

WATER PERMIT NO. 8757-3

Name of Applicant: **Chad Heckathorn**

Address: **47663 SD Hwy 50, Elk Point SD 57025**

Phone: **605-675-0111**

Amount of Water Claimed: **0.56 cfs**

Total Acres: **42 add'l acres**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation**

County: **Union**

Type of Waste Disposal System:

Location: **5 miles north of Elk Point**

PRIORITY

Date Received: **5-2-2023**

Application/License Fee: **\$700**

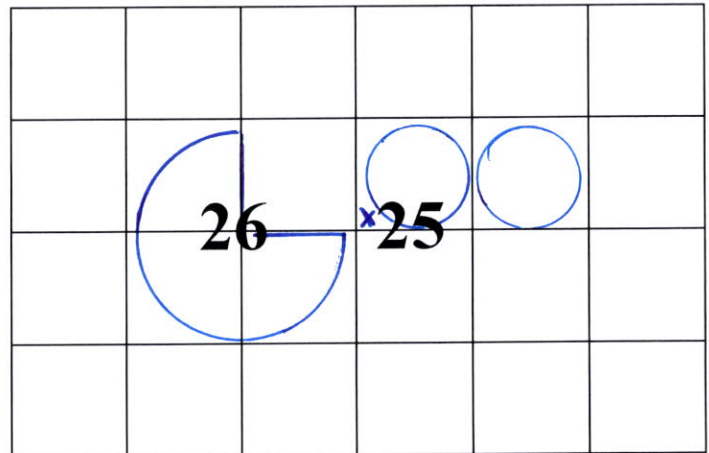
Corrected Application Received:

Period of Annual Use: **April 1 – October 31**

Remarks: **Relocating pivot point in Sec 26-92N-50W to allow irrigation well to service more acres**

Diversion Point: **SW 1/4 NW 1/4 Section 25 -
T92N-R50W**

Land to be Irrigated: **SW 1/4 NE 1/4, NW 1/4 SE
1/4, NE 1/4 SE 1/4 Section 26, S 1/2 NW 1/4
Section 25; all in T92N-R50W**



Depth of Well: **200**

Well Driller:

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **5-2-2023**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8757-3**

Date of first receipt of application May 2, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8757-3 to Chad Heckathorn, 47663 SD Hwy 50, Elk Point SD 57025 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8757-3 appropriates 0.56 cubic feet of water per second (cfs) and to irrigate an additional 42 acres. Water Right No. 4534-3 authorizes 1.11 cfs from one well completed into the Missouri: Elk Point Aquifer (200 feet deep) located in the SW 1/4 NW 1/4 Section 25 for irrigation of 105 acres located in the S1/2 NW 1/4 Section 25 and the NE 1/4 SE 1/4 Section 26; all in T92N-R50W. This permit authorizes use of an additional 0.56 cfs from the existing well to irrigate an additional 42 acres located in the SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 26; S 1/2 NW 1/4 Section 25; all in T92N-R50W. This permit, and Water Right No. 4534-3 will authorize a total of 1.67 cfs for irrigation of 147 acres. This site is located approximately 5 miles north of Elk Point SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is May 2, 2023.
4. The date of approval of Permit No. 8757-3 is July 24, 2023.
5. One-fifth of the construction is to be completed on or before January 24, 2026.
6. All construction is to be completed on or before July 24, 2028.
7. Water is to be put to beneficial use on or before July 24, 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 Right No. 4534-3 and Water Permit No. 8757-3 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. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUL 31 2023
date



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

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8757-3</u> (office use only) Hydrologic Unit <u>10170203</u>	Ck# <u>5906</u> Rec't# <u>5/2/23</u>
	Basin <u>Lower Big Sioux</u>	
	Newspaper <u>Elk Point Southern Union</u> <u>Daily Press & Dakotan</u>	

Application For Permit To Appropriate Water For IrrigationType of Application: ☒ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 4534-3

(Use predates Mar 2, 1955)

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

Modifying acres irrigated by 4534-31. Name to Appear on Irrigation Permit Chad Heckathorn**Note:** The "Name to Appear on Irrigation Permit" must be the name in which the irrigated property is held in.Mailing Address 47663 SD Hwy 50 Elk Point SD 57025
(Address) (City) (State) (Zip Code)Home Phone _____ Cell 605.675.0111 Email chad@heckseeds.com2. Amount of water claimed 0.56 *CFS or 250 add'l 750 **GPM ***AF Total Acreage 147 Acres
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable) 42 add'l AC3. Source of water supply 4534-34. Location of point of diversion 100' N and 60' E of the W1/4 corner Section 25-92-50 (SW 1/4 NW 1/4)
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)County Union5. County or counties where water will be used Union6. Annual period during which water is to be used April - October7. 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
SW1/4 NE1/4 26-92-50	25.5		
NW1/4 SE1/4 26-92-50	24.5		
NE1/4 SE1/4 26-92-50	25.0		
S1/2 NW1/4 25-92-50	72.0		

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

Relocating pivot point in Section 26-92-50 to allow irrigation well to service more acres.**RECEIVED****MAY 02 2023****OFFICE OF
WATER**I, Chad Heckathorn, 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.

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)

Heckathorn Well Application Map

Modifying Existing Well Permit 4534-3

Legend:

- Blue** – 25.5 Acres -New area to be watered in SW1/4 NE1/4 26-92-50
- Red** – 24.5 Acres – New area to be watered in NW1/4 SE1/4 26-92-50
- Orange** – 25 Acres – Modified area to be watered in NE1/4 SE1/4 26-92-50
- Yellow Outline** – 35 Acres - Existing Permit for 4534-3 (being modified to Orange acres)
- Yellow Area to East** – 72 Acres - Existing Permit for 4534-3 (no change)



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 4534-3

(1) WHEREAS, On the 10th day of March A. D. 19 80
Hockathorn River

made Water Right Application No. 4534-3 for a permit to use 1.74* cubic feet per second of the waters of groundwater (one well)

County of Union, State of South Dakota, for Irrigation purposes; and

(2) WHEREAS, On the 19th day of November A. D. 19 80
 Permit No. 4534-3, with a date of priority of October 26, 1976 & March 10, 1980 was issued to said applicant 9 for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 19th day of November A. D. 19 81 and for the application to beneficial use of said water on or before the 19th day of November A. D. 19 82

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 1.11 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

to irrigate lands all in T24N, R50W

Section 25.

