



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

May 9, 2025

NOTICE OF ENTRY OF ORDER

TO: Ricky Miller
19524 398th Ave
Hitchcock SD 57348

Jennifer L. Verleger, Assistant Attorney General
Legal Counsel for acting Chief Engineer
1302 E Hwy 14, Suite 1
Pierre SD 57501

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

SUBJECT: Deferral of Water Permit Application No. 8924-3, Ricky Miller

Notice is given that on Wednesday, May 7, 2025, the South Dakota Water Management Board (Board) deferred Application No. 8924-3 for up to two years as recommended by the acting Chief Engineer. The deferral of Application No. 8924-3 allows time for the applicant to retain a hydrologist or other qualified consultant to conduct a suitable aquifer performance test with analysis to determine if pumping from the Niobrara Aquifer in the area will induce recharge from the fully appropriated Tulare: Western Spink Hitchcock Aquifer.

Prior to expiration of the two-year deferral, the applicant may request that Application No. 8924-3 be brought back to the Board for further consideration. However, regardless of when the application is reconsidered by the Board, the burden of proof that pumping from the Niobrara Aquifer in this area does not induce inflow from the fully appropriated Tulare: Western Spink Hitchcock Aquifer, falls upon the applicant.

If you have any questions concerning the Board action, please contact Amanda Dewell or Ron Duvall at Amanda.Dewell@state.sd.us or Ron.Duvall@state.sd.us (605) 773-3352.

cc: David McVey, Assistant Attorney General
Legal Counsel for the SD Water Management Board
1302 E Hwy 14, Suite 1, Pierre SD 57501

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that I have personally deposited a true and correct NOTICE OF ENTRY OF ORDER dated May 9, 2025, regarding deferral of Application No. 8924-3 – Ricky Miller, into the United States Mail in Pierre, South Dakota, first class postage prepaid on May 9, 2025.

Ricky Miller
19524 398th Ave
Hitchcock SD 57348

Also sent via Inter-Office Mail to:

Jennifer L Verleger, Assistant Attorney General
1302 E Hwy 14, Suite 1
Pierre SD 57501

David McVey, Assistant Attorney General
1302 E Hwy 14, Suite 1
Pierre SD 57501



Shannon Konst
Senior Secretary-Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of May, 20 25.


Rachel Rodriguez Notary Public
My Commission expires May 16, 2029



Mail to:

SD DANR, Water Rights
523 E Capitol Ave
Pierre, SD 57501-3182

ph. (605) 773-3352

No. 8924-3 Hydrologic Unit 10160006

Basin James R

Newspaper Huron Plainsman

(office use only)

PAID

JAN 29 2025

Ck# 4316

Rec't# _____

FILE COPY

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 Ricky Miller

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

Mailing Address 19524 398th Ave Hitchcock SD 57348

(Address)

(City)

(State)

(Zip Code)

Phone _____

Mobile

605-3544146

Email

rjmiller2015@hotmail.com

2. Amount of water claimed 1.89 *CFS or 850 **GPM _____ ***AF Total Acreage 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 Well

(SE 1/4 SE 1/4 center)

4. Location of point of diversion SW SW 26 113 62

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

County Beadle

5. County or counties where water will be used Beadle

6. Annual period during which water is to be used Growing Season May 1 - Oct 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>SW 40 SE SW 26 113 62</u>	<u>40</u>		
<u>NW 40 SE SW 26 113 62</u>	<u>40</u>		
<u>SE 40 SE SW 26 113 62</u>	<u>40</u>		
<u>NE 40 SE SW 26 113 62</u>	<u>40</u>		

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

Irrigation System With a corner from Tract out of New Well.

I, Ricky Miller 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)

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3 N W Huron

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 1 Have test holes been drilled? ☒ Yes ☐ No Drilled by Stretch's Well Service Inc.
(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) 145 Depth to Top of Water Bearing Material 85 Depth to Water from Surface _____

d) Distance to nearest domestic well on applicant's property 1/2 m.l. Property owned by others _____

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

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

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

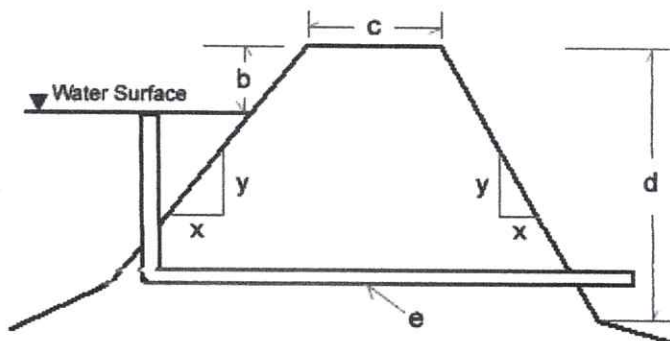
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



