

WATER PERMIT NO. 8798-3

Name of Applicant: **Dan & Dennis Mitzel**

Address: **PO Box 104, Herreid SD 57632**

Phone: **605-216-1198**

Amount of Water Claimed: **1.78 cfs**

Total Acres: **130** / 60

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation**

County: **Campbell**

Type of Waste Disposal System:

Location: **Approx. 10 miles north of Selby SD**

PRIORITY Date Received: **09-08-2023**

Application/License Fee: **\$1,050.00**

Corrected Application Received: **09-25-2023**

Period of Annual Use: **May 1 – September 30**

Remarks:

Diversion Point: **Quarter corner Section 17-T125-
R76W**

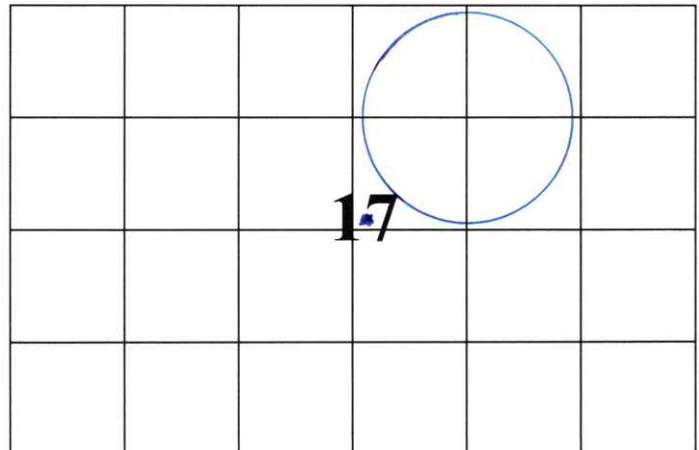
Land to be Irrigated: **NE 1/4 Section 17-T125N-
R76W**

Depth of Well: **282** 242' Per Adam

Well Driller: **Dakota Well Drilling**

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **09-25-2023**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8798-3**

Date of first receipt of application September 8, 2023.

Date of return to applicant for corrections, amendments or changes September 8, 2023.

Date of receipt of corrected application September 25, 2023.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8798-3 to Don & Dennis Mitzel, PO Box 104, Herreid SD 57632 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. 8798-3 appropriates 1.78 cubic feet of water per second from one well to be completed into the Grand Aquifer (approximately 242 feet deep) located in the SW 1/4 NE 1/4 Section 17 for irrigation of 160 acres located in the NE 1/4 Section 17; all in T125N-R76W. This site is located approximately 10 miles north of Selby SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is September 8, 2023.
4. The date of approval of Permit No. 8798-3 is December 27, 2023.
5. One-fifth of the construction is to be completed on or before June 27, 2026.
6. All construction is to be completed on or before December 27, 2028.
7. Water is to be put to beneficial use on or before December 27, 2032.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under Water Permit No. 8798-3 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. Any replacement of the well authorized by Permit No. 8798-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JAN 24 2024
date



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

RECEIVED

SEP 08 2023

OFFICE OF
WATER

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8798-3</u> Hydrologic Unit <u>10130106</u>
	Basin <u>West Missouri Coteau</u>
	Newspaper <u>Flood Plain Pioneer</u>
	<u>Aberdeen American News</u> (office use only)

Application for Permit to Appropriate Water for Irrigation

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

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

- Name to Appear on Irrigation Permit Don & Dennis Mitzel
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.
Mailing Address PO Box 104 Herrell SD 57632
(Address) (City) (State) (Zip Code)
Phone 605-437-2779 Mobile 605-216-1198 Email dmitzel@volleytel.net
- Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 160
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Ground Water (Grand Aquifer)
- Location of point of diversion 1 well in Southwest corner
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
NE 17-125N-76W County Campbell
- County or counties where water will be used Campbell
- Annual period during which water is to be used May - September 30
- 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
<u>17-125-N-76-W</u>			
<u>Center Pivot NE 1/4</u>	<u>130</u>	<u>160</u>	

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

I, Dennis Mitzel, the applicant, certify under
Name of Person Title (if applicable)

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

2021-08

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

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable)

- a) If new wells, how many 1 Have test holes been drilled? ☒ Yes ☐ No Drilled by Dakota Drilling
(if yes, please provide copies of logs)
b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by Logs on file at DNR

For either existing or proposed wells:

- c) Well Depth (required) 242 Depth to Top of Water Bearing Material 160 Depth to Water from Surface 25
d) Distance to nearest domestic well on applicant's property _____ Property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
b) System Capacity (gallons) _____ Year Constructed _____
c) Connected to the City of _____ Sanitary System

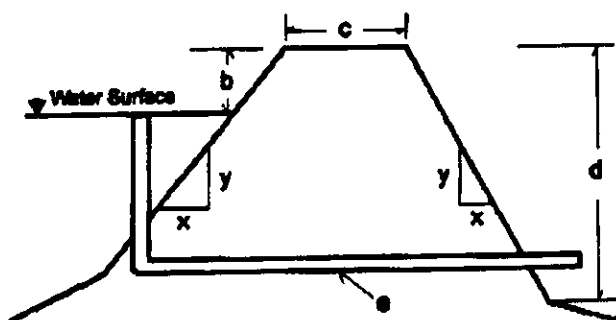
3. Dugout Information

- a) Surface Dimensions _____ Depth _____
b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- b) Freeboard _____
c) Crest Width _____
Crest Length _____
d) Height _____
e) Primary Outlet Capacity _____

- If pipe, diameter _____
f) Secondary Spillway Capacity _____
Spillway Width _____
g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____