SW 1/4 NW 1/4 35

SE 1/4 NW 1/4 35 10

Section 26

NE 1/4 SE 1/4 35

TOTAL 105 acres

* The applicable portions of Permit No. 3155-3 have been incorporated into this Water License No. 4534-3

Land Ownership

Modifying Existing Well Permit 4534-3

Christy Heckathorn Trust

47663 SD Hwy 50
Elk Point, SD 57025
605.675.0111
chad@heckseeds.com
100% Owner of:
SW1/4 NE1/4 26-92-50
NW1/4 SE1/4 26-92-50

Chad Heckathorn Trust

47663 SD Hwy 50
Elk Point, SD 57025
605.675.0111
chad@heckseeds.com
75% Owner of: NE1/4 SE1/4 26-92-50
16.6% Owner of: Land in 26-92-50

Stacy Guillaume

2961 S. Downing St
Englewood, CA 80113
303.783.8994
stacy.guillaume@denvergov.org
75% Owner of: NE1/4 SE1/4 26-92-50

Wayne Heckathorn

31792 473rd Ave.
Elk Point, SD 57025
605.675.1853
Quad4farms@gmail.com
50% Owner of: Land in 26-92-50

Shellie Eisma

607 W. Maple St
Edgerton, MN 56128
507227.6581
shellie@iw.net
16.6% Owner of: Land in 26-92-50

Bill Heckathorn

6744 Glass Ridge Dr.
Lincoln, NE 68526
402.598.2113
bill@flyperformance.com
16.6% Owner of: Land in 26-92-50

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date May 2, 2023

RECEIVED OF Chad/Christy Heckathorn 47663 SD Hwy 50 Elk Point SD 57025

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

Fee for Application for Permit No. <u>8757-3</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>8757-3</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
me

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, April 28, 2023 11:03 AM
To: chad@heckseeds.com
Subject: FW: [EXT] 4354-3, Heckathorn
Attachments: Heckathorn Well Application Map.pdf; Land Ownership.pdf; Application SD EForm-0498LD V5.pdf; Transferform.doc.docx

One more thing I forgot to mention. The Water Right 4534-3 is in Wayne Heckathorn's name. Do you want the water right to remain in his name? If not, then a Notice of Transfer of Ownership form needs to be completed with a \$50 fee; see attached form.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: Rodriguez, Rachel
Sent: Friday, April 28, 2023 10:52 AM
To: chad@heckseeds.com
Subject: FW: [EXT] 4354-3, Heckathorn

Our review of your application states 182 acres and we get 147 acres total. Do you agree? If so, your application/license fee will be \$700.

Also, please mark the well location with an X on the map.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, April 28, 2023 10:52 AM
To: chad@heckseeds.com
Subject: FW: [EXT] 4354-3, Heckathorn
Attachments: Heckathorn Well Application Map.pdf; Land Ownership.pdf; Application SD EForm-0498LD V5.pdf

Our review of your application states 182 acres and we get 147 acres total. Do you agree? If so, your application/license fee will be \$700.

Also, please mark the well location with an X on the map.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: Chad Heckathorn <chad@heckseeds.com>
Sent: Thursday, April 27, 2023 6:07 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>; Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: Re: [EXT] 4354-3, Heckathorn

Eric,

Attached are the files I will mail to your office along with the \$50 application fee.
If you have any questions or concerns, please let me know.

All the best,
Chad Heckathorn

On Tue, Apr 25, 2023 at 3:27 PM Gronlund, Eric <Eric.Gronlund@state.sd.us> wrote:

Chad – you indicated intention to add additional acres and a small amount of diversion authority to Water Right No. 4354-3. This water right currently authorizes 1.11 cfs (500 gpm) for irrigation of 105 acres. The existing well information should be on file with the administrative record for WR 4354-3.

Attached is application form with instruction sheet



**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. 8757-3, Chad Heckathorn**

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. 8757-3, Chad Heckathorn, 47663 SD Hwy 50, Elk Point SD 57025.

The Chief Engineer is recommending APPROVAL of Application No. 8757-3 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 Right No. 4534-3 and Water Permit No. 8757-3 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. 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
June 29, 2023

Report to the Chief Engineer

On Water Permit Application No. 8757-3

Chad Heckathorn

June 29, 2023

Water Permit Application No. 8757-3 proposes to appropriate 0.56 cubic feet of water per second (cfs) and irrigate 42 acres using an existing well authorized by Water Right No. 4534-3. Water Right No. 4534-3 authorizes a maximum instantaneous diversion rate of 1.11 cfs from one well completed into the Missouri: Elk Point aquifer (200 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25 for the irrigation of 105 acres located in the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 25 and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26; all in T92N-R50W. This application proposes to use an additional 0.56 cfs from the existing well to irrigate 42 additional acres located in the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 25 and SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26; all in T92N-R50W. If approved, Water Permit Application No. 8757-3 and Water Right No. 4534-3 will collectively authorize a maximum instantaneous diversion rate of 1.67 cfs from one existing well for the irrigation of 147 acres. The site of interest is located in Union County approximately five miles north of Elk Point, 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 Big Sioux, Lower Vermillion-Missouri and Lower James-Missouri aquifers, and the Big Sioux, James, Missouri, and Vermillion Rivers (Niehus, 1994; Stephens, 1967).

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

No water well or test hole completion report is on file for this existing well authorized by Water Right No. 4534-3 (Water Rights, 2023c). 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 existing well site have saturated aquifer thicknesses ranging from approximately 20 to 80 feet, with the depth to the top of aquifer materials ranging from approximately 20 to 50 feet below the ground surface, and static water levels at well completion varying from approximately 20 to 50 feet below the ground surface (Water Rights, 2023d). The Missouri: Elk Point aquifer is expected to be unconfined at the existing well site based on the

water well completion reports on file for nearby wells completed into the aquifer (Water Rights, 2023d).

Figure 1 displays a map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges et al., 1982) and the location of the existing well proposed to be used by Water Permit Application No. 8757-3 (Water Rights, 2023c).

