

WATER PERMIT NO. 8850-3

Name of Applicant: **Derek Guthmiller**

Address: **3405 Alumax Rd, Yankton SD 57078**

Phone: **402-710-9014**

Amount of Water Claimed: **1.78 cfs**

Total Acres: **58**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation**

County: **Yankton**

Type of Waste Disposal System:

Location: **Approx. 2 miles east of Yankton SD**

PRIORITY

Date Received: **03-11-24**

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

Corrected Application Received: **04-04-24**

Period of Annual Use: **April 4 – October 31**

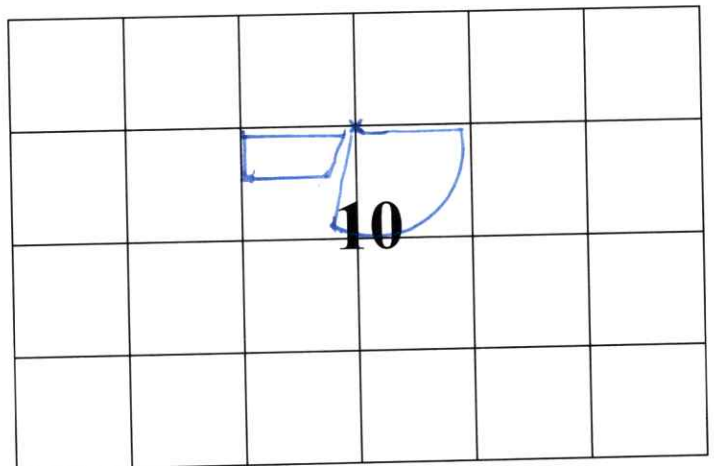
Remarks:

Diversion Point: **Center of E 1/2 NW 1/4, W 1/2**

NE 1/4 Sec 10-93N-R55W

Land to be Irrigated: **SE 1/4 NW 1/4, SW 1/4 NE**

1/4 Sec 10-93N-R55W



Depth of Well: **125**

Well Driller:

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **04-04-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8850-3**

Date of first receipt of application March 11, 2024.

Date of return to applicant for corrections, amendments or changes March 11, 2024.

Date of receipt of corrected application April 4, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8850-3 to Derek Guthmiller, 3405 Alumax Road, Yankton SD 57078, 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. 8850-3 appropriates 1.78 cubic feet of water per second (cfs) from one well to be completed into the Missouri: Elk Point Aquifer (approximately 125 feet deep) located near the center of the N 1/2 Section 10 for irrigation of 64 acres located in the SE 1/4 NW 1/4, SW 1/4 NE 1/4 Section 10; all in T93N-R55W. This site is located approximately two miles east of Yankton SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is March 11, 2024.
4. The date of approval of Permit No. 8850-3 is June 24, 2024.
5. One-fifth of the construction is to be completed on or before December 24, 2026.
6. All construction is to be completed on or before June 24, 2029.
7. Water is to be put to beneficial use on or before June 24, 2033.
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. 8850-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8850-3 must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8850-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 64 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

JUL 25 2024
date



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

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8850-3</u> Hydrologic Unit <u>10160011</u> Basin <u>Lower James</u> Newspaper <u>Daily Press & Dakotan</u> (office use only)
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RECEIVED
MAR 11 2024
OFFICE OF
WATER

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.)

add diversion point

1. Name to Appear on Irrigation Permit Derek Guthmiller

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

Mailing Address 3405 Aluma Road Yankton SD 57078
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 402-710-9014 Email guthmiller ag@gmail.com

2. Amount of water claimed 1.78 *CFS or 800 **GPM ***AF Total Acreage 62-64 per Pon
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ground water well

4. Location of point of diversion NW 1/4 SE 1/4 + NE 1/4 SW 1/4 of 10-T93N-R55W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)
N80 on well County Yankton

5. County or counties where water will be used Yankton County, Yankton, SD

6. Annual period during which water is to be used Summer months. crop us April'-Oct 31

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

Land Description	Acres	Land Description	Acres
NE 1/4 SW 1/4 of 10-T93N-R55W	33Ac.		
NW 1/4 SE 1/4 of 10-T93N-R55W	33Ac.		
<u>SE 1/4 NW 1/4 Sec 10-T93N-R55W</u>	<u>26</u>		
<u>SW 1/4 NE 1/4 "</u>	<u>38</u>		

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

Water use for grain production.

I, Derek Guthmiller Owner, the applicant, certify under
Name of Person Title (if applicable)

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

2021-08

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

Supplemental Information

(type or print)

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

☒ Drilling new well(s) ☐ Using existing well(s)

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

For either existing or proposed wells:

- c) Well Depth (required) 100-125 Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____
- d) Distance to nearest domestic well on applicant's property 1300 ft Property owned by others 0
or more

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)

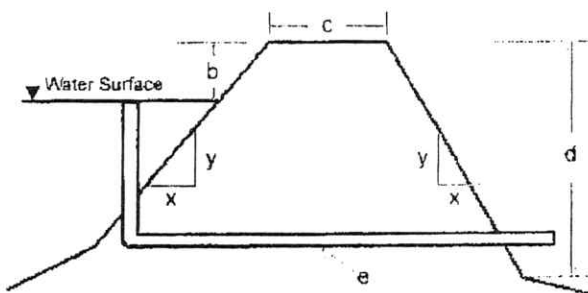
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





Township: 93N 55W
Section: 03
QQ Sect: NWSW

Township: 93N 55W
Section: 03
QQ Sect: NESW

Township: 93N 55W
Section: 03
QQ Sect: NWSE

Township: 93N 55W
Section: 03
QQ Sect: NESE

Township: 93N 55W
Section: 03
QQ Sect: N

93N 55W
Section: 04

93N 55W
Section: 03

93N 55W
Section: 03

Township: 93N 55W
Section: 03
QQ Sect: SWSW

Township: 93N 55W
Section: 03
QQ Sect: SESW

Township: 93N 55W
Section: 03
QQ Sect: SWSE

Township: 93N 55W
Section: 03
QQ Sect: SESE

Township: 93N 55W
Section: 03
QQ Sect: S

Township: 93N 55W
Section: 10
QQ Sect: NWNW

Township: 93N 55W
Section: 10
QQ Sect: NENW

Township: 93N 55W
Section: 10
QQ Sect: NWNE

Township: 93N 55W
Section: 10
QQ Sect: NENE

Township: 93N 55W
Section: 10
QQ Sect: N

93N 55W

Township: 93N 55W
Section: 10
QQ Sect: SWNW

93N 55W
Section: 10

Township: 93N 55W
Section: 10
QQ Sect: SENW

Township: 93N 55W
Section: 10
QQ Sect: SENE

Township: 93N 55W
Section: 10
QQ Sect: S

93N 55W
Section: 09

Township: 93N 55W
Section: 09
QQ Sect: NESE

Township: 93N 55W
Section: 10
QQ Sect: NWSW

Township: 93N 55W
Section: 10
QQ Sect: NESW

Township: 93N 55W
Section: 10
QQ Sect: NWSE

Township: 93N 55W
Section: 10
QQ Sect: NESE

Township: 93N 55W
Section: 10
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Township: 93N 55W
Section: 10
QQ Sect: SWSW

