

WATER PERMIT NO. 8919-3

Name of Applicant: Tom Nuhsbaumer

Address: 17781 370th Avenue, Zell SD 57469

Phone: 605-460-1368

Amount of Water Claimed: 2.28 cfs

Total Acres: 190.5

Source of Water Supply: Groundwater

Water to be used for: Irrigation

County: Hand

Type of Waste Disposal System:

Location: Approx. 13 miles southwest of Redfield

PRIORITY

Date Received: 01-13-25

Application/License Fee: \$1,150.00

Corrected Application Received: N/A

Period of Annual Use: April 1- September 30

Remarks:

Diversion Point: SE 1/4 SW 1/4 Sec 33-T116N-
R66W

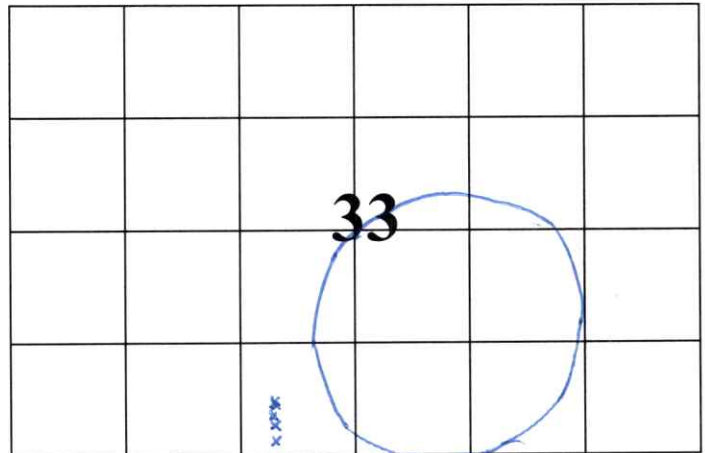
Land to be Irrigated: SE 1/4, E 1/2 SW 1/4, S 1/2
NE 1/4 Sec 33-T116N-R66W

Depth of Well: 60

Well Driller:

Remarks:

Type of Map: aerial



Reviewed and the Number Assigned on: 01-14-25

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8919-3

Date of first receipt of application January 13, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8919-3 to Tom Nuhsbaumer, 17781 370th Avenue, Zell SD 57469, authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 8919-3 appropriates 2.28 cubic feet of water per second from up to four wells to be completed into the Quaternary aged Alluvium Aquifer (approximately 60 feet deep) located in the SE 1/4 SW 1/4 Section 33 for irrigation of 190.5 acres located in the SE 1/4, E 1/2 SW 1/4, S 1/2 NE 1/4 Section 33; all in T116N-R66W. This site is located approximately thirteen miles southwest of Redfield SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – September 30.
3. The date from which applicant may claim right is January 13, 2025.
4. The date of approval of Permit No. 8919-3 is April 22, 2025.
5. One-fifth of the construction is to be completed on or before October 22, 2027.
6. All construction is to be completed on or before April 22, 2030.
7. Water is to be put to beneficial use on or before April 22, 2034.
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 wells approved under Water Permit No. 8919-3 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. The proposed wells authorized by Permit No. 8919-3 must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Mark Mayer
Mark Mayer, PE
Director of Office of Water
Department of Agriculture and Natural Resources

5/6/25
date



RECEIVED

JAN 13 2025

SD EForm - 0499LD V5

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

PAID

JAN 13 2025

Ck# 1401

Rec't#

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>8919-3</u> (office use only) Hydrologic Unit <u>10160009</u> Basin <u>James</u> Newspaper <u>Miller Press</u> <u>Huron Plainsman</u>
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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 Tom Nuhsbaumer

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

Mailing Address 17781 370th Ave Zell SD 57469
Contact Person Tyson (Address) Tom (City) (State) (Zip Code)
Phone (605) 460-1368 Mobile (605) 460-0634 Email tnuhsbaumer@hotmail.com

2. Amount of water claimed 2.28 *CFS or 1026 **GPM ***AF Total Acreage 190.5
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ground water (SE 1/4 SW 1/4)

4. Location of point of diversion 4 wells in SW 1/4 section 33 - 116N-66W
(example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W)

County Hand

5. County or counties where water will be used Hand

6. Annual period during which water is to be used April - September³⁰

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
NW 1/4 of SE 1/4 of 33-116N-66W	34	South center of NE 1/4	
NE 1/4 of SE 1/4 of 33-116N-66W	34	of 33-116N-66W	27.25
SW 1/4 of SE 1/4 of 33-116N-66W	34	East center of SW 1/4	
SE 1/4 of SE 1/4 of 33-116N-66W	34	of 33-116N-66W	27.25

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

We will irrigate 190.5 acres with a Center pivot

I, Tom Nuhsbaumer, 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.