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Grassland
Easement

NC

96.1
to be crop ground

10.1
to be crop ground

160 A.
farm ground

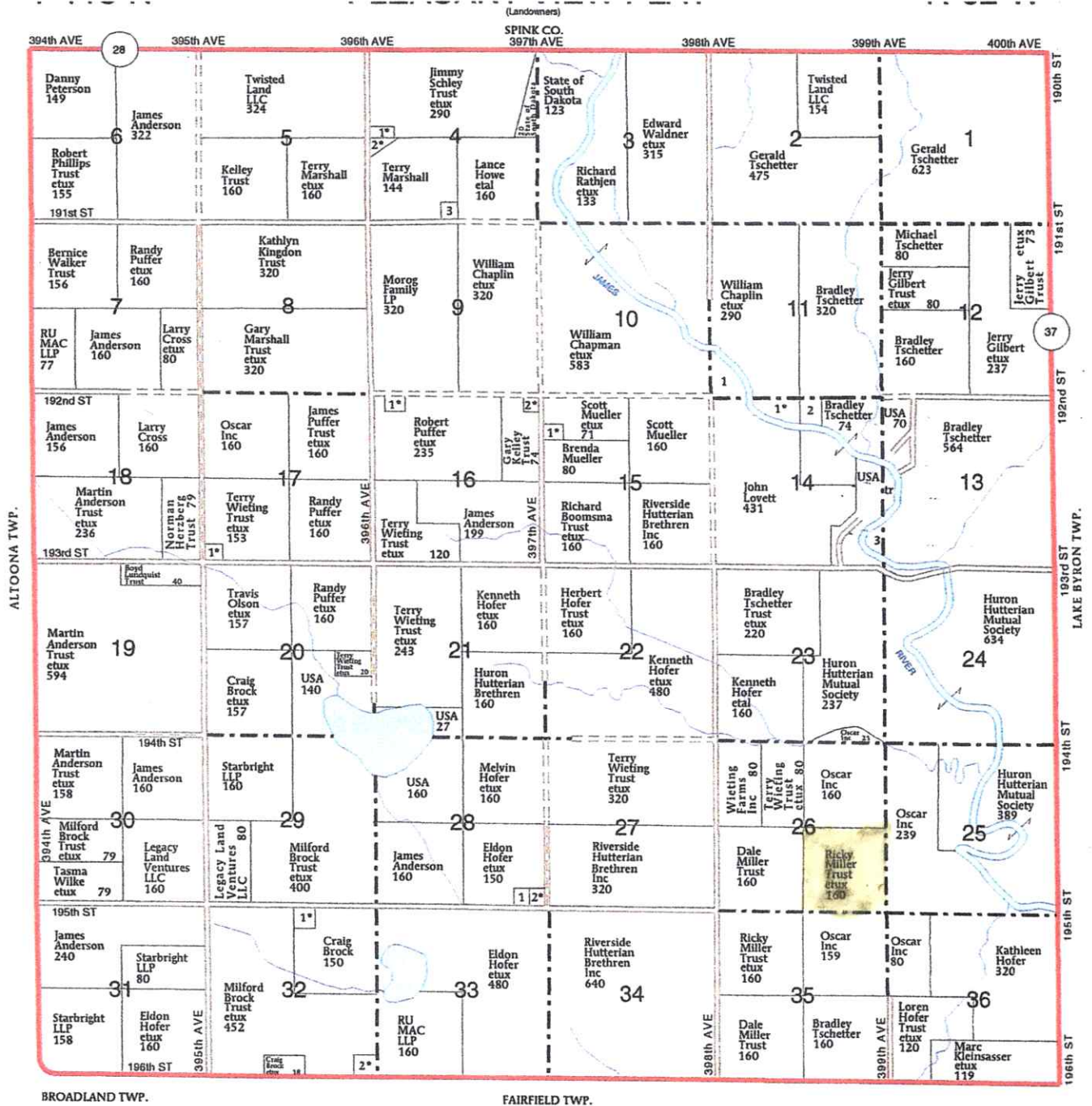
PASTURE 139
CROP 168.3
26-113-62
FARM 12.7
January 17, 2006

United States Department of Agriculture
Farm Service Agency

Beadle County

2004 Digital Orthophotography - Not To Scale





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**PLEASANT VIEW
TOWNSHIP**

SECTION 4

- | | |
|-------------------------|---|
| 1 STAHL, JAMES ETUX | 5 |
| 2 WALDNER, JEFFREY ETUX | 7 |
| 3 LOVETT, LARRY | 8 |

SECTION 11

- | | |
|----------------|----|
| 1 LOVETT, JOHN | 13 |
|----------------|----|

SECTION 14

- | | |
|-------------------------|----|
| 1 CHAPLIN, WILLIAM ETUX | 16 |
| 2 USA | 13 |
| 3 TSCHETTER, BRADLEY | 10 |

SECTION 15

- | | |
|-----------------------|---|
| 1 MUELLER, SCOTT ETAL | 9 |
|-----------------------|---|

SECTION 16

- | | |
|------------------------|---|
| 1 PUFFER, MICHAEL ETUX | 5 |
| 2 MUELLER, SCOTT ETAL | 6 |

SECTION 17

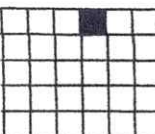
- | | |
|---------------------|---|
| 1 DECKER, ERIC ETUX | 6 |
|---------------------|---|

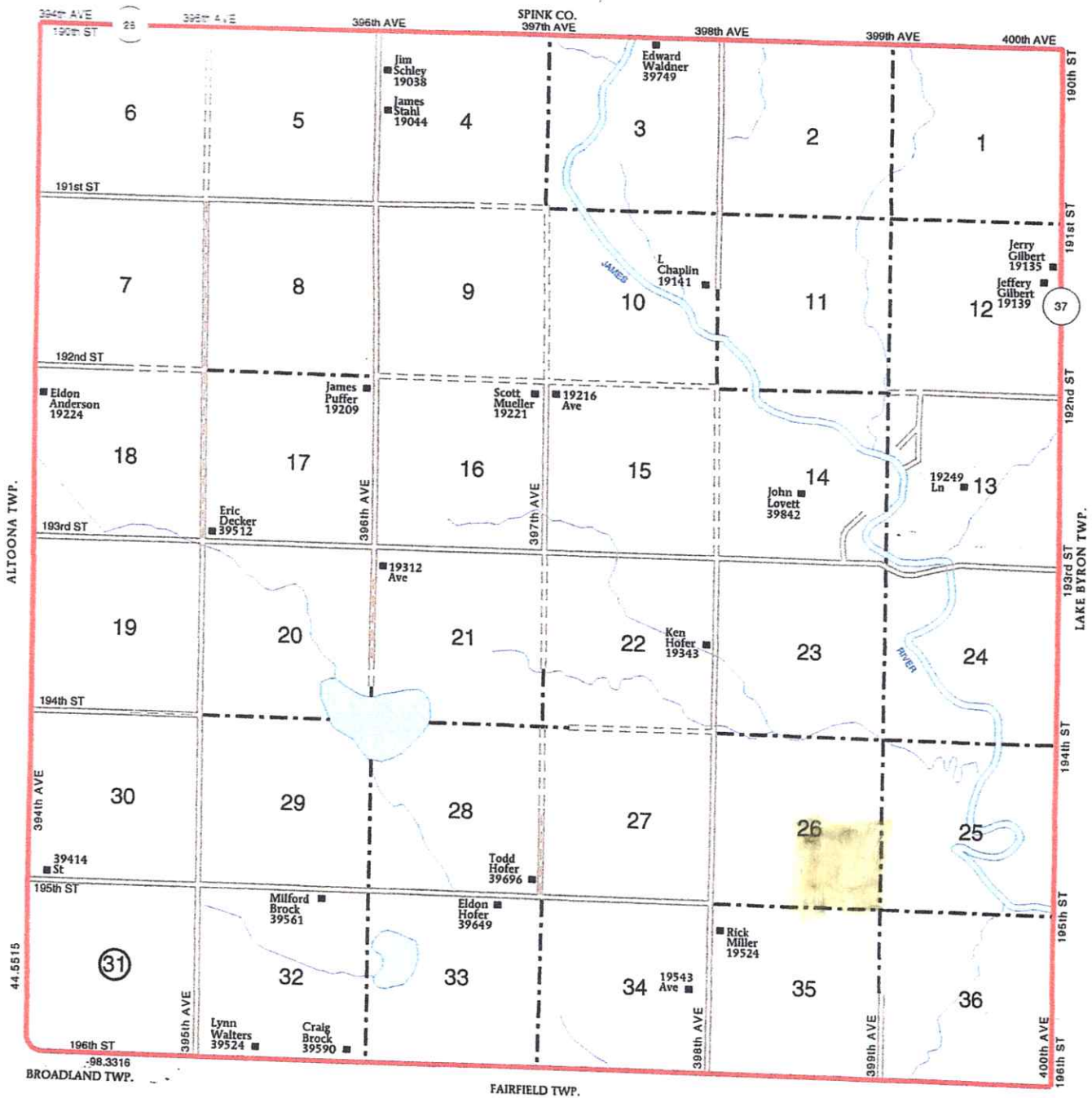
SECTION 28

- | | |
|--------------------|---|
| 1 HOFER, TRAVIS | 5 |
| 2 HOFER, TODD ETUX | 5 |

SECTION 32

- | | |
|---------------------|----|
| 1 BROCK, CRAIG ETUX | 10 |
| 2 BROCK, CRAIG ETUX | 10 |





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RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 28th 2025

