The report identifies a gravel deposit from 57 to 87 feet below the ground surface. The well was screened from 50 to 70 feet and had a static water level of approximately 19 feet at the time of well completion (January 3, 2013) (Water Rights, 2023d). The Missouri: Elk Point aquifer is confined at the existing well site for the well referenced above (Water Rights, 2023c and 2023d).



**8704-3:** A well completion report is on file for the existing well (authorized by Water Right No. 1624-3) proposed to be used by Water Permit Application No. 8704-3 (Water Rights, 2023c and 2023d). The report identifies a gravel deposit from 45 to 116 feet below the ground surface (Water Rights, 2023d). The well was screened from 76 to 116 feet and had a static water level of approximately 18 feet at the time of well completion (July 8, 1978) (Water Rights, 2023d). The Missouri: Elk Point aquifer is confined at the existing well site for the well referenced above (Water Rights, 2023c and 2023d).

**8705-3:** A well completion report is on file for the existing well (authorized by Water Right No. 6679-3 and Water Permit No. 7301-3) proposed to be used by Water Permit Application No. 8705-3 (Water Rights, 2023c). The report identifies a sand & gravel deposit from 55 to 102 feet below the ground surface, and an approximate static water level of 22 feet at the time of well completion (October 10, 1998). The Missouri: Elk Point aquifer is confined at the existing well site for the well referenced above (Water Rights, 2023c).

**8706-3:** A well completion report is on file for the existing well (authorized by Water Permit No. 7578-3 and 7980-3) proposed to be used by Water Permit Application No. 8706-3 (Water Rights, 2023c and 2023d). The report identifies a gravel deposit from 14 to 120 feet below the ground surface (Water Rights, 2023d). The well was screened from 40 to 120 feet and had a static water level of approximately 20 feet at the time of well completion (February 23, 2015) (Water Rights, 2023d). The Missouri: Elk Point aquifer is unconfined at the existing well site for the well referenced above (Water Rights, 2023c and 2023d).

**8707-3:** Well completion reports are on file for the two existing wells (authorized by Water Permit No. 5471-3, 5639-3, 6059-3, and 7300-3) proposed to be used by Water Permit Application No. 8707-3 (Water Rights, 2023c and 2023d). The first report identifies a sand and gravel deposit from 45 to 115 feet below the ground surface. The well was screened from 75 to 115 feet and had a static water level of approximately 20 feet at the time of well completion (April 26, 1997) (Water Rights, 2023d). The second report identifies sand and gravel deposits from 17 to 106 feet below the ground surface. The well was screened from 73 to 113 feet and had a static water level of approximately 22 feet at the time of well completion (April 2, 2002) (Water Rights, 2023d). The Missouri: Elk Point aquifer is confined at the existing well locations for the wells referenced above (Water Rights, 2023c and 2023d).

**8708-3:** A well completion report is on file for the existing well (authorized by Water Right No. 2053-3) proposed to be used by Water Permit Application No. 8708-3 (Water Rights, 2023c and 2023d). The report identifies a sand and gravel deposit from 75 to 95 feet below the ground surface for a well completed around June 6, 1975, with an approximate static water level of 15 feet below the ground surface (Water Rights, 2023d). The Missouri: Elk Point aquifer is confined at the existing well location for the well referenced above (Water Rights, 2023c and 2023d).

**8714-3:** No water well or test hole completion report was submitted with Water Permit Application No. 8714-3. Water well completion reports on file with the DANR-Water Rights Program for wells completed into the Missouri: Elk Point aquifer within approximately one mile of the proposed diversion point have saturated aquifer thicknesses ranging from approximately



20 to 40 feet, with the depth to the top of aquifer materials ranging from approximately 10 to 20 feet below the ground surface, and static water levels at well completion varying from approximately 10 to 20 feet below the ground surface (Water Rights, 2023d). The Missouri: Elk Point aquifer is expected to be unconfined at the proposed diversion point based on the nearby well completion reports on file (Water Rights, 2023d).

**8715-3:** No water well or test hole completion report was submitted with Water Permit Application No. 8715-3. Water well completion reports on file with the DANR-Water Rights Program for wells completed into the Missouri: Elk Point aquifer within approximately one mile of the proposed diversion point have saturated aquifer thicknesses ranging from approximately 20 to 40 feet, with the depth to the top of aquifer materials ranging from approximately 15 to 30 feet below the ground surface, and static water levels at well completion varying from approximately 15 to 30 feet below the ground surface (Water Rights, 2023b and 2023d). The Missouri: Elk Point aquifer is expected to be unconfined at the proposed diversion point based on the well completion reports on file, and lithologic logs on file for nearby observation wells (Water Rights, 2023b and 2023d).

Figure 1 displays a map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges et al., 1982) and the existing well locations for Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, and 8708-3, and the proposed diversion points for Water Permit Application Nos. 8714-3 and 8715-3 (Water Rights, 2023c and 2023d).

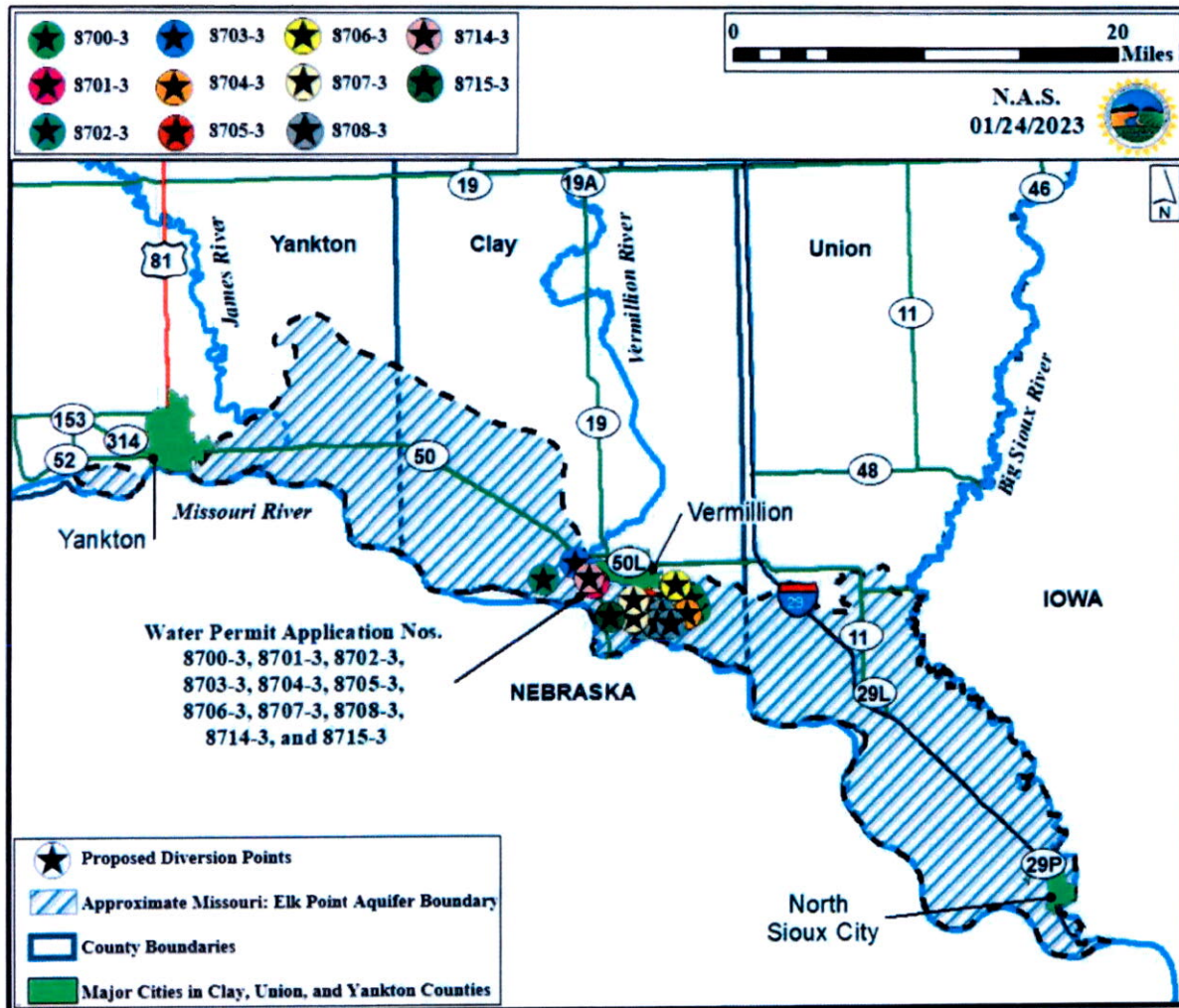
#### **South Dakota Codified Law (SDCL) 46-2A-9**

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 Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3 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.



**Figure 1.** Map of the approximate Missouri: Elk Point aquifer boundary modified from Hedges and others (1982) with the existing well locations and proposed diversion points for Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3 (Water Rights, 2023c and 2023d)



## **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 (Condley and Lamkey, 2022; Niehus, 1994 and 1997).

Several studies have been completed to estimate average annual recharge to the Missouri: Elk Point aquifer (Condley and Lamkey, 2022; Hedges et al., 1985; Mathiowetz, 2022; Stephens, 1967; Stonesifer, 2013). A discussion of these studies is available in the hydrologic budget section within the report for Water Permit Application No. 8614-3 - Lewis & Clark Regional Water System completed by Mathiowetz (2022). Collectively, the estimated average annual recharge rate to the Missouri: Elk Point aquifer is approximately 114,593.9 acre-feet per year assuming full development of the existing water rights/permits held by Lewis & Clark Regional Water System and their pending application (8614-3) (Mathiowetz, 2022).

### **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, James, Missouri, and Vermillion Rivers during periods of low flow and stage, and leakage to the underlying Dakota aquifer (Niehus, 1994 and 1997; Water Rights, 2023c).

Currently, there are 632 water rights/permits authorized to appropriate water from Missouri: Elk Point aquifer, plus three pending applications (with priority dates senior to these applications) – Water Permit Application No. 8682-3 requests to irrigate 21 acres in Clay County, Water Permit Application No. 8691-3 requests to irrigate 98 acres in Clay County, and Water Permit Application No. 8614-3, applied for by Lewis & Clark Regional Water System, requests to appropriate up to 8,277 acre-feet per year (Water Rights, 2023c).

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, 2023c). For the purpose of estimating average annual withdrawals, the future use permits are assumed to be fully developable for a total of 1,900 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 DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2023c).

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, 2023c). 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 annual use by Water Permit No. 5998-3 with their other rural water system Missouri: Elk Point aquifer permits, listed on Table 2 (Water Rights, 2023c).