Township: 93N 55W
Section: 10
QQ Sect: SESW

Township: 93N 55W
Section: 10
QQ Sect: SWSE

Township: 93N 55W
Section: 10
QQ Sect: SESE

Township: 93N 55W
Section: 10
QQ Sect: S

93N 55W
Section: 16

Township: 93N 55W
Section: 16

Township: 93N 55W
Section: 15

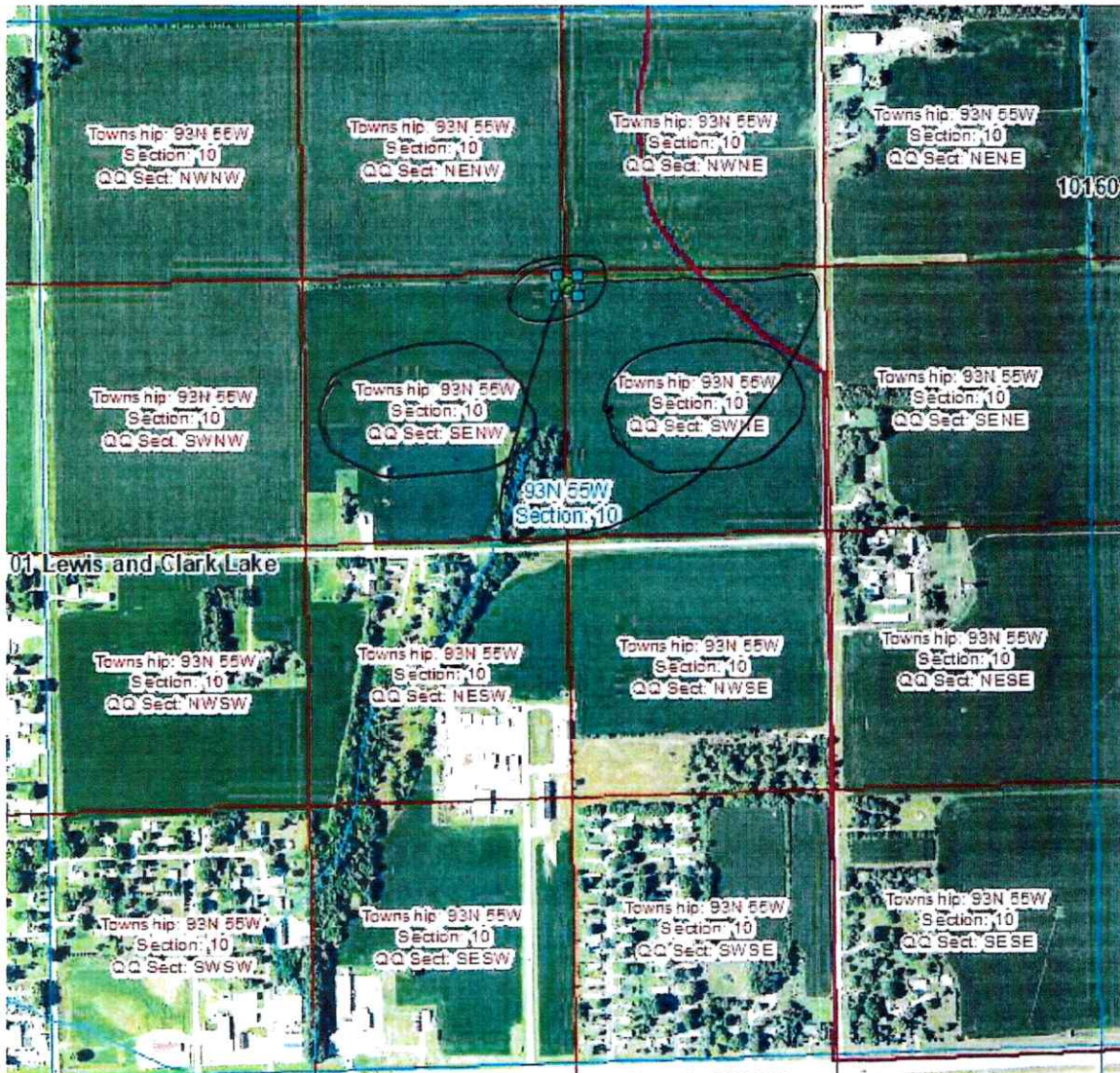
Township: 93N 55W
Section: 15

93N 55W
Section: 15

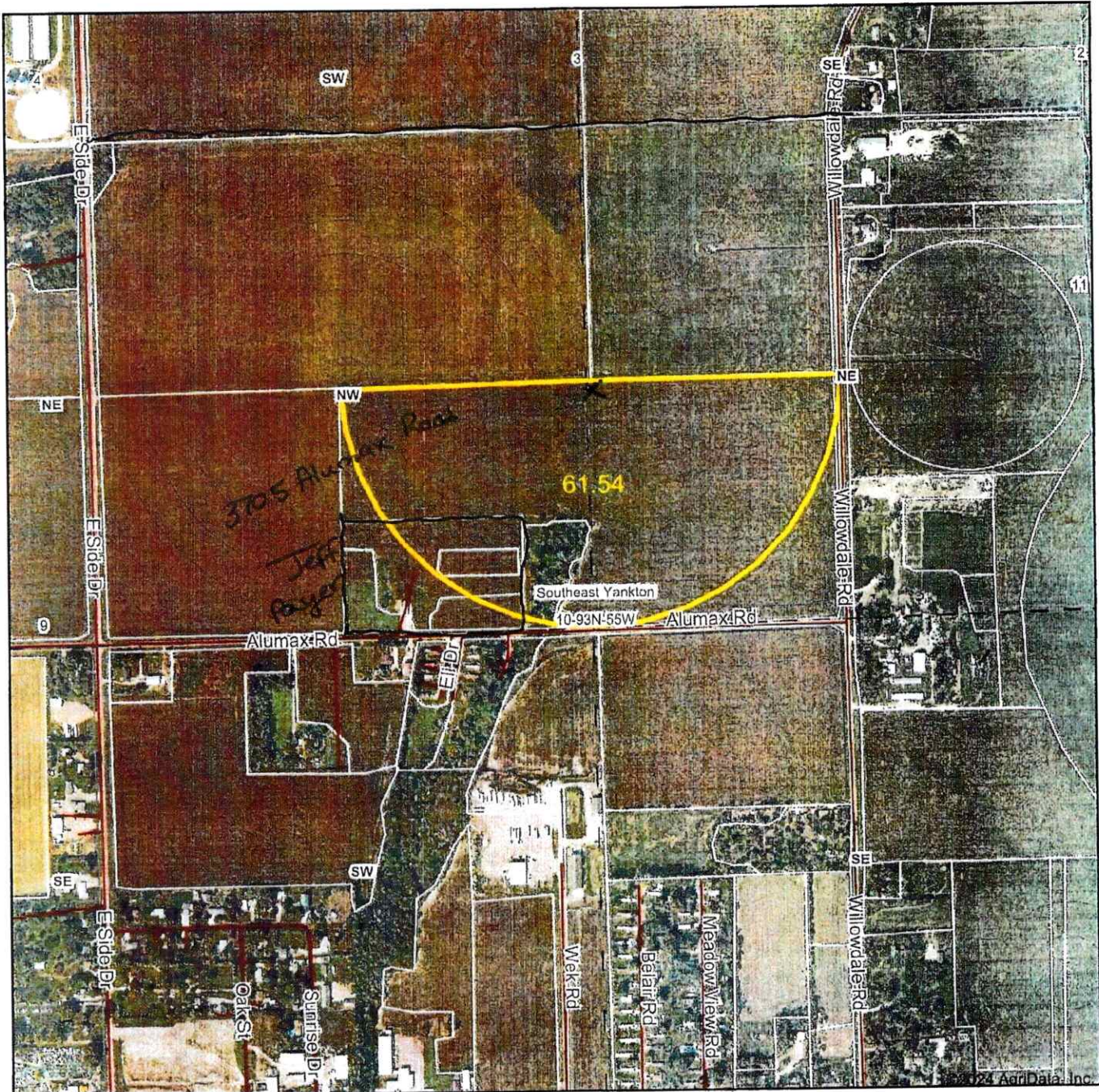
Township: 93N 55W
Section: 15

Township: 93N 55W
Section: 15

Township: 93N 55W
Section: 15



Derek Guthmiller Irrigation Map



Boundary Center: 42.888990, -97.328173

0ft 816ft 1631ft

10-93N-55W
Yankton County
South Dakota



3/8/2024

Maps Provided By:

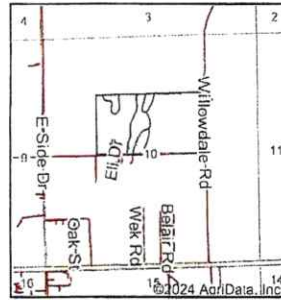
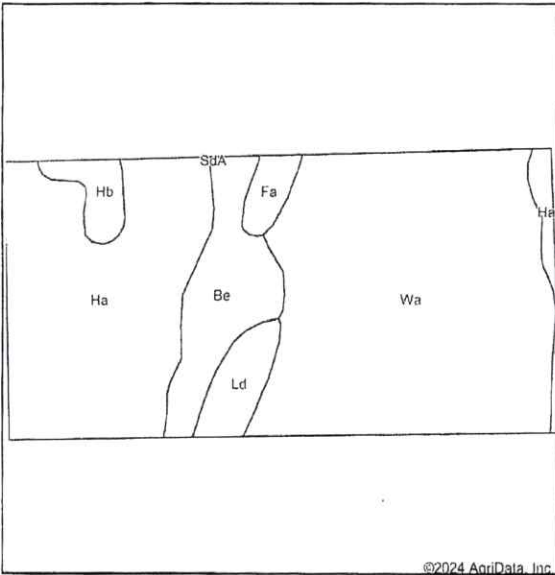


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Field borders provided by Farm Service Agency as of 5/21/2008.

Soils Map



State: **South Dakota**
 County: **Yankton**
 Location: **10-93N-55W**
 Township: **Southeast Yankton**
 Acres: **78.79**
 Date: **3/8/2024**



Soils data provided by USDA and NRCS.

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Area Symbol: SD135, Soil Area Version: 25

Code	Soil Description	Acres	Percent of field	Water Table	Restrictive Layer	Soil Drainage	Hydric Rating	Non-Irr Class *c	Irr Class *c	Productivity Index	Alfalfa hay Tons	Bromegrass alfalfa AUM	Bromegrass alfalfa hay Tons	Corn Bu	Grain sorghum Bu	Kentucky bluegrass AUM	Oats Bu	Smooth bromegrass AUM	Soybeans Bu	Winter wheat Bu	*n NCCPI Soybeans
Wa	Waubensie very fine sandy loam	38.80	49.2%	2ft.	> 6.5ft.	Moderately well drained	5	Is		84		6.4	3.8	96		2.4	53	3.9	32		53
Ha	Haynie silt loam	25.70	32.6%	5ft.	> 6.5ft.	Moderately well drained		Is		91	4	6.7		90	85		84		31		64
Be	Blake silty clay loam	7.78	9.9%	3.5ft.	> 6.5ft.	Somewhat poorly drained	5	Is	lw	90	4.2	6.8		90			85		30		68
Ld	Luton silty clay, depressional	2.95	3.7%	0ft.	> 6.5ft.	Very poorly drained	92	Vw		37											28
Hb	Haynie silty clay loam, overwash	2.02	2.6%	5ft.	> 6.5ft.	Moderately well drained	9	lw		90	4	6.7		90	85		84		31		65
Fa	Forney silty clay loam	1.54	2.0%	2ft.	> 6.5ft.	Poorly drained	90	Ilw		70	3.5	5		85			55		30		56
Weighted Average								1.66	-	85	1.9	6.3	1.9	89.5	29.9	1.2	65.1	1.9	30.2	-	*n 57.5

*n: The aggregation method is "Weighted Average using all components"

*c: Using Capabilities Class Dominant Condition Aggregation Method

-: Irr Class weighted average cannot be calculated on the current soils data due to missing data.

Soils data provided by USDA and NRCS.

Gravity irrigated acres



Boundary Center: 42.889819, -97.330689

0ft 822ft 1645ft

10-93N-55W
Yankton County
South Dakota

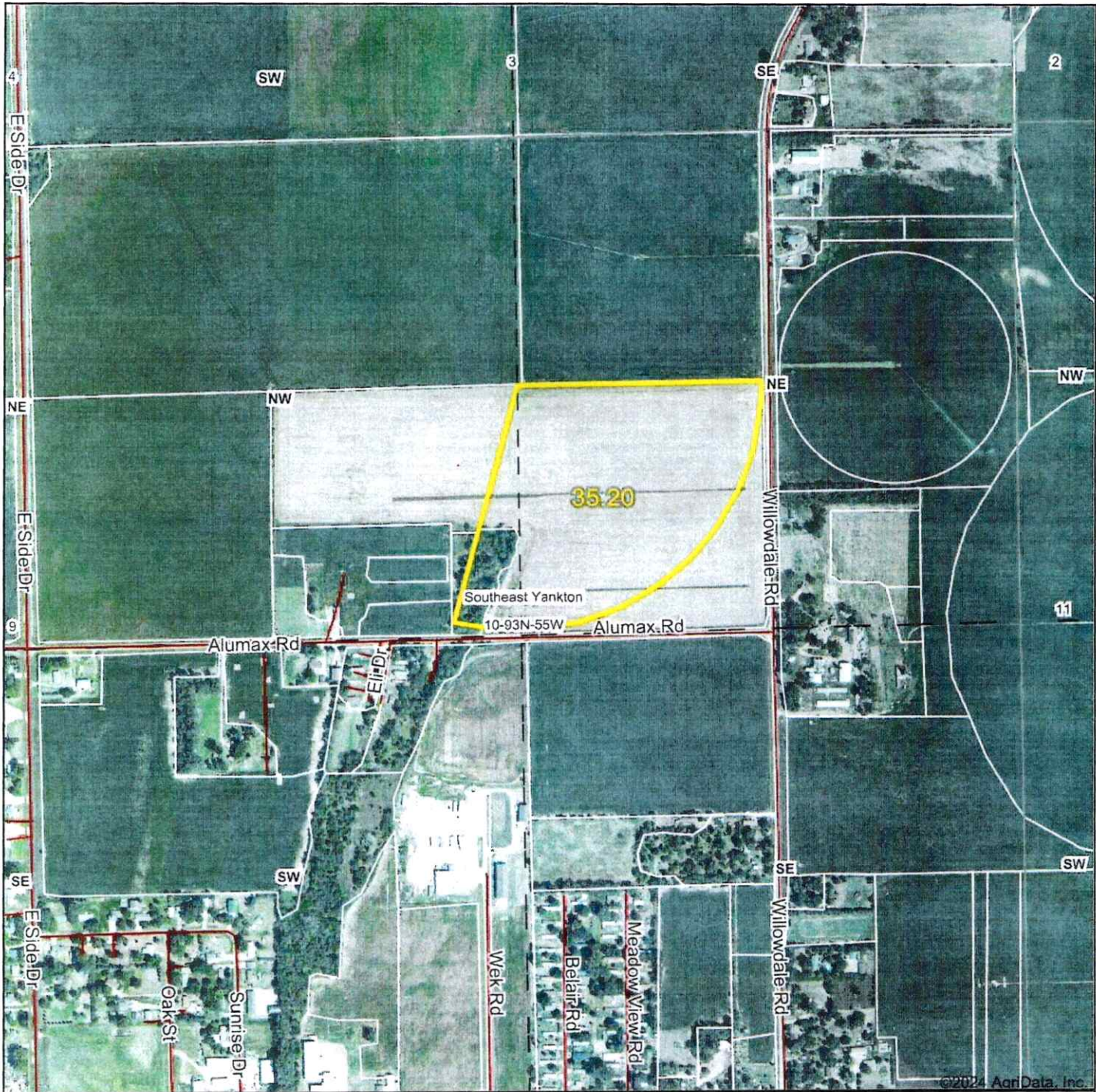


3/28/2024

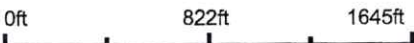
Maps Provided By:
surety
CUSTOMIZED ONLINE MAPPING
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Field borders provided by Farm Service Agency as of 5/21/2008.

Well Permit App



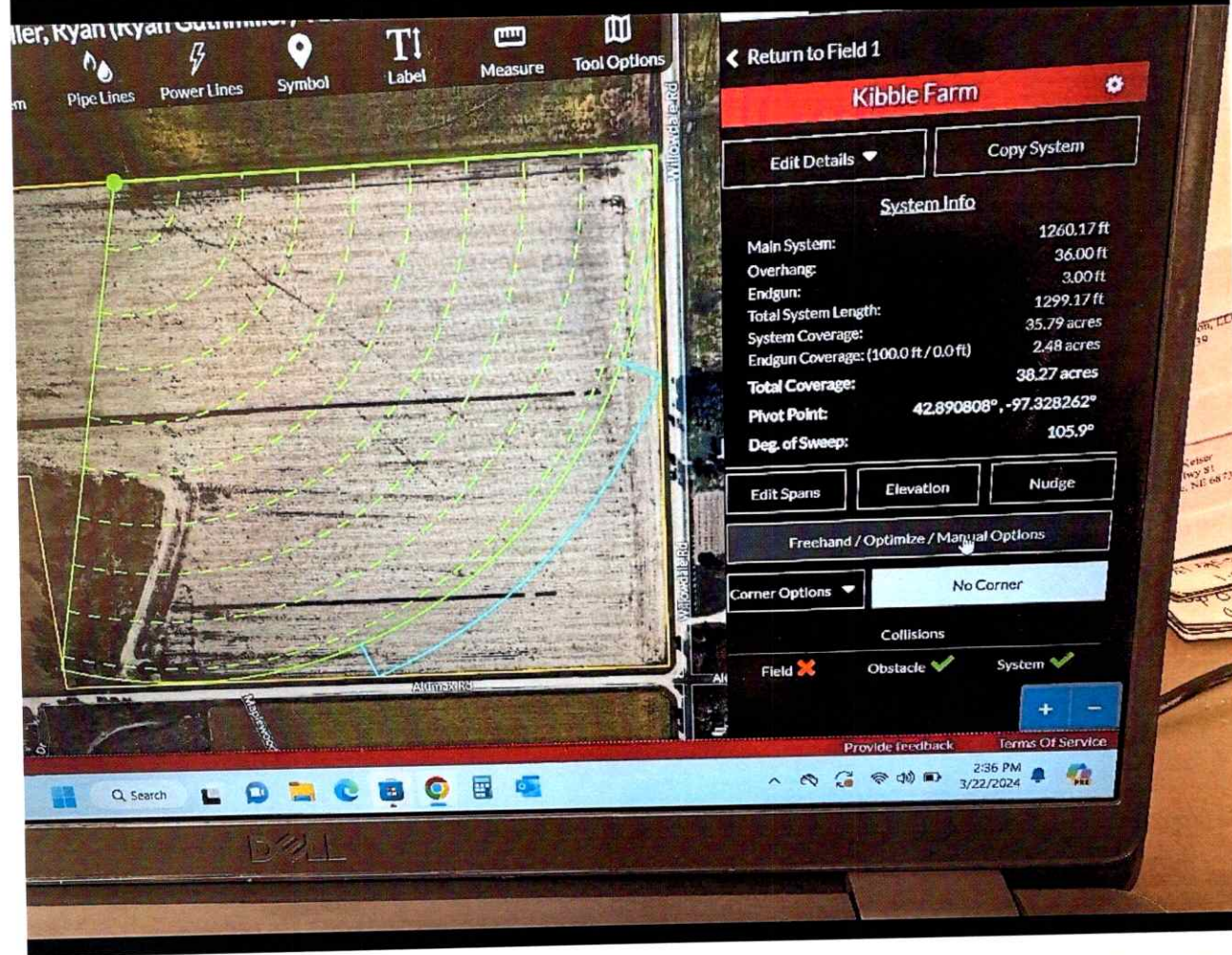
Boundary Center: 42.889027, -97.326503



10-93N-55W
Yankton County
South Dakota



3/28/2024



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 11, 2024

RECEIVED OF Derek Guthmiller 3405 Alumax Road Yankton SD 57078

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

Fee for Application for Permit No. <u>8850-3</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>8850-3</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
vm

