

WATER PERMIT NO. 8895-3

Name of Applicant: **David Nystrom**

Address: **46609 SD Hwy 28, PO Box 213, Estelline SD 57234**

Phone: **605-873-2431**

Amount of Water Claimed: **240 AF**

Total Acres: **N/A**

Source of Water Supply: **Groundwater**

Water to be used for: **Commercial**

County: **Deuel**

Type of Waste Disposal System:

Location: **Approx. 3 miles east of Estelline SD**

PRIORITY Date Received: **08-14-24**

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

Corrected Application Received: **08-22-24**

Period of Annual Use: **January 1 – December 31**

Remarks: **Expanding their business and would like an increase in the amount water**

Diversion Point: **SW 1/4 NW 1/4 Sec 28-T113N-R50W**

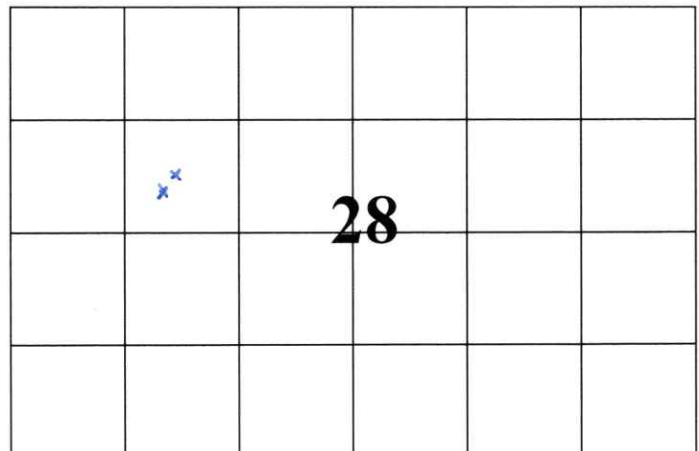
Land to be Irrigated: **N/A**

Depth of Well: **57**

Well Driller: **Pullman Well Drilling**

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **08-23-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8895-3**

Date of first receipt of application August 14, 2024.

Date of return to applicant for corrections, amendments or changes August 22, 2024.

Date of receipt of corrected application August 22, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8895-3 to David Nystrom, 46609 SD Hwy 28, Estelline SD 57234, 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. 8895-3 authorizes an additional 117.5 acre-feet of water annually at a pump rate of 0.67 cubic feet of water per second (cfs) to what is currently authorized by Water Right No. 6786-3. Water Right No. 6786-3 appropriates 0.17 cfs (122.5 acre-feet) from two existing wells completed into the Big Sioux: Brookings Aquifer (57 feet deep) located in the SW 1/4 NW 1/4 Section 28-T113N-R50W, for commercial use in a dairy operation. This Permit and Water Right No. 6786-3 authorize a combined total of 240 acre-feet annually with a maximum pump rate of 0.84 cfs from the two existing wells described above for commercial use in the dairy operation located in the S 1/2 Section 21-T113N-R50W. This site is located approximately three miles east of Estelline SD.
2. The water appropriated shall be used for the purpose of commercial use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 8895-3 is November 12, 2024.
5. The date from which applicant may claim right is August 14, 2024.
6. 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 wells approved under Water Right No. 6786-3 and Water Permit No. 8895-3 are located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8895-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
3. Water Permit No. 8895-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
4. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Big Sioux Brookings Aquifer.

(continued)

5. Water Right No. 6786-3 and Water Permit No. 8895-3, combined, authorize a total annual diversion up to 240 acre-feet of water from the Big Sioux Brookings Aquifer.

WATER MANAGEMENT BOARD

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

NOV 26 2024

date



RECEIVED

AUG 14 2024

OFFICE OF
WATER

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8895-3</u> Hydrologic Unit <u>10170202</u> Basin <u>Big Sioux</u> Newspaper <u>Clear Lake Courier</u> <u>Brookings Register</u> (office use only)
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Application for Permit to Appropriate Water in South Dakota

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal
☒ Domestic (over 18 gpm)	☐ Industrial	☐ Other	

Type of Application: (check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☒ Amendment/Correction to Permit No. <u>6786-3</u>		

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

Increase permit gallons/minute

1. Name to Appear on Water Permit David Nystrom
Mailing Address 44609 SA Hwy 28 P.O Box 213 Bkline SD 57234
(Address) (City) (State) (Zip Code)
Phone 6058732431 Mobile 6056901454 Email _____

2. Amount of water claimed 0.67 *CFS or 300 **GPM and 117.5 ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply Big Sioux Aquifer 2 Existing Wells auth. by 6786-3

4. Location of point of diversion 2 wells SW 1/4 NW 1/4 Sec 28 - T113N-R50E County Deuel
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No
If "Yes," where will water be used? _____
(example - NW 1/4 section 12-T104N-R53W)

5. County or counties where water will be used Deuel

6. Annual period during which water is to be used January 1 - December 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

We would like to increase our permitted gallons/minute to accommodate expansion or possible future irrigation. Maps and well drillers logs are included in the current permit.

I, David Nystrom Owner, the applicant, certify under
Name of Person Title (if applicable)

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

2021-08

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

Note to office staff: map of well sites is on file under WR No. 6786-3

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 2 Provide copy of log(s), if available. Drilled by _____

For either existing or proposed wells: (see WCRs on file for 6786-3)

- c) Well Depth (required) 57' 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 _____

240 acft
annually
per attached
email
AD

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)

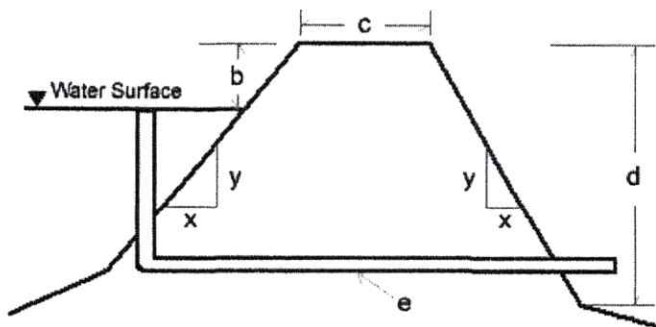
Upstream _____

Downstream _____

- h) Area of Impoundment _____

- i) Storage _____ Acre Feet

- j) Drainage Area Above Dam _____ Acres





map center: 44° 33' 56.32, 96° 50' 7.1

scale: 10146



11/16/2011

Maps provided by:



©AgriData, Inc. 2011

www.AgriDataInc.com

28-113N-50W
Deuel County
South Dakota

Field borders provided by Farm Service Agency as of 5/21/2008. Aerial photography provided by Aerial Photography Field Office.

113N 50W
Section: 17

113N 50W
Section: 16

113N 50W
Section: 15

113N 50W
Section: 20

113N 50W
Section: 21

113N 50W
Section: 22

SD HWY 28
28

10170202 Middle Big Sioux

Big Sioux

113N 50W
Section: 29

113N 50W
Section: 28

113N 50W
Section: 27

113N 50W
Section: 32

113N 50W
Section: 33

113N 50W
Section: 34

468 AVE

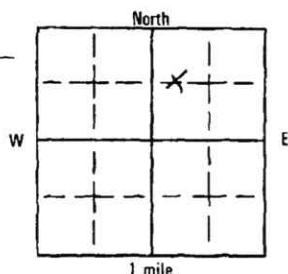
101ST

SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location NW 1/4 NE 1/4 Sec 28 Twp 13-N Rg 50-WCounty Dewey

Please mark well location with an "X"

Well Completion Date 1-25-90

PROPOSED USE:

☒ Domestic ☐ Municipal ☐ Test Holes
☐ Irrigation ☐ Industrial ☒ Stock

Method of Drilling:

Forward Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
_____ LB/FT	<u>5</u> IN	<u>0</u> FT	<u>53</u> FT	<u>8 1/2</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUT:

Was the well grouted? ☒ YES ☐ NOTo what depth? 20 FEETWhat is grouting material? CementIf cement, number of sacks? 6Describe grouting procedure fine

What was grout weight? _____ LB/GAL

SCREEN: ☒ Perforated pipe ☐ ManufacturedDiameter 5 IN Length 20 FEETMaterial B.V.C.Slot Size 016 Set From 33 Feet To 53 Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Other information _____

Was a packer or seal used? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? Gravel PackedWas well disinfected upon completion? ☒ YES ☐ NO

Explain _____

Bacteriological analysis ☐ YES ☒ NOLaboratory sent to sent in by Farmer

Well Owner:

Name Dave NystromAddress Estelline, S.D. 57234

Well Log:

Depth

Formation

From

To

Yellow Coarse Med. Gravel	0	18
Yellow Clay	18	20
Med. Coarse Gravel + gray sand	20	55
Blue Clay	55	57

STATIC WATER LEVEL 20 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other, specify _____

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped☐ Bailed☐ OtherDescribe: 100 ft. p.m.

