

WATER PERMIT NO. 8900-3

Name of Applicant: **Finley Farms LLLP**

Address: **10923 Stateline Road, Oakes ND 58474**

Phone: **701-992-2823**

Amount of Water Claimed: **No Add'l**

Total Acres: **120**

Source of Water Supply: **Groundwater**

Water to be used for: **Irrigation** County: **Brown**

Type of Waste Disposal System:

Location: **Approx. 4 miles northeast of Hecla SD**

PRIORITY Date Received: **09-23-24**

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

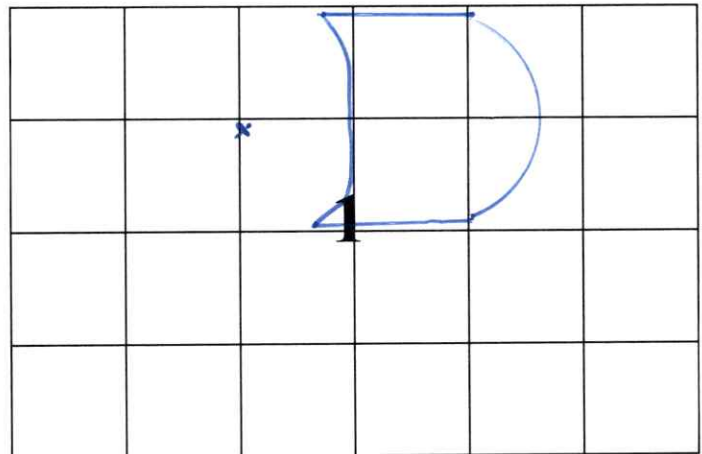
Corrected Application Received: **N/A**

Period of Annual Use: **April 1 – October 31**

Remarks: **Requesting 120 additional acres using Permit No. 8527-3, with no increase to diversion rate**

Diversion Point: **Approx. center of NW 1/4 Sec 1-
T128N-R61W**

Land to be Irrigated: **NE 1/4, E 1/2 NW 1/4 Sec 1-
T128N-R61W**



Depth of Well: **85**

Well Driller: **M & W Drilling**

Remarks:

Type of Map: **aerial**

Reviewed and the Number Assigned on: **09-25-24**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 8900-3**

Date of first receipt of application November 18, 2024.

Date of return to applicant for corrections, amendments or changes November 18, 2024.

Date of receipt of corrected application November 26, 2024.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8900-3 to Finley Farms LLLP, 10923 Stateline Road, Oakes ND 58474, 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. 8900-3 authorizes irrigation of an additional 160 acres located in the NE 1/4 Section 31-T129N-R59W (in North Dakota) from an existing well authorized by Water Permit No. 8527-3 with no increase in diversion rate. Water Permit No. 8527-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Middle James: Columbia Aquifer located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This Permit, and Water Permit No. 8527-3 will appropriate a total of 1.78 cfs for irrigation of a combined total of 320 acres. The well site is located approximately four miles northeast of Hecla SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is November 18, 2024.
4. The date of approval of Permit No. 8900-3 is December 26, 2024.
5. One-fifth of the construction is to be completed on or before June 26, 2027.
6. All construction is to be completed on or before December 26, 2029.
7. Water is to be put to beneficial use on or before December 26, 2033.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit and Water Permit No. 8527-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. 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

JAN 09 2025
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>8900-3</u> Hydrologic Unit <u>10160006</u>
	Basin <u>James R</u>
	Newspaper <u>Aberdeen American News</u>
	(office use only)

RECEIVED

SEP 23 2024

OFFICE OF
WATER

Application for Permit to Appropriate Water for Irrigation

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

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

1. Name to Appear on Irrigation Permit Finley Farms LLLP

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

Mailing Address 10923 Stateline Road Oakes ND 58474
(Address) (City) (State) (Zip Code)

Phone _____ Mobile _____ Email dfinley@nvc.net

2. Amount of water claimed N/A *CFS or N/A **GPM N/A ***AF Total Acreage 120/160
(*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 well (MJ:C) auth. by WP No. 8527-3

4. Location of point of diversion 1 well approx. center NW 1/4 Section 1, T128N, R61W

(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Brown

5. County or counties where water will be used Brown

6. Annual period during which water is to be used April 1 - October 31

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

Land Description	Acres	Land Description	Acres
<u>NE 1/4 - 128-61 +</u>	<u>120</u>	<u>total</u>	
<u>1/2 NW 1/4</u>	<u>160</u>		
<u>Sec 1 T128N R61W</u>			

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

requesting additional acres for irrigation using well authorized by WP No. 8527-3
with no increase to rate of diversion (pivots will be run on alternating schedule)

1. David Finley, Finley Farms LLLP 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)



United States
Department of
Agriculture

Dickey County, North Dakota

NE - 31 - 129 - 59

Farm 8294



Common Land Unit  Tract Boundary
 PLSS

 Non-Cropland
 Cropland

Wetland Determination Identifiers

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

Unless Otherwise Noted:

All crops are for grain
All crops are non-irrigated
Shares are 100% to Operator

2024 Program Year

Map Created March 25, 2024

S31 T129N R59W

Phy Cnty: Dickey

0 235 470 940
Feet

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS). The imagery displayed on this map was collected in calendar year 2023.

GENERAL FIELD DESIGN REPORT



Design Details - Center Pivot 1

Grower: David Finley	Field Area: 157.63 acres	Swing Arm: 0 acres
Date: 11/19/2024	Irrigated Area: 119.89 acres	Wrap Span: 0 acres
Field: NE 31-129-59	System: 109.43 acres	Drop Span: 0 acres
Layout: Layout 2	Primary End Gun: 10.46 acres	Secondary End Gun: 0 acres