Rodriguez, Rachel

From: Dewell, Amanda
Sent: Monday, March 11, 2024 11:13 AM
To: Rodriguez, Rachel
Subject: FW: [EXT] Merchant Email Receipt

Payment for the Derek Guthmiller Application

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

-----Original Message-----

From: Peschong, Megan <Megan.Peschong@state.sd.us>
Sent: Monday, March 11, 2024 11:06 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>; Maberry, Vickie <Vickie.Maberry@state.sd.us>
Subject: FW: [EXT] Merchant Email Receipt

Thank you,

Megan Peschong, DANR Program Assistant
523 East Capital Ave. Pierre SD 57501
Phone: 605-910-4705
Email: megan.stephenson@state.sd.us

-----Original Message-----

From: Auto-Receipt <noreply@mail.authorize.net>
Sent: Monday, March 11, 2024 11:06 AM
To: Van Bockel, Jenny <Jenny.VanBockel@state.sd.us>; Keiser, Darcy <Darcy.Keiser@state.sd.us>; Amber Stumpff <Amber.Stumpff@state.sd.us>; Bigby, Beth <Beth.Bigby@state.sd.us>; Peschong, Megan <Megan.Peschong@state.sd.us>
Subject: [EXT] Merchant Email Receipt

===== SECURITY STATEMENT =====

It is not recommended that you ship product(s) or otherwise grant services relying solely upon this e-mail receipt.

===== GENERAL INFORMATION =====

Merchant : DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (1869311) Date/Time : 11-Mar-2024 11:05:38 CDT

===== ORDER INFORMATION =====

Invoice :
Description : Well Permit (\$950)
Amount : 973.75 (USD)
Payment Method: Visa xxxx5364

Transaction Type: Authorization and Capture

===== Line Items =====

===== RESULTS =====

Response : This transaction has been approved.

Auth Code : 011693

Transaction ID : 80325708126

Address Verification : Street Address: No Match -- First 5 Digits of Zip: Match

==== CUSTOMER BILLING INFORMATION ===

Customer ID :

First Name : Derek

Last Name : Guthmiller

Company :

Address :

City :

State/Province :

Zip/Postal Code : 57078

Country :

Phone :

Fax :

E-Mail : guthmillera@gmial.com

==== CUSTOMER SHIPPING INFORMATION ===

First Name :

Last Name :

Company :

Address :

City :

State/Province :

Zip/Postal Code :

Country :

===== ADDITIONAL INFORMATION =====

Tax :

Duty :

Freight :

Tax Exempt :

PO Number :

Rodriguez, Rachel

From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Thursday, April 4, 2024 3:10 PM
To: Rodriguez, Rachel
Subject: [EXT] Re: [EXT] Re: [EXT] Re: [EXT] Re: [EXT] We'll permit application

I don't know why my extensions are not coming through.

- Map with the actual location of diversion is the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.
- I think that's correct!
-
- The area to be irrigated does not match either, it should be the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.
- Agreed
-
- Letter from the owner, Mr. Payer, indicating that he is giving permission to irrigate on his property.

I'm taking those acres out and if he figures it out then I will help him apply for the water permit at a later date.

- Please answer the questions highlighted in yellow on the attached Form 2A.
- Done

Initial questions asked by Amanda, see below:

- You indicated a total acreage of 62 acres but in the itemized acres field you list 33 and 33 (totaling 66 acres), please confirm the total acreage.
- On that other email I think it will be 38 and 17 but there's the end Gun acres so I'm thinking it will end up around 58 acres.
-
- Annual period of use you listed "Summer growing months" Those are typically listed as April 4 – Oct 31. Are you comfortable with that listing on this permit?
- Yes!

I will forward the other maps in a separate email.

On Thu, Apr 4, 2024 at 2:56 PM Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good afternoon Derek,

As I stated before, the map you sent doesn't help me in identifying the proposed area. Please send back the map with the requested information, as well as the other outstanding items required, see below.

- Map with the actual location of diversion is the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.
- The area to be irrigated does not match either, it should be the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.

Rodriguez, Rachel

From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Thursday, April 4, 2024 3:06 PM
To: Dewell, Amanda; Rodriguez, Rachel
Subject: [EXT] Maps for the well
Attachments: Scanned Document_20240329_090117.pdf

See if these maps help?

Sorry for being so much trouble!

Will send another email answering the bullet points.

Rodriguez, Rachel

From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Monday, April 1, 2024 9:47 AM
To: Rodriguez, Rachel
Subject: [EXT] Re: [EXT] Re: [EXT] Re: [EXT] We'll permit application

Here are those other pages for the well and is there any way I can add gravity irrigation to those 17 acres? They have good slope for gravity just have to move pipes and put in a T at the pivot?
Thanks girls sorry I didn't get back to you sooner!

On Thu, Mar 28, 2024 at 9:26 AM Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good Morning Derek,

This map doesn't help me in identifying the proposed area. Please send back the map with the requested information, as well as the other outstanding items required, see below.

- Map with the actual location of diversion is the SE ¼ NW ¼, SW ¼ NE ¼, do you agree? If so, I will correct your application.
- The area to be irrigated does not match either, it should be the SE ¼ NW ¼, SW ¼ NE ¼, do you agree? If so, I will correct your application.
- Letter from the owner, Mr. Payer, indicating that he is giving permission to irrigate on his property.
- Please answer the questions highlighted in yellow on the attached Form 2A.

Initial questions asked by Amanda, see below:

- You indicated a total acreage of 62 acres but in the itemized acres field you list 33 and 33 (totaling 66 acres), please confirm the total acreage.
- Annual period of use you listed " Summer growing months" Those are typically listed as April 4 – Oct 31. Are you comfortable with that listing on this permit?

Thank you,

Rachel Rodriguez

DANR | Program Assistant

Rachel.Rodriguez@state.sd.us

Rodriguez, Rachel

From: D Guthmiller <guthmillerag@gmail.com>
Sent: Thursday, March 28, 2024 7:49 AM
To: Rodriguez, Rachel
Subject: [EXT] Re: FW: [EXT] We'll permit application

Hello Rachel,

We did some changes due to Jeff having one foot in and one foot out the door. I am attaching another pivot map just for clarification on the section numbers if you could help me make sure I have the right section description. And the well is approximated to 100-120 ft deep and Adam I thought said the nearest well for ground water is some 1500-1600 feet to the west of us in the next quarter.

Thank you for your help and if you have any other questions please call or email when you have a moment.

Derek Guthmiller

Guthmiller Custom Contracting
and Seed LLC
3504 Alumax Road
Yankton, SD 57078

MP: 402-710-9014

E-mail: GuthmillerAg@gmail.com

On Mon, Mar 11, 2024 at 11:14 AM Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us> wrote:

Good Morning Derek,

There are a few items that need clarification:

- Based on the map you sent in, the location of the diversion point on your application does not match the map. Please see the attached map, the actual location of diversion is the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.
- The area to be irrigated does not match either, it should be the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.
- Part of the land to be irrigated is owned by Jeff Payer. We would need a letter from the owner, Mr. Payer, indicating that he is giving permission to irrigate on his property.
- Please answer the questions highlighted in yellow on the attached Form 2A.

Initial questions asked by Amanda, see below:

- You indicated a total acreage of 62 acres but in the itemized acres field you list 33 and 33 (totaling 66 acres), please confirm the total acreage.

Rodriguez, Rachel

From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Thursday, March 28, 2024 9:00 AM
To: Dewell, Amanda
Cc: Rodriguez, Rachel
Subject: [EXT] Re: [EXT] Re: [EXT] We'll permit application

Yes, that is the plan.

On Thu, Mar 28, 2024 at 8:16 AM Dewell, Amanda <Amanda.Dewell@state.sd.us> wrote:

Derek –

I've received your new irrigation configuration and cc'd Rachel in this email.

Just to verify, this new pivot system is only touching on your property, correct?

Amanda Dewell

DANR - Water Rights Program

Main Phone: 605 773-3352

Website: danr.sd.gov



From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Thursday, March 28, 2024 7:42 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: [EXT] Re: [EXT] We'll permit application

Hey Amanda,

Here is another Map of the pivot center with the long and lat coordinates and could we just change the permit to for 40 acres and not worry about Jeff at this time. Sounds like he is still trying to figure it out.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, March 28, 2024 9:27 AM
To: 'Derek Guthmiller'
Subject: RE: [EXT] Re: [EXT] Re: [EXT] We'll permit application
Attachments: map.docx; Form2A.pdf

Good Morning Derek,

This map doesn't help me in identifying the proposed area. Please send back the map with the requested information, as well as the other outstanding items required, see below.

- Map with the actual location of diversion is the SE ¼ NW ¼, SW ¼ NE ¼, do you agree? If so, I will correct your application.
- The area to be irrigated does not match either, it should be the SE ¼ NW ¼, SW ¼ NE ¼, do you agree? If so, I will correct your application.
- Letter from the owner, Mr. Payer, indicating that he is giving permission to irrigate on his property.
- Please answer the questions highlighted in yellow on the attached Form 2A.

Initial questions asked by Amanda, see below:

- You indicated a total acreage of 62 acres but in the itemized acres field you list 33 and 33 (totaling 66 acres), please confirm the total acreage.
- Annual period of use you listed " Summer growing months" Those are typically listed as April 4 – Oct 31. Are you comfortable with that listing on this permit?

Thank you,

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



From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Thursday, March 28, 2024 9:00 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Cc: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: [EXT] Re: [EXT] Re: [EXT] We'll permit application

Yes, that is the plan.

On Thu, Mar 28, 2024 at 8:16 AM Dewell, Amanda <Amanda.Dewell@state.sd.us> wrote:

Derek Guthmiller Permit App

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Jeff Payer (ownes adjoining property)

DATE: 3/15/2024

TELEPHONE: 605.660.3218

RE: Not allowing irrigation of property

COMMENTS:

When Mr. Guthmiller made his initial application for the irrigation of 66 acres within NE ¼ SE ¼ & NW ¼ SE ¼; all in Section 10-T93N-R55W it was with the intention of renting a corner (approx. 13 acres) of land owned by his neighbor Jeff. This would allow for the proposed windshield wiper to make its full swing. Guthmiller was told that he would have to have to submit signed authorization from his neighbor.

Jeff called 3/15/24 to discuss the proposed irrigation system. Jeff had numerous concerns, the greatest of which was that he did not wish to rent that portion of his property, stating that he actually intended to construct a building there in the near future.

I assured Jeff that the state could not/would not grant Mr. Guthmiller access to his property and that if he did not consent to the irrigation system going through his property, it would have to be reconfigured in a different manner.

I then followed up w/ Mr. Guthmiller to inform him of his neighbor's decision not to allow him that access. Mr. Guthmiller was asked to reconfigure his irrigation system so that it only effected property owned by him. At which time we would need those new designs and something in writing attesting to the irrigation only taking place on property he owns.



Amanda Dewell
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 13, 2024

Derek Guthmiller
3405 Alumax Road
Yankton, SD 57078

Dear Mr. Guthmiller:

As requested by email on March 11, 2024 pursuant to South Dakota Well Construction Standard 74:02:04:21, you are authorized to have Quality Well Service construct a test well prior to approval of a water permit. The test well will be located in the N ½ Sec. 10-T93N-R55W in Yankton County. The well will be approximately 100 feet deep. The target aquifer is the Missouri: Elk Point management unit. All test wells must be constructed in accordance with the SD Well Construction Standards. Any test holes or test wells that are abandoned must be plugged pursuant to the SD Well Construction Standards.

Authorization must be obtained before water from the well can be used in excess of domestic use as defined by South Dakota Codified Law 46-1-6(7) or for uses other than domestic use. All test or permanent wells to be constructed under this test well permission must be constructed using the methods described in Administrative Rule of South Dakota (ARSD) 74:02:04:28. Approval of this test well does not assure issuance of a water permit. Following review of a Water Permit Application and assessing the availability of water, the potential impacts to existing users, the beneficial use, and the public interest of a permit, the Chief Engineer will make a recommendation to the Water Management Board regarding the application. The recommendation to approve, deny, or defer the application will be publicly noticed and an opportunity afforded for the public to intervene. A public hearing may be required to consider the water permit. If you have questions regarding permitting, please call Amanda Dewell at (605) 773-3352.

Sincerely,

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

CC: Quality Well Service

Rodriguez, Rachel

From: Dewell, Amanda
Sent: Monday, March 11, 2024 9:58 AM
To: Derek Guthmiller
Cc: Rodriguez, Rachel
Subject: RE: [EXT] We'll permit application
Attachments: Irrigation Application.pdf

Derek –

I just received your irrigation application and I have a few questions.
I've cc'd Rachel for review, she might have more.

