

WATER PERMIT NO. 8803-3

Name of Applicant: **Jeffrey Thompson**

Address: **46742 Lyons Street, Colton SD 57018**

Phone: **605-212-0579**

Amount of Water Claimed: **1.78 cfs**

Total Acres: **116**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation**

County: **Minnehaha**

Type of Waste Disposal System:

Location: **Approx. 8 miles northeast of Dell Rapids SD**

PRIORITY Date Received: **10-10-2023**

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

Corrected Application Received: **10-12-2023**

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

Remarks:

Diversion Point: **NW 1/4 NE 1/4 Sec 29-T104N-R50W**

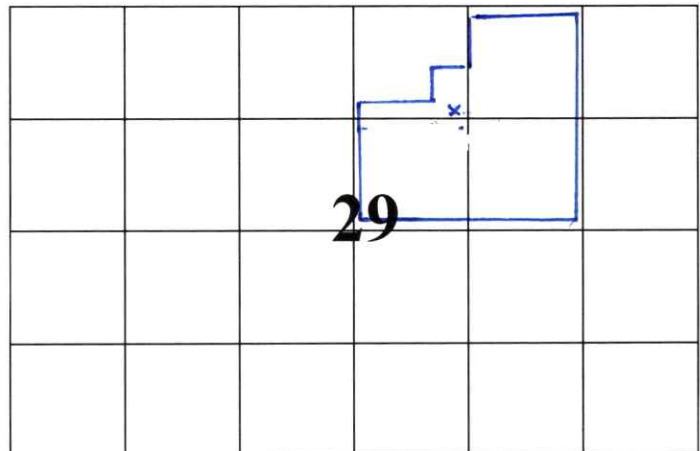
Land to be Irrigated: **NE 1/4 Sec 29-T104N-R50W**

Depth of Well: **28**

Well Driller:

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **10-12-2023**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8803-3**

Date of first receipt of application October 10, 2023.

Date of return to applicant for corrections, amendments or changes October 10, 2023.

Date of receipt of corrected application October 12, 2023.

The Water Management Board approved Water Permit No. 8803-3 on March 6, 2024 for Jeffrey Thompson, 46742 Lyons Street, Colton SD 57018 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. 8803-3 appropriates 1.78 cubic feet of water per second (cfs) from one well to be completed into the Big Sioux: Middle Skunk Creek Aquifer (approximately 28 feet deep) located near the center of the NE 1/4 Section 29 for irrigation of 116 acres located in the NE 1/4 Section 29; all in T104N-R50W. This site is located approximately 3 miles east of Colton 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 October 10, 2023.
4. One-fifth of the construction is to be completed on or before September 6, 2026.
5. All construction is to be completed on or before March 6, 2029.
6. Water is to be put to beneficial use on or before March 6, 2033.
7. 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. 8803-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Water Management Board retains jurisdiction of Water Permit No. 8803-3 to manage use of water from the Big Sioux Middle Skunk Creek aquifer. Based on the historical average water use, unappropriated water is available. However, if the average use increases and begins to unlawfully impair senior water right holders or domestic water users with adequate wells, then curtailment of water use under this Permit may be necessary.
3. The well authorized by Permit No. 8803-3 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.
4. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8803-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 116 acres with an annual volume not to exceed 2 acre feet of water per acre per year.

(continued)

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

WATER MANAGEMENT BOARD

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

MAR 14 2024
date



(type or print)

Mail to SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8803-3</u> Hydrologic Unit <u>10170203</u> Basin <u>Lower Big Sioux</u> Newspaper <u>Argus Leader</u> (office use only)
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PAID
OCT 10 2023
Ck# 751
Rec't# 101023

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 Jeffrey Thompson
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.
- Mailing Address 46742 Lyons St Colton SD 57018
(Address) (City) (State) (Zip Code)
- Phone _____ Mobile 605 312-0579 Email jtsdfarm@gmail.com
2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 185 1/6
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply well near center of
4. Location of point of diversion NE 1/4 29-104N-50W-Minnehaha
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
- County _____
5. County or counties where water will be used Minnehaha
6. Annual period during which water is to be used May - Sept³⁰
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
<u>NE</u>	<u>35</u>		
<u>SE</u>	<u>35</u>		
<u>SW</u>	<u>35</u>		
<u>NW building site in wag</u>	<u>0</u>		

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

Requesting a greater div rate than the statutory limit.

10/5/2023

I. Jeffrey Thompson
Name of Person

owner/operator the applicant, certify under
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)

RECEIVED

OCT 10 2023

OFFICE OF
WATER

Supplemental Information

(Type or print)

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



Drilling new well(s)



Using existing well(s)

a) If new wells, how many 2 Have test holes been drilled? ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____

For either existing or proposed wells: My other irr wells have these measurements.

c) Well Depth (required) 28' Depth to Top of Water Bearing Material 9' Depth to Water from Surface 10'

d) Distance to nearest domestic well on applicant's property None Property owned by others 1/4 mile

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)

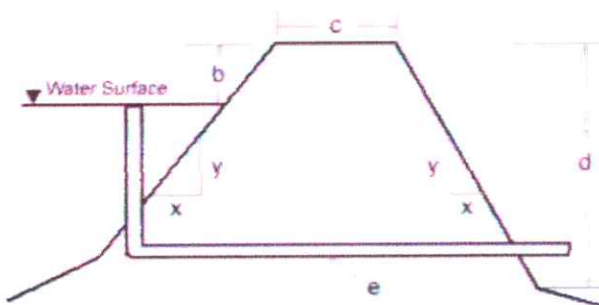
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



2021-08

Start



Department of
Agriculture

Minnehaha County, South Dakota



Common Land Unit Tract Boundary
 Non-Cropland
 Cropland

Wetland Determination Identifiers

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

Unless otherwise noted,
crops listed below are:
Non-Irrigated
Intended for Grain
Corn = Yellow
Soybeans = Common
Wheat - HRS or HRW
Sunflowers = Oil or Non-oil

Producer Initial
Date

6/14/2022

2022 Program Year

Map Created March 29, 2022

Farm 13294

29-104N-50W-Minnehaha

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.

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date October 10, 2023

RECEIVED OF Jeff Thompson/Karen Medema 46742 Lyon St., Colton SD 57018

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

Fee for Application for Permit No. <u>8803-3</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>8803-3</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
om

Rodriguez, Rachel

From: Jeff Thompson <jtsdfarm@gmail.com>
Sent: Thursday, October 12, 2023 10:16 AM
To: Rodriguez, Rachel
Subject: Re: [EXT] Application for Water Permit for Irrigation

Hi,Rachel

Thanks for catching that it probably would be good to have that included on the chance that a person could go with a sub surface irrigation system to help cover more acres. Let me know if there are any other questions or steps to do.

Thank You

Jeff Thompson

On Oct 10, 2023, at 2:25 PM, Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good afternoon,

I am in receipt of your application. However, I have a question. Is there any chance that you may irrigate the area highlighted in purple (11 acres)? That would bring the total acreage to 116. If so, I would like to add it to your application, you will not owe any additional money. It is always better to round up and issue the water permit for more acreage, rather than less.

<image001.png>

Thank you,

Rachel Rodriguez

DANR | Program Assistant

Rachel.Rodriguez@state.sd.us

<image002.png>



**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. 8803-3, Jeffrey Thompson**

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. 8803-3, Jeffrey Thompson, 46742 Lyons Street, Colton SD 57018.

The Chief Engineer is recommending APPROVAL of Application No. 8803-3 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. 8803-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The Water Management Board retains jurisdiction of Water Permit No. 8803-3 to manage use of water from the Big Sioux Middle Skunk Creek aquifer. Based on the historical average water use, unappropriated water is available. However, if the average use increases and begins to unlawfully impair senior water right holders or domestic water users with adequate wells, then curtailment of water use under this Permit may be necessary.
3. The well authorized by Permit No. 8803-3 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.
4. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8803-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 116 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
5. 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
December 11, 2023

(See note on following page)

NOTE: The saturated thickness of the aquifer in the area of the proposed well may be relatively thin. This may not allow pumping at the requested rate without pumping the well itself dry. This could result in cavitation and overheating causing damage to the pump. Also note, thin aquifer material increases the likelihood of reducing needed water supplies in adequate domestic wells or in adequate wells having prior water rights in similarly situated portions of the aquifer (see qualification No. 1).

Report to the Chief Engineer
On Water Permit Application No. 8803-3
Jeffery Thompson
December 8, 2023

Water Permit Application No. 8803-3 proposes to irrigate 116 acres in the NE ¼ of Section 29 at a maximum instantaneous diversion rate of 1.78 cubic feet of water per second (cfs) from one well to be completed into the Big Sioux: Middle Skunk Creek aquifer (approximately 28 feet deep) near the center of the NE ¼ Section 29; all in T104N-R50W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. The well site is located in Minnehaha County approximately three miles east of Colton, SD.