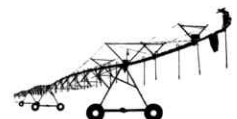


RECEIVED

NOV 25 2024

OFFICE OF
WATER

HOFFMAN IRRIGATION
INDUSTRIAL PARK • OAKES, ND 58474, USA
701-742-2219





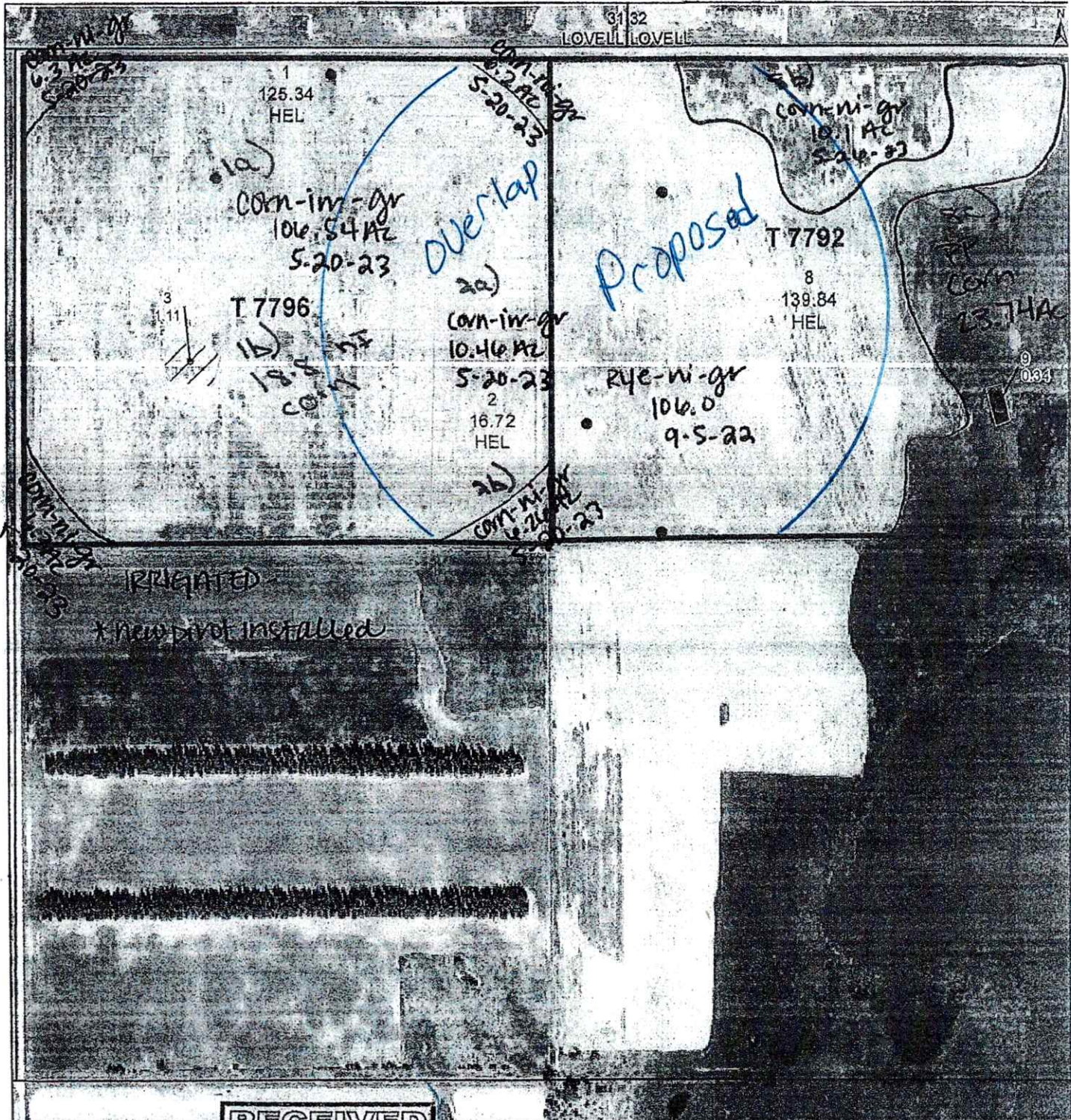
United States
Department of
Agriculture

Dickey County, North Dakota

Operator: David Finley

Share: 100%

Farm 8691

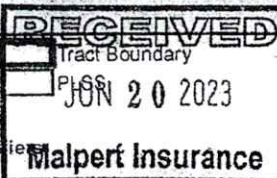


Common Land Unit

- Non-Cropland
- Cropland

Wetland Determination Identifiers

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



Unless Otherwise Noted:

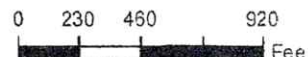
- All crops are for grain
- All crops are non-irrigated
- Shares are 100% to Operator

