

WATER PERMIT NO. 8936-3

Name of Applicant: **Nicholas P. Hybertson**

Address: **28886 463rd Avenue, Centerville SD 57014** Phone: **605-957-5279**

Amount of Water Claimed: **1.33 cfs** Total Acres: **45**

Source of Water Supply: **Groundwater**

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

Type of Waste Disposal System:

Location: **Approx. 1.5 miles northwest of Centerville**

PRIORITY Date Received: **03-10-25** Application/License Fee: **\$700.00**

Corrected Application Received: Period of Annual Use: **April 1 – October 31**

Remarks: **Requesting a diversion rate greater than the statutory limit.**

Diversion Point: **SW 1/4 NE 1/4 Sec 21-T96N-R52W**

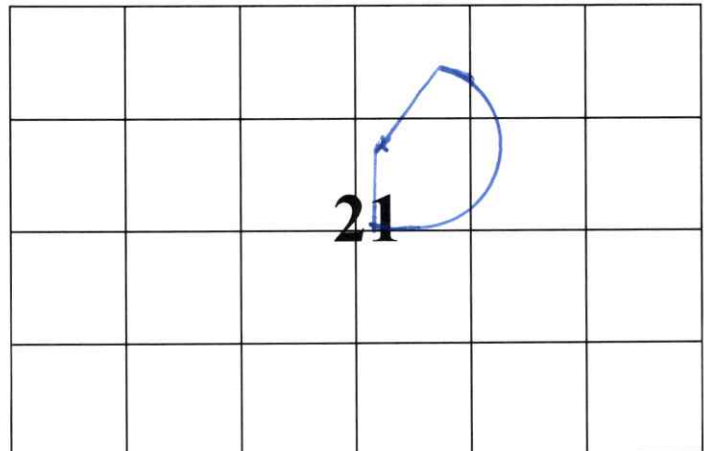
Land to be Irrigated: **NE 1/4 Sec 21-T96N-R52W**

Depth of Well: **140**

Well Driller:

Remarks:

Type of Map: **aerial**



Reviewed and the Number Assigned on: **03-10-25**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 8936-3

Date of first receipt of application March 10, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 8936-3 to Nicholas P. Hybertson, 28886 463rd Avenue, Centerville SD 57014, 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. 8936-3 appropriate 1.34 cubic feet of water per second (cfs) from one well to be completed into the Upper Vermillion Missouri: South Aquifer (approximately 140 feet deep) located in the SW 1/4 NE 1/4 Section 21 for irrigation of 45 acres located in the W 1/2 NE 1/4 Section 21; all in T96N-R52W. This site is located approximately one and one-half miles northwest of Centerville SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is March 10, 2025.
4. The date of approval of Permit No. 8936-3 is June 2, 2025.
5. One-fifth of the construction is to be completed on or before December 2, 2027.
6. All construction is to be completed on or before June 2, 2030.
7. Water is to be put to beneficial use on or before June 2, 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 well approved under Water Permit No. 8936-3 is 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 well authorized by Permit No. 8936-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8936-3 authorizes a maximum diversion rate of 1.34 cfs for the irrigation of 45 acres with an annual volume not to exceed 2 acre-feet of water per acre per year.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: _____

Mark Mayer, PE

Director of Office of Water

Department of Agriculture and Natural Resources

6/11/25
date



RECEIVED

MAR 10 2025

PAID

MAR 10 2025

Ck# 2342

Rec't#

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

Mail to:

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

ph. (605) 773-3352

No. 8936-3 Hydrologic Unit 10170102Basin VermillionNewspaper Turner New Era

(office use only)

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 Nicholas P. Hybertson

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

Mailing Address 28886 463rd Ave Centerville, SD 57014

(Address)

(City)

(State)

(Zip Code)

Phone _____

Mobile _____

Email _____

2. Amount of water claimed 1.34 *CFS or 600 **GPM ***AF Total Acreage 45 acres

(*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 SW 1/4 NE 1/44. Location of point of diversion one well 21-096-52

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

County Turner5. County or counties where water will be used Turner6. Annual period during which water is to be used April 1st - Oct 31st7. 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>21-096-52</u>	<u>45</u>		

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

To irrigate 45 acres of cropland on 21-096-52
 Requesting a diversion rate greater than the statutory limit.

I, Nicholas P. Hybertson, 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)

Supplemental Information

(type or print)

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MAR 10 2025

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WATER

1. Well Information (check one or both as applicable)



Drilling new well(s)



Using existing well(s)

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

For either existing or proposed wells:

- c) Well Depth (required) 140 Depth to Top of Water Bearing Material 10' Depth to Water from Surface 9'
- d) Distance to nearest domestic well on applicant's property _____ Property owned by others _____

