

WATER PERMIT NO. 8869-3

Name of Applicant: **Jim or Collin Klebsch**

Address: **38701 170th Street, Redfield SD 57469**

Phone: **605-460-2309**

Amount of Water Claimed: **2.57 cfs**

Total Acres: **180**

Source of Water Supply: **Surface**

Water to be used for: **Irrigation**

County: **Spink**

Type of Waste Disposal System:

Location: **Approx. 5 miles north of Redfield SD**

PRIORITY Date Received: **04-18-24**

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

Corrected Application Received: **04-19-24**

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

Remarks:

Diversion Point: **NE 1/4 SE 1/4 Sec 11-T117N-R64W**

Land to be Irrigated: **E 1/2 Sec 14, N 1/2 NW 1/4 Sec 13; all in T117N-R64W**

11				
14		13		

Depth of Well: **N/A**

Well Driller: **N/A**

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **05-07-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8869-3**

Date of first receipt of application April 18, 2024.

Date of return to applicant for corrections, amendments or changes April 19, 2024.

Date of receipt of corrected application May 13, 2024.

The Water Management Board approved Water Permit No. 8869-3 on December 4, 2024, for Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469, 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. 8869-3 appropriates 2.57 cubic feet of water per second from the James River located in the E 1/2 SE 1/4 Section 11 for irrigation of 180 acres located in the E 1/2 NE 1/4, NE 1/4 SE 1/4 Section 14, N 1/2 NW 1/4 Section 13; SW 1/4 SW 1/4 Section 12; SE 1/4 SE 1/4 Section 11; all in T117N-R64W. This site is located approximately five miles north of Redfield 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 – September 30.
3. The date from which applicant may claim right is April 18, 2024.
4. One-fifth of the construction is to be completed on or before June 4, 2027.
5. All construction is to be completed on or before December 4, 2029.
6. Water is to be put to beneficial use on or before December 4, 2033.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. This permit does not authorize diversions from the James River any time when there is less than 50 cfs bypassing the USGS gaging station at Huron, SD, after pumping.
2. This permit does not authorize diversion of water from the James River after July 15th of each calendar year when there is less than 100 cfs bypassing the USGS gaging station at Huron, SD, after pumping, unless written orders have been issued by the Chief Engineer.
3. The permit does not authorize diversion of water from the James River after August 10th of each calendar year unless written orders have been issued by the Chief Engineer.
4. Diversions under the permit are subject to senior water rights and any written orders issued by the Chief Engineer.
5. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
6. The Water Management Board retains jurisdiction in the event that additional information shows that changes need to be made to protect domestic uses or senior water rights.

WATER MANAGEMENT BOARD

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

JAN 07 2025

date



RECEIVED

APR 18 2024

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

OFFICE OF
WATER

PAID

APR 18 2024

Ck# 136a

Rec't# _____

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8869-3</u> Hydrologic Unit <u>1016 0006</u> Basin <u>Middle James</u> Newspaper <u>Redfield Press</u> <u>Aberdeen American News</u> (office use only)
---	--

Application for Permit to Appropriate Water for Irrigation

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

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

1. Name to Appear on Irrigation Permit Jim or Collin Klebsch

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

Mailing Address 38701 120th St Redfield SD 57469
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605 4602309 Email gjk_01@hotmail.com

2. Amount of water claimed 2.57 *CFS or _____ **GPM _____ ***AF _____ Total Acreage 180
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply James River (NE 1/4 SE 1/4)

4. Location of point of diversion SE 40 in SE 1/4 Sec 11-117-64
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Spink

5. County or counties where water will be used Spink

6. Annual period during which water is to be used April - September

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

Land Description	Acres	Land Description	Acres
<u>E 1/2 Section 14 + N 1/2 of NW 1/4 sec 13</u>	<u>180</u>	<u>SW 1/4 SW 1/4 Sec 12-117-64</u>	
<u>E 1/2 NE 1/4, NE 1/4 SE 1/4 Sec 14</u>	<u>117.64</u>	<u>SE 1/4 SE 1/4 Sec 11-117-64</u>	

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

East of Railroad tracks in Sec 14
NE 1/4 of Sec 14-64-117 including NW 1/4 of Sec 13-64-117
use 360 rain to irrigate approx 180 acres

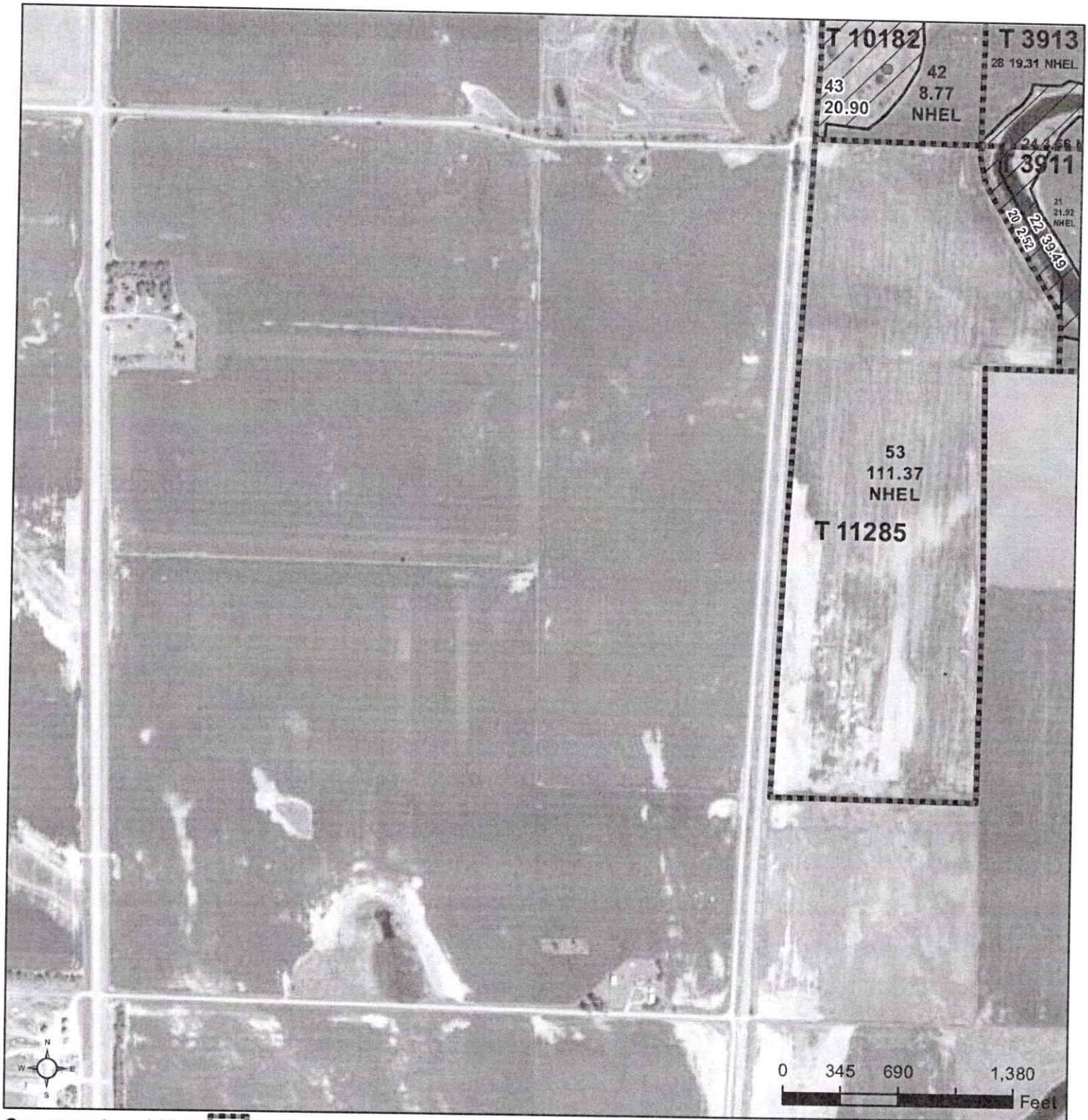
I, Collin Klebsch, the applicant, certify under
Name of Person Title (if applicable)

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.