2023 Program Year

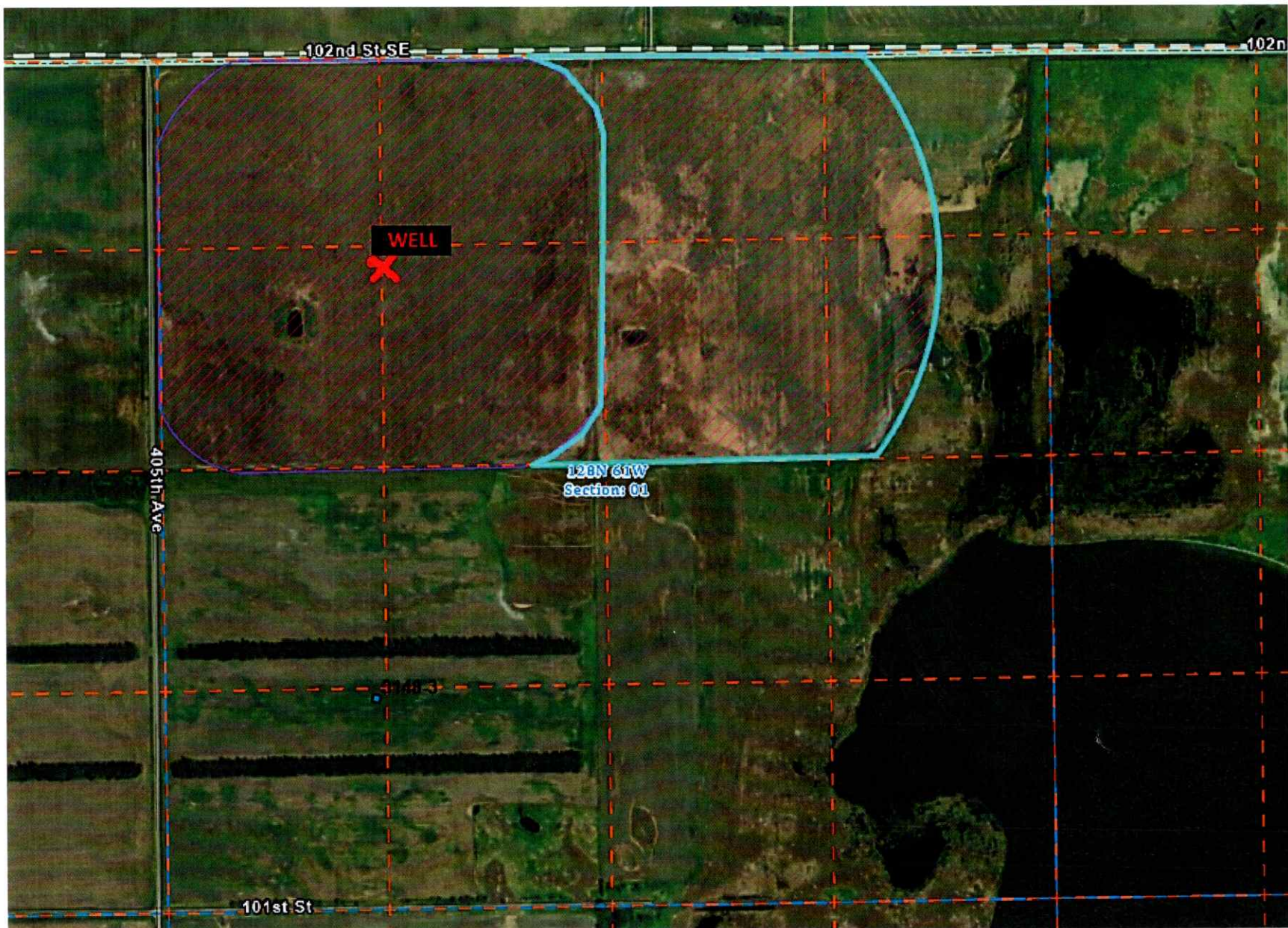
Map Created January 23, 2023

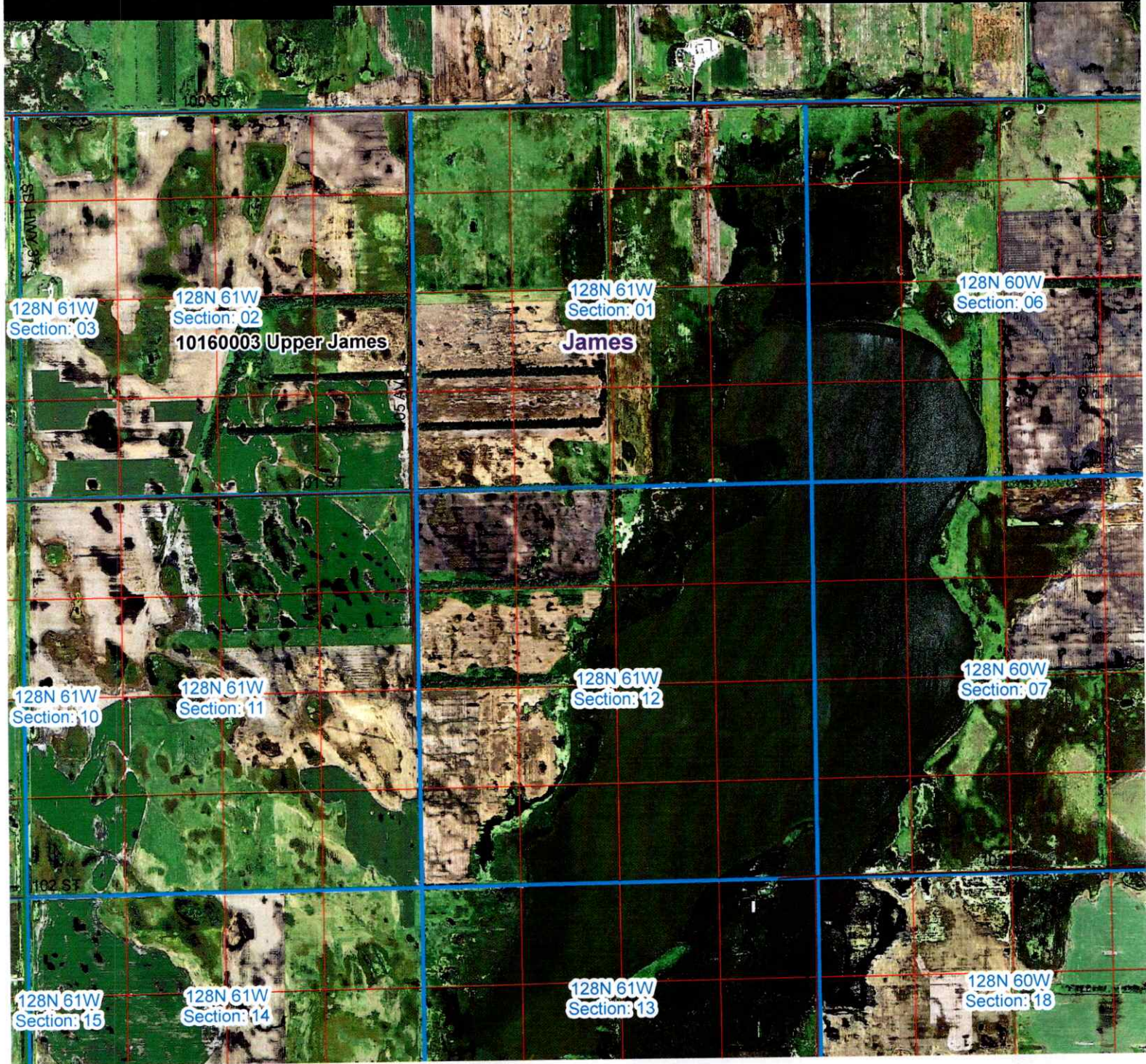
S1 T128N R61W

Phy Cnty: Brown



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128N 61W
Section: 03

128N 61W
Section: 02
10160003 Upper James

128N 61W
Section: 01
James

128N 60W
Section: 06

128N 61W
Section: 10

128N 61W
Section: 11

128N 61W
Section: 12

128N 60W
Section: 07

128N 61W
Section: 15

128N 61W
Section: 14

128N 61W
Section: 13

128N 60W
Section: 18

8527-3

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location 1/4 NW 1/4 Sec 1 Twp 128 Rg 61

County Brown

-45.932567
-98.118591
Please mark well location with an "X"

Well completion Date 09-19-22

Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)
? ft. from (identify source)

PROPOSED USE:
☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:
Forward Rotary

CASING DATA: ☐ Steel ☒ Plastic ☐ Other
 If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>50R-21</u>	<u>12</u> IN	<u>-1 1/2</u> FT	<u>65</u> FT	<u>17 7/8</u> IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:
 Grout Type WYO-BEN No. of Sacks 13 Grout Weight 0 Lb/gal From 0 Ft To 60 Ft
1 1/4 Tremie
 Describe grouting procedure Tremie to 60 ft
Grout till perforated

SCREEN: ☐ Perforated pipe ☐ Manufactured
 Diameter 12 Inches Length 20 Feet
 Material Stainless Steel
 Slot Size 80 Set From 65 Feet to 85 Feet
 Other information

WAS A PACKER OR SEAL USED? ☐ Yes ☒ No
 If so, what material?
 Describe packer(s) and location

DISINFECTION: Was well disinfected upon completion?
☒ Yes, How? Chlorine
☐ No, Why Not?
 Lab sample sent to for water quality analysis

Well Owner: David Finley
 Business Name: Finley Family LLLP
 Address1: 10923 State Line Rd.
 Address2:
 City, State, Zip: Oakes, ND 58474

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Top</u>	<u>0</u>	<u>2</u>
<u>fine Brown sand</u>	<u>2</u>	<u>5</u>
<u>Brown clay</u>	<u>5</u>	<u>20</u>
<u>fat gray clay</u>	<u>20</u>	<u>65</u>
<u>coarse gray sand</u>	<u>65</u>	<u>85</u>
<u>+ fine gravel</u>		

STATIC WATER LEVEL 2.6 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: Centrifugal Pump
☐ Bailed
☐ Other

Pumping Level Below Land Surface
4.1 Ft. After 2 Hrs. pumped 100 GPM
 Ft. After Hrs. pumped GPM
 If pump installed, pump rate: GPM

REMARKS pulled 5" test well and grouted!