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, 2023; Water Rights, 2023c); 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, 2023c). It is assumed that the only consumptive use of this water is due to evaporation (Water Rights, 2023c). 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 62,371 acre-feet per year (Table 1) (Water Rights, 2023c and 2023f).



**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, 2023; Water Rights, 2023c and 2023f)

| 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                                                                                                                                      | Cimpls Inc                                  | LC     | 01/31/1992    | COM      | 0.44                            |                                           | 191.3                                |
| 5827-3                                                                                                                                      | Don Lantis                                  | 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                            |                                           | 291.2                                |
| 6580-3                                                                                                                                      | West Shores Acres LLC                       | LC     | 01/28/2005    | COM      | 0.10                            |                                           | 43.5                                 |
| 8031-3                                                                                                                                      | Dakota Protein Conversion Inc               | PE     | 06/18/2014    | COM      | 0.22                            |                                           | 96                                   |
| 8147-3                                                                                                                                      | Doug Lafleur                                | PE     | 04/06/2015    | COM, LCO | 1.0                             | 160                                       | 160                                  |
| 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                            |                                           | 339                                  |
| 7388-3                                                                                                                                      | Clay RWS Inc                                | PE     | 07/30/2012    | DOM, IRR | 2.0                             |                                           | 346.2                                |
| 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                            |                                           | 1,643                                |
| 6733-3                                                                                                                                      | US Fish and Wildlife Service                | LC     | 06/07/2006    | FWP      | 1.11                            |                                           | 482.5                                |
| 7094-3                                                                                                                                      | US Fish and Wildlife Service                | LC     | 12/01/2008    | FWP      | 2.67                            |                                           | 1,160.6                              |
| 5021-3                                                                                                                                      | Vishay-Dale Electronics Inc                 | LC     | 05/04/1984    | IND      | 0.10                            |                                           | 43.5                                 |
| 5388-3                                                                                                                                      | LG Everist Inc                              | LC     | 01/30/1990    | IND      | 0.45                            |                                           | 195.6                                |
| 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                           |                                           | 96.5                                 |
| 1255-3                                                                                                                                      | City of Elk Point                           | LC     | 01/01/1914    | MUN      | 1.13                            |                                           | 491.2                                |
| 143-3                                                                                                                                       | City of Vermillion                          | LC     | 01/21/1956    | MUN      | 1.78                            |                                           | 773.7                                |
| 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                           |                                           | 9.6                                  |
| 1965-3                                                                                                                                      | Town of Gavville                            | LC     | 01/01/1914    | MUN      | 0.37                            |                                           | 0*                                   |
| 4207-3                                                                                                                                      | Town of Jefferson                           | LC     | 01/01/1916    | MUN      | 0.90                            |                                           | 391.2                                |
| 5118-3                                                                                                                                      | Town of Gavville                            | LC     | 01/28/1987    | MUN      | 0.33                            |                                           | 0*                                   |
| 5437-3                                                                                                                                      | Dakota Dunes Community Improvement District | LC     | 04/12/1990    | MUN      | 3.33                            |                                           | 2,412                                |
| 5782-3                                                                                                                                      | City of North Sioux City                    | LC     | 08/12/1993    | MUN      | 1.14                            |                                           | 495.5                                |
| 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*                                   |
|                                                                                                                                             |                                             |        |               |          |                                 | <b>TOTAL:</b>                             | <b>62,371</b>                        |
| *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                                                 |                                             |        |               |          |                                 |                                           |                                      |



Of the 42 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire), there are 15 non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer (Water Rights, 2023c and 2023f).

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, 2023c). 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, 2023c and 2023f). 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, 2023c), and only three years of reported withdrawals (Water Rights, 2023f). 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. The estimated average annual withdrawal rate for these permits is listed on Table 1.

Next, the reported use for the City of Yankton (8212-3) and Lewis and Clark Regional Water System (6736-3, 7207-3, and 8613-3) (as shown on Table 2) is steadily increasing (Water Rights, 2023f), as these water users are continually undergoing development (Water Rights, 2023c). 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, 2023c).

The annual withdrawal rate for Clay Rural Water System Inc (Permit Nos. 5998-3, 5998A-3, and 7388-3) averaged over the last ten years (approximately 346 acre-feet per year) is more reflective of current usage than the entire period of record of reported withdrawals because the first few years the permit holder reported values were during a construction period (Water Rights, 2023c and 2023f). The average annual withdrawal rate based off the reported annual withdrawal rates averaged from 2012 to 2021 on Table 2 for these water permits will be used in this analysis.

Lastly, the annual withdrawal rates for 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, 2023c and 2023f); 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 over the period of record on Table 2 for these water rights/permits will be used in this analysis.



Report on Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3

**Table 2.** Non-irrigation water rights/permits required to report their respective annual use from the Missouri: Elk Point aquifer (Water Rights, 2023c and 2023f)

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

RWS: Rural Water System \*Excluded reported zero values

Currently, there are 591 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus two pending applications – Water Permit Application No. 8682-3 requesting to irrigate 21 acres and Water Permit Application No. 8691-3 requesting to irrigate 98 acres (Water Rights, 2023c). 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 18,703 acre-feet per year (Table 3) (Water Rights, 2023a). 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 27,247 acre-feet per year (Table 3) (Water Rights, 2023a).

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, 2023c), resulting in only 589 of the Missouri: Elk Point aquifer irrigation water rights/permits being currently required to submit an annual irrigation questionnaire (Water Rights, 2023c).

Additionally, Water Right No. 6110-3 is authorized to divert water from a well completed into the Dakota aquifer and pump the water into two ponds that receive incidental surface runoff and possible groundwater inflow from the Missouri: Elk Point aquifer (Water Rights, 2023c). Water Right No. 6110-3 is included in the 591 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer; however, the estimated use for this permit is assumed to be negligible to the overall hydrologic budget due to the minimal amount of water from the Missouri: Elk Point aquifer the permit holder is expected to withdraw. When omitting Water Right No. 6110-3 and Water Permit Nos. 5998-3 and 5998A-3 from this analysis of Missouri: Elk Point aquifer irrigation water rights/permits, 588 water rights/permits remain.

Table 3 lists only 572 water rights/permits as reporting in 2021 (Water Rights, 2023a and 2023c). These 572 water rights/permits listed as reporting in 2021 includes eight water rights/permits (Nos. 3722-3, 5658A-3, 6940-3, 6941-3, 7066-3, 7447-3, 7663-3, and 7800-3) that were incorporated into another water right or cancelled in 2022 (Water Rights, 2023c), resulting in only 564 of the water rights/permits listed as reporting in 2021 being currently active.

Twenty-four water permits/rights did not submit an irrigation questionnaire form in 2021 that are currently active, accounting for the difference between the 564 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 and annual use being estimated in this analysis (Water Rights, 2023a and 2023c). Of these 24 permits, 21 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 24 water permits/rights are authorized to irrigate approximately 2,595 acres (Water Rights, 2023c).



**Table 3.** Reported historic irrigation use from Missouri: Elk Point aquifer (Water Rights, 2023a)

| <b>Year</b>               | <b>No. of Permits Reporting</b> | <b>Reported Pumpage (acre-feet)</b> |
|---------------------------|---------------------------------|-------------------------------------|
| 1979                      | 259                             | 10,258                              |
| 1980                      | 263                             | 14,937                              |
| 1981                      | 297                             | 13,931                              |
| 1982                      | 269                             | 19,143.1                            |
| 1983                      | 273                             | 11,081                              |
| 1984                      | 281                             | 9,605.5                             |
| 1985                      | 282                             | 14,020.7                            |
| 1986                      | 286                             | 6,324.8                             |
| 1987                      | 281                             | 13,369                              |
| 1988                      | 282                             | 28,558.1                            |
| 1989                      | 292                             | 25,904.3                            |
| 1990                      | 297                             | 19,508                              |
| 1991                      | 300                             | 18,877.7                            |
| 1992                      | 295                             | 1,895                               |
| 1993                      | 298                             | 1,475.2                             |
| 1994                      | 295                             | 10,314.9                            |
| 1995                      | 292                             | 18,761.3                            |
| 1996                      | 296                             | 9,473.6                             |
| 1997                      | 305                             | 17,236                              |
| 1998                      | 313                             | 11,079.5                            |
| 1999                      | 308                             | 14,877                              |
| 2000                      | 309                             | 26,551                              |
| 2001                      | 313                             | 19,115.2                            |
| 2002                      | 315                             | 23,326.9                            |
| 2003                      | 314                             | 27,007                              |
| 2004                      | 322                             | 24,309                              |
| 2005                      | 335                             | 24,206.1                            |
| 2006                      | 353                             | 27,943.3                            |
| 2007                      | 366                             | 30,652                              |
| 2008                      | 396                             | 16,439                              |
| 2009                      | 410                             | 6,346                               |
| 2010                      | 419                             | 2,906.9                             |
| 2011                      | 431                             | 12,330                              |
| 2012                      | 445                             | 56,994.7                            |
| 2013                      | 543                             | 35,090.5                            |
| 2014                      | 557                             | 12,423.5                            |
| 2015                      | 563                             | 17,884.1                            |
| 2016                      | 564                             | 27,869.3                            |
| 2017                      | 567                             | 37,209.9                            |
| 2018                      | 570                             | 9,160.7                             |
| 2019                      | 575                             | 8,736.3                             |
| 2020                      | 570                             | 26,601                              |
| 2021                      | 572                             | 40,503.4                            |
| <b>Min</b>                | <b>259</b>                      | <b>1,475.2</b>                      |
| <b>Max</b>                | <b>575</b>                      | <b>56,994.7</b>                     |
| <b>Avg (1979 to 2021)</b> | <b>369</b>                      | <b>18,703</b>                       |
| <b>Avg (2012 to 2021)</b> | <b>553</b>                      | <b>27,247</b>                       |

Farmer (2018a, 2018b, and 2021) analyzed the amount of water pumped per permitted acre for the period from 1979 to 2005. This period was chosen due to the relatively stable number of permitted acres across the entire period. There was a continual annual increase in the number of permitted acres from 2006 to 2013/2014. Since 2013/2014 the total number of permitted acres has been relatively stable (Mathiowetz, 2022; Water Rights, 2023c). Farmer (2021) determined that it would be best to separate the review of pumpage per permitted acres between crops, such as corn and soybeans, and turf, such as golf courses and lawn irrigation, to describe the pumpage more accurately per permitted acres. Turf irrigation typically requires more water per acre annual than crop irrigation. Mathiowetz (2022) determined over the entire period of record (1979 through 2021), the crop application rate per permitted acre is 0.331 feet per year (3.97 inches per year), and 0.908 feet per year for turf (10.9 inches per year) (Water Rights, 2023a and 2023c).

