

WATER PERMIT NO. 8715-3

Name of Applicant: Todd Heine

Address: 1020 E 320th St, Vermillion SD 57069

Phone:

Amount of Water Claimed: 0.67 cfs

Total Acres: 29 acres

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation

County: Clay

Type of Waste Disposal System:

Location: 2 miles south of Vermillion SD

PRIORITY

Date Received: 1-20-23

Application/License Fee: \$700

Corrected Application Received:

Period of Annual Use: April 1 – October 31

Remarks:

Diversion Point: NE 1/4 NE 1/4 Sec 35-T92N-
R52W

Land to be Irrigated: E 1/2 NE 1/4 Sec 35, W 1/2
NW 1/4 Sec 36-T92N-R52W

Depth of Well: 120 feet deep

Well Driller:

Remarks:

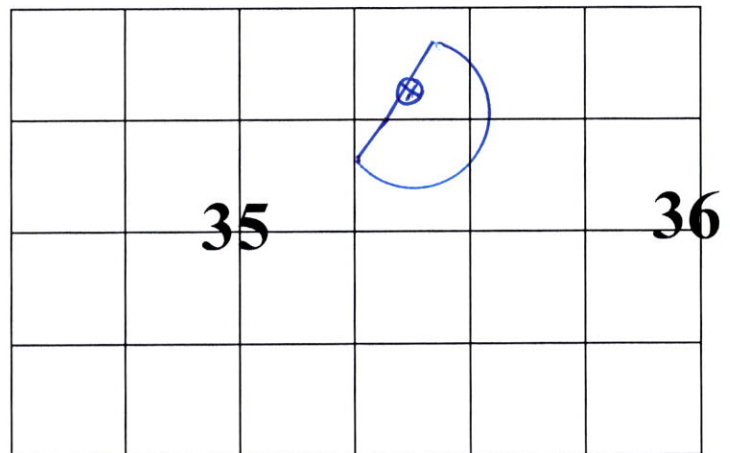
Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 1-23-23

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 8715-3**

Date of first receipt of application January 20, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8715-3 to Todd Heine, 1020 E 320th 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. 8715-3 authorizes diversion of 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 site is located in Clay County approximately two miles south 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: April 1 – October 31.
3. The date from which applicant may claim right is January 20, 2023.
4. The date of approval of Permit No. 8715-3 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

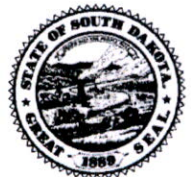
1. The well approved under Water Permit No. 8715-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8715-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8715-3 authorizes a maximum diversion rate of 0.67 cfs for the irrigation of 29 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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



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

~~100~~ pd *Morse*

PAID

JAN 20 2023
Ck# 43986
Rec't# _____

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8715-3</u> Hydrologic Unit <u>10170101</u>
	Basin <u>Missouri R</u>
	Newspaper <u>Plain Talk</u> <u>Press & Dakotas</u>
	(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 0.67 *CFS or _____ **GPM _____ ***AF _____ Total Acreage 29
(*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 - Missouri Elk Point aquifer

4. Location of point of diversion NE1/4 NE1/4 sec 35-92N-52W See No. 8
(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 April 1 - October 31

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
NE1/4 NE1/4 sec 35-92N-52W	14	NW1/4 NW1/4 sec 36-92N-52W	1.5
SE1/4 NE1/4 sec 35-92N-52W	13	SW1/4 NW1/4 sec 36-92N-52W	0.5
<u>See No. 8</u>			

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

This application is for a new irrigation system to irrigate 29 acres at a diversion rate of 300 gpm.
Proposed well & acreage located in portions of Lot 10 of Frost Tract 1 SW1/4 and SE1/4 Sec 15-32N-4E and NW1/4 and NE1/4 Sec 22-32N-4E

RECEIVED

JAN 20 2023

OFFICE OF
WATER

I, Todd Heine Manager, 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:

c) Well Depth (required) 120 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 Tom Heine

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)

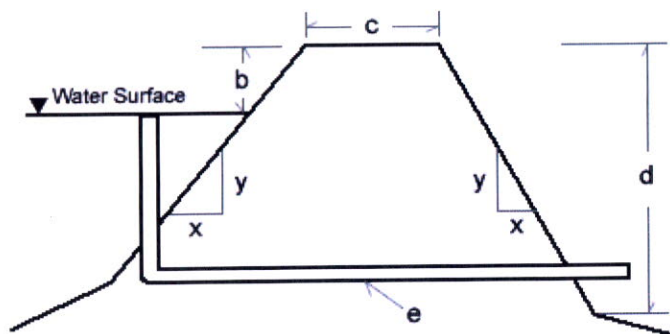
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



Scale: 1 inch = 741 feet

1,000

Feet



DANR
SOUTH DAKOTA

Completed by:

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

Date:

1/24/23



Acres to be irrigated.

Appl. No. *8715-3*

Duvall, Ron

From: Todd Heine <toddheine66@gmail.com>
Sent: Tuesday, January 24, 2023 1:20 PM
To: Duvall, Ron
Subject: Re: [EXT] Water Permit Application Legal Description

Yes, please proceed.