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JAN 13 2025

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Form 2A

(Complete required and applicable portions only)

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 4 Have test holes been drilled ☐ Yes ☒ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many _____ Provide copy of log(s), if available. Drilled by _____

For either Existing or Proposed Wells:

c) Well Depth (required) 60 ft Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____

d) Distance to nearest domestic well on applicant's property _____ Property owned by others _____

2. Wastewater Disposal System Information

a) Type of System (i.e. septic tank, drain field) _____

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

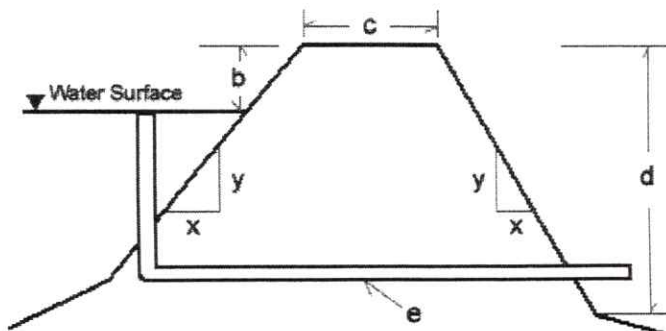
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





Pivot Layout: pivot1.pdf



Report generated using Center Pivot Mapper Software (v.1.1.1.1)

User Inputs

Pivot center position: 44.8128512943432°, -98.7727332115173°

End/Endgun position: 44.8123337330313°, -98.7668538093567°

Pivot stops not defined

Endgun or last sprinkler radius: 90.0 ft

Calculated Outputs

Machine length: 1535.1 ft

Wetted radius: 1625.1 ft

Angle between stops: 360.0°

Machine travel between stops (at end): 9645.2 ft

Area inside end/endgun position: 169.95 ac

Area outside end/endgun position: 20.51 ac

Total wetted area: 190.46 ac

24/7 flow required for 1 in. per week: 513 gpm

24/7 flow required for 2 in. per week: 1026 gpm

Date of report generation: January 9, 2025

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WATER

Software developed by:
CLEMSON
PRECISION AGRICULTURE



Farm Management Map

Retailer: Agtegra - Redfield
Customer: Nuhsbaumer Farms INC
Farm: Hand Co
Fields: ~~116N 66W 33~~

Area: 372.33
ac

116N-66W-33



Notes:

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WATER

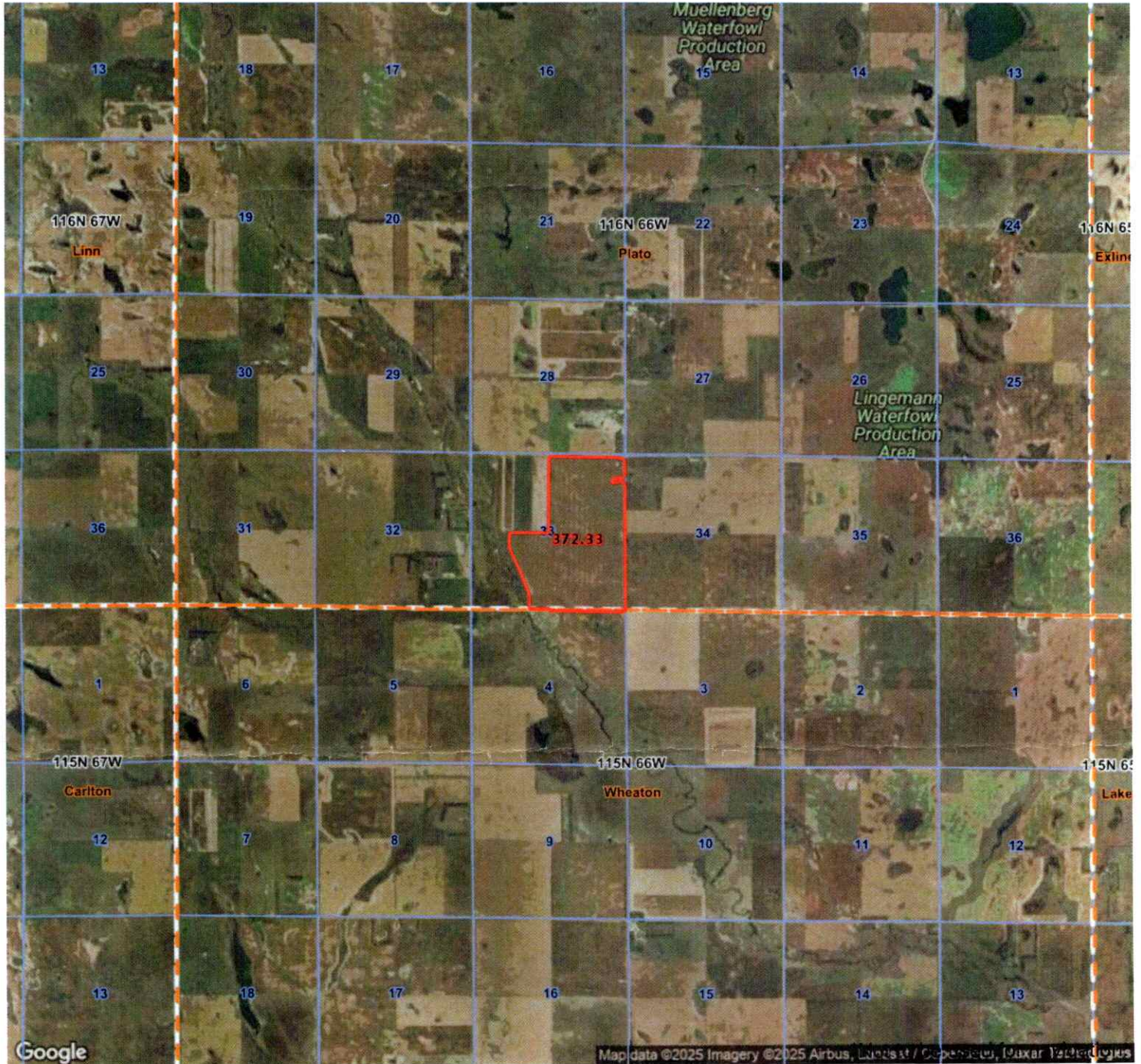


Farm Management Map

Retailer: Agtegra - Redfield
Customer: Nuhsbaumer Farms INC
Farm: Hand Co
Fields: [REDACTED]

Area: 372.33
ac

116 N - 66 W - 33



Notes:

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WATER

116N 66W
Section: 20

116N 66W
Section: 21

116N 66W
Section: 22

116N 66W
Section: 29

116N 66W
Section: 28

116N 66W
Section: 27

116N 66W
Section: 32

10160009 Turtle

James

116N 66W
Section: 33

116N 66W
Section: 34

115N 66W
Section: 05

115N 66W
Section: 04

115N 66W
Section: 03

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 14th 2025

RECEIVED OF Tyson Nuhsbaumer for Tom Nuhsbaumer 17781 370th Avenue Zell SD 57469

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ <u>950.00</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>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>1150.00</u>

By Eric Groeland
Chief Engineer

SW



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 8919-3, Tom Nuhsbaumer**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 8919-3, Tom Nuhsbaumer, 17781 370th Avenue, Zell SD 57469.

The Acting Chief Engineer is recommending APPROVAL of Application No. 8919-3 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 Permit No. 8919-3 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. The proposed wells authorized by Permit No. 8919-3 must be constructed by a licensed well driller and construction of the well and installation of the pump must comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Mark Mayer, PE
Director of Office of Water
March 31, 2025

Report to the Chief Engineer
Water Permit Application No. 8919-3

Tom Nuhsbaumer

March 31st, 2025

Water Permit Application No. 8919-3 proposes to appropriate 2.28 cubic feet of water per second (cfs) from up to four wells to be completed into the Quaternary aged Alluvium aquifer (approximately 60 feet deep) located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33 for irrigation of 190.5 acres located in the SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 33; all in T116N-R66W. This site is located approximately thirteen miles southwest of Redfield SD.

AQUIFER: Quaternary aged Alluvium (ALQ)

Aquifer Characteristics

The first occurrence of aquifer materials maps for Hand & Faulk Counties (Rich, 2013 & 2008), lithologic logs (SDGS, 2025), and nearby well completion reports (Water Rights, 2025c) show that the proposed wells will be completed into the Quaternary aged Alluvium aquifer. The Quaternary aged Alluvium aquifer is a general name for aquifers that occur in the material deposited by streams, alluvium, that is not part of a larger contiguous aquifer (Water Rights, 2025a and 2025b). Furthermore, the various deposits of the Quaternary aged Alluvium aquifer may not be hydrologically connected to each other depending primarily on geographic location and geologic discontinuities. The alluvium that comprises this aquifer underlies and is adjacent to Medicine Creek, Bryant Creek, and the tributaries to each creek (Rich, 2013 & 2008). The First Occurrence of Aquifer Materials Map of Hand County (Rich, 2013), described the alluvium confined to stream valleys in the northeastern part of the county having a depth (observed in test holes) to the top of sand and gravel ranging from 0 to 41 feet with a maximum thickness of 70 feet. Figure 1 shows the portion of the alluvium in Hand & Faulk Counties from which the proposed wells can obtain water and is not considered a portion of another aquifer. The areal extent is based on the mapped alluvium in Hand & Faulk Counties First Occurrence of Aquifer Materials Map (Rich, 2013 & 2008).

Hedges and others (1982 and 1985) mapped major aquifers in eastern South Dakota and also subdivided aquifers into management units (for the purposes of managing water) based on six general criteria. The six criteria from Hedges et al. (1982) are (1) thinning and/or constriction of the aquifer or management unit, (2) facies change from high to low permeability of aquifer material, (3) change from water-table to artesian conditions and vice versa, (4) ground-water divide, (5) ground-water discharge point such as stream or lake, and (6) presence of a streamflow gaging station. The main criteria used to determine the extent of the aquifer for the purposes of this review was criterion 1. The mapped alluvium and surficial outwash that is considered as a portion of this Quaternary aged Alluvium aquifer follows Medicine Creek & Bryant Creek, until a deposit constriction within a half-mile downgradient of the proposed well locations (Rich, 2013 & 2008). There are four constrictions (based on Hedges and others, 1982 criterion 1) for this portion of the Quaternary aged Alluvium aquifer. Two constrictions are in the S1/2 Section 9-

T116N-R67W of Hand County and approximate center of Section 35-T117-R67W of Faulk County (Figure 1). One constriction that also has a change of surface topography causing a change surface drainage direction is in the approximate center of Section 36-T117-R67W of Faulk County (Figure 1). One constriction and a blending of the alluvium into the Tulare: Western Spink-Hitchcock aquifer is located in the approximate center of Section 04-T115-R66W of Hand County (Figure 1).