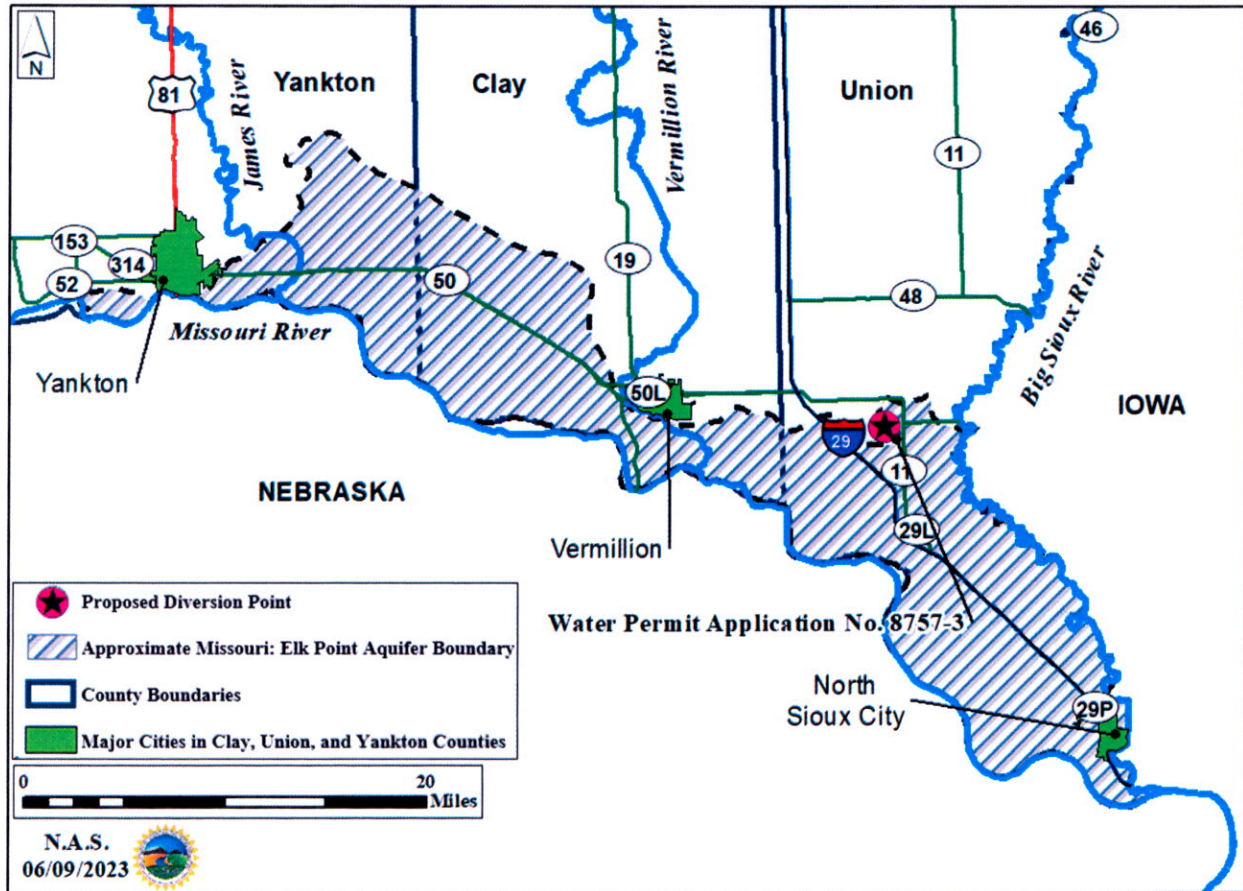


Figure 1. Map of the approximate Missouri: Elk Point aquifer boundary modified from Hedges and others (1982) with the location of the existing well proposed to be used by Water Permit Application No. 8757-3 (Water Rights, 2023c)

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

Pursuant to SDCL 46-2A-9, “A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant’s proposed use, that the diversion point can be developed without unlawful impairment of existing domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Missouri: Elk Point aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8757-3 proposes to appropriate water from the Missouri: Elk Point aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Missouri: Elk Point aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Missouri: Elk Point aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Missouri: Elk Point aquifer is primarily through the infiltration of precipitation where the aquifer is at or near the ground surface, seepage from the Big Sioux, James, Missouri, and Vermillion Rivers, inflow from the Lower Vermillion-Missouri and Lower James-Missouri aquifers 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 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 currently held by Lewis & Clark Regional Water System (Mathiowetz, 2022). If Future Use Permit Application No. 8754-3 (with a priority date senior to this application), applied for by Lewis & Clark Regional Water System, requesting to appropriate up to 19,121 acre-feet per year, is approved and fully developed, the estimated average annual recharge rate to the Missouri: Elk Point aquifer is approximately 130,770.3 acre-feet per year due to the induced recharge component from the Missouri River to the Missouri Elk Point aquifer that results from Lewis & Clark Regional Water System’s pumping (Mathiowetz, 2023).

Discharge

Discharge from the Missouri: Elk Point aquifer is primarily through well withdrawals, evapotranspiration where the aquifer is at or near the ground surface, outflow to the Big Sioux and Missouri Rivers during periods of low flow and stage, and leakage to the underlying Dakota aquifer (Niehus, 1994 and 1997; Water Rights, 2023c).

Currently, there are 649 water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus three pending applications (with priority dates senior to this application) – Water Permit Application No. 8743-3 proposing to irrigate 50 acres in Clay County, Water Permit Application No. 8744-3 proposing to appropriate an amount of water not to exceed 28.6 acre-feet the first year of use followed by up to 7.99 acre-feet annually in Union County, and Future Use Permit Application No. 8754-3, applied for by Lewis & Clark Regional Water System, requesting to reserve up to 19,121 acre-feet per year for future use (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. If Future Use Permit Application No. 8754-3, requesting to appropriate up to 19,121 acre-feet per year, is approved, the future use permits are assumed to be fully developable for a total of 21,021 acre-feet per year.

Table 1 summarizes the 44 non-irrigation water rights/permits (including two irrigation water permits, see paragraph below – and one pending water permit application) 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). This method is likely an overestimation of withdrawals. 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 Right No. 5437-3 was licensed for a reduced diversion rate which prevents pumping the allotted volume of water specified on the permit (Water Rights, 2023c). The estimated average annual withdrawal rate for Water Right No. 5437-3 was approximated assuming pumping 60% of full time at the respective licensed diversion rate method as mentioned above on Table 1.

Water Permit No. 5998-3 is permitted for the irrigation of turf 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).

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; however, it is likely there is some seepage through the bottom of the pond (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; Water Rights, 2023c), and normal annual total precipitation at the Sioux City, Iowa airport was determined to be approximately 29.27 inches over a 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 44 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire, and the pending water permit application) authorized to appropriate water from the Missouri: Elk Point aquifer is approximately 69,720 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 for Clay RWS, and one pending application) 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		191.2
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
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		95.6
8147-3	Doug Lafleur	PE	04/06/2015	COM, LCO	1.0	160	159
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	3 Sons Properties	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		349
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
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	Knife River	LC	01/03/2000	IND	0.222		96.5
1255-3	City of Elk Point	LC	01/01/1914	MUN	1.13		491.1
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		1,245
6236-3	City of Vermillion	LC	11/06/2000	MUN	2.6	1,161	
6354-3	City of Vermillion	LC	08/12/2002	MUN	0.022		10
1965-3	Town of Gayville	LC	01/01/1914	MUN	0.37		0*
4207-3	Town of Jefferson	LC	01/01/1916	MUN	0.90		391
5118-3	Town of Gayville	LC	01/28/1987	MUN	0.33		0*
5437-3	Dakota Dunes Community Improvement District	LC	04/12/1990	MUN	3.33		1,447
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
8744-3	Dakota Bay	pending	03/29/2023	REC	1.55	28.6	28.6
6736-3	Lewis and Clark RWS	PE	07/08/1994	RWS	27.85	20,165	53,442
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	
8614-3	Lewis and Clark RWS	PE	03/04/2022	RWS	0.0	8,277	
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:	69,720
*Identified as being connected to a RWS; therefore, water use from aquifer is presumed to be zero acre-feet/year							
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 44 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire), there are 16 non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer (Water Rights, 2023c and 2023f).

Four of the non-irrigation water rights/permits that are required to report (Nos. 8031-3, 8415-3, 8435-3, and 8614-3) are currently under development (or were approved in 2023) 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 four years of reported withdrawals (Water Rights, 2023f). Therefore, the estimated use for Permit Nos. 8031-3, 8415-3, 8435-3, 8381-3, 8403-3, and 8614-3 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 (8614-3 was approved in 2023) (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 349 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 2013 to 2022 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 appropriate 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.