Currently, there are approximately 82,276.6 acres authorized to be irrigated from the Missouri: Elk Point aquifer (plus two pending irrigation applications – Water Permit Application No. 8682-3 requesting to crop irrigate 21 acres and Water Permit Application No. 8691-3 requesting to crop irrigate 98 acres), with 809.6 of those acres authorized for turf irrigation (Water Rights, 2023c). Table 4 contains the turf irrigation permits with their respective authorized permitted acres and an estimated average annual use based on Mathiowetz’s (2022) application rate per permitted acre (Water Rights, 2023c). By multiplying the application rate of 0.908 feet per acre per year (Mathiowetz, 2022) by the 809.6 acres being turf irrigated (Water Rights, 2023c), the annual use for turf irrigation yields approximately 735.1 acre-feet per year (Table 4). By multiplying the application rate of 0.331 feet per acre per year (Mathiowetz, 2022) by the 81,467 (total acres minus turf irrigated acres) acres being crop irrigated (Water Rights, 2023c), plus the pending applications – Water Permit Application No. 8682-3 requesting to crop irrigate 21 acres and Water Permit Application No. 8691-3 requesting to crop irrigate 98 acres, the annual use for crop irrigation yields approximately 27,005 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 Mathiowetz’s (2022) application rates is approximately 27,740 acre-feet per year.

**Table 4.** Water rights/permits authorized for irrigation of turf (Water Rights, 2023c)

| Permit No.    | Name                                          | Status | County  | Acres        | Total Estimated Use (acre-feet/year) |
|---------------|-----------------------------------------------|--------|---------|--------------|--------------------------------------|
| 1294-3        | Recreation Development Assn. Inc.             | LC     | Union   | 102          | 92.6                                 |
| 2011-3        | TR Golf LLC                                   | LC     | Union   | 95           | 86.3                                 |
| 5786-3        | Dakota Dunes Golf Course                      | LC     | Union   | 173          | 157.1                                |
| 5998-3        | Clay Rural Water System Inc                   | PE     | Union   | 300          | 272.4                                |
| 5998A-3       | Clay Rural Water System Inc                   | PE     | Union   | 0            | 0                                    |
| 5935-3        | Ted Waitt                                     | LC     | Union   | 1            | 0.908                                |
| 5936-3        | Applied Engineering                           | LC     | Yankton | 1.8          | 1.6                                  |
| 8010-3        | Ryan Rusher                                   | LC     | Yankton | 2.5          | 2.3                                  |
| 8029-3        | Dakota Dunes Comm Improvement District        | PE     | Union   | 17.8         | 16.2                                 |
| 8040-3        | Heine Electric & Irrigation Inc               | LC     | Clay    | 1            | 0.908                                |
| 8354-3        | TR Golf LLC                                   | PE     | Union   | 30           | 27.24                                |
| 8407-3        | Gayville-Volin School District 63-1           | LC     | Yankton | 4.5          | 4.1                                  |
| 8530-3        | National Field Archery Association Foundation | LC     | Yankton | 16           | 14.5                                 |
| 8560-3        | TR Golf LLC                                   | PE     | Union   | 65           | 59                                   |
| <b>TOTAL:</b> |                                               |        |         | <b>809.6</b> | <b>735.1</b>                         |



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, 2023d). 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

The average annual recharge rate to the Missouri: Elk Point aquifer is approximately 114,593.9 acre-feet per year. The average annual withdrawal rate for the water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer totals approximately 100,431 acre-feet per year (including the estimated use for Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3, if approved) (listed on Table 5). 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, 2023a, 2023c, and 2023f)

| <b>Type of Water Right/Permit</b>                                                                                                                                                                 | <b>Estimated Use (acre-feet/year)</b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| Future Use Reservations                                                                                                                                                                           | 1,900                                 |
| Non-Irrigation                                                                                                                                                                                    | 62,371                                |
| Pending Application No. 8614-3 (Lewis and Clark Regional Water System)                                                                                                                            | 8,277                                 |
| Irrigation (Mathiowetz's (2022) turf and crop application rates) including pending applications: Nos. 8682-3 and 8691-3                                                                           | 27,740                                |
| Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3 (if approved, using Mathiowetz's (2022) crop application rate of 0.331 feet per acre) | 143.3                                 |
| <b>TOTAL:</b>                                                                                                                                                                                     | <b>100,431</b>                        |

### 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.

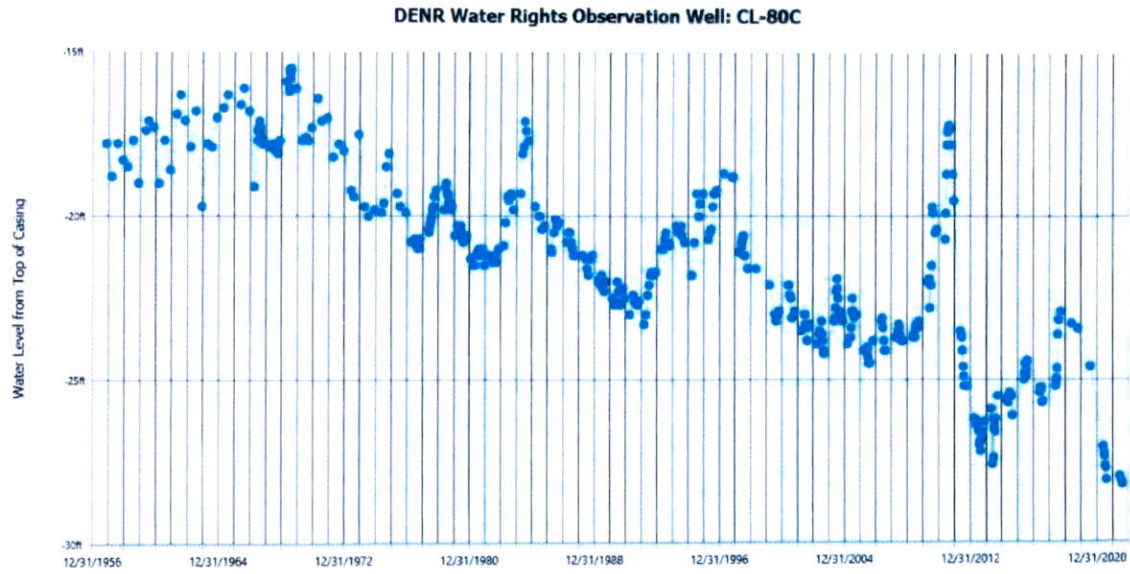


Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DNR-Water Rights Program monitors 36 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2023b). The four closest observation wells to the existing wells the applicant proposes to use for Water Permit Application Nos. 8700-3 to 8708-3 and proposed diversion points for Water Permit Application Nos. 8714-3 and 8715-3 are CL-80C (approximately 0.2 miles to five miles), CL-80D (approximately 0.3 miles to eight miles), CL-80E (approximately two miles to ten miles), CL-80B (approximately four miles to twelve miles) (Water Rights, 2023b). The hydrographs for these observation wells are displayed in Figures 2 to 5 (Water Rights, 2023b). 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.

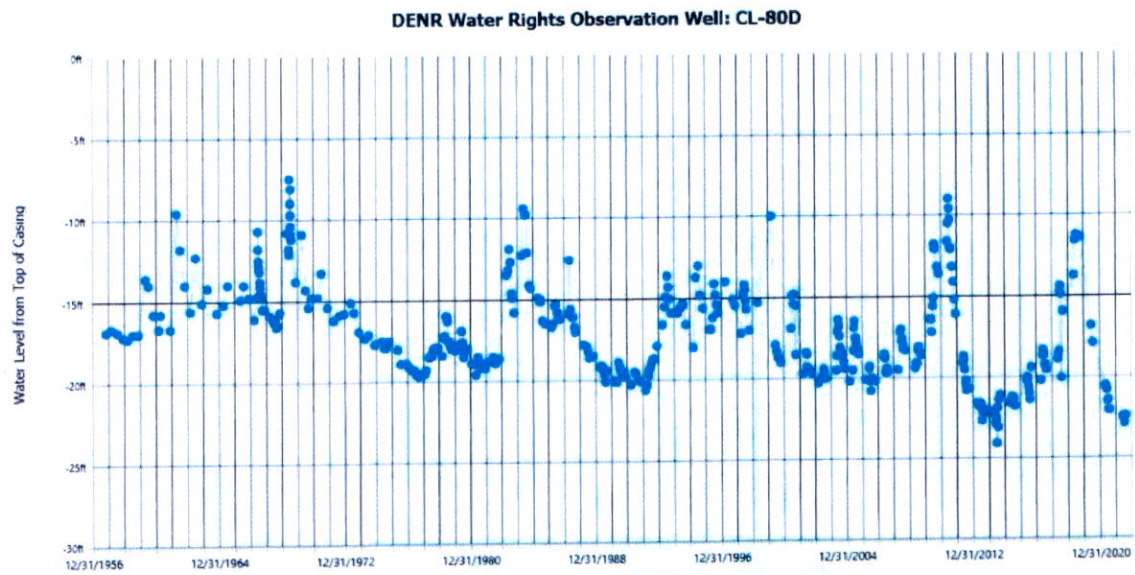
The hydrographs for the observation wells display generally stable water levels over their respective periods of record, with the exception of observation well CL-80C. The hydrographs for the Missouri: Elk Point aquifer indicate that the aquifer responds well to climatic conditions because water levels 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 water 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.

Several of the Missouri: Elk Point aquifer observation well hydrographs show a gradual long-term downward trend especially those close to the Missouri River, such as observation well CL-80C (Water Rights, 2023b). This downward trend is caused by entrenchment of the Missouri River riverbed and in some places a widening of the channel leading to lower water levels despite the river having the same rate of flow (Elliott and Jacobson, 2022). The lowering of the water level in the Missouri River downstream of the Gavins Point dam and the subsequent lowering of the water level of Missouri: Elk Point aquifer observation wells in close proximity to the river show the strong hydrologic connection between the Missouri River and the Missouri: Elk Point aquifer. This is demonstrated by the very similar water levels between the aquifer and river as shown in the hydrographs in Figures 2 to 6. The lowering of the water levels in the aquifer, especially in close proximity to the Missouri River, is not a sign of over appropriation of the Missouri: Elk Point aquifer. The observation well water levels simply show the connection between the river and the aquifer and how the aquifer reacts to climatic conditions without showing any long-term effects from pumping. Therefore, there is a reasonable probability unappropriated water is available for these proposed appropriations.

