

WATER PERMIT NO. 8874-3

Name of Applicant: **Mark Johnson**

Address: **40737 305th Street, Avon SD 57315**

Phone: **605-661-1769**

Amount of Water Claimed: **1.45 cfs**

Total Acres: **134**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation**

County: **Bon Homme**

Type of Waste Disposal System:

Location: **Approx. 7 miles southwest of Avon SD**

PRIORITY Date Received: **06-10-24**

Application/License Fee: **\$850.00**

Corrected Application Received: **N/A**

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

Remarks: **Inspection of 8624-3 by Keith DeJong found the well in a different aquifer and location**

Diversion Point: **SW 1/4 SW 1/4 Sec 32-T94N-R61W**

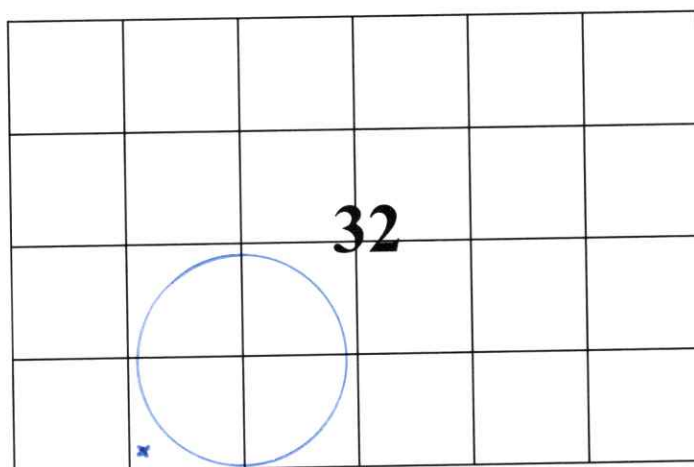
Land to be Irrigated: **SW 1/4 Sec 32-T94N-R61W**

Depth of Well: **213**

Well Driller: **Heine Electric & Irrigation**

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **06-11-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8874-3

Date of first receipt of application June 10, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8874-3 to Mark Johnson, 40737 305th Street, Avon SD 57315, 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. 8874-3 appropriates 1.45 cubic feet of water per second from one existing well completed into the Choteau: West Aquifer (213 feet deep) located in the SW 1/4 SW 1/4 Section 32 for irrigation of 134 acres located in the SW 1/4 Section 32; all in T94N-R61W. This site is located approximately 7 miles south of Avon SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.
3. The date from which applicant may claim right is June 10, 2024.
4. The date of approval of Permit No. 8874-3 is September 3, 2024.
5. 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. 8874-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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

SEP 12 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>8874-3</u> Hydrologic Unit <u>10170101</u> Basin <u>Missouri R</u> Newspaper <u>Tyndall Tribune & Register</u> <u>Daily Press & Dakotan</u> (office use only)
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PAID

JUN 10 2024

Ck# 10318

Rec't# _____

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 Mark Johnson

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

Mailing Address 40737 305th St Avon SD 57315
(Address) (City) (State) (Zip Code)

Phone _____ Mobile 605.661.1769 Email johnsonfarms2008@gmail.com

2. Amount of water claimed 1.45 *CFS or 650 **GPM _____ ***AF Total Acreage 134
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply 1 existing well (Choteau: West Aquifer)

4. Location of point of diversion SW 1/4 SW 1/4 Section 32-T94N-R61W
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Bon Homme

5. County or counties where water will be used Bon Homme

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

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

Land Description	Acres	Land Description	Acres
NE 1/4 SW 1/4	34		
NW 1/4 SW 1/4 ALL IN SEC 32	34		
SW 1/4 SW 1/4 T94N-R61W	33		
SE 1/4 SW 1/4	33		

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

inspection of WP 8624-3 and review of Well Completion Report found well had been drilled in SW1/4 SW1/4 Sec 32, rather than NW1/4 SW1/4, resulting in well being completed into different aquifer. New Permit required for appropriations for different source.

I, Mark Johnson, 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.

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)

2021-08

RECEIVED

JUN 11 2024

OFFICE OF
WATER

*note to office staff: see inspection report, map, and letter in 8624-3 file (AD)

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

For either existing or proposed wells: see 8624-3 well completion report (page 44 of file)

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

2. Wastewater Disposal System Information

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

3. Dugout Information

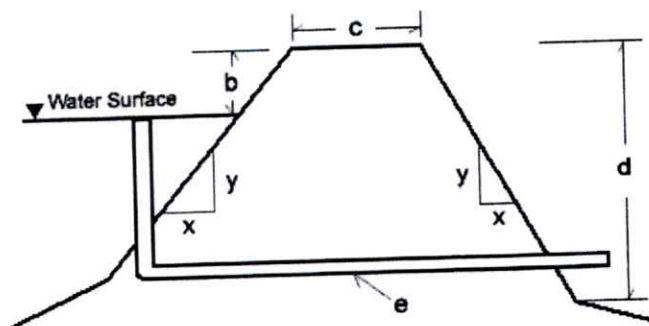
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

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



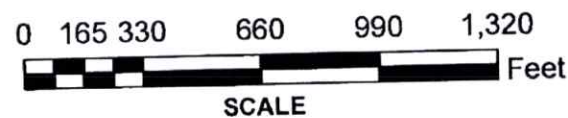
- If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____
- h) Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

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JUN 11 2024

OFFICE OF
WATER

Water Permit No. 8624-3



Keith DeJong
Keith DeJong, PE Ret.
Staff Engineer
July 7, 2023

86243

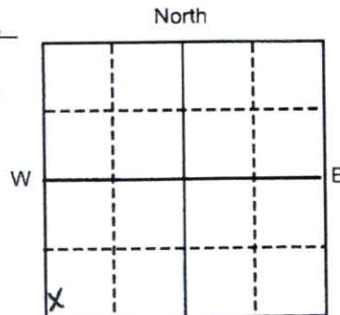
SD EForm - 1621LD V1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 SW 1/4 Sec 32 Twp 94 Rg 61County Bon Homme

Please mark well location with an "X"



Well Completion Date

8/17/22

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

.612 mi from Septic System (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	<u>16</u> IN	<u>0</u> FT	<u>113</u> FT	<u>22</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Groutwell SF</u>	<u>51</u>	Lb/gal	<u>0</u> Ft	<u>150</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

tremmie

SCREEN:

☐ Perforated pipe ☒ Manufactured

Diameter 16 Inches Length 20' Feet
Material PVCSlot Size .080 Set From _____ Feet to _____ Feet

Other information

Slot - .080 - Set - Length 20'WAS A PACKER OR SEAL USED? ☒ Yes ☐ NoIf so, what material? 16" Cap

Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH TABLETS
☐ No, Why Not?
 Lab to which water quality sample sent for analysis
Well Owner: Mark Johnson

Business Name:

Address: 40737 305th StCity, State, Zip: Avon SD 57315

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Top Soil	0	3
Clay	3	30
Sandy clay	30	153
Sand	153	156
Sandy clay	156	170
Sand & gravel in clay layers	170	180
Sand in gravel & packs	180	213

STATIC WATER LEVEL

111

FEET

If flowing: closed in pressure

PSI

GPM flow _____ through _____

Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

Reduced flow rate

GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: per drilled AM 3/22/23
☐ Bailed
☐ Other

Pumping Level Below Land Surface

129.5 Ft. After 2 Hrs. pumped 850 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

This well was drilled under license # 810 and this report is true and accurate.Drilling firm: HEINE ELECTRIC & IRRIGATION

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

RECEIVED

Date:

JAN 12 2023

OFFICE OF
WATER

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date June 11th, 2024

RECEIVED OF Mark Johnson 40737 305th Street Avon SD 57315

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

Fee for Application for Permit No. <u>8874-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$850.00
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. _____	\$ _____
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
	\$850.00

By Eric Gronlund
Chief Engineer

SK

**Report of Examination of Works and/or Application of Water to Beneficial Use
For Permit No. 8624-3**

I have this day, June 30, 2023, made a thorough examination of the water use system owned by Mark Johnson, 40737 305th St, Avon, SD 57315 holder of Permit No. 8624-3, bearing the priority date of March 28, 2022, authorizing the diversion of 1.56 cu. ft. per second of the waters of groundwater, Niobrara Aquifer for the irrigation of 136 acres, located in Bon Homme County.

Inspection contact: Mark Johnson

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Heine Electric & Irrigation
- 2) No. of Wells: 1
- 3) Depth(s): 213 feet
- 4) Well log is available: Yes

Casing:

- 1) Diameter: 16 inches
- 2) Length: 173 feet
- 3) Type: Plastic

Screen:

- 1) Diameter: 16 inches
- 2) Length: 20 feet
- 3) Type: PVC
- 4) Static water level: 111 feet

Pump:

- 1) Make: Franklin
- 2) Model: Unknown
- 3) Capacity: 650 gpm

Motor:

- 1) Make: Franklin
- 2) Model No.: Unknown
- 3) Horsepower rating: 60 hp

B. Works used to transport water to place of use:

- 1) Type: PVC Size: 8 inches Length: 1,730 feet

C. Works used to apply water to beneficial use:

Center Pivot:

- 1) Make: Valley
- 2) Overall length: 1,291 feet
- 3) Number of towers: 7
- 4) End gun: Yes
- 5) Capacity: 600 gpm

Chemigation Equipment:

- 1) Does chemigate: No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: NA, started using in 2023.
- 3) Exceptions to compliance are: None

E. Condition and Location:

- 1) The system is in good condition with the point(s) of diversion located as follows:
The well is 50 feet east and 160 feet north of the southwest corner of Section 32-T94N-R61W (Latitude 42.90931, Longitude -98.08914 – SW1/4 of the SW1/4).
- 2) The works are capable of diverting and conveying to the place of use 1.45 cu. ft. per second of water which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent as follows:

All in:

<u>Section 32-T94N-R61W</u>	
<u>NW1/4SW1/4</u>	<u>34 acres</u>
<u>NE1/4SW1/4</u>	<u>34 acres</u>
<u>SW1/4SW1/4</u>	<u>33 acres</u>
<u>SE1/4SW1/4</u>	<u>33 acres</u>

comprising a total of 134 acres of land and the license should be issued for 1.45 cfs.

- 3) All structures, wells and lands on map Yes

F. Comments or other permit(s) associated with the project: The pump and motor information was obtained from Heine Electric and Irrigation. The irrigation system was completed in 2022, but not used until 2023. Also, Mr. Johnson does not currently chemigate but may do so in the future.

This permit indicates that the well should be in the Niobrara Aquifer. There is a new well approximately one third of a mile southwest of this well. That new well is permitted for the Choteau: West Aquifer. The static water elevations are similar as well as the formation elevations.

Keith DeJong

Keith DeJong, PE Ret.
Water Rights Inspector
DANR, Water Rights Program

Date report completed: July 7, 2023



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 30, 2024

8624-3

Mark Johnson
40737 305th St
Avon SD 57315

Dear Mr. Johnson:

I am writing you today in regard to Water Permit No. 8624-3 authorizing the appropriation of 1.56 cubic feet of water per second (approx. 700 GPM) from one well (approx. depth 230 ft) located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32, completed into the Niobrara Aquifer, for the irrigation of 136 acres located within the SW $\frac{1}{4}$ Section 32; all in T94N-R61W, Bon Homme County, South Dakota.

In July 2023, Water Rights staff conducted an inspection of the irrigation system authorized under Permit No. 8624-3, for the purpose the licensing the system. During the inspection it was found that the well was drilled into the SW $\frac{1}{4}$ SW $\frac{1}{4}$, at a depth of 213 feet. Based on the location and the well completion report submitted by Heine Electric & Irrigation, it has been determined that the well was completed into the Choteau: West Aquifer.

The Water Rights Program reviews applications and makes recommendations based on the source of the appropriations. Since Permit No. 8624-3 was approved for appropriations from the Niobrara Aquifer, a new permit application will need to be submit for appropriations from the Choteau: West Aquifer.

For your convenience I have enclosed a partially completed permit application for you to review and return to our office with the associated fees. I have based the application on the inspection that was done, finding a diversion rate of 1.45 cfs & 134 irrigated acres. The fees for this new permit will \$850.00. The inspection and licensing fee will be waived since it was paid under Permit No. 8624-3. Checks can be made payable to "SD Water Rights Program". You may also submit the necessary fees over the phone by calling our Fiscal Office (605)773-5559.

If you have any questions concerning the application process or need help completing the application, please don't hesitate to call. My direct line is (605) 910-5187.

Sincerely,

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

NOTE: Once this new application is reviewed, if it is approved, it will be licensed immediately based on the inspection report completed for Permit No. 8624-3.

enclosures



**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. 8874-3, Mark Johnson**

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. 8874-3, Mark Johnson, 40737 305th Street, Avon SD 57315.