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

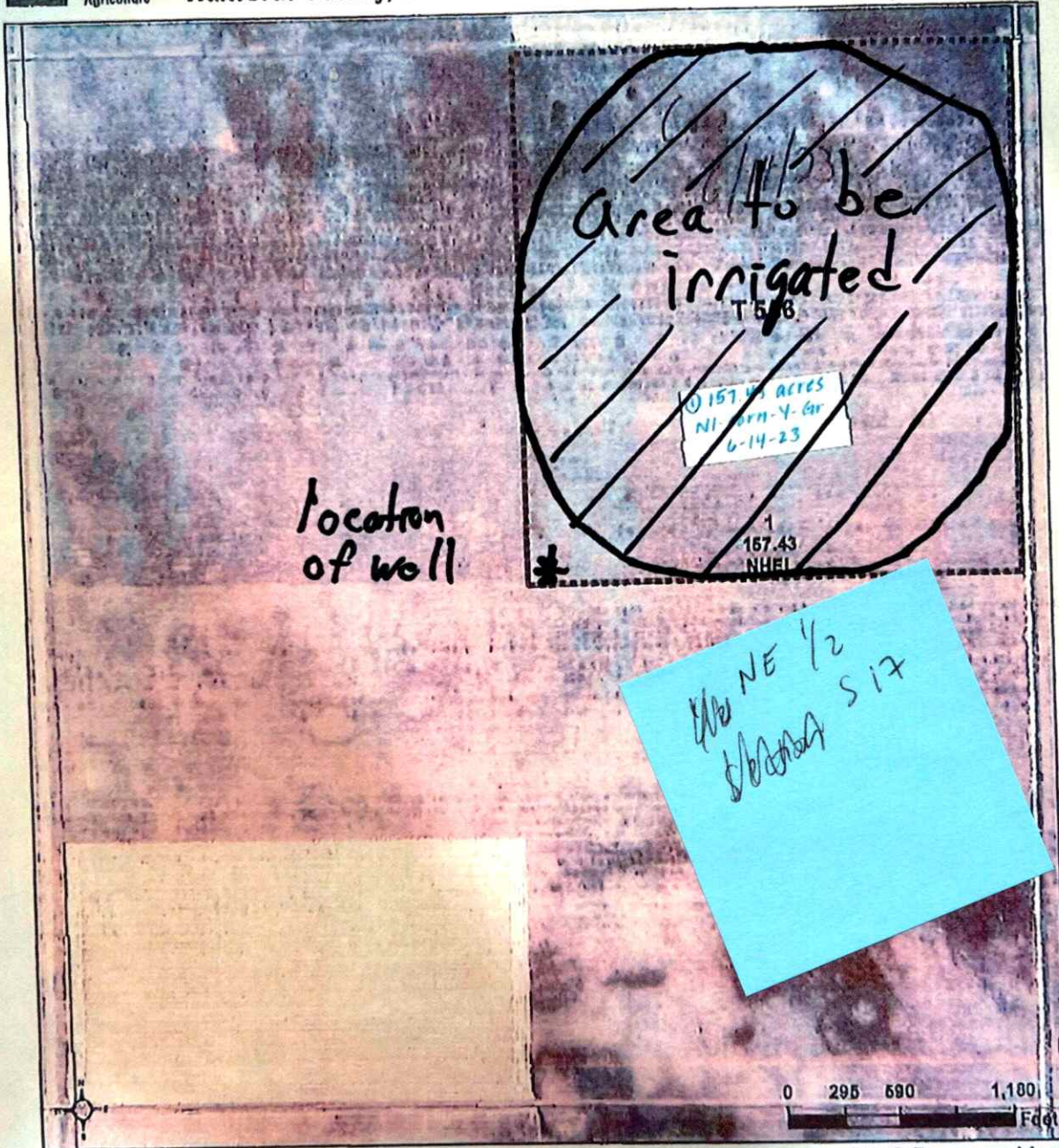
*Dennrs + Don Mitzo



United States
Department of
Agriculture

Walworth County, South Dakota

Producer: Brandon Ritter
Initial BR Date 7/17/2023
Shares 16



Common Land Unit

- ☒ Cropland
- ☐ Tract Boundary

Wetland Determination Identifiers

- ☐ Restricted Use
- ☐ Limited Restrictions
- ☐ Exempt from Conservation Compliance Provisions

0001-0016
Wht Spr Gr Corn Yel Gr
Soy Com Gr Sunfl Oil Gr
All Crops NI

All crops as listed above unless otherwise indicated

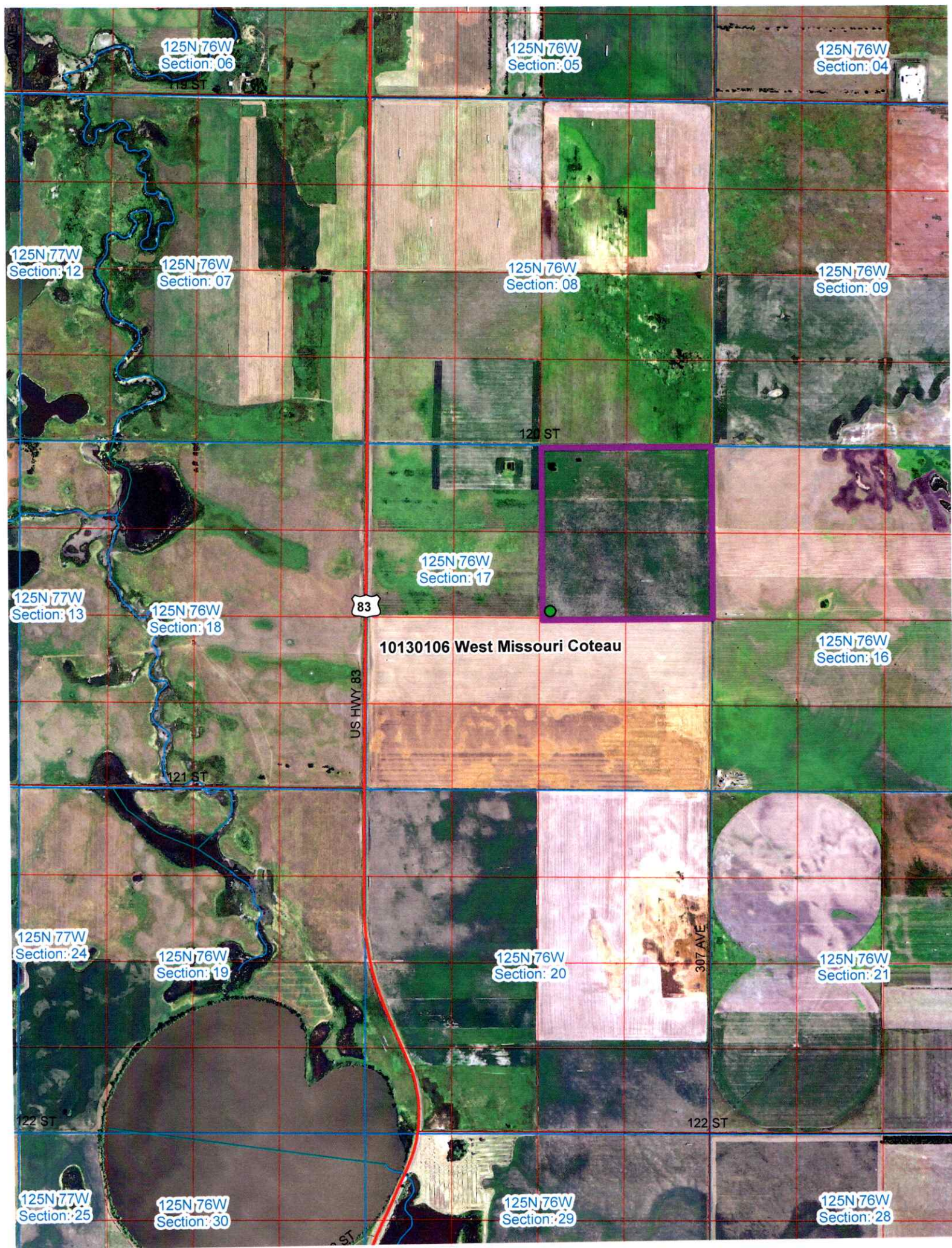
2023 Program Year

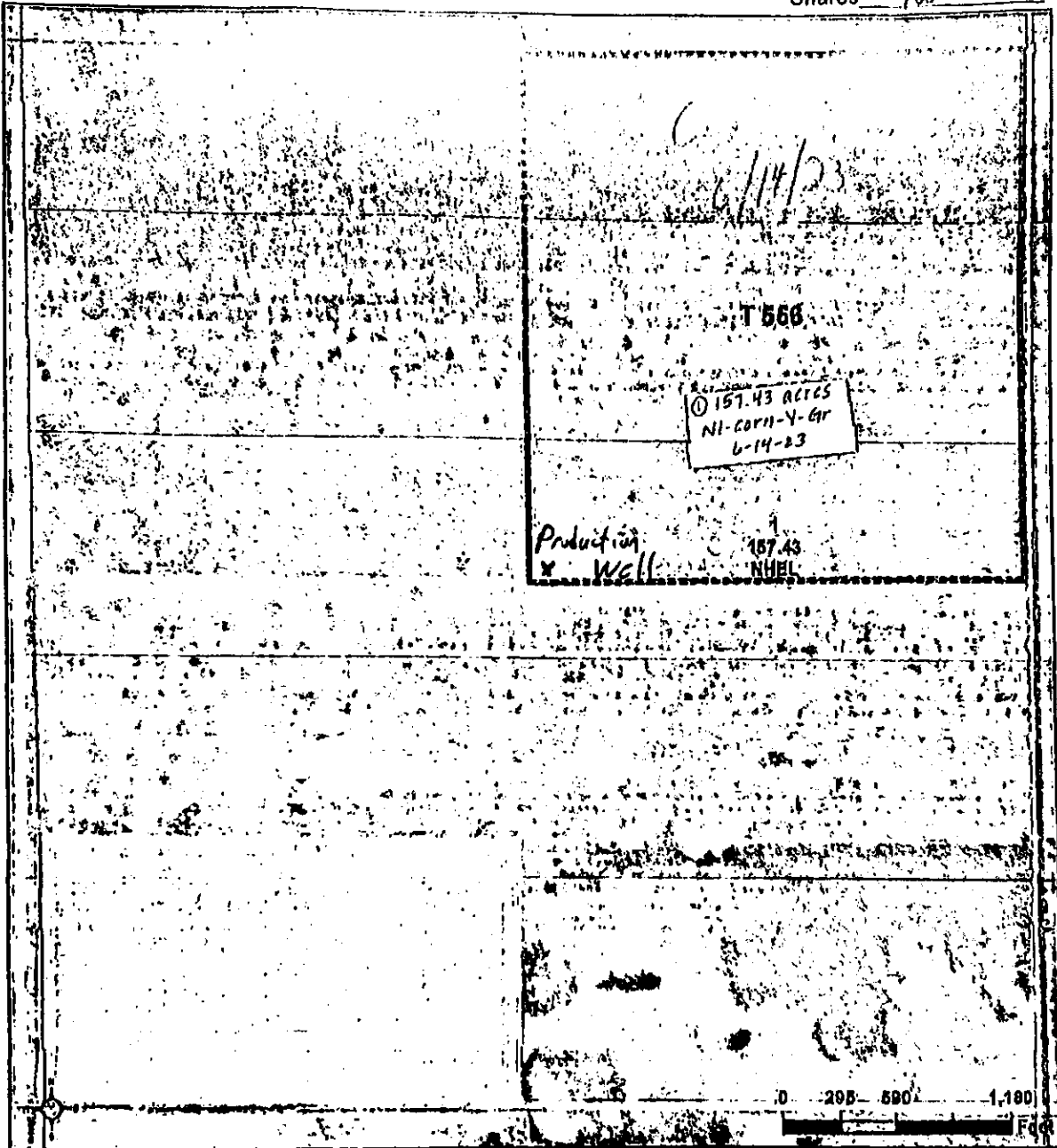
Map Created November 07, 2022

JUL 17 2023 Farm 2613

17-125N-76W-Campbell

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-020 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).