This well was drilled under license # 434
 And this report is true and accurate.
 Drilling firm: M+W Drilling
 Signature of License Representative: Wayne Doty
 Signature of Well Owner or Equitable Property Holder: David Finley
 Date: 12-27-22

Please return White Copy to DENR Water Rights

523 E. Capitol Ave., Pierre SD 57501

DEC 30 2022

OFFICE OF
WATER

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date November 26th, 2024

RECEIVED OF David Finley 10923 Stateline Road Oakes ND 58474

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

Fee for Application for Permit No. <u>8900-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>100.00</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. _____	\$ _____
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>100.00</u>

By Eric Gronlund
Chief Engineer

SK

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date September 25th 2024

RECEIVED OF Finley Fams LLLP 10923 Stateline Road Oakes ND 58474

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

Fee for Application for Permit No. <u>8900-3</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>8900-3</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 G. Nordlund
Chief Engineer

North Dakota
Secretary of State

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FINLEY
CEMETERY
ASSOCIATION
Corporation -
Nonprofit -
Domestic



0000040694

Active

Good
Standing

07/28/2008

FINLEY CIVIC
CLUB, INC.
Corporation -
Nonprofit -
Domestic



0000020820

Inactive -
InvoluntaryNot
Good
Standing

08/05/1982

FINLEY CLINIC
Trade Name



0000209942

Inactive -
VoluntaryGood
Standing

04/18/1996

FINLEY
COMMUNITY
CLUB, INC.
Corporation -
Nonprofit -
Domestic



0000020824

Inactive -
InvoluntaryNot
Good
Standing

06/30/1987

FINLEY
COUNTRY CLUB
Corporation -
Nonprofit -
Domestic



0000020825

Inactive -
InvoluntaryNot
Good
Standing

10/23/1959

FINLEY
DEVELOPMENT
CORPORATION
Corporation -
Nonprofit -
Domestic



0000020826

Inactive -
InvoluntaryNot
Good
Standing

09/19/1959

FINLEY
ECONOMIC

**FINLEY FAMILY LAND
PARTNERSHIP, LLLP**

Limited Liability Limited Partnership - Domestic

Request
Certificate

Filing Type	Limited Liability Limited Partnership - Domestic
Filing Subtype	Engaged in Farming
Status	Active
Standing - AR	Good
Standing - RA	Good
Standing - Other	Good
Formed In	NORTH DAKOTA
Term of Duration	Perpetual
Initial Filing Date	08/14/2018
Principal Address	10923 STATE LINE RD OAKES, ND 58474-9129
Mailing Address	10923 STATE LINE RD OAKES, ND 58474-9129
AR Due Date	03/31/2025
Registered Agent	DAVID FINLEY 10923 STATE LINE RD OAKES, ND 58474-9129



View History

Dewell, Amanda

From: Dewell, Amanda
Sent: Friday, September 20, 2024 1:28 PM
To: dfinley@nvc.net
Subject: RE: [EXT] Water Permit Application/David Finley ATTENTION: Amanda
Attachments: CCI09202024.jpg; CCI09202024_0001.jpg; CCI09202024_0002.jpg

David –

I've reviewed your application and the maps you'd emailed this morning. With the overlap of the new system and the existing system developed under Permit No. 8527-3, would you agree that the new system would be hitting the area outlined in blue on the image below? If so, I will add the corners located in the E ½ NW ¼ Section 1, T128N, R61W to the area described on your application.

I recreated this map since the black and white one attached to the email is rather dark and difficult to see. With our GPS mapping program, I measure the area outlined in blue to be approximately 110 acres, so I would agree with your request for 120 acres, allowing room for over development.

The fee for this application would be \$950.00 to be paid to "SD Water Rights" via check mailed to: DANR – Water Rights, 523 E Capitol Ave, Pierre SD 57501.

I will keep your application at my desk for the time being. Once you confirm the map, inclusion of the corners, and submit the fees, we will begin processing the application.

Thank you and have a great Friday!

David Called 9/23/24 morning to say that he agrees with the addition of acres in the E ½ NW ¼ Sec 1- T128N- R61W and placement of the pivot system on map.
He will be submitting payment via check in mail today.

Amanda Dewell 9/23/24



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

File No. 8900-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: David Finley

ADDRESS: 10923 Stateline Road, Oakes ND 58474

DATE: November 18, 2024

PHONE: 701-992-2823

RE: Relocation of Acreage to be Irrigated as specified on Water Permit Application No. 8900-3

COMMENTS:

I contacted David Finley in response to a call from Mr. Finley to Rachel Rodriguez about changing the location of the acreage to be irrigated as identified on Application No. 8900-3. Mr. Finley indicated that the property initially identified on the application has a low area that will limit the acres that can be irrigated and the irrigation equipment salesman did not believe it was a good idea to place two pivots in close proximity of each other where a collision is possible.

Mr. Finley identified some property about one-half mile into North Dakota where a pivot could be placed. I told Mr. Finley it is possible to appropriate water from within South Dakota for use outside of the state. I further told Mr. Finley he should contact the Aberdeen American News and tell the newspaper to NOT publish the notice since he expressed his desire to change the location of the acres to be irrigated. I also told Mr. Finley he should send a map showing the location of the quarter to be irrigated in North Dakota and another \$100.00 for the application fee since the number of acres to be irrigated is to increase from the current 120 acres to 160 acres. Mr. Finley indicated he would be sending in a map with the additional application fee.

RECOMMENDED ACTION:

Once the map and fee are received, the report should be updated to reflect the revised legal description of the acres to be irrigated and number of acres. This will then be followed with a new public notice to be published in the Aberdeen American News. In addition, a note should be added to the recommendation or be included in the cover letter indicating issuance of permit to use water from South Dakota in North Dakota does not preclude any permitting that Mr. Finley may need from the state of North Dakota.

Ron Duvall, Natural Resources Engineer
SD DANR, Water Rights Program



**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. 8900-3, Finley Farms LLLP**

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. 8900-3, Finley Farms LLLP, 10923 Stateline Road, Oakes ND 58474.

The Chief Engineer is recommending APPROVAL of Application No. 8900-3 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 this Permit and Water Permit No. 8527-3 is located near domestic wells and other wells which may obtain water from the same aquifer. Water withdrawals must be controlled so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Eric Gronlund, Chief Engineer
December 5, 2024

Report to the Chief Engineer
On Water Permit Application No. 8900-3

Finley Farms LLLP

December 5th, 2024

Water Permit Application No. 8900-3 proposes to irrigate an additional 160 acres from what is currently authorized by Water Permit No. 8527-3. Water Permit No. 8527-3 appropriates 1.78 cubic feet of water (cfs) from one well completed into the Middle James: Columbia aquifer located near the center of the NW ¼ of Section 1 for the irrigation of 160 acres located in the NW ¼ of Section 1; all in T128N-R61W. This application proposes to irrigate an additional 160 acres located in the NE ¼, Section 31-T129N-R59W (in North Dakota) from the existing well with no increase in diversion rate. This application, if approved, and Water Permit No. 8527-3 will appropriate a total of 1.78 cfs for the irrigation of a combined total of 320 acres. The well site is located approximately 4 miles northeast of Hecla, SD in Brown County.

AQUIFER: Middle James: Columbia (MJ:C)

HYDROGEOLOGY:

The Columbia management unit of the Middle James aquifer is a deposit of glacial outwash composed of sorted gravel, sand, and silt (Koch and Bradford, 1976). In South Dakota, it underlies approximately 315,900 acres of Brown and Marshall Counties (Figure 1) with an estimated 1,376,000 acre-feet of recoverable water in storage (Hedges and others, 1982). It should be noted that the Middle James aquifer does extend into North Dakota (North Dakota, 2024). However, the portion of the Middle James aquifer that extends into North Dakota will not contribute to determining the hydrological budget of the Middle James: Columbia aquifer in South Dakota. The aquifer is primarily under confined or artesian conditions (Koch, 1975). It is hydraulically connected to the Deep James and Elm aquifers (Koch and Bradford, 1976) and possibly the Niobrara Formation in Marshall County (Koch, 1975).