Aquifer: Big Sioux: Middle Skunk Creek

Hydrogeology and Aquifer Characteristics

Lindgren and Niehus (1992) call the aquifer that this application proposes to appropriate water from the Skunk Creek aquifer. Prior to the publication of Lindgren and Niehus (1992), the Water Rights Program adopted the naming convention and water management units from Hedges et al. (1982) of Big Sioux: Northern Skunk Creek, Big Sioux: Middle Skunk Creek, and Big Sioux: Southern Skunk Creek. For consistency, the naming conventions from Hedges et al. (1982) will be used for this report on the Big Sioux: Middle Skunk Creek aquifer.

The Big Sioux: Middle Skunk Creek aquifer is a Quaternary age shallow, glacial aquifer that underlies a portion of the Skunk Creek flood plain and portions of the Western Skunk Creek flood plain in western Minnehaha County and a small portion of southwestern Moody County (Lindgren and Niehus, 1992; Hedges et al., 1982). The aquifer is made up of fine to coarse sand and fine to medium gravel which can locally contain thin silty clay layers (Lindgren and Niehus, 1992). This aquifer is primarily under unconfined (water table) conditions (Lindgren and Niehus, 1992). The direction of ground water movement is generally southward and towards either Skunk Creek or Western Skunk Creek depending on location (Lindgren and Niehus, 1992), which is generally the same direction as surface water movement.

As additional drilling, study, and more detailed mapping is done, the delineation of this aquifer continues to be refined. Table 1 summarizes the area, publication map scale, source of the historic delineations of the aquifer, and identifies which delineation is shown in Figures 1-3. Tomhave (2001) and Jensen (2002) are aquifer materials maps rather than true aquifer maps, meaning that the mapped surface to near surface aquifer materials might not be saturated to the point of yielding water to wells (acting as an aquifer) year-round or during drier climatic periods (especially along the edges of the aquifer). In examining the explanation accompanying the map of Tomhave (2001), the explanation implied that the aquifer materials had to be in the range of 5 to 10 feet of thickness to be mapped as present. However, since recharge to the Big Sioux: Middle Skunk Creek aquifer is from infiltration of precipitation (Lindgren and Niehus, 1992), an aquifer delineation based on a mapping of surface to near surface aquifer materials would still capture the contributing recharge area. In this case, the aquifer extent in Figure 3 could also be called the maximum contributing recharge area for the Big Sioux: Middle Skunk Creek aquifer based on best

available information. Additionally, Tomhave (2001) and Jensen (2002) are the highest resolution (most detailed) mapping information available based on the scale of the published map. Therefore, the aquifer delineation based on Tomhave (2001) and Jensen (2002) is the best available information for estimating the extent of the aquifer for the purpose of estimating recharge and is the area that will be utilized for the hydrologic budget of this report. Additional discussion on Figures 1-3 occurs after the figures.

Table 1: Summary of Historical Aquifer Areas

Source	Area (acres)	Publication Map Scale	Figure shown in
Hedges et al. (1982)	18,300	1: 500,000	Figure 1
Lindgren and Niehus (1992) and Hansen (1986)	18,287	1:500,000	Figure 2
Tomhave (2001) and Jensen (2002)	17,417	1:100,000	Figure 3

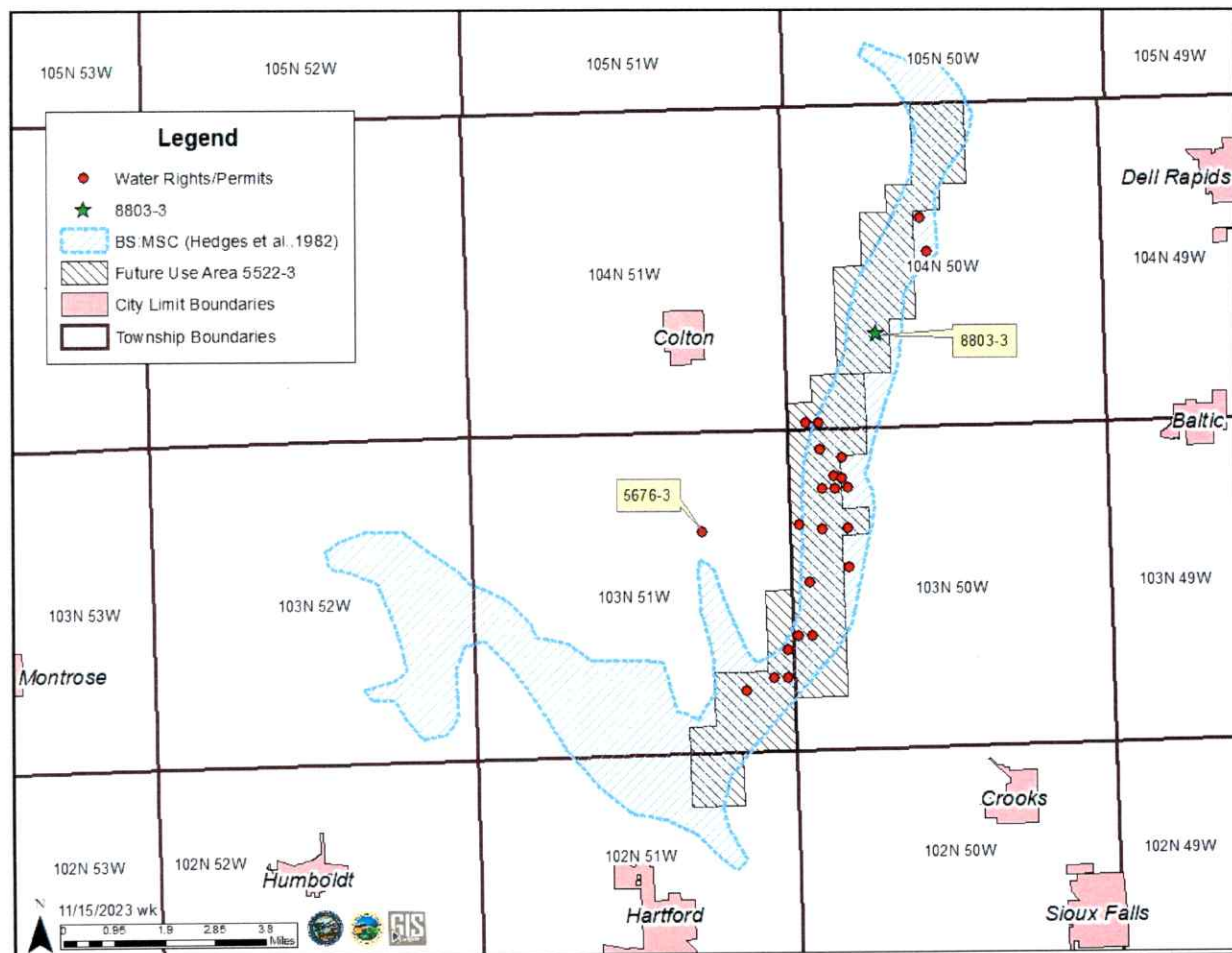


Figure 1: Hedges et al. (1982) delineation of the Big Sioux: Middle Skunk Creek aquifer and water rights/permits currently labeled as appropriating water from the aquifer. (Water Rights, 2023b)