2. Wastewater Disposal System Information

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

3. Dugout Information

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

4. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

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

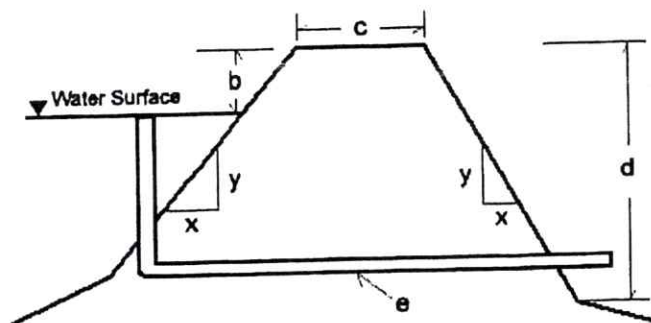
Upstream _____

Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



GENERAL FIELD DESIGN REPORT



Design Details - Center Pivot 1

Grower: Nick Hybertson

Date: 3/1/2025

Field: Baker

Layout: West

Field Area: 51.49 acres

Irrigated Area: 41.18 acres

System: 38.06 acres

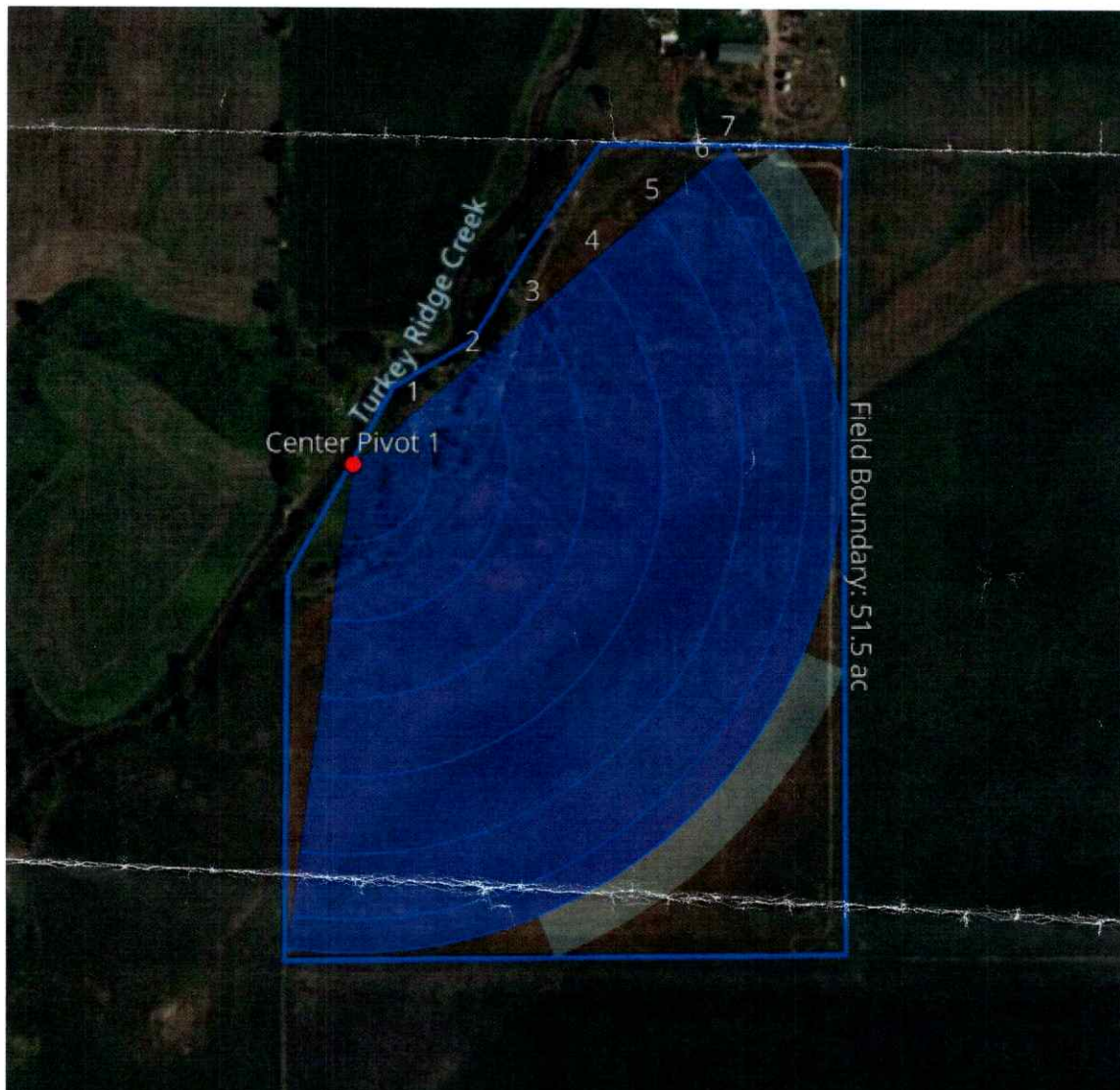
Primary End Gun: 3.12 acres

Swing Arm: 0 acres

Wrap Span: 0 acres

Drop Span: 0 acres

Secondary End Gun: 0 acres



M & S IRRIGATION & TRENCHING, LLC
46970 HWY 50 • VERMILLION, SD 57069, USA
605-624-5594

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MAR 10 2025

OFFICE OF
WATER

96N 52W
Section: 17

96N 52W
Section: 16

96N 52W
Section: 15

96N 52W
Section: 20

10170102 Vermillion

Lewis and Clark Lake

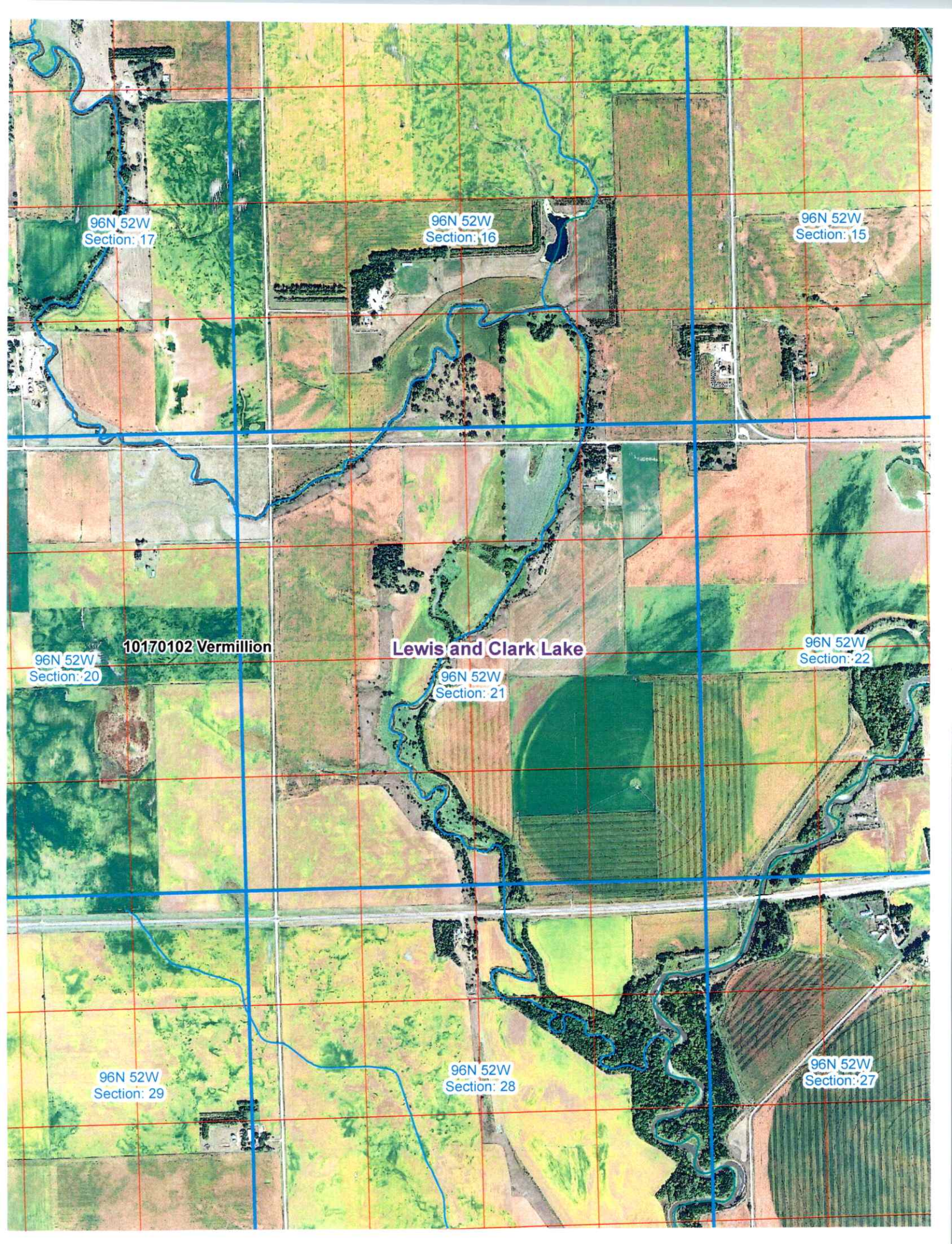
96N 52W
Section: 21

96N 52W
Section: 22

96N 52W
Section: 29

96N 52W
Section: 28

96N 52W
Section: 27



RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 10th, 2025

RECEIVED OF Nicholas P Hybertson 28886 463rd Avenue Centerville SD 57014

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

Fee for Application for Permit No. <u>8936-3</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>500.00</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>8936-3</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>700.00</u>

By


Chief Engineer



**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. 8936-3, Nicholas Hybertson**

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. 8936-3, Nicholas Hybertson, 28886 463rd Avenue, Centerville SD 57014.