United States
Department of
Agriculture

Spink County, South Dakota



Common Land Unit

- Non-Cropland
- Cropland

Tract Boundary
PLSS

Wetland Determination Identifiers

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

Unless otherwise noted,
crops listed below are:

Non-irrigated
Intended for Grain
Corn = Yellow
Soybeans = Common
Wheat - HRS or HRW
Sunflowers = Oil or Non

Producer initial _____
Date _____

2023 Program Year

Map Created June 27, 2023

Farm 10239

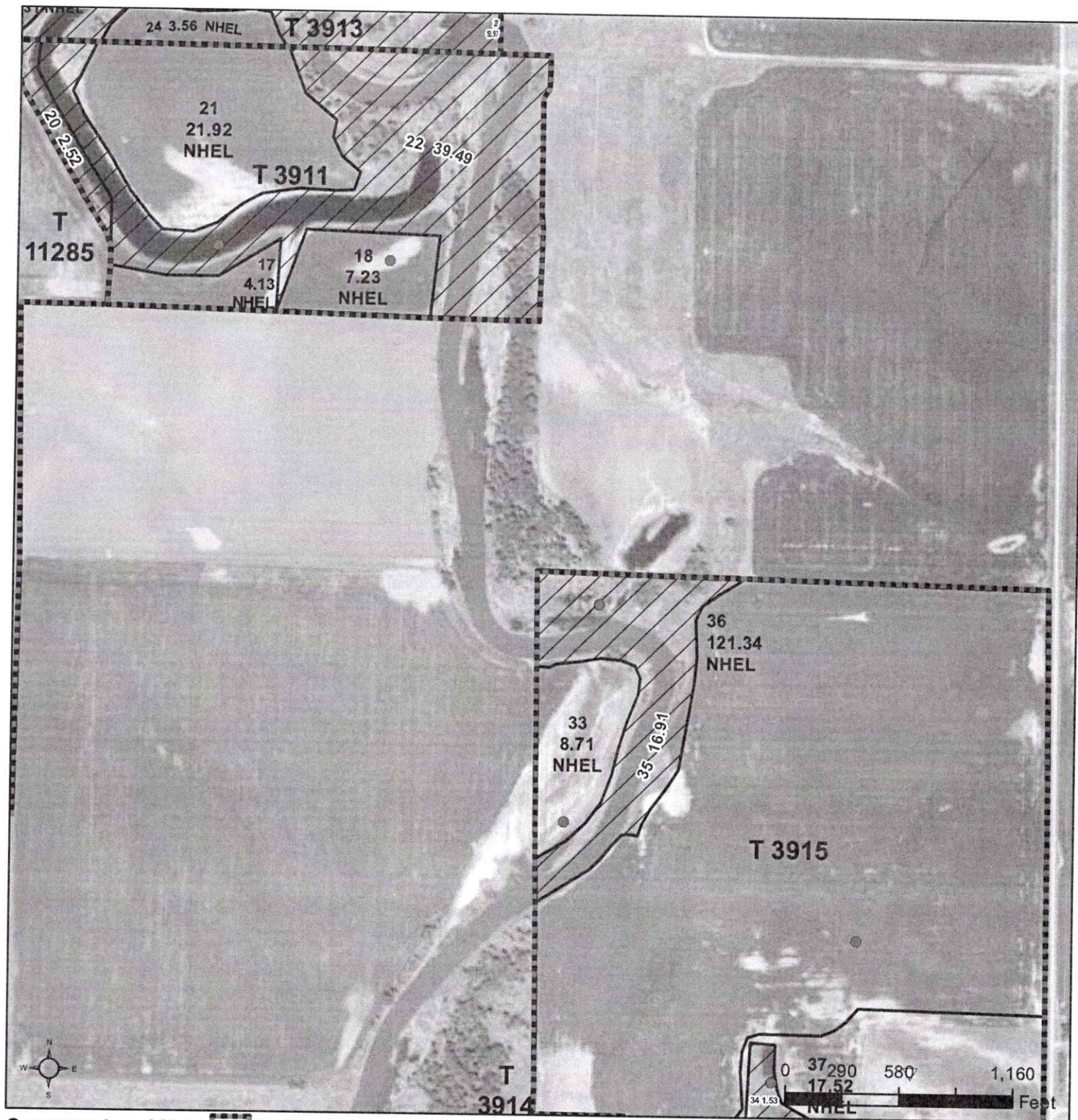
14-117N-64W-Spink

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).