Common Land Unit

- ☒ Cropland
- ☐ Tract Boundary

Wetland Determination Identifiers

- ☐ Restricted Use
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0001-0016

2023 Program Year

Map Created November 07, 2022

Wht Spr Gr Corn Yel Gr
Soy Com Gr Sunfl Oil Gr
All Crops NI

JUL 17 2023 Farm 2613

All crops as listed above unless otherwise indicated 17-125N-78W-Campbell

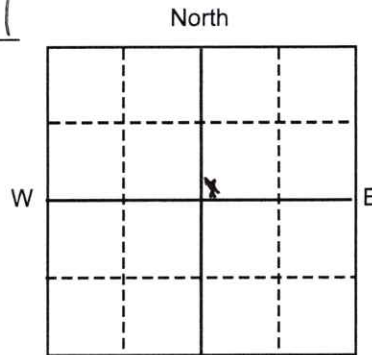
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SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 NE 1/4 Sec 17 Twp 125 Rg 76County Campbell

Please mark well location with an "X"



Well Completion Date

May 11 2023 1 Mile

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

8000 ft. from Hog wash (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Forward RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>200</u> LB/FT	<u>4</u> IN	<u>0</u> FT	<u>222</u> FT	<u>8</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
	<u>10</u>	<u>9.5</u> Lb/gal	<u>222</u> Ft	<u>170</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 4 Inches Length 20 FeetMaterial PVCSlot Size .016 Set From 222 Feet to 242 Feet

Other information

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No

If so, what material?

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? chlorine☐ No, Why Not?

Lab to which water quality sample sent for analysis

Well Owner: Dennis Mitzel

Business Name:

Address: P.O. Box 104City, State, Zip: Herreid SD 57632

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Oxidized med sand</u>	<u>0</u>	<u>7</u>
<u>Gravel</u>	<u>7</u>	<u>11</u>
<u>Yellow clay</u>	<u>11</u>	<u>13</u>
<u>Medium sand</u>	<u>13</u>	<u>20</u>
<u>Soft sandy blue clay</u>	<u>20</u>	<u>135</u>
<u>Sand some clean mostly silt</u>	<u>135</u>	<u>160</u>
<u>Medium sand</u>	<u>160</u>	<u>242</u>

STATIC WATER LEVEL 25 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: Pumped with air
☐ Bailed
☒ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 843 and this report is true and accurate.Drilling firm: Dakota Well Drilling

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

RECEIVED

SEP 05 2023

Date:

OFFICE OF
WATER

Dennis Mitzel

125-76-17

Nw corner of NE ¼

4-25-23

0-9.	Yellow sand
9-20.	Med to coarse gravel
20-80	Sandy blue clay
80-230.	Blue clay till
230-250.	Med sand to gravel
250-255.	Nice drilling coarse sand
255-256.	Blue clay
256-260.	Coarse sand to gravel layers and Shale layers
260-270.	Shale

Hole #2 125-76-17 center of west side of NE ¼

4-26-23

0-4.	Yellow sand
4-16.	Coarse sand to gravel
16-26.	Coarse sand
26-90	Soft silty blue clay with sand layers
90-110.	Soft blue clay
110-125.	Fine sand
125-170	Silty clay with sandy layers
170-177.	Harder blue clay
177-180.	Sand
180-198.	Silty fine sand
198-235.	Soft blue clay
235-249	Blue clay/ sand layers
249-254.	Medium sand
254-258	Clay
258-265.	Medium to coarse nice drilling sand
265-267.	Cobbles
267-271.	Shale Till

#3. Sw corner of NE ¼ 125-76-17

0-7.	Oxidized med sand
7-11.	Gravel
11-13.	Yellow clay
13-20.	Medium sand
20-135.	Soft sandy blue clay
135-160.	Sand some clean mostly silty
160-182.	Medium sand

182-197. Coarse sand to gravel drilled nice

197-206. Medium sand

206-220. Coarse sand to gravel layer, some fine sand layers

220-242. Medium to coarse sand nice drilling

242-245. Clay till

245-262. Medium sand

4" observation / supply well

8" borehole 242' deep

20' .016 pvc screen from 222-242

25' swl

Grouted to 140' with 9.5lb/gallon grout 10bags

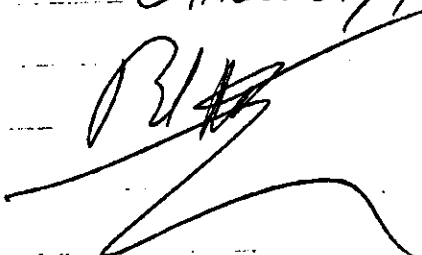
To Whom it may concern:

I, Brandon Pitter, am the agricultural operator of NE $\frac{1}{4}$, 17-125N-76W.

The owners of said property of Don & Dennis Mitzel, of which the water permit application is registered.

Thank you for your time & consideration on this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'BPitter', with a long, sweeping horizontal line extending to the right.

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date September 25, 2023

RECEIVED OF Brandon /Deeann Ritter for Dan/Dennis Mitzel PO Box 104 Herreid SD 57632

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

Fee for Application for Permit No. <u>8798-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</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>8798-3</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>1050.00</u>

By Eric Gronlund
Chief Engineer



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

File No. 8798-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: Dennis Mitzel

ADDRESS: PO Box 104

DATE: September 27, 2023

PHONE: 605.216.1198

RE: Acres to be irrigated

COMMENTS:

I contacted the applicant (Dennis Mitzel) to determine whether the number of acres should be increased to accommodate a center pivot that covers more than 130 acres. Mr. Mitzel indicated that the application can be modified to allow irrigation of 160 acres. I told him I would make the change on the application.

Ron Duvall, Engineer III
SD DANR, Water Rights Program

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, September 21, 2023 9:24 AM
To: BrRitter@valleytel.net
Subject: Application for Water Permit for Irrigation

Good morning,

I just wanted to follow up regarding your application. I am still waiting for the application fee of \$850, and the inspection fee of \$200, for a grand total of \$1,050.00.

Once I am in receipt of the items above, I can begin processing your application.

Thank you,

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, September 8, 2023 1:16 PM
To: Melissa Weisbeck
Subject: RE: [EXT] Brandon Ritter
Attachments: Map.pdf

Good afternoon Melissa,

I am in receipt of your application for a water permit to irrigate. Please verify that the location (see attached map) outlined in purple is the area to be irrigated and the green dot is the well location. Also, the application fee is \$850, and the inspection fee is \$200, for a grand total of \$1,050.00.

Once I am in receipt of the items above, I can begin processing your application.

Thank you,

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



From: Melissa Weisbeck <meljo_78@hotmail.com>
Sent: Friday, September 8, 2023 11:02 AM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: [EXT] Brandon Ritter

Sent from my iPhone

Rodriguez, Rachel

From: Dewell, Amanda
Sent: Friday, September 8, 2023 10:27 AM
To: Rodriguez, Rachel
Subject: FW: [EXT] Brandon Ritter info
Attachments: Sep 8, Doc 1.pdf

I've been fielding calls from Brandon Ritter about this permit application. It looks like they've completed the forms and now I'll pass this off to you. Brandon's email is BrRitter@valleytel.net

Amanda Dewell
DANR - Water Rights Program
Main Phone: 605 773-3352
Website: danr.sd.gov



From: Melissa Weisbeck <meljo_78@hotmail.com>
Sent: Friday, September 8, 2023 10:22 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: [EXT] Brandon Ritter info

Sent from my iPhone



**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. 8798-3, Dan and Dennis Mitzel**

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. 8798-3, Dan & Dennis Mitzel, PO Box 104, Herreid SD 57632.