The Acting Chief Engineer is recommending APPROVAL of Application No. 8936-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The well approved under Water Permit No. 8936-3 is 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 well authorized by Permit No. 8936-3 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. Pursuant to SDCL 46-5-6 which allows a greater diversion rate if the method of irrigation, time constraints, or type of soils so requires, Permit No. 8936-3 authorizes a maximum diversion rate of 1.34 cfs for the irrigation of 45 acres with an annual volume not to exceed 2 acre-feet of water per acre per year.
4. 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
May 07, 2025

Report to the Chief Engineer
On Water Permit Application No. 8936-3

Nicholas P. Hybertson

May 9th, 2025

Water Permit Application No. 8936-3 proposes to appropriate 1.34 cubic feet of water per second (cfs) from one well to be completed into the South Management unit of the Upper Vermillion Missouri aquifer (approximately 140 feet deep) located in the SW ¼ NE ¼ Section 21 for irrigation of 45 acres located in the W ½ NE ¼ Section 21; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This proposed well site is located approximately one-half miles northwest of Centerville, SD in Turner County.

AQUIFER: Upper Vermillion Missouri: South (UVM:S)

HYDROGEOLOGY:

The Southern management unit of the Upper Vermillion Missouri aquifer, referred to as the UVM:S aquifer for the remainder of this report, is a Quaternary aged glacial outwash that is made up of materials ranging in size from a fine sand to a medium-pebble gravel (Lindgren & Hansen, 1990). The UVM:S aquifer is primarily confined but can be found under unconfined conditions in areas where the UVM:S aquifer is hydrologically connected to the Parker-Centerville aquifer (Holmes & Filipovic, 2015). The UVM:S aquifer is overlain by a till layer with a range of thickness up to 160 feet thick (Holmes & Filipovic, 2015). From 2013 to 2014, the SD DENR-Geological Survey completed a study to further understand the geologic and hydrologic conditions of the entire Upper Vermillion Missouri aquifer (Holmes & Filipovic, 2015). From this study and a report written by Water Right staff engineer Buhler (2014), the Water Management Board, in a meeting held on March 6th, 2014, adopted three management units (North, South, and West) that divided the Upper Vermillion Missouri aquifer for the purposes of water management (Water Rights, 2014). The UVM:S aquifer is hydrologically connected to the other management units of the Upper Vermillion Missouri aquifer, the Parker-Centerville aquifer, and the Lower Vermillion Missouri aquifer (Buhler, 2014; Mathiowetz, 2018; Niehus, 1997; Holmes & Filipovic, 2015). Hedges and others (1982) delineated a boundary between the Upper Vermillion Missouri aquifer and Lower Vermillion Missouri aquifer with portions of each boundary being modified by Buhler (2014) and Mathiowetz (2018) in response to additional study of the Upper Vermillion Missouri aquifer, as shown on Figure 1. Figure 1 also shows the estimated areal extent (approximately 78,820 acres) of the UVM:S aquifer (Buhler, 2014).

A well completion report was not submitted with this application, so the next closest test hole/well completion report will be used instead. A test hole is the closest report and was drilled on January 12th, 2023, and is located in the NE ¼ SE ¼ of Section 27-T96N-R52W, which is 1.8 miles southeast of the proposed diversion point (Water Rights, 2025d). The test hole report indicates that the top of aquifer material (fine gravel) is approximately 89 feet below the ground

surface (Water Rights, 2025d). The static water level of nearby observation wells ranges from 60 to 70 feet below ground surface (Water Rights, 2025b). Based on the test hole top of aquifer material and observation wells' water levels, the aquifer is expected to be confined with a saturated aquifer thickness of approximately 81 feet (Water Rights, 2025b; Water Rights, 2025d). The nearby test hole report indicates the aquifer material is confined by a layer of clay and is similar to other nearby test hole reports and well completion reports.

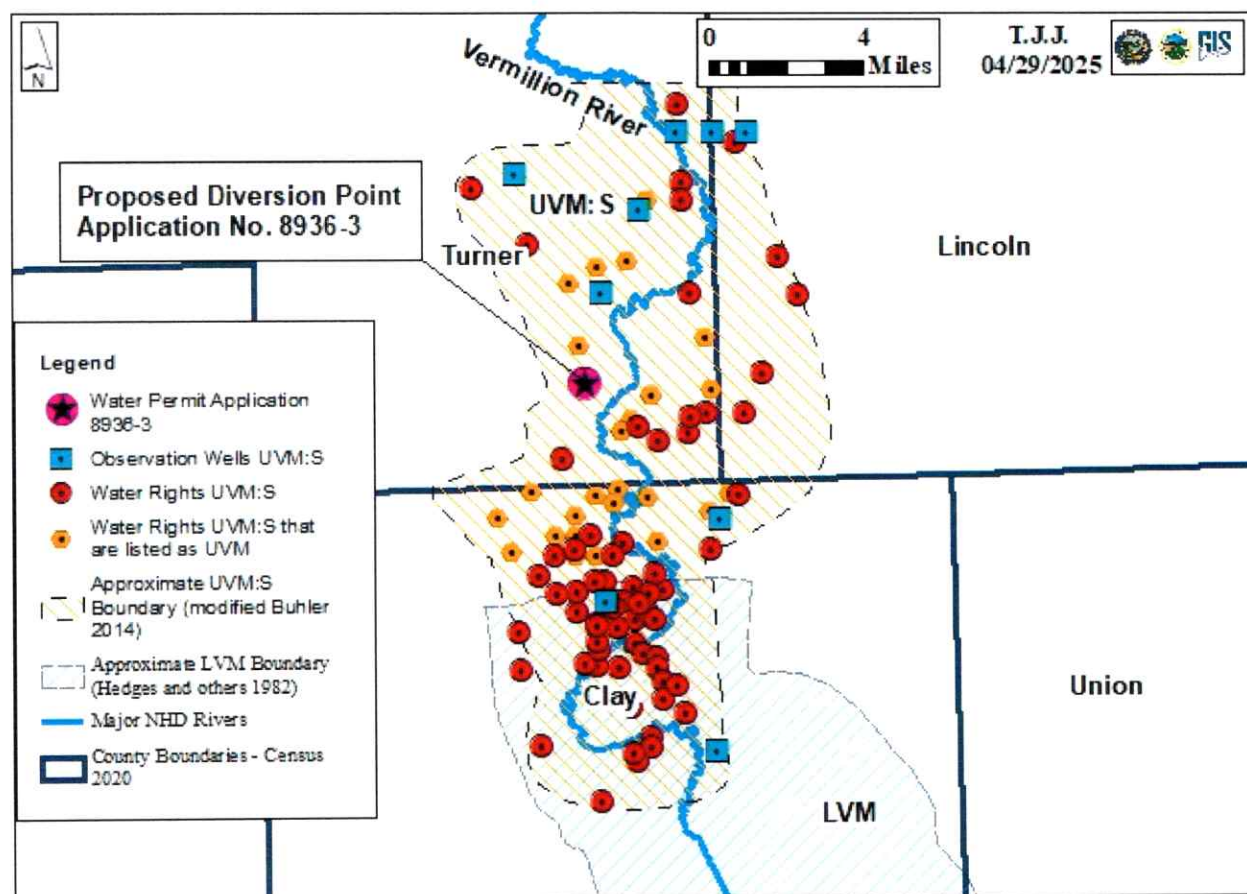


Figure 1. Map of the approximate UVM:S and LVM aquifer boundary delineated by Hedges and others (1982) with a portion of the UVM:S aquifer boundary modified by Buhler (2014), and the location of diversion point for Water Permit Application No. 8936-3, and UVM:S aquifer observation wells and water rights/permits (Water Rights, 2025a and 2025b).