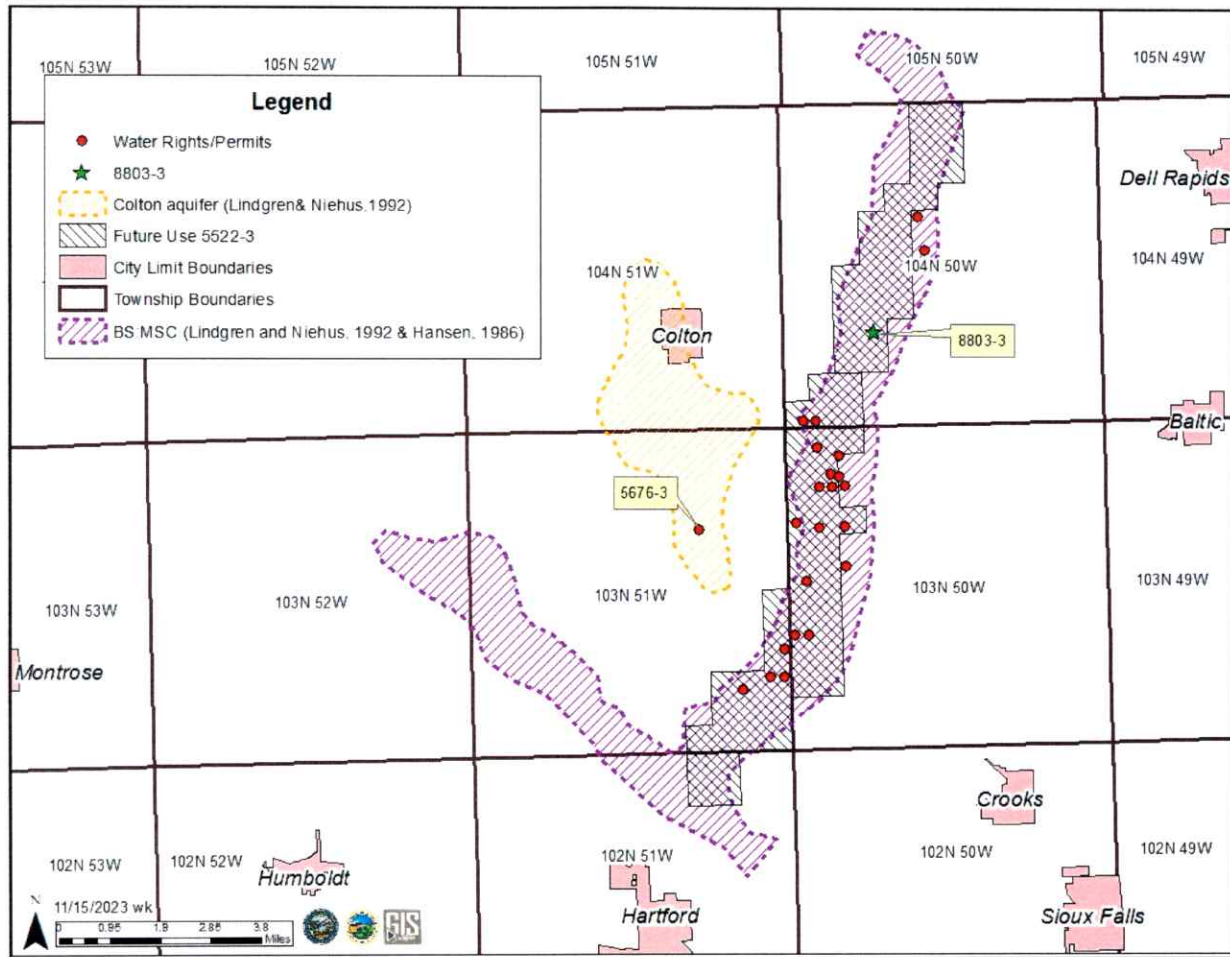


Figure 2: Lindgren and Niehus (1992) and Hansen (1986) delineation of the Big Sioux: Middle Skunk Creek aquifer and water rights/permits currently labeled as appropriating water from the aquifer. Also, Lindgren and Niehus (1992) delineation on the Colton aquifer (Water Rights, 2023b)

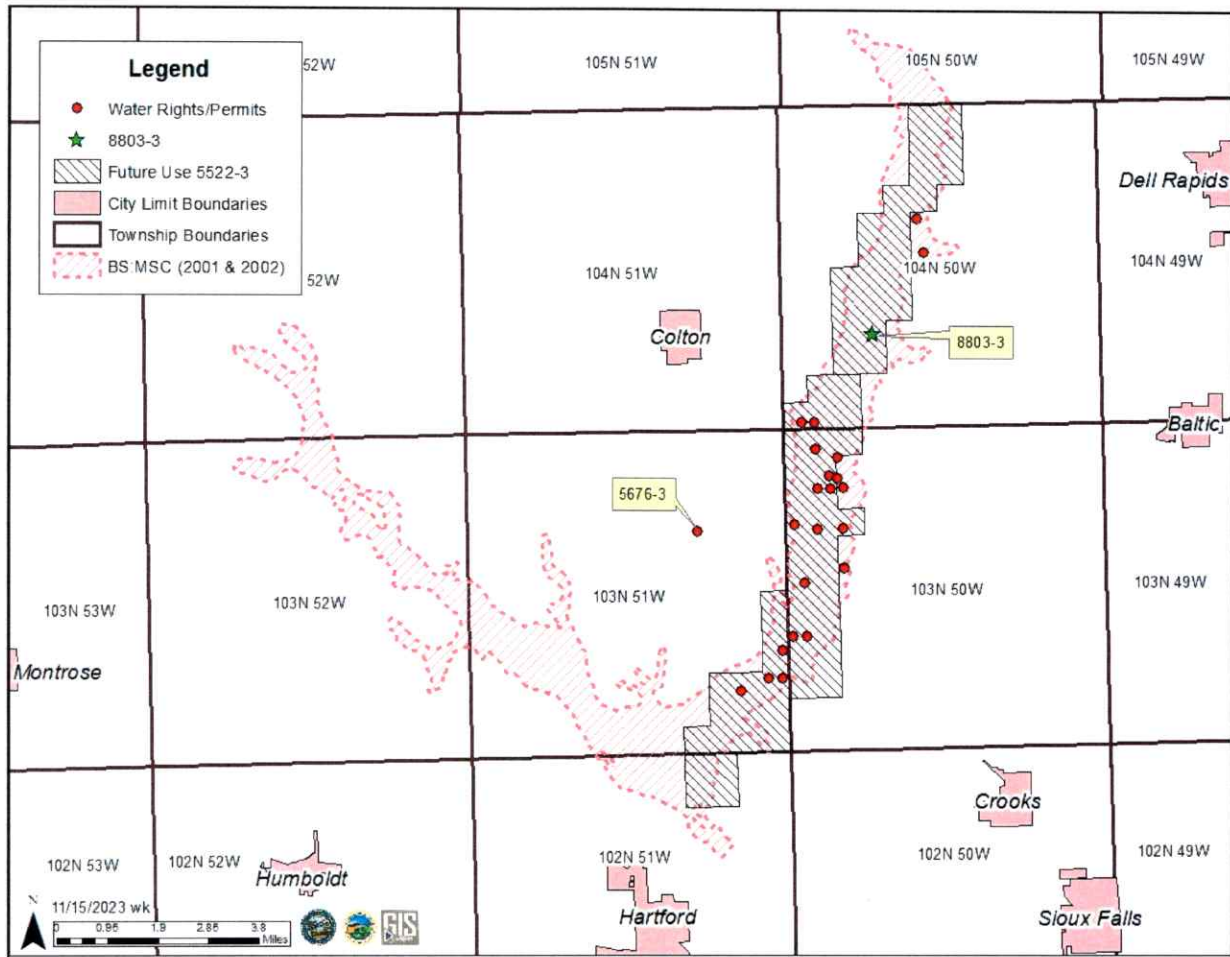


Figure 3: Delineation of the Big Sioux: Middle Skunk Creek aquifer based on Tomhave (2001) and Jensen (2002), and water rights/permits currently labeled as appropriating water from the aquifer (Water Rights, 2023b)

Hedges et al. (1982) appears to have based the northern and southern boundaries of the Middle Skunk Creek aquifer management unit on horizontal constrictions in the glacial aquifer deposit. In reviewing the aquifer delineation based on Tomhave (2001) and Jensen (2002), these horizontal constrictions are even thinner, especially near the northern boundary, indicating that inflow, if any, from the Northern Skunk Creek aquifer management unit to the Middle Skunk Creek aquifer management unit would be extremely limited. Appropriative development in the aquifer has all been concentrated in the portion of the aquifer underlying the Skunk Creek floodplain (Water Rights, 2023b). In part, this is likely due to the portion of the aquifer underlying the floodplain of Western Skunk Creek generally having limited saturated thickness and therefore storage (SDGS, 2023). Based on the mapping in Figure 3, the portion of the aquifer associated with the floodplain of Western Skunk Creek is approximately 6,477 acres and the portion of the aquifer associated with the floodplain of Skunk Creek is approximately 10,940 acres.

In reviewing Figures 1-3, Water Right No. 5676-3 (held by Tri Valley School District for the irrigation of six acres) consistently maps outside the extent of the Big Sioux: Middle Skunk Creek aquifer. Water Right No. 5676-3 maps within the extent of the surficial Colton aquifer

mapped by Lindgren and Niehus (1992). Based on Tomhave (2001), the Colton aquifer is likely smaller in extent than the mapping by Lindgren and Niehus (1992). However, when considering Lindgren and Niehus (1992), Tomhave (2001), and Tomhave (1994), it is likely that Water Right No. 5676-3 is completed into either the Colton aquifer or the Quaternary aged alluvium of Colton Creek and not the Big Sioux: Middle Skunk Creek aquifer. Therefore, for the remainder of this report, Water Right No. 5676-3 will be excluded from consideration.