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

REMARKS:

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm Pullman Well Drilling

Signature of License Representative:

E. E. Kuhl

Signature of Well Owner:

Date

2-1-902-14-90

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6786-3

(1) David Nystrom, PO Box 213, Estelline SD 57234-0213 made Application No. 6786-3, November 21, 2006 for a water permit to divert 0.17 cubic feet of water per second (75 gallons per minute) from ground water (one well – Big Sioux: Brookings Aquifer), Deuel County, South Dakota for commercial purposes. Permit No. 6786-3, with a priority date of November 21, 2006 was approved March 5, 2007 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 5, 2012 and for the application to beneficial use of said water on or before March 5, 2016.

The Permit holder submitted a "Notice of Completion of Works and Application of Water to Beneficial Use" on May 16, 2007. The "Notice" stated the water use system was completed and water placed to beneficial use on May 12, 2007.

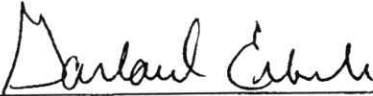
(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.17 cubic feet of water per second for beneficial use. The location of the diversion point is approximately 2,280 feet south and 830 feet east of the NW corner of Section 28, T113N, R50W (SW ¼ NW ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use for the dairy operation.

(4) Pursuant to South Dakota Water Law 46-5-30.1 David Nystrom, PO Box 213, Estelline SD 57234-0213 the holder and/or owner of Water Right No. 6786-3 is issued a license to appropriate water, the right to use 0.17 cubic feet of water per second (75 gallons per minute) from ground water (one well – Big Sioux: Brookings Aquifer) with a priority date of November 21, 2006 from the location specified in (2) of this license for commercial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6786-3 and subject to the following qualification:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.


Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 25 2008

date



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 22nd, 2024

RECEIVED OF Global Dairy, LP 46844 SD Hwy 28 Estelline SD 57234

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

Fee for Application for Permit No. <u>8895-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>750.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8895-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>950.00</u>

By Eric Gronlund
Chief Engineer

Sn

Duvall, Ron

From: global <global@itctel.com>
Sent: Tuesday, September 3, 2024 9:39 AM
To: Duvall, Ron
Subject: RE: [EXT] David Nystrom Water Permit Application

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Ron,
I think it may have been just an error on the application and can be left just commercial.

Thank you,
Shannon

Sent via the Samsung Galaxy S23+ 5G, an AT&T 5G smartphone

----- Original message -----

From: "Duvall, Ron" <Ron.Duvall@state.sd.us>
Date: 9/3/24 9:01 AM (GMT-06:00)
To: global@itctel.com
Cc: "Rodriguez, Rachel" <Rachel.Rodriguez@state.sd.us>, "Dewell, Amanda" <Amanda.Dewell@state.sd.us>
Subject: RE: David Nystrom Water Permit Application

Shannon,

Shannon called 9/3/24 and confirmed the total pump rate is to be 376 gpm.

Ron Duvall

Also, the new application indicates the types of water uses were are "Commercial" and "Domestic" uses. Is there any particular reason for "Domestic" being included as a use? I am asking because the existing water right, No. 6786-3, has only "Commercial" use checked as the type of use. The dairy itself is a "Commercial use" as defined by Administrative Rules of South Dakota 74:02:01:01(1) and 74:02:01:01.02. Unless there is some separate domestic use, such as service to a home, it would be best if the existing water right and this new application are consistent as to the type of water use. If domestic use is occurring, then the existing permit should be amended to reflect domestic use as well which can be done with your new application.

Please let me know whether you want to just go with commercial use on the new application or whether we should be adding domestic use to the existing water right as well.

Thank you,

Ron

From: Duvall, Ron
Sent: Tuesday, September 3, 2024 8:30 AM
To: global@itctel.com
Cc: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>; Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: David Nystrom Water Permit Application

Shannon,

I am looking over the application to increase the diversion rate to supply a dairy. The application identifies a diversion rate of 300 gallons per minute. There is also an existing water right for the dairy authorizing a diversion rate of 76 gallons per minute. I would like confirmation whether the 300 gallons per minute is intended to be the total, maximum diversion rate to supply the dairy or whether the 300 gallons per minute is in addition to the existing 76 gallons per minute.

In earlier email correspondence with Amanda, it was indicated that the total annual volume being applied for is 240 acre-feet of water. Regardless of your answer regarding the diversion rate (a total of 300 gallons per minute or 376 gallons per minute), the 240 acre-feet will remain unchanged unless you indicate otherwise.

Please let me know, I also called the mobile number on the application and left a voicemail with the same question as posed here.

Thank you,

Ron Duvall

**Dept. of Agriculture & Natural Resources
Office of Water, Water Rights Program**

605.773.3352

danr.sd.gov



DANR
SOUTH DAKOTA

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, August 22, 2024 1:43 PM
To: global@itctel.com
Subject: Water Permit Application fees

Good afternoon,

I am still waiting for the fees, total of \$950.00. Our fiscal office number is 605-773-5559 or you may mail in a check payable to SD Water Rights Program. Mailing address is:

SD DANR Water Rights Program
523 East Capitol Avenue
Pierre SD 57501

Thank you,

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



Rodriguez, Rachel

From: global@itctel.com
Sent: Thursday, August 22, 2024 2:13 PM
To: Rodriguez, Rachel
Subject: FW: [EXT] Merchant Email Receipt

Global Dairy, LP
46844 SD Hwy 28
Estelline, SD 57234
605-690-1517

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

From: Peschong, Megan <Megan.Peschong@state.sd.us>
Sent: Tuesday, August 20, 2024 1:06 PM
To: global@itctel.com
Subject: FW: Merchant Email Receipt

Thank you,

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

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

From: Auto-Receipt <noreply@mail.authorize.net>
Sent: Tuesday, August 20, 2024 1:06 PM
To: Van Bockel, Jenny <Jenny.VanBockel@state.sd.us>; Keiser, Darcy <Darcy.Keiser@state.sd.us>; Bigby, Beth <Beth.Bigby@state.sd.us>; Peschong, Megan <Megan.Peschong@state.sd.us>; Rousseau, Caitlin <Caitlin.Rousseau@state.sd.us>
Subject: [EXT] Merchant Email Receipt

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

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

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

Merchant : DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (1869311)
Date/Time : 20-Aug-2024 13:05:53 CDT

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

Invoice :

Description : Well Permit
Amount : 973.75 (USD)
Payment Method: Visa xxxx4576
Transaction Type: Authorization and Capture

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

===== RESULTS =====

Response : This transaction has been approved.
Auth Code : 310250
Transaction ID : 120603524468
Address Verification : Street Address: No Match -- First 5 Digits of Zip:
Match

==== CUSTOMER BILLING INFORMATION ===

Customer ID :
First Name : Shannon
Last Name : Dewitt
Company :
Address :
City :
State/Province :
Zip/Postal Code : 57234
Country :
Phone :
Fax :
E-Mail : global@itctel.com

==== CUSTOMER SHIPPING INFORMATION ===

First Name :
Last Name :
Company :
Address :
City :
State/Province :
Zip/Postal Code :
Country :

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

Tax :
Duty :
Freight :
Tax Exempt :
PO Number :

--

This email has been checked for viruses by Avast antivirus software.
www.avast.com

Rodriguez, Rachel

From: global@itctel.com
Sent: Thursday, August 22, 2024 2:13 PM
To: Rodriguez, Rachel
Subject: RE: [EXT] Water Permit Application fees

Hi Rachel,

I made the payment by phone. I forwarded you the receipt for the payment.