Todd Heine



605.677.8566

**1014 E. 320th Street
Vermillion, SD 57069**

On Tue, Jan 24, 2023 at 8:57 AM Duvall, Ron <Ron.Duvall@state.sd.us> wrote:

Todd,

Like some of your other applications, I would like to modify the legal description of what has been numbered Application No. 8715-3 to use the parcel description from the Nebraska survey. Attached is the map I initially prepared by extending section lines as if the property was under a South Dakota land survey and the map I would like to replace it with (labeled "ver2") and then change the legal description of the 29 acres to be irrigated and the location of the proposed well. The Nebraska survey description for the parcel where the 29 acres and proposed well are located is:

LOT D OF FROST TRACT 1 SW 1/4 & SE 1/4 15-32-04 & NW 1/4 & NE 1/4 SEC 22-32-04 EXC LOTS H1 & H2
VERMILLION TWP

Please reply back to this email to let me know if this change is acceptable to you.

Thank you,

Ron Duvall

Dept. of Agriculture & Natural Resources
Office of Water, Water Rights Program



DANR
SOUTH DAKOTA

605.773.3352

danr.sd.gov

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 20, 2023

RECEIVED OF Francis J Doris/Tim Todd & Nick Heine 412 Sterling St., Vermillion SD 57069

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

Fee for Application for Permit No. <u>8715-3</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>8715-3</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. 8715-3, 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. 8715-3, Todd Heine, 1020 E 320th Street, Vermillion SD 57069.

The Chief Engineer is recommending APPROVAL of Application No. 8715-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 8715-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8715-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8715-3 authorizes a maximum diversion rate of 0.67 cfs for the irrigation of 29 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. 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.

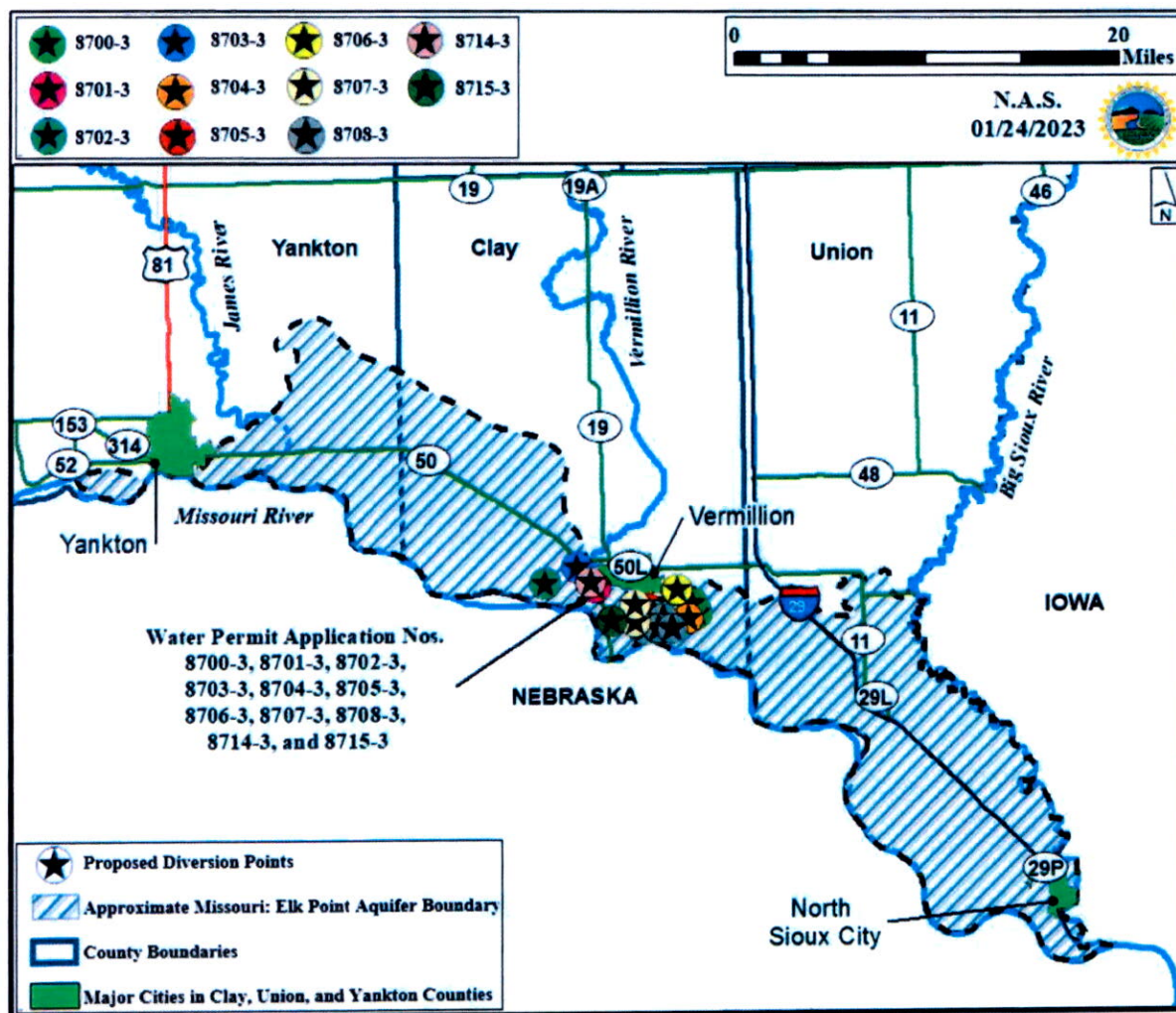


Figure 1. Map of the approximate Missouri: Elk Point aquifer boundary modified from Hedges and others (1982) with the existing well locations and proposed diversion points for Water Permit Application Nos. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3 (Water 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*
						TOTAL:	62,371
*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 DANR-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)