A well or test hole completion report was not submitted with this application; however, sufficient information is available to determine the aquifer for the application based on the proposed well depth (approximately 28 ft) and location. Water Rights' observation well MA-78B completed into the Big Sioux: Middle Skunk Creek aquifer is located approximately 0.38 miles to the northeast of the proposed well location for this application (Water Rights, 2023b) and several well completion reports are within one-half mile of this application (Water Rights, 2023a). The aquifer is expected to be under unconfined conditions at the proposed location (Water Rights, 2023a and 2023b). Depth to the top of the sand and gravel is expected to range from 2 to 6 feet with water levels ranging from 3.5 to 13.5 feet below grade (Water Rights, 2023a and 2023b). Within one-half mile of the well site proposed for this application, surficial sand and gravel thickness were reported in the range of 15 to 37 feet thick (Water Rights, 2023a and 2023b).

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 within the Big Sioux: Middle Skunk Creek aquifer in South Dakota.

SDCL 46-5-39 and SDCL 46-5-40

Pursuant to SDCL 46-5-39, temporary appropriations may be authorized from undeveloped future use permits using the permitting procedure of SDCL Chapter 46-2A. A future use permit is a permit reserving water for contemplated future needs upon a showing of availability of unappropriated water and future need, which can be issued to entities identified in SDCL 46-5-38, such as municipalities or nonprofit rural water supply companies.

Pursuant to SDCL 46-5-40 the Chief Engineer must give at least six months notice prior to the cancellation of a temporary use permit. The temporary use permit may not be cancelled prior to the time at which facilities are constructed and water may be put to beneficial use by the entity holding the future use permit.

SDCL 45-5-6

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of 1 cfs per 70 acres or the equivalent thereof. SDCL 46-5-6 also limits the volume of water diverted annually for irrigation as not to exceed two acre-feet per acre per year. The statute

provides that: “The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion or water, or the type of soil so requires.” This application is requesting an instantaneous diversion rate of 1.78 cfs for the irrigation of 116 acres or the equivalent of 1.07 cfs per 70 acres. No specific reason for the request was provided on the application. However, based on the provided map, the center pivot irrigation system appears to be making a partial rotation due to a building site. Center pivot irrigation systems require a certain diversion rate to operate properly whether making a partial or full rotation. This reason has been accepted by the Water Management Board and the Water Rights Program in the past.

Water Availability

Water Permit Application No. 8803-3 proposes to appropriate water from the Big Sioux: Middle Skunk Creek aquifer for irrigation use. The probability of unappropriated water being available from an aquifer can be evaluated by considering SDCL 46-6-3.1 which requires, “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source.” If the source of the water is older or lower than the Greenhorn Formation and the application is for a water distribution system defined in SDCL 46-1-6 (17), the Board need not consider the recharge/withdrawal issue. The Big Sioux: Middle Skunk Creek aquifer is not older and stratigraphically lower than the Greenhorn Formation and application is not for a water distribution system as defined in SDCL 46-1-6 (17). Therefore, the withdrawal/recharge issue must be considered.

Hydrologic Budget

Recharge

Recharge to the Big Sioux: Middle Skunk Creek aquifer is from infiltration of precipitation (Lindgren and Niehus, 1992) and limited groundwater inflow from the Big Sioux: Northern Skunk Creek aquifer (Hedges et al., 1982). Hedges et al. (1985) used observation well analysis to estimate recharge to the Big Sioux: Middle Skunk Creek aquifer at 3.2 inches per year. Applying this rate over the area of 17,417 acres results in an estimated average annual recharge of 4,644 acre-feet per year.

Discharge

Discharge from the Big Sioux: Middle Skunk Creek aquifer is through evapotranspiration where the aquifer is at or near land surface, seepage to Skunk Creek, outflow to the Big Sioux: Southern Skunk Creek aquifer, and by well withdrawals (Lindgren and Niehus, 1992; Water Rights, 2023a). There are 13 water rights currently permitted to appropriate water from the aquifer and one future use permit. Future Use Permit No. 5522-3 is held by the City of Sioux Falls and reserves 183 acre-feet per year. Future Use permits are assumed to be fully developable for the purpose of estimating withdrawals.

There are six non-irrigation water rights currently appropriating water from the aquifer. Five (5611-3, 5612-3, 5614-3, 5615-3, and 5726-3) of those are held by the City of Sioux Falls and are limited to a cumulative annual volume of 4,883 acre-feet per year. The City of Sioux Falls

is required to report its annual usage from the aquifer and the reported use by the city from 1994 to 1999 and 2003 to 2022 is shown in Table 2. The city's average reported use from the aquifer is 1,475.7 acre-feet per year. However, since the city is currently experiencing rapid growth, the full allowable annual volume will be used to estimate average annual withdrawals by the city, which is consistent with past practice for municipal water rights held by growing municipalities by the Water Rights Program (Water Rights, 2023b). The remaining non-irrigation use permit is Water Right No. 6446-3 held by Central States Fire Apparatus LLC (Rosenbauer) limited only by a maximum instantaneous of 0.44 cfs. Historically the Water Rights Program has estimated average water use by non-irrigation appropriations limited by an instantaneous diversion rate by assuming they pump at 60% of full time at the respective permitted diversion rate (Water Rights, 2023b). This results in an estimated average annual use for Water Right No. 6446-3 of 191 acre-feet per year. Water Right No. 6446-3 is currently the only permit in the aquifer not required to report annual water use (Water Rights, 2023b).

Table 2: Reported Water Use from the Big Sioux: Middle Skunk Creek Aquifer by the City of Sioux Falls (Water Rights, 2023f)	
Year	Use (acre-feet per year)
2022	1069
2021	1772.3
2020	1971.3
2019	1755
2018	924
2017	958
2016	1256.3
2015	959
2014	511
2013	1075.7
2012	1158
2011	1609
2010	2229
2009	2017
2008	2077
2007	2225
2006	1699
2005	1281
2004	1445
2003	1682
2002	not available
2001	not available
2000	not available
1999	2472
1998	1837
1997	1673.8
1996	857.8
1995	1702.6
1994	152
Average	1475.7

There are currently six (excluding Water Right No. 5676-3) water rights currently approved for irrigation use from the aquifer. The Water Rights Program collects and maintains irrigation data from across the state. Reported use by these water rights is summarized in Table 3. Estimated average annual irrigation use for the aquifer is 284 acre-feet per year, based on historic reported use by the irrigation water rights currently authorized to appropriate water from the aquifer.

Table 3: Reported Irrigation Use by Permit (Water Rights, 2023e)					
Right No.	Name/Business	Priority Date	Acres Permitted	Years Reporting	Average Reported Use (acre-feet/yr)
1806-3	RONALD THOMPSON	02/15/1971	126	44	39.5
2918B-3	TROY J GERAETS	08/04/1976	154	28	67.3
2918C-3	TROY J GERAETS	08/04/1976	147	28	153.2
3437-3	RONALD THOMPSON	12/07/1976	80	44	16.4
4223-3	L LAVONNE FLADMARK	02/06/1978	95	43	5.6
6235-3	HAROLD BOER	09/18/2000	3	22	1.5
Totals			605	n/a	283.5

Due to the relatively low diversion rate of domestic wells and the development of rural water systems over a large portion of the area where the Big Sioux: Middle Skunk Creek aquifer is located, withdrawals from domestic wells are assumed to be a negligible portion of the hydrologic budget.

Balance

Estimated average annual recharge to the Big Sioux: Middle Skunk Creek aquifer is approximately 4,644 acre-feet per year. Estimated total average annual withdrawals with full utilization of non-irrigation water rights limited by annual volume and full development of future use permits from the Big Sioux: Middle Skunk Creek aquifer is 5,541 acre-feet per year (irrigation use: 284 acre-feet per year, future use: 183 acre-feet per year, and non-irrigation use: 5,074 acre-feet per year). Based on this analysis of the hydrologic budget for the aquifer there is currently no unappropriated water available in aquifer. This application is for the irrigation of 116 acres. Water rights/permits for crop irrigation in South Dakota east of the Missouri River typically irrigate on average less than 10 inches per acres per year, therefore estimated average water use for this application, if approved, is less than 97 acre-feet per year.

As noted, the reported pumping by the City of Sioux Falls (Table 2) has consistently been notably less than the total annual volume limit on the city's water rights for this aquifer. Estimated total average annual appropriative pumping from the Big Sioux: Middle Skunk Creek aquifer is 1,951 acre-feet per year (reported average irrigation pumpage: 284 acre-feet per year and reported average estimated non-irrigation pumpage: 1,667 acre-feet per year).

Temporary Permits per SDCL 46-5-39

SDCL 46-5-39 allows for the issuance of temporary use permits for the temporary use of water reserved by future use permits. There are currently no temporary use permits per SDCL 46-5-39 issued from this aquifer. There is currently 183 acre-feet per year reserved by Future Use Permit No. 5522-3 held by the City of Sioux Falls.