The Chief Engineer is recommending APPROVAL of Application No. 8798-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 8798-3 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. Any replacement of the well authorized by Permit No. 8798-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
November 15, 2023

Report to the Chief Engineer

Water Permit Application No. 8798-3

Dan and Dennis Mitzel

3 November 2023

Water Permit Application No. 8798-3 proposes to appropriate water at a maximum instantaneous diversion rate of 1.78 cubic feet of water per second (cfs) from one well completed into the Grand aquifer (approximately 242 feet deep) for the irrigation of 160 acres. The well is located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17 and the land to be irrigated is located in the NE $\frac{1}{4}$ of Section 17, all in T125N-R76W. The site is located in Campbell County, approximately 10 miles north of Selby, South Dakota.

Aquifer: Grand (G)

Description of Aquifer:

The Grand aquifer is a Quaternary-aged buried glacial outwash consisting of coarse sand and gravel that can contain thin beds of silty clay, found in Campbell, McPherson, Walworth, Edmunds, and Faulk Counties of South Dakota (Koch, 1970; Hamilton, 1982). The aquifer is overlain by till and alluvium, and in some places the Selby aquifer, a shallow surface glacial outwash aquifer. The aquifer is categorized as a basal aquifer, which means it is typically directly overlying bedrock, in this case, the Pierre Shale. The aquifer is typically under artesian (confined) conditions, where depth to the top of the aquifer ranges from 150 to 300 feet below land surface, and average thickness is about 50 feet. Water in some areas of the Grand aquifer has a medium sodium hazard and high salinity, which would indicate the potential need for special management when utilizing the Grand aquifer for irrigation purposes (Koch, 1970; Hamilton, 1982; Hedges et al., 1982; Kume and Howells, 1987; Water Rights, 2023c).

Previous work done by the Water Rights Program outlines the process to determine an accurate areal extent for the Grand aquifer (Kilts, 2019). The South Dakota Geological Survey (SDGS) has published First Occurrence of Aquifer Materials maps for Edmunds, Faulk, and Hand Counties since the Hedges et al. (1982) publication of the extent of aquifers. By comparing Plate 4: Composite Aquifer Map of Eastern South Dakota (Hedges, 1982) to First Occurrence Maps of Edmunds and Faulk Counties (Rich, 2008 and 2010), some areas that were mapped by Hedges et al. (1982) to be the Grand aquifer are areas where the first aquifer materials are the Dakota aquifer, implying that the Grand aquifer is not as extensive as was previously mapped (Kilts, 2019). Kilts (2019) updated the Hedges et al. (1982) delineation of the Grand aquifer to reflect the updated information of the First Occurrence of Aquifer Materials Maps, resulting in the Grand aquifer being separated into three portions. Since the location of the well for this application is in the northern portion, the areal extent calculated for the Grand aquifer is limited to this northern area, and not the other two portions that remain. For the remainder of the report, “aquifer” or “Grand aquifer” will refer to the northern portion of the Grand aquifer.

First Occurrence of Aquifer Materials maps are not yet available for Campbell, McPherson, and Walworth Counties, and it will likely be several years until sufficient data is available to further refine the extent of the aquifer in those counties. For those counties, the estimated area of the Grand aquifer from Hedges et al. (1982) will be used. For Edmunds and Faulk Counties, the first occurrence maps were used to estimate the areal extent. Table 1 lists the areal extents of the Grand aquifer for Campbell, McPherson, Walworth, Edmunds, and Faulk Counties. Overall, the estimated area for the Grand aquifer is 360,621 acres (Hedges et al., 1982; Rich, 2008 and 2010, Kilts, 2019).

Table 1. Estimated areal extents of the Grand aquifer.

County	Acres	Source
Campbell	97,900	Hedges et al. (1982)
McPherson	44,200	Hedges et al. (1982)
Walworth	67,200	Hedges et al. (1982)
Edmunds	144,039	Rich (2010)
Faulk	7,282	Rich (2008)
Total	360,621 Acres	

There was a well completed on May 11, 2023, to be used for Water Permit Application No. 8798-3, if approved (Water Rights, 2023d). Three test holes were drilled to find the optimal location, and the third test hole was chosen. According to the well completion report and test holes submitted with this application, aquifer materials start at a depth of approximately 160 feet and continue until 262 feet, consisting of medium to coarse sand and gravel. The screen was set from 222 to 242 feet. Since the screen was not situated to the bottom of the aquifer materials, the saturated thickness of the aquifer is unknown but estimated to be approximately 82 feet. Within the aquifer materials, there are intermixed fine sand layers from 206 to 220 feet and clay till from 242 to 245 feet (Water Rights, 2023d). Nearby well completion reports for wells drilled into the Grand aquifer also have intermixed blue clay and fine sand lenses beginning at depths ranging from 220 to 275 feet and are between 5 to 15 feet thick (Water Rights, 2023d). Confining materials consist of yellow and blue clay, and silty sand. Static water level at the time of well completion was approximately 25 feet deep from the top of the well casing, meaning the Grand aquifer is confined at this location.

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

SDCL 46-2A-9 states that “a permit to appropriate water may only be issued if there is a reasonable probability that unappropriated water is available for the applicant’s proposed use, the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, the proposed use is a beneficial use, and the permit is 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 uses and water rights within the Grand aquifer.

SDCL 46-6-3.1:

SDCL 46-6-3.1 states that “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.” Exceptions to this are for withdrawals from a groundwater formation older than or stratigraphically lower than the Greenhorn formation and are also for use by a water distribution system.

The Grand aquifer is not older than or stratigraphically lower than the Greenhorn formation, and this application is not for use in a water distribution system as defined by SDCL 46-1-6 (17) (Fahrenbach et al., 2010). Therefore, the average annual hydrologic budget (average recharge versus average withdrawals) must be considered.

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.

The SD DANR Water Rights Program monitors 33 observation wells completed into the northern portion of the Grand aquifer (Water Rights, 2023b). The three closest observation wells to the diversion point for Application No. 8798-3 are CA-78K (approximately 0.7 miles southeast), CA-78I (approximately 2.6 miles northwest), and CA-78E (approximately 3.5 miles north). Hydrographs for these observation wells are shown in Figures 1 to 3. Hydrographs of observation wells are constructed by measuring the static water level from the top of the well casing over a period of record. Water levels for these observation wells illustrate water level trends, climatic conditions, and pumping for the Grand aquifer at those locations (Water Rights, 2023b).

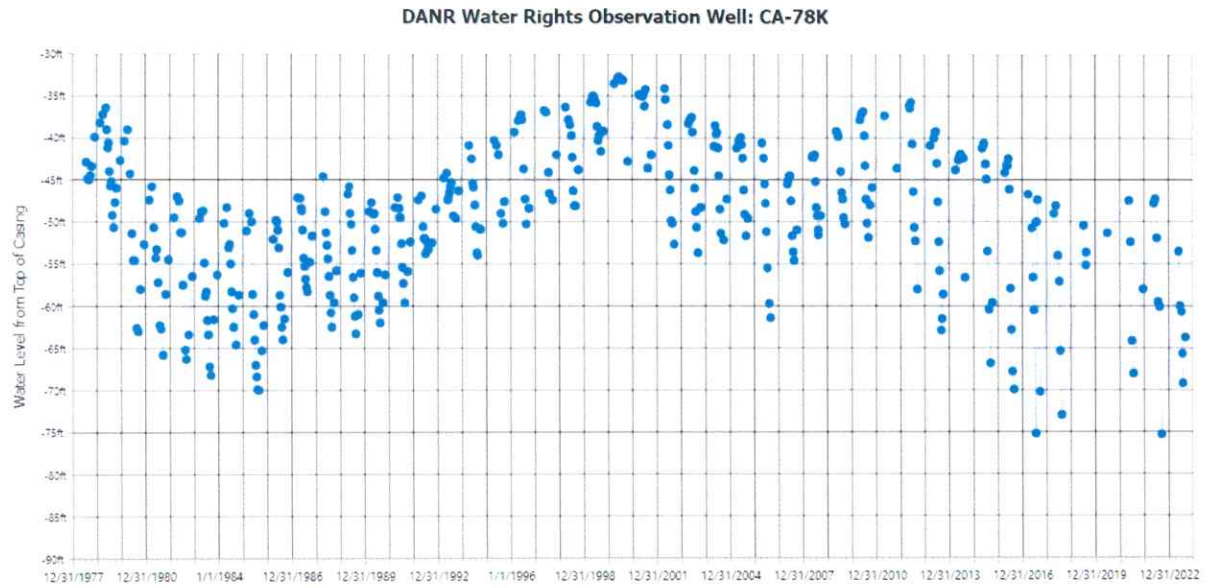


Figure 1. Hydrograph for observation well CA-78K (Water Rights, 2023b).