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

RWS: Rural Water System *Excluded reported zero values

Currently, there are 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)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
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
Min	259	1,475.2
Max	575	56,994.7
Avg (1979 to 2021)	369	18,703
Avg (2012 to 2021)	553	27,247

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 Waite	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
TOTAL:				809.6	735.1

There are domestic wells completed into the Missouri: Elk Point aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 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)

Type of Water Right/Permit	Estimated Use (acre-feet/year)
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
TOTAL:	100,431

OBSERVATION WELL DATA:

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

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors 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 DANR 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 waters levels in the aquifer rather than the impacts of pumping from the Missouri: Elk Point aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation.

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.

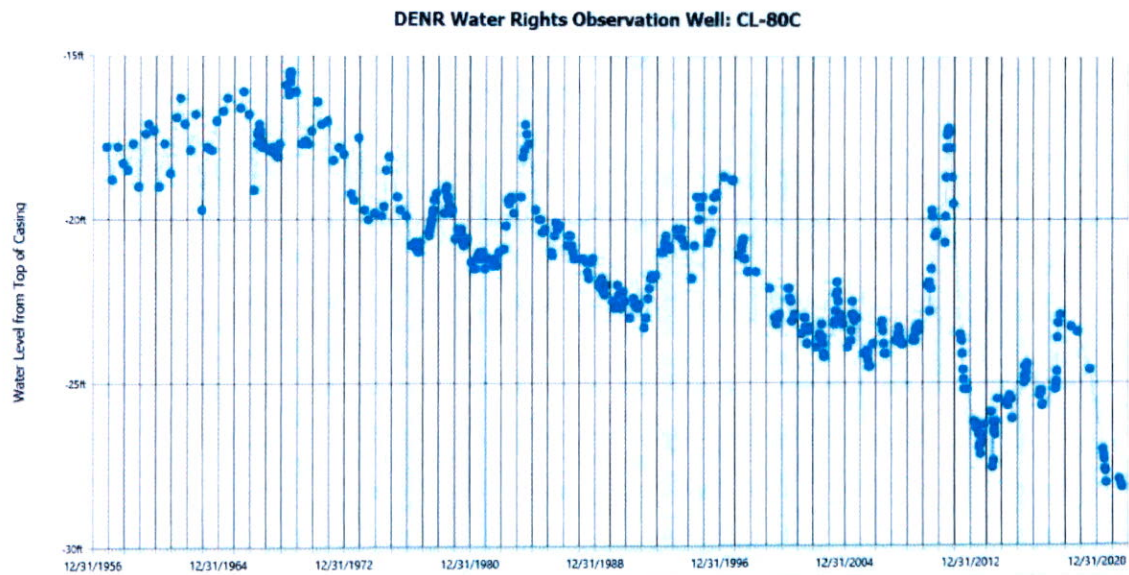


Figure 2. Hydrograph for observation well CL-80C (Water Rights, 2023b)

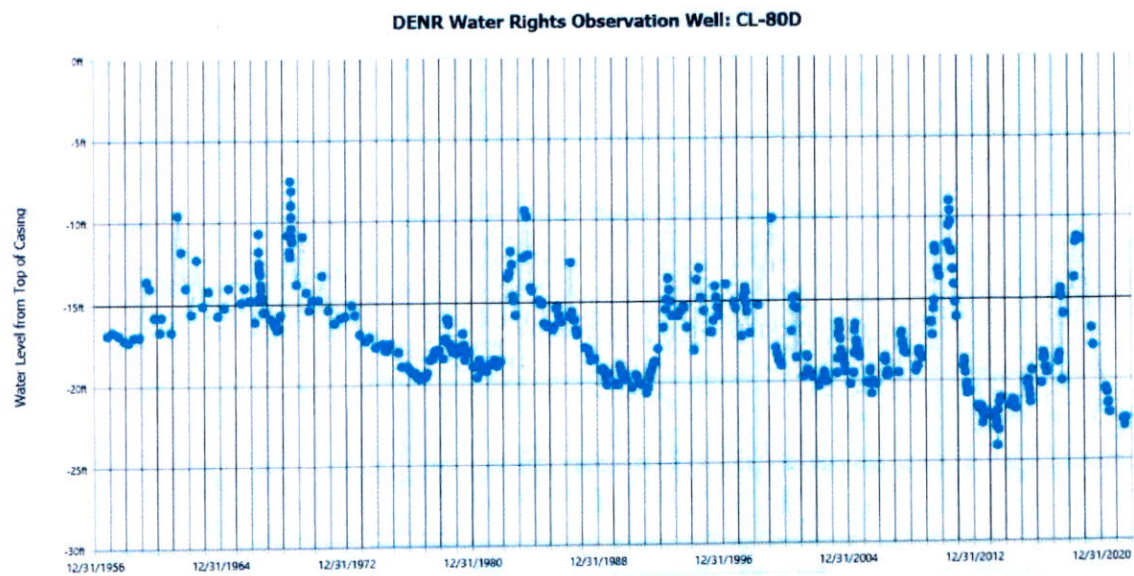


Figure 3. Hydrograph for observation well CL-80D (Water Rights, 2023b)