United States
Department of
Agriculture

Spink County, South Dakota



Common Land Unit

- Non-Cropland
- Cropland

Tract Boundary
PLSS

Wetland Determination Identifiers

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

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

Producer Initial _____
Date _____

2023 Program Year

Map Created June 27, 2023

Farm 10239

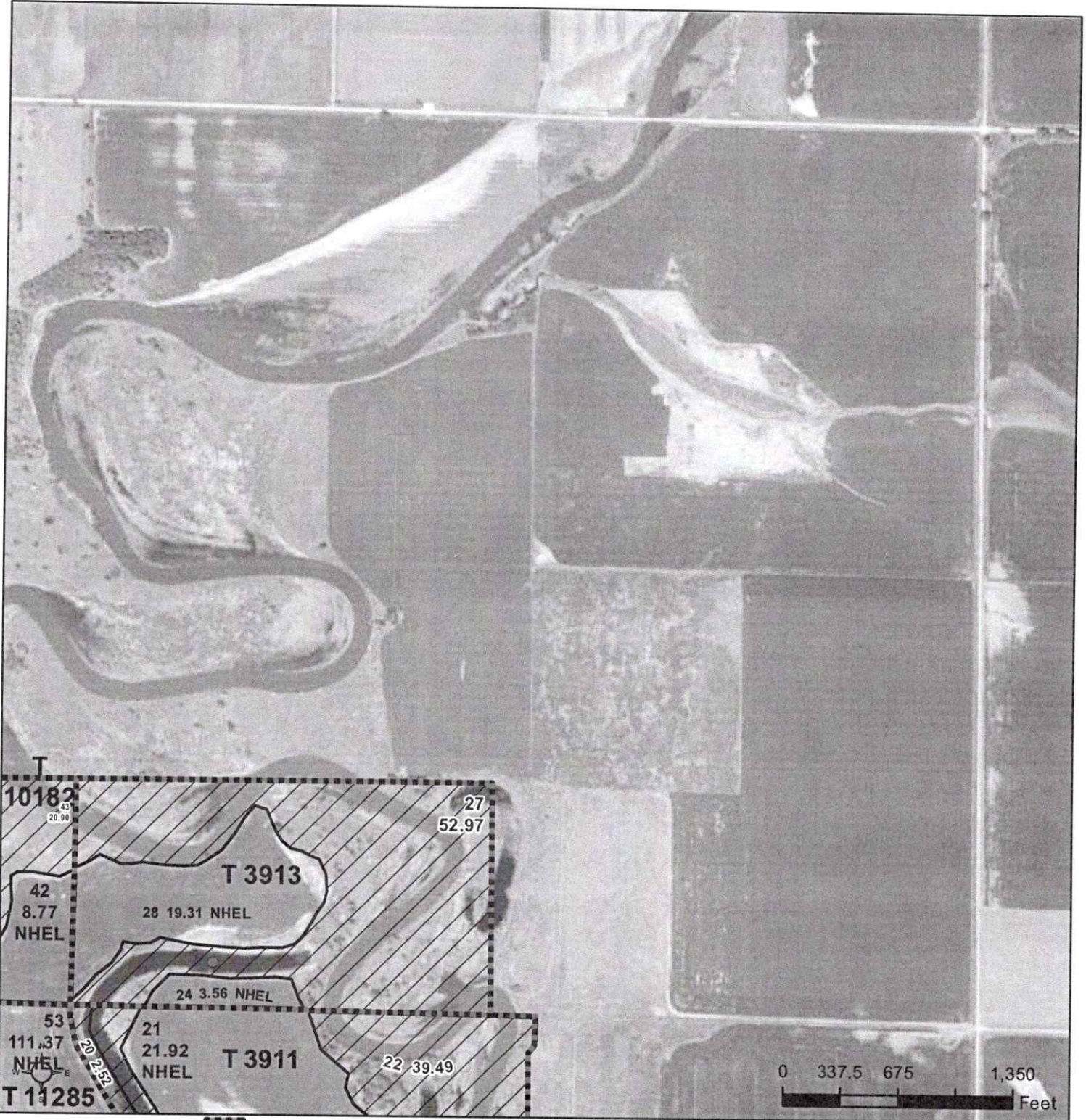
13-117N-64W-Spink

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).



United States
Department of
Agriculture

Spink County, South Dakota



Common Land Unit

- Non-Cropland
- Cropland

Tract Boundary
PLSS

Wetland Determination Identifiers

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

Unless otherwise noted,
crops listed below are:

Non-irrigated
Intended for Grain
Corn = Yellow
Soybeans = Common
Wheat - HRS or HRW
Sunflowers = Oil or Non