A water well completion report was submitted with this application for the well authorized by Water Permit No. 8527-3 (Water Rights, 2024c). The top of aquifer material is 65 feet below ground surface, the static water level is 2.6 feet below ground surface, with a total saturated aquifer thickness of 20 feet (Water Rights, 2024c). Based on the well completion report for Water Permit No. 8527-3 and other nearby well completion reports, the well and surrounding aquifer for this application is expected to be under confined conditions (Water Rights, 2024a & Water Rights, 2024c).

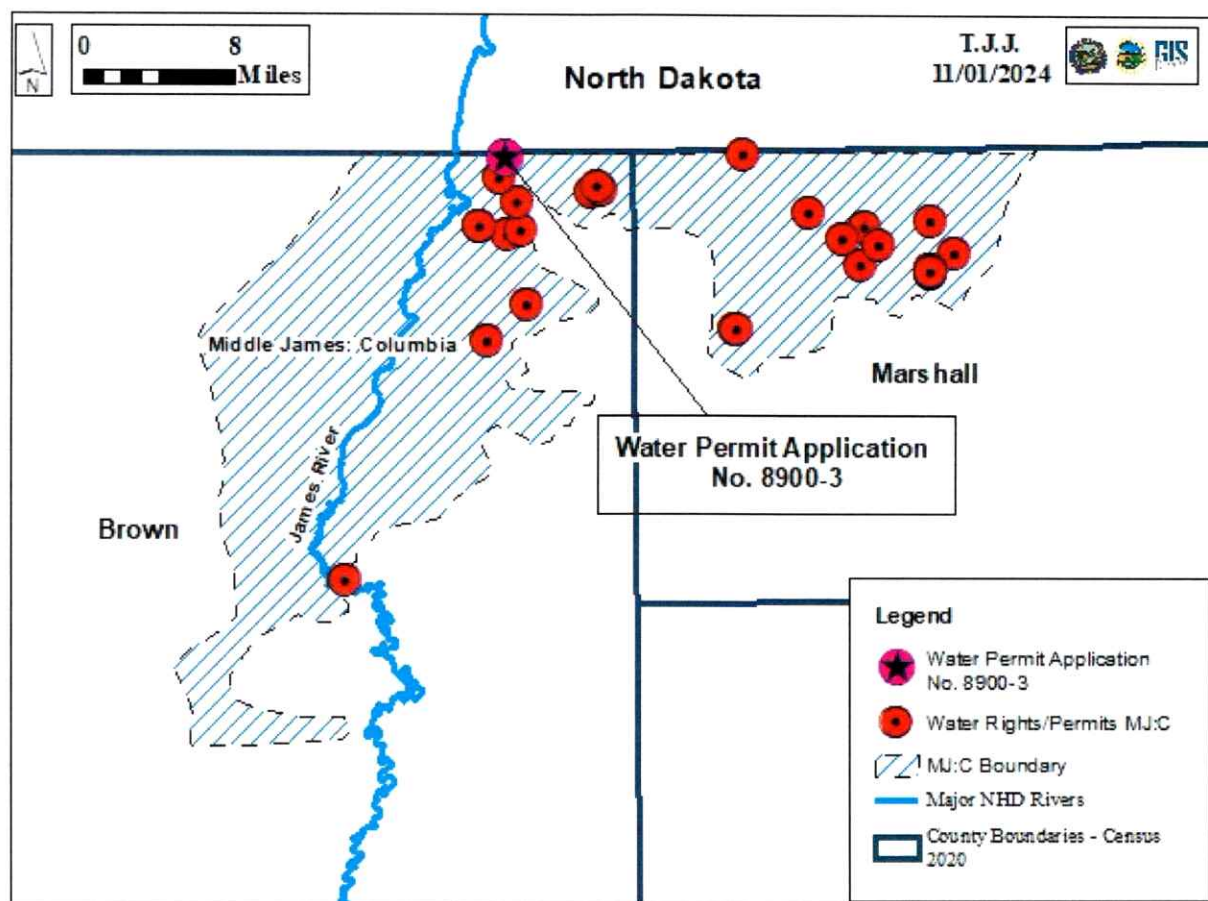


Figure 1. Map of the approximate Middle James: Columbia aquifer boundary (modified from: Hedges and others (1982)), location of the diversion point for Water Permit Application No. 8900-3, and Middle James: Columbia aquifer observation wells and water rights (Water Rights, 2024a and 2024b).

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 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 Middle James: Columbia aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8900-3 proposes to appropriate water from the Middle James: Columbia 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 Middle James: Columbia 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 Middle James: Columbia aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Middle James: Columbia aquifer is received primarily through infiltration of precipitation through overlying materials and inflow from adjacent glacial aquifers (Koch and Bradford, 1976). Hedges and others (1985) estimated a recharge rate to range between 0.15 to 0.60 inches per year (in/yr) for confined aquifers should be used by management and development programs when no specific recharge rate is available. Using an areal extent of 315,900 acres estimated by Hedges and others (1985), the estimated recharge rate to the Middle James: Columbia aquifer ranges between 3,950 to 15,800 acre-feet per year for the South Dakota portion of the aquifer.

Discharge

Discharge from the Middle James: Columbia aquifer primarily occurs through well withdrawals and subsurface outflow to other glacial aquifers and sediments (Koch and Bradford, 1976).

Currently, there are 26 water rights/permits authorized to appropriate water from the Middle James: Columbia aquifer (Water Rights, 2024b). There are also 2 future use permits reserving 1,300 acre-feet/year of water from the Middle James: Columbia aquifer (Water Rights, 2024b). Also, Water Right No. 5881-3 was previously listed as Middle James: Columbia aquifer water right but has been discovered to be withdrawing water from a different aquifer and will not contribute to withdrawal from the Middle James: Columbia aquifer (Water Rights, 2024c).

Table 2 summarizes the 12 non-irrigation water rights/permits authorized to appropriate water from the Middle James: Columbia 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 City of Hecla and City of Britton which purchase all their water from the Brown Day Marshall Rural Water System (Drinking Water, 2024). The estimated average annual withdrawal rate for the Middle James: Columbia aquifer, non-irrigation water rights/permits is 2,793 acre-feet/year (Table 2) (Water Rights, 2024c).

Currently, there are 14 irrigation water rights/permits appropriating water from the Middle James: Columbia 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 Middle James: Columbia aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2023) is approximately 704 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 420 acre-feet per year (Table 3) (Water Rights, 2024a).

This Water Permit Application proposes to irrigate an additional 160 acres to what is authorized by Water Permit No. 8527-3 (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 this irrigation application. If this application is approved, an additional 160 acre-feet of water will need to be accounted for. Collectively, the average annual withdrawal rate for the irrigation appropriations from 2014 to 2023 (420 acre-feet/year), plus this pending application, if approved (160 acre-feet/year), is approximately 580 acre-feet per year.