- 1) You indicated a total acreage of 62 acres but in the itemized acres field you list 33 and 33 (totaling 66 acres)
- 2) Annual period of use you listed " Summer growing months" Those are typically listed as April 4 – Oct 31. Are you comfortable with that listing on this permit?
- 3) Have you submitted payment in the amount of \$950.00? The phone number for our Fiscal Office is 605.773.4216

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



From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Monday, March 11, 2024 9:36 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: [EXT] We'll permit application

Here is the well permit application
Form.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, March 11, 2024 11:15 AM
To: guthmillerag@gmail.com
Subject: FW: [EXT] We'll permit application
Attachments: map.docx; Form2A.pdf

Good Morning Derek,

There are a few items that need clarification:

- Based on the map you sent in, the location of the diversion point on your application does not match the map. Please see the attached map, the actual location of diversion is the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.
- The area to be irrigated does not match either, it should be the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, do you agree? If so, I will correct your application.
- Part of the land to be irrigated is owned by Jeff Payer. We would need a letter from the owner, Mr. Payer, indicating that he is giving permission to irrigate on his property.
- Please answer the questions highlighted in yellow on the attached Form 2A.

Initial questions asked by Amanda, see below:

- You indicated a total acreage of 62 acres but in the itemized acres field you list 33 and 33 (totaling 66 acres), please confirm the total acreage.
- Annual period of use you listed "Summer growing months" Those are typically listed as April 4 – Oct 31. Are you comfortable with that listing on this permit?
- Payment in the amount of \$950.00 is due with the application. The phone number for our Fiscal Office is 605.773.4216 or you may send a check payable to SD Water Right Program.

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

Thank you,

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



From: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Sent: Monday, March 11, 2024 9:58 AM
To: Derek Guthmiller <derek.guthmiller89@gmail.com>
Cc: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: RE: [EXT] We'll permit application

Derek –

I just received your irrigation application and I have a few questions.
I've cc'd Rachel for review, she might have more.

- 1) You indicated a total acreage of 62 acres but in the itemized acres field you list 33 and 33 (totaling 66 acres)
- 2) Annual period of use you listed " Summer growing months" Those are typically listed as April 4 – Oct 31. Are you comfortable with that listing on this permit?
- 3) Have you submitted payment in the amount of \$950.00? The phone number for our Fiscal Office is 605.773.4216

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



From: Derek Guthmiller <derek.guthmiller89@gmail.com>
Sent: Monday, March 11, 2024 9:36 AM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: [EXT] We'll permit application

Here is the well permit application
Form.



**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. 8850-3, Derek Guthmiller**

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. 8850-3, Derek Guthmiller, 3405 Alumax Road, Yankton SD 57078.

The Chief Engineer is recommending APPROVAL of Application No. 8850-3 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. 8850-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 8850-3 must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8850-3 authorizes a maximum diversion rate of 1.78 cfs for the irrigation of 64 acres with an annual volume not to exceed 2 acre feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
May 28, 2024

Report to the Chief Engineer
On Water Permit Application No. 8850-3

Derek Guthmiller

May 30, 2024

Water Permit Application No. 8850-3 proposes to divert water at a maximum instantaneous diversion rate of 1.78 cubic feet of water per second (cfs) from one well to be completed into the Missouri: Elk Point aquifer (approximately 125 feet deep) located near the center of the N $\frac{1}{2}$ of Section 10 for the irrigation of 64 acres located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10; all in T93N-R55W. The applicant is requesting a diversion rate greater than the statutory limit of 1.0 cfs per 70 acres. The site of interest is located in Yankton County approximately two miles east of Yankton, SD.

AQUIFER: Missouri: Elk Point (M: EP)

HYDROGEOLOGY:

The Missouri: Elk Point aquifer is a glacial outwash deposit consisting of fine sand to very coarse gravel (Niehus, 1997). The Missouri: Elk Point aquifer underlies approximately 219,100 acres in Clay, Union, and Yankton Counties in South Dakota, and the aquifer contains approximately 3,287,100 acre-feet of recoverable water in storage (Hedges et al., 1982). The Missouri: Elk Point aquifer is hydrologically connected to the Lower Vermillion-Missouri and Lower James-Missouri aquifers, and the Big Sioux, James, Missouri, and Vermillion Rivers (Niehus, 1994; Stephens, 1967).

The Missouri: Elk Point aquifer is generally under confined conditions in the northwestern part of the aquifer and unconfined conditions in the southern part of the aquifer, and the direction of groundwater movement in the aquifer is generally from the northwest to the southeast (Niehus, 1994 and 1997).

No water well or test hole completion report was submitted with Water Permit Application No. 8850-3. Water well completion reports on file with the DANR-Water Rights Program for wells completed into the Missouri: Elk Point aquifer within approximately one mile of the proposed diversion point have saturated aquifer thicknesses ranging from approximately 10 to 40 feet, with the depth to the top of aquifer materials ranging from approximately 20 to 100 feet below the ground surface, and static water levels at well completion varying from approximately 10 to 25 feet below the ground surface (Water Rights, 2024d). The Missouri: Elk Point aquifer may either be confined or unconfined at the proposed diversion point based on the well completion reports on file for nearby wells completed into the aquifer. It is more likely to behave like an unconfined well due to nearby unconfined aquifer conditions in the Missouri: Elk Point aquifer and hydrologically connected Lower James-Missouri aquifer (Water Rights, 2024d).

Figure 1 displays a map of the approximate Missouri: Elk Point aquifer boundary (modified from Hedges et al., 1982) and the location of the proposed diversion point for Water Permit Application No. 8850-3 (Water Rights, 2024c and 2024d).

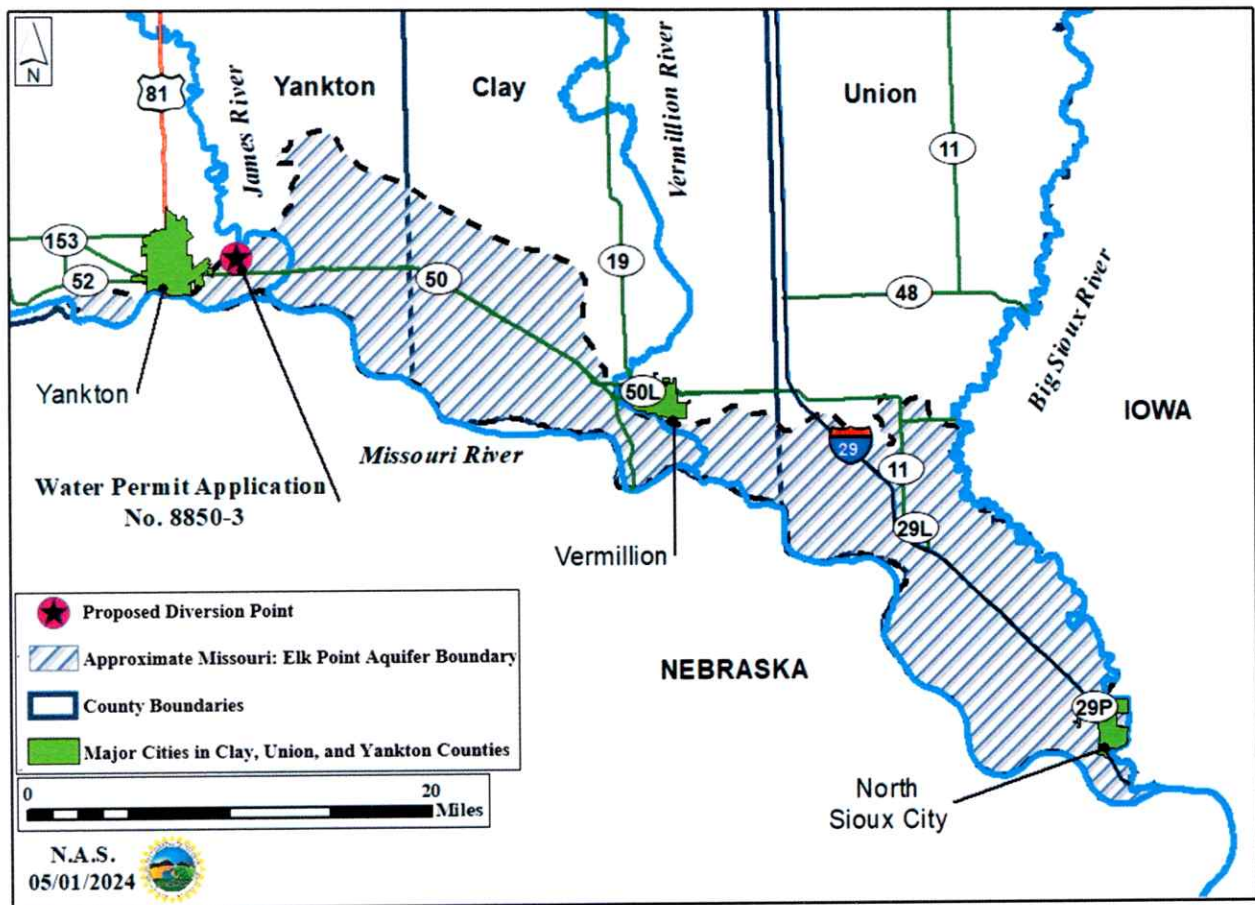


Figure 1. Map of the approximate Missouri: Elk Point aquifer boundary modified from Hedges and others (1982) with the location of the proposed diversion point for Water Permit Application No. 8850-3 (Water Rights, 2024c and 2024d)

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

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

WATER AVAILABILITY:

Water Permit Application No. 8850-3 proposes to appropriate water from the Missouri: Elk Point aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering SDCL 46-6-3.1, which requires “No application to appropriate groundwater may be approved if, according to the best information reasonably available, it is

probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of the average estimated annual recharge of water to the groundwater source. An application may be approved, however, for withdrawals of groundwater from any groundwater formation older than or stratigraphically lower than the greenhorn formation in excess of the average estimated annual recharge for use by water distribution systems.” The Missouri: Elk Point aquifer is not older than or stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010), and the applicant’s proposed use is not for use in a water distribution system as defined by SDCL 46-1-6(17). Therefore, the average annual recharge and average annual withdrawal rates to and from the Missouri: Elk Point aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Missouri: Elk Point aquifer is primarily through the infiltration of precipitation where the aquifer is at or near the ground surface, seepage from the Big Sioux, James, Missouri, and Vermillion Rivers, inflow from the Lower Vermillion-Missouri and Lower James-Missouri aquifers at the northern boundary of the Missouri: Elk Point aquifer and inflow from the Big Sioux aquifer at the extreme northeastern boundary of the Missouri: Elk Point aquifer, and from the underlying Dakota aquifer in Union County (Condley and Lamkey, 2022; Niehus, 1994 and 1997).

Several studies have been completed to estimate average annual recharge to the Missouri: Elk Point aquifer (Condley and Lamkey, 2022; Hedges et al., 1985; Mathiowetz, 2022; Stephens, 1967; Stonesifer, 2013). A discussion of these studies is available in the hydrologic budget section within the report for Water Permit No. 8614-3 - Lewis & Clark Regional Water System completed by Mathiowetz (2022). Collectively, the estimated average annual recharge rate to the Missouri: Elk Point aquifer is approximately 130,770.3 acre-feet per year assuming full development of the existing water rights/permits currently held by Lewis & Clark Regional Water System (Mathiowetz, 2022 and 2023).

Discharge

Discharge from the Missouri: Elk Point aquifer is primarily through well withdrawals, evapotranspiration where the aquifer is at or near the ground surface, outflow to the Big Sioux and Missouri Rivers during periods of low flow and stage, and leakage to the underlying Dakota aquifer (Niehus, 1994 and 1997; Water Rights, 2024d).

Currently, there are 653 water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus six future use permits reserving water, and two pending applications – Water Permit Application No. 8844-3 requesting an amount of water not to exceed 3.68 acre-feet annually for commercial and industrial uses and Water Permit Application No. 8847-3 requesting to irrigate 65 acres in Yankton County.

The six future use permits (Nos. 5832-3, 6237-3, 6869-3, 6869A-3, 7208-3, and 8754-3) are reserving 21,021 acre-feet of water annually from the Missouri: Elk Point aquifer (Water Rights,

2024c). For the purpose of estimating average annual withdrawals, the future use permits are assumed to be fully developable for a total of 21,021 acre-feet per year.

Table 1 summarizes the 44 non-irrigation water rights/permits (including two irrigation water permits, see paragraph below) (including one pending application) authorized to appropriate water from the Missouri: Elk Point aquifer with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume. Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at their respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer (Water Rights, 2024c). This method is likely an overestimation of withdrawals. Three municipal water rights were identified as being connected to a rural water system and likely maintain their wells for standby purposes (Drinking Water Program, 2024; Water Rights, 2024c); as such, the average annual water use for these water rights has been estimated to be zero acre-feet per year on Table 1.

Water Right No. 5437-3 was licensed for a reduced diversion rate which prevents pumping the allotted volume of water specified on the permit (Water Rights, 2024c). The estimated average annual withdrawal rate for Water Right No. 5437-3 was approximated assuming pumping 60% of full time at the respective licensed diversion rate method as mentioned above on Table 1.

Water Permit No. 5998-3 is permitted for the irrigation of turf and Water Permit No. 5998A-3 extends the amount of time allowed for water to be put to beneficial use as authorized by Water Permit No. 5998-3 (Water Rights, 2024c). The estimated use for these two irrigation permits is included with the non-irrigation water rights/permits listed on Table 1, as the permit holder is not required to submit an annual irrigation questionnaire. However, Water Permit No. 5998-3 is authorized for use in a rural water system and the permit holder reports the annual use by Water Permit No. 5998-3 with their other rural water system Missouri: Elk Point aquifer permits, listed on Table 2 (Water Rights, 2024c).