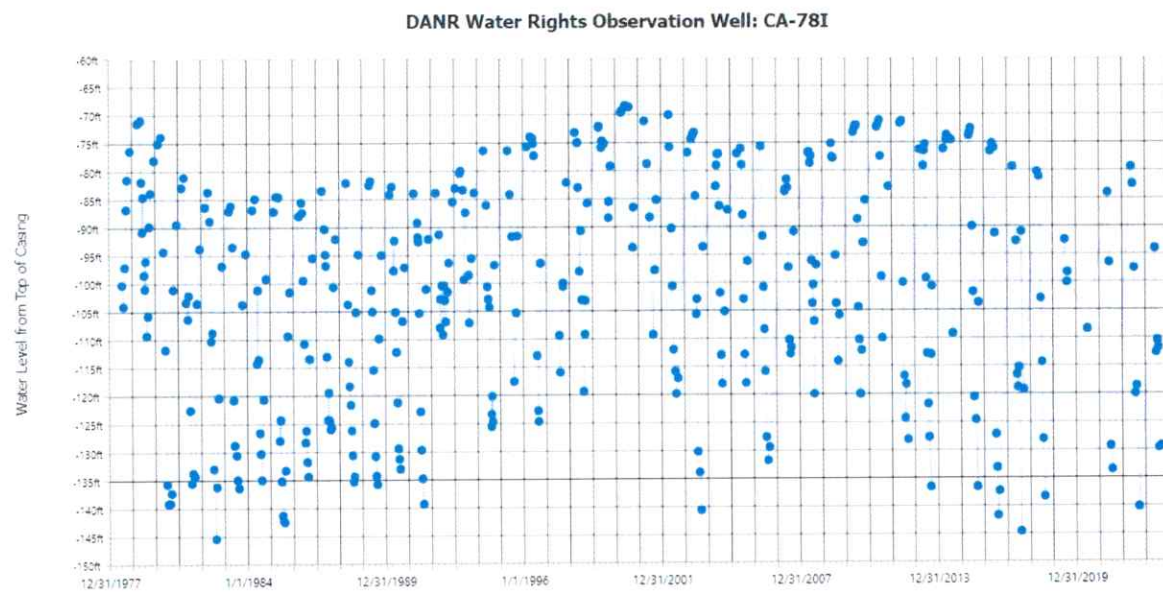


Figure 2. Hydrograph for observation well CA-78I (Water Rights, 2023b).

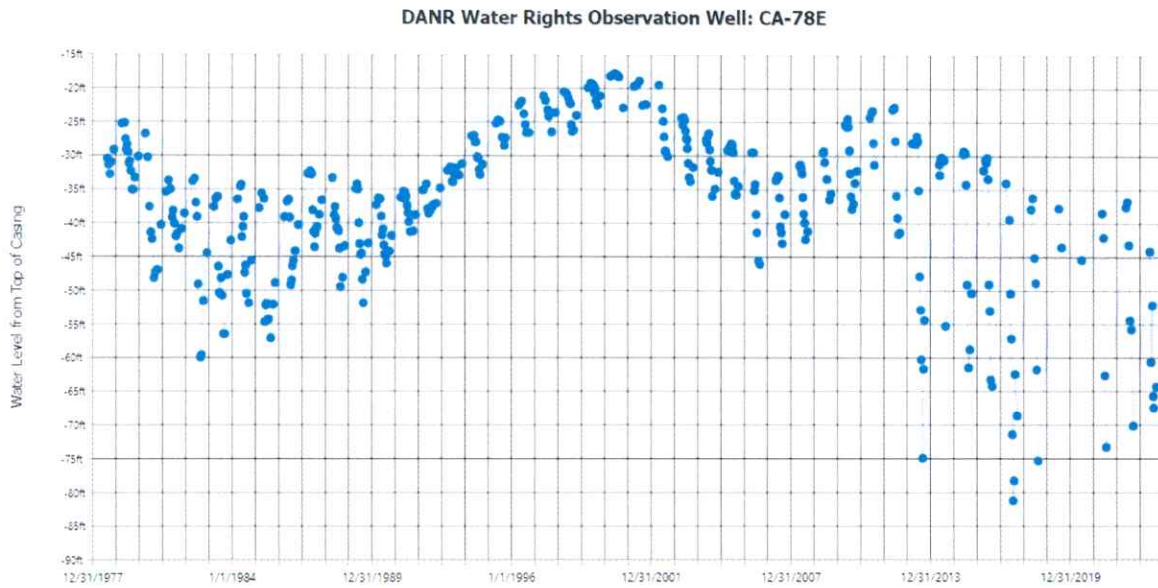


Figure 3. Hydrograph for observation well CA-78E (Water Rights, 2023b).

When evaluating hydrographs, the context of the entire period of record is important, as it shows long-term trends of the aquifer and not only the beginning and ending water levels. Each of the hydrographs in Figures 1 to 3 illustrate long-term climatic trends fluctuating in approximately 10-year intervals. Downward trends occur approximately in the years 1979 to 1986, 2002 to 2006, 2012 to 2014, and 2017 to 2018. Since late 2020 to the present day, drought conditions have persisted which explains recent dips in water levels shown on the hydrographs for observation wells completed into the aquifer (NOAA, 2023; Water Rights, 2023b). However, the long-term water level measurements indicate that water levels recover after drought periods during subsequent wet years (NOAA, 2023; Water Rights, 2023b).

The spring and early summer water level readings in particular show pre-pumping levels recovering from the end of the previous irrigation seasons. Observation wells completed into the Grand aquifer with overall shallower water levels have greater artesian head pressure than those with deeper overall water levels, and thus tend to fluctuate less with seasonal withdrawals and recovery (Water Rights, 2023b). Movement of water through the aquifer is slow, but head pressure in an artesian aquifer can change much more quickly (Kume and Howells, 1987).

Short-term water levels fluctuate more between seasons after about 2013, which can be seen in wells CA-78K and CA-78E. Irrigation withdrawals in the Grand aquifer increased after 2013—water use average for 1979 to 2022 is 2,524 acre-feet, while water use average for 2013 to 2021 is 3,906 acre-feet (Water Rights, 2023a). Regardless, water levels are returning to pre-pumped water levels after irrigation seasons.

Other observation wells completed into the Grand aquifer have hydrographs with similar long and short-term trends as the hydrographs shown in Figures 1 to 3. Overall, water levels are rising during wetter periods and declining, then stabilizing during dry periods. Climatic conditions, and therefore the effects of recharge to and natural discharge from the aquifer govern the long-term

water level trends in the aquifer rather than the impacts of pumping. Since both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs show that unappropriated water is available for the proposed appropriation. Figure 4 shows a map with locations of observation wells relative to the location of the diversion point for Application No. 8798-3.