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
2022	0.0252	5.7	550	142	1,394	3,405	24,693
Max	0.2	5.7	550	202	1,440	3,405	24,693
Min	0.0171	1	21	98	1,071	66	0
Avg	0.074	4.10	294	159	1,245	1,695	15,281*
RWS: Rural Water System *Excluded reported zero values							

Currently, there are 608 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus one pending application - Water Permit Application No. 8743-3 proposing to irrigate 50 acres in Clay County (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 2022 irrigation questionnaire summary has not been completed at this time (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 606 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 608 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, 605 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, 7800-3, and 7941-3) that were incorporated into another water right or cancelled in 2022 (Water Rights, 2023c), resulting in only 563 of the water rights/permits listed as reporting in 2021 being currently active.

Forty-two water permits/rights did not submit an irrigation questionnaire form in 2021 that are currently active, accounting for the difference between the 563 currently active water rights/permits listed as reporting in 2021 and the 605 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 42 permits, 39 were issued in 2021, 2022, or 2023 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 42 water permits/rights are authorized to irrigate approximately 3,552 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 had 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 annually 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 83,206.1 acres authorized to be irrigated from the Missouri: Elk Point aquifer (plus pending Water Permit Application No. 8743-3 proposing to crop irrigate 50 acres), with 819.6 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 819.6 acres being turf irrigated (Water Rights, 2023c), the annual use for turf irrigation yields approximately 744.2 acre-feet per year (Table 4). By multiplying the application rate of 0.331 feet per acre per year (Mathiowetz, 2022), by the 82,386.5 acres (total acres minus turf irrigated acres) acres being crop irrigated (Water Rights, 2023c), plus the pending application requesting to crop irrigate 50 acres, the annual use for crop irrigation yields approximately 27,286.5 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 28,030.7 acre-feet per year.

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

Permit No.	Name	Status	County	Acres	Total Estimated Use (acre-feet/year)
1294-3	Recreation Development Assn. Inc.	LC	Union	102	92.6
2011-3	TR Golf LLC	LC	Union	95	86.3
5786-3	Dakota Dunes Golf Course	LC	Union	173	157.1
5998-3	Clay Rural Water System Inc	PE	Union	300	272.4
5998A-3	Clay Rural Water System Inc	PE	Union	0	0
5935-3	Ted Waitt	LC	Union	1	0.908
5936-3	Applied Engineering	LC	Yankton	1.8	1.6
8010-3	Ryan Rusher	LC	Yankton	2.5	2.3
8029-3	Dakota Dunes Comm Improvement District	PE	Union	17.8	16.2
8040-3	Heine Electric & Irrigation Inc	LC	Clay	1	0.908
8354-3	TR Golf LLC	PE	Union	30	27.24
8407-3	Gayville-Volin School District 63-1	LC	Yankton	4.5	4.1
8530-3	National Field Archery Association Foundation	LC	Yankton	16	14.5
8560-3	TR Golf LLC	PE	Union	65	59
8727-3	TR Golf LLC	PE	Union	10	9.1
			TOTAL:	819.6	744.2

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. If Future Use Permit Application No. 8754-3 (with a priority date senior to this application), applied for by Lewis & Clark Regional Water System, requesting to appropriate up to 19,121 acre-feet per year, is approved and fully developed, the estimated average annual recharge rate to the Missouri: Elk Point aquifer is approximately 130,770.3 acre-feet per year (Mathiowetz, 2023).

The average annual withdrawal rate for the water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer totals approximately 118,786 acre-feet per year (including the estimated use for Water Permit Application No. 8757-3, and Future Use Application No. 8754-3, if approved) (listed on Table 5) - with an average annual recharge rate of approximately 130,770.3 acre-feet per year. If Future Use Application No. 8754-3 is not approved, then the average annual withdrawal rate is approximately 99,665 acre-feet, with an average annual recharge rate of approximately 114,593.9 acre-feet per year. 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 (including pending Future Use Application No. 8754-3, if approved)	21,021
Non-Irrigation (including pending Water Permit Application No. 8744-3, if approved)	69,720
Irrigation (Mathiowetz's (2022) turf and crop application rates) including pending Application No. 8743-3	28,031
Application No. 8757-3 (if approved, assuming Mathiowetz's (2022) crop application rate of 0.331 per acre)	14
TOTAL:	118,786

OBSERVATION WELL DATA:

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

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DNR-Water Rights Program monitors 36 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2023b). The four closest observation wells to the well the applicant proposes to use are UN-87G (approximately 2.8 miles southeast), UN-87F (approximately 3.2 miles northeast), UN-87H (approximately 3.3 miles southeast), and UN-87I (approximately four miles southeast) (Water Rights, 2023b). The hydrographs for these observation wells are displayed in Figures 2 to 5 (Water Rights, 2023b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing. It is worth noting the hydrograph titles display DENR Water Rights Observation Well on the hydrographs when the titles should display DNR Water Rights Observation Well on the hydrographs.

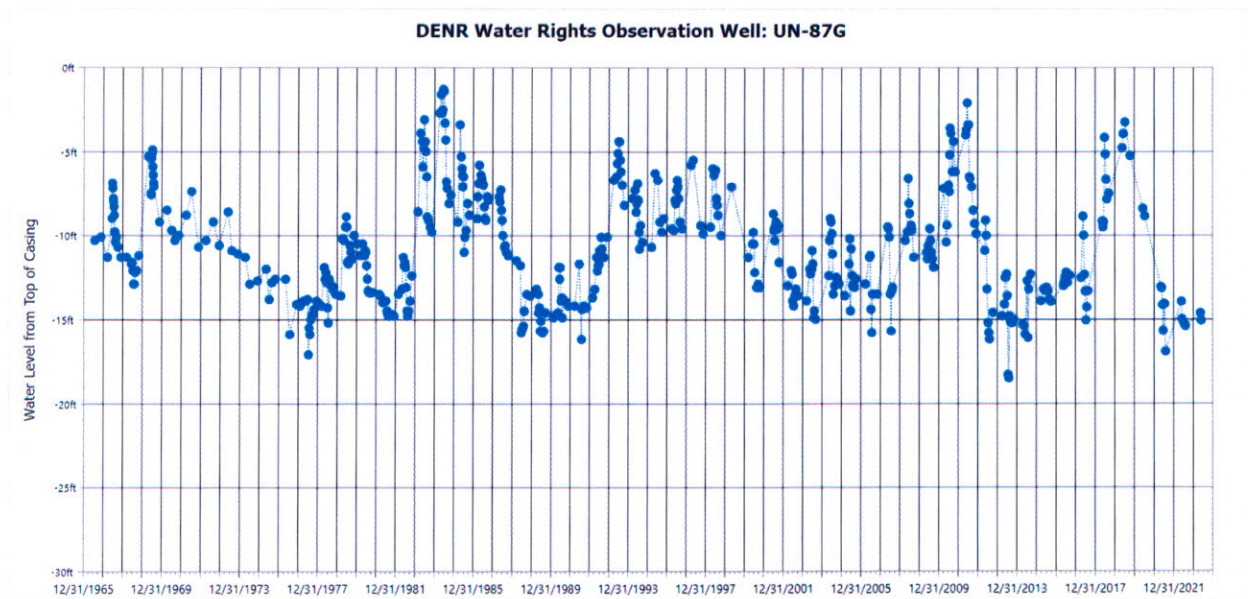


Figure 2. Hydrograph for observation well UN-87G (Water Rights, 2023b)