The areal extent of the Quaternary aged Alluvium aquifer shown in Figure 1 is approximately 5,100 acres (240 acres in Faulk County & 4,877 acres in Hand County) (modified from: Rich, 2013 & 2008). The Quaternary-aged alluvium is primarily comprised of clay and silt with some sand and gravel. In general, the direction of water movement in alluvium is the same as Medicine Creek and Bryant Creek. The geology of a water well completion report near the proposed well locations is described as: clay till 0-23 feet, coarse sand to gravel 23-35 feet, coarse gravel 35-41 feet, clay till 41-60 feet below ground surface (Water Rights, 2025c). The proposed locations of the wells are along Bryant Creek, the static water level should be similar to the level of the creek, at or near land surface. Alluvium extent downgradient of the proposed well locations does not contribute much water compared to upgradient extent due to the direction of groundwater flow. Quaternary aged alluvium aquifers are generally under unconfined conditions (SDGS, 2025; Water Rights, 2025c)

Table 1 lists the water rights/permits shown on Figure 1. Based on the currently available information and aquifer naming conventions used by the Water Rights Program, it was determined both Water Right No. 3190-3 and Water Permit No. 8450-3 are withdrawing water from the Quaternary aged Alluvium aquifer instead of the respective listed aquifer names (Water Rights, 2025c). This change of aquifer name designation to the Quaternary aged Alluvium aquifer does not represent a physical change in water source used or approved under the permits. This would be an aquifer name designation change only to reflect currently best available information. An aquifer name designation change does not authorize any increase in the amount of water appropriated, acres to be irrigated, diversion rate, number of wells, or relocation of existing wells.