Producer initial _____
Date _____

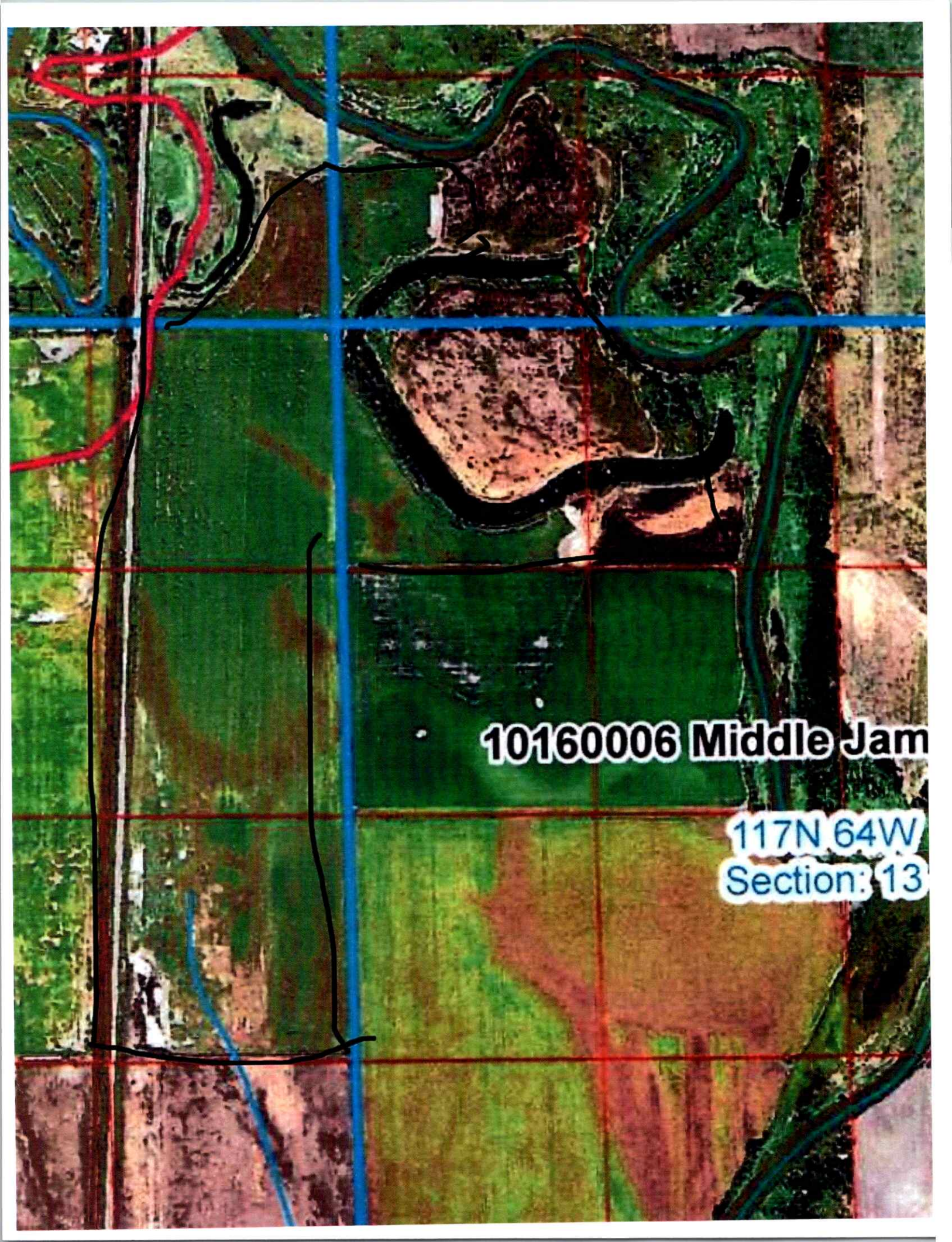
2023 Program Year

Map Created June 27, 2023

Farm 10239

12-117N-64W-Spink

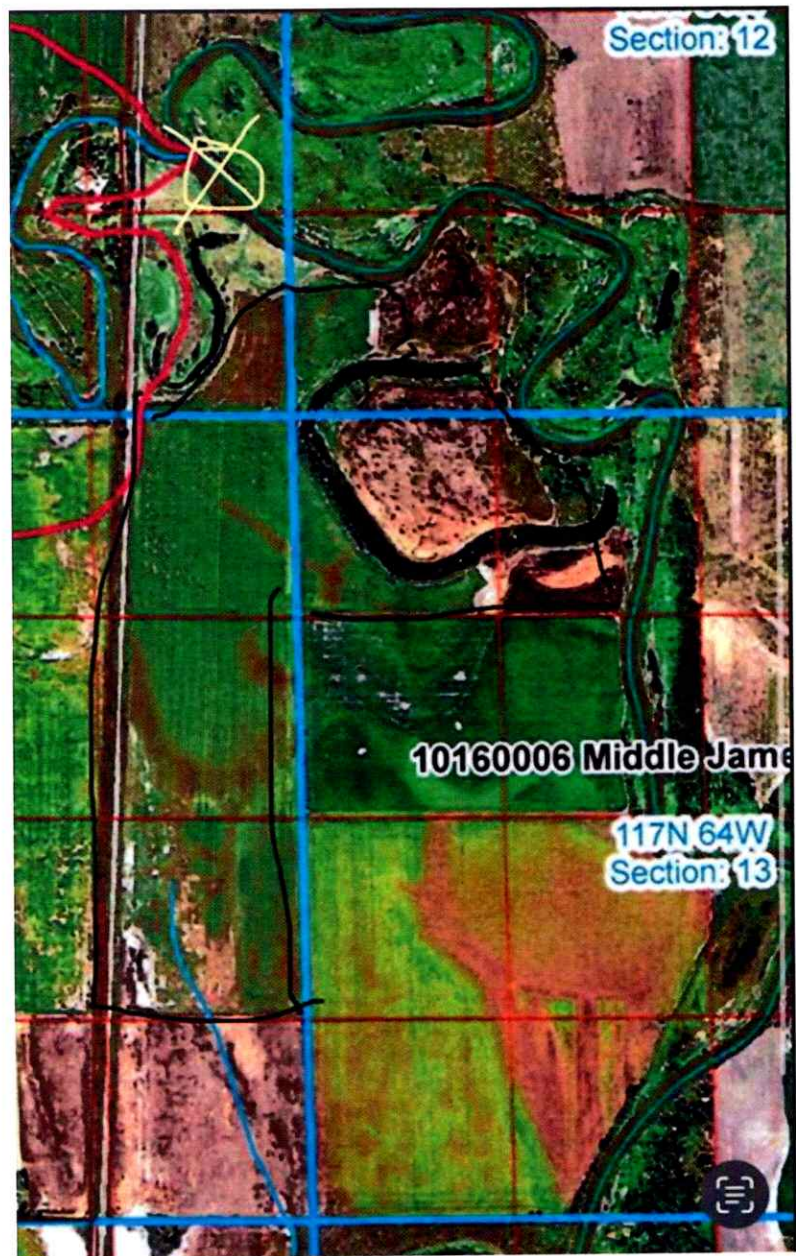
United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).



10160006 Middle Jam

The image is an aerial photograph of a river landscape. A grid of blue and red lines is overlaid on the image. A black line is drawn across the image, starting from the top left, going down, and then turning right. The river is visible as a winding path through the landscape. The text '10160006 Middle Jam' is overlaid on the image.