RECEIVED OF Ricky Miller 19524 398th Avenue Hitchcock SD 57348

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

Fee for Application for Permit No. <u>8924-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>850.00</u>
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>8924-3</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	TOTAL
	\$ <u>1050.00</u>

By

Se

Eric Gronlund

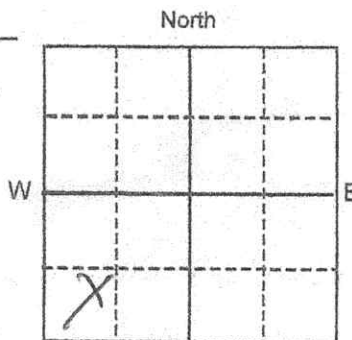
Chief Engineer

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 SW 1/4 Sec 26 Twp 113 Rg 62County Beadle

Please mark well location with an "X"



Well Completion Date

11-25-24

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
NONE ft. from (Identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Mud Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>200</u> LB/FT	<u>5</u> IN	<u>0</u> FT	<u>105</u> FT	<u>7 3/8</u> IN
<u>250</u> LB/FT	<u>5</u> IN	<u>105</u> FT	<u>145</u> FT	<u>7 7/8</u> IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
<u>#20</u>	<u>6</u>	Lb/gal	<u>0</u> Ft	<u>100</u> Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

Tremmie Pipe

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 5 Inches Length 40 FeetMaterial PVCSlot Size 10/32 Set From 105 Feet to 145 Feet

Other information

WAS A PACKER OR SEAL USED?

☒ Yes ☐ NoIf so, what material? Enviro PlugDescribe packer(s) and location above Screen

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Chlorine☐ No, Why Not?

Lab to which water quality sample sent for analysis

Well Owner: Rick MillerBusiness Name: Huron ColonyAddress: 40068 Huron Colony LaneCity, State, Zip: Huron SD 57350

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>top Soil</u>	<u>0</u>	<u>2</u>
<u>Yellow Clay</u>	<u>2</u>	<u>17</u>
<u>Fine Sand</u>	<u>17</u>	<u>30</u>
<u>Coarse Sand</u>	<u>30</u>	<u>45</u>
<u>Sand & Coal</u>	<u>45</u>	<u>65</u>
<u>Fine sand</u>	<u>65</u>	<u>75</u>
<u>Sand streaks</u>	<u>75</u>	<u>85</u>
<u>Chalk</u>	<u>85</u>	<u>145</u>

STATIC WATER LEVEL

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: Would Not Pump
☐ Bailed
☐ Other

Pumping Level Below Land Surface

Ft. After Hrs. pumped GPM

Ft. After Hrs. pumped GPM

If pump installed, pump rate: GPM

REMARKS

Drilled To 300'
Dry HoleThis well was drilled under license # 722 and this report is true and accurate.Drilling firm: Stretch's Well Service Inc.

Signature of License Representative:

Tom Butler

Signature of Well Owner or Equitable Property Holder:

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Date:

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**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. 8924-3, Ricky Miller**

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. 8924-3, Ricky Miller, 19524 398th Avenue, Hitchcock SD 57348.

The Acting Chief Engineer is recommending DEFERRAL of Application No. 8924-3 for up to two years for further study pursuant to SDCL 46-2A-2 and 46-2A-7. The deferral of Application No. 8924-3 is to allow time for the applicant to retain a hydrogeologist or other qualified consultant to conduct a suitable aquifer performance test with analysis to determine if pumping from the Niobrara aquifer in this area will induce recharge from the fully appropriated Tulare: Western Spink Hitchcock aquifer. Inducing inflow from a fully appropriated aquifer presents beneficial use and public interest concerns for consideration by the Water Management Board.

See report for further information.

Mark Mayer, PE
Director of Office of Water
March 20, 2025

NOTE: The applicant or their consultant shall consult with the Water Right Program regarding requirements for a suitable aquifer performance test. To discuss the requirements and recommendations for an aquifer performance test, please contact Adam Mathiowetz at (605) 773-3352.

As noted in the report, the water quality in the Niobrara aquifer may not be suitable for irrigation due the water's high sodium adsorption ratio. If this application proceeds and receives a favorable recommendation, the applicant is encouraged to consult with a qualified soil scientist to complete a soil-water compatibility analysis to determine whether the water is suitable for irrigation or, when used for irrigation, best management practices are followed to ensure water is placed to beneficial use in compliance with SDCL 46-2A-9.

**Report to the Chief Engineer on
Water Permit Application No. 8924-3**

Ricky Miller
11 March, 2025

Water Permit Application No. 8924-3 proposes to appropriate 1.89 cubic feet of water per second (cfs) from one well to be completed into the Niobrara aquifer (approximately 145 feet deep) located in the approximate center of the SE ¼ Section 26 for irrigation of 160 acres located in the SE ¼ Section 26; all in T113N-R62W. This site is located in Beadle County approximately 13 miles north of Huron, South Dakota.