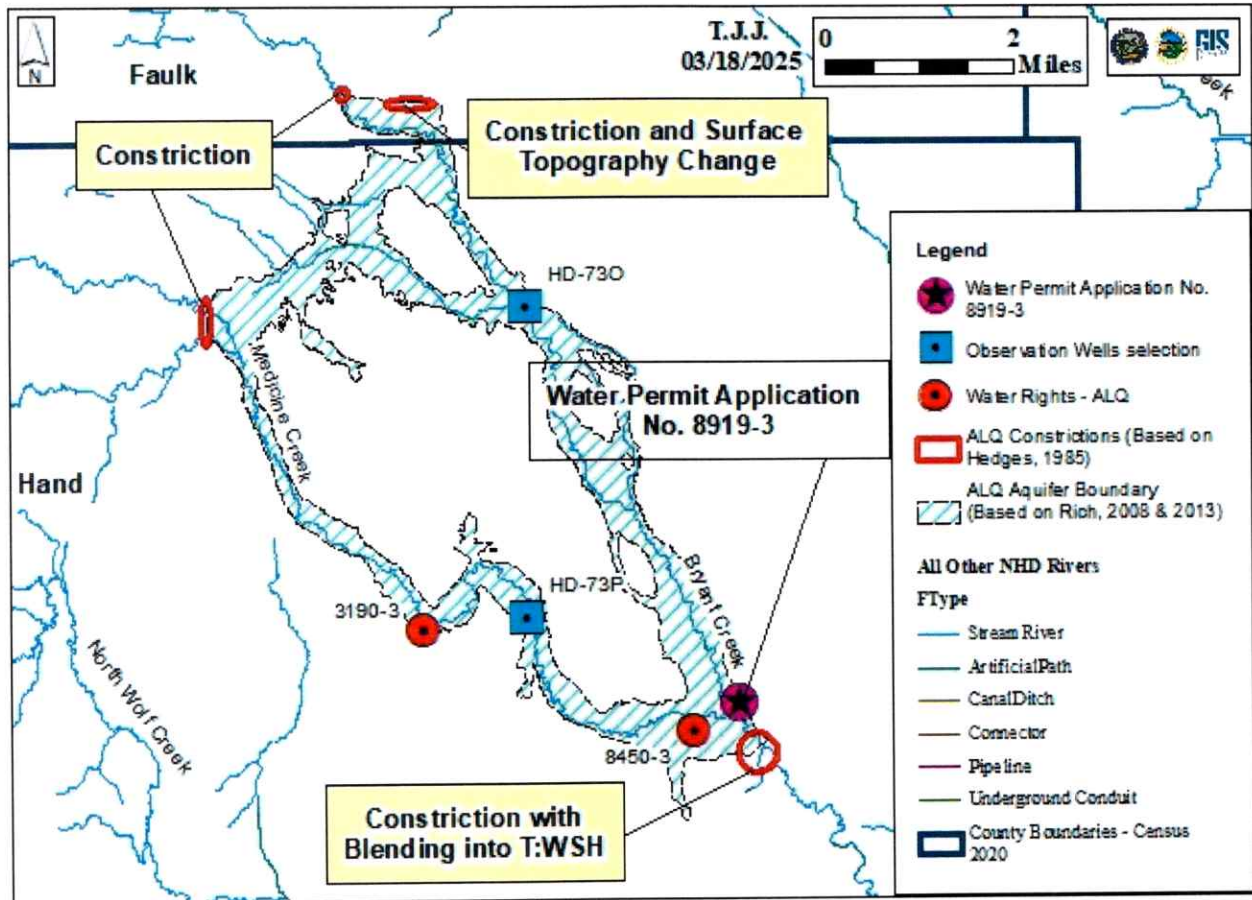


Figure 1. Approximate areal extent with constraints of the Quaternary aged Alluvium aquifer available to Application No. 8919-3 and the other surficial aquifer water right in the area of Medicine Creek and Bryant Creek (Water Rights, 2025b; modified from: Rich, 2013 & 2008)

Table 1. Nearby surficial aquifer water rights/permits along Medicine Creek and Bryant Creek shown in Figure 1 (Water Rights, 2025b)

Permit No.	Name	Aquifer	Priority Date	Status	Use	CFS	Acres
3190-3	Daelyn R Sanger	Tulare: Hand	09/03/1976	License	Irrigation	1.55	264
8450-3	Tom Nuhsbaumer	Pleistocene Series: Unknown	02/08/2021	Permit	Irrigation	1.78	101.4

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 Quaternary aged Alluvium aquifer.

WATER AVAILABILITY

Water Permit Application No. 8919-3 proposes to appropriate water from the Quaternary aged Alluvium 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 Quaternary aged Alluvium 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 Quaternary aged Alluvium aquifer must be considered.

HYDROLOGIC BUDGET

Recharge

This portion of the Quaternary aged Alluvium aquifer likely receives recharge from direct infiltration of precipitation and snowmelt, infiltration of runoff from the watershed that supplies Bryant Creek & Medicine Creek, inflow from upgradient alluvium, and leakage from Bryant Creek & Medicine Creek when their water levels are higher relative to the head of the aquifer. There has been no direct estimation of recharge to this portion of the Quaternary aged Alluvium aquifer. However, Hedges and others (1985) estimated a range of recharge rates to non-buried, unconfined glacial aquifers from 2.0 to 5.6 inches/year. That is a recharge range of 850 to 2,380 acre-feet per year to this portion of the Quaternary aged Alluvium aquifer. The annual 1991-2020 normal precipitation at Redfield, South Dakota is 22.76 inches/year (NCDC, 2024). The recharge rate estimated from Hedges and others (1985) would require an infiltration rate of 9.1 to 25.5 percent of the precipitation that falls directly on the surface of the aquifer. That does not account for any inflow from upgradient alluvium or infiltration of surface runoff from the watershed that feeds the alluvium or leakage from Bryant Creek & Medicine Creek. Therefore, it is reasonable to assume there is at least 2 inches/year of recharge to this portion of the Quaternary aged Alluvium aquifer.

Discharge

Discharge from this portion of the Quaternary aged Alluvium aquifer is likely through outflow to downgradient alluvium, baseflow to Bryant Creek & Medicine Creek when their water levels are lower relative to the head of the aquifer, evapotranspiration where the aquifer is at or near land surface, and well withdrawals (Water Rights, 2025d). There are no water rights currently listed as withdrawing from this portion of the Quaternary aged Alluvium aquifer. However as previously discussed, there are two water rights/permits (Nos. 3190-3 & 8450-3) that are located near or inside the alluvium boundary, as seen in Figure 1 (Water Rights, 2025b). The two water rights/permits are listed under different aquifers but based on the best currently available information they are and have been withdrawing water from the Quaternary aged Alluvium. Thus, they must be included in the hydrologic budget for this aquifer. Water Right No. 3190-3 is a 79-foot-deep well located 3.5 miles northwest of this application and is currently listed as completed into the Tulare: Hand aquifer (Table 1) (Water Rights, 2025b). According to the annual irrigation questionnaires Water Right No. 3190-3 hasn't irrigated since 2013 and reported this water right has been abandoned in 2024 (Water Rights, 2025e). Documentation in the file for Water Right No. 3190-3 indicates the permit holder has been contacted and is amenable to cancellation of the permit. However, to be cautious when estimating average annual withdrawal, withdrawals under Water Right No. 3190-3 will be accounted for until the cancellation process is completed. Water Permit No. 8450-3 is a 60-foot-deep well located half mile southwest of this application and is currently listed as completed into the Pleistocene Series: Unknown aquifer (Table 1) (Water Rights, 2025b). Generally, irrigators in eastern South Dakota apply less than one foot of water per acre per year. If Water Right/Permit Nos. 3190-3 & 8450-3 were to irrigate, on average, their annual withdrawal would be expected to be less than one foot of water per acre based on the general reported irrigation application rates in eastern South Dakota. This method of estimation will be used because Water Right No. 3190-3 has not reported withdrawals in a significant amount of time and Water Permit No. 8450-3 was approved in late 2021 and has only reported irrigation for 3 years. Thus, their combined annual withdrawal would be expected to be approximately 365 ac-ft/yr. This application proposes to irrigate 190.5 acres. Following the same method as above, this application would be expected to withdraw less than 190 ac-ft/year on average.