SDCL 46-5-6 limits the volume of water diverted annually to two acre-feet per acre per year, unless otherwise allowed by the Water Management Board. The application seeks to irrigate 116 acres, which under the two acre-feet per acre per year limit would allow the use of up to 232 acre-feet per year. If this application is approved as a temporary use permit under SDCL 46-5-39, a qualification limiting withdrawals to less than 183 acre-feet per year is recommended.

Observation Wells

In determining the availability of unappropriated water for a permit application, Administrative Rule 74:02:05:07 requires the Water Management Board to rely on 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 annual recharge.

The Water Rights Program currently monitors seven observation wells completed into the Big Sioux: Middle Skunk Creek aquifer. The location of the observation wells is shown in Figure 4. The hydrographs for these observation wells are shown in Figures 5 and 6 (note the data for MA-78C is shown on both graphs). The closest observation well to the proposed well location for this application is observation well MA-78B located approximately 0.38 miles to the northeast (Water Rights, 2023b). The next closest observation well is MA-57B located approximately 1.2 miles to the northeast (Water Rights, 2023b).

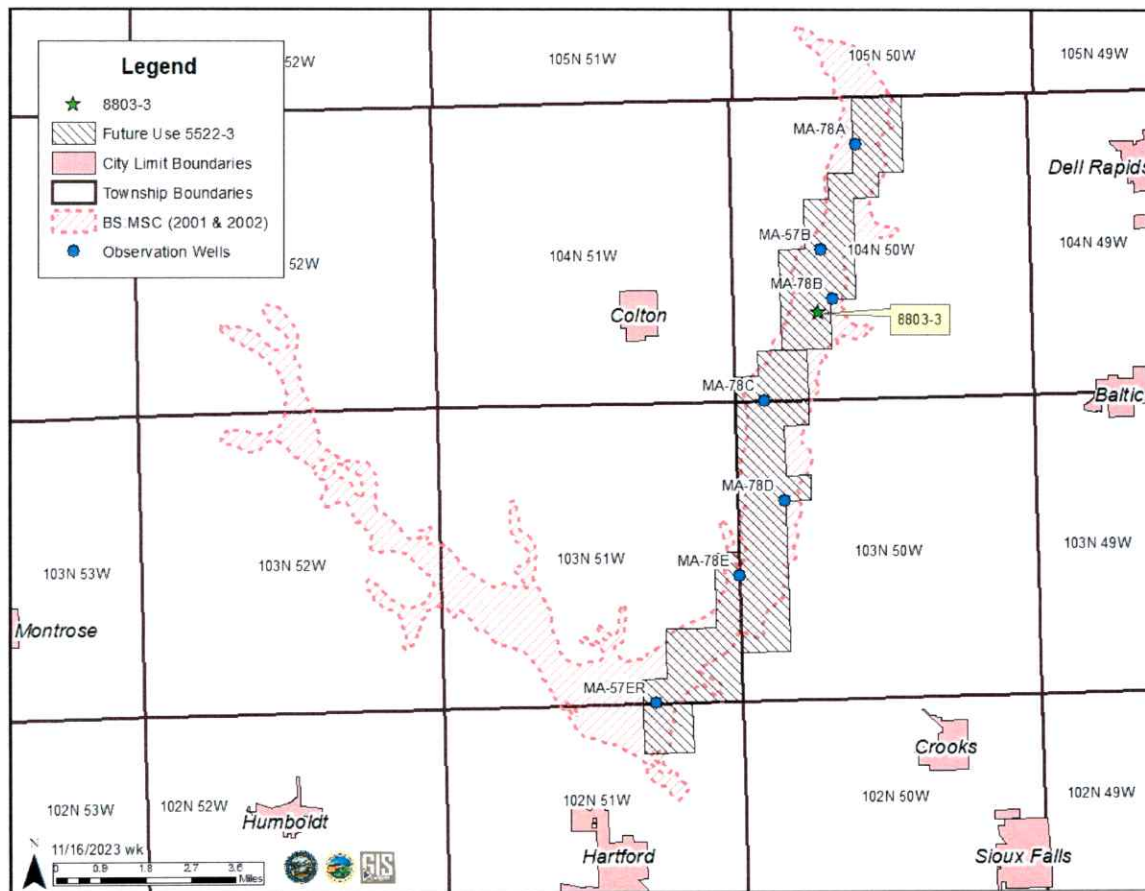


Figure 4: Map of Water Rights observation well locations monitoring the Big Sioux: Middle Skunk Creek aquifer (Water Rights, 2023b)

Report on Water Permit Application No. 8803-3

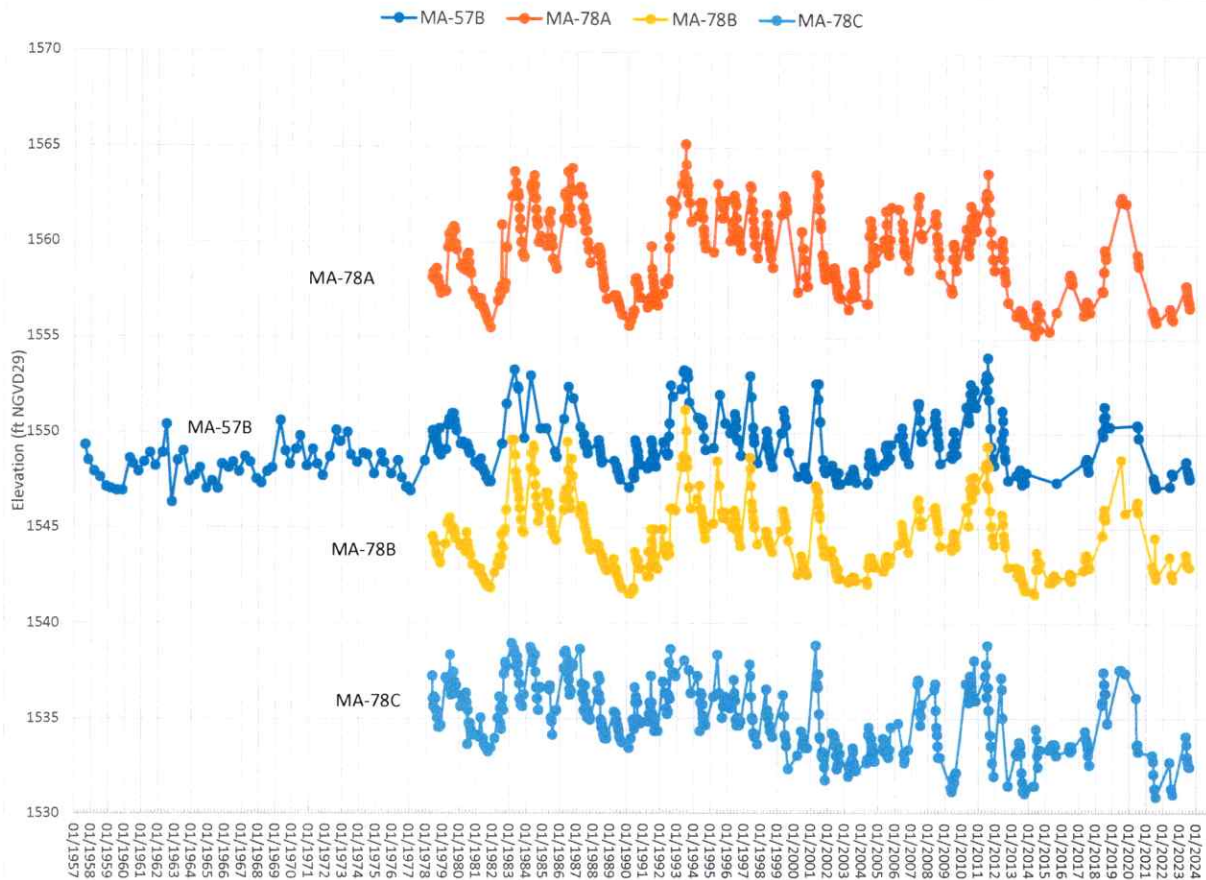


Figure 5: Hydrographs for observation wells MA-57B, MA-78A, MA-78B, and MA-78C (Water Rights, 2023c)