The Chief Engineer is recommending APPROVAL of Application No. 8874-3 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. 8874-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
August 8, 2024

Report to the Chief Engineer
On Water Permit Application No. 8874-3

Mark Johnson

07/01/2024

Water Permit Application No. 8874-3 proposes to irrigate 134 acres located in the SW ¼ Sec. 32-T94N-R61W at a maximum instantaneous diversion rate of 1.45 cubic feet per second (cfs) from one well completed into the Choteau: West aquifer (213 feet deep) located in the SW ¼ SW ¼ Sec. 32-T94N-R61W. This site is located approximately seven miles south of Avon, South Dakota in Bon Homme. This application is based on an inspection of Water Permit No. 8624-3. During the inspection, it was determined the well was completed into the Choteau: West aquifer and not the Niobrara aquifer as authorized by Water Permit No. 8624-3.

AQUIFER: Choteau: West (CH:W)

HYDROGEOLOGY:

The West management unit of the Choteau aquifer was referred to as the Choteau aquifer by Christensen (1970), Jorgensen (1971), and Kume (1977). The Choteau: West aquifer naming convention will be used in this report as it was established by Hedges et. al (1982) and accepted by the South Dakota Water Management Board. The Choteau: West aquifer is a basal glacial outwash deposit composed of sand and gravel that primarily lies within a bedrock valley but also underlies portions of Choteau and Dry Choteau Creeks and surficial till layer (Jorgensen, 1971; Kume, 1977; SDGS, 2024; Tomhave and Shulz, 2004). Hedges et al (1982) estimate that the Choteau: West aquifer underlies approximately 218,400 acres of Bon Homme, Charles Mix, and Douglas Counties and contains an estimated 1,474,200 ac-ft of recoverable water in storage. Hedges et al. (1985) states the Choteau: West aquifer is a confined aquifer but Jorgensen (1971) and Kume (1977) identified some unconfined portions occur in the aquifer near the hydrological connections to surface water sources (Choteau Creek and Dry Choteau Creek).

A well completion report is on file for the well proposed to be used by Water Permit Application No. 8874-3. The report lists “topsoil” from 0 to 2 feet below the ground surface, “clay” from 3 to 30 feet, “sandy clay” from 30 to 153 feet, “sand” from 153 to 156 feet, “sandy clay” from 156 to 170 feet, “sand & gravel with clay layers” from 170 to 180 feet, and “sand w[ith] gravel & rocks” from 180 to 213 feet (Water Rights, 2024d). In 2022, the static water level was approximately 111 feet at the time of well completion. Based on the water well completion report and other nearby well completion reports near the diversion point, the Choteau: West aquifer is expected to be confined at the diversion point (SDGS, 2024; Water Rights, 2024b and 2024d).

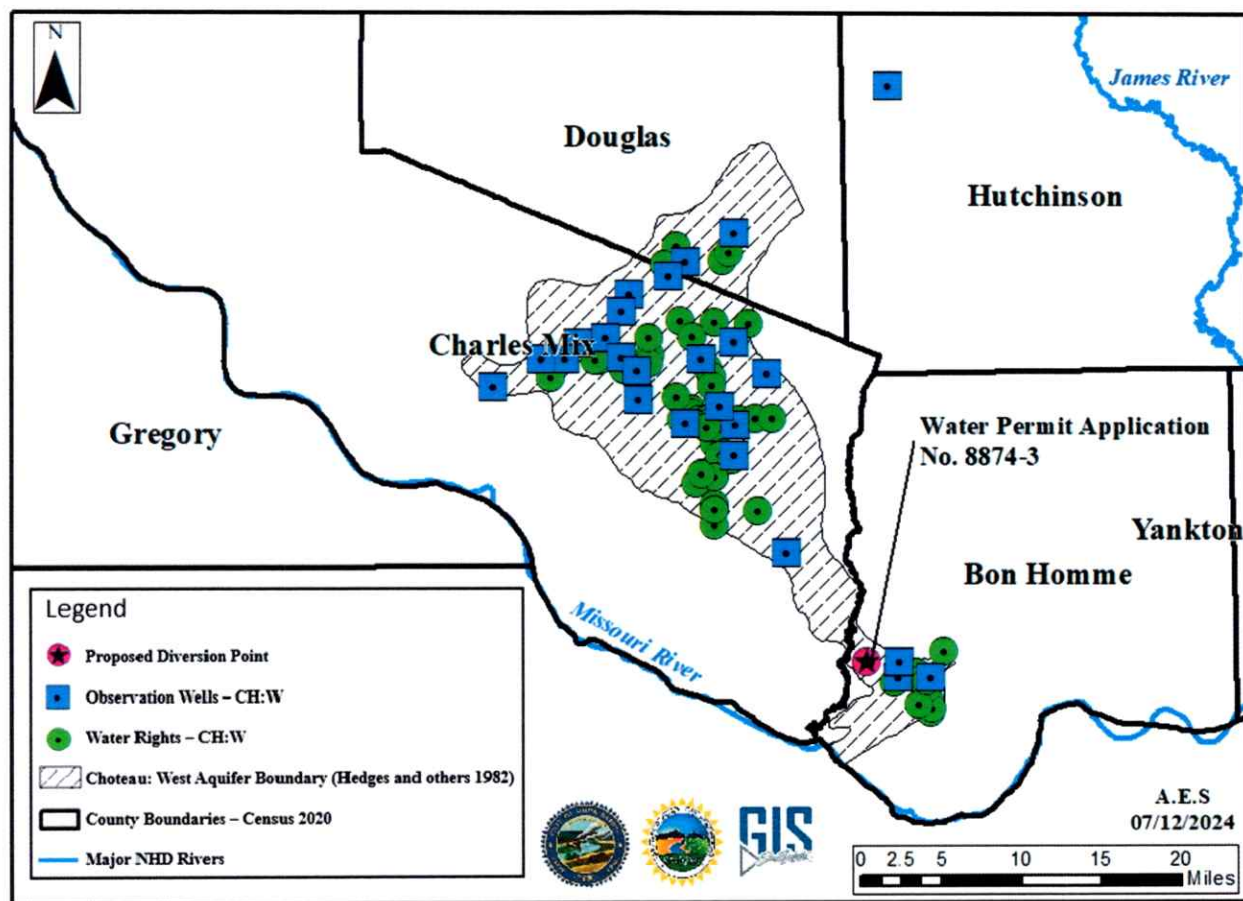


Figure 1. Map of the approximate Choteau: West aquifer boundary, Choteau: West aquifer water rights/permits and observation wells, and the location of the diversion point for Water Permit Application No. 8874-3 (Water Rights, 2024b and 2024c)

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 Choteau: West aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8874-3 proposes to appropriate water from the Choteau: West 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 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 Choteau: West aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Choteau: West aquifer is received primarily through the infiltration of precipitation where the aquifer is exposed at or near the land surface, groundwater inflow from hydrologically connected bedrock aquifers, and seepage through till layers from Choteau Creek and Dry Choteau Creek (Jorgensen, 1971; Kume, 1977). There is also the possibility of recharge from the Niobrara aquifer where the two aquifers are in contact, since the Niobrara aquifer has a higher potentiometric surface (Kume, 1977).