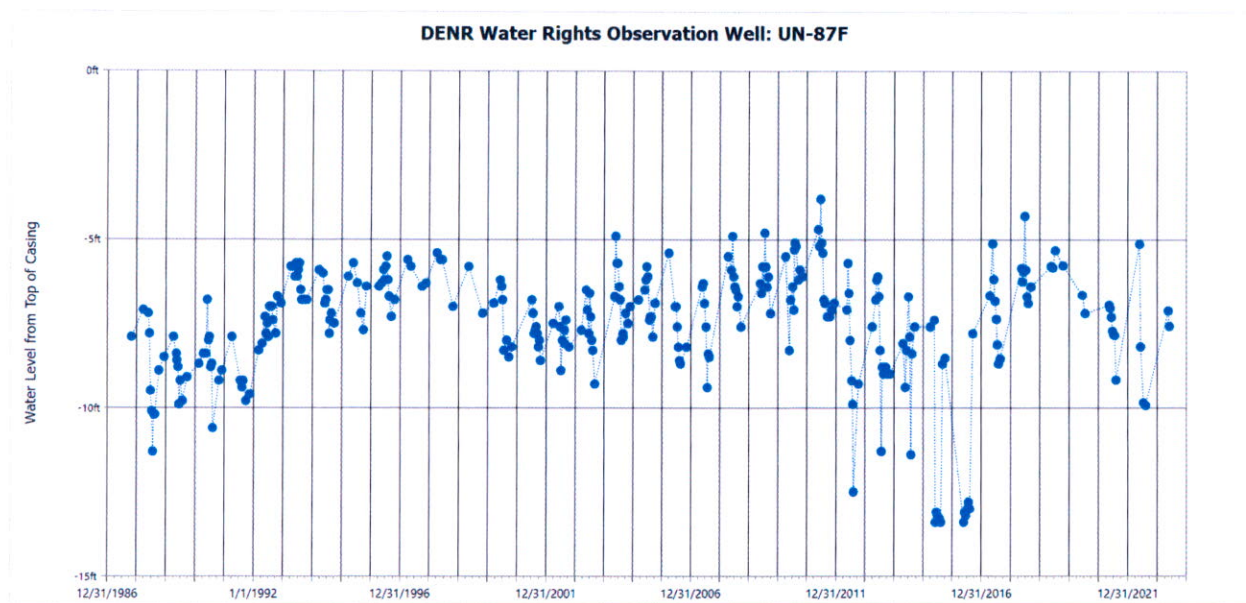


Figure 3. Hydrograph for observation well UN-87F (Water Rights, 2023b)

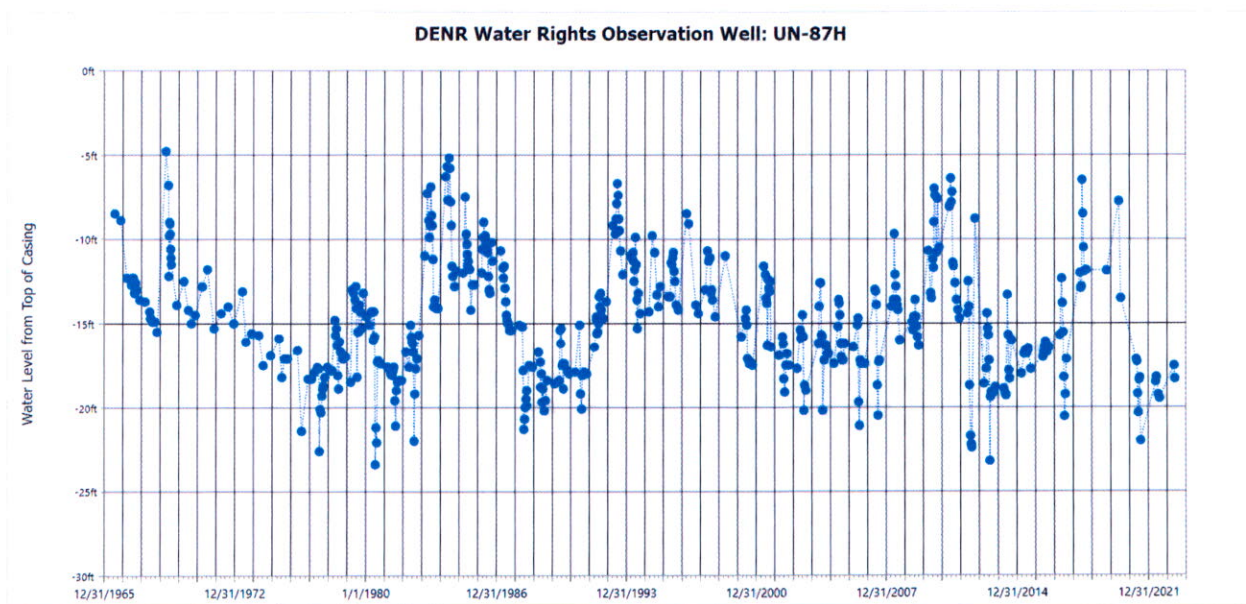


Figure 4. Hydrograph for observation well UN-87H (Water Rights, 2023b)