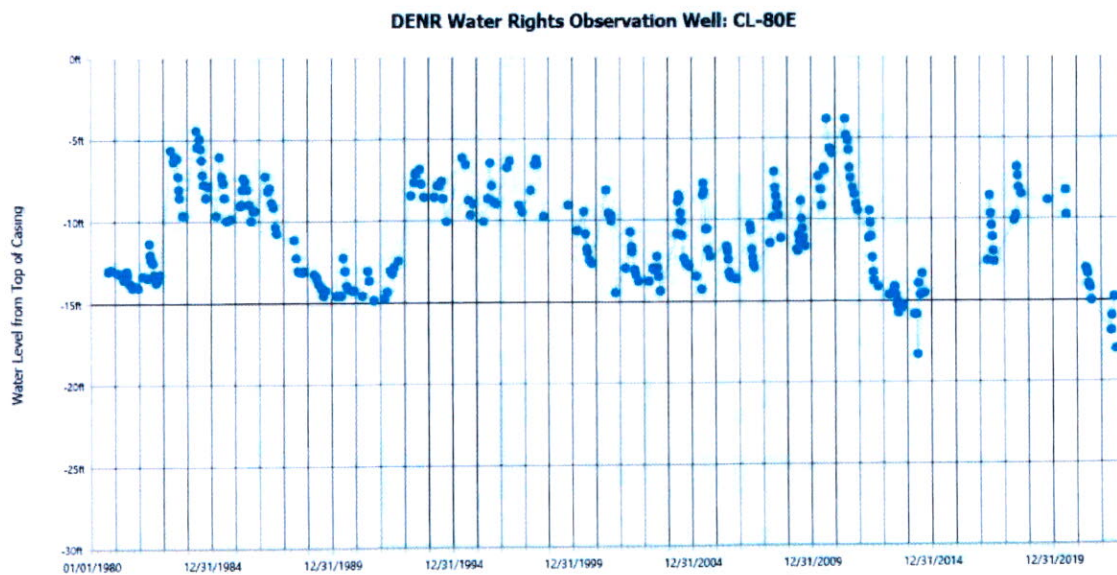


Figure 4. Hydrograph for observation well CL-80E (Water Rights, 2023b)

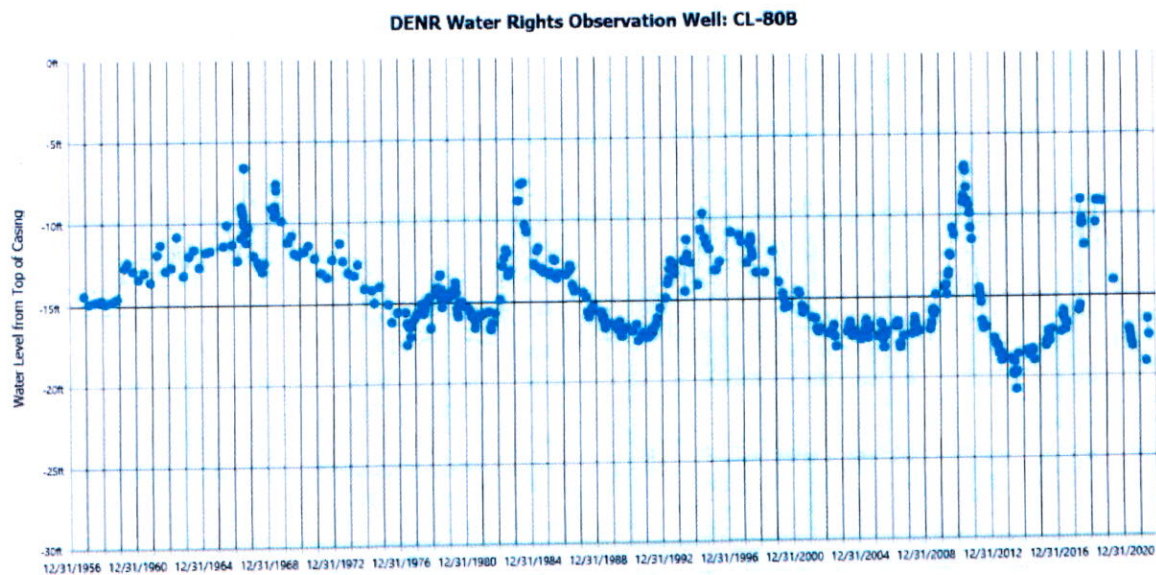


Figure 5. Hydrograph for observation well CL-80B (Water Rights, 2023b)

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.