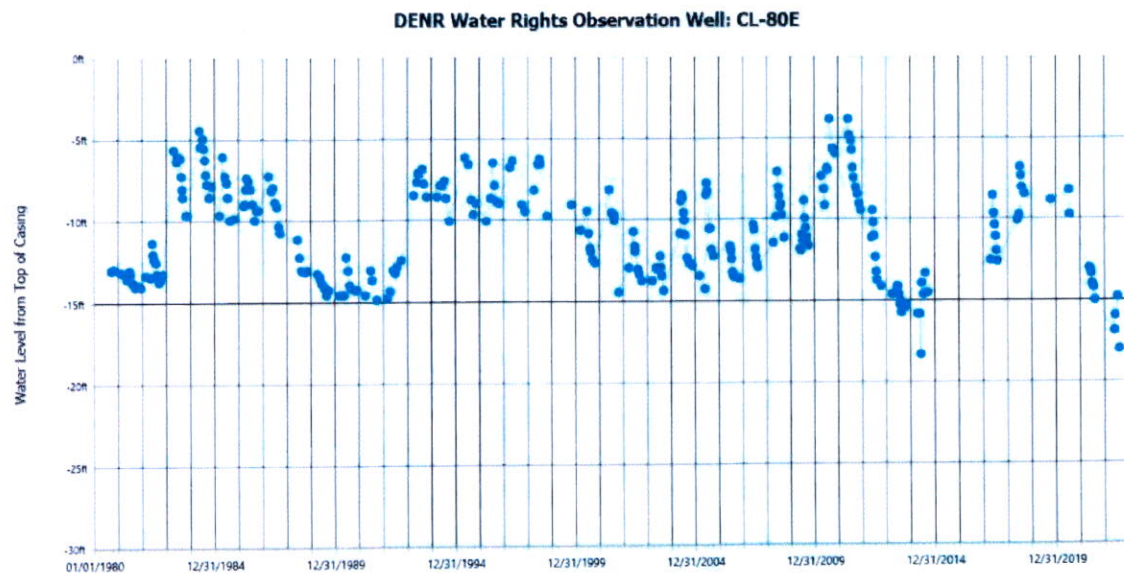




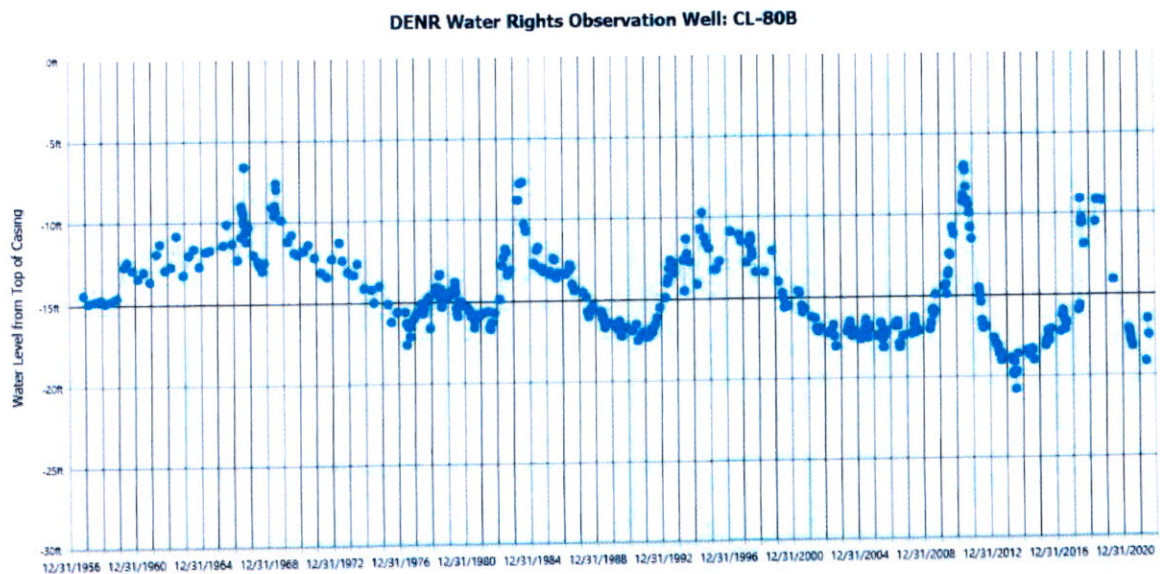
**Figure 2.** Hydrograph for observation well CL-80C (Water Rights, 2023b)



**Figure 3.** Hydrograph for observation well CL-80D (Water Rights, 2023b)



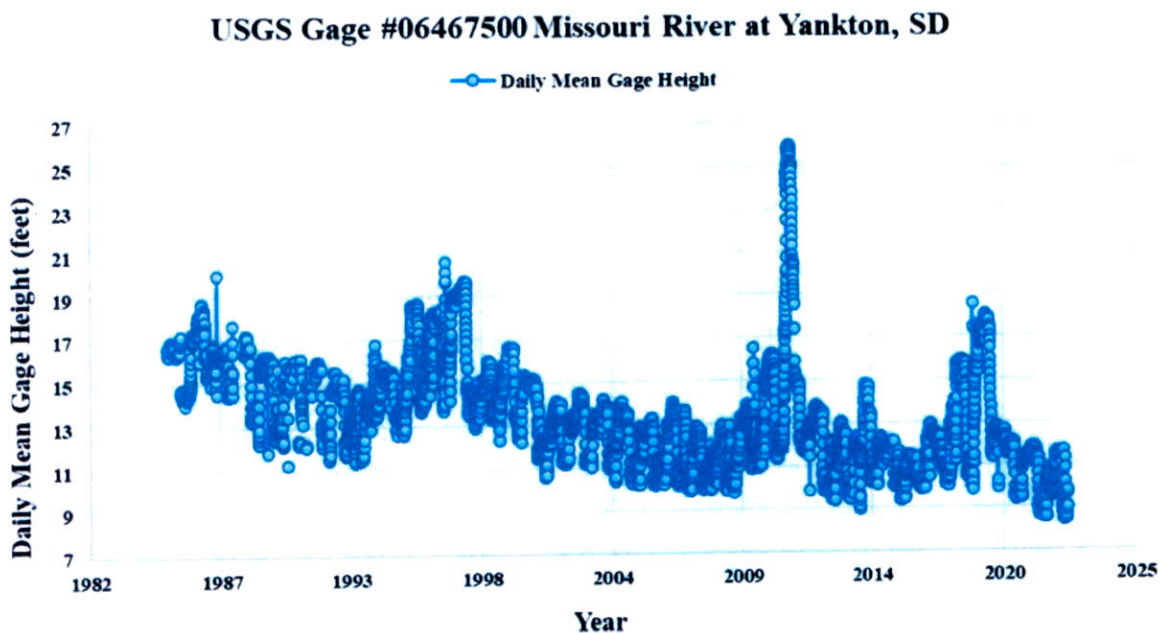
**Figure 4.** Hydrograph for observation well CL-80E (Water Rights, 2023b)



**Figure 5.** Hydrograph for observation well CL-80B (Water Rights, 2023b)



The United States Geological Survey (USGS) maintains Stream Gage #06467500, located on the Missouri River at Yankton, SD, and the hydrograph for this gage is shown in Figure 6 (USGS, 2023). By comparing the hydrograph for Stream Gage #06467500 to the observation well hydrographs of the Missouri: Elk Point aquifer (Figures 2 to 5), both show the river and aquifer react to climatic conditions by rising and falling over similar trends (USGS, 2023; Water Rights, 2023b). 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, 2023b). This indicates there is a hydrologic 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 6.** Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 1985 to 2023 (USGS, 2023)

### **POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:**

Currently, there are 632 water rights/permits authorized to appropriate water from Missouri: Elk Point aquifer, plus three pending applications – Water Permit Application Nos. 8682-3, 8691-3, and 8614-3 (Water Rights, 2023c). Figure 7 displays a map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges et al., 1982) and the existing well locations for Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, and 8708-3, and the proposed diversion points for Water Permit Application Nos. 8714-3 and 8715-3 (Water Rights, 2023c and 2023d), and the nearby Missouri: Elk Point aquifer water rights/permits and observation wells (Water Rights, 2023b and 2023c).



For Water Permit Application No. 8700-3, the closest water right/permit to the existing well locations is Water Right No. 6310-3, which is held by Nels J Sorenson. The diversion point for Water Right No. 6310-3 is located approximately 0.3 miles northwest of the existing wells proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 0.2 miles west of the nearest existing well location (Water Rights, 2023d).

For Water Permit Application No. 8701-3, the closest water right/permit to the existing well locations is Water Right No. 6804B-3, which is held by Adirondack Farmland Holdings GP. The diversion point for Water Right No. 6804B-3 is located approximately 0.4 miles southwest of the existing wells proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 southeast of the nearest existing well location (Water Rights, 2023d).

For Water Permit Application No. 8702-3, the closest water right/permit to the existing well location is Future Use Permit No. 6869-3, which is held by Lewis & Clark Regional Water System. The diversion point for Future Use Permit No. 6869-3 is located approximately 0.3 miles north of the existing well proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 1.1 miles northeast of the existing well location (Water Rights, 2023d).

For Water Permit Application No. 8703-3, the closest water rights/permits to the existing well location is Water Right No. 8304-3, which is held by Don Schell Family LLP. The diversion point for Water Right No. 8304-3 is located approximately 0.8 miles north of the existing well proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 0.2 miles south of the existing well location (Water Rights, 2023d).

For Water Permit Application No. 8704-3, the closest water rights/permits to the existing well location is Water Right No. 7835-3, which are held by Don O'Connor. The diversion point for Water Right No. 7835-3 is located approximately 0.4 miles west of the existing well proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 0.7 miles north of the existing well location (Water Rights, 2023d).

For Water Permit Application No. 8705-3, the closest water right/permit to the existing well location is Water Right No. 7677-3, which is held by Wagner Limited Partnership. The diversion point for Water Right No. 7677-3 is located approximately 0.4 miles northwest of the existing well proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 east of the existing well location (Water Rights, 2023d).

For Water Permit Application No. 8706-3, the closest water right/permit to the existing well location is Water Right No. 6310-3, which is held by Nels J Sorenson. The diversion point for Water Right No. 6310-3 is located approximately 0.7 miles southeast of the existing well proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 0.2 miles west of the existing well location (Water Rights, 2023d).

For Water Permit Application No. 8707-3, the closest water rights/permits to the existing well locations are Water Right Nos. 5538-3 and 5541-3, which are held by Nels J Sorenson. The diversion points for Water Right Nos. 5538-3 and 5541-3 are located approximately 0.5 miles west of the existing wells proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 0.2 miles northwest of the nearest existing well location (Water Rights, 2023d).