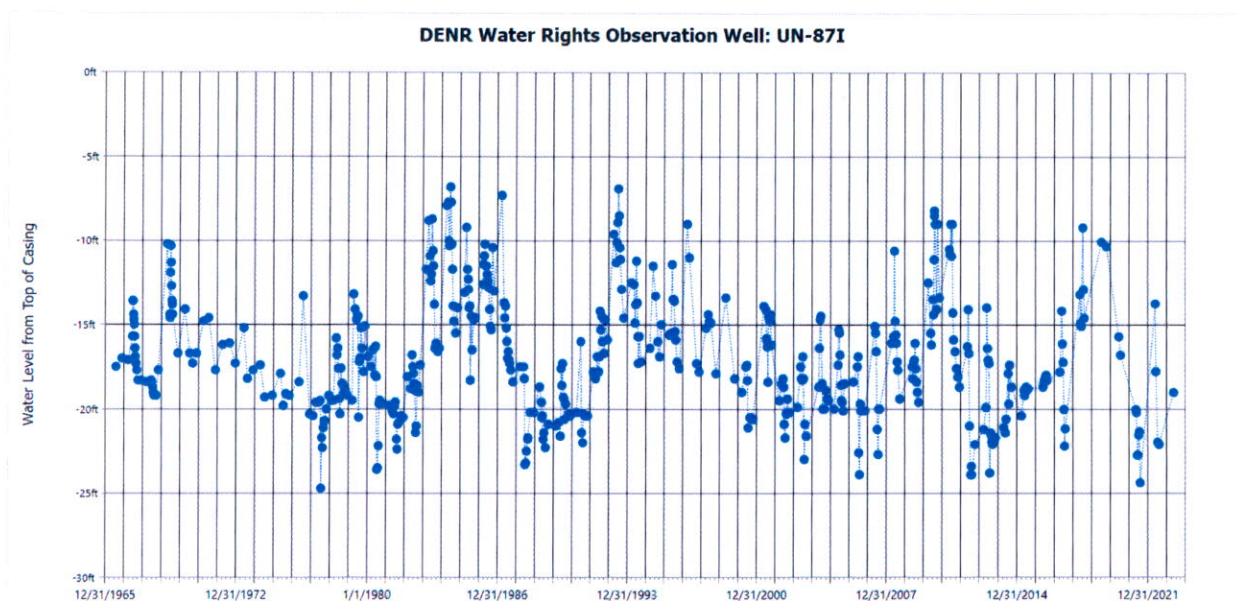


Figure 5. Hydrograph for observation well UN-87I (Water Rights, 2023b)

The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Missouri: Elk Point aquifer and all displayed a generally similar trend as shown on the hydrographs displayed in Figures 2 to 5 (Water Rights, 2023b), except for several Missouri: Elk Point aquifer observation wells close to the Missouri River whose respective hydrographs show a gradual long-term downward trend (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.

To demonstrate the connection between the aquifer and the Missouri River, consider the United States Geological Survey (USGS) 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. 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 this proposed appropriation.

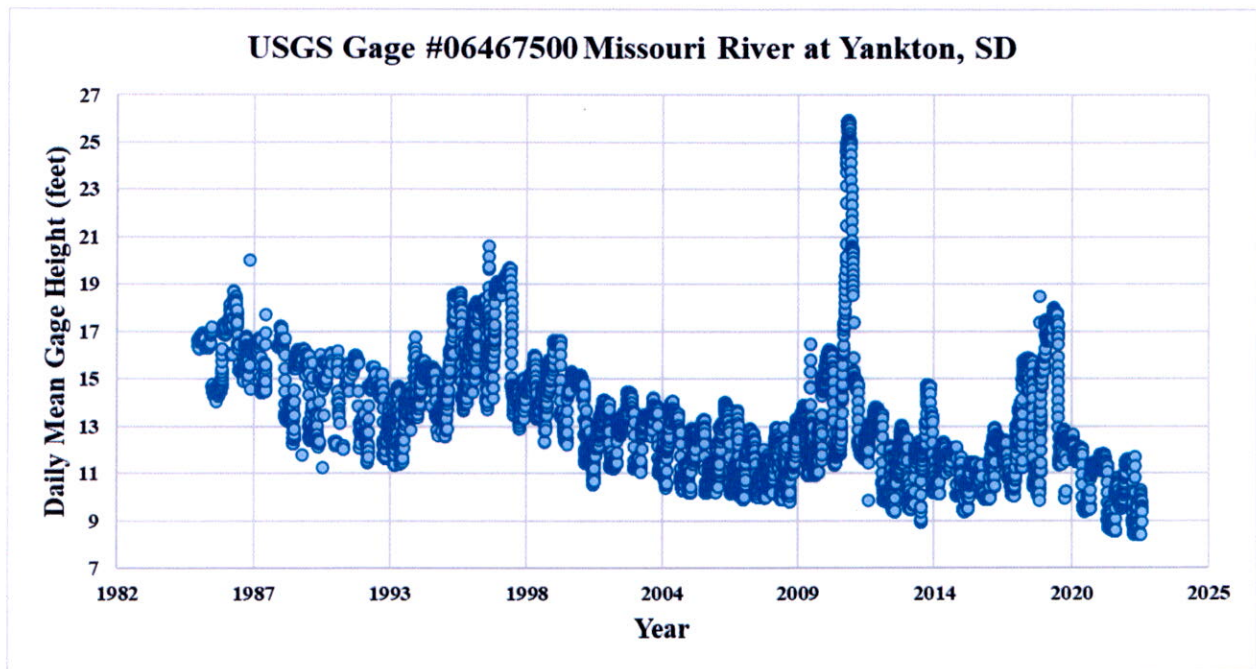


Figure 6. Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 1985 to 2023 (USGS, 2023)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 649 water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus three pending applications (with priority dates senior to this application) (Water Rights, 2023c). The closest water right/permit to the existing well site is Water Right No. 2925-3, which is held by Jerome T Johnson (Water Rights, 2023c). The diversion point for Water Right No. 2925-3 is located approximately 0.6 miles northeast of the existing well site for this application (Table 6) (Figure 7) (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 0.3 miles northeast of the existing well (Water Rights, 2023d). There could potentially be other domestic wells completed into the Missouri: Elk Point aquifer near the well the applicant proposes to use that are not on file with the DANR-Water Rights Program. The location of the domestic wells is based on the location provided at the time of completion by the well driller.

Table 6. Water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer within approximately two miles of the existing well, as shown in Figure 7 (Water Rights, 2023c)

Permit No.	Name	Status	Use	Authorized Acres if IRR	Authorized Diversion Rate (cfs)
2114-3	Mark Chicoine	LC	IRR	151	2.16
2475-3	Marimac Inc	LC	IRR	148	2.1
2535-3	Wayne Heckathorn	LC	IRR	153	2.2
2925-3	Jerome T Johnson	LC	IRR	122	1.73
3112-3	Darmon Staum	LC	IRR	143	2.1
3515-3	Darmon Staum	LC	IRR	136	1.94
3531-3	Melvin Donnelly	LC	IRR	138	1.97
4534-3	Chad Heckathorn	LC	IRR	105	1.11
4543-3	Lyle Wagner	LC	IRR	289	2.88
4611-3	Wendell H Bishop	LC	IRR	128	1.78
4732-3	Gerald Benjamin	LC	IRR	189	2.22
5287-3	Craid S McInerny	LC	IRR	208	2.22
5904-3	Mark E & Joseph Chicoine	LC	IRR	96	1.37
6000-3	Burdette Wagner	LC	IRR	33	0.57
6222-3	Lyle Wagner	LC	IRR	69	2.67
7188-3	Brian David	PE	IRR	124	1.78
7473-3	Gregg Hanson	PE	IRR	145	1.78
7818-3	Richard Fennel	PE	IRR	130	1.78
7895-3	Todd Hanson	PE	IRR	180	1.89
7951-3	Allen Pace	PE	IRR	150	1.78