Applicable South Dakota Codified Laws (SDCL)

Pursuant to SDCL 46-2A-9, “A permit to appropriate water may be issued only if there is a reasonable probability that unappropriated water is available for the applicant’s proposed use, the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, the proposed use is a beneficial use, and the permit is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11.” This report will address the availability of unappropriated water and the potential for unlawful impairment of existing domestic uses and water rights within the UVM:S aquifer.

WATER AVAILABILITY:

Water Permit Application No. 8936-3 proposes to appropriate water from the UVM:S 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 UVM:S 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 UVM:S aquifer must be considered.

HYDROLOGIC BUDGET:

Recharge

Recharge to the UVM:S aquifer is received primarily through infiltration of precipitation where the aquifer is at or near land surface. Additional recharge occurs where there is direct contact between the Upper Vermillion Missouri aquifer and Parker-Centerville aquifer (Lindgren & Hansen, 1990; Niehus, 1997; Holmes & Filipovic, 2015).

Using regional flow net analysis, Hedges and others (1985) estimated a recharge rate of 0.25 inches per year (in/yr) for the UVM aquifer. However, it should be noted that the entire UVM aquifer was analyzed at that time because it was still considered one aquifer. Using the current areal extent from Buhler’s report (2014), and Hedges and others (1985) estimated recharge rate of the UVM aquifer, the estimated recharge rate of the UVM:S aquifer is 1,642 acre-feet per year; keeping in mind that this estimate is likely lower than the actual rate based on Holmes & Filipovic (2015) investigation and Buhler’s (2014) report.

Hedges and others (1985) estimated a recharge rate range of 0.15 to 0.6 in/yr to buried-confined aquifers for use by management and development programs. Using Buhler’s (2014) aquifer area, that is an estimated average annual recharge rate range of approximately 985 to 3,941 ac-ft/yr. Based on the Holmes & Filipovic (2015) investigation and Buhler’s (2014) report, recharge is likely greater than the upper extent of that range. The recharge rate range for the original aquifer extent and the generalized buried-confined recharge rate range broadly agree with each other.

2014 Flow Net Analysis

From Buhler’s (2014) analysis of the estimated groundwater outflow, recharge of the UVM:S aquifer exceeds withdrawals by a minimum estimate of 5,637 acre-feet per year. However, this recharge could be higher considering that another larger cross-section of the UVM:S aquifer

shows recharge exceeding withdrawals by an estimated 8,223 acre-feet per year (Buhler, 2014). Several permits have been approved by the Water Management Board since Buhler's analysis and will need to be considered in the withdrawals section (Water Rights, 2025b).

Discharge

Discharge from the UVM:S aquifer primarily occurs through well withdrawals, subsurface outflow to other glacial aquifers, and evapotranspiration in areas where the aquifer is at or near land surface (Lindgren & Hansen, 1990; Water Rights, 2025c & 2025d).

There are 93 water rights/permits authorized to appropriate water from the UVM:S aquifer (Water Rights, 2025b). Of these 93 water rights/permits, 28 are listed under the UVM aquifer even though they are completed into the UVM:S aquifer, the other 65 water rights/permits are properly listed under the UVM:S aquifer. Since Buhler's (2014) flow net analysis will be used as a basis for determining a rough estimate of the aquifer's recharge rate in excess of withdrawals, any water rights/permits that were approved at the time of the analysis will already be accounted for. So, the withdrawal rate of water rights/permits approved after the analysis will contribute to the average annual withdrawal rate of the UVM:S aquifer compared to the estimated average annual outflow from the aquifer.

The estimated average annual withdrawal rate of the UVM:S aquifer water rights/permits approved since the completion of Buhler's analysis is an estimated 2,234 acre-feet/year, as shown on Table 1. Recently, 24 LVM aquifer water rights/permits were redesignated as UVM:S aquifer based on the mapping of Buhler (2014); these water rights/permits have been included in the budget for the UVM:S since Buhler (2014). The 24 redesignated water rights/permits estimated average annual withdrawal rate of 1,797 acre-feet/year, as shown on Table 2. The withdrawal rate was found by summing the acreage of the 41 water rights/permits approved (shown on Table 1) since the completion of Buhler's (2014) report and the 24 recently redesignated water rights/permits (shown on Table 2), then multiplying the total acreage by 0.5 feet/acre which is the annual average application rate per permitted acre in the UVM:S (Buhler, 2014). Applying the same rate to the requested acres included on Water Permit Application No. 8936-3 provides a total approximate withdrawal rate of 22.5 acre-feet/year. Other pending water permit applications (Nos. 8933-3, 8935-3, & 8943-3) are estimated to withdraw an average of 220 acre-feet/year (Water Rights, 2025b). If this and other pending applications are approved, the total estimated average annual withdrawal rate from the UVM:S aquifer is an estimated 4,274 acre-feet/year.

There are domestic wells completed into the UVM:S aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2025c). Due to their relatively low diversion rates, withdrawals from domestic wells are not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the UVM:S aquifer is the uppermost aquifer available; it is likely some domestic users may have transitioned to rural water. Therefore, the quantity of water withdrawn by domestic wells is estimated to be negligible to the hydrologic budget for the UVM:S aquifer.

Table 1. List of estimated average annual withdrawal rates of water right/permits from the UVM:S aquifer that were approved at or after the March 6th, 2014, Water Management Board meeting, water right/permits with a priority date before the meeting date but not included in Buhler's analysis are also accounted for in this table (Buhler, 2014; Water Rights, 2025b).