There are five domestic wells on file with DANR Water Rights Program that appears to be completed into the portion of the Quaternary aged Alluvium aquifer the applicant intends to use (Water Rights 2025b). Carter & Neitzert (2008) estimated water use in South Dakota for 2005. The average self-supplied water use per capita for the State of South Dakota was 70 gallons per day (Carter & Neitzert, 2008). Assuming a population of 2.5 people per residence for the domestic wells on file, the domestic wells are estimated to pump 0.98 acre-feet per year. There may be other domestic wells completed into this portion of the Quaternary aged Alluvium aquifer. However, with the development of rural water systems in areas where the Quaternary aged Alluvium aquifer is the uppermost aquifer available; some domestic users may have transitioned to rural water.

Balance of Hydrologic Budget

The best information available indicates the recharge rate to this portion of the Quaternary aged Alluvium aquifer is likely at least 2 inches/year for an estimated average annual recharge of at least 850 acre-feet per year. This application, if approved, is expected to withdraw less than 190 acre-feet per year. Water Right/Permit Nos. 3190-3 & 8450-3 are expected to withdraw approximately 365 ac-ft/yr. However, Water Right No. 3190-3 is expected to be canceled, so the annual withdrawal is expected to be closer to 101 ac-ft/yr. The domestic wells on file are assumed to pump 0.98 acre-feet per year. Therefore, there is a reasonable probability that unappropriated water is available for this proposed appropriation.

OBSERVATION WELL DATA

Administrative Rule of South Dakota Section 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.

There are two observation wells completed into this portion of the Quaternary aged Alluvium aquifer (Water Rights, 2025a). Recently, both observation wells (HD-73O & HD-73P) are listed as completed into the Tulare: Hand aquifer, have been redesignated as this portion of the Quaternary aged Alluvium aquifer (Water Rights, 2025a). The observation wells are HD-73O (approximately 4.8 miles northwest of this application) and HD-73P (approximately 2.5 miles northwest of this application) (Water Rights, 2025a). The water level elevations for these observation wells are displayed in Figure 2 (Water Rights, 2025b). The observation wells in the Quaternary aged Alluvium aquifer show a stable water level.