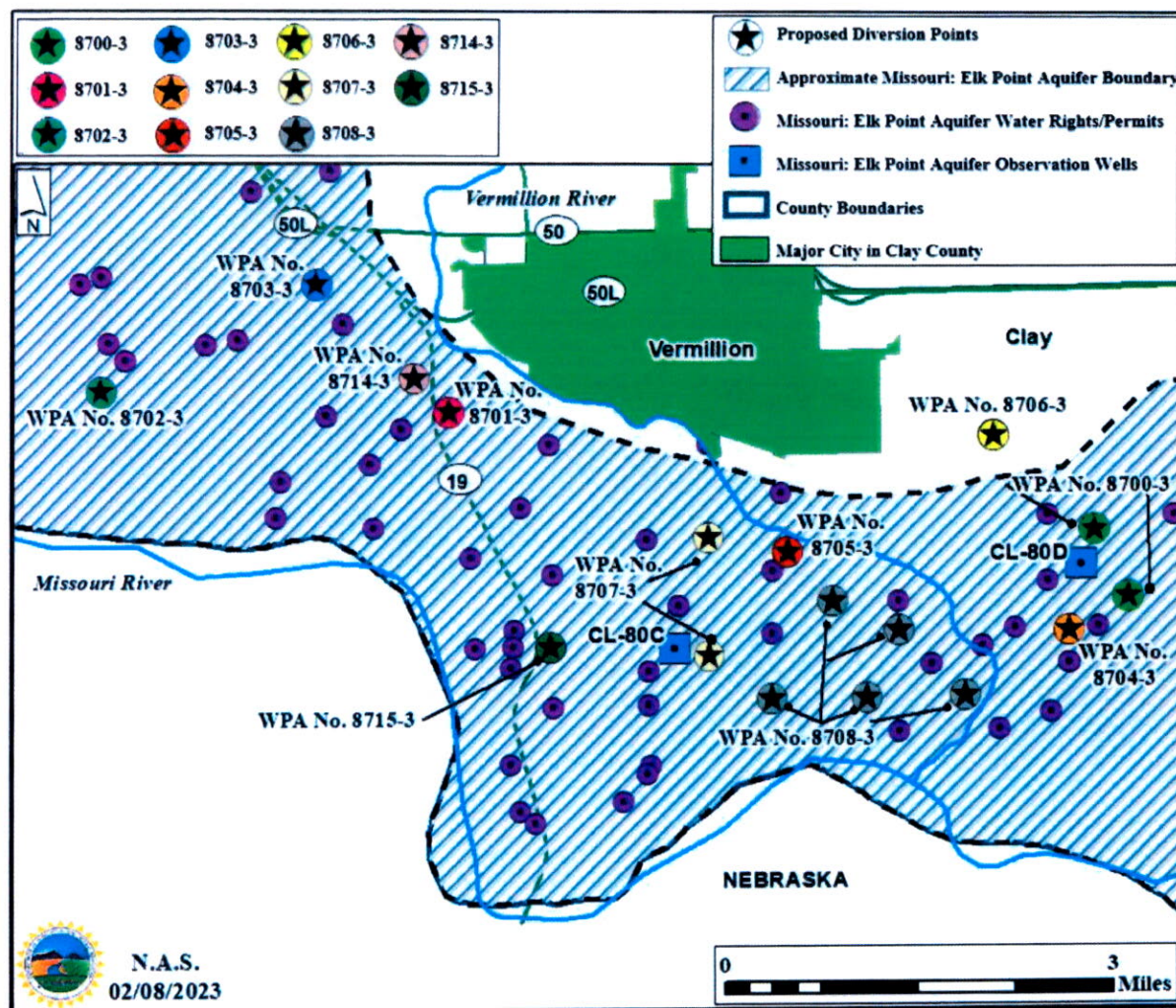
For Water Permit Application No. 8708-3, the closest water right/permit to the existing well locations is Water Right No. 7835-3, which is held by Don O'Connor. The diversion point for Water Right No. 7835-3 is located approximately 0.8 miles east of the existing well proposed to be used for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 0.5 miles southeast of the nearest existing well location (Water Rights, 2023d).

For Water Permit Application No. 8714-3, the closest water right/permit to the proposed diversion point is Water Right No. 6804B-3, which is held by Adirondack Farmland Holdings GP. The diversion point for Water Right No. 6804B-3 is located approximately 0.4 miles southwest of the proposed diversion point for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 northwest of the proposed diversion point (Water Rights, 2023d).

For Water Permit Application No. 8715-3, the closest water right/permit to the proposed diversion point is Water Permit No. 7207-3, which is held by Lewis & Clark Regional Water System. The diversion point for Water Permit No. 7207-3 is located approximately 0.3 miles west of the proposed diversion point for this application (Water Rights, 2023c). There are domestic wells on file with the DANR-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 0.7 miles southeast of the proposed diversion point (Water Rights, 2023d).

There could potentially be other domestic wells completed into the Missouri: Elk Point aquifer near the wells the applicant proposes to use and proposed diversion points that are not on file with the DANR-Water Rights Program.





**Figure 6.** Map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges and others (1982)), with the location of the existing wells and proposed diversion points for Water Permit Application No. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3, and the nearby Missouri: Elk Point aquifer water rights/permits and observation wells (Water Rights, 2023b and 2023c)

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 water well completion reports on file for the existing wells proposed to be used, and lithologic logs on file for nearby observation wells, the Missouri: Elk Point aquifer varies between confined and unconfined conditions at the existing well locations and is expected to be unconfined at the proposed diversion points (SDGS, 2023; Water Rights, 2023b and 2023d). 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, 2023b and 2023c).

Near the existing well locations and proposed diversion points, the Missouri: Elk Point aquifer generally has a saturated aquifer thickness of approximately 20 to 40 feet but can be as much as 80 feet (Water Rights, 2023d). 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 existing and proposed diversions for these applications is not expected to unlawfully impair nearby adequate wells. In Clay, Union, and Yankton Counties, there are no substantiated complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Missouri: Elk Point aquifer (Water Rights, 2023e).

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 existing well locations and proposed diversion points, 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. Additionally, all but two wells proposed to be used by these applications are existing and are presumed to have been in use for several years with no reported well interference complaints (Water Rights, 2023e). Therefore, there is a reasonable probability that any interference from the existing and proposed diversions by Water Permit Application Nos. 8700-3, 8701-3, 8702-3,



8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3 will not impose unlawful impairments on existing users with adequate wells.

**SDCL 46-5-6:**

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of 1.0 cfs per 70 acres, or "the equivalent thereof." The statute does provide that: "The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires..."

If approved, Water Permit Application No. 8714-3 would authorize a maximum instantaneous diversion rate of 0.67 cfs from one well for the irrigation of 34 acres, from April to November, or at a rate of 1.38 cfs per 70 acres. The applicant did not provide a reason for the exceedance, but it appears to be due to a combination of the center pivot size and type of soils being irrigated. The pivot is smaller than a normal, quarter-sized pivot; however, smaller pivots often use a proportionally greater diversion rate to operate properly than their size would indicate is needed. In addition, the soils in the area are sandy requiring a greater application rate due to the high porosity/infiltration rate. These types of reasons fall within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate.

If approved, Water Permit Application No. 8715-3 would authorize a maximum instantaneous diversion rate of 0.67 cfs from one well for the irrigation of 29 acres, from April to November, or at a rate of 1.62 cfs per 70 acres. The applicant did not provide a reason for the exceedance, but it appears to be due to the planned center pivot irrigating fewer acres by only doing a partial rotation. This type of reason falls within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate.

**CONCLUSIONS:**

1. Water Permit Application No. 8700-3 proposes to irrigate 67 acres using one existing well (100 feet deep) authorized by Water Right No. 1006-3. Water Right No. 1006-3 authorizes a maximum instantaneous diversion rate of 2.9 cfs from two wells completed into the Missouri: Elk Point aquifer for the irrigation of 204.2 acres. This application proposes to irrigate an additional 67 acres from the south existing well. If approved, Water Permit Application No. 8700-3 and Water Right No. 1006-3 will collectively authorize a maximum instantaneous diversion rate of 2.9 cfs from two existing wells for the irrigation of 271.2 acres. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.
2. Water Permit Application No. 8701-3 proposes to irrigate 48 acres using one existing well (approximately 100 feet deep) authorized by Water Permit No. 6993-3. Water Right No. 2947-3 and Water Permit No. 6993-3 collectively authorize a maximum instantaneous diversion rate of 3.87 cfs from three wells completed into the Missouri: Elk Point aquifer for the irrigation of 271 acres. This application corrects the location of the well authorized by Water Permit No. 6993-3 which is used to irrigate the 48 additional acres. If approved, Water Permit Application No. 8701-3, Water Right No. 2947-3, and



Water Permit No. 6993-3 will collectively authorize a maximum instantaneous diversion rate of 3.87 cfs from three existing wells for the irrigation of 319 acres. The site of interest is located in Clay County approximately one mile southwest of Vermillion, SD.

3. Water Permit Application No. 8702-3 proposes to irrigate 30 acres using one existing well (95 feet deep) authorized by Water Right No. 5435-3. Water Right No. 5435-3 authorizes a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer for the irrigation of 140 acres. If approved, Water Permit Application No. 8702-3 and Water Right No. 5435-3 will collectively authorize a maximum instantaneous diversion rate of 2.0 cfs from one existing well for the irrigation of 170 acres. The site of interest is located in Clay County approximately three miles west of Vermillion, SD.
4. Water Permit Application No. 8703-3 proposes to irrigate 53 acres using one existing well (110 feet deep) authorized by Water Permit No. 7297-3. Water Permit No. 7297-3 authorizes a maximum instantaneous diversion rate of 1.11 cfs from one well completed into the Missouri: Elk Point aquifer for the irrigation of 80 acres. If approved, Water Permit Application No. 8703-3 and Water Permit No. 7297-3 will collectively authorize a maximum instantaneous diversion rate of 1.11 cfs from one existing well for the irrigation of 133 acres. The site of interest is located in Clay County approximately two miles west of Vermillion, SD.
5. Water Permit Application No. 8704-3 proposes to irrigate 33.5 acres using one existing well (116 feet deep) authorized by Water Right No. 1624-3. Water Right No. 1624-3 authorizes a maximum instantaneous diversion rate of 1.14 cfs from one well completed into the Missouri: Elk Point aquifer for the irrigation of 80 acres. If approved, Water Permit Application No. 8704-3 and Water Right No. 1624-3 will collectively authorize a maximum instantaneous diversion rate of 1.14 cfs from one existing well for the irrigation of 113.5 acres. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.
6. Water Permit Application No. 8705-3 proposes to irrigate 17 acres using one existing well (100 feet deep) authorized by Water Right No. 6679-3 and Water Permit No. 7301-3. Water Right No. 6679-3 and Water Permit No. 7301-3 collectively authorize a maximum instantaneous diversion rate of 2.23 cfs from one well completed into the Missouri: Elk Point aquifer for the irrigation of 172 acres. If approved, Water Permit Application No. 8705-3, Water Right No. 6679-3, and Water Permit No. 7301-3 will collectively authorize a maximum instantaneous diversion rate of 2.23 cfs from one existing well for the irrigation of 189 acres. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.
7. Water Permit Application No. 8706-3 proposes to irrigate 48.5 acres using one existing well (120 feet deep) authorized by Water Permit Nos. 7578-3 and 7980-3. Water Permit



Nos. 7578-3 and 7980-3 collectively authorize a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer for the irrigation of 85 acres. If approved, Water Permit Application No. 8705-3, and Water Permit Nos. 7578-3 and 7980-3 will collectively authorize a maximum instantaneous diversion rate of 2.0 cfs from one existing well for the irrigation of 133.5 acres. The site of interest is located in Clay County approximately one mile east of Vermillion, SD.

