

WATER PERMIT NO. 8779-3

Name of Applicant: **Josh Schmidt**

Address: **1700 W 60th Street N, Sioux Falls SD 57107**

Phone: **605-231-1361**

Amount of Water Claimed: **1.78 cfs**

Total Acres: **120**

Source of Water Supply: **Surface**

Water to be used for: **Irrigation**

County: **Charles Mix**

Type of Waste Disposal System:

Location: **Approx. 11 miles northeast of Wagner SD**

PRIORITY

Date Received: **7-14-2023**

Application/License Fee: **\$950.00**

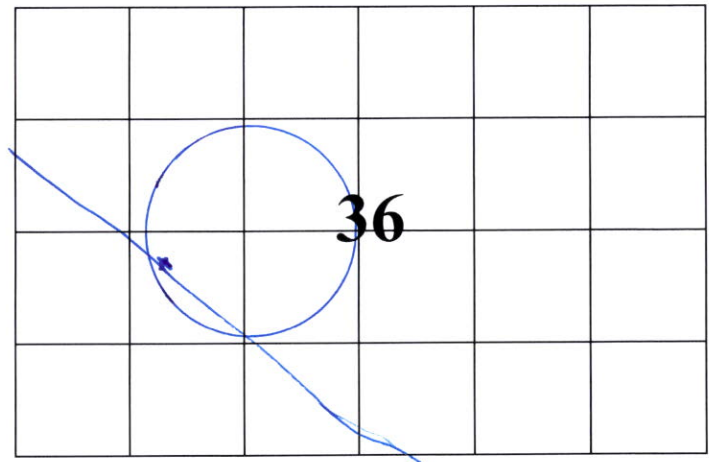
Corrected Application Received:

Period of Annual Use: **May 1 - October 30**

Remarks:

Diversion Point: **NW 1/4 SW 1/4 Section 36 -
T94N-64W**

Land to be Irrigated: **S 1/2 NW 1/4, N 1/2 SW 1/4
Section 36 -T94N-R64W**



Depth of Well:

Well Driller:

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **7-14-2023**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8779-3**

Date of first receipt of application July 14, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8779-3 to Josh Schmidt, 1700 W 60th Street N, Sioux Falls SD 57107 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. 8779-3 appropriates 1.78 cubic feet of water per second (cfs) from the Missouri River located in NW 1/4 SW 1/4 Section 36 for irrigation of 120 acres located in the S 1/2 NW 1/4, N 1/2 SW 1/4 Section 36; all in T94N-R64W. This site is located approximately 11 miles southwest of Wagner SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.
3. The date from which applicant may claim right is July 14, 2023.
4. The date of approval of Permit No. 8779-3 is September 25, 2023.
5. One-fifth of the construction is to be completed on or before March 25, 2026.
6. All construction is to be completed on or before September 25, 2028.
7. Water is to be put to beneficial use on or before September 25, 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. 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, Water Permit No. 8779-3, authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
2. The irrigation intake for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

OCT 10 2023
date



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

RECEIVED

JUL 14 2023

OFFICE OF
WATER

PAID

JUL 14 2023
Ck# 15661
Rec# 7114/23

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8779-3</u> Hydrologic Unit <u>10170101</u> Basin <u>Lewis & Clark Lake</u> Newspaper <u>Wagner Post</u> <u>Daily Press</u> (office use only)
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Application for Permit to Appropriate Water for Irrigation

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

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

1. Name to Appear on Irrigation Permit Josh Schmidt

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

Mailing Address 1700 W 60th St N Sioux Falls SD 57107
(Address) (City) (State) (Zip Code)

Phone (605) 231-1361 Mobile _____ Email Schmidtbrois1700@gmail.com

2. Amount of water claimed 1.78*CFS or 800**GPM ***AF Total Acreage 120
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Missouri River

4. Location of point of diversion Missouri River in NW 1/4 SW 1/4 S36 T94N R64W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Charles Mix

5. County or counties where water will be used Charles Mix

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

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

Land Description	Acres	Land Description	Acres
SW NW S36 T94N R64W	33		
SE NW S36 T94N	31		
NW SW S36 T94N	27		
NE SW S36 T94N	29		

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

Requesting div rate greater than statutory limit

I, Josh Schmidt (Josh Schmidt), 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.