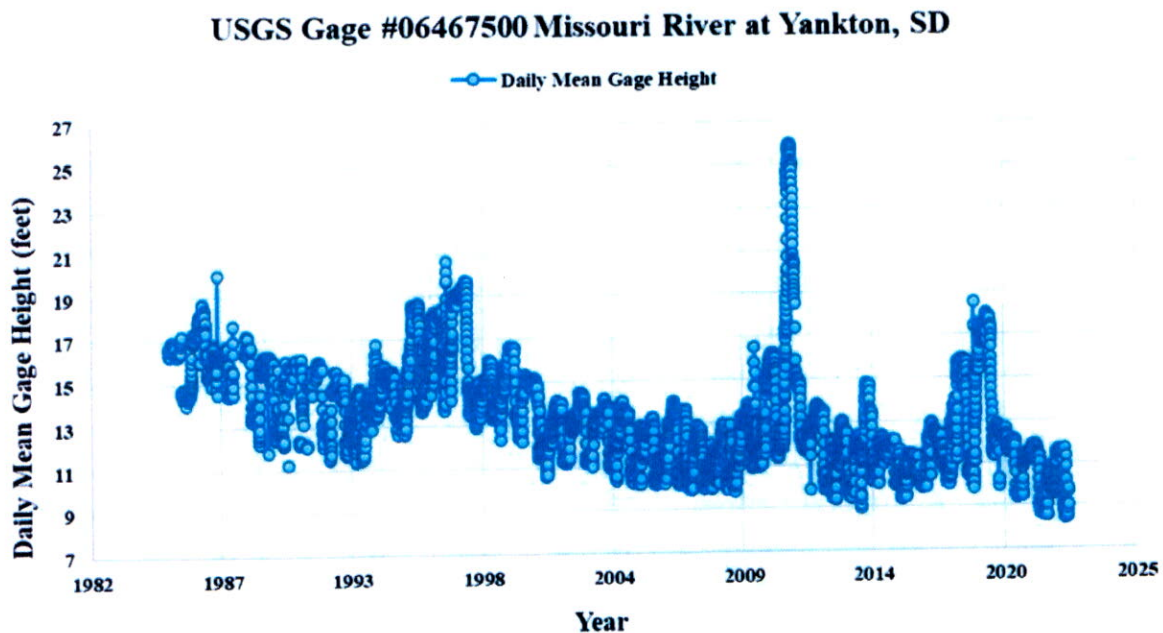


Figure 6. Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 1985 to 2023 (USGS, 2023)

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.

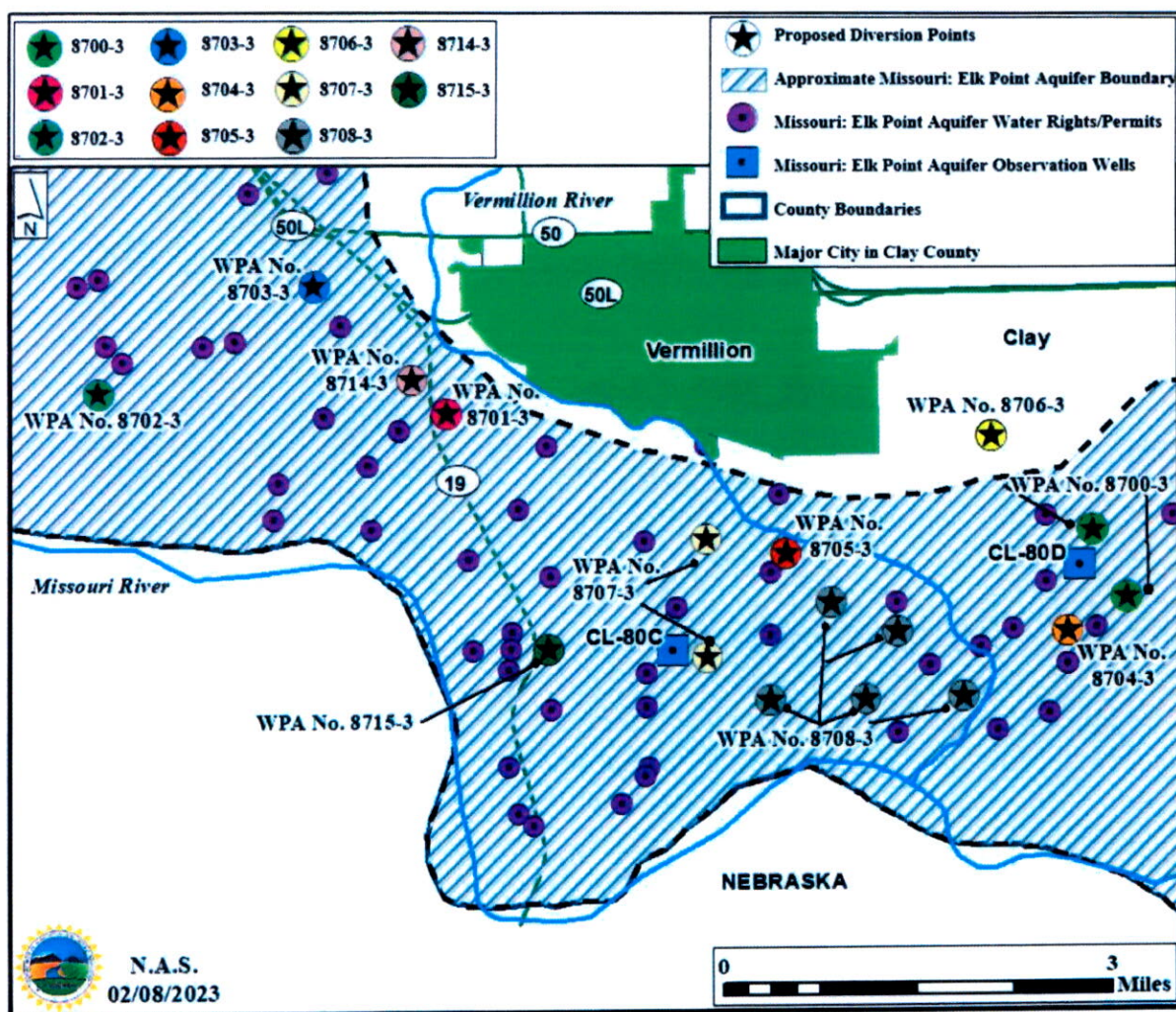


Figure 6. Map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges and others (1982)), with the location of the existing wells and proposed diversion points for Water Permit Application No. 8700-3, 8701-3, 8702-3, 8703-3, 8704-3, 8705-3, 8706-3, 8707-3, 8708-3, 8714-3, and 8715-3, 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 DNR-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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PLAIN TALK