8. Water Permit Application No. 8707-3 proposes to irrigate 58 acres using two existing wells (approximately 115 feet deep) authorized by Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3. Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3 collectively authorize a maximum instantaneous diversion rate of 3.88 cfs from two wells completed into the Missouri: Elk Point aquifer for the irrigation 282 acres. This application also identifies the correct locations of the two wells utilized to irrigate the acres authorized by Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3. If approved, Water Permit Application No. 8705-3, and Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3 will collectively authorize a maximum instantaneous diversion rate of 3.88 cfs from two existing wells for the irrigation of 340 acres. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.
9. Water Permit Application No. 8708-3 proposes to irrigate 15 acres using one existing well (95 feet deep) authorized by Water Right No. 2053-3. Water Right No. 2053-3 authorizes a maximum instantaneous diversion rate of 10.22 cfs from five wells completed into the Missouri: Elk Point aquifer for the irrigation of 929 acres. If approved, Water Permit Application No. 8704-3 and Water Right No. 1624-3 will collectively authorize a maximum instantaneous diversion rate of 10.22 cfs from five existing wells for the irrigation of 944 acres. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.
10. No increase in the authorized diversion rates from the existing wells is authorized by approval of Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, and 8708-3.
11. Water Permit Application No. 8714-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 100 feet deep) for the irrigation of 34 acres. The site of interest is located in Clay County approximately 0.5 miles west of Vermillion, SD.
12. Water Permit Application No. 8715-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 120 feet deep) for the irrigation of 29 acres. The site of interest is located in Clay County approximately two miles south of Vermillion, SD.



13. For Water Permit Application Nos. 8714-3 and 8715-3, the applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres due to size of one center pivot, partial rotation of another center pivot, and the sandy soils in the area. These types of reasons fall within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate.
14. 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 appropriations.
15. There is a reasonable probability that the proposed diversions by Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3 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

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# AFFIDAVIT OF PUBLICATION

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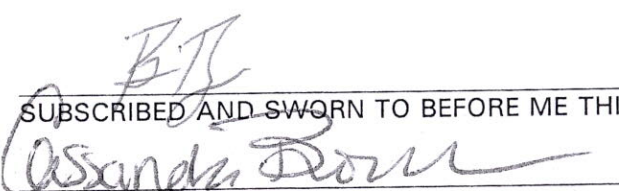
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THE OFFICIAL NEWSPAPERS OF THE SAID COUNTY OF FACTS STATED IN  
THIS AFFIDAVIT; THAT THE ANNEXED  
NOTICE OF APPLICATIONS TO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 24th DAY OF February, 2023  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$133.76 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  
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PUBLISHED ON: 02/24/2023

FILED ON: 02/24/2023

  
SUBSCRIBED AND SWORN TO BEFORE ME THIS 24th DAY OF February, 2023

NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 07/04/2026

Ad text : NOTICE OF APPLICATIONS TO APPROPRIATE WATER

Notice is given that Todd Heine, 1020 E 320th St, Vermillion SD 57069 has filed the following applications for a water permit.

Water Permit Application No. 8700-3 proposes to irrigate 67 acres using one existing well (100 feet deep) authorized by Water Right No. 1006-3. Water Right No. 1006-3 authorizes a maximum instantaneous diversion rate of 2.9 cubic feet of water per second (cfs) from two wells completed into the Missouri: Elk Point aquifer located in the SW 1/4 NW 1/4, and the SE 1/4 SW 1/4 of Section 27 for the irrigation of 204.2 acres located in the W 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, W 1/2 SE 1/4 of Section 27; all in T92N-R51W. This application proposes to irrigate an additional 67 acres located in the E 1/2 SE 1/4 of Section 27-T92N-R51W from the south existing well located in the SE 1/4 SW 1/4 of Section 27-T92N-R51W. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8701-3 proposes to irrigate 48 acres using one existing well (approximately 100 feet deep) authorized by Water Permit No. 6993-3. Water Right No. 2947-3 and Water Permit No. 6993-3 collectively authorize a maximum instantaneous diversion rate of 3.87 cfs from three wells completed into the Missouri: Elk Point aquifer located in the SE 1/4 SW 1/4, SW 1/4 NW 1/4 of Section 23 and the NW 1/4 NE 1/4 of Section 26 for the irrigation of 271 acres located in portions of Section 23 and Section 26; all in T92N-R52W. This application proposes to irrigate an additional 48 acres located in the SW 1/4 SW 1/4 of Section 14 and W 1/2 NW 1/4 of Section 23; all in T92N-R52W. This application also corrects the location of the well authorized by Water Permit No. 6993-3 from the SW 1/4 NW 1/4 to the NW 1/4 SW 1/4 of Section 23-T92N-R52W which is used to irrigate the 48 additional acres. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile southwest of Vermillion, SD.

Water Permit Application No. 8702-3 proposes to irrigate 30 acres using one existing well (95 feet deep) authorized by Water Right No. 5435-3. Water Right No. 5435-3 authorizes a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE 1/4 NW 1/4 of Section 20 for the irrigation of 140 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 of Section 17 and W 1/2 NE 1/4, E 1/2 NW 1/4 of Section 20; all in T92N-R52W. This application proposes to irrigate an additional 30 acres located in the southern portion of the accretion area below Lots 2 and 3 except the CMR Addition in Section 17-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles west of Vermillion, SD.

Water Permit Application No. 8703-3 proposes to irrigate 53 acres using one existing well (110 feet deep) authorized by Water Permit No. 7297-3. Water Permit No. 7297-3 authorizes a maximum instantaneous diversion rate of 1.11 cfs from one well completed into the Missouri: Elk Point aquifer located in the SW 1/4 NW 1/4 of Section 15 for the irrigation of 80 acres located in the W 1/2 NW 1/4 of Section 15; all in T92N-R52W. This application proposes to irrigate an additional 53 acres located in the E 1/2 SE 1/4 (Tract B Heine Addition) of Section 16-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately two miles west of Vermillion, SD.

Water Permit Application No. 8704-3 proposes to irrigate 33.5 acres using one existing well (116 feet deep) authorized by Water Right No. 1624-3. Water Right No. 1624-3 authorizes a maximum instantaneous diversion rate of 1.14 cfs from one well completed into the Missouri: Elk Point aquifer located near the center of the NE 1/4 of Section 33 for the irrigation of 80 acres located in the E 1/2 NE 1/4 of Section 33; all in T92N-R51W. This application proposes to irrigate an additional 33.5 acres located in the SW 1/4 NE 1/4 of Section 33-T92N-R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8705-3 proposes to irrigate 17 acres using one existing well (100 feet deep) authorized by Water Right No. 6679-3 and Water Permit No. 7301-3. Water Right No. 6679-3 and Water Permit No. 7301-3 collectively authorize a maximum instantaneous diversion rate of 2.23 cfs



from one well completed into the Missouri: Elk Point aquifer located in the NW 1/4 SE 1/4 of Section 30 for the irrigation of 172 acres located in portions of Section 12 and 13; all in T32N-R4E in Vermillion township. This application proposes to irrigate an additional 17 acres located within Parcel B of Lot 1 in Section 12; and Parcel C and E 1/2 Lot 1 in Section 13; Heine Addition and Island Farm Addition in Sections 11 and 12; all in T32N-R4E, Vermillion Township. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8706-3 proposes to irrigate 48.5 acres using one existing well (120 feet deep) authorized by Water Permit Nos. 7578-3 and 7980-3. Water Permit Nos. 7578-3 and 7980-3 collectively authorize a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE 1/4 SW 1/4 of Section 21 for the irrigation of 85 acres located in the S 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4 of Section 21; all in T92N-R51W. This application proposes to irrigate an additional 48.5 acres located within Heine Lot 1 and 2 in the E 1/2 of Section 20 and Tract 1 Heine Addition, NW 1/4 SW 1/4 of Section 21; all in T92N-R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile east of Vermillion, SD.

Water Permit Application No. 8707-3 proposes to irrigate 58 acres using two existing wells (approximately 115 feet deep) authorized by Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3. Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3 collectively authorize a maximum instantaneous diversion rate of 3.88 cfs from two wells completed into the Missouri: Elk Point aquifer for the irrigation 282 acres located in portions of Section 25-T92N-R52W and Sections 30 and 31; both in T92N-R51W or as described in the Nebraska survey property description; Sutterland Farm in Sections 10, 11, 14, and 15; NE 1/4, E 1/2 SE 1/4 of Section 14; Island Farm and Heine Addition in Sections 11 and 12; and within parcel described as West 12 acres of Lot 2 and Lots 3 and 4 of Section 13; all in T32N-R4E, Vermillion township. This application proposes to irrigate an additional 58 acres located in portions of Island Farm Addition in Sections 11 and 12; Lot 1; N 1/2 NE 1/4 of Section 14; W 1/2 Lot 1 and West 40 acres of Lot 2 in Section 13; all in T32N-R4E of the Nebraska survey in Vermillion township. This application also identifies the correct locations of the two wells utilized to irrigate the above-described lands. The two wells are located in the SW 1/4 NW 1/4 and W 1/2 SW 1/4 of Section 30-T92N-R51W; or, as based on the Nebraska Survey, in the Island Farm Addition in Sections 11 and 12; and near the boundary between the NE 1/4 NE 1/4 and SE 1/4 NE 1/4 of Section 14; both in T32N-R4E, Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8708-3 proposes to irrigate 15 acres using one existing well (95 feet deep) authorized by Water Right No. 2053-3. Water Right No. 2053-3 authorizes a maximum instantaneous diversion rate of 10.22 cfs from five existing wells completed into the Missouri: Elk Point aquifer for the irrigation of 929 acres located in portions of Section 33-T92N-R51W and Sections 11, 12, 13, 23, and 24; all in T32N-R4E (Nebraska Survey). The well proposed to be used to irrigate the additional acres and the additional acres are located in the accretion lying E & S Lots 2, 3, and 4 to Vermillion River Section 13-T32N-R4E and accretion to Section 24 lying E & S of Lot 1 to section line, Section 24-T32N-R4E in Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8714-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 100 feet deep) located in the NE 1/4 NE 1/4 of Section 22 for the irrigation of 34 acres located in the NE 1/4 NE 1/4 of Section 22; all in T92N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately 0.5 miles west of Vermillion, SD.