Thank you,
Shannon

Global Dairy, LP
46844 SD Hwy 28
Estelline, SD 57234
605-690-1517

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Thursday, August 22, 2024 1:43 PM
To: global@itctel.com
Subject: Water Permit Application fees

Good afternoon,

I am still waiting for the fees, total of \$950.00. Our fiscal office number is 605-773-5559 or you may mail in a check payable to SD Water Rights Program. Mailing address is:

SD DANR Water Rights Program
523 East Capitol Avenue
Pierre SD 57501

Thank you,

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



Virus-free. www.avast.com

Dewell, Amanda

From: global@itctel.com
Sent: Wednesday, August 14, 2024 2:21 PM
To: Dewell, Amanda
Subject: RE: [EXT] water permit application

Yes, I think we would be comfortable with requesting 240 ac-ft. I'll get the payment submitted.

Thank you,
Shannon

Global Dairy, LP
46844 SD Hwy 28
Estelline, SD 57234
605-690-1517

From: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Sent: Wednesday, August 14, 2024 2:17 PM
To: global@itctel.com
Subject: RE: water permit application

Correct, pump rate would still be increased by 300 GPM (totaling 376 GPM between the two permits), but the amount of time pumping throughout the year would be 60%.
Are you comfortable with the permit requesting 240 ac-ft annually as discussed? If so, you can go ahead and call the Fiscal Office @ 605.773.5559 to submit a payment of \$950.00 for the application.

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



From: global@itctel.com <global@itctel.com>
Sent: Wednesday, August 14, 2024 2:07 PM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: RE: [EXT] water permit application

Hi Amanda,

I've attached the revised application with the changes discussed. So, just to confirm, the well permit would still be 300 GPM but at an estimated 60% pumping? We will leave the possible future irrigation off for now as I don't know the number of acres and exact location as of now. If everything is correct, I will go ahead and make a phone payment. Thank you so much for your help with this.

Shannon

Global Dairy, LP
46844 SD Hwy 28
Estelline, SD 57234
605-690-1517

From: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Sent: Wednesday, August 14, 2024 1:56 PM
To: global@itctel.com
Subject: RE: water permit application

Shannon – I've reviewed the application and made a few notations/edits in red. Since the current WR No. 6786-3 has already been inspected and licensed, this permit would be a "new" permit, rather than an amendment. There are also a few things that still need to be quantified prior to submission of the application.

For me to make an assessment of the required fees, a total annual volume will be needed. How many gallons of water would the dairy need to operate for a year? This is often estimated as 60% pumping. WR No. 6786-3 authorizes the diversion of 76 GPM (122.5 ac-ft), this new application seeks to add another 300 GPM, totaling a pump rate of 376 GPM. If pumped consistently 24/7-365, that would equate to 606.5 acre-feet annually. 60% use, with credit for the 122.5 ac-ft already authorized, would be approx. 240 ac-ft. I can may these suggestions but it is ultimately your decision.

If the application were obtained for 240 ac-ft per year, the total fees would be \$950.00.

Should you decide to pursue irrigation, the number of acres and location of irrigation development would need to be known ahead of time. It would also increase the annual volume by 2 ac-ft/acre, subsequently increasing the fees.

Let me know what you have for questions. Thank you!

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



From: global@itctel.com <global@itctel.com>
Sent: Tuesday, August 13, 2024 6:30 PM
To: Dewell, Amanda <Amanda.Dewell@state.sd.us>
Subject: [EXT] water permit application

Hi Amanda,

I've attached the new permit application and I would like to call and make payment by phone tomorrow but I'd like to confirm an amount before I call. I appreciate you reviewing the application. Please let me know if there are any questions or additional information needed.

Thank you,
Shannon



**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. 8895-3, David Nystrom**

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. 8895-3, David Nystrom, 46609 SD Highway 28, Estelline SD 57234.

The Chief Engineer is recommending APPROVAL of Application No. 8895-3 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 wells approved under Water Right No. 6786-3 and Water Permit No. 8895-3 are located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 8895-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
3. Water Permit No. 8895-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
4. The Permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Big Sioux Brookings Aquifer.
5. Water Right No. 6786-3 and Water Permit No. 8895-3, combined, authorize a total annual diversion up to 240 acre-feet of water from the Big Sioux Brookings Aquifer.

See report on application for additional information.

Eric Gronlund, Chief Engineer
October 21, 2024

Report to the Chief Engineer
On Water Permit Application No. 8895-3

David Nystrom

October 21st, 2024

Water Permit Application No. 8895-3 proposes to appropriate an additional 117.5 acre-feet of water annually (ac-ft/yr) at a pump rate of 0.67 cubic feet of water per second (cfs) from two existing wells currently authorized by Water Right No. 6786-3. Water Right No. 6786-3 appropriates 0.17 cfs (122.5 ac-ft/yr) from two wells completed into the Brookings Management unit of the Big Sioux aquifer (57 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28-T113N-R50W, for commercial use in a dairy operation. This application, if approved, and Water Right No. 6786-3 will authorize a combined total of 240 (ac-ft/yr) with a maximum pump rate of 0.84 cfs from two existing wells described above for commercial use in the dairy operation located in the S $\frac{1}{2}$ Section 21-T113N-R50W. This site is located approximately 3 miles east of Estelline, SD in Deuel County.

AQUIFER: Big Sioux: Brookings (BS:B)

HYDROGEOLOGY:

The Big Sioux aquifer is divided into twelve management units that have been historically recognized by the DANR-Water Rights Program and SD Water Management Board (Water Rights, 2024c). The water source for this application is the Brookings management unit of the Big Sioux aquifer.

The Brookings management unit of the Big Sioux aquifer is a Quaternary-aged glacial outwash that consists of medium to very coarse sand and very fine to medium gravel (Kume, 1985; Hamilton, 1989). The depth of the top of the Big Sioux: Brookings aquifer ranges from the land surface in the Big Sioux River floodplain to 212 feet below land surface (Hamilton, 1989). Typically, the depth to the top of the aquifer is less than 50 feet (Water Rights, 2024b and 2024d). In Brookings, Deuel, Hamlin, Kingsbury, Moody, and Codington Counties, the Big Sioux: Brookings aquifer is estimated to underly approximately 323,000 acres and contain approximately 1,453,000 acre-feet of recoverable water in storage, as shown in Figure 1 (Hedges et al, 1982 and Stonesifer, 2013). The general direction of groundwater movement in the Big Sioux: Brookings aquifer is in a southerly direction and towards the Big Sioux River (Hamilton, 1989). The aquifer is unconfined near the Big Sioux River and along major tributary valleys, but elsewhere the aquifer may be confined by overlying till or clay lenses (Hamilton, 1989). The aquifer is primarily unconfined (Stonesifer 2013; Water Rights, 2024b and 2024d).

A water well completion report was submitted with the application. However, there is another water well report created for an additional diversion point in 2013, that is located closer than the submitted report. The 2013 water well report will be used because of its proximity and matching topography. The well was completed on April 19th, 2013, and is located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28-T113N-R50W, which is within the same quarter section as the existing diversion

points (Water Rights, 2024d). The water well completion report indicates the well is completed into the Big Sioux: Brookings aquifer with the top of aquifer bearing material (coarse gravel) at 22 feet below the ground surface, with a static water level of 16 feet below ground surface, and a saturated aquifer thickness of approximately 32 feet (Water Rights, 2024d). Since nearby water well completion reports indicate confined conditions, the aquifer at the existing diversion points for this application is expected to be confined. However, due to local topography, slightly further away wells can be unconfined. With an artesian head pressure of only 6 feet, in combination with the topographic concerns, means wells at this site could also act in a manner consistent with unconfined aquifer wells.