Permit No.	Name	Priority Date	Status	Use	Acres	Estimated Use (acre-feet/year)
6811A-3	Jesse & Tanya Vandestroet	04/10/2014	LC	IRR	115	57.5
7383-3	Metabank	07/20/2012	PE	IRR	25	12.5
7384-3	Nicholas & Courtney Blake	07/20/2012	LC	IRR	80	40
7441-3	Jason or Alicia Knutson	09/26/2012	PE	IRR	140	70
7442-3	Leah Johnson	09/26/2012	LC	IRR	40	20
7466-3	Bethel Hagen Trust	10/18/2012	LC	IRR	152	76
7467-3	Cleland Hagen Trust	10/18/2012	PE	IRR	152	76
7600-3	Michael D Stevens	12/28/2012	PE	IRR	180	90
7601-3	Michael D Stevens	12/28/2012	PE	IRR	132	66
7693-3	Metabank	02/06/2013	PE	IRR	27.7	13.85
7900-3	Leon Thompson	09/11/2013	LC	IRR	136	68
7919-3	Larry & Marlene Erickson	10/23/2013	LC	IRR	83.83	41.92
7945-3	Brad R or Linda R Trudeau	01/17/2014	LC	IRR	60	30
7947-3	Leon, Holly, & Jordan Rozeboom	01/23/2014	PE	IRR	133.44	66.72
7948-3	Majestic Farms LLP	01/23/2014	PE	IRR	55.02	27.51
7949-3	Jesse & Tanya Vandestroet	01/23/2014	LC	IRR	100.9	50.45
7964-3	Paul, Mike, & John Shubeck	02/12/2014	PE	IRR	128	64
7976-3	Vasgaard Properties	02/27/2014	LC	IRR	142	71
7993-3	Jesse & Tanya Vandestroet	04/10/2014	LC	IRR	53	26.5
7994-3	Hansen Ventures LLC	04/10/2014	LC	IRR	138	69
8070-3	Hansen Irrigated Farms LLC	01/07/2015	PE	IRR	96	48
8071-3	Hansen Irrigated Farms LLC	01/07/2015	PE	IRR	51	25.5
8469-3	Double A Farms LLC	03/15/2021	PE	IRR	114	57
8470-3	Nicholas Blake	03/22/2021	PE	IRR	160	80
8492-3	Tim or Kari Ostrem	02/19/2021	LC	IRR	180	90
8542-3	Tyler Anderson	08/09/2021	PE	IRR	103	51.5
8588-3	T & D Farms	02/03/2022	PE	IRR	160	80
8598-3	Tim Wellenstein	02/24/2022	PE	IRR	126	63
8599-3	Farron Pratt & Michelle Pratt	02/24/2022	PE	IRR	17.5	8.75
8619-3	Tim or Kari Ostrem	03/09/2022	PE	IRR	300	150
8685-3	Joe Schumacher	11/28/2022	PE	IRR	160	80
8686-3	Smit Family Trust	12/20/2022	PE	IRR	120	60
8689-3	Richard P Hybertson	03/06/2023	PE	IRR	97	48.5
8690-3	Richard P Hybertson	03/06/2023	PE	IRR	72	36
8695-3	William H Hansen	12/28/2022	PE	IRR	72.03	36.02
8790-3	William D/Judy Knutson	08/16/2023	PE	IRR	86	43
8832 -3	Jesse & Tanya Vandestroet	02/07/2024	LC	IRR	123	61.5
8833-3	Jesse & Tanya Vandestroet	02/07/2024	LC	IRR	53	26.5
8834-3	Smit Family Trust	02/05/2024	PE	IRR	18	9
8843-3	Mikota Holding LLC	03/01/2024	PE	IRR	160	80
8851-3	Jacob and Tyler Andersen	04/02/2024	PE	IRR	125.58	62.79
PE: Water Permit, LC: Water Right License, IRR: Irrigation				TOTAL:	4,468	2,234

Table 2. List of previous LVM water right/permits that have been recently redesignated as UVM:S water right/permits (Water Rights, 2025b).

Permit No.	Name	Priority Date	Status	Use	Acres	Estimated Use (acre-feet/year)
973-3	Nicholas & Courtney Blake	07/02/1956	LC	IRR	131	65.5
974-3	Hansen Ventures LLC	07/02/1956	LC	IRR	140	70
1813-3	Hansen Ventures LLC	03/22/1971	LC	IRR	144	72
1916-3	Troy & Sheila Gust	10/21/1971	LC	IRR	169	84.5
4731-3	Richard/Gayle Johnson	03/23/1981	LC	IRR	140	70
5979-3	Clay Rural Water System Inc	01/31/1997	LC	RWS	0	307
6563-3	Rus Farms Real Estate LLC	04/22/1968	LC	IRR	242.5	121.25
6565-3	Rus Farms Real Estate LLC	01/04/2005	LC	IRR	130	65
6566-3	Hansen Ventures LLC	01/04/2005	LC	IRR	68	34
6569-3	Smit Family Trust	01/04/2005	PE	IRR	42	21
6571-3	Rus Farms Real Estate LLC	01/04/2005	LC	IRR	229.5	114.75
6572-3	Brad & Linda Trudeau Living Trust	01/04/2005	LC	IRR	78	39
6808-3	Lovejoy Family Trust	02/22/2007	LC	IRR	135	67.5
6813-3	Rus Farms Real Estate LLC	01/05/2005	LC	IRR	187	93.5
6815A-3	Rus Farms Real Estate LLC	01/04/2005	LC	IRR	264.5	132.25
6817-3	Hansen Ventures LLC	01/05/2005	PE	IRR	130	65
6819-3	Hansen Ventures LLC	02/20/2007	LC	IRR	102	51
6821-3	Tim Gregoire	02/20/2007	LC	IRR	83	41.5
6822-3	Hansen Properties	02/20/2007	PE	IRR	36	18
7001-3	Rus Farms Real Estate LLC	03/14/2008	LC	IRR	170	85
7003-3	Hansen Ventures LLC	01/04/2005	LC	IRR	31	15.5
7150-3	Tim Ostrem	06/25/2009	LC	IRR	275	137.5
7383-3	Hansen Ventures LLC	07/20/2012	PE	IRR	25	12.5
7693-3	Hansen Ventures LLC	02/06/2013	PE	IRR	27.7	13.85
PE: Water Permit, LC: Water Right License, IRR: Irrigation, RWS: Rural Water System				TOTAL:	2,980	1,797

Hydrologic Budget Summary

The recharge rate of the UVM:S aquifer, based on Buhler's (2014) analysis, is estimated to exceed withdrawals from the UVM:S aquifer by an estimated 5,637 to 8,223 acre-feet per year at the time of Buhler's (2014) analysis. Any water rights/permits listed as withdrawals from the Upper Vermillion Missouri aquifer or Lower Vermillion Missouri aquifer, which are within the extent of the UVM:S aquifer, were included in Buhler's (2014) analysis.

Since many previous water rights/permits are already accounted for in Buhler's (2014) analysis of recharge rate in excess of withdrawals, the water rights/permits approved at or after the March 6th, 2014, Water Management Board meeting, and the recently redesignated water rights/permits need to be considered (Table 1 & 2). The estimated average annual withdrawal rate for those water rights/permits from the UVM:S aquifer is approximately 4,031 acre-feet per year. If this application (No. 8936-3) and pending Water Permit Application Nos. 8933-3, 8935-3, & 8943-3 are approved, the estimated proposed withdrawal is 243 acre-feet per year. Therefore, there is a reasonable probability that unappropriated water is available to supply the proposed appropriation.

OBSERVATION WELL DATA:

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

The DANR-Water Rights Program monitors nine observation wells completed into the UVM:S aquifer. The location of observation wells completed into the aquifer are shown on Figure 1 (Water Rights, 2025b). These observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The three closest observation wells to the proposed diversion point are TU-77M (approximately 2.4 miles north), TU-80I (approximately 4.6 miles northeast), and CL-80K (approximately 4.9 miles southeast) (Water Rights, 2025b). The water level elevations for these observation wells are displayed in Figure 2 (Water Rights, 2025b). The majority of observation wells in the UVM:S aquifer have a stable water level. The data shown in Figure 2 shares a similar trend with most of the observation wells in the UVM:S aquifer.