Water Permit No. 7059-3 is permitted for recreational use for maintaining the water level of a small lake with a surface area of 17.6 acres (Water Rights, 2024c). It is assumed that the only consumptive use of this water is due to evaporation; however, it is likely there is some seepage through the bottom of the pond (Water Rights, 2024c). Annual evaporation of water from shallow lakes is estimated to be approximately 42 inches per year at the location of the authorized diversion point for Water Permit No. 7059-3 (NOAA, 1982; Water Rights, 2024c), and normal annual total precipitation at the Sioux City, Iowa airport was determined to be approximately 29.27 inches over a 30-year period of record (1991 to 2020) (Arguez et al., 2020), which results in the lake to fluctuate approximately 12.73 inches per year. To maintain the water level of the small lake, the estimated use of Water Permit No. 7059-3 is approximately 18.7 acre-feet per year. Overall, the average annual withdrawal rate for the 44 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire) (including one pending application) authorized to appropriate water from the

Missouri: Elk Point aquifer is approximately 69,385 acre-feet per year (Table 1) (Water Rights, 2024c and 2024f).

Table 1. Estimated annual use for the non-irrigation water rights/permits (plus two irrigation water permits for Clay RWS) authorized to divert water from the Missouri: Elk Point aquifer (Drinking Water Program, 2024; Water Rights, 2024c and 2024f)

Permit No.	Name	Status	Priority Date	Use	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet/year)	Total Estimated Use (acre-feet/year)
4501-3	Eddie Wohl	LC	03/27/1980	COM	0.05		21.7
5616-3	Cimpls Inc	LC	01/31/1992	COM	0.44		191.2
5827-3	Don Lantis	LC	06/08/1994	COM	0.022		9.6
5953-3	H & K Oil Co	LC	08/19/1996	COM	0.037		16.1
6151-3	Vernon & Norma Vakoc	LC	10/04/1999	COM	0.67		291
6580-3	West Shores Acres LLC	LC	01/28/2005	COM	0.10		43.5
8031-3	Dakota Protein Conversion Inc	PE	06/18/2014	COM	0.22		95.6
8147-3	Doug Lafleur	PE	04/06/2015	COM, LCO	1.0	160	159
8381-3	RP Constructors	PE	11/19/2018	COM	0.04	1	1
8403-3	Stockmen's Livestock Inc	LC	06/27/2019	COM	1.06	40	40
8415-3	3 Sons Properties	PE	11/14/2019	COM	0.10	25	25
8435-3	Sioux City Insulation	PE	07/30/2012	COM	0.33	1	1
8844-3	GrowMark Inc	Pending	03/22/2024	COM, IND	0.67	3.68	3.68
7388-3	Clay RWS Inc	PE	07/30/2012	DOM, IRR	2.0		349
5998-3	Clay RWS Inc	PE	04/21/1997	IRR, DOM	2.2		
5998A-3	Clay RWS Inc	PE	04/21/1997	IRR, DOM	0.0		
5490-3	USGS CERC Field Research Station	LC	11/15/1990	FWP	0.09		39.1
5907-3	US Fish and Wildlife Service	LC	01/26/1996	FWP	3.78		1,643
6733-3	US Fish and Wildlife Service	LC	06/07/2006	FWP	1.11		482.5
7094-3	US Fish and Wildlife Service	LC	12/01/2008	FWP	2.67		1,160
5021-3	Vishay-Dale Electronics Inc	LC	05/04/1984	IND	0.10		43.5
5388-3	LG Everist Inc	LC	01/30/1990	IND	0.45		195.6
5453-3	Aaladin Industries Inc	LC	05/24/1990	IND	0.05		21.7
5593-3	Vishay-Dale Electronics Inc	LC	10/31/1991	IND	0.056		24.3
6170-3	Knife River	LC	01/03/2000	IND	0.222		96.5
1255-3	City of Elk Point	LC	01/01/1914	MUN	1.13		491.1
143-3	City of Vermillion	LC	01/21/1956	MUN	1.78		773.7
147-3	City of Vermillion	LC	01/01/1935	MUN	2.66		1,245
6236-3	City of Vermillion	LC	11/06/2000	MUN	2.6	1,161	
6354-3	City of Vermillion	LC	08/12/2002	MUN	0.022		10
1965-3	Town of Gayville	LC	01/01/1914	MUN	0.37		0*
4207-3	Town of Jefferson	LC	01/01/1916	MUN	0.90		391
5118-3	Town of Gayville	LC	01/28/1987	MUN	0.33		0*
5437-3	Dakota Dunes Community Improvement District	LC	04/12/1990	MUN	3.33		1,447
5782-3	City of North Sioux City	LC	08/12/1993	MUN	1.14		495.5
8212-3	City of Yankton	LC	03/25/2016	MUN	20.12	6,050	6,050
7059-3	WE Investments LLC	PE	08/28/2008	REC	3.11		18.7
8744-3	Dakota Bay	PE	03/29/2023	REC	1.55	28.6	28.6
6736-3	Lewis and Clark RWS	PE	07/08/1994	RWS	27.85	20,165	53,442
7207-3	Lewis and Clark RWS	PE	07/08/1994	RWS	20	12,000	
8613-3	Lewis and Clark RWS	PE	07/16/2007	WDS	29.8	13,000	
8614-3	Lewis and Clark RWS	PE	03/04/2022	RWS	0.0	8,277	
5581-3	Larson's Landing	LC	07/30/1991	SHD	0.089		38.7
5592-3	East Winds Court Inc	LC	10/09/1991	SHD	0.11		0*
						TOTAL:	69,385
* Identified as being connected to a RWS; therefore, water use from aquifer is presumed to be zero acre-feet/year							
COM: Commercial; DOM: Domestic; FWP: Fish and Wildlife Propagation; IND: Industrial; IRR: Irrigation; LCO: Livestock Confinement Operation;							
MUN: Municipal; REC: Recreation; RWS: Rural Water System; SHD: Suburban Housing Development							

Of the 44 non-irrigation water rights/permits (including the two irrigation permits not required to submit an annual irrigation questionnaire), there are 16 non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer (Water Rights, 2024c and 2024f).

Four of the non-irrigation water rights/permits that are required to report (Nos. 8031-3, 8415-3, 8435-3, and 8614-3) are currently under development (or were approved in 2023) and have not reported any withdrawals from the Missouri: Elk Point aquifer to the DANR-Water Rights Program (Water Rights, 2024c). The remaining twelve non-irrigation water rights/permits that are required to report their annual usage from the Missouri: Elk Point aquifer are shown on Table 2 (Water Rights, 2024c and 2024f). The reported usage (as shown on Table 2) for Permit Nos. 8381-3 and 8403-3 (approved in 2018 and 2019) is not necessarily reflective of the future usage of these permits based on information within their respective water permit files (Water Rights, 2024c), and only four years of reported withdrawals (Water Rights, 2024f). Therefore, the estimated use for Permit Nos. 8031-3, 8415-3, 8435-3, 8381-3, 8403-3, and 8614-3 will be based on the method used above: water rights/permits limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at the respective permitted diversion rate; water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. The estimated average annual withdrawal rate for these permits is listed on Table 1.

The reported use for the City of Yankton (8212-3) and Lewis and Clark Regional Water System (6736-3, 7207-3, and 8613-3) (as shown on Table 2) is steadily increasing (Water Rights, 2024f), as these water users are continually undergoing development (8614-3 was approved in 2023) (Water Rights, 2024c). It is likely these water users will use their entire respective annual volume limitation in the future; therefore, the average annual withdrawal rate for these water rights/permits is assumed to be their entire respective annual volume listed on Table 1 (Water Rights, 2024c).

The annual withdrawal rate for Clay Rural Water System Inc (Permit Nos. 5998-3, 5998A-3, and 7388-3) averaged over the last ten years (approximately 349 acre-feet per year) is more reflective of current usage than the entire period of record of reported withdrawals because the first few years the permit holder reported values were during a construction period (Water Rights, 2024c and 2024f). The average annual withdrawal rate based off the reported annual withdrawal rates averaged from 2013 to 2022 on Table 2 for these water permits will be used in this analysis.

The annual withdrawal rates for Doug Lafleur (8147-3) and City of Vermillion (147-3, 6236-3) on Table 2 are relatively steady over their respective periods of record (Water Rights, 2024c and 2024f); therefore, the average annual withdrawal rate based on the reported values from each of these water users (as shown on Table 2) is reasonably reflective of the future withdrawals likely to be made by these appropriative users. The average annual withdrawal rate based off the reported annual withdrawal rates averaged over the period of record on Table 2 for these water rights/permits will be used in this analysis.

Table 2. Non-irrigation water rights/permits required to report their respective annual use from the Missouri: Elk Point aquifer (Water Rights, 2024c and 2024f)

	RP Constructors	Stockmen's Livestock Inc	Clay RWS Inc	Doug Lafleur	City of Vermillion	City of Yankton	Lewis and Clark RWS
	8381-3	8403-3	5998-3, 5998A-3, 7388-3	8147-3	147-3, 6236-3	8212-3	6736-3, 7207-3, 8613-3
2003			238		1,363		
2004			483		1,226		
2005			21		1,247		
2006			170		1,252		
2007			217		1,344		0
2008			213		1,199		0
2009			215		1,140		0
2010			183		1,071		0
2011			137		1,127		92
2012			525		1,317		3,836
2013			301		1,183		9,368
2014			307		1,121		11,532
2015			278	202	1,161		15,591
2016			231	202	1,175	66	17,091
2017			276	202	1,215	531	18,051
2018			305	98	1,168	504	18,143
2019	0.0171	1	292	135	1,440	1,370	20,397
2020	0.0224	4.2	461	121	1,373	2,923	21,039
2021	0.2332	5.5	486	170	1,378	3,065	23,537
2022	0.0252	5.7	550	142	1,394	3,405	24,693
Max	0.2	5.7	550	202	1,440	3,405	24,693
Min	0.0171	1	21	98	1,071	66	0
Avg	0.074	4.10	294	159	1,245	1,695	15,281*
RWS: Rural Water System *Excluded reported zero values							

Currently, there are 612 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus one pending application (Water Rights, 2024c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Missouri: Elk Point aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2022) is approximately 19,299 acre-feet per year (Table 3) (Water Rights, 2024a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2013 to 2022 is approximately 26,040 acre-feet per year (Table 3) (Water Rights, 2024a).

The usage for two irrigation water permits (Nos. 5998-3 and 5998A-3) was accounted for on Table 1 with the non-irrigation water rights/permits, as the permit holder is not required to report their respective annual irrigation usage (Water Rights, 2024c), resulting in only 610 of the Missouri: Elk Point aquifer irrigation water rights/permits being currently required to submit an annual irrigation questionnaire (Water Rights, 2024c).

Additionally, Water Right No. 6110-3 is authorized to divert water from a well completed into the Dakota aquifer and pump the water into two ponds that receive incidental surface runoff and possible groundwater inflow from the Missouri: Elk Point aquifer (Water Rights, 2024c). Water Right No. 6110-3 is included in the 612 irrigation water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer; however, the estimated use for this permit is assumed to be negligible to the overall hydrologic budget due to the minimal amount of water from the Missouri: Elk Point aquifer the permit holder is expected to withdraw. When omitting Water Right No. 6110-3 and Water Permit Nos. 5998-3 and 5998A-3 from this analysis of Missouri: Elk Point aquifer irrigation water rights/permits, 609 water rights/permits remain.

Table 3 lists only 579 water rights/permits as reporting in 2022 (Water Rights, 2024a and 2024c). These 579 water rights/permits listed as reporting in 2022 includes seven water rights/permits (Nos. 237-3, 4762-3, 6901B-3, 6939-3, 7319-3, 7635-3, and 7801-3) that were incorporated into another water right or cancelled in 2022, 2023, or 2024 (Water Rights, 2024c), resulting in only 572 of the water rights/permits listed as reporting in 2022 being currently active.

Additionally, Water Right/Permit Nos. 3127-3, 6458-3, and 7608-3 were each divided into two separate water permits to reflect the new ownership change (Water Rights, 2024c), resulting in the 572 permits to become 575 currently active permits.

Thirty-four water permits/rights did not submit an irrigation questionnaire form in 2022 that are currently active, accounting for the difference between the 575 currently active water rights/permits listed as reporting in 2022 and the 609 irrigation water rights/permits currently required to submit an annual irrigation questionnaire and annual use being estimated in this analysis (Water Rights, 2024a and 2024c). Of these 34 permits, 33 were issued in 2022, 2023, or 2024 and have not submitted an irrigation questionnaire at this time. The remaining permit, Water Right No. 5935-3, is not required to submit an irrigation questionnaire. Overall, these 34 water permits/rights are authorized to irrigate approximately 2,409 acres (Water Rights, 2024c).