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MAR 01 2023

OFFICE OF
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TODD HEINE
1020 E 320TH ST
VERMILLION SD 57069

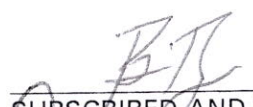
STATE OF SOUTH DAKOTA
COUNTY OF CLAY

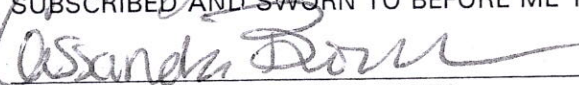
BETH RYE, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE ADVERTISING DIRECTOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
PLAIN TALK, A LEGAL WEEKLY NEWSPAPER PUBLISHED AND CIRCULATED
IN THE CITY OF VERMILLION, SAID COUNTY AND STATE, AND ONE OF
THE OFFICIAL 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 \$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
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 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

Published February 24, 2023.

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FEB 27 2023

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WATER

TODD HEINE
1020 E 320TH ST
VERMILLION SD 57069

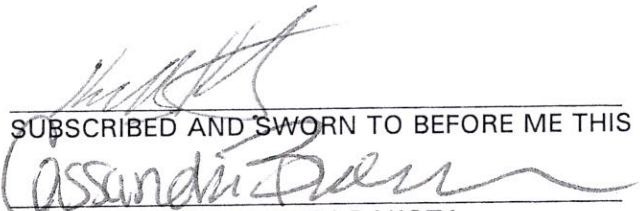
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

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AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
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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

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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.

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 320th 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 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_



**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 320th 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**

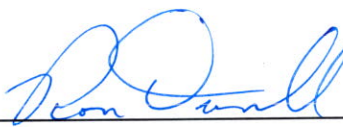
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.: 8715-3

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

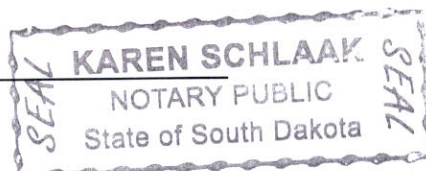
Date

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



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

(SEAL)

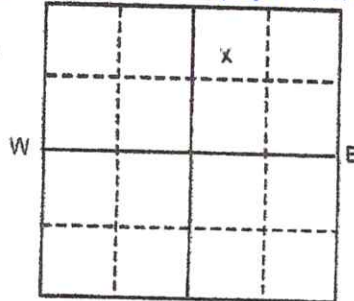


8715-3

SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW 1/4 NE 1/4 Sec 35 Twp 92N Rg 52WCounty ClayNorth per driller
AWM 3/13/24Please mark well
location with an "X"

Well Completion Date

12/27/2023

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

2000 ft. from Feed lot

(identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

CASING DATA:

If other describe ☐ Steel ☒ Plastic ☐ Other

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>8</u> IN	<u>0</u> FT	<u>80</u> FT	<u>13</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Bentonic</u>	<u>4</u>	<u>per driller</u>	<u>0</u> Ft	<u>25</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

Tremie Pipe

SCREEN:

☐ Perforated pipe ☒ ManufacturedDiameter 8 Inches Length 20 FeetMaterial Johnson Stainless SteelSlot Size .060 Set From 80 Feet to 100 Feet

Other information

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION:

Was well disinfected upon completion?

☒ Yes, How? Chlorine Tablets☐ No, Why Not?

Lab to which water

quality sample sent for analysis

Well Owner: Francis Heine

Business Name:

Address: 1020 E. 320 St.City, State, Zip: Vermillion, SD 57069

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
TOP SOIL	0	1
BROWN CLAY	1	25
SAND FINE	25	80
SAND MED/ FINE GRAVEL	80	100

STATIC WATER LEVEL 25 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: Test Pump☐ Bailed☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Grunfos - 475 5300-2 500 gpmGrunfos - 30 Hp motorThis well was drilled under license # 805 and this report is true and accurate.Drilling firm: Sam Well CompanySignature of License Representative: Samuel Heine

Signature of Well Owner or Equitable Property Holder:

RECEIVED

FEB 01 2024

Date: 1-23-2024OFFICE OF
WATER

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 8715-3**

I have this day, January 8, 2025, made a thorough examination of the water use system owned by Todd Heine, 1020 E. 320th St., Vermillion, SD, 57069, holder of Permit No. 8715-3, bearing the priority date of January 20, 2023. This permit authorizes the diversion of 0.67 cu. ft. per second (cfs) of the waters of groundwater (Missouri Elk Point Aquifer) authorizing the irrigation of 29 acres located in Clay County.