Water Permit Application No. 8715-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 120 feet deep) for the irrigation of 29 acres, all located in portions of Lot D of Frost Tract 1 SW 1/4 and SE 1/4 of Section 15-T32N-R4E and NW 1/4 and NE 1/4 of Section 22-T32N-R4E. The applicant is

requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately two miles south of Vermillion, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of the eleven Water Permit Applications listed above 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 recommendations with qualifications, the applications, 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 the applications or recommendations shall allege that the applications, 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 applications, or other matter concerning the applications 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 applications with BOTH the applicant and Chief Engineer. A petition opposing the applications 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 recommendations, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by March 6, 2023.

The petition shall include a statement describing the unique injury upon approval of the applications on the petitioner, the petitioner's reasons for opposing the applications, 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 applications 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 March 6, 2023.

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

Published once at the total approximate cost of \$133.76 and can be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com)

Published February 24, 2023.



# AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

FEB 27 2023

OFFICE OF  
WATER

TODD HEINE  
1020 E 320TH ST  
VERMILLION SD 57069

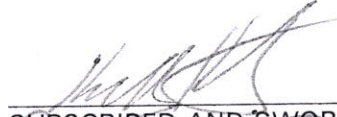
STATE OF SOUTH DAKOTA  
COUNTY OF YANKTON

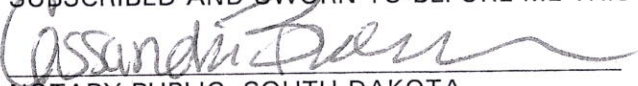
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES  
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON  
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE  
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER  
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY  
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID  
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED  
NOTICE OF APPLICATIONS TO

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE  
NEWSPAPER ON THE 24th DAY OF February, 2023  
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION  
OF SAID NOTICE TO WIT \$134.08 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: 02/24/2023

FILED ON: 02/24/2023

  
SUBSCRIBED AND SWORN TO BEFORE ME THIS 24th DAY OF February, 2023

  
NOTARY PUBLIC, SOUTH DAKOTA  
MY COMMISSION EXPIRES 07/04/2026

Ad text : NOTICE OF APPLICATIONS TO APPROPRIATE WATER

Notice is given that Todd Heine, 1020 E 320th St, Vermillion SD 57069 has filed the following applications for a water permit.

Water Permit Application No. 8700-3 proposes to irrigate 67 acres using one existing well (100 feet deep) authorized by Water Right No. 1006-3. Water Right No. 1006-3 authorizes a maximum instantaneous diversion rate of 2.9 cubic feet of water per second (cfs) from two wells completed into the Missouri: Elk Point aquifer located in the SW 1/4 NW 1/4, and the SE 1/4 SW 1/4 of Section 27 for the irrigation of 204.2 acres located in the W 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, W 1/2 SE 1/4 of Section 27; all in T92N-R51W. This application proposes to irrigate an additional 67 acres located in the E 1/2 SE 1/4 of Section 27-T92N-R51W from the south existing well located in the SE 1/4 SW 1/4 of Section 27-T92N-R51W. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8701-3 proposes to irrigate 48 acres using one existing well (approximately 100 feet deep) authorized by Water Permit No. 6993-3. Water Right No. 2947-3 and Water Permit No. 6993-3 collectively authorize a maximum instantaneous diversion rate of 3.87 cfs from three wells completed into the Missouri: Elk Point aquifer located in the SE 1/4 SW 1/4, SW 1/4 NW 1/4 of Section 23 and the NW 1/4 NE 1/4 of Section 26 for the irrigation of 271 acres located in portions of Section 23 and Section 26; all in T92N-R52W. This application proposes to irrigate an additional 48 acres located in the SW 1/4 SW 1/4 of Section 14 and W 1/2 NW 1/4 of Section 23; all in T92N-R52W. This application also corrects the location of the well authorized by Water Permit No. 6993-3 from the SW 1/4 NW 1/4 to the NW 1/4 SW 1/4 of Section 23-T92N-R52W which is used to irrigate the 48 additional acres. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile southwest of Vermillion, SD.

Water Permit Application No. 8702-3 proposes to irrigate 30 acres using one existing well (95 feet deep) authorized by Water Right No. 5435-3. Water Right No. 5435-3 authorizes a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE 1/4 NW 1/4 of Section 20 for the irrigation of 140 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 of Section 17 and W 1/2 NE 1/4, E 1/2 NW 1/4 of Section 20; all in T92N-R52W. This application proposes to irrigate an additional 30 acres located in the southern portion of the accretion area below Lots 2 and 3 except the CMR Addition in Section 17-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles west of Vermillion, SD.

Water Permit Application No. 8703-3 proposes to irrigate 53 acres using one existing well (110 feet deep) authorized by Water Permit No. 7297-3. Water Permit No. 7297-3 authorizes a maximum instantaneous diversion rate of 1.11 cfs from one well completed into the Missouri: Elk Point aquifer located in the SW 1/4 NW 1/4 of Section 15 for the irrigation of 80 acres located in the W 1/2 NW 1/4 of Section 15; all in T92N-R52W. This application proposes to irrigate an additional 53 acres located in the E 1/2 SE 1/4 (Tract B Heine Addition) of Section 16-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately two miles west of Vermillion, SD.

Water Permit Application No. 8704-3 proposes to irrigate 33.5 acres using one existing well (116 feet deep) authorized by Water Right No. 1624-3. Water Right No. 1624-3 authorizes a maximum instantaneous diversion rate of 1.14 cfs from one well completed into the Missouri: Elk Point aquifer located near the center of the NE 1/4 of Section 33 for the irrigation of 80 acres located in the E 1/2 NE 1/4 of Section 33; all in T92N-R51W. This application proposes to irrigate an additional 33.5 acres located in the SW 1/4 NE 1/4 of Section 33-T92N-R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8705-3 proposes to irrigate 17 acres using one existing well (100 feet deep) authorized by Water Right No. 6679-3 and Water Permit No. 7301-3. Water Right No. 6679-3 and Water Permit No. 7301-3 collectively authorize a maximum instantaneous diversion rate of 2.23 cfs



from one well completed into the Missouri: Elk Point aquifer located in the NW 1/4 SE 1/4 of Section 30 for the irrigation of 172 acres located in portions of Section 12 and 13; all in T32N-R4E in Vermillion township. This application proposes to irrigate an additional 17 acres located within Parcel B of Lot 1 in Section 12; and Parcel C and E 1/2 Lot 1 in Section 13; Heine Addition and Island Farm Addition in Sections 11 and 12; all in T32N-R4E, Vermillion Township. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8706-3 proposes to irrigate 48.5 acres using one existing well (120 feet deep) authorized by Water Permit Nos. 7578-3 and 7980-3. Water Permit Nos. 7578-3 and 7980-3 collectively authorize a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE 1/4 SW 1/4 of Section 21 for the irrigation of 85 acres located in the S 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4 of Section 21; all in T92N-R51W. This application proposes to irrigate an additional 48.5 acres located within Heine Lot 1 and 2 in the E 1/2 of Section 20 and Tract 1 Heine Addition, NW 1/4 SW 1/4 of Section 21; all in T92N-R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile east of Vermillion, SD.

Water Permit Application No. 8707-3 proposes to irrigate 58 acres using two existing wells (approximately 115 feet deep) authorized by Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3. Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3 collectively authorize a maximum instantaneous diversion rate of 3.88 cfs from two wells completed into the Missouri: Elk Point aquifer for the irrigation 282 acres located in portions of Section 25-T92N-R52W and Sections 30 and 31; both in T92N-R51W or as described in the Nebraska survey property description; Sutterland Farm in Sections 10, 11, 14, and 15; NE 1/4, E 1/2 SE 1/4 of Section 14; Island Farm and Heine Addition in Sections 11 and 12; and within parcel described as West 12 acres of Lot 2 and Lots 3 and 4 of Section 13; all in T32N-R4E, Vermillion township. This application proposes to irrigate an additional 58 acres located in portions of Island Farm Addition in Sections 11 and 12; Lot 1; N 1/2 NE 1/4 of Section 14; W 1/2 Lot 1 and West 40 acres of Lot 2 in Section 13; all in T32N-R4E of the Nebraska survey in Vermillion township. This application also identifies the correct locations of the two wells utilized to irrigate the above-described lands. The two wells are located in the SW 1/4 NW 1/4 and W 1/2 SW 1/4 of Section 30-T92N-R51W; or, as based on the Nebraska Survey, in the Island Farm Addition in Sections 11 and 12; and near the boundary between the NE 1/4 NE 1/4 and SE 1/4 NE 1/4 of Section 14; both in T32N-R4E, Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8708-3 proposes to irrigate 15 acres using one existing well (95 feet deep) authorized by Water Right No. 2053-3. Water Right No. 2053-3 authorizes a maximum instantaneous diversion rate of 10.22 cfs from five existing wells completed into the Missouri: Elk Point aquifer for the irrigation of 929 acres located in portions of Section 33-T92N-R51W and Sections 11, 12, 13, 23, and 24; all in T32N-R4E (Nebraska Survey). The well proposed to be used to irrigate the additional acres and the additional acres are located in the accretion lying E & S Lots 2, 3, and 4 to Vermillion River Section 13-T32N-R4E and accretion to Section 24 lying E & S of Lot 1 to section line, Section 24-T32N-R4E in Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8714-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 100 feet deep) located in the NE 1/4 NE 1/4 of Section 22 for the irrigation of 34 acres located in the NE 1/4 NE 1/4 of Section 22; all in T92N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately 0.5 miles west of Vermillion, SD.

Water Permit Application No. 8715-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 120 feet deep) for the irrigation of 29 acres, all located in portions of Lot D of Frost Tract 1 SW 1/4 and SE 1/4 of Section 15-T32N-R4E and NW 1/4 and NE 1/4 of Section 22-T32N-R4E. The applicant is

requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately two miles south of Vermillion, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of the eleven Water Permit Applications listed above 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 recommendations with qualifications, the applications, 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 the applications or recommendations shall allege that the applications, 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 applications, or other matter concerning the applications 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 applications with BOTH the applicant and Chief Engineer. A petition opposing the applications 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 recommendations, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by March 6, 2023.