Table 3. Reported historic irrigation use from Missouri: Elk Point aquifer (Water Rights, 2024a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	259	10,258
1980	263	14,937
1981	297	13,931
1982	269	19,143.1
1983	273	11,081
1984	281	9,605.5
1985	282	14,020.7
1986	286	6,324.8
1987	281	13,369
1988	282	28,558.1
1989	292	25,904.3
1990	297	19,508
1991	300	18,877.7
1992	295	1,895
1993	298	1,475.2
1994	295	10,314.9
1995	292	18,761.3
1996	296	9,473.6
1997	305	17,236
1998	313	11,079.5
1999	308	14,877
2000	309	26,551
2001	313	19,115.2
2002	315	23,326.9
2003	314	27,007
2004	322	24,309
2005	335	24,206.1
2006	353	27,943.3
2007	366	30,652
2008	396	16,439
2009	410	6,346
2010	419	2,906.9
2011	431	12,330
2012	445	56,994.7
2013	543	35,090.5
2014	557	12,423.5
2015	563	17,884.1
2016	564	27,869.3
2017	567	37,209.9
2018	570	9,160.7
2019	575	8,736.3
2020	570	26,601
2021	572	40,503.4
2022	579	44,925
Min	259	1,475.2
Max	579	56,994.7
Avg (1979 to 2022)	374	19,299
Avg (2013 to 2022)	566	26,040

Farmer (2018a, 2018b, and 2021) analyzed the amount of water pumped per permitted acre for the period from 1979 through 2005. This period was chosen due to the relatively stable number of permitted acres across the entire period. There was a continual annual increase in the number of permitted acres from 2006 through 2013/2014. From 2013/2014 through 2021, the total number of permitted acres had been relatively stable (Mathiowetz, 2022; Water Rights, 2024c). Farmer (2021) determined that it would be best to separate the review of pumpage per permitted acres between crops, such as corn and soybeans, and turf, such as golf courses and lawn irrigation, to describe the pumpage more accurately per permitted acres. Turf irrigation typically requires more water per acre annually than crop irrigation. Mathiowetz (2022) determined over the entire period of record (1979 through 2021), the crop application rate per permitted acre is 0.331 feet per year (3.97 inches per year), and 0.908 feet per year for turf (10.9 inches per year) (Water Rights, 2024a and 2024c).

Currently, there are 83,040.5 acres authorized to be irrigated from the Missouri: Elk Point aquifer (plus pending Water Permit Application No. 8847-3 proposing to crop irrigate 65 acres), with 819.6 of those acres authorized for turf irrigation (Water Rights, 2024c). Table 4 contains the turf irrigation permits with their respective authorized permitted acres and an estimated average annual use based on Mathiowetz's (2022) application rate per permitted acre (Water Rights, 2024c). By multiplying the application rate of 0.908 feet per acre per year (Mathiowetz, 2022), by the 819.6 acres being turf irrigated (Water Rights, 2024c), the annual use for turf irrigation yields approximately 744.2 acre-feet per year (Table 4). By multiplying the application rate of 0.331 feet per acre per year (Mathiowetz, 2022), by the 82,220.9 acres (total acres minus turf irrigated acres) acres being crop irrigated (Water Rights, 2024c), plus the pending application requesting to crop irrigate 65 acres, the annual use for crop irrigation yields approximately 27,236.6 acre-feet per year. Collectively, the average annual use from the Missouri: Elk Point aquifer for both crop and turf irrigation water rights/permits utilizing Mathiowetz's (2022) application rates is approximately 27,980.8 acre-feet per year.

Table 4. Water rights/permits authorized for irrigation of turf (Water Rights, 2024c)

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

There are domestic wells completed into the Missouri: Elk Point aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2024d). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Missouri: Elk Point aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the Missouri: Elk Point aquifer.

Hydrologic Budget Summary

The average annual recharge rate to the Missouri: Elk Point aquifer is approximately 130,770.3 acre-feet per year.

The estimated average annual withdrawal rate for the water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer totals approximately 118,408 acre-feet per year (including the estimated use for Water Permit Application Nos. 8844-3, 8847-3, and 8850-3, if approved) (listed on Table 5) - with an average annual recharge rate of approximately 130,770.3 acre-feet per year. Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Missouri: Elk Point aquifer for the proposed appropriation.

Table 5. Estimated use from Missouri: Elk Point aquifer (Water Rights, 2024a, 2024c, and 2024f)

Type of Water Right/Permit	Estimated Use (acre-feet/year)
Future Use Reservations	21,021
Non-Irrigation (including pending Water Permit App No. 8844-3, if approved)	69,385
Irrigation (Mathiowetz's (2022) turf and crop application rates) (including pending Water Permit App No. 8847-3, if approved)	27,980.8
Application No. 8850-3 (if approved, assuming Mathiowetz's (2022) crop application rate of 0.331 per acre)	21.18
TOTAL:	118,408

OBSERVATION WELL DATA:

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

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors 36 observation wells completed into the Missouri: Elk Point aquifer (Water Rights, 2024b). The three closest observation wells to the

proposed diversion point are YA-57DR (approximately 2.2 miles east), YA-79H (approximately 3 miles northeast), and YA-78J (approximately 4.5 miles northeast) (Water Rights, 2024b). The hydrographs for these observation wells are displayed in Figures 2 to 4 (Water Rights, 2024b). The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing.

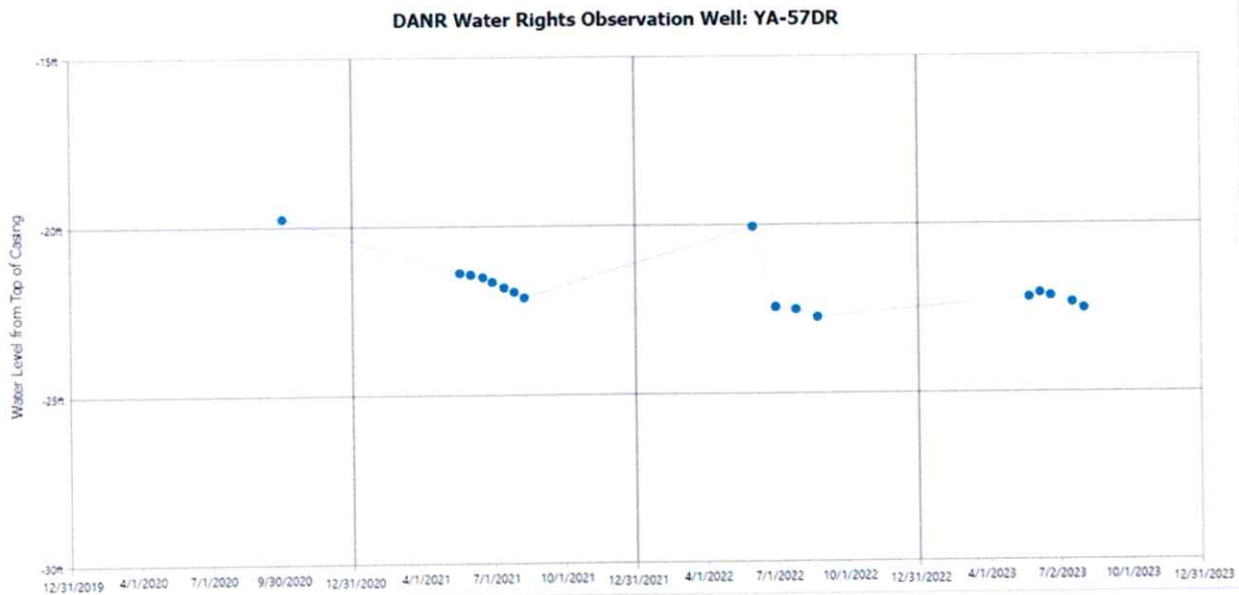


Figure 2. Hydrograph for observation well YA-57DR (Water Rights, 2024b)

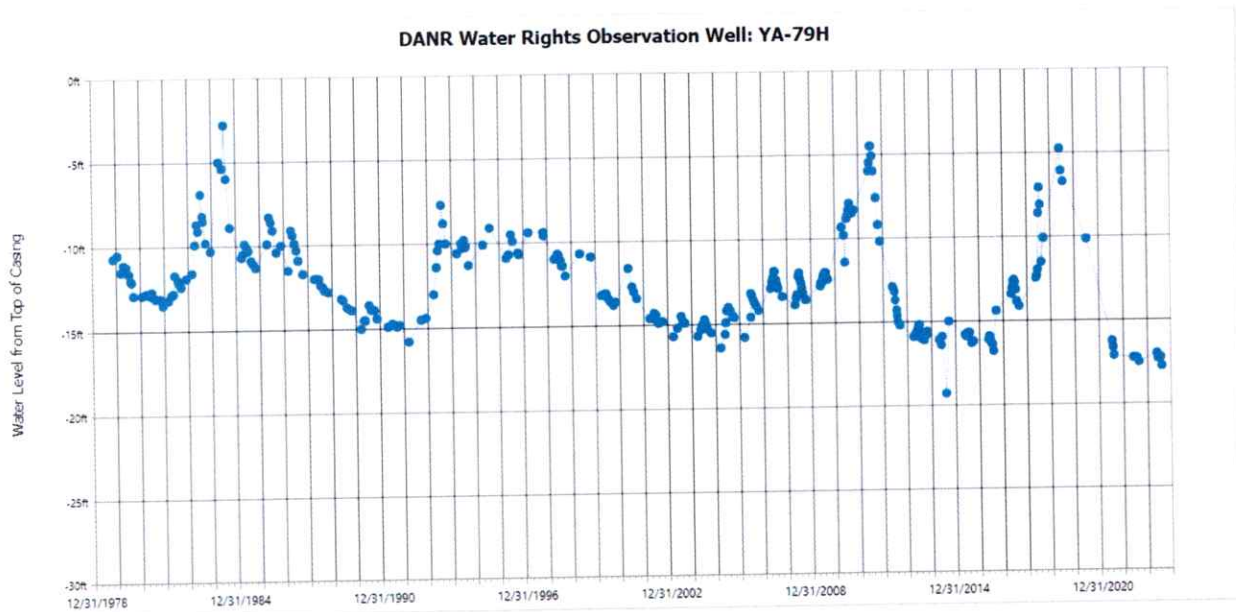


Figure 3. Hydrograph for observation well YA-79H (Water Rights, 2024b)

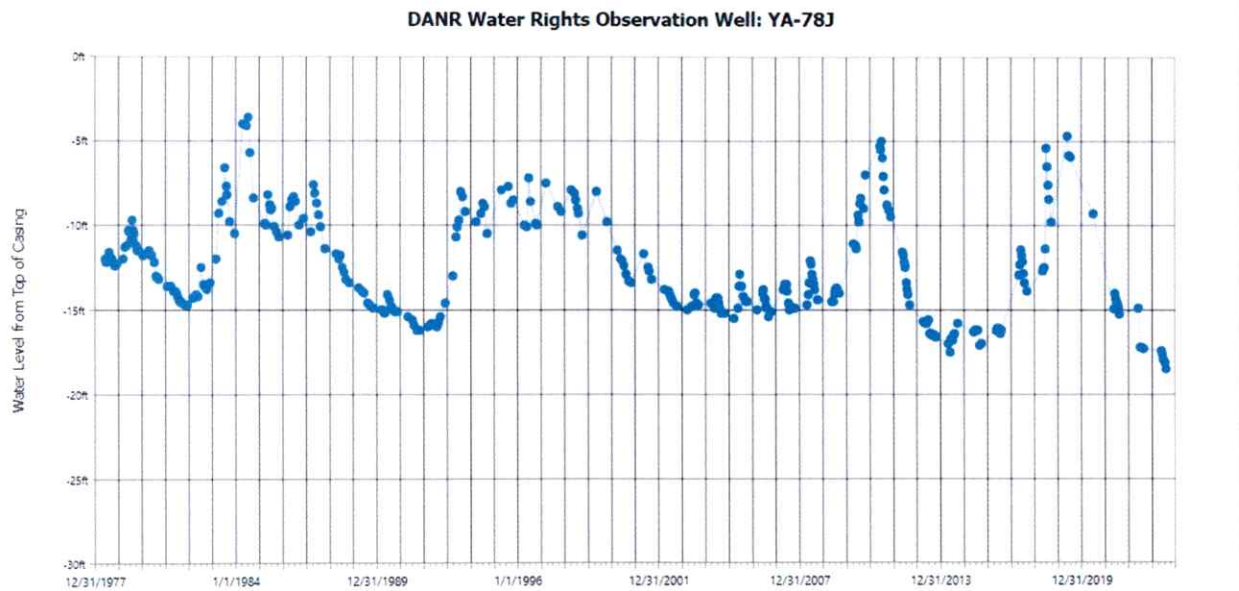


Figure 4. Hydrograph for observation well YA-78J (Water Rights, 2024b)

The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Missouri: Elk Point aquifer and all displayed a generally similar trend as shown on the hydrographs displayed in Figures 2 to 4 (Water Rights, 2024b), except for several Missouri: Elk Point aquifer observation wells close to the Missouri River whose respective hydrographs show a gradual long-term downward trend (Water Rights, 2024b). This downward trend is caused by entrenchment of the Missouri River riverbed and in some places a widening of the channel leading to lower water levels despite the river having the same rate of flow (Elliott and Jacobson, 2022). The lowering of the water level in the Missouri River downstream of the Gavins Point Dam and the subsequent lowering of the water level of Missouri: Elk Point aquifer observation wells in close proximity to the river show the strong hydrologic connection between the Missouri River and the Missouri: Elk Point aquifer. This is demonstrated by the very similar water levels between the aquifer and river as shown in the hydrographs in Figures 2 to 5. The lowering of the water levels in the aquifer, especially in close proximity to the Missouri River, is not a sign of over appropriation of the Missouri: Elk Point aquifer.