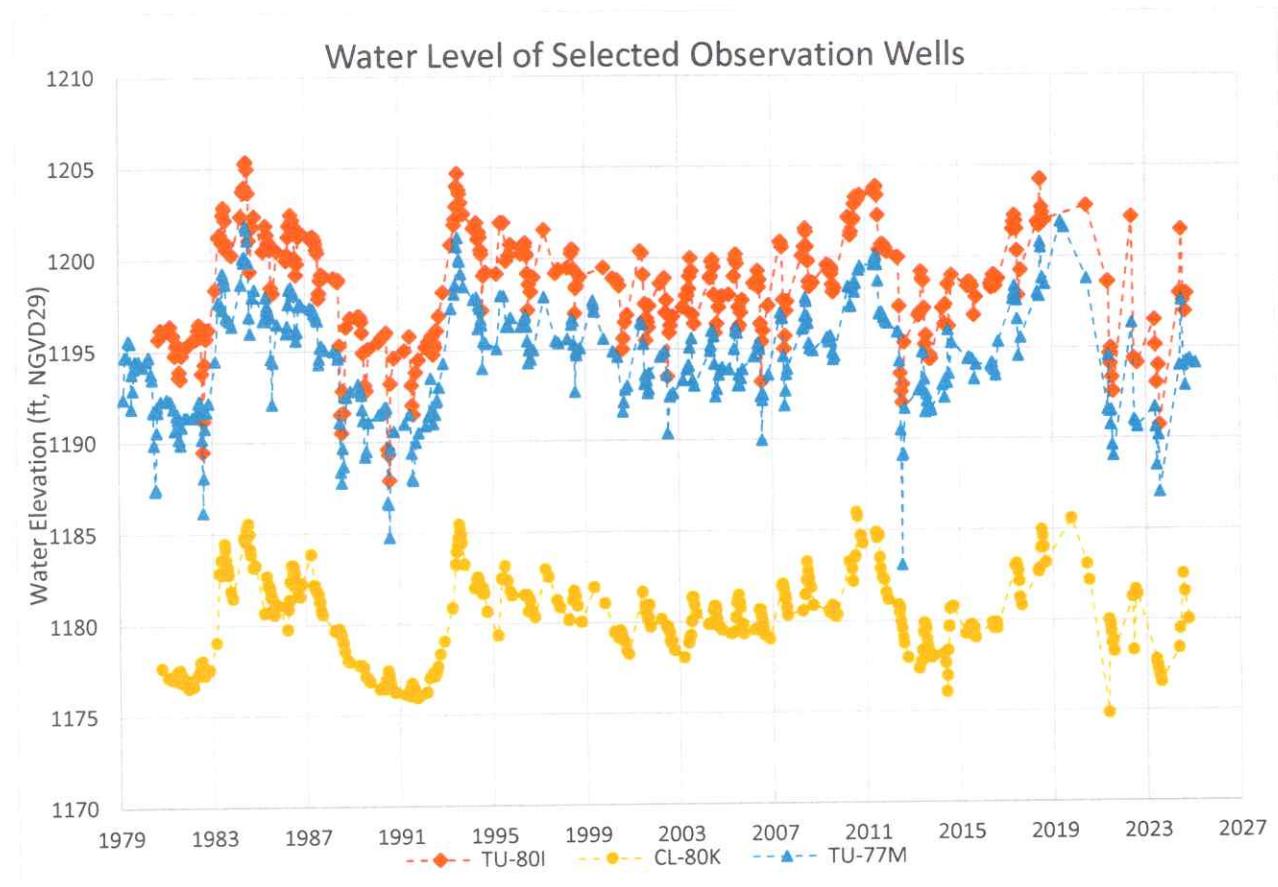


Figure 2. A graph showing the elevation of water levels in observation wells TU-77M, TU-80I, and CL-80K (Water Rights, 2025b)

Figure 2 shows the observation wells display generally stable water levels which is representative of a majority of other observation wells in the UVM:S aquifer. The hydrographs

for the UVM:S 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 exceeds pumping with the aquifer returning to pre-pumping conditions between irrigation seasons. Aquifer recovery indicates that climatic conditions and therefore, the effects of recharge to and natural discharges from the aquifer govern the long-term fluctuations of waters levels in the aquifer rather than the impacts of pumping from the UVM:S aquifer. By recognizing that both recharge to and natural discharge from an aquifer can be captured for pumping, the observation well hydrographs demonstrate unappropriated water is available for the proposed appropriation. The observation well data supports the 2014 flow net analysis by Buhler (2014) stating there was a large amount of recharge in excess of withdrawals with the observation well data being stable despite increased withdrawals since Buhler's (2014) analysis.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Water rights/permits considered to be completed into the UVM:S aquifer in the general vicinity of the proposed well site for this application are shown in Figure 3 and summarized in Table 3 (Water Rights, 2025c). The closest water right/permit (not held by the applicant) to the proposed diversion point is Water Permit No. 2269-3, held by Travis Wiese. The diversion point for Water Permit No. 2269-3 is located approximately 1 mile north of the proposed diversion point for this application (Water Rights, 2025c).

There are domestic wells on file with the DANR-Water Rights Program that are completed into the UVM:S aquifer. The closest domestic well on file is located approximately 2.1 miles northeast of the proposed diversion point (Water Rights, 2025d). The location of domestic wells is based on the information provided by the well driller on the submitted well completion report. There could potentially be other domestic wells completed into the UVM:S aquifer near the proposed well site that are not on file with the DANR-Water Rights Program.

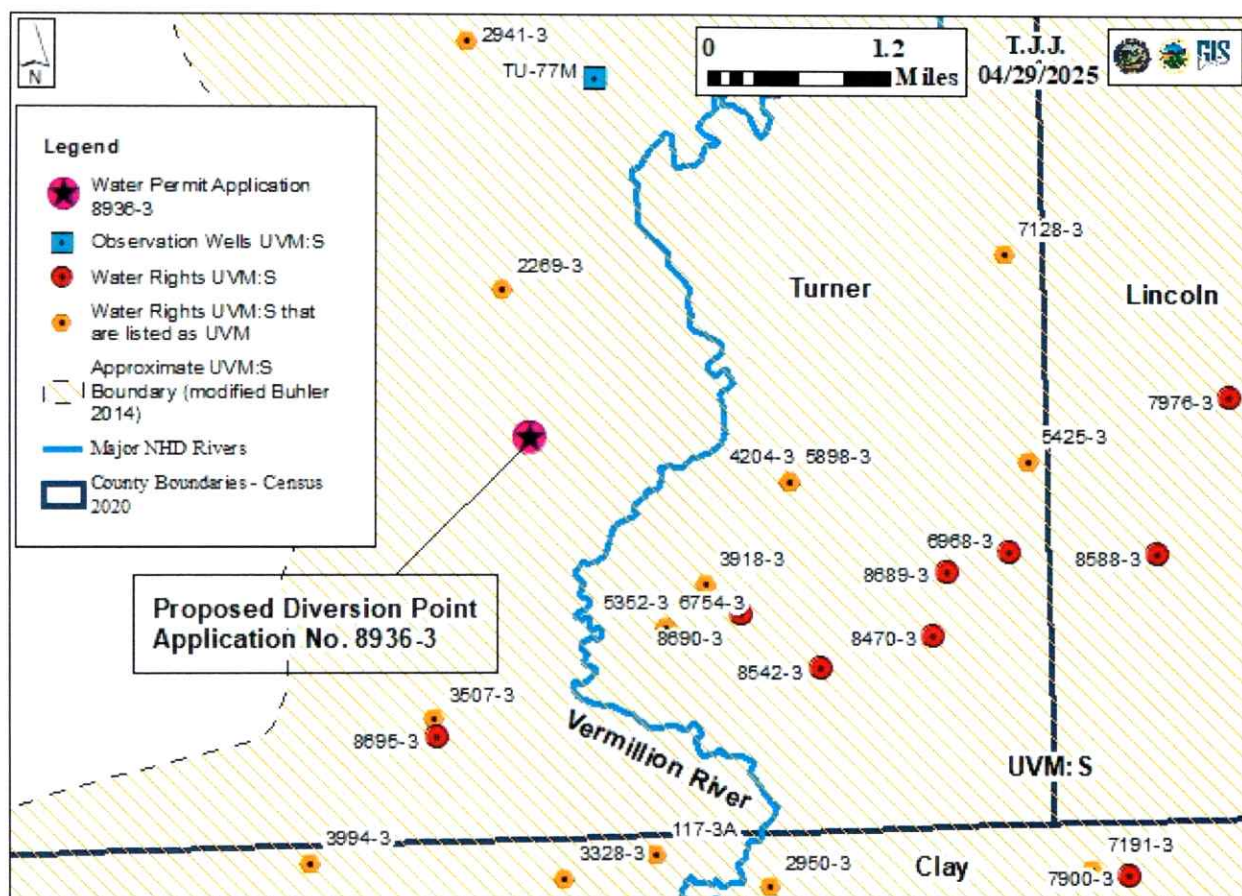


Figure 3. Map of the approximate areal extent of the UVM:S aquifer, UVM:S aquifer water rights/permits within approximately three miles of the location of the proposed well site for Water Permit Application No. 8936-3 (Water Rights, 2025b and 2025c).