Using observation well analysis, Hedges et al (1985) estimated a recharge rate of 4.1 inches per year for the unconfined portion of the Choteau: West aquifer. The unconfined area for this primarily confined aquifer has not been delineated. Therefore, the Choteau: West aquifer will be evaluated as a confined aquifer. Hedges et al (1985) recommend using a recharge rate of 0.15 inches per year (in/yr) to 0.6 in/yr for confined aquifers by management and development programs. The Choteau: West aquifer has an estimated areal extent of approximately 218,400 acres (Hedges et al, 1985). Therefore, the average annual recharge rate (based on Hedges et al, 1985) ranges from 2,730 acre-feet/year to 10,920 acre-feet/year.

Discharge

Discharge from the Choteau: West aquifer primarily occurs through well withdrawals, seepage to surface water features, and evapotranspiration in areas where the aquifer is at or near land surface (Jorgensen, 1971; Water Rights, 2024d). Discharge from the management unit consists of natural losses to springs (in the southern part of the management unit), seepage to surrounding bedrock or drift, and pumping from wells (Kume, 1977). Mathiowetz (2016) notes that, based on observation well data along the eastern edge of the management unit, there is potential for water to move into the Niobrara aquifer where it is in contact with the management unit. Withdrawals due to wells can be split into irrigation and non-irrigation uses. The majority of water rights/permits for this management unit are irrigation use. Due to the relatively low diversion rate of domestic wells, the development of rural water systems over a large portion of the area where the Choteau: West aquifer is the uppermost aquifer available, and the availability of shallower aquifers over a large extent of the Choteau: West aquifer; withdrawals from domestic wells are assumed to be a negligible portion of the hydrologic budget.

Currently there are 57 water rights/permits authorized to appropriate water from the Choteau: West aquifer (Water Rights, 2024c). There are no future use permits reserving water from the Choteau: West aquifer (Water Rights, 2024c).

Table 1 summarizes the six non-irrigation water rights/permits authorized to appropriate water from the Choteau: West aquifer with the estimated annual use for each water right/permit as determined by their permitted maximum 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 the 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 and is likely an overestimation of average annual withdrawals (Water Rights, 2024c). Overall, the estimated average annual withdrawal rate for the Choteau: West aquifer non-irrigation water rights/permits is approximately 351 acre-feet/year (Table 1) (Water Rights, 2024c). The City of Wagner is connected to a rural water system and maintains Water Right Nos. 569-3 and 1782-3 for standby purposes (Drinking Water Program, 2024). Therefore, water use under these rights is estimated to be negligible.

Table 1. Estimated annual use for non-irrigation water rights/permits authorized to divert water from the Choteau: West aquifer (Water Rights, 2024c)

Permit No.	Name	Status	Use Type(s)	Authorized Diversion Rate (cfs)	Estimated Use (acre-feet)
7276-3	RED & LORI SPARKS	LC	COM	0.134	58.2
7403-3	CRAIG VANDERLEI	LC	DOM	0.075	32.6
1782-3	CITY OF WAGNER	LC	MUN	0.89	0*
569-3		LC	MUN	1.1	0*
296-3	CHARLES H AHRENS	LC	REC, DOM	0.3	130.3
297-3		LC	REC	0.3	130.3
			Total	2.8	351.4
*Identified as being connected to a rural water system					
LC: Licensed Water Right; COM: Commercial; DOM: Domestic; MUN: Municipal; REC: Recreation					

Currently, there are 51 irrigation water rights/permits authorized to appropriate water from the Choteau: West aquifer (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 Choteau: West aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2022) is approximately 2,551 acre-feet per year (Table 2) (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 2,949 acre-feet per year (Table 2) (Water Rights, 2024a).

Table 2 only lists 50 water rights/permits as reporting in 2022 (Water Rights, 2024a). Water Right No. 8671-3 and Water Permit Nos. 8699-3, 8720-3, and 8759-3 were approved in 2022 or 2023 and have not reported the annual withdrawal rates at this time (Water Right, 2024a and 2024c). Water Right No. 8671-3 and Water Permit Nos. 8699-3, 8720-3, and 8759-3 are authorized to irrigate 512 acres (Water Rights, 2023c). Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year. However, to account for fluctuation in wet and dry cycles from year to year, the one foot of water per acre per year application rate will be used to somewhat overestimate the annual withdrawal rate for these irrigation water permits. Therefore, the estimated average annual withdrawal rate for Water Right No. 8671-3 and Water Permit Nos. 8699-3, 8720-3, and 8759-3 is approximately 512 acre-feet per year. Kilts (2023) determined that water usage for Water Right Nos. 4132-3 and 6379-3 and Water Permit No. 8624-3 should be included in the hydrologic budget for the Choteau: West aquifer. This application is to correct the aquifer assignment for Water Permit No. 8624-3 from the Niobrara aquifer to the Choteau: West aquifer, so water use for 8624-3 is accounted for in the estimated water usage for this application. The reported annual water usage for Water Right Nos. 4132-3, 6379-3 and Water Permit No. 8624-3 have been included in Table 2 to account for the determination by Kilts (2023). Collectively, the estimated average annual withdrawal rate for the irrigation water permits approved in 2022 and 2023 (512 acre-feet/year), plus the average annual withdrawal rate for the irrigation appropriations from 2013 to 2022 (2,949 acre-feet/year), is approximately 3,461 acre-feet per year.

Hydrologic Budget Summary

The estimated average annual recharge rate to the Choteau: West aquifer ranges from approximately 2,730 acre-feet per year to 10,920 acre-feet/year. The estimated average annual withdrawal rate from the Choteau: West aquifer is approximately 3,946 acre-feet per year (non-irrigation: 351 acre-feet/year; irrigation: 3,461 acre-feet/year; Water Permit Application No. 8874-3 (if approved, assuming one foot per authorized acre application rate): 134 acre-feet/year). The estimated average annual withdrawal is less than the mid-point (6,825 ac-ft/yr) of the recharge rate range. Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Choteau: West aquifer for the proposed appropriation.