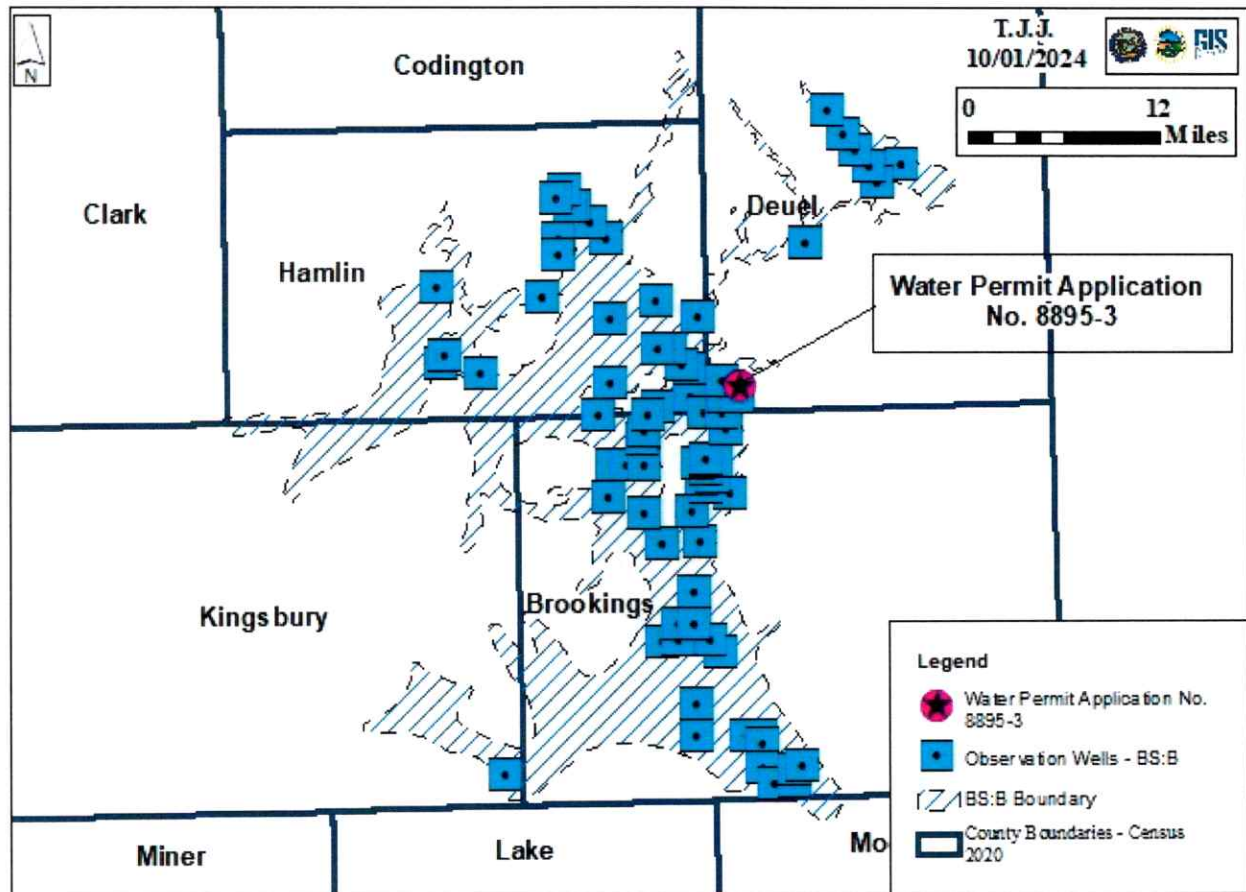


Figure 1. Map showing the approximate delineation of the Big Sioux: Brookings aquifer (Hedges et al, 1982 and Stonesifer, 2013), BS:B observation wells (Water Rights, 2024b), and the location of diversion points for Water Permit Application No. 8895-3 (Water Rights, 2024c).

Applicable South Dakota Codified Laws (SDCL)

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

Management Board as defined by SDCL 46-2-9 and 46-2-11.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic uses and water rights within the Big Sioux: Brookings aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8895-3 proposes to appropriate water from the Big Sioux: Brookings 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 Big Sioux: Brookings aquifer is not older than or stratigraphically lower than the Greenhorn Formation, 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 Big Sioux: Brookings aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Big Sioux: Brookings aquifer is received primarily through infiltration of precipitation and seepage through till, lake deposits, and underlying aquifers (Hamilton, 1989). Using observation well analysis, Hedges et al (1985) estimated a recharge rate of 4.0 inches per year for the Big Sioux: Brookings aquifer. The Big Sioux: Brookings aquifer has an estimated areal extent of approximately 323,000 acres (Stonesifer, 2013). Therefore, the average annual recharge rate for the Big Sioux: Brookings aquifer (based on Hedges et al, 1985; Stonesifer, 2013) is estimated to be approximately 107,667 acre-feet/year.

Discharge

Discharge from the Big Sioux: Brookings aquifer primarily occurs through well withdrawals, seepage to surface water features, and evapotranspiration in areas where the aquifer is at or near land surface (Hamilton, 1989; Water Rights, 2024d). Currently, there are 258 water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer (Water Rights, 2024c). There are 12 future use permits reserving 6,041 acre-feet/year of water from the Big Sioux: Brookings aquifer, shown on Table 1 (Water Rights, 2024c). There is a pending future use application (Application No. 8893-3) proposing to reserve 720 acre-feet/year of water from the Big Sioux: Brookings aquifer. That pending application, if approved, and the current future use permits would reserve a total of 6,761 acre-feet/year of water from the Big Sioux: Brookings aquifer (Water Rights, 2024c).

Table 1. Future Use Permit reserved water for the Big Sioux: Brookings aquifer (Water Rights, 2024c)

Future Uses Permit Holder	Permit Nos.	Amount of Reserved Water (acre-feet)
Joint Well Fields Inc.	3982-3, 3982A-3, 3982B-3, 6988-3, 6988A-3	2,375
City of Lake Norden	4055-3, 6261-3	0
City of Castlewood	558A-3	123
City of Volga	5875-3, 6259-3	1,143
Sioux Rural Water System	5094-3, 7853-3	2,400
TOTAL:		6,041

Table 2 summarizes the 45 non-irrigation water rights/permits authorized to appropriate water from the Big Sioux: Brookings aquifer with the estimated annual use for each water right/permit as determined by their limiting diversion rate or annual volume. The amount of water that can be withdrawn was estimated by assuming the non-irrigation water rights/permits limited by an annual volume will withdraw their entire appropriated volume every year. It is estimated that non-irrigation water rights/permits limited only by a diversion rate will pump at their maximum permitted diversion rate for 60 percent of the time. The 60 percent estimation was established by Water Rights Staff to be a reasonable and safe assumption of average annual withdrawals by non-irrigation appropriations. Historically, the 60 percent estimate has been accepted by the Water Management Board.

It should be noted that some of the water permits/rights listed on Table 2 are connected to rural water systems and use rural water rather than their local wells; so, they will not contribute to the annual withdrawal rate. This includes water rights for the Town of Hayti which purchases all their water from the Sioux Rural Water System and the City of Clear Lake which purchases all their water from the Brookings-Deuel Rural Water System (Drinking Water, 2024). The estimated average annual withdrawal rate for the Big Sioux: Brookings aquifer, non-irrigation water rights/permits is 13,827 acre-feet/year (Table 2) (Water Rights, 2024c). This application, if approved, proposes to appropriate an additional 117.5 acre-feet of water above what is currently authorized by Water Right No. 6786-3. Overall, the estimated average annual withdrawal rate of non-irrigation water rights/permits (13,827 acre-feet), plus the proposed annual withdrawal rate for this pending application (117.5 acre-feet), is approximately 13,945 acre-feet/year (Table 2) (Water Rights, 2024c).

Table 2. Estimated annual use for non-irrigation water rights/permits authorized to divert water from the Big Sioux: Brookings aquifer (Water Rights, 2024c)

Permit No.	Name	Status	Uses	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimate Use (acre-feet/year)
2111-3	GOPHER SIGN CO	LC	COM	0.04	N/A	17.38
5675-3	LAKE POINSETT ESTATES	LC	COM	0.09	N/A	39.1
6019-3	DAKOTA WHOLESALE BAIT INC	LC	COM, DOM	0.355	N/A	154.21
6329-3	GREG OSWALD	LC	COM	1.28	N/A	556.03
6745-3	KENNETH HANSEN	LC	COM	0.11	N/A	47.78
6785-3	DRUMGOON DAIRY LP	LC	COM, LCO	0.2	N/A	86.88
6786-3	DAVID NYSTROM	LC	COM, LCO	0.17	N/A	122.5
7277-3	OLD TREE FARMS	LC	COM, LCO	0.1	N/A	43.44
7854-3	DAVID ULVESTAD	PE	COM, LCO	0.89	N/A	386.62
7259-3	OLD APOSTOLIC LUTHERAN CHURCH	LC	GEO	1	120	120
5129-3	TECHNICAL ORDNANCE INC	LC	IND	0.1	N/A	43.44
6146-3	SD SOYBEAN PROCESSORS	LC	IND	0.144	N/A	62.55
1317-3	CITY OF ESTELLINE	LC	MUN	1.1	N/A	477.84
1759-3	CITY OF VOLGA	LC	MUN	1.65	N/A	716.76
3117-3*	TOWN OF HAYTI	LC	MUN	0.33	N/A	0
4950-3	CITY OF BRUCE	LC	MUN	0.27	N/A	117.29
5071-3*	CITY OF CLEAR LAKE	LC	MUN	0.45	N/A	0
5167-3	CITY OF VOLGA	LC	MUN	0.45	N/A	195.48
534A-3*	CITY OF CLEAR LAKE	LC	MUN	1.1	N/A	0
557-3	CITY OF LAKE NORDEN	LC	MUN	3	N/A	1303.2
558B-3	CITY OF CASTLEWOOD	LC	MUN	0.56	N/A	243.26
558D-3	CITY OF CASTLEWOOD	LC	MUN	0.33	N/A	143.35
5645-3	CITY OF ESTELLINE	LC	MUN	0.66	N/A	286.7
617-3*	TOWN OF HAYTI	LC	MUN	0.66	N/A	0
5815-3	CITY OF LAKE NORDEN	LC	MUN	0.56	139	139
5941-3	CITY OF VOLGA	LC	MUN	0.89	644	644
6417-3	CITY OF LAKE NORDEN	LC	MUN	1.45	630	630
6542-3	CITY OF LAKE NORDEN	LC	MUN	0.6	262	262
8640-3	CITY OF VOLGA	PE	MUN	1.11	645	645