Aquifer: Niobrara (NBRR)

Hydrogeologic Characteristics

The Niobrara aquifer is composed of the permeable and saturated portions of the upper-Cretaceous-aged Niobrara Formation. The Niobrara Formation is a “white to dark-gray argillaceous chalk, marl, and shale [1]” underlying most of South Dakota. Productivity in the Niobrara aquifer is mainly from secondary porosity features such as fractures, faults, and solution cavities [2]. Therefore, its characteristics vary greatly from location to location, and it is typically more productive in areas where weathering to the formation has occurred. The Niobrara Formation underlies approximately 29,054 square miles (18,594,560 acres) in South Dakota east of the Missouri River, including all 1,249 square miles (799,360 acres) of Beadle County and all 1,509 square miles (965,760 acres) of Spink County [2]. Some areas of the Niobrara Formation are separated from the main body of the formation by erosional channels. This application is located in the main body. The main body of the Niobrara Formation underlies approximately 27,500 square miles (17,600,000 acres) in South Dakota east of the Missouri River, including all of Spink and Beadle Counties [3]. The Niobrara Formation underlies the Cretaceous-aged Pierre Shale and the Quaternary-aged glacial deposits including the Tulare aquifer [4]. The Niobrara Formation directly overlies the Cretaceous-aged Carlile Shale [5]. In some places the Cretaceous-aged Pierre Shale is a confining layer between the Niobrara Formation and Tulare aquifer and in other places the Niobrara Formation is in direct contact with the Tulare aquifer. The contact between the Niobrara Formation and the Pierre Shale, and the Niobrara Formation, Pierre Shale, and glacial deposits is unconformable [7], which means there was a period of erosion between the deposition of each of those three deposits. Erosional periods can cause highly undulating surfaces of the bedrock formations which can be difficult to predict based on the available lithological information. Based on available information, including lithologic logs and bedrock mapped in the area of these applications, it is likely the Tulare aquifer comes into direct contact with weathered portions of the Niobrara aquifer at the site of this application which is supported by the well completion report submitted with this application. Consequently, withdrawals from wells completed into the Niobrara Formation could cause flow to go from the Tulare aquifer to the Niobrara aquifer when the two aquifers are in direct contact. The Tulare: Western Spink-Hitchcock aquifer is the directly overlying management unit of the Tulare aquifer at this site. The Tulare: Western Spink- Hitchcock aquifer management unit is fully appropriated [8].

A well completion report was submitted with this application for one well completed on November 25, 2024 in the SW ¼ SW ¼ Section 26 T113N-R62W. The driller reported encountering coarse sand from 30 to 45 feet below grade, sand and coal from 45 to 65 feet below grade, fine sand from 65 to 75 feet below grade, sand streaks from 75 to 85 feet below grade, and chalk from 85 to 145 feet below grade. The driller indicated he drilled to 300 feet below grade, but did not indicate what formations he encountered from 145 to 300 feet below grade in the well completion report. In the driller's notes which were submitted as an attachment, he indicates encountering light grey chalk with very little water from 97 to 300 feet. At the end of the drilling portion of the notes, he indicated "Chalk drills like it's wide open. Hardly getting any cuttings." On the well completion report, the driller indicated setting screen from 105 to 145 feet below grade. He indicated the well was dry and had no static water level. After pumping the well and finding it unproductive, the driller removed the pump and all casing materials.

The described formations are consistent with the presence of a glacial aquifer (the Tulare: Western Spink-Hitchcock aquifer) being present from 30 to 85 feet below grade and the Niobrara Formation lying below it from 85 to 300 feet below grade. A lack of flow in the Niobrara Formation in the SW ¼ Section 26 does not mean there will be no flow in the SE ¼ of the same section. However, it is likely the applicant may need multiple wells to provide the requested rate, if this application is developed.

Applicable South Dakota Codified Law (SDCL)

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, and that the proposed use is a beneficial use and in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will only assess the availability of water and possibility of developing this application without unlawful impairment of existing domestic water uses and water rights.

Pursuant to SDCL 46-6-3.1, 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 the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of the results of a hydrologic budget. The applicant is not a water distribution system as defined in SDCL 46-1-6(17) and the Niobrara aquifer is younger and stratigraphically higher than the Greenhorn Formation. Therefore, the Water Management Board must find that recharge to the aquifer exceeds withdrawals to approve this application.

Availability of Water

Hydrologic Budget

Recharge to the Main Body

Recharge to the Niobrara aquifer likely occurs by inflow from aquifers in contact with the Niobrara when the hydraulic head is higher in the other aquifers than in the Niobrara aquifer. No

estimate of the recharge to the Niobrara aquifer is available due to the extreme variability of aquifer characteristics across South Dakota. Observation well water levels in the Niobrara aquifer indicate that recharge exceeds withdrawals in the aquifer [9].

Discharge from the Main Body

Discharge from the Niobrara aquifer is likely by groundwater outflow to aquifers in contact with the Niobrara aquifer when the hydraulic head in the Niobrara aquifer is higher than that of the other aquifers and by withdrawals from domestic and appropriative wells [4]. Domestic wells are not a significant source of discharge in the Niobrara aquifer due to the presence of rural water systems and stratigraphically higher aquifers and the relatively limited diversion rates. There are 35 water rights/permits appropriating water from the main body of the Niobrara aquifer [10] [3]. Of those, 16 are for irrigation, seven are for commercial use, six for municipal use, four for institutional use, and one each for industrial use and fish and wildlife propagation.

Total irrigation reported in the main body of the Niobrara aquifer is shown in Figure 1. The average irrigation reported in the main body of the Niobrara aquifer over the period of record from 1979 through 2024 is 373 acre-feet per year (ac-ft/yr) [11]. However, multiple permits in the aquifer are relatively new and have not developed their systems yet. Table 1 lists each irrigation permit in the main body of the Niobrara aquifer, the number of years reporting, average reported volume, and other information. Permits with less than 10 years of reports are estimated to withdraw 10 inches per permitted acre. Permits with more than 10 years of reports are estimated to withdraw their average reported volume. Therefore, the estimated withdrawal by irrigation in the main body of the Niobrara aquifer is 1,346 ac-ft/yr.

Of the non-irrigation water rights/permits, Water Right Nos. 4121A-3, 4264A-3, 4264B-3, and 4278-3 are held by municipalities that purchase their water from another water distribution system [12] [13]; therefore, these water rights are assumed to withdraw a negligible amount of water for the hydrologic budget. There are two non-irrigation water rights/permits required to report their annual withdrawal but are still developing their permits. Those permits are assumed to withdraw the maximum volume limit listed on their permit, for a combined withdrawal of 227 ac-ft/yr. The remaining 13 non-irrigation water rights/permits are assumed to withdraw at their maximum licensed or permitted diversion rate 60% of the time, for an estimated combined average annual withdrawal rate of 705 ac-ft/yr.

There are six water permit applications (Nos. 8721-3, 8722-3, 8749-3, 8750-3, 8751-3, and 8752-3) which were deferred in the December 2023 Water Management Board hearing due to the possibility of inducing flow from the fully appropriated Tulare aquifers which overlie them. Those six permits proposed to irrigate a total of 2,758 acres in Spink and Beadle Counties at a total maximum withdrawal rate of 36.350 cfs. If those permits are approved, they are estimated to withdraw 2,298 ac-ft/yr assuming they irrigate at a rate of 10 inches per acre.