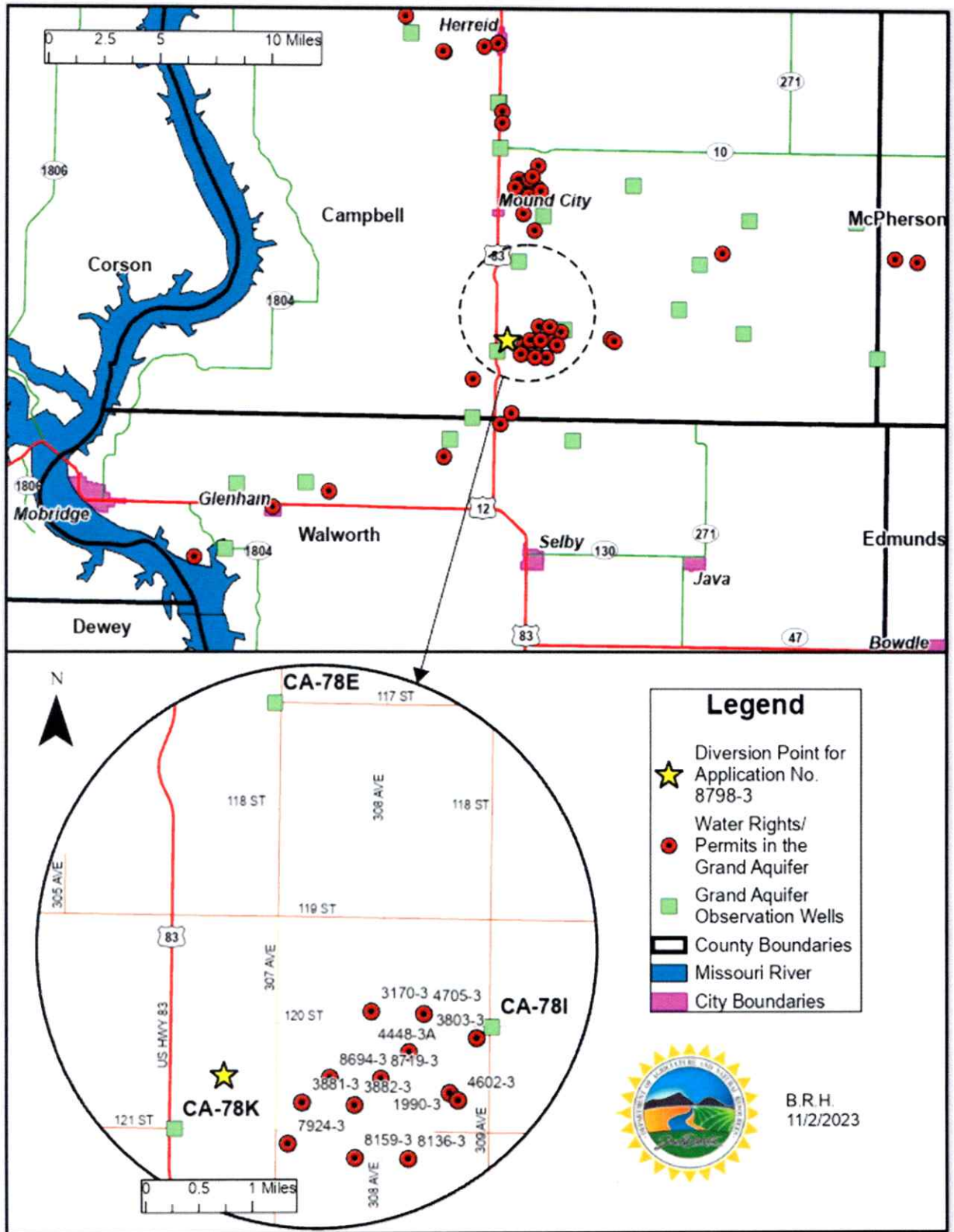


Figure 4. Map showing the location of the proposed diversion point for Application No. 8798-3, nearby observation wells completed into the Grand aquifer, and nearby existing water rights/permits authorized to appropriate water from the Grand aquifer (Water Rights, 2023b and 2023c).

Hydrologic Budget Analysis:

Recharge

The Grand aquifer is recharged by vertical infiltration of precipitation where the Selby aquifer overlies the Grand aquifer, and from lateral subsurface inflow from McPherson County (Koch, 1970; Hamilton, 1982).

Hedges et al. (1985) estimated the recharge rate for the unconfined portions of the Grand aquifer to be 4 inches/year. However, as most of the aquifer is under confined conditions, this is likely an overestimate. If an individualized study has not been done on a confined aquifer, Hedges et al. (1985) recommends using a recharge rate range of 0.15 to 0.6 inches/year. Multiplying this range by the areal extent of the Grand aquifer (Table 1), the annual recharge rate is between approximately 4,508 to 18,031 acre-feet/year.

Discharge

Water in the Grand aquifer is discharged by subsurface outflow west towards the Missouri River where the potentiometric surface of the Oahe reservoir is lower than the aquifer, and south into Walworth County from permeable materials extending downward from the aquifer (Koch, 1970). The relationship between changes in reservoir level and water levels in the Grand aquifer was more discernable at the time that Koch (1970) wrote his findings than today; however, groundwater in the Grand aquifer moves from the north to the southwest towards Lake Oahe. Well withdrawals are another source of discharge from the Grand aquifer (Water Rights, 2023c and 2023d).

There are currently 50 existing water rights/permits authorized to appropriate water from the northern portion of the Grand aquifer (Water Rights, 2023c). Of these 50 water rights/permits, 38 are for irrigation use (Water Rights, 2023c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The average annual withdrawal for the Grand aquifer irrigation water rights/permits that have reported over the period of record 1979 to 2022 is approximately 2,524 acre-feet (Water Rights, 2023a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2013 to 2022 will be used for the budget, and is approximately 3,906 acre-feet (Water Rights, 2023a).

Water Permit Nos. 7616-3, 8091-3, 8092-3, 8096-3, and 8097-3 are likely subject to cancellation due non-development, as these permits have reported zero acre-feet/year for multiple years, and thus the estimated average annual withdrawal associated with these permits is zero acre-feet/year. Water Permit No. 7813-3 has been cancelled for non-development based on the 2022 Irrigation Questionnaire.

Water Permit Nos. 8694-3 and 8719-3 were approved by the Chief Engineer after the mailing of 2022 irrigation questionnaires. Water Permit No. 8694-3 is authorized to irrigate 32 acres, while Water Permit No. 8719-3 appropriates water for 268 acres of land previously authorized by Water Right No. 3882-3, thus it was already accounted for in the irrigation questionnaire. Generally, non-turf irrigators in South Dakota apply less than one foot of water per acre per year.

Assuming an application rate of one foot of water per acre per year, Water Permit No. 8694-3 is assumed to pump approximately 32 acre-feet/year. This application, No. 8798-3, is requesting to irrigate 160 acres. The same method will be used for a conservative estimate, and if approved, will be assumed to pump approximately 160 acre-feet/year.

Of the 50 water rights/permits appropriating water from the Grand aquifer, 12 are for non-irrigation use (Water Rights, 2023c). Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of the time at their respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. Municipal water rights/permits that are connected to a rural water system likely maintain their wells for standby purposes and have been estimated to be zero acre-feet/year (Drinking Water Program, 2023). Water Right Nos. 1705-3 and 4914-3 for the Cities of Hosmer and Roscoe, respectively, are partially connected to a rural water system, and annual use estimates for these water rights are likely an overestimation (Drinking Water Program, 2023). Water Right No. 7841-3 is required to report annual use to the Chief Engineer. Since there are more than ten years of reported data, the average reported use from 2013 to 2022 will be used for Water Right No. 7841-3 (Water Rights, 2023f). These are standard methods used by the SD DANR Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2023c). Table 2 lists the non-irrigation water rights and their respective estimated use from the northern portion of the Grand aquifer.

There are domestic wells completed into the Grand aquifer that do not require a water right/permit, so the total withdrawal amount for domestic use is unknown. Due to relatively low diversion rates and the availability of rural water, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget.

Table 2. Estimated annual use for non-irrigation water rights authorized to divert water from the northern portion of the Grand aquifer (Drinking Water Program, 2023; Water Rights, 2023c and 2023f).

Permit No.	Name	Status	Use	Authorized Annual Volume (acre-feet)	Authorized diversion rate (cfs)	Annual Estimated Use (acre-feet)
6012-3	West Polluck Association	LC	COM	0	0.035	15.2
6111-3	Blumengard Colony	LC	COM	0	0.45	195.5
6185-3		LC	COM / DOM	0	0.667	289.7
7184-3	Jensen Rock & Sand Inc.	LC	IND	20	0.67	20
7841-3	Herreid Concrete Inc. ²	LC	IND	282	1.39	11
1705-3	City of Hosmer	LC	MUN	0	0.27	117.3
3998-3	Town of Glenham ¹	LC	MUN	0	0.12	0
4144-3	Town of Mound City ¹	LC	MUN	0	0.22	0
4914-3	City of Roscoe	LC	MUN	0	0.5	217.2
5366-3	Town of Pollock ¹	LC	MUN	0	0.78	0
778-3		LC	MUN	0	0.56	0
5417-3	City of Herreid ¹	LC	MUN	0	1.17	0
LC: License; MUN: Municipal; DOM: Domestic; IND: Industrial; COM: Commercial; ¹ Identified as being connected to a rural water system; ² Estimated use for Water Right No. 7841-3 based on average reported use to the Chief Engineer					Total	865.9

Hydrologic Budget Summary:

Recharge to the Grand aquifer is estimated to range between approximately 4,508 to 18,031 acre-feet/year. The estimated average annual withdrawal from the Grand aquifer is 4,804 acre-feet/year, listed on Table 3. This application seeks to withdraw an estimated 160 acre-feet/year. Nearby observation well hydrographs show that water levels, or artesian head pressure in confined aquifers, recover from pumping between irrigation seasons and from long-term drought conditions. Given that observation well data indicates water is available, and that the estimated annual withdrawals is toward the low end of the range of estimated average annual recharge, there is a reasonable probability that unappropriated water is available in the aquifer for the proposed appropriation.