To demonstrate the connection between the aquifer and the Missouri River, consider the United States Geological Survey (USGS) Stream Gage #06467500, located on the Missouri River at Yankton, SD, and the hydrograph for this gage is shown in Figure 5 (USGS, 2024). By comparing the hydrograph for Stream Gage #06467500 to the observation well hydrographs of the Missouri: Elk Point aquifer (Figures 2 to 4), both show the river and aquifer react to climatic conditions by rising and falling over similar trends (USGS, 2024; Water Rights, 2024b). Additionally, during flood events (such as, the years 2011 and 2019), the water level in the Missouri: Elk Point aquifer, especially where in closer proximity to the Missouri River, rises very quickly beyond what is typically seen for glacial outwash aquifers that are only responding

to the infiltration of precipitation (Water Rights, 2024b). This indicates there is a hydrologic connection between the Missouri: Elk Point aquifer and the Missouri River. Therefore, when the elevation of the water in the Missouri River is higher than the elevation of water in the aquifer, the river will recharge the aquifer. In contrast, when the elevation of water is higher in the Missouri: Elk Point aquifer, the aquifer naturally discharges to the Missouri River. The observation well water levels simply show the connection between the river and the aquifer and how the aquifer reacts to climatic conditions without showing any long-term effects from pumping. Therefore, there is a reasonable probability unappropriated water is available for this proposed appropriation.

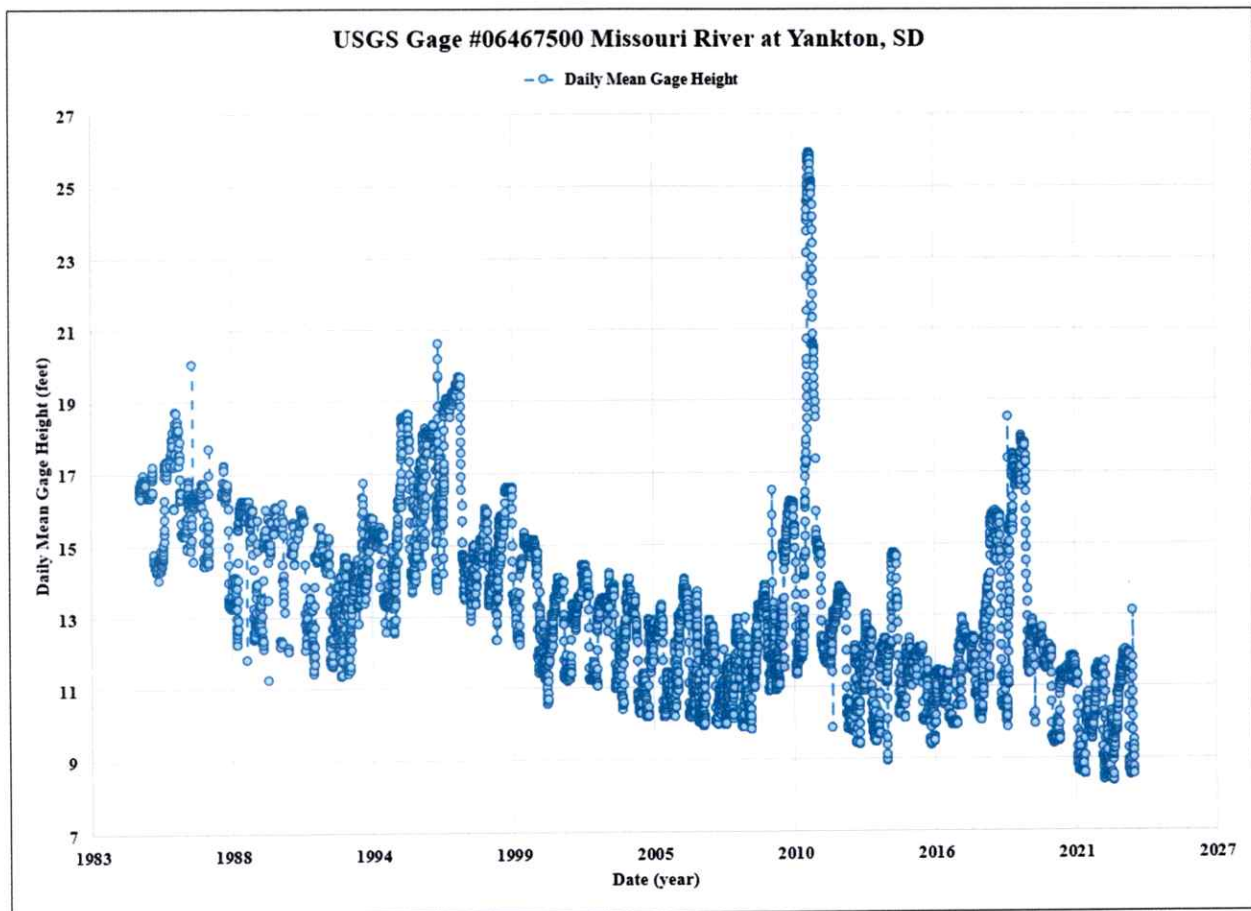


Figure 5. Hydrograph for USGS Stream Gage #06467500 Missouri River at Yankton, SD from 1985 to 2024 (USGS, 2024)

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 653 water rights/permits authorized to appropriate water from the Missouri: Elk Point aquifer, plus six future use permits and two pending applications (Water Rights, 2024c). Figure 6 displays a map of the approximate Lower James-Missouri and Missouri: Elk Point aquifer boundaries (modified from Hedges et al., 1982) and the location of the proposed diversion point for Water Permit Application No. 8850-3. The proposed diversion point plots near the mapped boundaries of the Lower James-Missouri and Missouri: Elk Point aquifers. Aquifer delineations are approximate and georeferencing a map may cause slight variations in the location of the "exact aquifer boundary." The current aquifer assignment for the proposed diversion point aligns with past practices and methods used to determine aquifer boundaries between hydrogeologically connected aquifers. The closest water right/permit to the proposed diversion point is Water Permit No. 7187-3, which is held by Prairie Creek Ranch. The diversion point for Water Permit No. 7187-3 is located approximately 0.25 miles northwest of the proposed diversion point for this application (Table 6) (Figure 6) (Water Rights, 2024c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Missouri: Elk Point aquifer, with the closest domestic well on file (not held by the applicant) located approximately 0.15 miles southwest and southeast of the proposed diversion point (Water Rights, 2024d). There could potentially be other domestic wells completed into the Missouri: Elk Point aquifer near the proposed diversion point that are not on file with the DANR-Water Rights Program. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

Table 6. Water rights/permits authorized to withdraw water from the Missouri: Elk Point aquifer within approximately three miles of the proposed diversion point, as shown in Figure 6 (Water Rights, 2024c)

Permit No.	Name	Status	Use	Authorized Acres if IRR	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet/year)
127-3	Prairie Creek Ranch LLC	LC	IRR	160	2.28	
373-3	Redhawk LLC	LC	IRR	80	1.14	
2116-3	Heine Farms	LC	IRR	132	1.9	
2184-3	PJ Lyons	LC	IRR	224	2	
4473-3	Jay Cutts	LC	IRR	247.1	2.68	
4501-3	Eddie Wohl	LC	COM		0.05	
5021-3	Vishay-Dale Electronics Inc	LC	IND		0.1	
5592-3	East Winds Court Inc	LC	SHD		0.11	
5593-3	Vishay-Dale Electronics Inc	LC	IND		0.056	
5616-3	Cimpls Inc	LC	COM		0.44	
5936-3	Applied Engineering Inc	LC	IRR	1.8	0.1	
5953-3	H&K Oil Co	LC	COM		0.037	
6170-3	Knife River	LC	IND		0.222	
6233-3	Dennis Kralicek	LC	IRR	76	1.45	
6297-3	J&J Farming Company LLC	LC	IRR	204	2.00	
6793-3	Eagle Venture	LC	IRR	247	2.89	
6840-3	Ron & Angela Kneip	LC	IRR	67	1.25	
6867-3	Jay Cutts	LC	IRR	207	2.00	
7018-3	J&J Farming Company LLC	LC	IRR	132	1.89	
7120-3	Jay Cutts	LC	IRR	90	1.29	
7187-3	Prairie Creek Ranch	LC	IRR	138	1.67	
7194-3	John G Yaggie	LC	IRR	109	2.22	
7322-3	Redhawk LLC	PE	IRR	37	0	
7325-3	Coulson Land Co	PE	IRR	24.1	1.33	
7416-3	John G Yaggie	LC	IRR	35	1.11	
7417-3	John G Yaggie	LC	IRR	153	2.22	
7566-3	Daniel L Wallbaum Trust	LC	IRR	148	1.72	
7806-3	C&C Hauling & Construction Inc	LC	IRR	25	1.08	
7971-3	Barry Van Osdel	LC	IRR	64	1.11	
8212-3	City of Yankton	LC	MUN		20.12	6,050
8322-3	Shaun Guthmiller	LC	IRR	32	1.1	
8403-3	Stockmen's Livestock Inc	LC	COM		1.06	
8844-3	GrowMark Inc	Pending	COM, IND		0.67	3.68

LC: Licensed Water Right; PE: Water Permit; COM: Commercial; IND: Industrial; IRR: Irrigation; MUN: Municipal;

Table 7. Water rights/permits authorized to withdraw water from the Lower James Missouri aquifer within approximately three miles of the proposed diversion point, as shown in Figure 6 (Water Rights, 2024c)

Permit No.	Name	Status	Use	Authorized Acres if IRR	Authorized Diversion Rate (cfs)
277-3	Dakota Acres	LC	IRR	40	0.57
840-3	Stuelpnagels Inc	LC	COM		1.11
1661-3	Gurney Seeds & Nursery	LC	IRR	200	2.85
1687-3	John Frick	LC	IRR	83	1.2
1919-3	Dakota Acres	LC	IRR	156.7	2.23
4556-3	Knife River	LC	COM		0.44
5325-3	Federal Prison Camp	LC	IRR	27	0.39
6756-3	Nelson Family Partnership	LC	IRR	164	2.22
7027-3	Jack Frick	LC	IRR	158	1.78
7332-3	Rudolph Hill Farm LLLP	PE	IRR	157.8	2
7792-3	Rudolph Hill Farm LLLP	PE	IRR	21.8	0
7803-3	Ralph Marquardt	LC	IRR	67	1.56
8300-3	Samual & Adam Arens	LC	IRR	92	1.56
8431-3	Hillcrest Golf & Country Club	LC	IRR	127	3.67
LC: Licensed Water Right; PE: Water Permit; COM: Commercial; IND: Industrial; IRR: Irrigation					

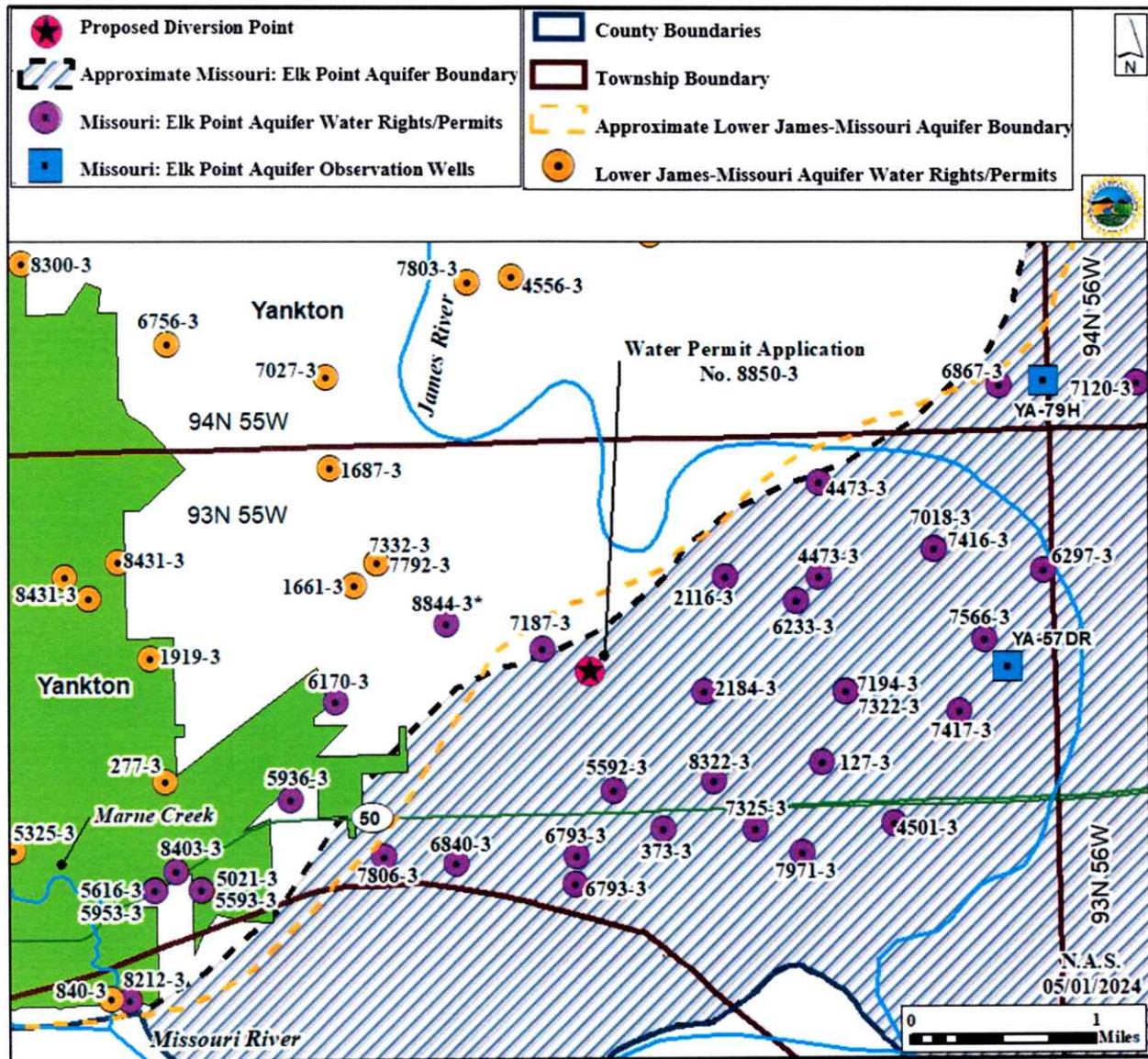


Figure 6. Location of the proposed diversion point for Water Permit Application No. 8850-3 and the Lower James Missouri and Missouri: Elk Point aquifers water rights/permits and observation well (M:EP aquifer) within approximately three miles (Water Rights, 2024b and 2024c)

The Missouri: Elk Point aquifer ranges from confined to unconfined aquifer conditions, but is primarily under unconfined conditions (Niehus, 1994 and 1997). Based on the well and test hole completion reports on file, the Missouri: Elk Point aquifer may be confined near the proposed diversion point but is likely to behave as unconfined based on nearby well completion reports particularly those to the south and east (Water Rights, 2024d). Drawdown created by pumping a well generally does not extend far from the pumped well in an unconfined aquifer; however, in a confined aquifer, drawdown from pumping could extend a distance from the diversion point. The exact drawdown behavior of a well cannot be known without an aquifer performance test. However, observation wells completed into the Missouri: Elk Point aquifer near permitted/licensed diversion points can provide some insight on how the aquifer responds to pumping.