117N 64W
Section: 13



117N 64W
Section: 11

117N 64W
Section: 12

117N
Section

168 ST

117N 64W

117N 64W
Section: 14

117N

117N
Section

117N 64W
Section: 13

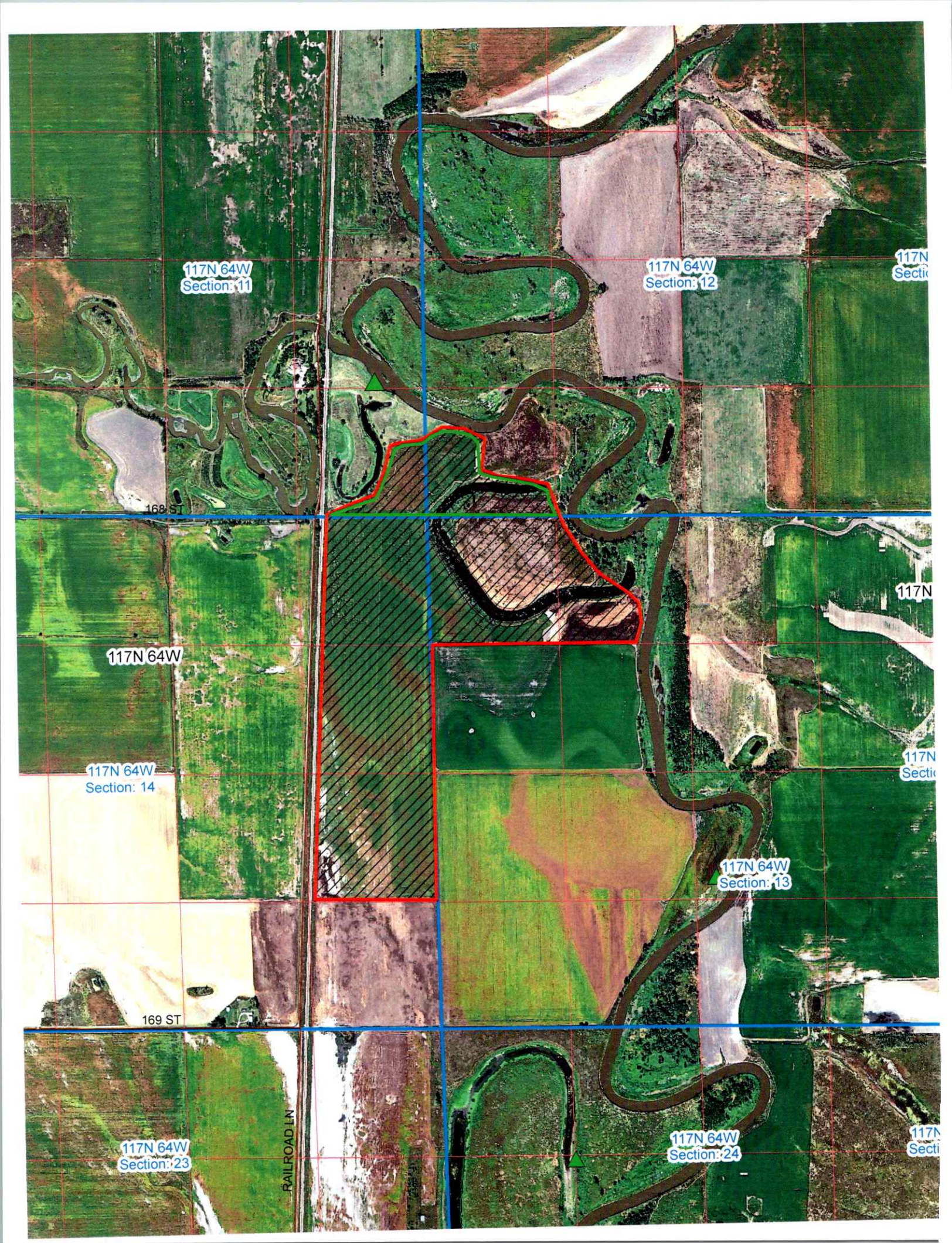
169 ST

117N 64W
Section: 23

RAILROAD LN

117N 64W
Section: 24

117N
Section

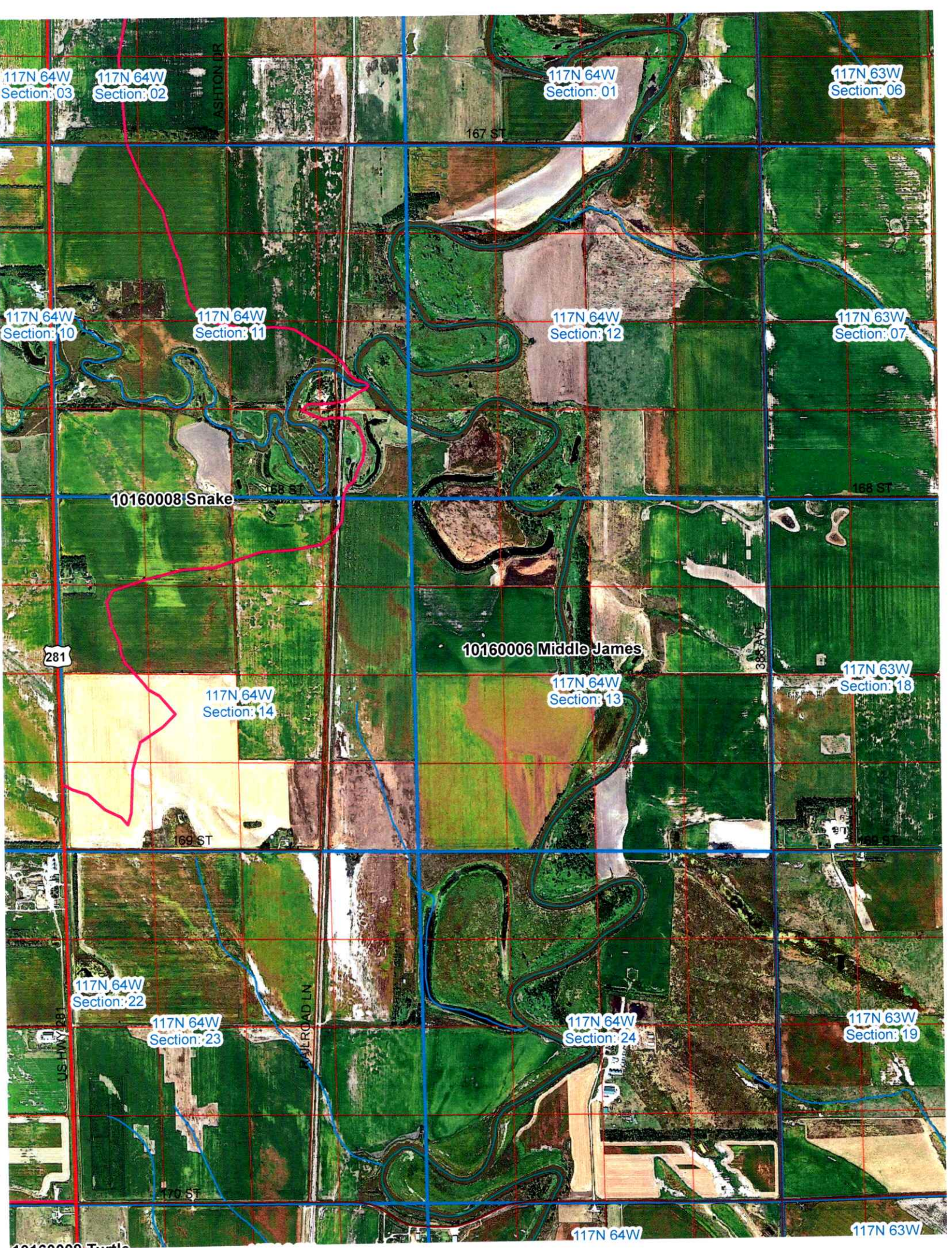


Section: 12

10160006 Middle Jam

117N 64W
Section: 13





RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date April 18, 2024

RECEIVED OF Collin Klebsch 38701 170th Street Redfield SD 57469

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

Fee for Application for Permit No. <u>8869-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8869-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>1050.00</u>

By Eric Gronlund
Chief Engineer vm

Duvall, Ron

From: Collin Klebsch <cjk_01@hotmail.com>
Sent: Monday, May 13, 2024 11:06 AM
To: Duvall, Ron
Cc: Rodriguez, Rachel
Subject: Re: [EXT] James River Water Permit Application

Ok

Yes. Sorry about that one it's a wild bunch of descriptions there

Get [Outlook for iOS](#)

From: Duvall, Ron <Ron.Duvall@state.sd.us>
Sent: Monday, May 13, 2024 11:02:05 AM
To: cjk_01@hotmail.com <cjk_01@hotmail.com>
Cc: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: James River Water Permit Application

Jim or Collin,

I am looking over your James River applications and on this one I have a question whether some additional legal descriptions should be added to the area to be irrigated. The area outlined in red is the area drawn in on the map you supplied. The legal description of the acres includes section 13 and 14 but does not mention the SE1/4 SE1/4 section 11 or the SW1/4 SW1/4 section 12 (I outlined those areas in green on the map below). Should the areas in section 11 and 12 be added to the legal descriptions on your application. Respond to this email with the "OK" and I will add them to your application.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, April 19, 2024 1:14 PM
To: Collin Klebsch
Subject: RE: [EXT] 3rd New Water Permit Application

Brilliant! I just need the diversion point marked as an "X" which I do not see on the map you sent.

Thank you,

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



From: Collin Klebsch <cjk_01@hotmail.com>
Sent: Friday, April 19, 2024 12:00 PM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: Re: [EXT] 3rd New Water Permit Application

That field is a gem, we will try to explore either the rain 360 or the drip tape irrigation on this project to cover the acres while using the same pump as what we will use for section 2. This is a rough drawing of the field in its entirety.

Get [Outlook for iOS](#)

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Friday, April 19, 2024 11:56:56 AM
To: cjk_01@hotmail.com <cjk_01@hotmail.com>
Subject: 3rd New Water Permit Application

This 3rd application, copy attached for your reference, is a little confusing to me with all the maps.

- Attached is a map of Sections 12, 13, and 14- T117N-R64W. Please make the location of diversion with an "X" and outline the area to be irrigated.

Thank you,

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

Rodriguez, Rachel

From: Collin Klebsch <cjk_01@hotmail.com>
Sent: Friday, April 19, 2024 12:00 PM
To: Rodriguez, Rachel
Subject: Re: [EXT] 3rd New Water Permit Application
Attachments: original-1E188594-DF6F-4ECE-836E-FF68C9B127AB.jpeg

That field is a gem, we will try to explore either the rain 360 or the drip tape irrigation on this project to cover the acres while using the same pump as what we will use for section 2. This is a rough drawing of the field in its entirety.

Get [Outlook for iOS](#)

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Friday, April 19, 2024 11:56:56 AM
To: cjk_01@hotmail.com <cjk_01@hotmail.com>
Subject: 3rd New Water Permit Application

This 3rd application, copy attached for your reference, is a little confusing to me with all the maps.

- Attached is a map of Sections 12, 13, and 14- T117N-R64W. Please make the location of diversion with an "X" and outline the area to be irrigated.

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

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8869-3 JIM OR COLLIN KLEBSCH**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources, concerning deferred Water Permit Application No. 8869-3 - Jim or Collin Klebsch, 38704 170th Street, Redfield SD 57469.

The Chief Engineer is recommending APPROVAL of the above-listed water permit application because 1) there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversions can be developed without unlawfully impairing 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. This permit does not authorize diversions from the James River any time when there is less than 50 cfs bypassing the USGS gaging station at Huron, SD, after pumping.
2. This permit does not authorize diversion of water from the James River after July 15th of each calendar year when there is less than 100 cfs bypassing the USGS gaging station at Huron, SD, after pumping, unless written orders have been issued by the Chief Engineer.
3. The permit does not authorize diversion of water from the James River after August 10th of each calendar year unless written orders have been issued by the Chief Engineer.
4. Diversions under the permit are subject to senior water rights and any written orders issued by the Chief Engineer.
5. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
6. The Water Management Board retains jurisdiction in the event that additional information shows that changes need to be made to protect domestic uses or senior water rights.

See report on application for additional information.

Eric Gronlund, Chief Engineer
November 14, 2024



**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. 8869-3, Jim or Collin Klebsch**

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. 8869-3, Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469.