Permit No.	Name	Status	Uses	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimate Use (acre-feet/year)
2033-3	SIOUX RURAL WATER SYSTEM	LC	RWS	0.75	N/A	325.8
4830-3	BROOKINGS-DEUEL RWS	LC	RWS	2	N/A	868.8
5079-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	2.9	N/A	1259.76
5434-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	434	434
5602-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	434	434
6002-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	362	362
2245B-3	BROOKINGS-DEUEL RWS	LC	RWS	1.93	270	270
6718-3	BROOKINGS-DEUEL-KINGBROOK	LC	RWS	1	300	300
7381-3	BROOKINGS-DEUEL RWS	PE	RWS	0	N/A	0
7852-3	SIOUX RURAL WATER SYSTEM INC	PE	RWS	1.33	600	600
8185-3	JOINT WELL FIELD INC.	PE	RWS	0	603	603
7852A-3	SIOUX RURAL WATER SYSTEM	PE	RWS	0	N/A	0
8371-3	JOINT WELL FIELD INC	PE	RWS	0	434	434
8732-3	SIOUX RURAL WATER SYSTEM INC	PE	RWS	0	0	0
1956-3	H. E. MEYER	LC	SHD	1	N/A	434.4
1956-3A	NEIL HAMILTON	LC	SHD	0.04	N/A	17.38
LC Licensed Water Right, PE Water Permit, COM Commercial, DOM Domestic, LCO Livestock Confinement Operation, GEO Geothermal, IND Industrial, MUN Municipal, RWS Rural Water System, SHD Suburban Housing Development, *these Water Rights get their water from a separate system rather than local wells.					TOTAL:	13,827

Currently, there are 213 irrigation water rights/permits appropriating water from the Big Sioux: Brookings aquifer (Water Rights, 2024c). Irrigation water rights/permits have been typically required to report their annual usage by submitting an irrigation questionnaire since 1979. The average annual withdrawal rate for the Big Sioux: Brookings aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2023) is approximately 9,176 acre-feet per year (Table 3) (Water Rights, 2024a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2014 to 2023 is approximately 10,478 acre-feet per year (Table 3) (Water Rights, 2024a).

There are two irrigation Water Permit/Rights approved in 2024 that are not accounted for in Table 3, Water Permit No. 8831-3 & Water Right No. 8880-3 (Water Right, 2024c). Water Permit No. 8831-3 is authorized to irrigate 136 acres, while Water Right No. 8880-3 is authorized to irrigate 246 acres (Water Rights, 2024c). Generally, irrigators in eastern South

Dakota apply less than one foot of water per acre per year. However, one foot of water per acre per year application rate will be used to conservatively estimate the average annual withdrawal rate for these irrigation water rights/permits. Therefore, the combined estimated average annual withdrawal rate for Water Permit Nos 8831-3 & Water Right No. 8880-3 is approximately 382 acre-feet per year. There is a pending Water Permit Application No. 8889-3, which proposes to irrigate an additional 9 acres to what is authorized by Water Permit No. 8669-3. If that application is approved, an additional 9 acre-feet of water will need to be accounted for. Collectively, the average annual withdrawal rate for the irrigation appropriations from 2014 to 2023 (10,478 acre-feet/year), plus the estimated average annual withdrawal rate for the irrigation water permits approved in 2024 (382 acre-feet/year) and the pending Application No. 8889-3 (9 acre-feet/year), is approximately 10,869 acre-feet per year.

Table 3. Reported historic irrigation use from the Big Sioux: Brookings aquifer (Water Rights, 2024a)

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
1979	184	6,144
1980	187	9,837
1981	198	9,040
1982	155	4,558
1983	161	8,227
1984	188	8,177
1985	181	4,951
1986	179	2,855
1987	171	10,015
1988	167	18,521
1989	166	13,931
1990	175	5,863
1991	165	7,772
1992	162	2,332
1993	162	1,043
1994	160	2,855
1995	161	3,862
1996	154	7,221
1997	153	5,650
1998	157	8,110
1999	155	7,841
2000	153	8,934
2001	149	8,385
2002	149	12,411
2003	149	11,380
2004	156	11,810
2005	159	11,513
2006	161	14,325
2007	164	12,730
2008	166	12,506
2009	174	9,173
2010	172	2,713
2011	174	8,528
2012	177	19,483
2013	198	15,432
2014	212	9,948

Year	No. of Permits Reporting	Reported Pumpage (acre-feet)
2015	209	8,796
2016	210	10,267
2017	209	9,572
2018	211	7,953
2019	211	106
2020	209	10,001
2021	205	17,955
2022	206	14,509
2023	214	15,670
Max	214	19,483
Min	149	106
Avg (1979-2023)	176	9,176
Avg (2014-2023)	210	10,478

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

Hydrologic Budget Summary

The average annual recharge rate to the Big Sioux: Brookings aquifer is estimated to be about 107,667 acre-feet/year (Stonesifer, 2013). The estimated average withdrawal rate from the Big Sioux: Brookings aquifer totals to approximately 31,575 acre-feet/year; (future use: 6,761 acre-feet/year; non-irrigation: 13,945 acre-feet/year; and irrigation (avg 2014 to 2023 plus the water rights/permits approved in 2024) and pending application: 10,869 acre-feet/year). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Big Sioux: Brookings aquifer for the proposed appropriation.

OBSERVATION WELL DATA:

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

The DANR-Water Rights Program monitors 76 observation wells completed into the Big Sioux: Brookings aquifer. The observation wells completed into the aquifer are shown on Figure 1 (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 existing diversion points are DU-77C (approximately 0.6 miles south), DU-77B (approximately

1.2 miles southwest), and DU-71D (approximately 1.2 miles northwest) (Water Rights, 2024b). The water level elevations for these observation wells are displayed in Figure 2 (Water Rights, 2024b). The majority of observation wells in the Big Sioux: Brookings aquifer have a stable water level, with several observation wells under the influence of heavy pumping showing a history of slightly declining water levels that eventually stabilize. The data shown on Figure 2 shares a similar trend with most of the observation wells in the Big Sioux: Brookings aquifer.