LC: Licensed Water Right; PE: Water Permit; IRR: Irrigation

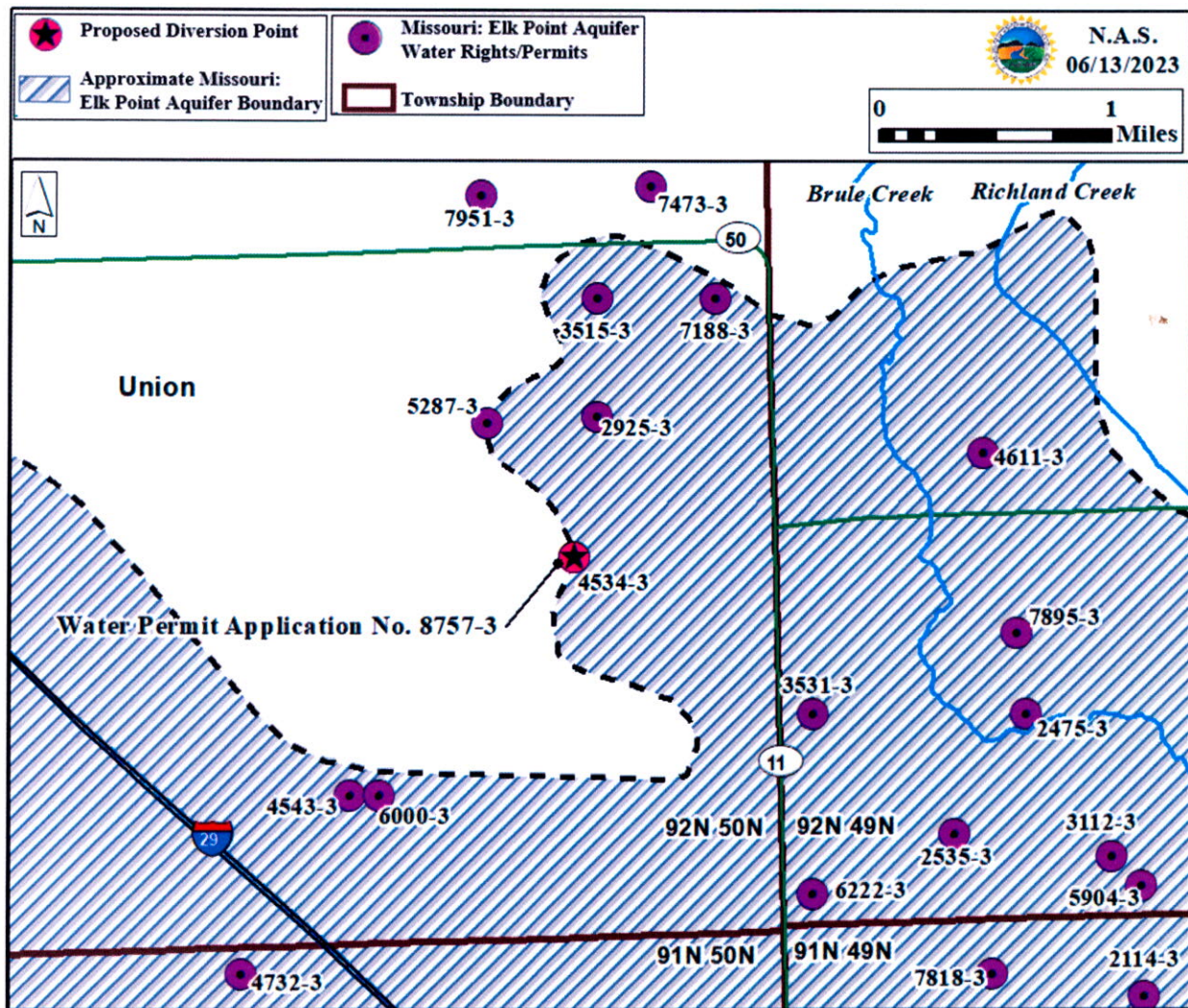


Figure 7. Location of the existing well completed into the Missouri: Elk Point aquifer proposed to be used by Water Permit Application No. 8757-3, with the Missouri: Elk Point aquifer water rights/permits within approximately two miles (Water Rights, 2023c)

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 nearby wells completed into the aquifer, the Missouri: Elk Point aquifer is expected to be unconfined at the existing well site (Water Rights, 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 site, the Missouri: Elk Point aquifer has a saturated thickness of approximately 20 to 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 proposed diversion for this application is not expected to unlawfully impair nearby adequate wells. In Clay, Union, and Yankton Counties, there are no substantiated complaints on file with the DNR-Water Rights Program regarding well interference for adequate wells completed into the Missouri: Elk Point aquifer (Water Rights, 2023e).

When considering the saturated thickness of the Missouri: Elk Point aquifer near the existing well site, the generally unconfined nature of the aquifer, and the lack of well interference complaints for adequate wells completed into the Missouri: Elk Point aquifer, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells. Additionally, the existing well proposed to be used has been in place and is presumed to have been in use since roughly 1980 at an authorized diversion rate of 1.11 cfs (Water Right No. 4534-3 was licensed in July of 1980) without any reported well interference complaints on file with the DNR-Water Rights Program (Water Rights, 2023c and 2023e).

CONCLUSIONS:

1. Water Permit Application No. 8757-3 proposes to appropriate an additional 0.56 cfs and irrigate 42 additional acres using an existing well authorized by Water Right No. 4534-3. Water Right No. 4534-3 authorizes a maximum instantaneous diversion rate of 1.11 cfs from one well completed into the Missouri: Elk Point aquifer (200 feet deep) for the irrigation of 105 acres. If approved, Water Permit Application No. 8757-3 and Water Right No. 4534-3 will collectively authorize a maximum instantaneous diversion rate of 1.67 cfs from one existing well for the irrigation of 147 acres. The site of interest is located in Union County approximately five miles north of Elk Point, SD.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8757-3 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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**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.**

June 29, 2023

Chad Heckathorn
47663 SD Hwy 50
Elk Point SD 57025

Dear Mr. Heckathorn:

Water Permit Application No. 8757-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Southern Union County Leader-Courier printed at Elk Point SD (Ph # 605 356-2632) and the Daily 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 recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publishers have been instructed to publish your notice. The newspapers have also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

NOTICE OF APPLICATION NO. 8757-3 to Appropriate Water

Notice is given that Chad Heckathorn, 47663 SD Hwy 50, Elk Point SD 57025 has filed an application for a water permit to appropriate 0.56 cubic feet of water per second (cfs) and irrigate an additional 42 acres. Water Right No. 4534-3 authorizes 1.11 cfs from one well completed into the Missouri: Elk Point Aquifer (200 feet deep) located in the SW 1/4 NW 1/4 Section 25 for irrigation of 105 acres located in the S1/2 NW 1/4 Section 25 and the NE 1/4 SE 1/4 Section 26; all in T92N-R50W. This application proposes to use an additional 0.56 cfs from the existing well to irrigate an additional 42 acres located in the SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 26; S 1/2 NW 1/4 Section 25; all in T92N-R50W. This application, if approved, and Water Right No. 4534-3 will authorize a total of 1.67 cfs for irrigation of 147 acres. This site is located approximately 5 miles north of Elk Point SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8757-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by July 24, 2023.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by July 24, 2023.

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

Published once at the total approximate cost of_

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, June 29, 2023 2:12 PM
To: timesleader1@gmail.com
Subject: 8757-3 Chad Heckathorn - Public Notice
Attachments: 8757-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on July 13, 2023 in the Southern Union County Leader-Courier.