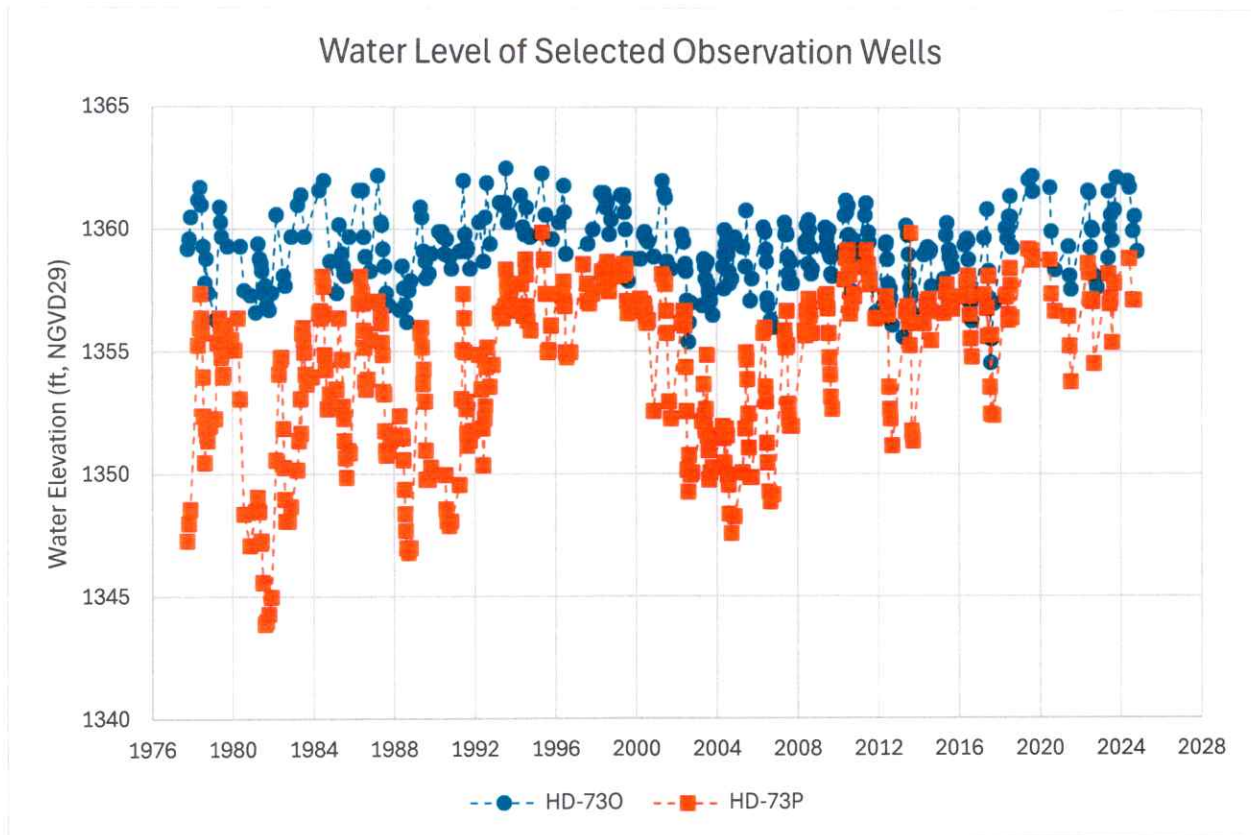


Figure 2. A graph showing the elevation of water levels in observation wells HD-73O and HD-73P (Water Rights, 2025b)

Figure 2 shows the observation wells display generally stable water levels. The hydrographs for this portion of the Quaternary aged Alluvium 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 withdrawal with the aquifer returning to pre-withdrawal 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 withdrawal from this portion of the Quaternary aged Alluvium aquifer.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS

As shown in Figure 1, there are no other water rights/permits listed as authorized to withdraw water from this portion of the Quaternary aged Alluvium aquifer (Water Rights, 2025b). However, Water Right No. 8450-3 is listed as completed into the Pleistocene Series: Unknown aquifer and is listed under the same applicant and will be considered as withdrawing from the same aquifer as this application as previously discussed. Water Right No. 8450-3 authorizes four wells that are located 0.5 miles southwest of this application's proposed location (Water Rights,

2025b). Water Right No. 3190-3 is located approximately 3.5 miles upgradient from this application's proposed well locations. The nearest domestic well on file which is completed into this portion of the Quaternary aged Alluvium aquifer is located 4 miles northwest, upgradient, of this application's proposed location (Water Rights, 2025c).

In general, the Quaternary aged Alluvium aquifer is under unconfined conditions and drawdown from pumping does not extend far from pumped wells in unconfined aquifers. Therefore, this application's proposed wells would have negligible effects on existing surficial groundwater water rights or domestic wells.

The Quaternary aged Alluvium aquifer is primarily under unconfined conditions. In an unconfined aquifer, drawdown typically does not extend far from a pumping well. The Water Management Board has recognized in the past to place water to maximum beneficial use, a certain amount of drawdown may occur. In order to balance interests between appropriative use and non-appropriative use, the Water Management Board defined an "adversely impacted domestic well" in Administrative Rule of South Dakota (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."

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 the 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. While there are no nearby senior water rights/permits, there may be nearby adequate domestic wells. With that in mind, some existing well owners may need to lower pumps depending on the specific characteristics of the Quaternary aged Alluvium aquifer at their location. When considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), and no history of any complaints concerning well interference (Water Rights, 2025d), 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. 8919-3 proposes to appropriate 2.28 cfs from up to four wells to be completed into the Quaternary aged Alluvium aquifer (approximately 60 feet deep) located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33 for irrigation of 190.5 acres located in the SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 33; all in T116N-R66W. This site is located approximately thirteen miles southwest of Redfield SD.

2. There is a reasonable probability unappropriated water is available from the Quaternary aged Alluvium aquifer and from surface runoff for this proposed appropriation.
3. There is a reasonable probability that diversion of water from the wells proposed by Water Permit Application No. 8919-3 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

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Water Rights, 2025a. Observation Well Data, SD DANR Water Rights Program, Joe Foss Building, Pierre, SD.

Water Rights, 2025b. Water Right/Permit Files, SD DANR Water Rights Program, Joe Foss Building, Pierre, SD.

Water Rights, 2025c. Well Completion Reports, SD DANR Water Rights Program, Joe Foss Building, Pierre, SD.

Water Rights, 2025d. County Files, SD DANR Water Rights Program, Joe Foss Building, Pierre, SD.

Water Rights, 2025e. Annual Irrigation Questionnaires, SD DANR Water Rights Program, Joe Foss Building, 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.**

April 2, 2025

Tom Nuhsbaumer
17781 370th Avenue
Zell SD 57469

Dear Mr. Nuhsbaumer:

Water Permit Application No. 8919-3 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Miller Press printed at Miller SD (Ph # 605 853-3575) and the Plainsman printed at Huron SD (Ph # 605 353-7414). 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 Acting 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 Acting 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. 8919-3 to Appropriate Water

Notice is given that Tom Nuhsbaumer, 17781 370th Avenue, Zell SD 57469, has filed an application for a water permit to appropriate 2.28 cubic feet of water per second from up to four wells to be completed into the Quaternary aged Alluvium Aquifer (approximately 60 feet deep) located in the SE 1/4 SW 1/4 Section 33 for irrigation of 190.5 acres located in the SE 1/4, E 1/2 SW 1/4, S 1/2 NE 1/4 Section 33; all in T116N-R66W. This site is located approximately thirteen miles southwest of Redfield SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8919-3 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 Acting 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 Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting 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 Acting 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 April 22, 2025.