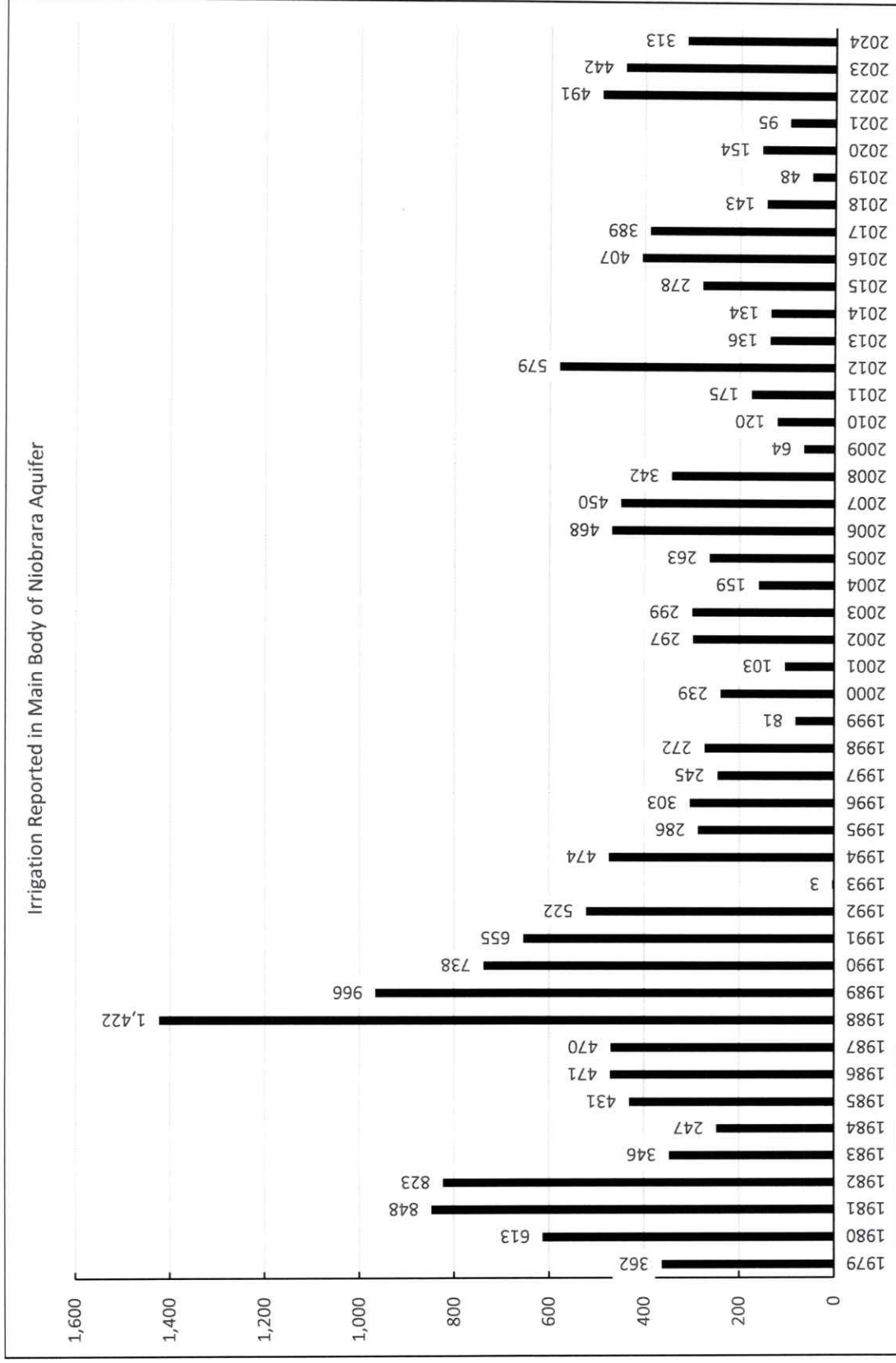


Figure 1: Irrigation reported in the main body of the Niobrara aquifer from 1979-2024 [11]

Table 1: Irrigation reported in the main body of the Niobrara aquifer by permit [11]

Permit No.	Name/Business	Status	County	Priority Date	Acres	Max. CFS	No. Years Reporting	Avg. Report (ac-ft)	Est. Use (ac-ft/yr)
1238-3	Lincoln Neugebauer	License	Davison	12/14/1965	386.0	1.880	46	55	55
1280-3	Marty Neugebauer	License	Davison	06/08/1966	152.0	2.040	46	76	76
3442-3	Robert Maeschen	License	Davison	09/01/1976	108.0	1.220	46	85	85
3788-3	Randal L Rumbolz	License	Davison	03/09/1977	120.0	1.330	46	11	11
3789-3	Randal L Rumbolz	License	Davison	03/09/1977	130.0	1.330	46	34	34
6532-3	Mitchell School District 17-2	Permit	Davison	07/19/2004	10.0	0.144	20	4	4
6615-3	Meadow Lawn Plaza LLC	License	Davison	03/24/2005	1.2	0.070	20	2	2
8005-3	Robert Maeschen	License	Davison	04/24/2014	132.0	1.340	10	41	41
8019-3	Mark Hohn	Permit	Davison	05/28/2014	145.0	1.730	10	55	55
8361-3	Mark Hohn	Permit	Davison	06/18/2018	145.0	0.170	6	38	121
8465-3	Robert Maeschen	License	Davison	12/21/2020	85.0	1.110	4	38	71
8579-3	Brett Guthmiller	Permit	Hutchinson	10/02/2024	32.0	0.890	0	N/A	27
8678-3	Huron Hutterian Brethren	Permit	Beadle	11/21/2022	300.0	4.460	2	0	250
8748-3	Van Buskirk Farms LLP	Permit	Beadle	06/30/2023	136.0	1.940	1	0	113
8773-3	Danny R Peterson	Permit	Spink	06/20/2023	160.0	2.110	1	0	133
8909-3	Tim Neugebauer	Permit	Davison	11/14/2024	320.0	2.220	0	N/A	267
Total					2,362.2	23.984	304	440	1,346

Summary of Hydrologic Budget of the Main Body

There is no estimate available for the recharge to the Niobrara aquifer due to its highly variable aquifer characteristics. The estimated average annual withdrawal from the main body of the Niobrara aquifer, including deferred permits, is 4,576 ac-ft/yr (Table 2). This application proposes to irrigate 160 acres. By multiplying 160 acres by 10 inches of water per acre year, the estimated average annual withdrawal for this application is 133 ac-ft/yr. By dividing the estimated 4,709 ac-ft/yr of withdrawal by the 17,600,000 acres of the main body of the Niobrara Formation, the recharge to the formation would have to exceed 0.003 inches per acre for recharge to exceed withdrawals. Given the very small amount of recharge needed to exceed withdrawals, there is reasonable probability unappropriated water is available in the Niobrara aquifer for this application.