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

Permit No.	Name	Status	Uses	Authorized Diversion Rate (cfs)	Authorized Annual Volume (acre-feet)	Estimated Use (acre-feet/year)
1903-3*	CITY OF HECLA	LC	MUN	0.300	0	0
3915-3*	CITY OF BRITTON	LC	MUN	1.120	0	0
4908-3	BROWN DAY MARSHALL RWS	LC	MUN	1.000	0	434
5047-3*	CITY OF HECLA	LC	MUN	0.030	0	0
5220-3	SUNSET HUTTERIAN BRETHREN	LC	DOM	0.220	0	96
5740-3	WHITE TOWNSHIP	PE	COM	0.030	0	13
6371-3	BROWN DAY MARSHALL RWS	PE	RWS	2.890	1,300	1,300
6528-3	LARSON LIVESTOCK INC	PE	COM	0.333	0	145
6657-3	WESTWOOD HUTTERIAN BRETHREN INC	LC	DOM	0.270	0	117
7130-3	SD WHEAT GROWERS	LC	COM	0.022	0	10
8392-3	SUNSET HUTTERIAN BRETHREN	PE	DOM	0.220	78	78
8533-3	BROWN DAY MARSHALL RWS	PE	RWS	1.110	600	600
LC Licensed Water Right, PE Water Permit, COM Commercial, DOM Domestic, IND Industrial, MUN Municipal, RWS Rural Water System, *these Water Rights get their water from a separate system rather than local wells.					Total:	2,793

Table 3. Reported historic irrigation use from the Middle James: Columbia aquifer (Water Rights, 2024a)

Year	No. of Permits	Reported Pumpage (acre-feet)
1979	26	1,300
1980	26	1,371
1981	26	1,037
1982	21	1,497
1983	22	1,503
1984	25	1,588
1985	24	1,884
1986	22	715
1987	22	1,423
1988	20	3,121
1989	20	1,798
1990	20	1,814
1991	18	570
1992	23	363
1993	20	94
1994	20	1,139
1995	20	297
1996	20	319
1997	20	385
1998	20	27
1999	19	19
2000	19	7
2001	19	68
2002	19	882
2003	19	736
2004	17	896
2005	17	0
2006	17	521
2007	16	0
2008	16	434
2009	16	0
2010	16	0
2011	14	0
2012	14	982
2013	14	674
2014	14	200
2015	14	720
2016	13	670
2017	13	655
2018	13	297
2019	13	8
2020	13	40
2021	13	558
2022	14	175
2023	14	879
Minimum	13	0
Maximum	26	3,121
Average (1979-2023)	18	704
Average (2014-2023)	13	420

There are domestic wells completed into the Middle James: Columbia aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2024c). 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 Middle James: Columbia 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 Middle James: Columbia aquifer.

Hydrologic Budget Summary

The recharge rate of the Middle James: Columbia aquifer, based on Hedges and others (1985), is estimated range of 3,950 to 13,800 acre-feet per year. The Middle James: Columbia aquifer estimated average annual withdrawal rate is 4,673 acre-feet per year (non-irrigation: 2,793 acre-feet per year, irrigation including this application: 580 acre-feet per year, future use: 1,300 acre-feet per year). Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Middle James: Columbia 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 25 observation wells completed into the Middle James: Columbia aquifer as shown on Figure 1 (Water Rights, 2024a). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The three closest observation wells to the well for this application are BN-79A (approximately 0.3 miles northeast), BN-77P (approximately 0.3 miles northwest), and BN-79B (approximately 0.8 miles southwest) (Water Rights, 2024a). The water level elevations for these observation wells are displayed in Figure 2 (Water Rights, 2024a). The data shown on Figure 2 shares a similar trend with all of the observation wells in the Middle James: Columbia aquifer.

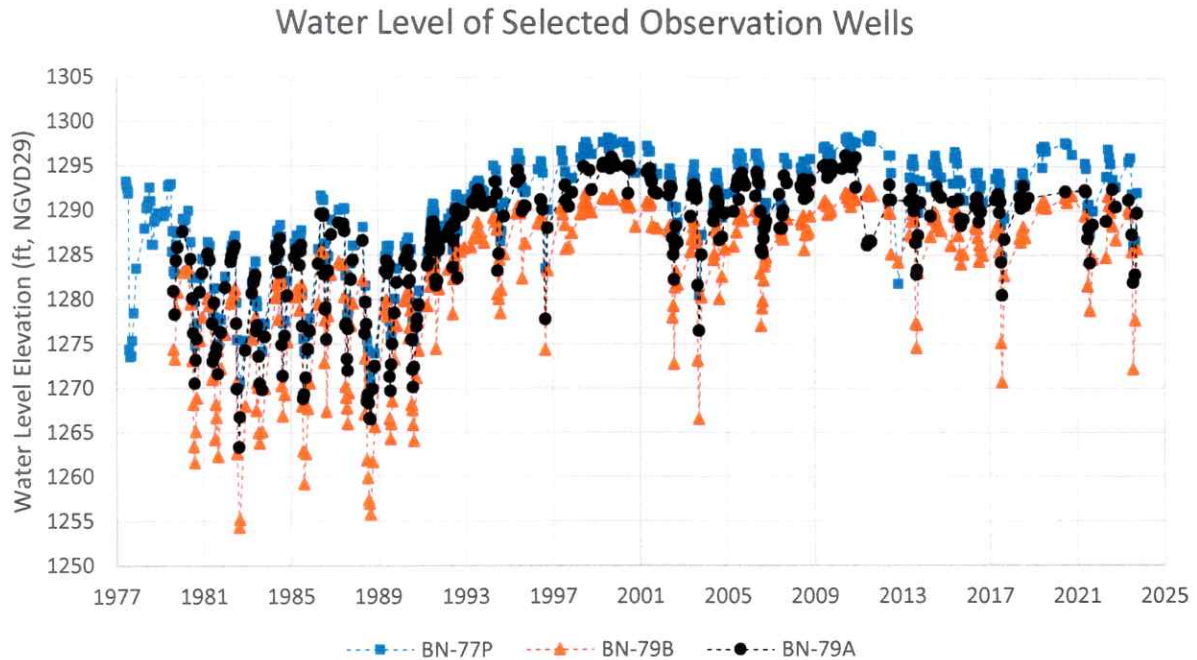


Figure 2. A graph showing the elevation of water levels of observation wells BN-79A, BN-77P, and BN-79B (Water Rights, 2024a)

Currently, each of the observation wells completed into the Middle James: Columbia aquifer have a stable trend in the water level, as seen in Figure 2. The water level for the Middle James: Columbia aquifer observation wells 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. There has been a recent decline in water levels due to recent drought conditions. Additionally, the water levels in the observation wells display that the amount of recharge to and natural discharge from the aquifer exceed pumping with the aquifer water levels returning to pre-pumping conditions between irrigation seasons. The drops in artesian head pressure due to seasonal irrigation pumping is evident in Middle James: Columbia observation wells, as seen in Figure 2. 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 Middle James: Columbia aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well water levels 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 well site for this application are shown in Figure 3 and summarized in Table 2. The closest water right/permit to the existing diversion point for this application is Water Right No. 4898-3 which is held by S. G. Treeby Ranch Inc. The diversion point for Water Right No. 4898-3 is located approximately 1.2 miles south of the

proposed diversion point for this application (Water Rights, 2024b). There are domestic wells on file with the DANR-Water Rights Program that are completed into the Middle James: Columbia aquifer, with the closest domestic well on file (not held by the applicant) less than 0.1 miles north of the diversion point based on the legal description provided by the well driller on the well completion report (Water Rights, 2024c). There could potentially be other domestic wells completed into the Middle James: Columbia aquifer near the diversion point that are not on file with the DANR-Water Rights Program.