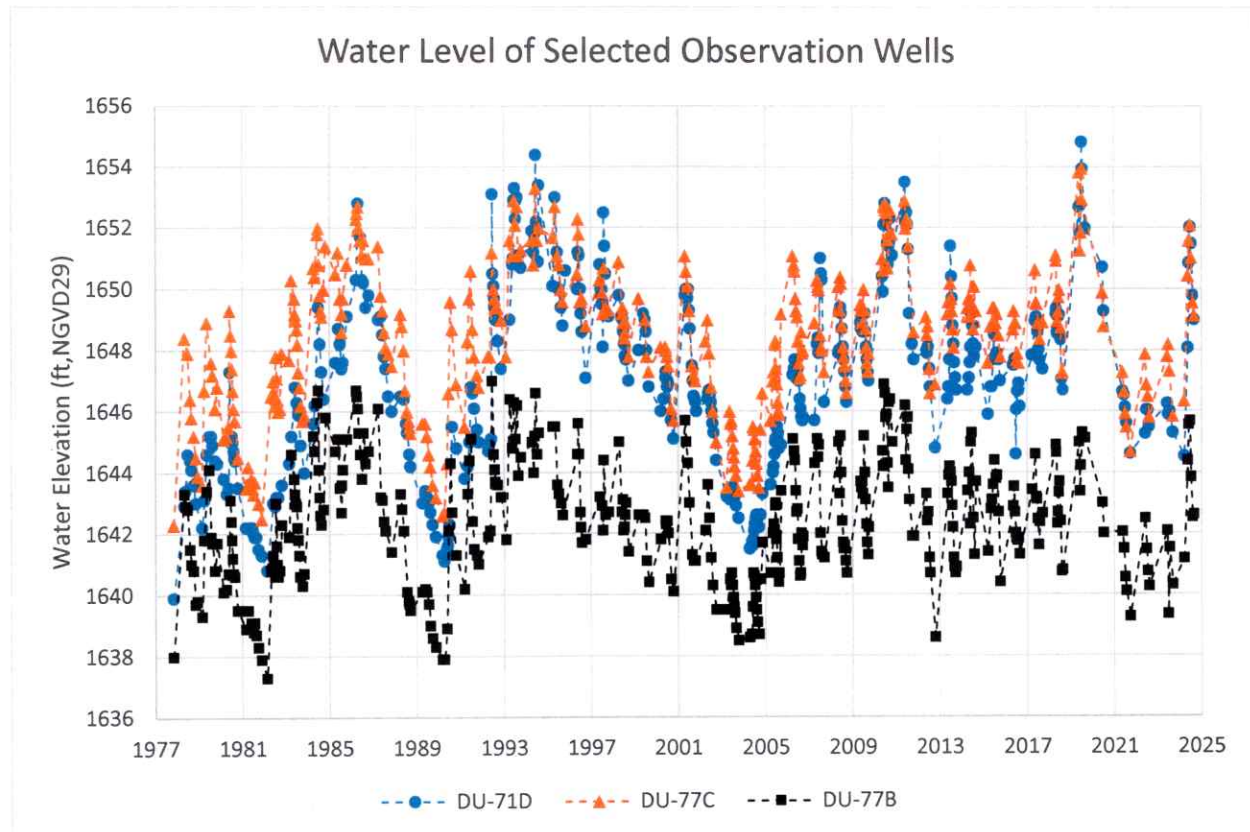


Figure 2. A graph showing the elevation of water levels of observation wells DU-77C, DU-77B, and DU-71D (Water Rights, 2024b)

Figure 2 shows the observation wells display generally stable water levels which is representative of a majority of other observation wells in the Big Sioux: Brookings aquifer. The hydrographs for the Big Sioux: Brookings aquifer indicate that the aquifer responds well to climatic conditions because water levels are rising during wetter periods (early spring snowmelt and precipitation) 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 Big Sioux: Brookings 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:

Water rights/permits in the general vicinity of the existing well sites for this application are shown in Figure 3 and summarized in Table 4 (Water Rights, 2024c). The closest water right/permit (not held by the applicant) to the existing diversion point is Water Right No. 2157-3 which is held by Todd Jongeling. The diversion point for Water Right No. 2157-3 is located approximately 1.9 miles northwest of the existing diversion points for this application (Water Rights, 2024c). There are domestic wells on file with the DANR-Water Rights Program that are completed into the Big Sioux: Brookings aquifer, with the closest domestic well on file (not held by the applicant) located within 0.1 miles of the existing diversion points (Water Rights, 2024d). The location of domestic wells is based on the information provided by the well driller on the submitted well completion report. There could potentially be other domestic wells completed into the Big Sioux: Brookings aquifer near the existing well site that are not on file with the DANR-Water Rights Program.

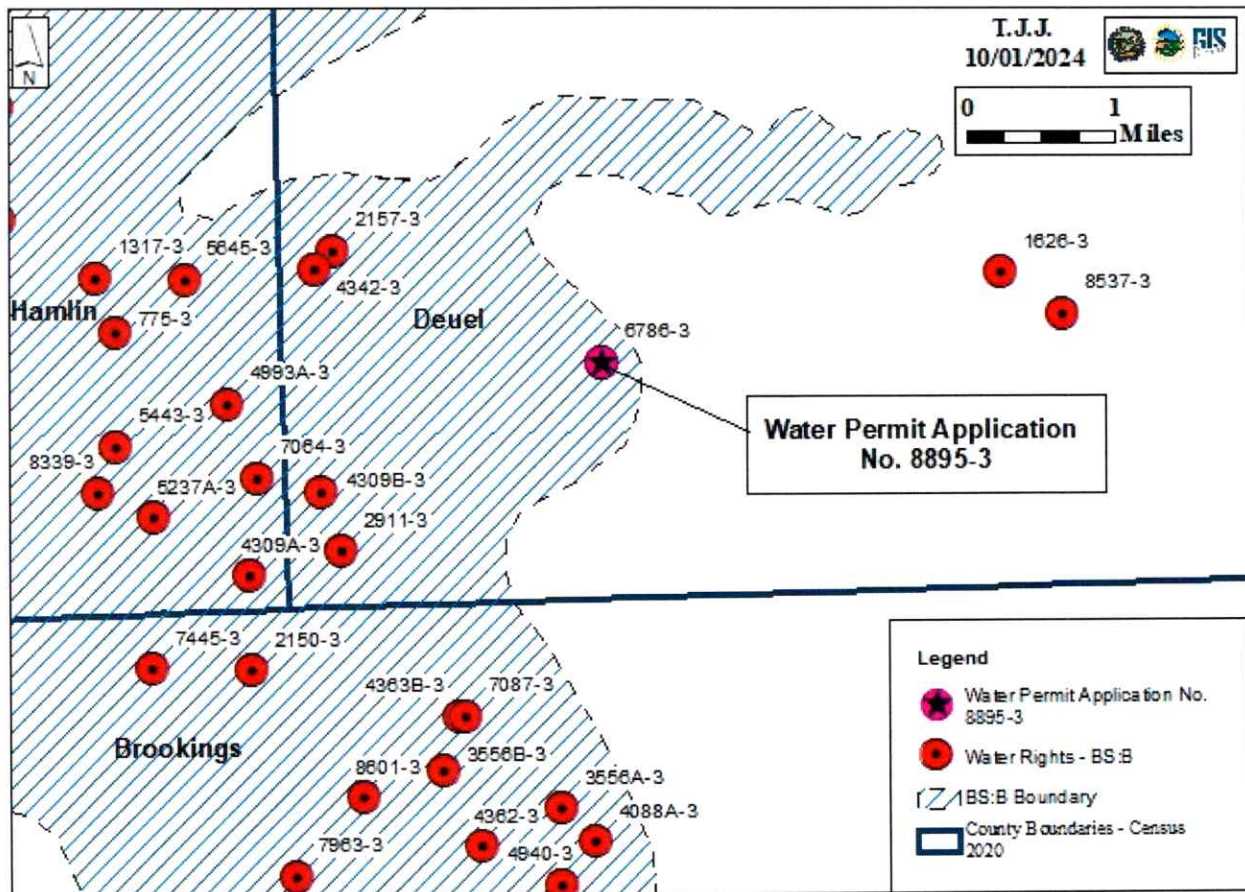


Figure 3. Map of the Big Sioux: Brookings aquifer water rights/permits within 3 miles of the location of the wells for Water Permit Application No. 8895-3 (Water Rights, 2024b and 2024c).

Table 4. List of water rights/permits within 3 miles of Water Permit Application No. 8895-3 shown in Figure 3.