Table 2: Summary of estimated withdrawals from the main body of the Niobrara aquifer

Type	Number	Est. Withdrawal (ac-ft/yr)
Irrigation	16	1,346
Non-irrigation, Standby	4	0
Non-irrigation, Volume	2	227
Non-irrigation, Sixty percent	13	705
<i>Subtotal, authorized to withdraw</i>	<i>35</i>	<i>2,278</i>
Deferred applications	6	2,298
Grand total	41	4,576

Beadle County Hydrologic Budget

Because the Niobrara aquifer has highly variable aquifer characteristics, it is appropriate to consider a more localized hydrologic budget. Lacking distinctive hydrogeological boundaries smaller than the extent of the main body of the aquifer, the hydrologic budget concerning only the area of Beadle County is considered. There are five water rights/permits authorized to withdraw from the Niobrara aquifer and four deferred applications in Beadle County. Using the same methods as in the statewide section, the estimated withdrawal for water rights permits authorized to withdraw from the Niobrara aquifer in Beadle County is 1,787 ac-ft/yr. This application would add an estimated 133 ac-ft/yr of withdrawals. By dividing the 1,920 ac-ft/yr of proposed or actual withdrawal over 809,600 acres in Beadle County, the necessary recharge rate for the Niobrara aquifer in Beadle County would be 0.03 inches per year.

Observation Wells

Administrative Rule of South Dakota 74:02:05:07 requires that the Water Management Board rely upon the record of observation wells, in addition to other information, to determine the availability of unappropriated water. The Water Rights Program maintains 63 observation wells completed into the Niobrara aquifer, 40 of which are completed into the main body of the aquifer [9] [3]. The nearest observation well completed into the Niobrara aquifer to this application is BD-2023A, which is located approximately 3.7 miles northeast of the proposed well for this application. The period of record for Observation Well BD-2023A is limited and does not reflect fluctuations in the aquifer through wet and dry periods. The next nearest observation wells are SP-2023A, BD-2023B, and SP-77D, shown in Figure 2 [9]. Figure 3 shows water elevations in

those observation wells over their entire periods of record [9]. Water levels in observation wells completed into the main body of the Niobrara aquifer all have stable or increasing trends [9]. Observation Well SP-77D is representative of the general behavior of the Niobrara aquifer, although at the distance from the proposed well site, it does not reflect changes that would be specific to the area of this application. In general, water levels rise during periods of higher-than-average precipitation and decline during periods of lower-than-average precipitation. The fluctuation due to natural influences indicates water is naturally discharged from the Niobrara aquifer. The Water Management Board historically has considered natural discharge to be available for capture. Therefore, based on observation well analysis, there is reasonable probability unappropriated water is available in the Niobrara aquifer for these applications.

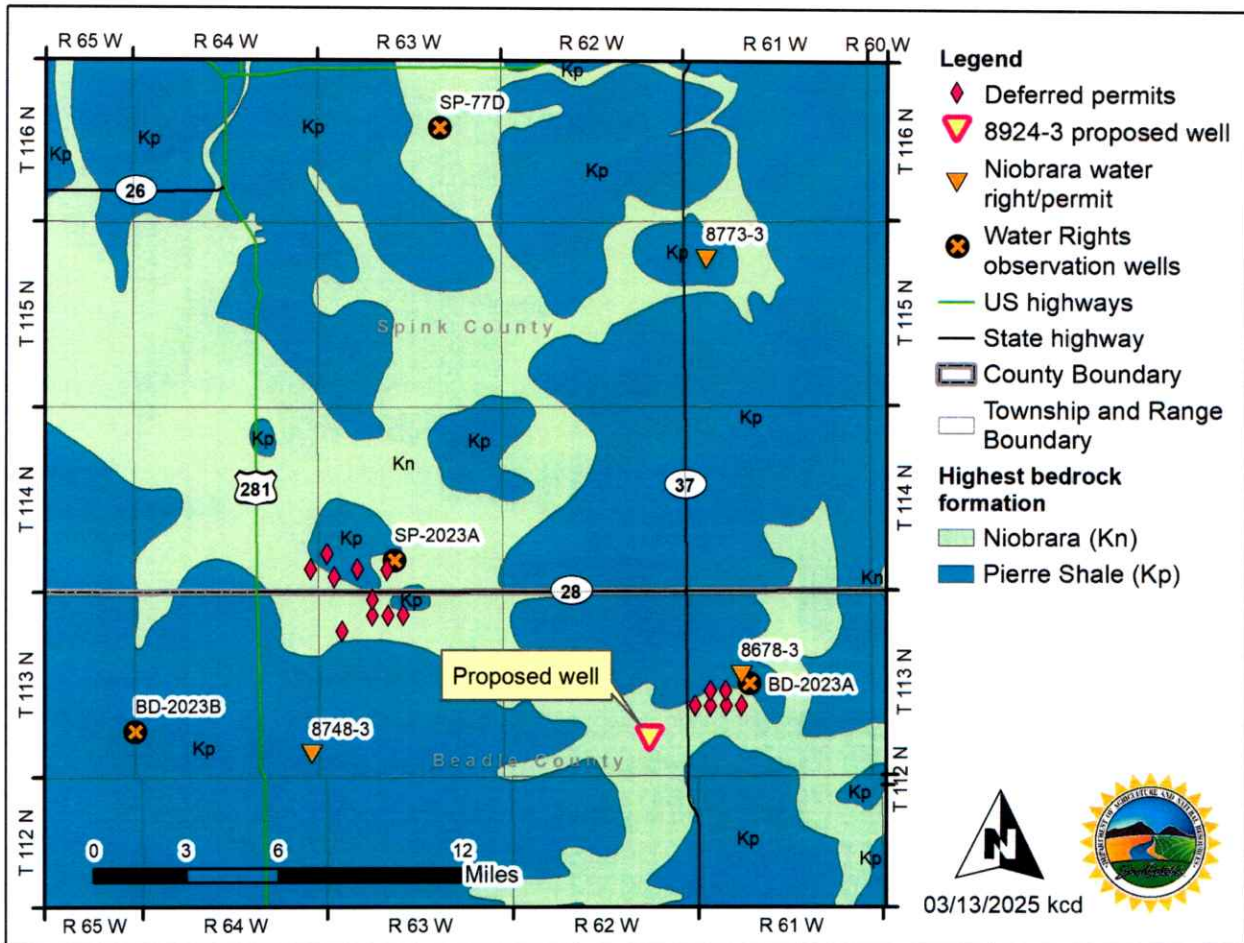


Figure 2: Map of nearby water rights, deferred permits, observation wells, and bedrock formations