Table 3. Summary of estimated annual withdrawals from the northern portion of the Grand aquifer (Water Rights, 2023a, 2023c, and 2023f)

Type of Water Right/Permit	Annual Withdrawal (acre-feet)
Non-Irrigation	866
Irrigation (Average annual withdrawal from 2013 to 2022)	3,906
Water Permit No. 8694-3	32
Total	4,804

Potential for Unlawful Impairment:

Nearby Water Rights/Permits

Currently, there are 50 water rights/permits authorized to appropriate water from the northern portion of the Grand aquifer (Water Rights, 2023c). The nearest water right (not held by applicant) is Water Right No. 3881-3, held by Lacey Land LLC, located approximately 0.8 miles southwest of the proposed diversion point for this application (Figure 4) (Water Rights, 2023c). Table 4 lists nearby existing water rights/permits to the diversion point for Application No. 8798-3 that are authorized to appropriate water from the Grand aquifer.

There are domestic wells on file with the SD DANR Water Rights Program that are completed into the Grand aquifer, with the closest domestic well on file (not held by applicant) located approximately 1.7 miles northeast of the proposed diversion point (Water Rights, 2023d). There could potentially be other domestic wells completed into the Grand aquifer near the proposed diversion point that are not on file with the Water Rights Program. The locations of the domestic wells are based on the location provided by the well driller at the time of well completion.

Table 4. List of existing Grand aquifer water rights/permits near the proposed diversion point as shown on the inset map shown in Figure 4.

Permit No.	Name	Priority	Status	Use	Diversion Rate (cfs)	Volume (acre-feet)	Acres
3170-3	Douglas L. Salverson	10/21/1976	LC	IRR	2.23	N/A	264
7924-3	Brandon Ritter	11/15/2013	PE	IRR	2	N/A	270
1990-3	Kenneth Brockel	08/22/1973	LC	IRR	1.93	N/A	132
4602-3		11/09/1979	LC	IRR	1.89	N/A	136
4705-3		04/02/1981	LC	IRR	1.78	N/A	264
3803-3		03/21/1977	LC	IRR	1.78	N/A	264
4448-3A		11/09/1979	LC	IRR	1.89	N/A	132
8719-3	Iverson Farms LTD	01/30/2023	PE	IRR	2	N/A	268
8694-3		12/28/2022	PE	IRR	0.89	N/A	32
3882-3		03/04/1977	LC	IRR	2	N/A	268
3881-3		02/18/1976	LC	IRR	2	N/A	268
8159-3		05/18/2015	LC	IRR	1.78	2	78
8136-3	Lacey Land LLC	03/05/2015	LC	IRR	1.78	N/A	272
LC: License; PE: Permit; IRR: Irrigation							

Potential of Drawdown

The Grand aquifer is confined at the existing well site, confirmed by the well completion report and test hole lithology that were submitted with this application. 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 well to be used for Application No. 8798-3 is located near several high-yield wells (assumed to have a diversion rate greater than 0.2 cfs) (Figure 4) (Table 4). The nearest observation well to these high-yield wells is CA-78I, which is also confined and provides insight to how the aquifer responds to pumping. Figure 2 shows the hydrograph for CA-78I. Aquifer materials for this well

begin at a depth of 256 feet, and water levels generally range from 70 to 140 feet below the top of the casing, signifying adequate artesian head pressure over its entire period of record and that the Grand aquifer is not being over-pumped. The lowest water levels on record for CA-78I is 145.4 feet in 1982 and 144.6 feet in 2017, which still left 110.6 and 111.4 feet of respective artesian head pressure remaining in the Grand aquifer at this location. Water levels have consistently recovered in the spring after the irrigation season, and also reflect long-term climate trends (Water Rights, 2023b).

According to the well completion report for this application, the saturated aquifer thickness is approximately 82 feet. Nearby well completion reports for the Grand aquifer have saturated thicknesses that range from approximately 70 to 83 feet (Water Rights, 2023d). This would allow 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).

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

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills (Water Rights, 1995). The Board adopted the Findings of Fact and Conclusions of Law from the case of Water Right No. 2313-3, which said that reserving artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4. SDCL 46-1-4 states that “general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable...” (Water Rights, 1995). Depending on specific characteristics of the Grand aquifer, some existing well owners may need to lower pumps at their location. There have not been any complaints about well interference in the Grand aquifer in Campbell, McPherson, Walworth, Edmunds, or Faulk Counties.

Based on the stability of nearby observation well CA-78I regardless of its vicinity to high-yield wells, lack of well interference complaints for the Grand aquifer, ARSD 74:02:04:20(6) and (7), as well as SDCL 46-1-4, it is reasonable that any drawdown as a result of the diversion for this application is not expected to unlawfully impair nearby adequate wells.

Conclusions:

1. Water Permit Application No. 8798-3 proposes to appropriate 1.78 cfs from an existing well completed into the Grand aquifer located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17 for the irrigation of 160 acres located in the NE $\frac{1}{4}$ of Section 17, all in T125N-R76W during the irrigation season of May 1 to September 30. The site is located in Campbell County, approximately 10 miles north of Selby, South Dakota.
2. Based on a hydrologic budget analysis and observation well data, there is a reasonable probability that unappropriated water is available from the Grand aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the diversion by Water Permit Application No. 8798-3, if approved, will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.



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

Reviewed by:



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.**

December 4, 2023

Dan & Dennis Mitzel
PO Box 104
Herreid SD 57632

Dear Sirs:

Water Permit Application No. 8798-3 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 Prairie Pioneer printed in Pollock SD (Ph # 605 889-2320) and the American News printed in Aberdeen SD (see attachment for contact number). 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. 8798-3 to Appropriate Water

Notice is given that Dan and Dennis Mitzel, PO Box 104, Herreid SD 57632 have filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Grand Aquifer (approximately 242 feet deep) located in the SW 1/4 NE 1/4 Section 17 for irrigation of 160 acres located in the NE 1/4 Section 17; all in T125N-R76W. This site is located approximately 10 miles north of Selby SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8798-3 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 December 27, 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 December 27, 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: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Monday, December 4, 2023 9:52 AM
To: Rodriguez, Rachel
Cc: BrRitter@valleytel.net
Subject: [EXT] 9600192 RE: 8798-3 Dan & Dennis Mitzel
Attachments: Order_Confirmation_Liners - 2023-12-04T104627.675.pdf

*American
News*

Hello!

Your notice is scheduled to run 12/14 in the Aberdeen American.

The total cost is \$49.66, which includes an affidavit that will be sent after the run date(s).

Prepayment is required in order for the notice to run. Please call the number below my signature before 12/12 @ 9am to make payment. Anyone who answers can help you.

Please reference ad #9600192 when calling. A proof of the notice is attached for your review.

Any revisions or corrections to the notice should be emailed before payment is made.

Thank you!

Kerri Furnace

Public Notice Representative



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*NOTE: We are not legally trained, and it is your responsibility to make sure your notice meets the requirements of your State/Court including wording and publication times. Please verify all information is included and correct. Anything missing and/or incorrect can cause your notice to be rejected and you will be responsible for all fees to republish.

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>

Sent: Monday, December 4, 2023 9:58 AM

To: SD-Aberdeen Legals <aan-legals@aberdeennews.com>

Subject: 8798-3 Dan & Dennis Mitzel

Attached is a notice to be published on December 14, 2023.

Dan and Dennis Mitzel, PO Box 104, Herreid SD 57632, (605-216-1198), BrRitter@valleytel.net (operator), 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: Monday, December 4, 2023 8:58 AM
To: aan-legals@aberdeennews.com
Subject: 8798-3 Dan & Dennis Mitzel
Attachments: 8798-3 public.short_final.docx; FORM8.FRM.doc

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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: Monday, December 4, 2023 9:01 AM
To: pioneer@valleytel.net
Subject: FW: 8798-3 Dan & Dennis Mitzel - Public Notice
Attachments: 8798-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on December 14, 2023.