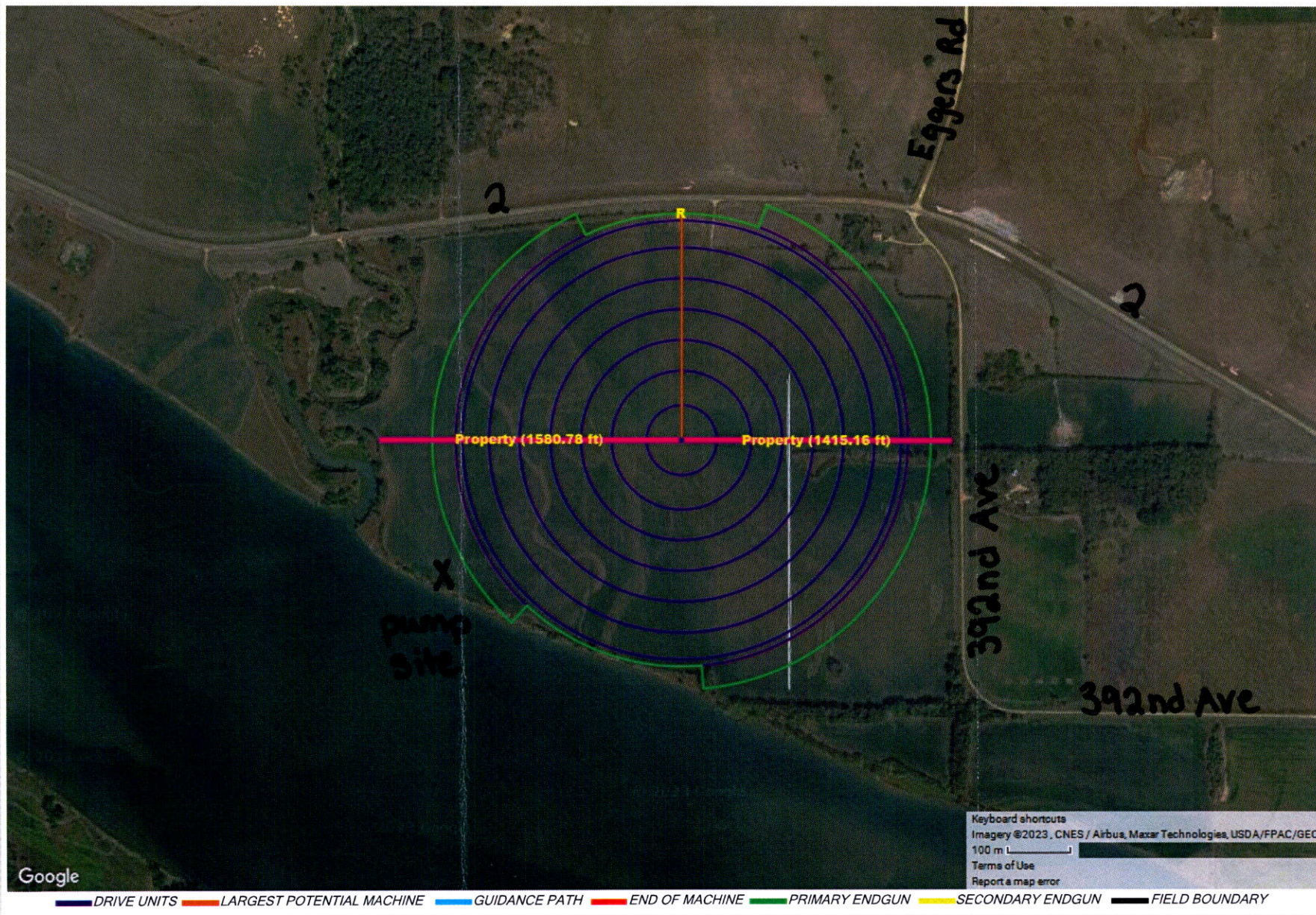
536 T94N R64W



Project Name - Josh Schmidt - Greenwood Farm revised

Map Summary Report - Josh Schmidt

Version Name - Josh Schmidt - Greenwood Farm revised_Version



HEINE ELECTRIC & IRRIGATION - 307 S. Robinson Ave, Hartington, NE, 68739-5139, United States