Table 2. Reported historic irrigation uses from the Choteau: West aquifer (Water Rights, 2024a)

Year	No. of Water Rights/Permits Reporting	Reported Use (acre-feet)
1979	49	2,933
1980	47	2,644
1981	48	3,132
1982	39	1,647.15
1983	40	1,368.89
1984	44	1,692
1985	43	2,377
1986	42	2,986
1987	42	2,198
1988	44	4,537.4
1989	45	3,984.1
1990	45	3,716
1991	45	4,056.5
1992	46	1,682.6
1993	45	334.2
1994	41	2,026.03
1995	42	999.46
1996	42	1,795.61
1997	42	1,509
1998	42	697.51
1999	40	1,248.07
2000	33	3,009.11
2001	33	1,625.24
2002	33	3,223.92
2003	33	2,526.26
2004	34	2,819.08
2005	36	2,896.82
2006	36	3,598.83
2007	34	3,363.59
2008	34	2,443.95
2009	35	1,163.81
2010	35	614.83
2011	35	1,872.77
2012	33	6,042.81
2013	43	4,141.1
2014	45	3,966.34
2015	46	4,306.86
2016	44	2,800.67
2017	47	3,323.18
2018	45	122.39
2019	46	285.39
2020	46	1,565.85
2021	46	3,739.86
2022	50	5,240.61
Min	33	122.39
Max	50	6,042.81
Average (1979 to 2022)	41	2,551
Average (2013 to 2022)	46	2,949

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 24 observation wells completed into the Choteau: West aquifer, with observation wells in the area of this application shown on Figure 5 (Water Rights, 2024b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The three closest observation wells to the diversion point are BH-78C (2 miles east), BH-82D (2.2 miles east), BH-78D (4.2 miles east) (as shown in Figure 5) (Water Rights, 2024b). The hydrographs for these observation wells are displayed in Figures 2 to 4 (Water Rights, 2024b). It should be noted observation well BH-82D had iron bacteria detected in the well in 2023. Based on the available water level data of this well and other nearby wells, the published data is accurate and representative of the aquifer. However, the well is currently not being measured.

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. A majority of the observation wells in the Choteau: West aquifer have a stable trend in the water level. Although, there are a few observation wells that have been on a slight decline since 2010. This is most likely due to recent development of water rights in close proximity to the observation wells reducing artesian head pressure until the water level equilibrates to the increased localized pumping. Once the new water use in the area becomes relatively consistent, the water level adjusts and stabilizes.

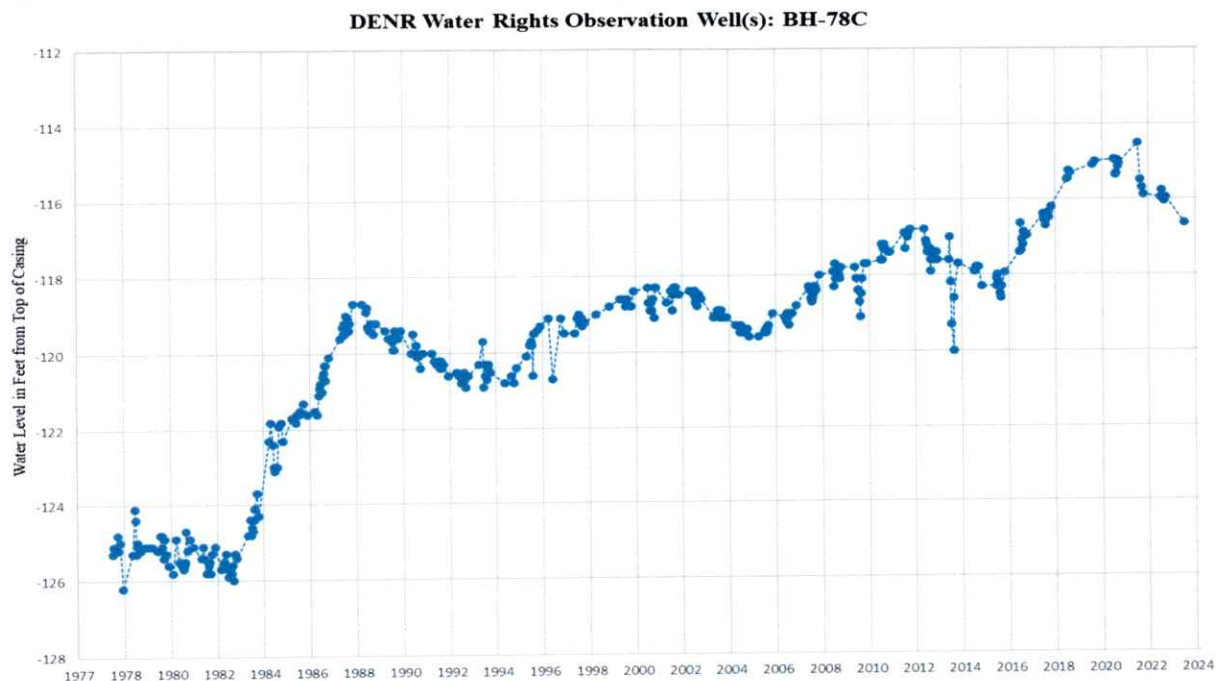


Figure 2. Hydrograph for observation well BH-78C (Water Rights, 2024b)