Permit	Name/Business	Priority	Status	Use Type	CFS	Acres
775-3	Mark N./Mary M. Mack	04/24/1961	License	Irrigation	2.19	153
1317-3	City of Estelline	01/01/1910	License	Municipal	1.1	0
1626-3	Roger J. Svec	10/24/1968	License	Irrigation	2.25	215
2150-3	Jeanette Foster	12/02/1974	License	Irrigation	1.34	94
2157-3	Todd Jongeling	12/02/1974	License	Irrigation	0.67	64
2911-3	Gerald A. Kalsbeck	08/10/1977	License	Irrigation	1.78	132
3556A-3	Jerald A. Peterson	01/28/1977	License	Irrigation	1.78	131
3556B-3	Jerald A. Peterson	01/28/1977	License	Irrigation	1.78	127
4088A-3	Roger Schwartz Trust Agreement	06/28/1977	License	Irrigation	1.93	135
4309A-3	Roger & Cynthia Kalsbeck	02/09/1968	License	Irrigation	1.78	126
4309B-3	Ronald J. Gorder	02/09/1968	License	Irrigation	1.45	128
4342-3	Pine Knoll Inc.	12/16/1976	License	Irrigation	1.71	120
4362-3	Jerald A. Peterson	12/15/1978	License	Irrigation	1.69	118
4363B-3	H Bar G Farms LLC	12/15/1978	License	Irrigation	0.55	95
4940-3	Jerald A. Peterson	11/01/1982	License	Irrigation	1.78	131
4993A-3	Ronald Jongeling	01/16/1984	License	Irrigation	1.00	130
5237A-3	James Arthur	12/28/1988	License	Irrigation	1.67	132
5443-3	Jerald A. Peterson	04/12/1990	License	Irrigation	2.22	170
5645-3	City of Estelline	03/05/1992	License	Municipal	0.66	0
6786-3	David Nystrom	11/21/2006	License	Commercial	0.17	0
7064-3	Roger Kalsbeck	09/11/2008	License	Irrigation	1.11	100
7087-3	Jay A. Peterson	10/15/1978	License	Irrigation	1.56	119.6
7445-3	Tracy Johnson	09/28/2012	License	Irrigation	1.34	165
7963-3	Gary & Dianne Foster	01/06/1981	License	Irrigation	1.67	146.6
8339-3	Scott or Donna Thompson Living Trust	03/26/2018	License	Irrigation	0.89	105
8537-3	Berwald Family RLLP	08/03/2021	License	Irrigation	1.34	159
8601-3	Gary & Dianne Foster	02/28/2022	License	Irrigation	1.45	190

The Big Sioux: Brookings aquifer is primarily under unconfined conditions and drawdown as the result of pumping in an unconfined aquifer typically does not extend far from the pumping well. However, the aquifer can be locally under confined conditions due to a clay layer at the well sites for this application. 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.”

In regard to the localized areas where this aquifer is under confined conditions, the Water Management Board has promulgated rules that allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure (the pressure causing the water

level to rise above the top of an aquifer) for domestic use. In the case of Water Permit Application No. 2313-2 for the Coca-Cola Bottling Company of the Black Hills the Water Management Board adopted findings that noted that if the increased costs or decreased production as a result of the impacts of legitimate users on artesian head pressure could be considered an adverse impact it would conflict with SDCL 46-1-4 (Water Rights, 1995). SDCL 46-1-4 requires the water resources of the state be put to beneficial use to the maximum extent of which they are capable (Water Rights, 1995). However, since this aquifer is generally unconfined with the confined areas being localized in extent drawdown as a result of pumping still tends to be limited in extent (Water Rights, 2024b and Water Rights, 2024c).

In Hamlin and Deuel Counties, the Big Sioux aquifer has an average saturated aquifer thickness of approximately 30 feet (Kume, 1985), but locations in the aquifer do exist where the aquifer can be relatively thin. While the best information available indicates that there is a reasonable probability average annual recharge exceeds average annual withdrawals in the aquifer, conditions can occur where withdrawals in the aquifer exceed recharge for a period of time. Situations may occur where pumping from a thicker part of an unconfined aquifer could cause drawdown impacting adequate wells in a thinner part of the aquifer. Under such conditions an unlawful impairment of senior water rights/permits or adequate domestic wells may occur. Therefore, the applicant should control their withdrawals so that nearby adequate domestic wells and senior water rights/permits are able to access needed water. Ultimately, 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 at the existing diversion points, the lack of well interference complaints for adequate wells completed into the Big Sioux: Brookings aquifer in Deuel County (Water Rights, 2024e), and the fact these wells have been in use for some time without reported issue, there is a reasonable probability that any drawdown created from the proposed diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 8895-3 proposes to appropriate an additional 117.5 acre-feet of water annually at a pump rate of 0.67 cfs to what is currently authorized by Water Right No. 6786-3. This application, if approved, and Water Right No. 6786-3 will authorize a combined total of 240 acre-feet annually with a maximum pump rate of 0.84 cfs from the two existing wells, currently authorized by Water Right No. 6786-3, for commercial use in the dairy operation located in the S $\frac{1}{2}$ Section 21-T113N-R50W. This site is located approximately 3 miles east of Estelline, SD in Deuel County.
2. Water Right No. 6786-3 appropriates 0.17 cfs (122.5 acre-feet) from two existing wells completed into the Big Sioux: Brookings Aquifer (57 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28-T113N-R50W, for commercial use in a dairy operation.

3. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Big Sioux: Brookings aquifer to supply the proposed appropriation.
4. There is a reasonable probability that the diversion by Water Permit Application No. 8895-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.



Tyler Jensen
Natural Resources Engineer I
SD DANR - Water Rights Program

Reviewed by:



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

References

- Drinking Water, 2024. Drinking Water Reports, SD DANR-Drinking Water Program, Joe Foss Bldg, Pierre, SD.
- Hamilton, L.J., 1989. Water Resources of Brookings and Kingsbury Counties, South Dakota: Water-Resources Investigation Report 88-4185. USGS, Huron, South Dakota: U.S. Geological Survey.
- Hedges, L.S., Allen, J., Holly, D.E., 1985. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 7: Ground Water Recharge; United States Army Corps of Engineers Contract DACW 45-80-C-0185.
- Hedges, L.S., Burch, S.L., Iles, D.L., Barari, R.A., and Schoon, R.A. 1982. Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa, Task 1: Bed rock Topography and Distribution, Task 2: Extent of Aquifers, Task 3 Ground-Water Storage, Task 4: Computerized Data Base. United States Army Corps of Engineers Contract DACW 45-80-C-0185.
- Kume J., 1985. Water Resources of Deuel and Hamlin Counties, South Dakota; Water-Resources Investigations Report 84-4069 SDGS, Huron, South Dakota.
- SDGS, 2024. South Dakota Geological Survey Lithologic Logs Database. Accessed September 30, 2024. <http://cf.sddanr.net/lithdb/>.
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- Water Rights, 2024a. "1979-2023 Irrigation Summaries by Aquifer", SD DANR-Water Rights Program, Joe Foss Building, Pierre, SD.
- 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.**

October 22, 2024

David Nystrom
46609 SD Hwy 28
Estelline SD 57234

Dear Mr. Nystrom:

Water Permit Application No. 8895-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Clear Lake Courier printed in Clear Lake (Ph # 605 874-2499) and the Brookings Register printed in Brookings SD (605 692-6271). 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. 8895-3 to Appropriate Water

Notice is given that David Nystrom, 46609 SD Hwy 28, Estelline SD 57234, has filed an application for a water permit to appropriate an additional 117.5 acre-feet of water annually at a pump rate of 0.67 cubic feet of water per second (cfs) to what is currently authorized by Water Right No. 6786-3. Water Right No. 6786-3 appropriates 0.17 cfs (122.5 acre-feet) from two existing wells completed into the Big Sioux: Brookings Aquifer (57 feet deep) located in the SW 1/4 NW 1/4 Section 28-T113N-R50W, for commercial use in a dairy operation. This application, if approved, and Water Right No. 6786-3 will authorize a combined total of 240 acre-feet annually with a maximum pump rate of 0.84 cfs from the two existing wells described above for commercial use in the dairy operation located in the S 1/2 Section 21-T113N-R50W. This site is located approximately three miles east of Estelline SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8895-3 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 November 12, 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 November 12, 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, October 21, 2024 2:31 PM
To: registerclassifieds@brookingsregister.com
Subject: 8895-3 David Nystrom - Public Notice
Attachments: 8895-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 30, 2024.

David Nystrom, 46609 SD Hwy 28, Estelline SD 57234, 605-873-2431, has been notified to contact you to authorize publication and arrange for payment. Please note that the applicant did not provide an email.

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, October 21, 2024 2:30 PM
To: ClearLake
Subject: 8895-3 David Nystrom - Public Notice
Attachments: 8895-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 30, 2024.