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date July 14, 2023

RECEIVED OF Schmidt Bros. Farm, LLC 1700 W 60th St N, Sioux Falls SD 57107

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

Fee for Application for Permit No. <u>8779-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>750.00</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>8779-3</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>950.00</u>

By Eric Gronlund
Chief Engineer
ME



**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. 8779-3, Josh Schmidt**

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. 8779-3, Josh Schmidt, 1700 W 60th Street N, Sioux Falls SD 57107.

The Chief Engineer is recommending APPROVAL of Application No. 8779-3 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. 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, Water Permit No. 8779-3, authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 120 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
2. The irrigation intake for this project shall be constructed so that the intake velocities at the intake point do not exceed 0.50 feet per second and the intake is screen 1/4 inch diameter or 3/16 inch slotted stainless steel or corrosion resistant screen to avoid entrainment or impinging fish.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
August 31, 2023

Report to the Chief Engineer

Water Permit Application No. 8779-3

Josh Schmidt

August 11, 2023

Water Permit Application No. 8779-3 proposes to appropriate water at a maximum instantaneous diversion rate of 1.78 cubic feet of water per second (cfs) from the Missouri River located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 36 for the irrigation of 120 acres located in the S $\frac{1}{2}$ NW $\frac{1}{4}$ and the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 36, all in T94N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The site is located in Charles Mix County, approximately 11 miles southwest of Wagner, South Dakota.

Water Source: Missouri River

South Dakota Codified Law (SDCL):

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 from the Missouri River.

SDCL 46-5-6

Issuance of permits to appropriate water for irrigation, "the amount allowed may not be in excess of the rate of one cubic foot of water per second for each seventy acres...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." The applicant proposes to irrigate 120 acres at a diversion rate of 1.78. This is greater than the statutory limit of 1 cfs per 70 irrigated acres allowed. This is presumably due to the applicant proposing to operate a center pivot system which is nozzled to need 1.78 cfs to operate.

Review of the Water Source:

The Missouri River Basin Mainstem System is comprised of six reservoirs that were constructed by the U.S. Army Corps of Engineers (USACE). Overall, the six reservoirs contain approximately 72.4 million acre-feet of water storage capacity. The dams at each of these reservoirs are Fort Peck, Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point (USACE, 2018).

The proposed water source for this application is the Missouri River from a pump site located approximately 15 miles downstream of Lake Francis Case and the Fort Randall Dam in Charles Mix County, South Dakota. Flow hydrographs of the Missouri River in South Dakota has been altered in the past 60 to 80 years due to the presence of the Missouri River mainstem reservoir system, with excess natural flow going into storage and stored water released to supplement flows. Natural flow in an instream reservoir system like the Missouri River mainstem system is the volume of water moving past a point along a river that is not augmented by artificial releases from the storage. This flow is available for appropriation without the need for releases from storage in the reservoirs to augment the natural flow.

In 2001, the United States Geological Survey (USGS) conducted a study calculating daily flow percentiles for the years 1898 to 1997 at Oahe dam and Gavins Point dam. For each day of the year, a flow value was recorded for each of the 100 years of observation. The 10th, 25th, 50th, 75th, and 90th percentile were calculated. For example, the 90th percentile line is equal to or greater than 90% of the discharge values recorded on this day for all years that measurements were made. Figure 1 shows percentile hydrographs made with USGS streamflow data of daily natural flow of the Missouri River at Gavin's Point dam, courtesy of R.B. Jacobson (Figure 1) (Jacobson, 2001). Flow at Gavins Point was used for this report because the proposed pump site is located approximately 60 miles upstream of Gavins Point.