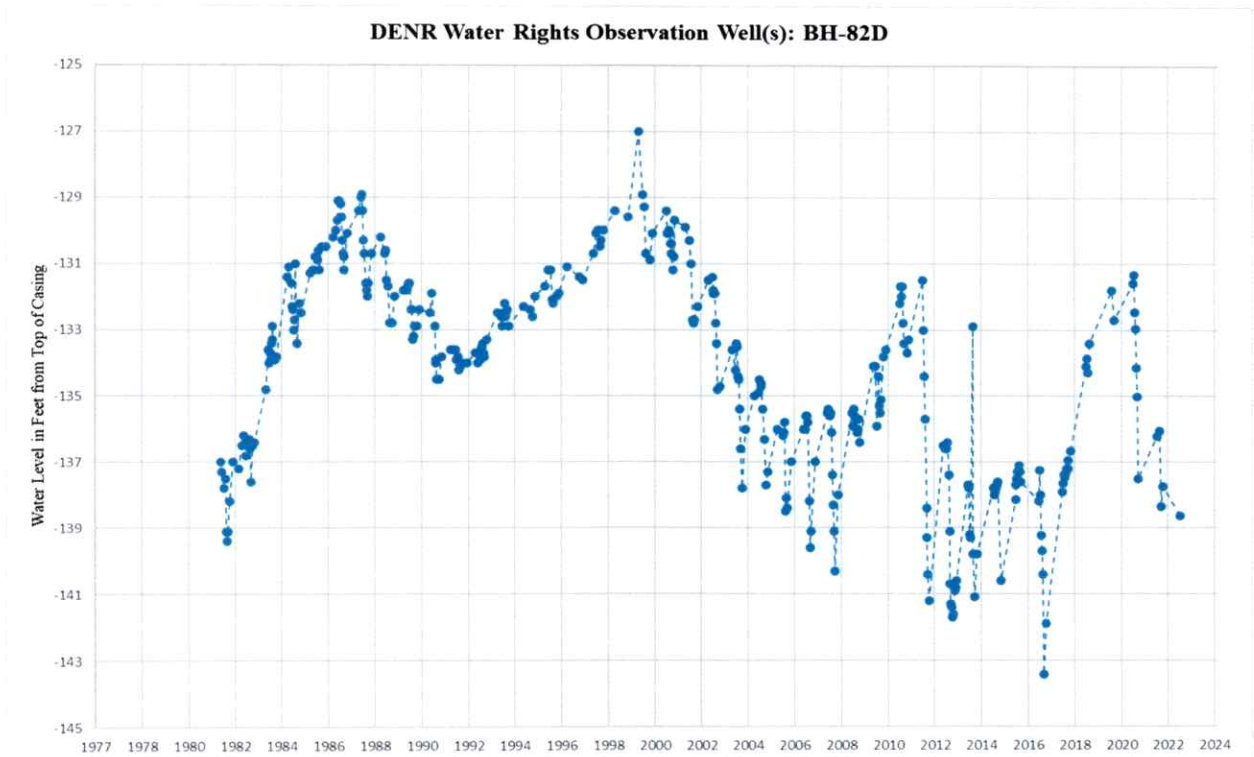


Figure 3. Hydrograph for observation well BH-78D (Water Rights, 2024b)

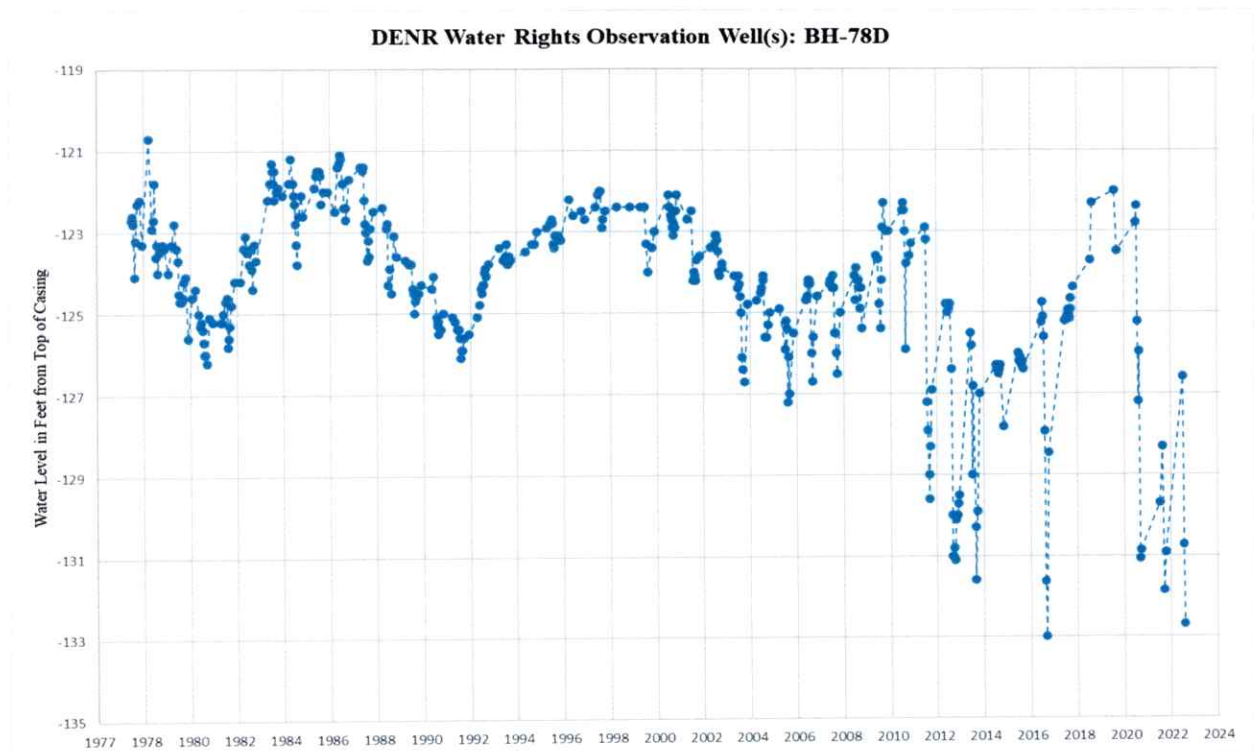


Figure 4. Hydrograph for observation well BH-82D (Water Rights, 2024b)

The hydrographs for these observation wells were compared to hydrographs for other observations wells completed into the Choteau: West aquifer and each displayed a generally similar trend as shown on the hydrographs in Figures 2 to 4 (Water Rights, 2024b). The hydrographs for the observation wells display stable water levels over their respective periods of record with some shifts downward in observation wells in close proximity to recent development. However, the water levels in most of the observation wells that show the downward shift have stabilized or are expected to stabilize. The hydrographs for the Choteau: West aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods and declining to a stable water level during drier periods. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer greatly exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping from the Choteau: West aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 57 water rights/permits authorized to appropriate water from the Choteau: West aquifer (Water Rights, 2024c). The closest water right/permit to the proposed diversion point is Water Right No. 7636-3, which is held by Verlyn Jelsma. The diversion point for Water Right No. 7636-3 is located approximately 2.2 miles south of the diversion point for this application (Figure 5) (Water Rights, 2024c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the Choteau: West aquifer, with the closest domestic well on file (not held by the applicant) located approximately 1.3 miles east of the diversion point (Water Rights, 2024d). There could potentially be other domestic wells completed into the Choteau: West aquifer near the well the applicant proposes to use 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.