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 Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting 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 April 22, 2025.

If the applicant does not contest the recommendation of the Acting Chief Engineer and no petition to oppose the application is received, the Acting 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: Wednesday, April 2, 2025 3:20 PM
To: Ruby Crandall
Subject: 8919-3 Tom Nuhsbaumer - Public Notice
Attachments: 8919-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 11, 2025, in the Plainsman.

Tom Nuhsbaumer, 17781 370th Avenue, Zell SD 57469, 605-460-1368, has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, April 2, 2025 3:19 PM
To: news@themillerpress.com
Subject: 8919-3 Tom Nuhsbaumer - Public Notice
Attachments: 8919-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 11, 2025, in the Miller Press.

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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,

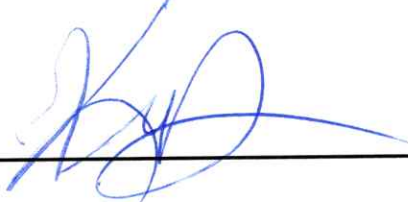
Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



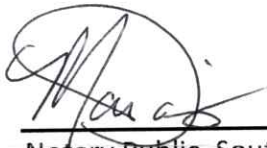
Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402
Legal Notice Number: 3054

I, Kim Davis, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising SD Dept of Ag & Natural Resources – Notice of Application was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 4/11/2025. The full amount of the fee charged for publishing \$44.85 is to the benefit of the publisher of said newspaper; that no agreement or understanding of the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomever.

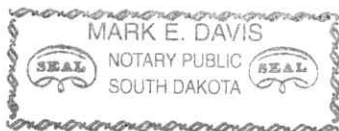


Subscribed and sworn to me before this date 4/28/25.



Notary Public, South Dakota

My Term Expires 12/27/2030



RECEIVED

APR 30 2025

OFFICE OF
WATER

2000 - Legals

F. P. 04-11-25

NOTICE OF APPLICATION NO. 8919-3 to

Appropriate Water

Notice is given that Tom Nuhsbaumer, 17781 370th Avenue, Zell SD 57469, has filed an application for a water permit to appropriate 2.28 cubic feet of water per second from up to four wells to be completed into the Quaternary aged Alluvium Aquifer (approximately 60 feet deep) located in the SE 1/4 SW 1/4 Section 33 for irrigation of 190.5 acres located in the SE 1/4, E 1/2 SW 1/4, S 1/2 NE 1/4 Section 33; all in T116N-R66W. This site is located approximately thirteen miles southwest of Redfield SD.

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2000 - Legals

person filing a petition.

No. 3054 (adv.)

Published once at the total approximate cost of \$44.85 and may be viewed free of charge at www.sdpublicnotices.com.

**AFFIDAVIT OF
PUBLICATION
The Miller Press**

STATE OF SOUTH DAKOTA)
)SS
County of Hand)

Michael G. Caviness of said county being first duly sworn, on oath, says that he is the publisher of *The Miller Press*, a weekly newspaper published in Miller, said County of Hand by Hand County Publishing Co., Inc. and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has been published within said County for fifty weeks next prior to the publication of the notice, herein mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

Nuhsbaumer water
appropriation
application

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 1 successive week(s), on the day of each week on which said newspaper was regularly published, to wit:

4/5 2025; _____ 20____
_____ 20____; _____ 20____
_____ 20____; _____ 20____

that the full amount of the fees for the publication of the annexed notice is

\$ 42.11
[Signature]
Michael G. Caviness, Publisher

Subscribed and sworn to before me this 23 day of April 2025.

[Signature]
Janet L. Kittelson, Notary Public
My Commission expires: 7-25-26

Nuhsbaumer water appropriation application

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Published April 5, 2025, at a total approximate cost of \$42.11 and may be viewed free of charge at www.sdpublicnotices.com.

RECEIVED

APR 25 2025

OFFICE OF
WATER

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, April 2, 2025 3:31 PM
To: tnuhsbaumer@hotmail.com
Subject: 8919-3 Tom Nuhsbaumer - Public Notice
Attachments: 8919-3 Rec.pdf; 8919-3 Ltr.pdf; 8919-3 PubNotice.pdf

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

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

Thank you,

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

MAY 06 2025

Tom Nuhsbaumer
17781 370th Avenue
Zell SD 57469

Dear Mr. Nuhsbaumer:

Enclosed is Water Permit No. 8919-3 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

Mark Mayer, PE
Director of Office of Water

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.: 8919-3

Name of Applicant: Tom Nuhsbaumer

Date of Posting: 4/8/2025

Date of Removal: 5/6/2025



Ron Duvall, Engineer III

5/6/2025

Date

Subscribed and sworn to before me, a notary public, this 16th day of May, 2025.



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

(SEAL)