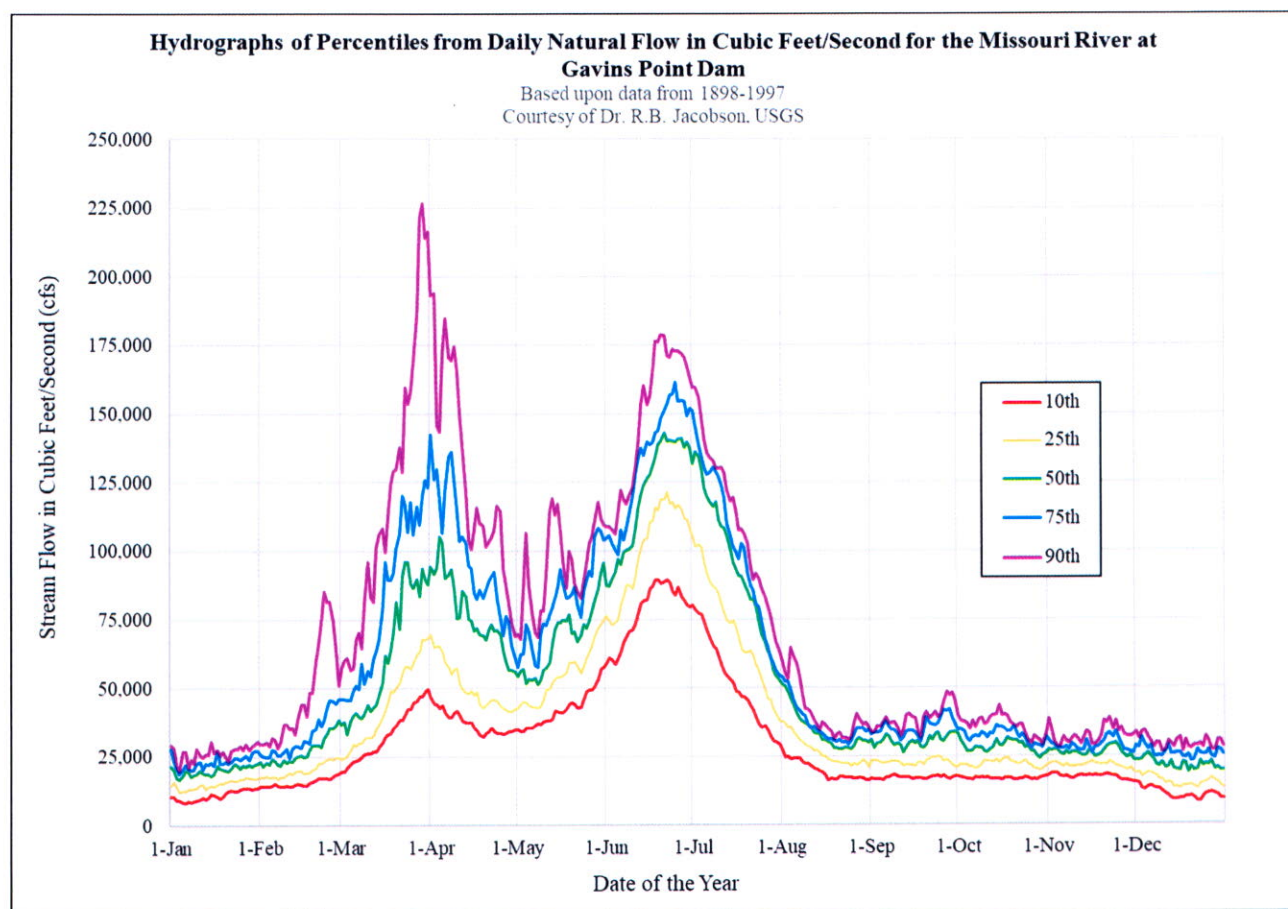


Figure 1: Natural Flow Hydrograph for the Missouri River at Gavins Point Dam (Jacobson, 2001).

There are two large peaks in Figure 1. The first peak in February, March and April corresponds to the rapid melting of ice and snow from the plains in the early spring (USACE, 2018). The largest peak (except for the 90th percentile hydrograph which indicates flood conditions) is late spring to early summer, which indicates rainfall over large areas of the Missouri Basin, including severe local thunderstorms and rapid melting of mountain snow (USACE, 2018). Late summer and fall show diminishing rainfall, and low runoff and light precipitation in the winter (USACE, 2018).