The Chief Engineer is recommending DEFERRAL of Application No. 8869-3 until the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses.

At the Water Management Board hearing to be scheduled on this matter, the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. If you intend to oppose this DEFERRAL recommendation, the public notice of hearing will provide details on filing a petition in opposition to the chief engineer's recommendation.

See report on application for additional information.

Eric Gronlund, Chief Engineer
June 3, 2024

REPORT ON WATER PERMIT APPLICATION NO. 8869-3

Jim or Colin Klebsch

12 June 2024

Application No. 8869-3 proposes to appropriate 2.57 cubic feet of water per second (cfs) from the James River located in the E ½ SE ¼ of Section 11 for the irrigation of 180 acres located in the E ½ NE ¼, NE ¼ SE ¼ of Section 14, the N ½ NW ¼ of Section 13, the SW ¼ SW ¼ of Section 12, the SE ¼ SE ¼ of Section 11, all in T117N-R64W. The site is located in Spink County, approximately five miles north of Redfield, South Dakota.

South Dakota Codified Law (SDCL) 46-1-4

“It is hereby declared that, because of conditions prevailing in this state, the general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable method of use of water be prevented, and that the conservation of such water is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or watercourse in this state is limited to an amount of water reasonably required for the beneficial use to be served, and such right does not extend to the waste or unreasonable use or unreasonable method of diversion of water.”

SDCL 46-2A-2

“Within sixty days of receipt of a completed application, the chief engineer shall recommend in writing approval, disapproval or deferral until further notice and shall schedule the application for hearing by the Water Management Board. The recommendation shall include any terms, conditions, restrictions, qualifications, quantifications, or limitations on perpetuity which are consistent with this chapter, necessary to protect the public interest and related to matters within the jurisdiction of the chief engineer or the board.”

SDCL 46-2A-9

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

Background

The James River originates in North Dakota and flows south across South Dakota, emptying into the Missouri River east of Yankton, SD. The river is approximately 710 miles long, with 475 miles in South Dakota (Hullinger and Rath, 2024). The United States Geological Survey (USGS) operates a streamflow gaging station network in South Dakota. Water in the James River is managed in South Dakota by splitting the James River into three sections, associated with three different USGS streamgages: No. 06473000 James River at Ashton, No. 06476000 James River at Huron, and No. 06478500 James River near Scotland.

In 1965, the SD Water Rights Commission, a predecessor to the SD Water Management Board (WMB), placed maximum appropriation limits over sections of the James River in South Dakota (Water Rights, 2024). A 300 cfs appropriation limit restriction applies to the river reach between the North Dakota-South Dakota border to the Yankton-Hutchinson County Line, where 298.92 cfs is currently appropriated or reserved. Of the 300 cfs restriction, a 200 cfs appropriation limit was placed from the North Dakota border to the USGS gaging station in Huron, SD, where 199.19 cfs is currently appropriated or reserved (Water Rights, 2024). The WMB has adopted these appropriation limits.

In 2007, standardized qualifications were adopted on the James River to address times when water availability is scarce. These qualifications are (1) James River permits do not authorize diversion of water after August 10th of each calendar year unless written orders have been issued by the Chief Engineer, and (2) James River permits do not authorize diversion of water when there is less than 20 cfs bypassing the closest USGS streamgage monitored by the WMB.

Since the 1990's, there has been an increasing streamflow trend in the James River. Streams in the eastern Dakotas have experienced the greatest increases in streamflow during the last 60 years in comparison to any other USGS gaged stream in the United States (Hullinger and Rath, 2024). Three different flow statistics for USGS gage James River at Huron, SD were tested to give an overall impression of streamflow from 1944 to 2023 during the irrigation season (Hullinger and Rath, 2024). For the annual minimum flow, annual median flow, and annual maximum flow, the data show a significant rise after the 1990's. The other two gages on the James River monitored by the WMB show similar trends.

There are five pending applications with earlier priority dates, Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, and 8835-3 (Water Rights, 2024). The staff engineer report written for those five pending applications did a preliminary review of the current qualifications and the changing streamflow conditions of the James River (Hullinger and Rath, 2024). That report concluded that a more thorough review is warranted to determine if new qualifications can be crafted to allow issuance of permits in excess of the 300/200 cfs limit while still protecting existing water rights and domestic uses. These applications were deferred by the Water Management Board at the May 8, 2024 meeting, as recommended by the Chief Engineer. The Chief Engineer recommended deferral until the Fall/Winter 2024 Water Management Board meeting to allow for completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses. Consequently, any new applications requesting water from the James River should also be deferred to allow for completion of the hydrologic analysis.

Conclusions

1. Due to the Water Management Board decision to defer prior James River Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, and 8835-3, Water Permit Application No. 8869-3 should be deferred until a more thorough review is completed on the current appropriation limit restrictions and bypass limits placed on water permits issued from the James River.
2. Upon completing an analysis, a recommendation may be made to:

- Retain or modify the 300 cfs appropriation limit on the James River from the North Dakota-South Dakota border to the Yankton-Hutchinson County line.
- Retain or modify the 200 cfs appropriation limit on the James River from the North Dakota-South Dakota border to the USGS gaging station at Huron, SD.
- If approval of water permit applications in excess of the 300/200 cfs limitation is allowed, recommend qualifications to be attached to new permits to protect existing water rights and domestic uses.



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

References

Hullinger, B.R. and Rath, M.D. 2024. Report on Water Permit Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, 8835-3. SD DANR Water Rights Program. Joe Foss Building. Pierre, South Dakota.

Water Rights. 2024. Water Right/Permit Files. SD DANR, Water Rights Program. Joe Foss Building. Pierre, South Dakota

Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Monday, June 3, 2024 3:33 PM
To: Rodriguez, Rachel
Subject: [EXT] 10252441 RE: Jim or Collin Klebsch - Public Notice
Attachments: Order_Confirmation_Liners - 2024-06-03T162245.792.pdf

Hello!

Please find the order confirmation and proof of ad attached.

The notice is set to run in the Aberdeen American on 6/12. The order cost is \$105.63 which includes an affidavit that will be sent as requested 7-10 business days after the last day of the notice printing. Please email before 9am on Monday with any changes.

If Jim or Collin Klebsch would like to prepay, please have them call 844-254-5287 before the deadline above. Order number 10252441 should be referenced. Anyone who answers can help them.

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

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

Thank you!
Kerri Furnace
Public Notice Representative



Office: 844-254-5287

*NOTE: We are not legally trained, and it is your responsibility to make sure your ad meets the requirements of your State/Court which includes wording and publication times. Please verify all information is there and that it is correct. If your ad is not compliant with applicable law and needs to be re-published you will be responsible for all additional fees incurred.

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Monday, June 3, 2024 4:03 PM
To: SD-Aberdeen Legals <aan-legals@aberdeennews.com>
Subject: Jim or Collin Klebsch - Public Notice

Attached is a notice to be published on June 12, 2024.

Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469, 605-460-2309, have 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,

Order Confirmation
Not an Invoice

Account Number:	1409248
Customer Name:	Jim and Collin Klebsch
Customer Address:	Jim and Collin Klebsch 38701 170Th ST Redfield SD 57469-6105
Contact Name:	Jim Klebsch
Contact Phone:	(605) 945-0593
Contact Email:	rachel.rodriguez@state.sd.us
PO Number:	

Date:	06/03/2024
Order Number:	10252441
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	347.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
ABD The American News	1	06/12/2024 - 06/12/2024	Public Notices
ABD aberdeennews.com	1	06/12/2024 - 06/12/2024	Public Notices

As an incentive for customers, we provide a discount off the total order cost equal to the 3.99% service fee if you pay with Cash/Check/ACH. Pay by Cash/Check/ACH and save!