Inspection contacts: Todd Heine

A. Works used to divert the water:

Well Information

- 1) Well Drilling Firm: Sam Heine Well Company
- 2) No. of Wells: 1
- 3) Depth(s): 100 feet
- 4) Well log is available: Yes

Casing:

- 1) Diameter: 8 inches
- 2) Length: 80 feet
- 3) Type: Plastic

Screen:

- 1) Diameter: 8 inches
- 2) Length 20 feet
- 3) Type: Stainless Steel
- 4) Static water level: 25 feet

Pump:

- 1) Make: Grundfos
- 2) Model: 475 5300-2
- 3) Capacity: 500 gpm

Motor:

- 1) Make: Grundfos
- 2) Model No.: Unknown
- 3) Horsepower rating: 30 hp

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

- 1) Type: Aluminum Size: 8 inches Length: 15 feet

C. Works used to apply water to beneficial use:

Center Pivot:

- 1) Make: Zimmatic
- 2) Overall length: 942 feet
- 3) Number of towers: 5
- 4) End gun: Yes Range: 73 feet
- 5) Capacity: 455 gpm

Chemigation Equipment:

- 1) Does chemigate: **No**

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: **No**
 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: **Yes**
 3) Exceptions to compliance are: **The flow rate is more than what was permitted.**

E. Condition and Location:

- 1) The system is in **good** condition with the point(s) of diversion located as follows:
The well is 800 feet west and 960 feet south of the northeast corner of Section 35-T92N-R52W (Latitude 42.74739, Longitude -96.94653 – NE1/4 of the NE1/4).
 2) The works are capable of diverting and conveying to the places of use **1.01** cu. ft. per second of water from the well which is to be used for **irrigation purposes**. Water has been put to beneficial use to the maximum extent as follows:

Section 35-T92N-R52W
NE1/4NE1/4 18 acres
SE1/4NE1/4 7 acres
SW1/4NE1/4 1 acres

Section 36-T92N-R52W
NW1/4NWE1/4 2 acres
SW1/4NW1/4 1 acres

comprising a total of **29** acres of land and the license should be issued for **0.67** cfs.

- 3) All structures, wells and lands on map: **Yes**

F. Comments or other permit(s) associated with the project: The section lines, quarter lines and quarter-quarter lines that are shown on the attached map are estimated based on the extended South Dakota section lines and do not legally exist. They are being used as a familiar manner of describing the area being irrigated. The description of the property based on the “Clay County Beacon Site” description of the land irrigated by these two pivots is “Lot D of Frost Tract 1 SW1/4 & SE1/4 15-32-04 & NW1/4 & NE1/4 Sec 22-32-04 Exc Lots H1 & H2 Vermillion TWP”.

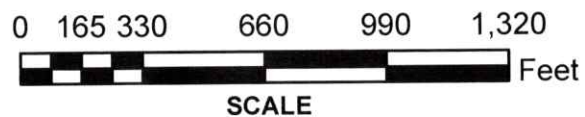
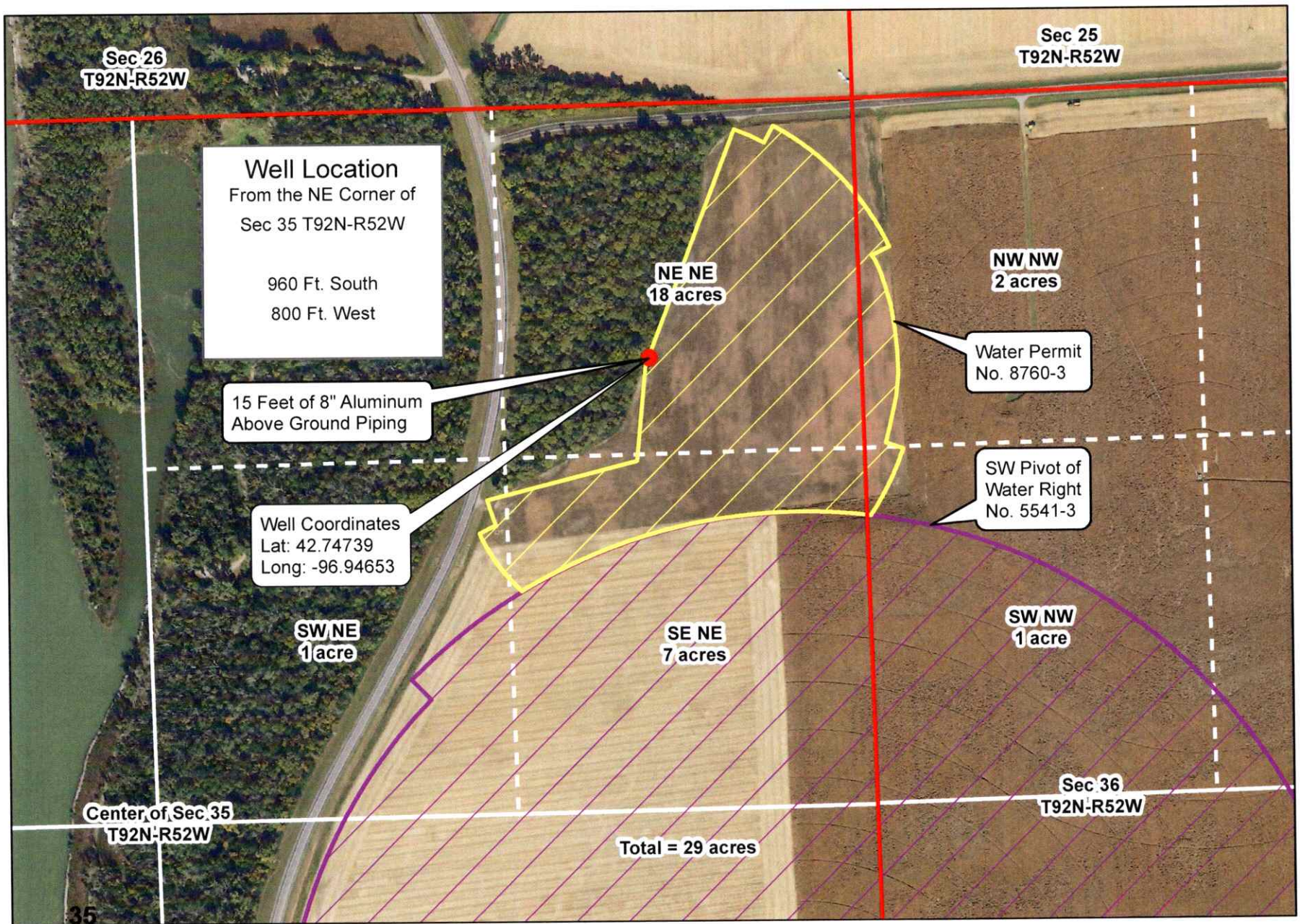
Also, the southern portion of the area irrigated by this permit overlaps a portion of the area irrigated by Water Right No. 5541-3. I did not include that area in the acreages listed above. Water Right No. 5541-3 is in the name of Nels Sorensen, but the land immediately south of the pivot irrigating Water Permit No. 8715-3 is owned by Heine Brothers LLC.