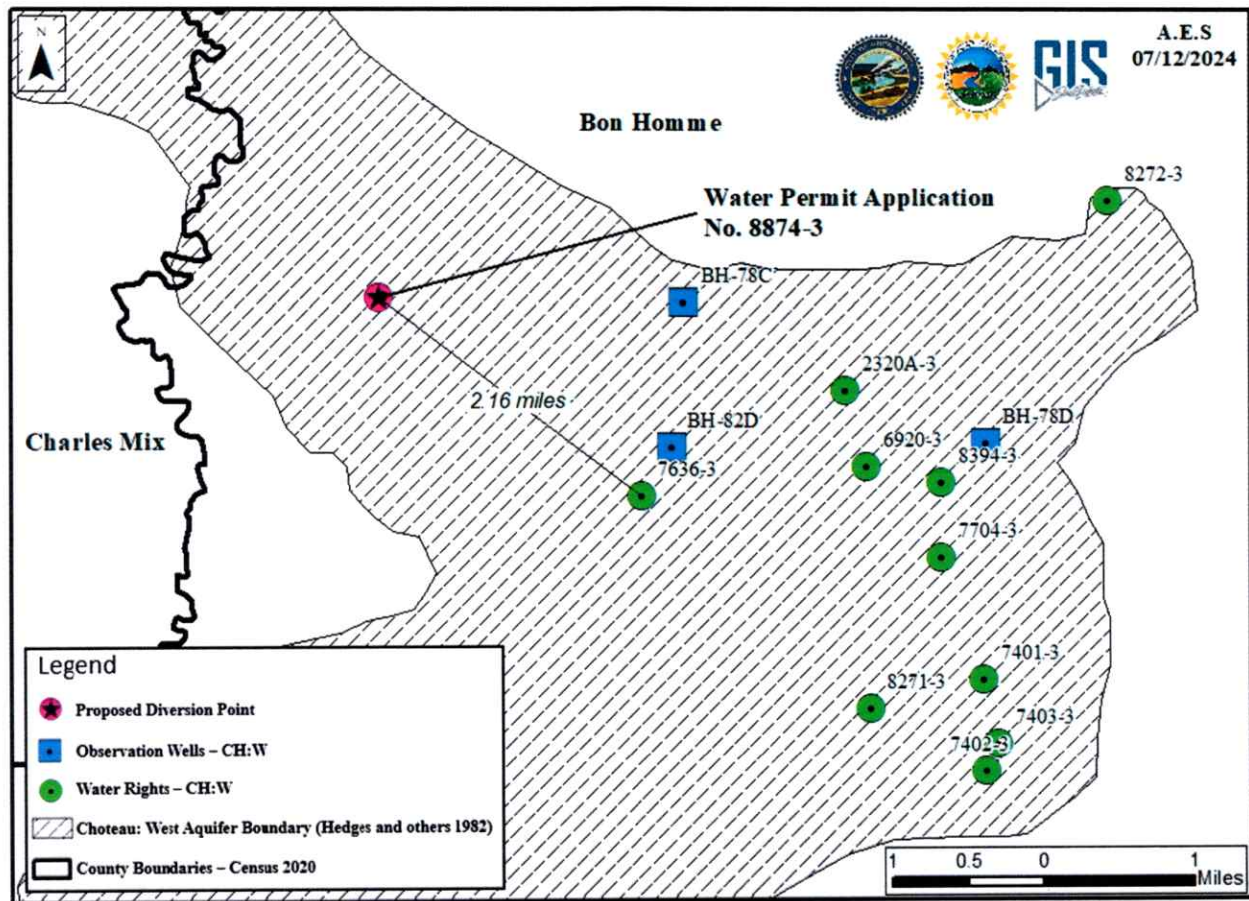


Figure 5. Map of the approximate area of the Choteau: West aquifer, water rights/permits, and observation wells that are within approximately 6 miles of the diversion point for Water Permit Application No. 8874-3 (Water Rights, 2024b and 2024c)

Table 4. List of water right/permits shown in Figure 5 (Water Rights, 2024c)

Permit	Name/Business	Status	Use Type	CFS	Acres
2320A-3	Ernest R Namminga	License	Irrigation	1.78	248
6920-3	Ernest R Namminga	License	Irrigation	1.78	131
7401-3	Leon Vanderlei	License	Irrigation	2	190
7402-3	Craig Vanderlei	License	Irrigation	1.78	241
7403-3	Craig Vanderlei	License	Domestic	0.075	N/A
7636-3	Verlyn Jelsma	License	Irrigation	0.58	69
7704-3	Ivan Jelsma	License	Irrigation	1.78	133
8271-3	Leon Vanderlei	License	Irrigation	1.89	399
8272-3	Craig Vanderlei	License	Irrigation	1.11	68
8394-3	Craig Vanderlei	License	Irrigation	1.89	266

The Choteau: West aquifer is primarily under confined conditions. In a confined aquifer, drawdown from a pumping well can extend some distance from the well. 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 Choteau: West 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)), the saturated aquifer thickness near the diversion point, any drawdown created from the proposed diversion is not expected to cause an unlawful impairment to 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 to existing users with adequate wells.

HISTORICAL CONCERNS:

In the 1950’s there was concern about impacts of irrigation development on artesian head pressure. Walker (1961) concluded that irrigation pumping had lowered the water level enough to cause some domestic wells in the area to stop flowing. The concerns have been investigated and no further issues with groundwater pumping occurred in the next several years. Concerns over the impact of irrigation development on artesian head pressure, are now addressed in SDCL 46-6-6.1 and the definition of an adversely impacted adequate well in which artesian head pressure is not necessarily protected as a means of groundwater delivery.

CONCLUSIONS:

1. Water Permit Application No. 8874-3 filed by Mark Johnson proposes to appropriate water at a maximum diversion rate of 1.45 cfs from one existing well completed into the Choteau: West aquifer located in the SW 1/4 SW 1/4 Section 32-T94N-R61W for the irrigation of 134 acres located in the SW 1/4 of Section 32-T94N-R61W. This site is located approximately seven miles south of Avon, South Dakota in Bon Homme County.
2. This application is based on an inspection of Water Permit No. 8624-3. During the inspection, it was determined the well was completed into the Choteau: West aquifer and not the Niobrara aquifer as authorized by Water Permit No. 8624-3.
3. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Choteau: West aquifer to supply the proposed appropriation.
4. There is a reasonable probability that the diversion by Water Permit Application No. 8874-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.



Austin Settje
Natural Resources Engineer I
SD DANR - Water Rights Program



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

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Water Rights, 2024b. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2024c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2024d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2024e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

August 12, 2024

Mark Johnson
40737 305th Street
Avon SD 57315

Dear Mr. Johnson:

Water Permit Application No. 8874-3 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 Tyndall Tribune & Register printed in Tyndall (Ph # 605 589-3242) and the Daily Press & Dakotan printed in Yankton SD (PH # 605 665-7811). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 8874-3 to Appropriate Water

Notice is given that Mark Johnson, 40737 305th Street, Avon SD 57315 has filed an application for a water permit to appropriate 1.45 cubic feet of water per second from one existing well completed into the Choteau: West Aquifer (213 feet deep) located in the SW 1/4 SW 1/4 Section 32 for irrigation of 134 acres located in the SW 1/4 Section 32; all in T94N-R61W. This site is located approximately 7 miles south of Avon SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8874-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 3, 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 September 3, 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: Monday, August 12, 2024 8:34 AM
To: tyndalltribune@gmail.com
Subject: 8874-3 Mark Johnson - Public Notice
Attachments: 8874-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on August 21, 2024, in the Tyndall Tribune & Register.