Total Cash Order Confirmation Amount Due	\$105.63
Tax Amount	\$0.00
Service Fee 3.99%	\$4.21
Cash/Check/ACH Discount	-\$4.21
Payment Amount by Cash/Check/ACH	\$105.63
Payment Amount by Credit Card	\$109.84

Order Confirmation Amount
\$105.63

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, June 3, 2024 3:01 PM
To: Redfield Office
Subject: Jim or Collin Klebsch - Public Notice
Attachments: Klebsch public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 12, 2024.

Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469, 605-460-2309, have been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, June 3, 2024 3:03 PM
To: aan-legals@aberndeennews.com
Subject: Jim or Collin Klebsch - Public Notice
Attachments: Klebsch public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 12, 2024.

Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469, 605-460-2309, have 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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

June 4, 2024

Jim or Collin Klebsch
38701 170th Street
Redfield SD 57469

Dear Sirs:

Water Permit Application Nos. 8867-3, 8868-3, 8869-3, and 8870-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Redfield Press printed in Redfield SD (Ph # 605 472-0822) and the American News printed in Aberdeen SD (requires prepayment, see attachment for contact number). You will need to contact the newspapers and authorize publication of this notice which is enclosed. The recommendations of the Chief Engineer and reports on the applications will be mailed later. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

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

NOTICE OF HEARING on Application Nos. 8867-3, 8868-3, 8869-3, 8870-3 to Appropriate Water

Notice is given that Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469 has filed four applications to appropriate water from the James River for irrigation purposes.

Application No. 8867-3 proposes to appropriate 1.56 cubic feet of water per second from the James River located in the SW 1/4 SE 1/4 Section 13 for irrigation of 80 acres located in the NE 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8868-3 proposes to appropriate 1.56 cubic feet of water per second from the James River located in the SW 1/4 SE 1/4 Section 13 for irrigation of 80 acres located in the S 1/2 SE 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8869-3 proposes to appropriate 2.57 cubic feet of water per second from the James River located in the E 1/2 SE 1/4 Section 11 for irrigation of 180 acres located in the E 1/2 NE 1/4, NE 1/4 SE 1/4 Section 14, N 1/2 NW 1/4 Section 13; SW 1/4 SW 1/4 Section 12; SE 1/4 SE 1/4 Section 11; all in T117N-R64W. This site is located approximately five miles north of Redfield SD.

Application No. 8870-3 proposes to appropriate 3.88 cubic feet of water per second from the James River located in the NE 1/4 SE 1/4 Section 11 for irrigation of 272 acres located in the W 1/2 Section 2; all in T117N-R64W. This site is located approximately five and one-half miles northeast of Redfield SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that “if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer’s recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board.” In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 8867-3, 8868-3, 8869-3, 8870-3 until the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The Chief Engineer’s recommendations with qualifications, the applications, and staff reports are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider these applications at 9:30 AM (Central Time) on July 10, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer’s recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application,

or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 24, 2024.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose an application. The request for an automatic delay must be filed by June 24, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on an 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.

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

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is June 24, 2024. However, since this particular matter is water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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

Published once at an approximate cost of _____.

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Cindy Crook, being duly sworn on oath, say that THE REDFIELD PRESS is a weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS. I, Cindy Crook, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#7445 NOTICE OF HEARING

was printed and published in said newspaper in 1 issue, to wit: The first publication being made on June 12th, That Eighty-Four and 63/100 dollars insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Cindy Crook

Subscribed and sworn to before me this 12th day of June, 2024

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2024



Notice of Hearing

#7445

NOTICE OF HEARING on Application Nos. 8867-3, 8868- 3, 8869-3, 8870-3 to Appropriate Water

Notice is given that Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469 has filed four applications to appropriate water from the James River for irrigation purposes.

Application No. 8867-3 proposes to appropriate 1.56 cubic feet of water per second from the James River located in the SW 1/4 SE 1/4 Section 13 for irrigation of 80 acres located in the NE 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8868-3 proposes to appropriate 1.56 cubic feet of water per second from the James River located in the SW 1/4 SE 1/4 Section 13 for irrigation of 80 acres located in the S 1/2 SE 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8869-3 proposes to appropriate 2.57 cubic feet of water per second from the James River located in the E 1/2 SE 1/4 Section 11 for irrigation of 180 acres located in the E 1/2 NE 1/4, NE 1/4 SE 1/4 Section 14, N 1/2 NW 1/4 Section 13; SW 1/4 SW 1/4 Section 12; SE 1/4 SE 1/4 Section 11; all in T117N-R64W. This site is located approximately five miles north of Redfield SD.

Application No. 8870-3 proposes to appropriate 3.88 cubic feet of water per second from the James River located in the NE 1/4 SE 1/4 Section 11 for irrigation of 272 acres located in the W 1/2 Section 2; all in T117N-R64W. This site is located approximately five and one-half miles northeast of Redfield SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should

be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 8867-3, 8868-3, 8869-3, 8870-3 until the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The Chief Engineer's recommendations with qualifications, the applications, and staff reports are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider these applications at 9:30 AM (Central Time) on July 10, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer.

The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 24, 2024.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose an application. The request for an automatic delay must be filed by June 24, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on an 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.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible

but no later than two business days prior to the meeting in order to ensure accommodations are available.

Under SDCL 1-26-17(7) notices must state that "If the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is June 24, 2024. However, since this particular matter is water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-18 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published one time at the total approximate cost of \$84.83 and may be viewed free of charge at www.sdpublicnotices.com. (June 12)

LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Water Rights Program
Water Rights Program
523 E Capitol Ave
Pierre SD 57469

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

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

06/12/2024

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 06/12/2024

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$105.63

Tax Amount: \$0.00

Payment Cost: \$105.63

Order No: 10252441

Customer No: 1409248

PO #:

of Copies:

1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KEEGAN MORAN
Notary Public
State of Wisconsin

NOTICE OF HEARING on
Application Nos. 8867-3,
8868-3, 8869-3, 8870-3 to
Appropriate Water

Notice is given that Jim or Collin Klebsch, 38701 170th Street, Redfield SD 57469 has filed four applications to appropriate water from the James River for irrigation purposes.

Application No. 8867-3 proposes to appropriate 1.56 cubic feet of water per second from the James River located in the SW 1/4 SE 1/4 Section 13 for irrigation of 80 acres located in the NE 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8868-3 proposes to appropriate 1.56 cubic feet of water per second from the James River located in the SW 1/4 SE 1/4 Section 13 for irrigation of 80 acres located in the S 1/2 SE 1/4 Section 24; all in T117N-R64W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately four and one-half miles northeast of Redfield SD.

Application No. 8869-3 proposes to appropriate 2.57 cubic feet of water per second from the James River located in the E 1/2 SE 1/4 Section 11 for irrigation of 180 acres located in the E 1/2 NE 1/4, NE 1/4 SE 1/4 Section 14, N 1/2 NW 1/4 Section 13; SW 1/4 SW 1/4 Section 12; SE 1/4 SE 1/4 Section 11; all in T117N-R64W. This site is located approximately five miles north of Redfield SD.