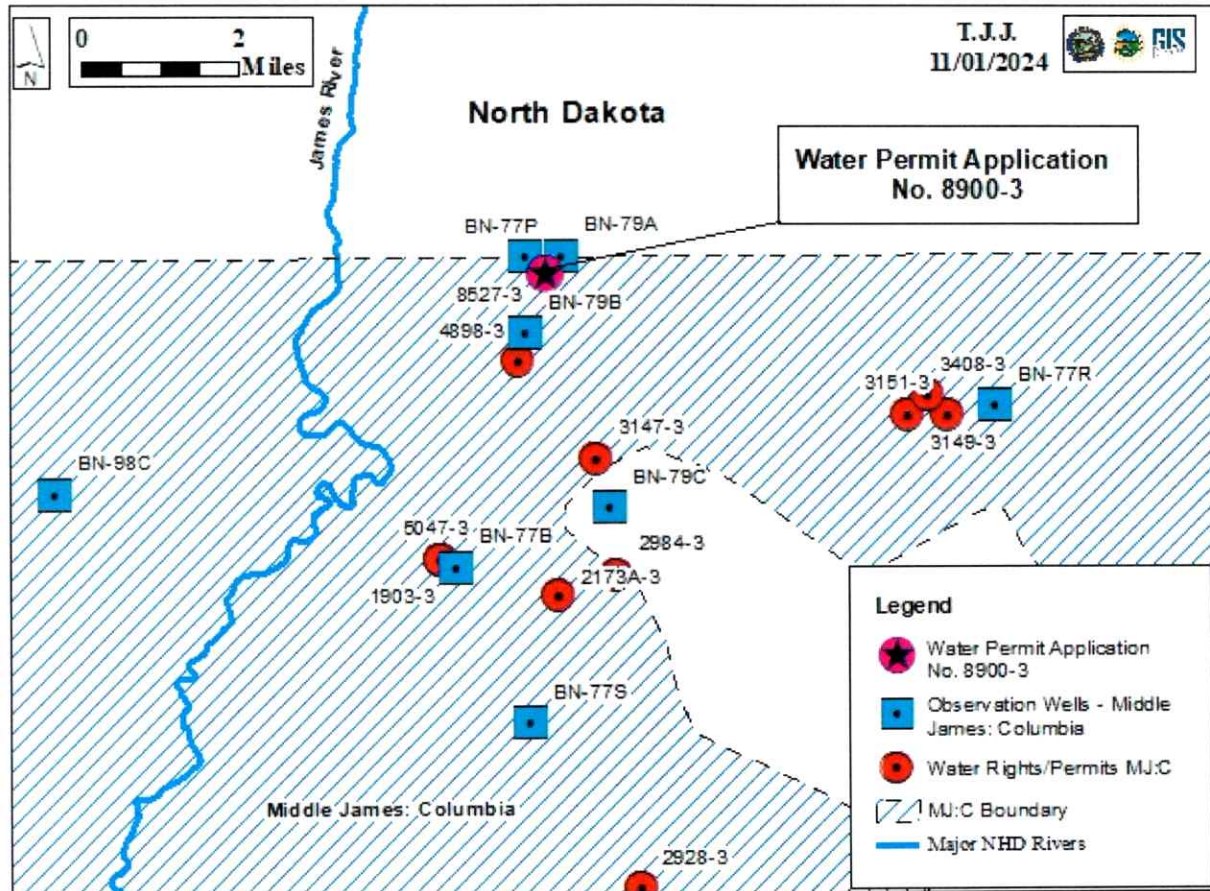


Figure 3. Map of the diversion point for Water Permit Application No. 8900-3, nearby Middle James: Columbia aquifer water rights/permits, and observation wells within 3 miles of the diversion point (Water Rights, 2024a and 2024b).

Table 2. List of water rights/permits within approximately 3 miles of the diversion point shown in Figure 3 (Water Rights, 2024b).

Permit	Name/Business	Priority	Status	Use Type	CFS	Acres
1903-3	City of Hecla	01/01/1931	License	Municipal	0.3	0
2173A-3	Ann Bushby Irrevocable Land Trust	02/24/1975	License	Irrigation	1.89	264
2984-3	Roy Bushby Irrevocable Real Estate Trust	08/16/1976	License	Irrigation	1.88	260
3147-3	Roy Bushby Irrevocable Real Estate Trust	09/29/1976	License	Irrigation	1.88	260
3149-3	Bushby Brothers Irrevocable Farm Trust	09/29/1976	License	Irrigation	1.88	260
3151-3	Susan Gerdes	10/15/1976	License	Irrigation	1.89	240
3408-3	Harold Treeby	12/02/1976	License	Irrigation	1.33	125
4898-3	S. G. Treeby Ranch Inc.	02/24/1982	License	Irrigation	6.66	734.3
5047-3	City of Hecla	02/14/1985	License	Municipal	0.03	0
8527-3	Finley Farms LLLP	07/15/2021	Permit	Irrigation	1.78	160

Based on the well completion reports and observation wells near the well for this application, the Middle James: Columbia aquifer is expected to be under confined conditions near the well site. 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 Middle James: Columbia 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 history of irrigation in the area (including this existing well) without any complaints of well

interference (Water Rights, 2024d), and the saturated aquifer thickness near the diversion point, any drawdown created from the diversion is not expected to cause an unlawful impairment on existing water right/permit holders or domestic users with adequate wells. Therefore, there is a reasonable probability that any interference from the proposed appropriation will not impose unlawful impairments on existing users with adequate wells.

CONCLUSIONS:

1. Water Permit Application No. 8900-3 proposes to irrigate an additional 160 acres from what is currently authorized by Water Permit No. 8527-3. Water Permit No. 8527-3 appropriates 1.78 cubic feet of water (cfs) from one well completed into the Middle James: Columbia aquifer located near the center of the NW $\frac{1}{4}$ of Section 1 for the irrigation of 160 acres located in the NW $\frac{1}{4}$ of Section 1; all in T128N-R61W. This application proposes to irrigate an additional 160 acres located in the NE $\frac{1}{4}$, Section 31-T129N-R59W (in North Dakota) from the existing well with no increase in diversion rate. This application, if approved, and Water Permit No. 8527-3 will appropriate a total of 1.78 cfs for the irrigation of a combined total of 320 acres. The well site is located approximately 4 miles northeast of Hecla, SD in Brown County.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Middle James: Columbia aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the diversion by Water Permit Application No. 8900-3 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

- 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.
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- Water Rights, 1995. Findings of Fact, Conclusions of Law, and Final Decision in the Matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. DANR-Water Rights Program file for Water Right No. 2313-2. Pierre, SD.
- Water Rights, 2024a. Observation Well Data, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2024b. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2024c. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2024d. 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 NEWSPAPER RIGHT AWAY.**

November 18, 2024

Finley Farms LLLP
c/o David Finley
10923 Stateline Road
Oakes ND 58474

Dear Mr. Finley:

Water Permit Application No. 8900-3 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 American News printed in Aberdeen SD (Ph # 605 225-4100). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 8900-3 to Appropriate Water

Notice is given that Finley Farms LLLP, 10923 Stateline Road, Oakes ND 58474, has filed an application for a water permit to irrigate an additional 120 acres. Water Permit No. 8527-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Middle James: Columbia Aquifer (85 feet deep) located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This application proposes to irrigate an additional 120 acres located in the NE 1/4, E1/2 NW 1/4 Section 1-T128N-R61W from the existing well with no increase in diversion rate. This application, if approved, and Water Permit No. 8527-3 will appropriate a total of 1.78 cfs for irrigation of a combined total of 280 acres. This site is located approximately four miles northeast of Hecla SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8900-3 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 December 9, 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 December 9, 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, November 18, 2024 1:58 PM
To: Gannett Legals Public Notices 4
Cc: dfinley@nvc.net
Subject: RE: [EXT] 10782725 RE: 8900-3 Finley Farms LLLP - Public Notice --Cancel

Please cancel this notice, do not publish.