Mark Johnson, 40737 305th Street, Avon SD 57315, 605-661-1769, has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, August 12, 2024 8:37 AM
To: Kelly Kronaizl
Subject: 8874-3 Mark Johnson - Public Notice
Attachments: 8874-3 public.short_final.docx; FORM8.FRM.doc

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

Thank you,

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



AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

MARK JOHNSON
40737 305TH ST
AVON SD 57315

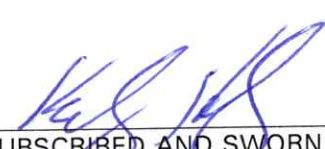
STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

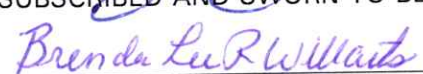
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND 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 21st DAY OF August, 2024
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$39.36 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: 08/21/2024

FILED ON: 08/21/24


SUBSCRIBED AND SWORN TO BEFORE ME THIS 21st DAY OF August, 2024


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



RECEIVED

AUG 23 2024

OFFICE OF
WATER

Ad text :

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The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 3, 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 \$39.36 and can be viewed free of charge at www.sdpublicnotices.com

Published August 21, 2024.

RECEIVED

AUG 23 2024

OFFICE OF
WATER

Affidavit of Publication

State of South Dakota }
County of Bon Homme } SS

Rebecca Ty... Being first duly sworn says that the **Tyndall Tribune & Register** is a legal weekly newspaper for publication of legal and other official notices as required by Chapter 298 of the Session Laws of South Dakota, 1939; that it has bona fide paid circulation of more than two hundred copies weekly; that it is published in English language in the City of Tyndall, Bon Homme County, South Dakota, and has been admitted to the United States mail under second class mailing privilege for more than one year prior to the first publication of the notice herein mentioned, and that it is printed in an office maintained at the place of publication at Tyndall, South Dakota, and that deponent is the publisher in charge of the advertising department of said newspaper; that the advertisement headed

Not. Appl. to Appropriate Water
1016 @ 399

a printed copy of which is hereto attached, was printed and published in said newspaper for *one* successive weeks, upon the following dates:

<i>Aug 21</i>20.....	20.....
.....20.....	20.....
.....20.....	20.....
.....20.....	20.....

That the full amount of the fee charged for the publication of said notice, *\$42.29* inures to the benefit of the publisher of said newspaper, that no agreement or understanding for the division thereof has been made with any other person, and that no part has been agreed to be paid to any person whomsoever.

Rebecca Ty...
Subscribed and sworn to before me this

21 day of *Aug* 20*24*

Peggy Schorn
Notary Public, South Dakota

My Commission expires 10-24-2021

NOTICE OF APPLICATION

NO. 8874-3 to Appropriate Water

Notice is given that Mark Johnson, 40737 305th Street, Avon SD 57315 has filed an application for a water permit to appropriate 1.45 cubic feet of water per second from one existing well completed into the Choteau: West Aquifer (213 feet deep) located in the SW 1/4 SW 1/4 Section 32 for irrigation of 134 acres located in the SW 1/4 Section 32; all in T94N-R61W. This site is located approximately 7 miles south of Avon SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8874-3 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by September 3, 2024.

The petition shall include a statement describing the unique injury upon ap-

RECEIVED

AUG 26 2024

OFFICE OF
WATER

proval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by September 3, 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.

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(August 21)

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, August 12, 2024 8:40 AM
To: johnsonfarms2008@gmail.com
Subject: 8874-3 Mark Johnson - Public Notice
Attachments: 8874-3 Rec.pdf; 8874-3 Ltr.pdf; 8874-3 PubNotice.pdf

Good morning,

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

SEP 12 2024

8874-3

Mark Johnson
40737 305th Ave
Avon SD 57315

Dear Mr. Johnson:

Enclosed is Water License No. 8874-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if in the future, the owner of an existing well, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

So long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 8874-3**

(1) Mark Johnson, 40737 305th St, Avon SD 57315, made Application No. 8874-3, June 10, 2024, for a water permit to divert 1.45 cubic feet of water per second from groundwater, one well (Choteau: West Aquifer), Bon Homme County, South Dakota for irrigation purposes. Permit No. 8874-3, with a priority date of June 10, 2024, was approved September 3, 2024, and issued to the applicant for diversion of water and the application to beneficial use.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.46 cubic feet of water per second for beneficial use. The location of the diversion point is:

- 50 ft E & 160 ft N of the SW corner Section 32, T94N, R61W (SW $\frac{1}{4}$ SW $\frac{1}{4}$)
(Latitude 42.90931 & Longitude -98.08914)

(3) The amount of appropriation may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate to following land:

Section 32, T94N, R61W			
NE $\frac{1}{4}$ SW $\frac{1}{4}$	34 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$	33 acres
NW $\frac{1}{4}$ SW $\frac{1}{4}$	34 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$	33 acres
TOTAL: 134 acres			

(5) Pursuant to South Dakota Water Law 46-5-30.1 Mark Johnson, the holder and/or owner of Water Right No. 8874-3 is issued a license to appropriate water, the right to use 1.46 cubic feet of water per second from groundwater, one well (Choteau: West Aquifer), with a priority date of June 10, 2024, from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 8874-3 and subject to the following qualifications:

1. The well approved under Water Permit No. 8874-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals shall be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



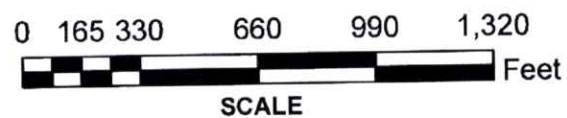
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

SEP 12 2024

date



Water Permit No. 8624-3



Keith DeJong
Keith DeJong, PE Ret.
Staff Engineer
July 7, 2023



**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**

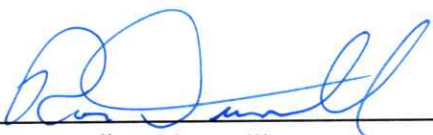
Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the 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.: 8874-3

Name of Applicant: Mark Johnson

Date of Posting: 8/19/2024

Date of Removal: 9/12/2024



Ron Duvall, Engineer III

9/12/2024

Date

Subscribed and sworn to before me, a notary public, this 12th day of Sept., 2024.



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

(SEAL)





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

January 14, 2025

NOTICE

TO: MARK JOHNSON, 40737 305TH ST, AVON, SD 57315

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 8874-3. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 8874-3 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 8874-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: **FMUBJJ****

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 17, 2025

8874-3

Mark Johnson
40737 305th St
Avon SD 57315

Dear Mr. Johnson:

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

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 8874-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

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

Sincerely,

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