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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

STATE OF SOUTH DAKOTA
COUNTY OF DEUEL

Ken Reiste being first duly sworn, on oath says: That he is publisher of the Clear Lake Courier, a weekly newspaper published in the City of Clear Lake, Deuel County, South Dakota; that he has full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive; that said newspaper has been published within the said County of Deuel and State of South Dakota, for at least one year next prior to the first publication of the attached public notice

Notice Of Application No.8895-3 to Appropriate Water David Nystrom

paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for one successive week(s) to wit:

October 30,2024

That the full amount of the fee charged for publication of the attached public notice insures to the sole benefit of the publisher; 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; that the fees charged for the publication thereof are: \$47.57

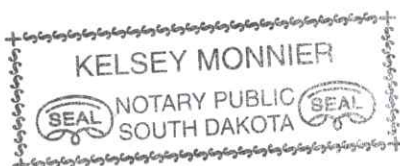

Ken Reiste

Subscribed and sworn to before me

this 30th day of October, 2024



Notary Public, South Dakota
My commission expires: 09 27 2027



Public notice

NOTICE OF APPLICATION NO. 8895-3 to Appropriate Water

Notice is given that David Nystrom, 46609 SD Hwy 28, Estelline SD 57234, has filed an application for a water permit to appropriate an additional 117.5 acre-feet of water annually at a pump rate of 0.67 cubic feet of water per second (cfs) to what is currently authorized by Water Right No. 6786-3. Water Right No. 6786-3 appropriates 0.17 cfs (122.5 acre-feet) from two existing wells completed into the Big Sioux: Brookings Aquifer (57 feet deep) located in the SW 1/4 NW 1/4 Section 28-T113N-R50W, for commercial use in a dairy operation. This application, if approved, and Water Right No. 6786-3 will authorize a combined total of 240 acre-feet annually with a maximum pump rate of 0.84 cfs from the two existing wells described above for commercial use in the dairy operation located in the S 1/2 Section 21-T113N-R50W. This site is located approximately three miles east of Estelline SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8895-3 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

RECEIVED

NOV 04 2024

OFFICE OF
WATER

November 12, 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.

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Published once at the approximate cost of \$47.57. (38-1/134)

This notice may be viewed free of charge at sdpublicnotices.com maintained pursuant to § 17-2-1.

Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

Katherine Foiles of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed that the

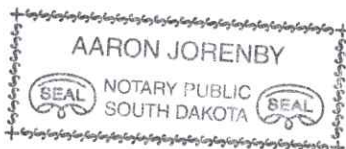
Leg# 40664 Notice of Application 8895-3

same was published, is hereto attached marked Exhibit "A" said newspaper for _____ 1 times, to-wit:

October 30, 2024

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; 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; that the fees charged for the publication thereof are:

Forty-Seven Dollars and Ninety-One Cents \$47.91



KMF

31 day of

2024

October

Notary Public in and for the County of Brookings, South Dakota.
My Commission expires February 22, 2026

Ag

Legal 40664 1X
10/30
**NOTICE OF APPLICATION
NO. 8895-3 TO
APPROPRIATE WATER**
Notice is given that David Nystrom, 46609 SD Hwy 28, Estelline SD 57234, has filed an application for a water permit to appropriate an additional 117.5 acre-feet of water annually at a pump rate of 0.67 cubic feet of water per second (cfs) to what is currently authorized by Water Right No. 6786-3. Water Right No. 6786-3 appropriates 0.17 cfs (122.5 acre-feet) from two existing wells completed into the Big Sioux: Brookings Aquifer (57 feet deep) located in the SW 1/4 NW 1/4 Section 28-T113N-R50W, for commercial use in a dairy operation. This application, if approved, and Water Right No. 6786-3 will authorize a combined total of 240 acre-feet annually with a maximum pump rate of 0.84 cfs from the two existing wells described above for commercial use in the dairy operation located in the S 1/2 Section 21-T113N-R50W. This site is located approximately three miles east of Estelline SD.
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8895-3 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.

RECEIVED

NOV 04 2024

OFFICE OF
WATER

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**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

NOV 26 2024

David Nystrom
PO Box 213
Estelline SD 57234

Dear Mr. Nystrom:

Enclosed is Water Permit No. 8895-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

An application/license filing fee of \$950.00 was submitted with the application. The correct fee for this permit is \$700.00. Therefore, \$250.00 will be refunded to you. The refund check should be received within the next couple of weeks.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

November 25, 2024

REFUND REQUEST FORM

PAYEE:

David Nystrom
46609 SD Hwy 28
Estelline SD 57234

FROM: DANR-Water Rights Program

523 E. Capitol Ave
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Refund for overpayment of Application Fee for Water Rights Program

AMOUNT: \$250.00

FUNDING SOURCE: WR Fees

GENERAL:

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION: *Eric Lundberg* 11/25/2024

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.



**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.: 8895-3

Name of Applicant: David Nystrom

Date of Posting: 10/29/2024

Date of Removal: 11/26/2024



Ron Duvall, Engineer III

11/26/2024

Date

Subscribed and sworn to before me, a notary public, this 26th day of Nov, 2024.



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



(SEAL)

Approval of Location Change and/or Additional Diversion Point(s)

Name: David Nystrom**Date:** March 26, 2025**Address:** 46609 SD Hwy 28, Estelline SD 57234**County:** Deuel

General Description of Authorized Project: Water Right No. 6786-3 & Permit No. 8895-3, held by David Nystrom, authorize the combined appropriation of 240 ac-ft of water annually, with a maximum pump rate of 0.84 cfs from 2 wells completed into the Big Sioux: Brookings Aquifer (BS:B) for commercial use in a dairy operation.

Authority: Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed, or additional diversion points may be approved provided the following conditions are met, and the potential for interference with other existing diversions is not increased and the overall project is consistent with the original application.

Developed Water Source is the Same is Permitted, with no Additional Appropriations: On behalf of David Nystrom, Global Dairy LP, has submitted a request for the approval of one additional well to be maintained and used as a backup-backup in the event that the first two wells require service or are temporary taken offline. The "backup-backup" well will be located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, T113N, R50W, approximately 200 ft northeast of the two existing wells, and completed to an approximate depth of 57 ft, into the Big Sioux: Brookings Aquifer. No increase to the annually appropriated volume or rate of diversion is requested or authorized.

Review of Existing Diversions: There are 4 existing permit/rights with wells located within an approximate 2-mile radius of David Nystrom's proposed third well site, that authorize appropriations from the BS:B; the nearest of which is 2157-3 (Todd Jongeling) located approximately 1.9 miles northwest of the proposed well. It was determined during the review of Water Right No. 6786-3 & Permit No. 8895-3 that there was reasonable probability any well interference due to pumping would not adversely or unlawfully impair existing rights. The same would be expected for additional well being requested by David Nystrom/Global Dairy.

The nearest domestic well completed into the same source (BS:B) is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20, T113N, R50W, approximately 0.7 miles northwest of the proposed well site. The domestic well was drilled for Armin Nelson in 1977, on property now owned by Russell Nelson, according to Regrid.

The location of the domestic wells in the Well Completion Database, maintained by the Water Rights Program, is based on the location listed by the well driller on the well completion report.

Recommended Action: Based on the above criteria, it is recommended that the request for the additional diversion point be granted, with no increase to the annual appropriated volume or rate of diversion.



Amanda Dewell, Permitting Administrator
Water Rights Program

The acting Chief Engineer makes a finding Pursuant to SDCL 46-5-13.1 and ARSD 74:02:01 that: The additional diversion point does not increase the potential for adverse effects to existing diversions.



Mark Mayer, PE
Director of Office of Water



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

MAR 28 2025

6786-3
8895-3

David Nystrom
PO Box 213
Estelline SD 57234

Dear Mr. Nystrom:

This letter is in regard to the request, made by Global Dairy LP on your behalf for an additional diversion point to be shared under Water Right No. 6786-3 & Permit No. 8895-3. The request stated that the new well would be located approximately 200 ft east of the existing wells, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, T113N, R50W, Deuel County, and was made because the existing wells may have to be temporarily taken off-line for service/maintenance. The new well is not meant to replace the original wells, but rather act as a backup source.

Water Right No. 6786-3 & Permit No. 8895-3 authorize the combined appropriation of 240 ac-ft of water annually, with a maximum pump rate of 0.84 cfs from 2 wells completed into the Big Sioux: Brookings Aquifer for commercial use in a dairy operation.

Upon review of the request and pursuant to SDCL 46-5-13.1, the additional well is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4.

No increase to the annually appropriated volume or rate of diversion is authorized.

If you have any questions, please contact Amanda Dewell at (605) 773-3352.

Sincerely,

Mark Mayer, PE
Director of Office of Water

cc: Global Dairy LP, 46844 SD HWY 28, Estelline SD 57234