Even at the 10th percentile flow level hydrograph, there is ample natural flow available if this application is approved for the irrigation season of April through October. Water availability is not a concern when using the natural flows of the Missouri River as a source.

Existing Users:

There are currently 251 existing water rights/permits appropriating 1,254.18 cfs from the natural flows of the Missouri River in South Dakota (Water Rights, 2023). There are currently 19 future use permits reserving approximately 355,201 acre-feet and one pending application for a future use permit for an additional 10,000 acre-feet annually for contemplated future development from the Missouri River (Water Rights, 2023). There is one future use permit for approximately 1.1 million acre-feet held by the U.S. Bureau of Reclamation for the suspended Oahe Irrigation Project (Water Rights, 2023). As Figure 1 demonstrates, existing water rights will not be adversely impacted by this project.

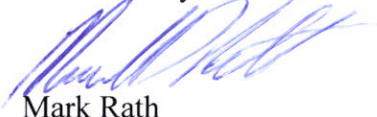
Conclusions:

1. This application proposes to appropriate 1.78 cfs from the Missouri River for the irrigation of 120 acres.
2. The proposed water source for this project is from the natural flow of the Missouri River approximately 15 miles downstream of the Fort Randall Dam in the Lewis and Clark Lake reach.
3. Water availability is not a concern when using the natural flows of the Missouri River as a source.
4. Since water availability is not an issue, approval of this permit will not adversely affect these existing rights.
5. The applicant is requesting a diversion rate greater than 1 cfs per 70 acres, presumably to operate a center pivot system which is nozzled to need 1.78 cfs to operate.



Brittan R. Hullinger
Natural Resources Engineer I
SD DANR, Water Rights Program

Reviewed By:



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

References:

- Jacobson, R.B. and Heuser, J. 2001. Visualization of Flow Alternatives, Lower Missouri River. U.S. Geological Survey. Open-File Report OF02-122.
- USACE. 2018. Missouri River Mainstem Reservoir System Master Water Control Manual. U.S. Army Corps of Engineers, Northwestern Division. Omaha, Nebraska.
- Water Rights. 2023. Water Right/Permit/ Files. SD DANR- Water Rights Program. Joe Foss Building, Pierre, SD.



**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.**

September 5, 2023

Josh Schmidt
1700 W 60th Street N
Sioux Falls SD 57107

Dear Mr. Schmidt:

Water Permit Application No. 8779-3 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 Wagner Post printed in Wagner SD (Ph # 605 384-5616) 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.

Instruction to Newspaper - Publish the Notice on September 13, 2023. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8779-3 to Appropriate Water

Notice is given that Josh Schmidt, 1700 W 60th Street N, Sioux Falls SD 57107 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from the Missouri River located in NW 1/4 SW 1/4 Section 36 for irrigation of 120 acres located in the S 1/2 NW 1/4, N 1/2 SW 1/4 Section 36; all in T94N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 11 miles southwest of Wagner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8779-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 25, 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 September 25, 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: Tuesday, September 5, 2023 10:28 AM
To: Michael Pietz
Subject: 8779-3 Josh Schmidt - Public Notice
Attachments: 8779-3 public.short_final.docx; FORM8.FRM.doc

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

Josh Schmidt, 1700 W 60th Street N, Sioux Falls SD 57107, (605 231-1361) 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: Tuesday, September 5, 2023 10:28 AM
To: Wagner Post and Announcer
Subject: 8779-3 Josh Schmidt - Public Notice
Attachments: 8779-3 public.short_final.docx; FORM8.FRM.doc

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Thank you,

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



Affidavit of Publication

STATE OF SOUTH DAKOTA)

)SS

COUNTY OF CHARLES MIX)

Barbra Pechous, of said County and State being first duly sworn on her oath says: That **The Wagner Post** is a legal newspaper of general circulation, printed and published in Wagner, in said County and State, by Barbra Pechous, and has been such newspaper during the time herein mentioned; and that I, Barbra Pechous, the undersigned, of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in supplement, once each week for 1 successive weeks.