The petition shall include a statement describing the unique injury upon approval of the applications on the petitioner, the petitioner's reasons for opposing the applications, 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 applications 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 March 6, 2023.

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

Published once at the total approximate cost of \$134.08 and can be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).

Published February 24, 2023.





**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.**

February 17, 2023

Todd Heine  
1020 E 320<sup>th</sup> St  
Vermillion SD 57069

Dear Mr. Heine:

Your eleven Water Permit Applications have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Plain Talk printed at Vermillion SD (Ph # 605 624-2695) and the Press & Dakotan printed at Yankton SD (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 recommendations of the Chief Engineer and report on the applications 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 publisher has been instructed to publish your notice. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Water Rights Program  
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 applications.



## NOTICE OF APPLICATIONS TO APPROPRIATE WATER

Notice is given that Todd Heine, 1020 E 320<sup>th</sup> St, Vermillion SD 57069 has filed the following applications for a water permit.

Water Permit Application No. 8700-3 proposes to irrigate 67 acres using one existing well (100 feet deep) authorized by Water Right No. 1006-3. Water Right No. 1006-3 authorizes a maximum instantaneous diversion rate of 2.9 cubic feet of water per second (cfs) from two wells completed into the Missouri: Elk Point aquifer located in the SW 1/4 NW 1/4, and the SE 1/4 SW 1/4 of Section 27 for the irrigation of 204.2 acres located in the W 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, W 1/2 SE 1/4 of Section 27; all in T92N-R51W. This application proposes to irrigate an additional 67 acres located in the E 1/2 SE 1/4 of Section 27-T92N-R51W from the south existing well located in the SE 1/4 SW 1/4 of Section 27-T92N-R51W. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8701-3 proposes to irrigate 48 acres using one existing well (approximately 100 feet deep) authorized by Water Permit No. 6993-3. Water Right No. 2947-3 and Water Permit No. 6993-3 collectively authorize a maximum instantaneous diversion rate of 3.87 cfs from three wells completed into the Missouri: Elk Point aquifer located in the SE 1/4 SW 1/4, SW 1/4 NW 1/4 of Section 23 and the NW 1/4 NE 1/4 of Section 26 for the irrigation of 271 acres located in portions of Section 23 and Section 26; all in T92N-R52W. This application proposes to irrigate an additional 48 acres located in the SW 1/4 SW 1/4 of Section 14 and W 1/2 NW 1/4 of Section 23; all in T92N-R52W. This application also corrects the location of the well authorized by Water Permit No. 6993-3 from the SW 1/4 NW 1/4 to the NW 1/4 SW 1/4 of Section 23-T92N-R52W which is used to irrigate the 48 additional acres. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile southwest of Vermillion, SD.

Water Permit Application No. 8702-3 proposes to irrigate 30 acres using one existing well (95 feet deep) authorized by Water Right No. 5435-3. Water Right No. 5435-3 authorizes a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE 1/4 NW 1/4 of Section 20 for the irrigation of 140 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 of Section 17 and W 1/2 NE 1/4, E 1/2 NW 1/4 of Section 20; all in T92N-R52W. This application proposes to irrigate an additional 30 acres located in the southern portion of the accretion area below Lots 2 and 3 except the CMR Addition in Section 17-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles west of Vermillion, SD.

Water Permit Application No. 8703-3 proposes to irrigate 53 acres using one existing well (110 feet deep) authorized by Water Permit No. 7297-3. Water Permit No. 7297-3 authorizes a maximum instantaneous diversion rate of 1.11 cfs from one well completed into the Missouri: Elk Point aquifer located in the SW 1/4 NW 1/4 of Section 15 for the irrigation of 80 acres located in the W 1/2 NW 1/4 of Section 15; all in T92N-R52W. This application proposes to irrigate an additional 53 acres located in the E 1/2 SE 1/4 (Tract B Heine Addition) of Section 16-T92N-R52W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately two miles west of Vermillion, SD.

Water Permit Application No. 8704-3 proposes to irrigate 33.5 acres using one existing well (116 feet deep) authorized by Water Right No. 1624-3. Water Right No. 1624-3 authorizes a maximum instantaneous diversion rate of 1.14 cfs from one well completed into the Missouri: Elk Point aquifer located near the center of the NE 1/4 of Section 33 for the irrigation of 80 acres located in the E 1/2 NE 1/4 of Section 33; all in T92N-R51W. This application proposes to irrigate an additional 33.5 acres located in the SW 1/4 NE 1/4 of Section 33-T92N-



R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8705-3 proposes to irrigate 17 acres using one existing well (100 feet deep) authorized by Water Right No. 6679-3 and Water Permit No. 7301-3. Water Right No. 6679-3 and Water Permit No. 7301-3 collectively authorize a maximum instantaneous diversion rate of 2.23 cfs from one well completed into the Missouri: Elk Point aquifer located in the NW 1/4 SE 1/4 of Section 30 for the irrigation of 172 acres located in portions of Section 12 and 13; all in T32N-R4E in Vermillion township. This application proposes to irrigate an additional 17 acres located within Parcel B of Lot 1 in Section 12; and Parcel C and E 1/2 Lot 1 in Section 13; Heine Addition and Island Farm Addition in Sections 11 and 12; all in T32N-R4E, Vermillion Township. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8706-3 proposes to irrigate 48.5 acres using one existing well (120 feet deep) authorized by Water Permit Nos. 7578-3 and 7980-3. Water Permit Nos. 7578-3 and 7980-3 collectively authorize a maximum instantaneous diversion rate of 2.0 cfs from one well completed into the Missouri: Elk Point aquifer located in the NE 1/4 SW 1/4 of Section 21 for the irrigation of 85 acres located in the S 1/2 NW 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4 of Section 21; all in T92N-R51W. This application proposes to irrigate an additional 48.5 acres located within Heine Lot 1 and 2 in the E 1/2 of Section 20 and Tract 1 Heine Addition, NW 1/4 SW 1/4 of Section 21; all in T92N-R51W. No increase in the authorized diversion rate from the existing well is authorized by this application. The site of interest is located in Clay County approximately one mile east of Vermillion, SD.

Water Permit Application No. 8707-3 proposes to irrigate 58 acres using two existing wells (approximately 115 feet deep) authorized by Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3. Water Permit Nos. 5471-3, 5639-3, 6059-3, and 7300-3 collectively authorize a maximum instantaneous diversion rate of 3.88 cfs from two wells completed into the Missouri: Elk Point aquifer for the irrigation 282 acres located in portions of Section 25-T92N-R52W and Sections 30 and 31; both in T92N-R51W or as described in the Nebraska survey property description; Sutterland Farm in Sections 10, 11, 14, and 15; NE 1/4, E 1/2 SE 1/4 of Section 14; Island Farm and Heine Addition in Sections 11 and 12; and within parcel described as West 12 acres of Lot 2 and Lots 3 and 4 of Section 13; all in T32N-R4E, Vermillion township. This application proposes to irrigate an additional 58 acres located in portions of Island Farm Addition in Sections 11 and 12; Lot 1; N 1/2 NE 1/4 of Section 14; W 1/2 Lot 1 and West 40 acres of Lot 2 in Section 13; all in T32N-R4E of the Nebraska survey in Vermillion township. This application also identifies the correct locations of the two wells utilized to irrigate the above-described lands. The two wells are located in the SW 1/4 NW 1/4 and W 1/2 SW 1/4 of Section 30-T92N-R51W; or, as based on the Nebraska Survey, in the Island Farm Addition in Sections 11 and 12; and near the boundary between the NE 1/4 NE 1/4 and SE 1/4 NE 1/4 of Section 14; both in T32N-R4E, Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately one mile south of Vermillion, SD.

Water Permit Application No. 8708-3 proposes to irrigate 15 acres using one existing well (95 feet deep) authorized by Water Right No. 2053-3. Water Right No. 2053-3 authorizes a maximum instantaneous diversion rate of 10.22 cfs from five existing wells completed into the Missouri: Elk Point aquifer for the irrigation of 929 acres located in portions of Section 33-T92N-R51W and Sections 11, 12, 13, 23, and 24; all in T32N-R4E (Nebraska Survey). The well proposed to be used to irrigate the additional acres and the additional acres are located in the accretion lying E & S Lots 2, 3, and 4 to Vermillion River Section 13-T32N-R4E and accretion to Section 24 lying E & S of Lot 1 to section line, Section 24-T32N-R4E in Vermillion township. No increase in the authorized diversion rate from the existing wells is authorized by this application. The site of interest is located in Clay County approximately three miles southeast of Vermillion, SD.

Water Permit Application No. 8714-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 100 feet deep) located in the NE 1/4 NE 1/4 of Section 22 for the irrigation of 34 acres located in the NE 1/4 NE 1/4 of Section



22; all in T92N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately 0.5 miles west of Vermillion, SD.

Water Permit Application No. 8715-3 proposes to divert water at a maximum instantaneous diversion rate of 0.67 cfs from one well to be completed into the Missouri: Elk Point aquifer (approximately 120 feet deep) for the irrigation of 29 acres, all located in portions of Lot D of Frost Tract 1 SW 1/4 and SE 1/4 of Section 15-T32N-R4E and NW 1/4 and NE 1/4 of Section 22-T32N-R4E. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site of interest is located in Clay County approximately two miles south of Vermillion, SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of the eleven Water Permit Applications listed above 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 recommendations with qualifications, the applications, 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 the applications or recommendations shall allege that the applications, 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 applications, or other matter concerning the applications 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 applications with BOTH the applicant and Chief Engineer. A petition opposing the applications 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 recommendations, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by March 6, 2023.

The petition shall include a statement describing the unique injury upon approval of the applications on the petitioner, the petitioner's reasons for opposing the applications, 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 applications 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 March 6, 2023.

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

Published once at the total approximate cost of\_





**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

MAR 27 2023

Todd Heine  
1020 E 320<sup>th</sup> Street  
Vermillion SD 57069

Dear Mr. Heine:

Enclosed are Water Permit Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, 8715-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, Notice of Completion of Works and Application of Water to Beneficial Use, are enclosed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses 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 Gonlund, Chief Engineer  
Water Rights Program  
(605) 773-3352

enclosures



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

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.:** 8708-3

**Name of Applicant:** Todd Heine

**Date of Posting:** 2/22/2023

**Date of Removal:** 3/27/2023

  
\_\_\_\_\_  
Ron Duvall, Water Rights Permitting Administrator

3/27/23  
\_\_\_\_\_  
Date

Subscribed and sworn to before me, a notary public, this 27<sup>th</sup> day of March, 2023.

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

(SEAL)