Report on Water Permit Application No. 8803-3

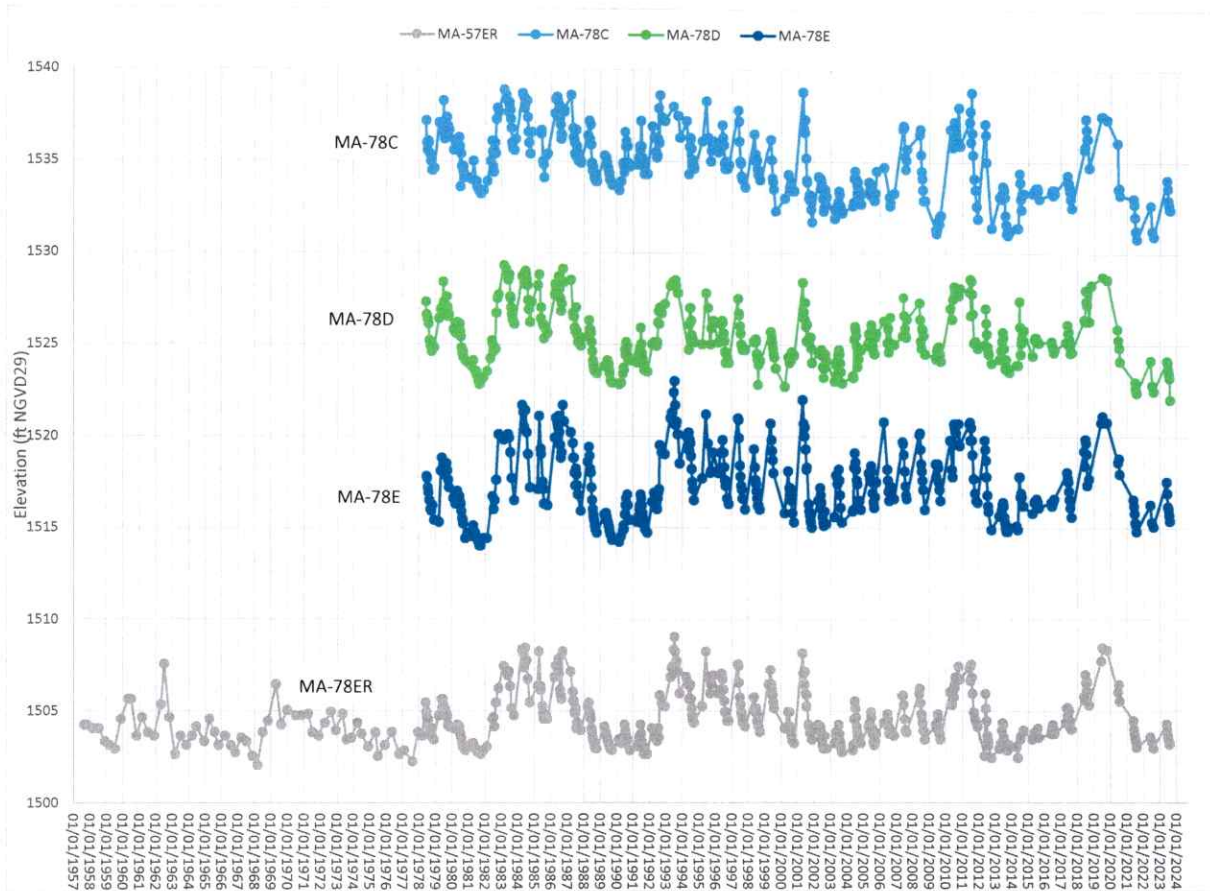


Figure 6: Hydrographs for observation wells MA-57ER, MA-78C, MA-78D, and MA-78E (Water Rights, 2023c)

The hydrographs for the observation wells completed into the aquifer are generally stable (MA-78E, MA-78B, MA-78A, MA-57ER, and MA-57B) to slightly declining (MA-78D and MA-78C) over their periods of record. However, in the case of observation well MA-78C the decrease that starts around 1997 stabilizes around 2007. Observation well MA-78D is approximately 0.19 and 0.36 miles from the two wells for Water Right No. 5726-3 held by the City of Sioux Falls. Observation well MA-78C is approximately 0.11 and 0.38 miles from the two wells for Water Right No. 5615-3 and approximately 0.38 miles of one of the wells from Water Right No. 5614-3, both held by the City of Sioux Falls. Observation well MA-78E is approximately 0.42, 0.54, and 0.68 miles from the three wells for Water Right No. 5612-3 held by the City of Sioux Falls. Based on Table 2 the City of Sioux Falls did not start ramping up annual pumping to current levels until 1995. Table 4 lists the reported annual pumping to the Chief Engineer by permit for the City of Sioux Falls for the years 2016 to 2022.

Table 4: Per Permit Pumpage in Acre-feet (Water Rights, 2023f)					
Permit No.	5611-3	5612-3	5726-3	5614-3	5615-3
Year	Pumpage	Pumpage	Pumpage	Pumpage	Pumpage
2016	360.9	344.7	165.8	185	199.9
2017	217.83	367.5	73.28	123.68	176
2018	154.9	380.0	41.8	254.6	93.0
2019	250.0	246.0	349.4	406.2	503.4
2020	358.3	311.3	393.5	334.8	573.5
2021	276.6	400.0	253.4	181.0	661.4
2022	182.0	238.8	257.8	173.8	216.4
Average	257.2	326.9	219.3	237.0	346.2

While drawdown as the result of pumping in an unconfined aquifer typically does not extend far from the pumping well, observation wells MA-78D and MA-78C are both in close enough proximity (approximately 0.25 miles) to high yield wells that pump year-round that some amount of observable effect would be expected. Observation Well MA-78C appears to have stabilized in relation to the current level of pumping in the area. Taking this into consideration the observation well MA-78D is likely not as reflective of the overall conditions of the aquifer as observation wells MA-78C, MA-78E, MA-78B, MA-78A, MA-57ER, and MA-57B.

Observation wells MA-78E, MA-78B, MA-78A, MA-57ER, and MA-57B indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods and declining to a stable water level during drier periods. The water levels in these observation wells display that the amount of recharge to and natural discharge from the aquifer exceed pumping within the aquifer. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping. Based on this, the current level of pumping is likely not exceeding recharge on an aquifer-wide scale. However, the observation well data is not representative of the development of the future use permit from this aquifer or the fact the City of Sioux Falls is currently, on average, only pumping approximately 30 percent of their total permitted annual volume allocation from the aquifer.

The City of Sioux Falls currently obtains water from the Big Sioux: Middle Skunk Creek aquifer, the Big Sioux River, the Big Sioux: Sioux Falls aquifer, and the Lewis and Clark Regional Water System. In 2022, the city reported that several of their Big Sioux: Sioux Falls aquifer wells were on standby due to PFC contamination (Water Rights, 2023f) and surface water sources such as the Big Sioux River tend to be more susceptible to the effects of drought on the short term than ground water sources. By requesting that Future Use Permit No. 5522-3 remain in effect at its last seven-year review in 2019, the city projected their water use in 2060 could be as high as 66.400 million gallons per day (approximately 72,186 acre-feet per year) (Water Rights, 2023b). Based on this information, Sioux Falls needs to maintain additional water supply capacity on standby, for its growing water demand and to compensate for fluctuations in water supplies from other sources. Pursuant to Administrative Rule of South Dakota 74:02:01:37.02, "A water supply maintained for either fire protection or standby purposes, or both, is not nonuse of a water permit, right, or vested

right if the water diversion works are maintained in working condition for immediate use upon demand.” Since the city is reporting some degree of use under all of its Big Sioux: Middle Skunk Creek aquifer water rights, the works under of their Big Sioux: Middle Skunk Creek aquifer water rights are likely being maintained in working condition. Based on the City of Sioux Falls’ projected water needs, at some point in the future pumping by the city from this aquifer may increase depending on city's preferred water sources and availability of water from those other sources.

Potential for Unlawful Impairment

Pumping by this Application

Figure 7 shows water rights currently appropriating water from the Big Sioux: Middle Skunk Creek aquifer in the vicinity of the proposed well location for this application. The water rights shown in Figure 7 are summarized in Table 5. The proposed well location for this application is located within the future use area for Future Use Permit No. 5522-3 held by the City of Sioux Falls. There are several domestic wells located within 0.5 miles of the proposed wellsite for this application. The locations of domestic wells are based on the location provided by the well driller on the water well completion report. It is possible there are other domestic wells completed into the Big Sioux: Middle Skunk Creek aquifer in the area of the applicant’s proposed well site that are not on file with the Water Rights Program. There is not a history of substantiated well interference complaints in the Big Sioux: Middle Skunk Creek aquifer (Water Rights, 2023d).