Keith DeJong

Keith DeJong, PE Ret.
 Water Rights Inspector
 DANR, Water Rights Program

Date report completed: **February 4, 2025**

Water Permit No. 8715-3



Keith DeJong
Keith DeJong, PE Ret.
Staff Engineer
February 4, 2025

NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

Date 3-18-2025

MAIL TO: PMB 2020
DANR - Water Rights Program
523 E. Capitol Ave
Pierre, SD 57501-3182

Phone: (605) 773-3352

FROM: Todd Heine
(name)

1020 E 320th Street
(address)

Vermillion SD 57069 605-667-8566
(city) (state) (zip) (phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 8715-3 states that the water use system is to be constructed by
March 6, 2028, and water is to be put to beneficial use by March 6, 2032.
(date) (date)

The water use system was completed on 2023.
(date)

Applying the water to beneficial use was completed on 2023.
(date)

You may schedule an investigation so that the water license may be issued.

Todd Heine
(signature)





DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

JUL 02 2025

Todd Heine
1020 E 320th St
Vermillion, SD 57069

No. 8715-3

Dear Mr. Heine:

Enclosed is Water License No. 8715-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions regarding the enclosed license, please contact Water Rights Permitting Administrator, Amanda Dewell at (605) 773-3352 or Amanda.Dewell@state.sd.us.

Sincerely,

Mark Mayer, PE
Director of Office of Water
(605) 773-3352

Note: The section lines, quarter lines and quarter-quarter lines that are shown on the attached map and described on the face of this license are estimated based on the extended South Dakota section lines and do not legally exist. They are being used as a familiar manner of describing the diversion point and area being irrigated. The description of the property based on the Clay County Beacon Site is "Lot D of Frost Tract 1 SW1/4 & SE1/4 15-32-04 & NW1/4 & NE1/4 Sec 22-32-04 Exc Lots H1 & H2 Vermillion TWP".

Note: The inspection found your system for Water Right No. 8715-3 to be capable of diverting 1.01 cfs (approx. 455 gpm). Diversion of water under this license is limited to 0.67 cfs (approx. 301 gpm).

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8715-3

(1) Todd Heine, 1020 E 320th St, Vermillion, SD 57069, made Application No. 8715-3, January 20, 2023, for a water permit to divert 0.67 cubic feet of water per second from groundwater, one well (Missouri: Elk Point Aquifer), Clay County, South Dakota for irrigation purposes. Permit No. 8715-3, with a priority date of January 20, 2023, was approved March 6, 2023, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 6, 2028, and for the application to beneficial use of water on or before March 6, 2032.

The permit holder submitted a Notice of Completion of Works and Application of Water to Beneficial Use form on March 18, 2025. The Notice stated the diversion system was completed in 2023 and the water was placed to beneficial use in 2023.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.67 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 800 feet W and 960 feet S from the NE corner of Section 35, T92N, R52W (NE $\frac{1}{4}$ NE $\frac{1}{4}$)
(Latitude 42.74739 and Longitude -96.94653)

(3) The amount of appropriation may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate to following land:

Section 35, T92N, R52W	Section 36, T92N, R52W
NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 18 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 2 acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 1 acres	SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 1 acres
SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 7 acres	
Total – 29 acres	

(5) Pursuant to South Dakota Water Law 46-5-30.1 Todd Heine, the holder and/or owner of Water Right No. 8715-3 is issued a license to appropriate water, the right to use 0.67 cubic feet of water per second from groundwater, one well (Missouri: Elk Point Aquifer), with a priority date of January 20, 2023, from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8715-3 and subject to the following qualifications:

1. The well approved under Water Permit No. 8715-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

continued

2. The well authorized by Permit No. 8715-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *(The well was drilled in 2023 by Sam Well Company. A copy of the well completion report is on file with the Water Rights Program.)*

3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8715-3 authorizes a maximum diversion rate of 0.67 cfs for the irrigation of 29 acres with an annual volume not to exceed 2 acre-feet of water per acre per year.

4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Mark Mayer, PE
Director of Office of Water

7/2/25
date