Dan and Dennis Mitzel, PO Box 104, Herreid SD 57632, (605-216-1198), BrRitter@valleytel.net (operator), 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

Mitzels file permit to appropriate water

NOTICE OF APPLICATION NO. 8798-3 to Appropriate Water

Notice is given that Don and Dennis Mitzel, PO Box 104, Herreid SD 57632 have filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Grand Aquifer (approximately 242 feet deep) located in the SW 1/4 NE 1/4 Section 17 for irrigation of 160 acres located in the NE 1/4 Section 17; all in T125N-R76W. This site is located approximately 10 miles north of Selby SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8798-3 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 December 27, 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 December 27, 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 an approximate cost of \$42.21 and can be viewed free of charge at www.sdpublicnotices.com

-121423

STATE OF SOUTH DAKOTA,
COUNTY OF CAMPBELL, ss.

I, Lori Cox, being first duly sworn, on oath says, that she is the bookkeeper of the Prairie Pioneer, a weekly newspaper published in Pollock, County of Campbell, and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies weekly, and has been published within said county for fifty-two successive weeks next prior to the publication of the notice herein mentioned; that the

Mitzels file permit to appropriate water

Mitzel & Sons Farms

a printed copy of which, taken from the paper in which same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 1 successive week, on the day of each week on which said newspaper was regularly published to-wit:

1- Prairie Pioneer: 12/14/2023

That the full amount of the fees for the publication of the annexed notice is \$42.21

Subscribed and sworn to before me this 1/8/2024

Arden Pahl, Notary Public
State of South Dakota

My commission expires August 1, 2025



LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

PROOF OF PUBLICATION

Water Rights Program
Mitzel Don and Dennis
Po Box 104
Herreid SD 57632-0104

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

The AMERICAN NEWS is a daily newspaper of general circulation, printed and published in Aberdeen, Brown County, South Dakota, and has been such a newspaper during the times hereinafter mentioned; and personal knowledge of the facts herein state that the notice hereto annexed was Published in said newspapers in the issue dated:

12/14/2023

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 12/14/2023

Legal Clerk

Notary, State of WI, County of Brown

My commision expires

Publication Cost: \$49.66

Order No: 9606063

of Copies:

Customer No: 1261308

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

RYAN SPELLER
Notary Public
State of Wisconsin

**NOTICE OF
APPLICATION NO. 8798-3
to Appropriate Water**

Notice is given that Don and Dennis Mitzel, PO Box 104, Herreid SD 57632 have filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Grand Aquifer (approximately 242 feet deep) located in the SW 1/4 NE 1/4 Section 17 for irrigation of 160 acres located in the NE 1/4 Section 17; all in T125N-R76W. This site is located approximately 10 miles north of Selby SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8798-3 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 December 27, 2023. The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the peti-

tioner'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 December 27, 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 on Dec. 14, 2023 at the total approximate cost of \$49.66 and may be viewed free of charge at www.sdpublicnotices.com

Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Tuesday, December 5, 2023 1:23 PM
To: Rodriguez, Rachel
Cc: BrRitter@valleytel.net
Subject: [EXT] 9606063 RE: 8798-3 Dan & Dennis Mitzel

Hello-

Changes to public notices cannot be made via phone, but I have now updated the notice.

If no other changes need to be made, we just need payment to be made before 12/9 @ 9am.

The reference number to mention when calling is now 9606063.

Thank you!

Kerri Furnace

Public Notice Representative



Office: 844-254-5287

**NOTICE OF
APPLICATION NO. 8798-3
to Appropriate Water**

Notice is given that Don and Dennis Mitzel, PO Box 104, Herreid SD 57632 have filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Grand Aquifer (approximately 242 feet deep) located in the SW 1/4 NE 1/4 Section 17 for irrigation of 160 acres located in the NE 1/4 Section 17; all in T125N-R76W. This site is located approximately 10 miles north of Selby SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8798-3 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

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Tuesday, December 5, 2023 1:57 PM
To: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Subject: RE: 9600192 RE: 8798-3 Dan & Dennis Mitzel

Good afternoon,

I received a call from Mr. Mitzel regarding his public notice, he said that the name in the first paragraph should read "Don and Dennis Mitzel." He said indicated that had already called the newspapers and mentioned this issue to you. I am just following up, please let me know if you would like a revised notice or if you have already fixed it on your end.

Thank you,

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



From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Monday, December 4, 2023 9:52 AM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Cc: BrRitter@valleytel.net
Subject: [EXT] 9600192 RE: 8798-3 Dan & Dennis Mitzel

Hello!

Your notice is scheduled to run 12/14 in the Aberdeen American.

The total cost is \$49.66, which includes an affidavit that will be sent after the run date(s).

Prepayment is required in order for the notice to run. Please call the number below my signature before 12/12 @ 9am to make payment. Anyone who answers can help you.

Please reference ad #9600192 when calling. A proof of the notice is attached for your review.

Any revisions or corrections to the notice should be emailed before payment is made.

Thank you!

Kerri Furnace
Public Notice Representative



Office: 844-254-5287

*NOTE: We are not legally trained, and it is your responsibility to make sure your notice meets the requirements of your State/Court including wording and publication times. Please verify all information is included and correct. Anything missing and/or incorrect can cause your notice to be rejected and you will be responsible for all fees to republish.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, December 7, 2023 1:24 PM
To: Prairie Pioneer
Cc: dmitzel@valleytel.net
Subject: FW: [EXT] 8798-3 Don & Dennis Mitzel - Public Notice
Attachments: 8798-3 REVISED public.short_final.docx

Good afternoon,

I spoke with Mr Mitzel again, and he informed me that you require the revised public notice. Therefore, attached please find the revised notice with the correct spelling of the name. Would you please acknowledge that you have received this email.

Thank you,

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



From: Rodriguez, Rachel
Sent: Tuesday, December 5, 2023 12:55 PM
To: Prairie Pioneer <prairiepioneer@mobridgepublishing.com>
Subject: RE: [EXT] 8798-3 Dan & Dennis Mitzel - Public Notice

Good afternoon Kelli,

I received a call from Mr. Mitzel regarding his public notice, he said that the name in the first paragraph should read "Don and Dennis Mitzel." He said indicated that had already called the newspapers and mentioned this issue to you. I am just following up, please let me know if you would like a revised notice or if you have already fixed it on your end.

Thank you,

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

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, December 4, 2023 10:01 AM
To: BrRitter@valleytel.net
Cc: dmitzel@valleytel.net
Subject: 8798-3 Dan & Dennis Mitzel - Public Notice
Attachments: 8798-3 Rec.pdf; 8798-3 Ltr.pdf; 8798-3 PubNotice.pdf; Aberdeen American News.pdf

Attached is a copy of the report, chief engineer's recommendation and information regarding the public notice for your water permit application. Please note that the American News requires prepayment, see attached email for information to contact and pay. 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.

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JAN 24 2024

Don & Dennis Mitzel
PO Box 104
Herreid SD 57632

Dear Sirs:

Enclosed is Water Permit No. 8798-3 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
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.: 8798-3

Name of Applicant: Don & Dennis Mitzel

Date of Posting: 12/11/2023

Date of Removal: 1/24/2024

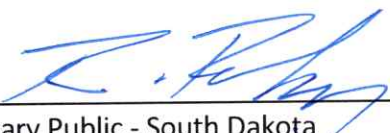


Ron Duvall, Engineer III

1/24/2024

Date

Subscribed and sworn to before me, a notary public, this 24th day of January, 2024.



Notary Public - South Dakota

My commission expires:

Rachel Rodriguez
My Commission Expires
May 10, 2029

(SEAL)





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

January 14, 2025

NOTICE

TO: DON & DENNIS MITZEL, PO BOX 104, HERREID, SD 57632

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8798-3. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8798-3 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, 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) 8798-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. 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 questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) 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: CAPBFQ**

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 24, 2025

8798-3

Don & Dennis Mitzel
PO Box 104
Herreid SD 57632

Dear Mr. Mitzel:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 8798-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

8798-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2026

NOTICE

TO: DON & DENNIS MITZEL, PO BOX 104, HERREID, SD 57632

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8798-3. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8798-3 qualification:

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

The hearing will be held on **Wednesday, March 4, 2026 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) 8798-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. 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 questionnaire(s) is (are) received in this office before the **March 4, 2026** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: IYFAFE**

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.