Table 3. List of water rights/permits within approximately three miles of Water Permit Application No. 8936-3 shown in Figure 3.

Permit	Name/Business	Priority	Status	Use Type	CFS	Acres
117-3A	Glyndon Knutson	04/14/1955	License	Irrigation	0.95	66
2269-3	Travis Wiese	03/25/1975	License	Irrigation	2.44	188
2941-3	Russell D. Austin	08/16/1976	License	Irrigation	1.11	140
3507-3	W. Jerald Hansen	12/28/1976	License	Irrigation	0.99	69
3918-3	JBS Hansen Farms	04/18/1977	License	Irrigation	2.66	295.3
3994-3	Glyndon Knutson	07/07/1956	License	Irrigation	4.94	332
4204-3	City of Centerville	01/01/1900	License	Municipal	0.22	0
5352-3	Billy & Scott Hansen	09/13/1989	License	Irrigation	2.15	151
5425-3	Johnke Land Trust	03/23/1990	License	Irrigation	1.88	132
5898-3	City of Centerville	01/09/1996	License	Municipal	0.89	0
6754-3	JBS Hansen Farms	09/05/2006	Permit	Irrigation	0	35
6968-3	Roger Blake	02/01/2008	License	Irrigation	1.47	103
7128-3	John Shubeck	04/13/2009	Permit	Irrigation	1.78	207
8470-3	Nicholas Blake	01/13/2021	Permit	Irrigation	1.78	160
8542-3	Tyler Andersen	08/09/2021	Permit	Irrigation	1.61	103
8689-3	Richard P. Hybertson	03/06/2023	Permit	Irrigation	1.78	97
8690-3	Richard P. Hybertson	03/06/2023	Permit	Irrigation	1.78	72
8695-3	William H. Hansen	12/28/2022	Permit	Irrigation	1.78	72.03

Based on the well completion reports and observation wells near the proposed diversion point for this application, the UVM:S aquifer is expected to be under confined conditions near the well site. In a confined aquifer, drawdown from a pumping well can extend some distance from the well. The Water Management Board recognizes that putting water to beneficial use requires a certain amount of drawdown to occur. The Board has developed rules to allow water to be placed to maximum beneficial use without the necessity of maintaining artesian head pressure for domestic use. The Water Management Board defined an “adversely impacted domestic well” in ARSD 74:02:04:20(7) as:

“A well in which the pump intake was set at least 20 feet below the top of the aquifer at the time of construction or, if the aquifer is less than 20 feet thick, is as near to the bottom of the aquifer as is practical and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner’s needs.”

The Water Management Board considered the delivery of water by artesian head pressure versus maximum beneficial use during the issuance of Water Right No. 2313-2 for Coca-Cola Bottling Company of the Black Hills. The Board adopted the Findings of Facts and Conclusions of Law that noted the reservation of artesian head pressure for delivery of water would be inconsistent with SDCL 46-1-4 which states, “general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable...” (Water Rights, 1995). Furthermore, the Water Management Board found if increased cost or decreased production as a result of impacts on artesian head pressure by legitimate users is to be considered as an unlawful impairment, it would also conflict with SDCL 46-1-4 (Water Rights, 1995). With that in mind, some existing well owners may need to install or lower pumps depending on the specific characteristics of the UVM:S aquifer at their location. However, when considering the statutes (SDCL 46-1-4 and 46-6-6.1), rules (ARSD 74:02:04:20(6) and (7)), the history of irrigation in the area without any substantiated complaints of well interference (Water Rights, 2025e), 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.

SDCL 46-5-6:

Pursuant to SDCL 46-5-6, the diversion rate for an irrigation appropriation cannot be in excess of 1.0 cfs per 70 acres or “the equivalent thereof.” The statute does provide that: “The Water Management Board may allow a greater diversion, in volume or rate or both, if the method of irrigation, any time constraints on diversion of water, or the type of soil so requires...”

If approved, Water Permit Application No. 8936-3 would authorize a maximum instantaneous diversion rate of 1.34 cfs from one well for the irrigation of 45 acres, or equivalent to 2.08 cfs per 70 acres. The map and application submitted by the applicant indicates the center pivot is

doing a partial rotation. A center pivot typically requires a certain diversion rate to operate properly regardless of swinging a partial or full circle, so the statutory rate limit might be exceeded when a pivot is not completing a full circle. This reasoning has been accepted by the Water Rights Program and the Water Management Board in the past.

CONCLUSIONS:

1. Water Permit Application No. 8936-3 proposes to appropriate 1.34 cfs from one well to be completed into the South Management unit of the Upper Vermillion Missouri aquifer (approximately 140 feet deep) located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 21 for irrigation of 45 acres located in the W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 21; all in T96N-R52W. The proposed well site is located approximately one-half miles northwest of Centerville, SD in Turner County.
2. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Upper Vermillion Missouri: South aquifer to supply the proposed appropriation.
3. There is a reasonable probability that the diversion by Water Permit Application No. 8936-3 will not unlawfully impair adequate wells for existing water rights/permits and domestic uses.
4. The applicant is requesting a diversion rate greater than statutory limit of 1 cfs per 70 acres to accommodate a center pivot doing a partial rotation. This is reasonable and has been accepted by the Water Management Board and the Water Rights Program in the past.



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

- Buhler, K. A. 2014. Report to the Chief Engineer on 21 Water Permit Applications from the Upper Vermillion Missouri Aquifer. Report in the file for Water Permit No. 7715-3. SD DANR – Water Rights Program, Joe Foss Bldg. Pierre, SD.
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- Water Rights, 2025c. Water Right/Permit Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2025d. Well Completion Reports, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

Water Rights, 2025e. County Files, SD DANR-Water Rights Program, Joe Foss Bldg, Pierre,
SD.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

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

May 12, 2025

Nicholas P. Hybertson
28886 463rd Avenue
Centerville SD 57014

Dear Mr. Hybertson:

Water Permit Application No. 8936-3 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 New Era printed at Parker SD (Ph # 605 297-4419) and the Daily Press & Dakotan printed at Yankton SD (Ph # 605 665-7811). You will need to contact the newspapers and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the 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. 8936-3 to Appropriate Water

Notice is given that Nicholas P. Hybertson, 28886 463rd Avenue, Centerville SD 57014, has filed an application for a water permit to appropriate 1.34 cubic feet of water per second (cfs) from one well to be completed into the Upper Vermillion Missouri: South Aquifer (approximately 140 feet deep) located in the SW 1/4 NE 1/4 Section 21 for irrigation of 45 acres located in the W 1/2 NE 1/4 Section 21; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately one and one-half miles northwest of Centerville SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8936-3 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. 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 June 2, 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 June 2, 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: Monday, May 12, 2025 10:14 AM
To: New Century Press
Subject: 8936-33 Nicholas Hybertson - Public Notice
Attachments: 8936-3 public.short_final.docx

Attached is a notice to be published on May 22, 2025.