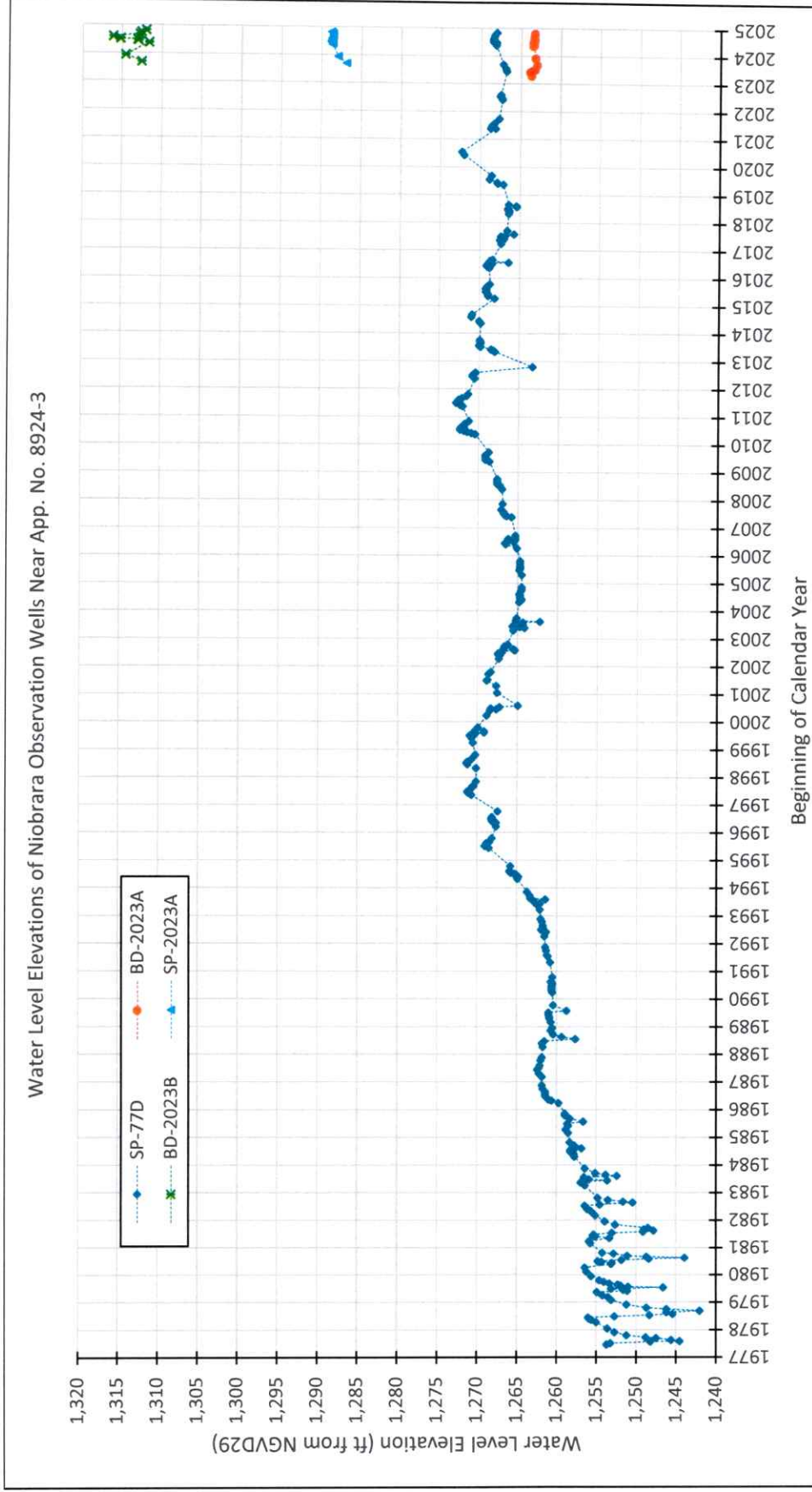


Figure 3: Observation well data for Niobrara aquifer observation wells near this application [9]

Possibility of Unlawful Impairment of Existing Water Rights

The nearest water right/permit to this application that is completed into the Niobrara aquifer is Water Permit No. 8678-3, located approximately 3.6 miles east-northeast of the proposed well for this application [10]. Deferred Water Permit Application Nos. 8721-3 and 8722-3 are between this application and Water Permit No. 8678-3 as shown in Figure 2. If the deferred permits are approved, they would have senior priority to this application. There are no domestic wells on file with the Water Rights Program that are likely to be completed into the Niobrara aquifer within three miles of this application [14]. The Water Rights Program has historically interpreted an unlawful impairment of existing water rights to occur if a junior water right/permit causes a nearby adequate well with a senior water right/permit to become unable to withdraw at the rate it is entitled to or, if a domestic well is impacted, a water right/permit causes an adequate domestic well to be unable to withdraw at the rate needed to supply reasonable domestic use of water. Administrative Rule of South Dakota (ARSD) 74:02:04:20(6) defines an adequate well as:

...a well constructed or rehabilitated to allow various withdrawal methods to be used, to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer or formation material when the well is constructed, or to allow the pump to be placed as near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet

If these applications are approved, some drawdown in the aquifer will occur in the proximity of the pumping wells. There are no complaints concerning unlawful impairment of existing water rights in the Niobrara aquifer in Beadle County [15]. If this application is approved, the applicant should control their withdrawals so that an unlawful impairment of adequate wells does not occur. Based on the distance of the proposed well to the nearest water right, and lack of complaints concerning well interference in the Niobrara aquifer on file in Beadle County, there is reasonable probability these applications can be developed without unlawful impairment of existing domestic uses and water rights in the Niobrara aquifer. However, if this application is developed, it may induce withdrawal from the Tulare: Western Spink-Hitchcock aquifer which is a fully appropriated aquifer. Over time induced withdrawals from the Tulare aquifer may create conditions that could be considered an unlawful impairment of existing water rights in the Tulare: Western Spink-Hitchcock aquifer.

Special Consideration – Induction of Water from a Fully Appropriated Management Unit

As discussed in the Hydrogeologic Characteristics section, the area of Niobrara aquifer from which this application seeks to appropriate water directly underlies the fully appropriated Tulare: Western Spink-Hitchcock aquifer management unit. Consequently, pumping from the Niobrara aquifer may induce inflow from a fully appropriated management unit of the Tulare aquifer. The potential impact to a fully appropriated aquifer may pose a beneficial use and public interest consideration for the Water Management Board which is beyond the technical review provided in this report. To aid in decision-making by the Board, the applicant should conduct an aquifer performance test monitoring both the Niobrara aquifer and the Tulare: Western Spink-Hitchcock aquifer prior to approval of this application to determine whether pumping from the Niobrara

aquifer under the local hydrogeologic conditions will induce inflow from the Tulare: Western Spink-Hitchcock aquifer.