Table 5: Summary of Water Rights in Figure 7 (Water Rights, 2023b)					
Permit No.	Name	Use	Rate (cfs)	Acres	Volume (acre-feet)
2918B-3	TROY J GERAETS	IRRIGATION	1.78	154	n/a
2918C-3	TROY J GERAETS	IRRIGATION	1.78	147	n/a
3437-3	RONALD THOMPSON	IRRIGATION	1.1	80	n/a
5614-3	CITY OF SIOUX FALLS	MUNICIPAL	2.14	n/a	570
5615-3	CITY OF SIOUX FALLS	MUNICIPAL	3	n/a	907
5522-3	CITY OF SIOUX FALLS	MUNICIPAL (FUTURE USE)	n/a	n/a	183

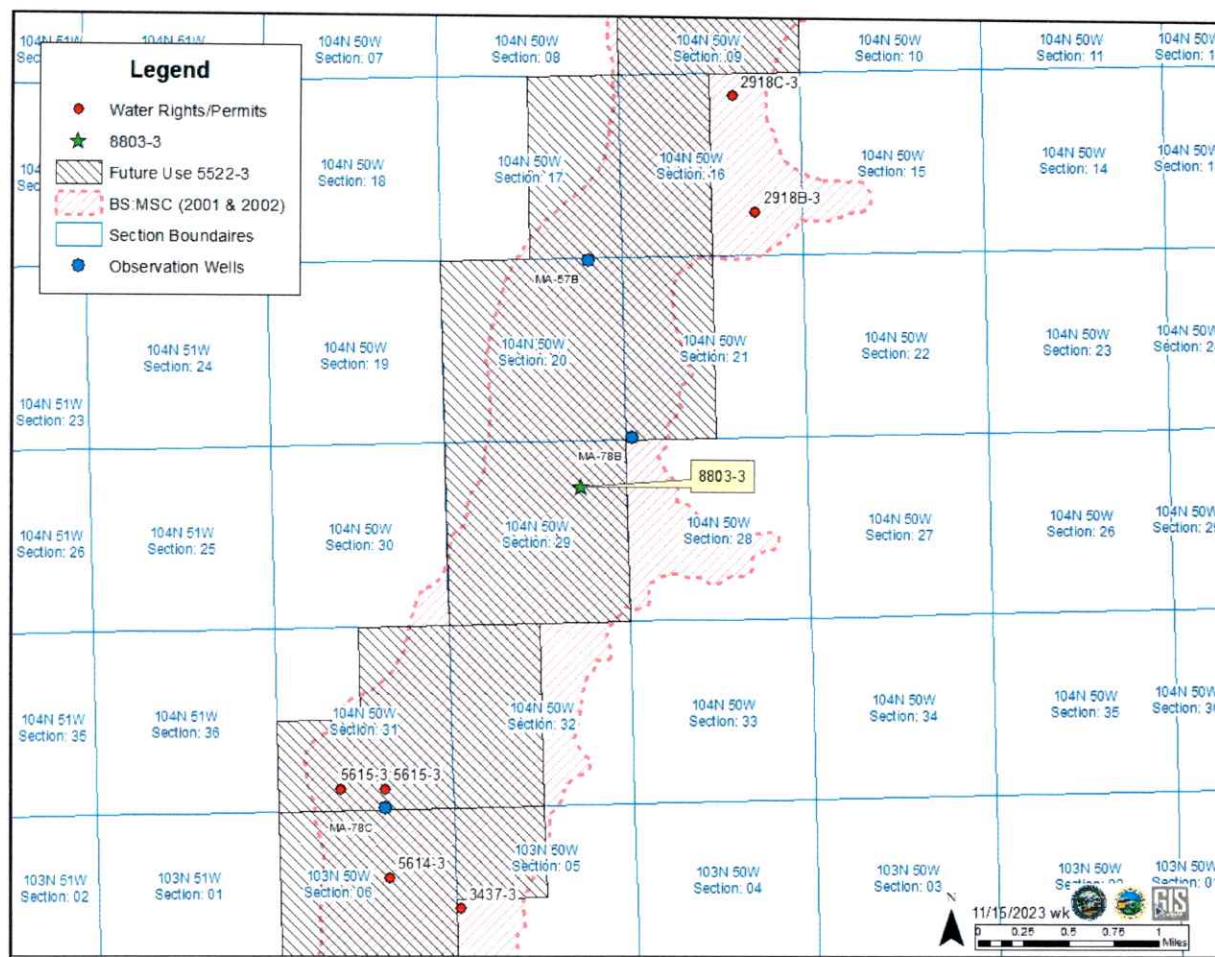


Figure 7: Water rights currently appropriating water from the Big Sioux: Middle Skunk Creek aquifer in the vicinity of the proposed well location for this application (Water Rights, 2023b; modified from Tomhave, 2001)

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. 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.”

Drawdown as the result of pumping in an unconfined aquifer typically does not extend far from the pumping well. Especially in the case of seasonal pumping such as irrigation where there are several months of no pumping which allows water levels in the aquifer to return to static conditions. At observation well MA-78B saturated thickness in the aquifer has range from 14.2 ft (June 29, 1993) to 4.5 ft (May 22, 2014) over the period of record (Water Rights, 2023b).

Several equations exist to approximate drawdown from a pumping well. The term approximate is used here since a series of assumptions (e.g. homogenous aquifer materials, no boundary conditions, etc.) were made to limit the number of complex variables that occur in natural hydrogeology in creating these equations. Drawdown in an unconfined aquifer can be estimated by modifying the Theis equation for an unconfined aquifer to be equivalent to a nonleaky confined aquifer (Aqtesolv, 2023a). Inputs to this modified version of the Theis equation are transmissivity (T) (which is hydraulic conductivity (K) multiplied by the saturated thickness of the aquifer before pumping (b)), storativity (S), radial distance from the pumping well to location of the drawdown estimate (r), time since the start of pumping (t), and pumping rate (Q), and saturated thickness of the aquifer before pumping (b). Typically, storativity for unconfined aquifers range from 0.1 and 0.3 (Aqtesolv, 2023b), with a value of 0.15 typically being used for management units of the Big Sioux aquifer (Hedges et al., 2012). At observation well MA-78B, the aquifer material was logged as a medium to coarse gravel, and typical hydraulic conductivity values for gravel ranges between 85 to 8,503 ft per day (Heath, 1983) to be conservative a hydraulic conductivity of 85 ft per day will be used for these estimates. Two different saturated thicknesses of the aquifer before pumping will be used: 4.5 ft and 14 ft. Drawdown at several distances and at two times (32.8 days (time needed to pump 116 acre-feet of water at 1.78 cfs) and 65.6 days (time needed to pump 232 acre-feet of water at 1.78 cfs)) are shown in Table 6.

Table 6: Theoretical Drawdown Estimates at Q= 1.78 cfs (153,792 ft ³ per day) (Aqtesolv, 2023a)								
Input Variables					Drawdown in feet at given distance			
Parameter	Value	Parameter	Value	Parameter	Value	1,000 ft	1,320 ft (0.25 miles)	2,640 ft (0.5 miles)
b (ft)	4.5	t (days)	32.8	T (ft ² /d)	382.5	0.44	0.03	0
b (ft)	14	t (days)	32.8	T (ft ² /d)	1,190.0	2.7	0.82	0.002
b (ft)	4.5	t (days)	65.6	T (ft ² /d)	382.5	excess of 4.5 ft	0.76	0.0001
b (ft)	14	t (days)	65.6	T (ft ² /d)	1,190.0	8.72	3.4	0.087

Practically, at a saturated thickness of 4.5 feet a high yield irrigation pump is unlikely to be able to pump its full capacity and is likely to pump the pumping well dry before causing significant drawdown at distances in excess of 0.25 miles. Additionally, average application rates for crop irrigation east of the Missouri River are typically less than 10 inches per acres so average annual pumpage under this permit, if approved, is expected to be less than what is presented in Table 6.

Ultimately, given the above discussion nearby adequate wells are not expected to be unlawfully impaired by this application, if approved. However, out of an abundance of caution a qualification on this permit, if approved, is recommended where water withdrawals under this permit be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights. Additionally, an annual volume limit of one acre-foot per acre per year could be considered to further limit the potential for unlawful impairment.

Additional Considerations

Cumulative Effects of Pumping

The Big Sioux: Middle Skunk Creek aquifer is a relatively thin aquifer with a limited amount of water in storage. While long term average annual withdrawals would not exceed average

annual recharge to the aquifer, short term conditions may occur when withdrawals exceed recharge. When this occurs, water will be removed from storage, consequently reducing the saturated thickness of the aquifer. If this occurs for an extended period of time such that the saturated thickness is reduced to the extent that the water rights/permits can no longer pump at their developed or “historically established” rates, this may be considered an adverse impact. If this occurred, the water source would need to be managed to mitigate the potential adverse impact as much as possible to prevent any unlawful impairment.

Appropriative development in the aquifer has all been concentrated in the portion of the aquifer underlying the Skunk Creek floodplain (Water Rights, 2023b). Given that the direction of groundwater movement in this aquifer generally follows the movement of surface water, recharge occurring to the portion of the aquifer underlying the floodplain of Western Skunk Creek is likely not contributing to the area where the development is concentrated in the aquifer. The portion of the aquifer associated with the floodplain of Skunk Creek is approximately 10,940 acres. So, unlawful impairment issues due to cumulative pumping could start at closer to approximately 2,900 acre-feet per year of average annual pumping. A qualification on this permit, if approved, is recommended indicating that the long-term curtailment of pumping of this permit may be required to manage water usage from this aquifer if water rights with senior priority dates increase their average annual pumpage from the aquifer to their permitted annual volume.