Nicholas P. Hybertson, 28886 463rd Avenue, Centerville SD 57014, 605-957-5279, has been notified to contact you to authorize publication and arrange for payment.

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

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

Thank you,

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, May 12, 2025 10:16 AM
To: Kelly Kronaizl
Subject: 8936-33 Nicholas Hybertson - Public Notice
Attachments: 8936-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on May 23, 2025 in the Daily Press & Dakotan.

Nicholas P. Hybertson, 28886 463rd Avenue, Centerville SD 57014, 605-957-5279, 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



Affidavit of Publication

STATE OF SOUTH DAKOTA
COUNTY OF TURNER

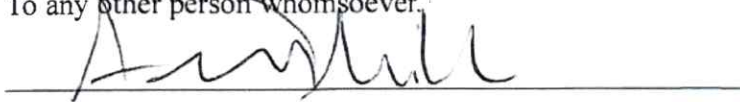
I, Amber Miller of New Century Press, publisher of The New Era, which is a weekly newspaper of general circulation, Printed and published in the City of Parker, in said County of Turner., and has been such legal newspaper during the times here in after mentioned; that the said newspaper has been in existence as such legal newspaper for more than one year prior to the publication of the notice here unto attached, and has during all of said publication of the notice hereunto attached, and has during all of said time had, and now has, more than 200 bona fide subscribers; that the undersigned, the affiant, is the Office Assistant of the said newspaper, in charge of the advertisement department thereof and has personal knowledge of all the facts stated in this affidavit and the advertisement headed:

N0522-7 Notice of Application

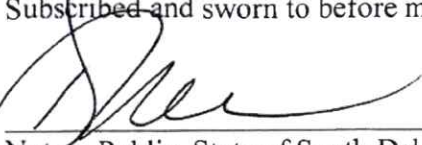
Once printed copy of hereto attached, is printed and published in the said newspaper for one week, to wit:

On Thursday, the 22nd day of May, 2025

That \$36.40 being the full amount of the fees for publication of the attached notices insure solely for the benefits of the publishers of the said newspaper, that no arrangement or understanding for a division thereof has been made with any other person and that no part thereof has been agreed to be paid To any other person whomsoever.



Subscribed and sworn to before me this 28th day of May, 2025



Notary Public, State of South Dakota

My Commission Expires August 11, 2029



Publication Fee...\$36.40
Notary Fee...\$
Total \$36.40

**NOTICE OF APPLICATION NO.
8936-3 to Appropriate Water**

Notice is given that Nicholas P. Hybertson, 28886 463rd Avenue, Centerville SD 57014, has filed an application for a water permit to appropriate 1.34 cubic feet of water per second (cfs) from one well to be completed into the Upper Vermillion Missouri: South Aquifer (approximately 140 feet deep) located in the SW 1/4 NE 1/4 Section 21 for irrigation of 45 acres located in the W 1/2 NE 1/4 Section 21; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately one and one-half miles northwest of Centerville SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8936-3 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. 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

n Page B1

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 June 2, 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.

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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 \$36.40 and may be viewed free of charge at www.sdpublicnotices.com.

AFFIDAVIT OF PUBLICATION

YANKTON DAILY PRESS AND DAKOTAN

RECEIVED

MAY 29 2025

OFFICE OF
WATER

NICHOLAS HYBERTSON
28886 463RD AVENUE
CENTERVILLE SD 57014

STATE OF SOUTH DAKOTA
COUNTY OF YANKTON

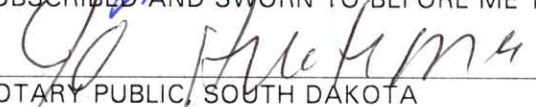
KELLY HERTZ, BEING FIRST DULY SWORN ON OATH DEPOSES
AND SAYS THAT (S)HE IS THE MANAGING EDITOR OF YANKTON
MEDIA INC, A CORPORATION, THE PRINTER AND THE PUBLISHER OF THE
YANKTON DAILY PRESS AND DAKOTAN, A LEGAL DAILY NEWSPAPER
PUBLISHED AND CIRCULATED IN THE CITY OF YANKTON, SAID COUNTY
AND STATE, AND ONE OF THE OFFICIAL NEWSPAPERS OF THE SAID
COUNTY OF FACTS STATED IN THIS AFFIDAVIT; THAT THE ANNEXED
NOTICE OF APPLICATION NO.

TAKEN FROM THE PAPER, IN WHICH IT WAS LAST PUBLISHED IN THE
NEWSPAPER ON THE 23rd DAY OF May, 2025
THAT THE FULL AMOUNT OF THE FEE CHARGED FOR THE PUBLICATION
OF SAID NOTICE TO WIT \$42.24 ENSURES TO THE
BENEFITS OF THE PUBLISHER OF SAID NEWSPAPER AND THAT NO
AGREEMENT AND UNDERSTANDING FOR THE DIVISION THEREOF HAS
BEEN MADE WITH ANY OTHER PERSON, AND THAT NO PART THEREOF
HAS BEEN AGREED TO BE PAID TO ANY PERSON WHOMSOEVER.

PUBLISHED ON: 05/23/2025

FILED ON: 05/23/25


SUBSCRIBED AND SWORN TO BEFORE ME THIS 23rd DAY OF May, 2025


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



RECEIVED

MAY 29 2025

OFFICE OF
WATER

NOTICE OF APPLICATION NO. 8936-3 to Appropriate Water

Notice is given that Nicholas P. Hybertson, 28886 463rd Avenue, Centerville SD 57014, has filed an application for a water permit to appropriate 1.34 cubic feet of water per second (cfs) from one well to be completed into the Upper Vermillion Missouri: South Aquifer (approximately 140 feet deep) located in the SW 1/4 NE 1/4 Section 21 for irrigation of 45 acres located in the W 1/2 NE 1/4 Section 21; all in T96N-R52W. The applicant is requesting a diversion rate greater than the statutory limit of 1 cfs per 70 acres. This site is located approximately one and one-half miles northwest of Centerville SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 8936-3 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. 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 June 2, 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 June 2, 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.

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JUN 11 2025

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Nicholas P. Hybertson
28886 463rd Avenue
Centerville SD 57014

Dear Mr. Hybertson:

Enclosed is Water Permit No. 8936-3 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



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and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
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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.: 8936-3

Name of Applicant: Nicholas Hybertson

Date of Posting: 5/19/2025

Date of Removal: 6/11/2025

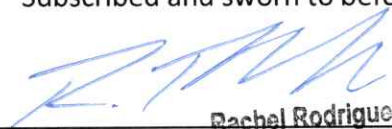


Ron Duvall, Engineer III

6/11/2025

Date

Subscribed and sworn to before me, a notary public, this 11th day of June, 2025.



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



(SEAL)