Special Consideration – Suitability for Irrigation

In a letter to the holder of Cancelled Water Permit No. 1286-3 dated November 27, 1978, then Chief Engineer Hatch indicated the permit holder had abandoned use of that irrigation permit because the water was ruining his land [10]. Hamilton and Howells [16] indicate “The large sodium concentration in the Niobrara aquifer makes the water unsuitable for irrigation use.” It is recommended the applicant complete a soil-water compatibility analysis by a qualified soil scientist to determine whether the water is suitable for irrigation, or when used for irrigation, what best management practices are needed to ensure water is placed to beneficial use in compliance with SDCL 46-2A-9.

Conclusions

1. Water Permit Application No. 8924-3 proposes to appropriate 1.89 cfs from one well to be completed into the Niobrara aquifer located in the approximate center of the SE $\frac{1}{4}$ Section 26 for irrigation of 160 acres located in the SE $\frac{1}{4}$ Section 26; all in T113N-R62W.
2. Based on the hydrologic budget and observation well analysis, there is reasonable probability unappropriated water in the Niobrara aquifer is available for this application.
3. There is reasonable probability this application can be developed without unlawful impact to other water users within the Niobrara aquifer.
4. If this application is approved, the applicant should follow best management practices as recommended by a qualified soil scientist to prevent damage to the soil from poor water quality in the Niobrara aquifer. The permit may include a qualification requiring regular testing of the soil salinity.
5. Based on the lithologic information available, this application should be deferred to allow for an aquifer performance test to determine whether Niobrara aquifer withdrawals potentially impact the Tulare: Western Spink-Hitchcock aquifer at the site location.



Kimberly C. Drennon, E.I.
DANR Water Rights Program
Natural Resources Engineer III

References

- [1] J. E. Martin, J. F. Sawyer, M. D. Fahrenbach, D. W. Tomhave and L. D. Schulz, "Geologic Map of South Dakota," SD DANR Geological Survey Program, Vermillion, South Dakota, 2004.
- [2] L. S. Hedges, S. L. Burch, D. L. Iles, R. A. Barari and R. A. Schoon, "Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River, South Dakota and Iowa Tasks 1-4," SD DANR Geological Survey Program, Vermillion, South Dakota, 1982.
- [3] N. Steen and A. Mathiowetz, "Report to the Chief Engineer on Water Permit Application No. 8624-3," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, South Dakota, 2022.
- [4] L. W. Howells and J. C. Stephens, "Geology and Water Resources of Beadle County South Dakota Part II: Water Resources," SD DANR Geological Survey Program, Vermillion, South Dakota, 1968.
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- [8] J. Farmer, "First Report on the Five Year Review of Water Availability Western Spink Hitchcock Management Unit of the Tulare Aquifer," SD DANR Water Rights Program, Joe Foss Bldg., Pierre, South Dakota, 2020.
- [9] SD DANR Water Rights Program, "Observation Wells," SD DANR Water Rights Program, Pierre, South Dakota, 2025.
- [10] SD DANR Water Rights Program, "Water Right Permit Files," SD DANR Water Rights Program, Pierre, South Dakota, 2025.
- [11] SD DANR Water Rights Program, "Irrigation reports," Joe Foss Bldg., Pierre, South Dakota, 2024.
- [12] SD DANR Drinking Water Program, "Drinking Water Reports," SD DANR Drinking Water Program, Pierre, South Dakota, 2024.

- [13] B. Friedeman, Interviewee, *Environmental Scientist II, SD DANR Drinking Water Program*. [Interview]. 12 March 2025.
- [14] SD DANR Water Rights Program, "Well Completion Reports," SD DANR Water Rights Program, Pierre, South Dakota, 2025.
- [15] SD DANR Water Rights Program, *County Files*, Pierre, South Dakota: SD DANR Water Rights Program, 2025.
- [16] L. J. Hamilton and L. W. Howells, "Water Resources of Spink County, South Dakota," United States Geological Survey, Rapid City, South Dakota, 1996.



**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.**

March 21, 2025

Ricky Miller
19524 398th Avenue
Hitchcock SD 57348

Dear Mr. Miller:

Water Permit Application No. 8924-3 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 Plainsman printed in Huron SD (Ph # 605 353-7414). 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.

Instruction to Newspaper – Publish the Notice on April 2, 2025. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 8924-3 to Appropriate Water

Notice is given that Ricky Miller, 19524 398th Avenue, Hitchcock SD 57348, has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from one well to be completed into the Niobrara Aquifer (approximately 145 feet deep) located in the approximate center of the SE 1/4 Section 26 for irrigation of 160 acres located in the SE 1/4 Section 26; all in T113N-R62W. This site is located approximately thirteen miles north of Huron SD.

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

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 8924-3 for up to two years for further study pursuant to SDCL 46-2A-2 and 46-2A-7. The deferral of Application No. 8924-3 is to allow time for the applicant to retain a hydrogeologist or other qualified consultant to conduct a suitable aquifer performance test with analysis to determine if pumping from the Niobrara aquifer in this area will induce recharge from the fully appropriated Tulare: Western Spink Hitchcock aquifer. Inducing inflow from a fully appropriated aquifer presents beneficial use and public interest concerns for consideration by 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.

The Water Management Board will consider this application at 9:45 AM (Central Time) on May 7, 2025, in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave., Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by April 14, 2025.

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

The May hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by April 14, 2025. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on 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 April 14, 2025.

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

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 14, 2025. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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

Published once at an approximate cost of _____.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, March 21, 2025 9:23 AM
To: Ruby Crandall
Subject: 8924-3 Ricky Miller - Public Notice
Attachments: 8924-3 public.wmb_final.docx; FORM8.FRM.doc

Attached is a notice to be published on April 2, 2025.

Ricky Miller, 19524 398th Avenue, Hitchcock SD 57348, 605354-4146, 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, we will need it for the May 7th board meeting.

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: 3025

RECEIVED

APR 22 2025

OFFICE OF
WATER

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 Ricky Miller -Notice of Hearing was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 4/2/2025. The full amount of the fee charged for publishing \$79.50 is to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomever.

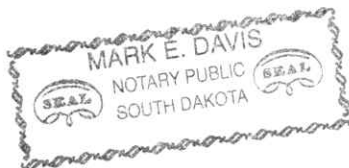


Subscribed and sworn to me before this date 4/16/25.



Notary Public, South Dakota

My Term Expires 12/27/2030



F. P. 04-02-25

**NOTICE OF HEARING
on Application
No. 8924-3 to
Appropriate Water**

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

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tion by 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.

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No. 3025 (adv.)
Published once at the total approximate cost of \$79.50 and may be viewed free of charge at www.sdpublicnotices.com.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Friday, March 21, 2025 9:28 AM
To: Julie Miller
Subject: 8924-3 Ricky Miller - Public Notice
Attachments: 8924-3 Rec.pdf; 8924-3 Ltr.pdf; 8924-3 PubNotice.pdf

Good morning,

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

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

Thank you,

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