1st publication made on 13 day of Sept., 2023
2nd publication made on _____ day of _____, 2023
3rd publication made on _____ day of _____, 2023
4th publication made on _____ day of _____, 2023
5th publication made on _____ day of _____, 2023

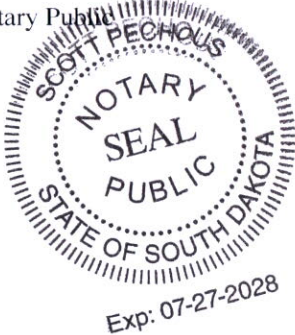
That said newspaper is a legal newspaper, and has a bonafide circulation of more than two hundred copies weekly, and has been published within the County of Charles Mix for more than fifty-two successive weeks prior to the first publication of said notice, and is printed in an office maintained in Wagner, South Dakota, the place of publication of said newspaper. That the full amount of the fee for the publication of the annexed notice is

\$ 44.46
Barbra Pechous

Subscribed and sworn before me this 21 day of Sept., 2023.

Scott Pechous

Notary Public



NOTICE OF APPLICATION NO. 8779-3 TO APPROPRIATE WATER

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Any person interested in opposing this application or recom-

mendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/> public or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 25, 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 September 25, 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 September 13, 2023, at the total approximate cost of \$44.46 and may be viewed free of charge at www.sdpublicnotices.com

Phone # 605-384-5616

**OFFICE OF
WATER**

7217

P.O. Number

Schmidt Bros. Farm, LLC
1700 W 60th N
Sioux Falls, SD 57107

Please detach top portion and return with your payment.

\$44.46

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

SEP 15 2023

OFFICE OF
WATER

JOSH SCHMIDT
1700 W. 60TH ST
SIOUX FALLS SD 57107

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 13th DAY OF September, 2023
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$40.00 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

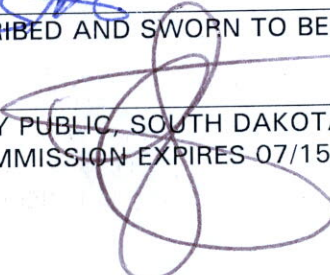
PUBLISHED ON: 09/13/2023

FILED ON: 09/13/2023



SUBSCRIBED AND SWORN TO BEFORE ME THIS 13th DAY OF September, 2023

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



Ad text : NOTICE OF APPLICATION NO. 8779-3 to Appropriate Water

Notice is given that Josh Schmidt, 1700 W 60th Street N, Sioux Falls SD 57107 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from the Missouri River located in NW 1/4 SW 1/4 Section 36 for irrigation of 120 acres located in the S 1/2 NW 1/4, N 1/2 SW 1/4 Section 36; all in T94N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 11 miles southwest of Wagner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8779-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 25, 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 September 25, 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 \$40.00 and can be viewed free of charge at www.sdpublicnotices.com

Published September 13, 2023.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, September 5, 2023 11:09 AM
To: 'schmidtpros1700@gmail.com'
Subject: 8779-3 Josh Schmidt - Public Notice
Attachments: 8779-3_rec.pdf; 8779-3_Ltr.pdf; 8779-3_PublicNotice.pdf

Good morning Josh,

Attached is a copy of the report, chief engineer's 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

OCT 10 2023

Josh Schmidt
1700 W 60th Street N
Sioux Falls SD 57107

Dear Mr. Schmidt:

Enclosed is Water Permit No. 8779-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures



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STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

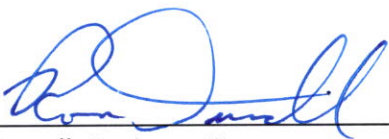
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.: 8779-3

Name of Applicant: Josh Schmidt

Date of Posting: 9/11/2023

Date of Removal: 10/10/2023



Ron Duvall, Engineer III

10/10/2023

Date

Subscribed and sworn to before me, a notary public, this 10 day of October, 2023.



Notary Public - South Dakota
My commission expires May 16, 2029



(SEAL)