Application No. 8870-3 proposes to appropriate 3.88 cubic feet of water per second from the James River located in the NE 1/4 SE 1/4 Section 11 for irrigation of 272 acres located in the W 1/2 Section 2; all in T117N-R64W. This site is located approximately five and one-half miles northeast of Redfield SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that "if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer's recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application Nos. 8867-3, 8868-3, 8869-3, 8870-3 until

the Fall/Winter 2024 Water Management Board meeting to allow completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified and, if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The Chief Engineer's recommendations with qualifications, the applications, and staff reports are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider these applications at 9:30 AM (Central Time) on July 10, 2024, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 24, 2024.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose an application. The request for an automatic delay must be filed by June 24, 2024. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on an 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.

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

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

notice to the Chief Engineer is June 24, 2024. However, since this particular matter is water permit applications and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board. As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01. Published June 12, 2024 at the total approximate cost of \$105.63 and may be viewed free of charge at www.sdpublishnotices.com.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

November 14, 2024

NOTICE OF HEARING

TO: Jim or Collin Klebsch
38701 170th St
Redfield SD 57469

FROM: Amanda Dewell, Water Rights Permitting Administrator 
SD DANR, Water Rights Program

SUBJECT: Scheduling of Hearing on Deferred Water Permit Application Nos. 8821-3,
8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3

On May 8, 2024, the Water Management Board (Board) deferred Water Permit Application Nos. 8821-3, 8822-3, 8832-3, and 8824-3, and on July 10, 2024, the Board deferred Water Permit Application Nos. 8867-3, 8868-3, 8869-3, and 8870-3; all until the Fall/Winter 2024, allowing for a complete hydrologic analysis determining whether the 300/200 cubic feet of water per second (cfs) appropriation threshold on the James River should be retained or modified and, if modified to allow appropriations in excess of 300/200 cfs, what qualifications should be attached to new water permits to protect existing James River water right holders and domestic users. The Water Rights staff report is complete and the recommendation to the Board is to adopt the report allowing appropriations in excess of the 300/200 cfs threshold with appropriate qualifications. Enclosed is the draft report *Re-examining James River Management* and, based on the draft report, revised Chief Engineer's recommendations dated November 14, 2024, concerning Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3.

The Chief Engineer's revised recommendations for the above-listed applications is that the Board APPROVE all of the applications based on 1) a report entitled *Report to the Water Management Board On Reexamining James River Management* which concludes there is a reasonable probability unappropriated water is available, 2) with qualifications, the proposed diversions can be developed without unlawful impairment of existing domestic uses and water rights, 3) the 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.

The Water Management Board will conduct the hearing to reconsider deferred Water Permit Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3, at 10:00 AM (Central Time), on Wednesday, December 4, 2024, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The time is an estimate and may be delayed due to prior items on the agenda.

This Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) take no action/continue deferral, 4) deny the applications after reaching a conclusion based on facts presented at the hearing.

If you intend to oppose the recommendations that the Board approve the above-listed applications with the qualifications listed on the recommendations, please file a petition opposing the recommendations by November 25, 2024. A petition form is enclosed for your use if you intend to oppose the recommendations. If you support the recommendations, no petition needs to be filed.

Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. Applicable provisions of the public notice published in the Aberdeen American News and the Redfield Daily Press on April 10, 2024, and June 12, 2024, still apply.

NOTE: At the December 4 Board meeting, prior to the Board considering your deferred applications, the Board will be presented a final version of the report re-examining the 300/200 cfs thresholds on the James River. The Board is not obligated to adopt the James River Management Plan as presented by the Water Rights staff. Any changes made by the Board may impact the Chief Engineer's recommendations concerning your applications, including whether your applications can be acted upon at the December 4, 2024, meeting.

Questions regarding the hearing process may be directed to Ron Duvall (ron.duvall@state.sd.us) or Amanda Dewell (amanda.dewell@state.sd.us), Water Rights Program (605) 773-3352.

Cc: Jennifer Verleger, Assistant Attorney General
Legal Counsel for Chief Engineer

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated November 14, 2024, regarding Water Permit Application Nos. 8821-3, 8822-3, 8823-3, 8824-3, 8867-3, 8868-3, 8869-3, and 8870-3 – Jim or Collin Klebsch, draft report *Reexamining James River Management*, revised recommendations dated November 14, 2024, and an applicant's petition form were served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on November 14, 2024.

Jim or Collin Klebsch
38701 170th St
Redfield SD 57469

Above also Sent Inter-office to:

Jennifer Verleger, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501


Shannon Konst
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 15th day of Nov., 2024.


Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

July 11, 2024

NOTICE OF ENTRY OF ORDER

TO: Jim or Collin Klebsch
38701 170th St
Redfield SD 57469

Jennifer L. Verleger, Assistant Attorney General
Legal Counsel for the Chief Engineer
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

FROM: Amanda Dewell, Permitting Administrator
SD DANR, Water Rights Program

SUBJECT: Deferral of Water Permit Application Nos. 8867-3, 8868-3, 8869-3 & 8870-3, Jim or Collin Klebsch

Notice is given that on July 10, 2024, the South Dakota Water Management Board deferred Application Nos. 8867-3, 8868-3, 8869-3 & 8870-3, until the Fall/Winter 2024, as recommended by the Chief Engineer. As noted in the Chief Engineer's recommendation, deferral of the applications is to allow time for completion of a hydrologic analysis to determine whether the 300/200 cubic feet per second appropriation limit on the James River should be retained or modified, and if modified to allow appropriations in excess of the current limit, what qualifications should be attached to new water permits to protect existing James River water rights and domestic uses.

Notice will be provided when these applications are rescheduled for consideration by the Board.

c: David McVey, Assistant Attorney General, Legal Counsel for the SD Water Management Board

CERTIFICATION

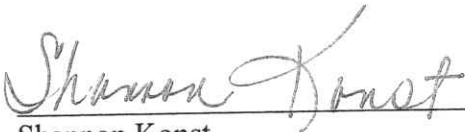
The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Entry of Order dated July 11, 2024, regarding deferral of Water Permit Application Nos. 8867-3, 8868-3, 8869-3 & 8870-3, Jim or Collin Klebsch, was served upon the following by enclosing the same in envelopes with first class postage prepaid, and depositing said envelopes in the United States mail on July 11, 2024.

Jim or Collin Klebsch
38701 170th St
Redfield SD 57469

Above was also Sent Inter-office to:

Jennifer L. Verleger, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501

David McVey, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



Shannon Konst
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of July, 20 24.


Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, June 3, 2024 4:01 PM
To: Collin Klebsch
Subject: Jim or Collin Klebsch - Public Notice
Attachments: Klebsch Ltr.pdf; Klebsch PubNotice.pdf; American News.pdf

Good afternoon,

Attached is a copy of the public notice for your water permit application. Please note that the American News requires prepayment. 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 tomorrow since today's mail was already collected for the post office.

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

Thank you,

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

JAN 07 2025

Jim or Collin Klebsch
38701 170th Street
Redfield SD 57469

Dear Sirs:

Enclosed are Water Permit Nos. 8867-3, 8868-3, 8869-3 and 8870-3 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses 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 Gonlund, 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.: 8869-3

Name of Applicant: Jim or Collin Klebsch

Date of Posting: 6/10/2024

Date of Removal: 1/7/2025



Ron Duvall, Engineer III

1/7/2025

Date

Subscribed and sworn to before me, a notary public, this 7th day of Jan, 2025.



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

(SEAL)