Chad Heckathorn, 47663 SD Hwy 50, Elk Point SD 57025, (605 675-0111) has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, June 29, 2023 2:13 PM
To: Michael Pietz
Subject: 8757-3 Chad Heckathorn - Public Notice
Attachments: 8757-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on July 13, 2023.

Chad Heckathorn, 47663 SD Hwy 50, Elk Point SD 57025, (605 675-0111) has been notified to contact you to authorize publication and arrange for payment.

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

Let me know if you have questions. [Please acknowledge receipt of this email.](#)

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



AFFIDAVIT OF PUBLICATION

State of South Dakota)
:ss
County of Union)

Shannon L. Jost,

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

The Leader-Courier

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

Applicatio No. 8757-3

Chad Heckathorn

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

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

on Thursday, the 13 day of July, 2023

and that the succeeding publications were

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

on Thursday, the _____ day of _____, _____

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

\$ 45.50, that the full amount of the fee charged insures to the benefit of the publisher of the said newspaper, that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me

this 13 day of July, 2023

[Signature]

Notary Public

RECEIVED

JUL 31 2023

OFFICE OF
WATER

NOTICE OF APPLICATION

NO. 8757-3 TO APPROPRIATE WATER

Notice is given that Chad Heckathorn, 47663 SD Hwy 50, Elk Point SD 57025 has filed an application for a water permit to appropriate 0.56 cubic feet of water per second (cfs) and irrigate an additional 42 acres. Water Right No. 4534-3 authorizes 1.11 cfs from one well completed into the Missouri: Elk Point Aquifer (200 feet deep) located in the SW 1/4 NW 1/4 Section 25 for irrigation of 105 acres located in the S1/2 NW 1/4 Section 25 and the NE 1/4 SE 1/4 Section 26; all in T92N-R50W. This application proposes to use an additional 0.56 cfs from the existing well to irrigate an additional 42 acres located in the

SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 26; S 1/2 NW 1/4 Section 25; all in T92N-R50W. This application, if approved, and Water Right No. 4534-3 will authorize a total of 1.67 cfs for irrigation of 147 acres. This site is located approximately 5 miles north of Elk Point SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8757-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the



My Commission Expires

August 28 2024

application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and

wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by July 24, 2023.

The petition shall include

a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by July 24, 2023.

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

Publish July 13, 2023

Published once at the total approximate cost of \$45.50 and may be viewed free of charge at www.sdpublicnotices.com
28-1-141

AFFIDAVIT OF PUBLICATION

RECEIVED

JUL 07 2023

OFFICE OF
WATER

YANKTON DAILY PRESS AND DAKOTAN

CHAD HECKATHORN
47663 SD HWY 50
ELK POINT SD 57025

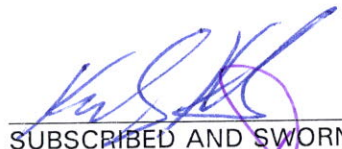
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

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

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 5th DAY OF July, 2023
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$43.52 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: 07/05/2023

FILED ON: 07/05/2023



SUBSCRIBED AND SWORN TO BEFORE ME THIS 5th DAY OF July, 2023

NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 07/15/2028

Notice is given that Chad Heckathorn, 47663 SD Hwy 50, Elk Point SD 57025 has filed an application for a water permit to appropriate 0.56 cubic feet of water per second (cfs) and irrigate an additional 42 acres. Water Right No. 4534-3 authorizes 1.11 cfs from one well completed into the Missouri: Elk Point Aquifer (200 feet deep) located in the SW 1/4 NW 1/4 Section 25 for irrigation of 105 acres located in the S1/2 NW 1/4 Section 25 and the NE 1/4 SE 1/4 Section 26; all in T92N-R50W. This application proposes to use an additional 0.56 cfs from the existing well to irrigate an additional 42 acres located in the SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 26; S 1/2 NW 1/4 Section 25; all in T92N-R50W. This application, if approved, and Water Right No. 4534-3 will authorize a total of 1.67 cfs for irrigation of 147 acres. This site is located approximately 5 miles north of Elk Point SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8757-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineers recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by July 24, 2023.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by July 24, 2023.

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

Published once at the total approximate cost of \$43.52 and can be viewed free of charge at www.sdpublicnotices.com.

Published on July 05, 2023.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, June 29, 2023 2:20 PM
To: chad@heckseeds.com
Subject: 8757-3 Chad Heckathorn - Public Notice
Attachments: 8757-3_rec.pdf; Letter.pdf; 8757-3 public.short_final.docx

Good afternoon Chad,

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

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JUL 31 2023

Chad Heckathorn
47663 SD Hwy 50
Elk Point SD 57025

Dear Mr. Heckathorn:

Enclosed is Water Permit No. 8757-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
on DANR Website**

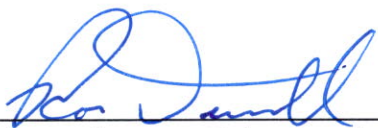
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.: 8757-3

Name of Applicant: Chad Heckathorn

Date of Posting: 7/10/2023

Date of Removal: 7/31/2023



Ron Duvall, Water Rights Permitting Administrator

8/4/23

Date

Subscribed and sworn to before me, a notary public, this 4th day of August, 2023.



Notary Public - South Dakota
My commission expires:
Rachel Rodriguez
My Commission Expires
May 16, 2029

(SEAL)





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2024

NOTICE

TO: CHAD HECKATHORN, 47663 SD HWY 50, ELK POINT, SD 57025

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

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaires

Our records indicate your 2023 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 4534-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 8757-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8757-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 4534-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaires are received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: JTNJQU**

SCOTT WAGNER, 31633 472ND AVE, ELK POINT SD 57025

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

8757-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 26, 2024

4534-3 & 8757-3

Chad Heckathorn
47663 SD HWY 50
Elk Point SD 57025

Dear Mr. Heckathorn:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you submitted to let us know that you are completed with your water use system.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you.

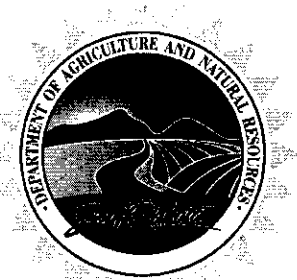
I am also writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 4534-3 & 8757-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
(605) 773-3352
email: Amanda.Dewell@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

danr.sd.gov

RECEIVED
JAN 26 2024

**OFFICE OF
WATER**

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

TO: Water Rights Program, DANR
523 E. Capitol Ave.
Pierre, SD 57501-3182
or via email to DANRmail@state.sd.us

Date 1-25-2024

FROM: Chad Heckathorn

605.675.0111

(name)

(phone)

47663 SD Hwy 50

chad@heckseeds.com

(address)

(email)

Elk Point, SD, 57025

(city, state, zip)

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. 8757-3 states that the water use system is to be constructed by

July 24, 2028

(date)

, and water is to be put to beneficial use by

July 24, 2032

(date)

The water use system was completed on May 2, 2023

(date)

Applying the water to beneficial use was completed on May 2, 2023

(date)

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