Thank you,

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



From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Monday, November 18, 2024 11:54 AM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Cc: dfinley@nvc.net
Subject: [EXT] 10782725 RE: 8900-3 Finley Farms LLLP - Public Notice

Hello!

Please find your order confirmation and proof of ad attached.

Your notice is set to run in the Aberdeen American on 11/26. The order cost is \$54.30 which includes an affidavit that will be sent 7-10 business days after the last day of the notice printing. Please email before 8am on Friday with any changes.

A bill will be sent. If you prefer to prepay, please call the number below my signature before 8am on Friday and reference order # 10782725. Anyone who answers can help you.

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

Final order cost provided at time of payment and via a receipt.

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

Thank you!
Kerri Furnace
Public Notice Representative



Office: 844-254-5287

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, November 18, 2024 10:58 AM
To: aan-legals@aberndeennews.com
Subject: 8900-3 Finley Farms LLLP - Public Notice
Attachments: 8900-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on November 26, 2024.

Finley Farms LLLP, 10923 Stateline Road, Oakes ND 58474, 701-992-2823, dfinley@nvc.net 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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

December 5, 2024

Finley Farms LLP
c/o David Finley
10923 Stateline Road
Oakes ND 58474

Dear Mr. Finley:

Water Permit Application No. 8900-3 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 American News printed in Aberdeen SD (Please see attached information). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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Sincerely,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

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NOTICE OF APPLICATION NO. 8900-3 to Appropriate Water

Notice is given that Finley Farms LLLP, 10923 Stateline Road, Oakes ND 58474, has filed an application for a water permit to irrigate an additional 120 acres. Water Permit No. 8527-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Middle James: Columbia Aquifer located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This application proposes to irrigate an additional 160 acres located in the NE 1/4 Section 31-T129N-R59W (in North Dakota) from the existing well with no increase in diversion rate. This application, if approved, and Water Permit No. 8527-3 will appropriate a total of 1.78 cfs for irrigation of a combined total of 320 acres. The well site is located approximately four miles northeast of Hecla SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 8900-3 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 December 26, 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 December 26, 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: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Thursday, December 5, 2024 11:54 AM
To: Rodriguez, Rachel
Cc: dfinley@nvc.net
Subject: [EXT] 10837011 RE: 8900-3 Finley Farms LLLP - Public Notice
Attachments: Order_Confirmation_Liners - 2024-12-05T125315.259.pdf

Hello!

Please find your order confirmation and proof of ad attached.

Your notice is set to run in the Aberdeen American on 12/12. The order cost is \$54.30 which includes an affidavit that will be sent 7-10 business days after the last day of the notice printing. Please email before 8am on Tuesday with any changes.

A bill will be sent. If you prefer to prepay, please call the number below my signature before 8am on Friday and reference order # 10837011. Anyone who answers can help you.

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

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

Thank you!
Kerri Furnace
Public Notice Representative
 
Office: 844-254-5287

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

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Thursday, December 5, 2024 12:37 PM
To: SD-Aberdeen Legals <aan-legals@aberdeennews.com>
Subject: 8900-3 Finley Farms LLLP - Public Notice

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

Finley Farms LLLP, 10923 Stateline Road, Oakes ND 58474, dfinley@nvc.net, 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.**

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, December 5, 2024 12:43 PM
To: dfinley@nvc.net
Subject: 8900-3 Finley Farms LLLP - Public Notice
Attachments: 8900-3 Rec.pdf; 8900-3 Ltr.pdf; 8900-3 PubNotice.pdf; 8900-3 American News.pdf

Good afternoon,

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



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Attachments: 8900-3 public.short_final.docx; FORM8.FRM.doc

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Thank you,

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



LOCALiQ

Aberdeen News
Watertown Public Opinion

PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

Water Rights Program
Water Rights Program
523 E Capitol Ave
Pierre SD 57501

STATE OF SOUTH DAKOTA, COUNTY OF BROWN

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

12/12/2024

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

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$54.30

Tax Amount: \$0.00

Payment Cost: \$54.30

Order No: 10837011

Customer No: 559632

PO #:

of Copies:

1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

DENISE ROBERTS
Notary Public
State of Wisconsin

RECEIVED

DEC 26 2024

OFFICE OF
WATER

Page 1 of 3

NOTICE OF
APPLICATION NO. 8900-3
to Appropriate Water

Notice is given that Finley Farms LLLP, 10923 State-line Road, Oakes ND 58474, has filed an application for a water permit to irrigate an additional 120 acres. Water Permit No. 8527-3 appropriates 1.78 cubic feet of water per second (cfs) from one well completed into the Middle James: Columbia Aquifer located in the center of the NW 1/4 Section 1 for irrigation of 160 acres located in the NW 1/4 Section 1; all in T128N-R61W. This application proposes to irrigate an additional 160 acres located in the NE 1/4 Section 31-T129N-R59W (in North Dakota) from the existing well with no increase in diversion rate. This application, if approved, and Water Permit No. 8527-3 will appropriate a total of 1.78 cfs for irrigation of a combined total of 320 acres. The well site is located approximately four miles northeast of Hecla SD.

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RECEIVED

DEC 26 2024

OFFICE OF
WATER

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RECEIVED

DEC 26 2024

OFFICE OF
WATER

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Thursday, December 5, 2024 12:43 PM
To: dfinley@nvc.net
Subject: 8900-3 Finley Farms LLLP - Public Notice
Attachments: 8900-3 Rec.pdf; 8900-3 Ltr.pdf; 8900-3 PubNotice.pdf; 8900-3 American News.pdf

Good afternoon,

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

JAN 09 2025

Finley Farms LLLP
c/o David Finley
10923 Stateline Road
Oakes ND 58474

Dear Mr. Finley:

Enclosed is Water Permit No. 8900-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Please note that issuance of a permit to use water from South Dakota in North Dakota does not preclude any permitting needed from the state of North Dakota.

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

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

Sincerely,

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

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 8900-3

Name of Applicant: Finley Farms LLLP, c/o David Finley

Date of Posting: 12/9/2024

Date of Removal: 1/9/2025



Ron Duvall, Engineer III

1/9/2025

Date

Subscribed and sworn to before me, a notary public, this 9th day of Jan, 2025.



Notary Public - South Dakota
My commission expires:

(SEAL)

Rachel Rodriguez
My Commission Expires
May 16, 2029