Observation well YA-78J (approximately 4.5 miles northeast of the proposed diversion point) has four high-yield wells (assumed to be a well with an authorized diversion rate greater than 0.2 cfs) within approximately one mile of it (Water Rights, 2024b and 2024c). The lithologic log on file for YA-78J noted the well was drilled 95 feet deep below the ground surface, had a casing stick up height of approximately 2.3 feet, and the top of aquifer materials approximately 55 feet below the ground surface (SDGS, 2024). The lowest recorded static water level on the hydrograph (displayed in Figure 4) is approximately 19 feet below the top of the well casing, which indicates there was still approximately 36 feet of artesian head pressure in YA-78J even during drier periods when high-yield wells are expected to be pumping more water and when water levels are generally naturally lower in response to drier conditions (SDGS, 2024; Water Rights, 2024b).

Within one mile of the proposed diversion point, the Missouri: Elk Point aquifer has a saturated aquifer thickness of approximately 10 to 40 feet (Water Rights, 2024d). A saturated aquifer thickness of 10 feet would not allow for enough thickness for a pump to be placed 20 feet below the top of the aquifer. Therefore, to be considered an adequate well at this location, the inlet of the pump would need to be placed as near as practical to the bottom of the saturated aquifer to qualify as an adequate well under ARSD 74:02:04:20(6). While the best information available indicates that there is a reasonable probability average annual recharge exceeds average annual withdrawals in the aquifer, conditions can occur where withdrawals in the aquifer exceed recharge for a period of time. Situations may occur where pumping from a thicker part of an unconfined aquifer could cause drawdown impacting adequate wells in a thinner part of the aquifer. Under such conditions an unlawful impairment of senior water rights/permits or adequate domestic wells may occur. Therefore, the applicant should control their water withdrawals, so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights. In Clay, Union, and Yankton Counties, there are no substantiated complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Missouri: Elk Point aquifer (Water Rights, 2024e).

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

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

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law

that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, "general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable..." (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the Missouri: Elk Point aquifer at their location. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), and the lack of well interference complaints from the Missouri: Elk Point aquifer in the area, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

SDCL 46-5-6:

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of 1.0 cfs per 70 acres, or "the equivalent thereof." The statute does provide that: "The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires..."

If approved, Water Permit Application No. 8850-3 would authorize a maximum instantaneous diversion rate of 1.78 cfs from one well for the irrigation of 64 acres, or at a rate of 1.95 cfs per 70 acres. The applicant did not provide a reason for the exceedance, but it appears to be due to the potential of irrigating the proposed area with a center pivot that does not make a full rotation. A center pivot making a partial rotation uses water at the same rate as a center pivot making a full rotation while irrigating less acres. This reason falls within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate and has been accepted by the Water Management Board and the Water Rights Program in the past.

CONCLUSIONS:

1. Water Permit Application No. 8850-3 proposes to divert water at a maximum instantaneous diversion rate of 1.78 cubic feet of water per second (cfs) from one well to be completed into the Missouri: Elk Point aquifer (approximately 125 feet deep) for the irrigation of 64 acres. The site of interest is located in Yankton County approximately two miles east of Yankton, SD.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Missouri: Elk Point aquifer to supply the proposed appropriation.

3. There is a reasonable probability that the proposed diversion by Water Permit Application No. 8850-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic users.
4. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres likely due to the partial rotation of the center pivot. This reason falls within SDCL 46-5-6 which allows the Water Management Board to allow a greater diversion rate and has been accepted by the Water Management Board and the Water Rights Program in the past.
5. If this application is approved, a qualification requiring the applicant to control their water withdrawals, so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights, should be included.

Nakaila Steen

Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program

Reviewed by:

Adam Mathiowetz
Adam Mathiowetz, PE
Natural Resources Engineer IV
SD DANR - Water Rights Program

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

May 31, 2024

Derek Guthmiller
3405 Alumax Road
Yankton SD 57078

Dear Mr. Guthmiller:

Water Permit Application No. 8850-3 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 Daily Press & Dakotan printed in Yankton SD (Ph # 605 665-7811). 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 June 12, 2024. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 8850-3 to Appropriate Water

Notice is given that Derek Guthmiller, 3405 Alumax Road, Yankton SD 57078 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 Missouri: Elk Point Aquifer (approximately 125 feet deep) located near the center of the N 1/2 Section 10 for irrigation of 64 acres located in the SE 1/4 NW 1/4, SW 1/4 NE 1/4 Section 10; all in T93N-R55W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately two miles east of Yankton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8850-3 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 June 24, 2024.

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 June 24, 2024.

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

Published once at the total approximate cost of _

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, May 31, 2024 10:59 AM
To: Kelly Kronaizl
Subject: 8850-3 Derek Guthmiller - Public Notice
Attachments: 8850-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 12, 2024 in the Daily Press & Dakotan.

Derek Guthmiller, 3405 Alumax Road, Yankton SD 57078, 402-710-9014, 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

YANKTON DAILY PRESS AND DAKOTAN

DEREK GUTHMILLER
3405 ALUMAX RD
YANKTON SD 57078

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

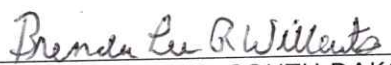
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND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

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 12th DAY OF June, 2024
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$40.64 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 06/12/2024

FILED ON: 06/12/24


SUBSCRIBED AND SWORN TO BEFORE ME THIS 12th DAY OF June, 2024


NOTARY PUBLIC, SOUTH DAKOTA
MY COMMISSION EXPIRES 12/15/2029



RECEIVED

JUN 14 2024

OFFICE OF
WATER

NOTICE OF APPLICATION NO. 8850-3 to Appropriate Water

Notice is given that Derek Guthmiller, 3405 Alumax Road, Yankton SD 57078 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 Missouri: Elk Point Aquifer (approximately 125 feet deep) located near the center of the N 1/2 Section 10 for irrigation of 64 acres located in the SE 1/4 NW 1/4, SW 1/4 NE 1/4 Section 10; all in T93N-R55W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately two miles east of Yankton SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8850-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineers recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

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

Published once at the total approximate cost of \$40.64 and can be viewed free of charge at www.sdpublicnotices.com

Published June 12, 2024.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, May 31, 2024 11:07 AM
To: guthmillerag@gmail.com
Subject: 8850-3 Derek Guthmiller - Public Notice
Attachments: 8850-3 Rec.pdf; 8850-3 Ltr.pdf; 8850-3 PubNotice.pdf

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

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

JUL 25 2024

Derek Guthmiller
3405 Alumax Road
Yankton SD 57078

Dear Mr. Guthmiller:

Enclosed is Water Permit No. 8850-3 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.: 8850-3

Name of Applicant: Derek Guthmiller

Date of Posting: 6/10/2024

Date of Removal: 7/25/2024

Ron Duvall, Engineer III

7/25/2024

Date

Subscribed and sworn to before me, a notary public, this 25th day of July, 2024.

Notary Public - South Dakota

My commission expires: **Rachel Rodriguez**
My Commission Expires
May 16, 2029

(SEAL)



8850-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

2024

Location <u>SE</u> $\frac{1}{4}$ <u>NW</u> $\frac{1}{4}$ Sec <u>10</u> Twp <u>93N</u> Rg <u>55W</u> County <u>Yankton</u> GPS Coordinates Lat: <u>42°53'26.81"N</u> Lon: <u>97°19'41.48"W</u> Please mark well location with an "X" on section grid Well Completion Date <u>6/10/2024</u> Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.) <u>2500</u> ft. from <u>Septic</u> (identify source)		Well Owner: <u>Derick Guthmiller</u> Business Name: _____ Address: <u>3405 Alumax Rd</u> City, State, Zip: <u>Yankton, SD 57078</u>																																		
		WELL LOG:																																		
		<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">FORMATION</th> <th colspan="2">DEPTH</th> </tr> <tr> <th>FROM</th> <th>TO</th> </tr> </thead> <tbody> <tr> <td>Topsoil</td> <td>0.0</td> <td>7.0</td> </tr> <tr> <td>Sand</td> <td>7.0</td> <td>35.0</td> </tr> <tr> <td>Sandy Gravel Mix</td> <td>35.0</td> <td>73.0</td> </tr> <tr> <td>Gravel & Rocks</td> <td>73.0</td> <td>80.0</td> </tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		FORMATION	DEPTH		FROM	TO	Topsoil	0.0	7.0	Sand	7.0	35.0	Sandy Gravel Mix	35.0	73.0	Gravel & Rocks	73.0	80.0																
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PROPOSED USE: ☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Monitoring Well ☒ Irrigation ☐ Industrial ☐ Institutional ☐ Test Hole ☐ Dewatering Well ☐ Geothermal ☐ Other _____		STATIC WATER LEVEL <u>18.0</u> 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? _____																																		
METHOD OF DRILLING: <u>Staight Rotary</u> CASING DATA: ☐ Steel ☒ Plastic ☐ Other <u>6 1/2" SW 17.5</u> If other describe _____ <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>PIPEWEIGHT</th> <th>DIAMETER</th> <th>FROM</th> <th>TO</th> <th>HOLE DIAMETER</th> </tr> </thead> <tbody> <tr> <td>LB/FT</td> <td><u>12</u> IN</td> <td><u>0</u> FT</td> <td>FT</td> <td><u>17.5</u> IN</td> </tr> <tr> <td>LB/FT</td> <td>IN</td> <td>FT</td> <td>FT</td> <td>IN</td> </tr> <tr> <td>LB/FT</td> <td>IN</td> <td>FT</td> <td>FT</td> <td>IN</td> </tr> </tbody> </table>		PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER	LB/FT	<u>12</u> IN	<u>0</u> FT	FT	<u>17.5</u> IN	LB/FT	IN	FT	FT	IN	LB/FT	IN	FT	FT	IN	WELL TEST DATA: ☒ Pumped Describe: <u>725 At 54'</u> ☐ Bailed ☐ Air ☐ Other _____ Pumping Level Below Land Surface <u>54.0</u> Ft. After <u>4.0</u> Hrs. pumped <u>725.0</u> GPM _____ Ft. After _____ Hrs. pumped _____ GPM If pump installed, pump rate: _____ GPM														
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GROUTING DATA: Grout Type <u>Bentonite</u> No. of Sacks <u>22</u> Grout Weight <u>Lb/gal</u> From <u>0.0</u> Ft To <u>50.0</u> Ft _____ Lb/gal _____ Ft _____ Ft Describe grouting procedure <u>Tremie</u>		RECEIVED FEB 26 2025 OFFICE OF WATER																																		
SCREEN: ☒ Perforated pipe ☐ Manufactured Diameter <u>12</u> Inches Length <u>20.0</u> Feet Material <u>PVC</u> Slot Size <u>.60</u> Set From <u>50.0</u> Feet to <u>70.0</u> Feet Other information _____																																				
WAS A PACKER OR SEAL USED? ☐ Yes ☒ No If so, what material? _____ Describe packer(s) and location _____		REMARKS FEB 26 2025 OFFICE OF WATER																																		
DISINFECTION: Was well disinfected upon completion? ☒ Yes, How? _____ ☐ No, Why Not? _____ Lab sample sent to for water quality analysis _____		This well was drilled under license # <u>773</u> And this report is true and accurate. Drilling firm: <u>Quality Well Service LLC</u> Signature of License Representative: Signature of Well Owner or Equitable Property Holder: _____ Date: <u>2-7-25</u>																																		

Please return White Copy to DANR Water Rights 523 E. Capitol Ave., Pierre SD 57501