Conclusions

1. Water Permit Application No. 8803-3 proposes to irrigate 116 acres in NE ¼ of Section 29 at a maximum instantaneous diversion rate of 1.78 cfs from one well to be completed into the Big Sioux: Middle Skunk Creek aquifer near the center of the NE ¼ Section 29; all in T104N-R50W.
2. Based on a review of the observation well data for the aquifer, the current level of pumping is likely not exceeding recharge on an aquifer-wide scale.
3. Based on an analysis of the hydrologic budget for the Big Sioux: Middle Skunk Creek, annual appropriations exceed recharge to the aquifer based on the amount of water appropriated by existing water rights. However, due to the City of Sioux Falls consistently not pumping their full annual volume allocation from the aquifer, average annual appropriative pumpage from the aquifer is currently not exceeding average annual recharge.
4. No temporary use permits per SDCL 46-5-39 have been issued from this aquifer. There is currently 183 acre-feet per year reserved for future use by Future Use Permit No. 5522-3. If this application is approved as a temporary use permit under SDCL 46-5-39, a qualification limiting withdrawals to no more than 183 acre-feet per year is recommended.
5. Existing water rights with adequate wells and domestic users with adequate wells are not expected to be unlawfully impaired by drawdown due to pumping by this application, if approved. Out of an abundance of caution, a qualification on this permit, if approved, is

recommended that water withdrawals under this permit be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

6. Since non-irrigation water rights with senior priority dates in this aquifer can, under their current water rights, substantially increase their average annual pumping at a future date, a qualification on this permit, if approved, is recommended indicating that the long-term curtailment of pumping of this permit maybe required to manage water usage from this aquifer.
7. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. Based on the provided map, it appears the center pivot irrigation system will be making a partial rotation. Partial rotation systems require the same diversion rate as full rotation systems to properly operate while irrigating fewer acres. This reason for the exceedance has been accepted by the Water Management Board and the Water Rights Program in the past.



Whitney Kilts
Natural Resources Engineer III
SDDANR-Water Rights Program

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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PIERRE SD 57501-3182
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**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

January 10, 2024

Jeffrey Thompson
46742 Lyons Street
Colton SD 57018

Dear Mr. Thompson:

Water Permit Application No. 8803-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Argus Leader printed in Sioux Falls SD (see contact information). You will need to contact the newspaper 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 newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has 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 January 18, 2024. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 8803-3 to Appropriate Water

Notice is given that Jeffrey Thompson, 46742 Lyons Street, Colton SD 57018 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Big Sioux: Middle Skunk Creek Aquifer (approximately 28 feet deep) located near the center of the NE 1/4 Section 29 for irrigation of 116 acres located in the NE 1/4 Section 29; all in T104N-R50W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 3 miles east of Colton SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that “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 Chief Engineer’s recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board.” In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8803-3 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.

The Water Management Board will consider this application at 9:30 AM (Central Time) on March 6, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing 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 January 29, 2024.

The petition shall be in writing and 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The March hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by January 29, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

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 January 29, 2024.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is January 29, 2024. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published once at an approximate cost of _____.

Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Tuesday, January 9, 2024 2:47 PM
To: Rodriguez, Rachel
Subject: RE: [EXT] 9726443 8803-3 Jeffrey Thompson - Public Notice
Attachments: 9726443.pdf

Good Afternoon,

Please find your order confirmation and proof of ad attached.

Your ad is set to run in the Argus Leader on January 18. The order cost is \$95.26 which includes an affidavit, that will be mailed to you 7-10 business days after the last day of the ad printing.

All orders are subject to a 3.99% service fee if paid with a credit card. As an incentive for customers, we provide a discount off the order cost equal to the 3.99% service fee if you pay with ACH. Pay by ACH and Save!
Final Order cost provided at time of payment and via a receipt.

Your notice is scheduled to run per your request and will publish unless you reply to this email requesting changes or to cancel.

In the future, be on the lookout for access to our online self-serve ad portal in your local publication to conveniently place future legal notices.

Thank you!

Brittany Grady
Public Notice Representative



Office: 844-254-5287

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Tuesday, January 9, 2024 10:08 AM
To: SFA-Legals mbx <allegals@gannett.com>
Subject: 9726443 8803-3 Jeffrey Thompson - Public Notice

Attached is a notice to be published on January 18, 2024.

Jeffrey Thompson, 46742 Lyons Street, Colton SD 57018, (605-212-0579), itsdfarm@gmail.com, 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,

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, January 9, 2024 10:08 AM
To: legals@argusleader.com
Subject: 8803-3 Jeffrey Thompson - Public Notice
Attachments: 8803-3 public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on January 18, 2024.

Jeffrey Thompson, 46742 Lyons Street, Colton SD 57018, (605-212-0579), jtsdfarm@gmail.com, 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





South Dakota

PO Box 630567 Cincinnati, OH 45263-0567

GANNETT

PROOF OF PUBLICATION

Water Rights Program
Jeffrey Thompson
46742 Lyons ST
Colton SD 57018-5803

STATE OF WISCONSIN, COUNTY OF BROWN

The Argus Leader, a daily newspaper published in the city of Sioux Falls, Minnehaha County, State of South Dakota, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue:

01/18/2024

and that the fees charged are legal.
Sworn to and subscribed before on 01/18/2024

Keegan L. Brown
Legal Clerk

Notary Public
Notary, State of WI, County of Brown

317727
My commission expires

Publication Cost: \$95.26

Order No: 9726443

of Copies:

Customer No: 1268573

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KAITLYN FELTY
Notary Public
State of Wisconsin

**NOTICE OF HEARING on
Application No. 8803-3 to
Appropriate Water**

Notice is given that Jeffrey Thompson, 46742 Lyons Street, Colton SD 57018 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second (cfs) from one well to be completed into the Big Sioux: Middle Skunk Creek Aquifer (approximately 28 feet deep) located near the center of the NE 1/4 Section 29 for irrigation of 116 acres located in the NE 1/4 Section 29; all in T104N-R50W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately 3 miles east of Colton SD.

South Dakota Codified Law (SDCL) 46-2A-4(10)

provides that "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 Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8803-3 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.

The Water Management Board will consider this application at 9:30 AM (Central Time) on March 6, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing 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 January 29, 2024.

The petition shall be in writing and 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. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The March hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by January 29, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

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 Engi-

near 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 January 29, 2024.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location.

Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17."

This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is January 29, 2024. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published Jan 18, 2024 at the total approximate cost of \$95.26 and may be viewed free of charge at www.sdpublicnotices.com.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

MAR 14 2024

Jeffrey Thompson
46742 Lyons Street
Colton SD 57018

Dear Mr. Thompson:

Enclosed is Water Permit No. 8803-3 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.: 8803-3

Name of Applicant: Jeffrey Thompson

Date of Posting: 1/16/2024

Date of Removal: 3/14/2024



Ron Duvall, Engineer III

3/14/2024

Date

Subscribed and sworn to before me, a notary public, this 14th day of March, 2024.



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



(SEAL)



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 14, 2025

NOTICE

TO: JEFF THOMPSON, 46742 LYONS ST, COLTON SD 57018

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaires

Our records indicate your 2024 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1806-3 & 3437-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 8803-3 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) 8803-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1806-3 & 4373-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 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 questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: NNSBLT**

cc: RONALD THOMPSON, 46840 250TH ST, COLTON SD 57018

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

February 19, 2025

1806-3, 3437-3
8803-3

Jeff Thompson
46742 Lyons St
Colton SD 57018

Dear Mr. Thompson:

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). 1806-3, 3437-3 & 8803-3. 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

cc: RONALD THOMPSON, 46840 250TH ST, COLTON SD 57018



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 26th, 2026

1806-3

8803-3

3437-3

Manager
Jeff Thompson
46742 Lyons St
Colton, SD 57018

Dear Mr. Thompson:

I am writing to acknowledge receipt of your 2025 irrigation questionnaires.

You may disregard the January 20, 2026, "Notice" concerning reporting requirements for Water Right Nos. 1806-3, 3437-3, 8803-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Shannon Konst
Water Rights Program
605 773-8204
Shannon.konst@state.sd.us



8803-3
1806-3
3437-3

**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: JEFF THOMPSON, MANAGER, 46742 LYONS ST, COLTON, SD 57018

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

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaires

Our records indicate your 2025 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 1806-3 & 3437-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 8803-3 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) 8803-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1806-3 & 3437-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 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 questionnaires 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: OQULHY**

cc: RONALD THOMPSON, 46840 250TH ST, COLTON SD 57018

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.