

WATER PERMIT NO. 9032-3

Name of Applicant: **Wilbur Ellis**

Address: **18100 US Highway 281, Tulare SD 57476**

Phone: **605-596-4200**

Amount of Water Claimed: **1 AF**

Total Acres: **N/A**

Source of Water Supply: **Groundwater**

Water to be used for: **COM**

County: **Spink**

Type of Waste Disposal System:

Location: **Approx. 0.5 miles northeast of Tulare**

PRIORITY

Date Received: **03-24-26**

Application/License Fee: **\$700.00**

Corrected Application Received: **03-24-26**

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

Remarks:

Diversion Point: **SW 1/4 SW 1/4 Sec 23-T115N-
R64W**

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

Depth of Well: **1,000**

Well Driller: **Stretch's Well Service**

Remarks:

Type of Map: **aerial**

			23		
	x				

Reviewed and the Number Assigned on: **03-25-26**

By: **Rachel Rodriguez**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 9032-3**

Date of first receipt of application March 24, 2026.

Date of return to applicant for corrections, amendments or changes March 24, 2026.

Date of receipt of corrected application April 1, 2026.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 9032-3 to Wilbur Ellis, 18100 US Highway 281, Tulare SD 57476, 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. 9032-3 appropriates up to 3 acre-feet of water annually at a maximum pump rate of 0.222 cubic feet of water per second from one well to be completed into the Dakota Aquifer (approximately 1,000 feet deep) located in the SW 1/4 SW 1/4 Section 23-T115N-R64W for commercial use and fire suppression purposes. This site is located in Spink County, approximately one-half mile north of Tulare SD.
2. The water appropriated shall be used for the purpose of commercial use and fire protection and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 9032-3 is June 22, 2026.
5. The date from which applicant may claim right is March 24, 2026.
6. One-fifth of the construction is to be completed on or before December 22, 2028.
7. All construction is to be completed on or before June 22, 2031.
8. Water is to be put to beneficial use on or before June 22, 2035.
9. 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. 9032-3 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. Any additional wells or future replacement wells must meet the adequate well construction standard as defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20 and may not be constructed using the alternative construction requirements that are allowed for domestic use wells outlined in ARSD 74:02:04:35.
3. The permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Dakota Aquifer.
4. Water Permit No. 9032-3 authorizes a total annual diversion of up to 3 acre-feet of water.

WATER MANAGEMENT BOARD

By: Adam Mathiowetz
Adam Mathiowetz, PE
Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

Aug. 07, 2026
date



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>9032-3</u> Hydrologic Unit <u>10160009</u>
	Basin <u>Middle James</u>
	Newspaper <u>Redfield Press</u>
	<u>Aberdeen American News</u> (office use only)

RECEIVED

MAR 24 2026

Water Rights
Program

Application for Permit to Appropriate Water in South Dakota

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☒ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☐ Industrial	☒ Other <u>fire protection</u>	

Type of Application:
(check one)

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

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

1. Name to Appear on Water Permit Wilbur Ellis

Mailing Address 18100 US Highway 281 Tulare SD 57476
(Address) (City) (State) (Zip Code)

Phone 6055964200 Mobile 6054505811 Email jake.miller@wilburellis.com

2. Amount of water claimed 0.222 *CFS or 100 **GPM and / ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply dakota water well

4. Location of point of diversion sw1/4 sw1/4 section23-T115N-R64W County spink
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ No

If "Yes," where will water be used? _____
(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Spink at said address

6. Annual period during which water is to be used 2026- Jan' - Dec 31

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

Install a Dakota aquifer water well to provide water for custom applications and provide a water source for fire protection!

I, Jake Miller retail location operations, 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.

RECEIVED

MAR 24 2026

Water Rights
Program

Form 2A
(Complete applicable portions only)

Supplemental Information

(type or print)

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



Drilling new well(s)



Using existing well(s)

a) If new wells, how many 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 0 Provide copy of log(s), if available. Drilled by Stretch's Well Service Inc

For either existing or proposed wells:

c) Well Depth (required) 1000 Depth to Top of Water Bearing Material 700 Depth to Water from Surface 0

d) Distance to nearest domestic well on applicant's property n/a Property owned by others 1000

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) 1500 Year Constructed 2010

c) Connected to the City of no Sanitary System

3. Dugout Information

a) Surface Dimensions N/A Depth N/A

b) Depth to water (ground surface to water level) N/A

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)

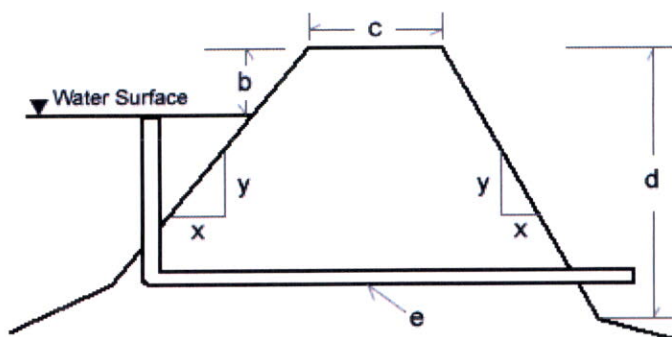
Upstream _____

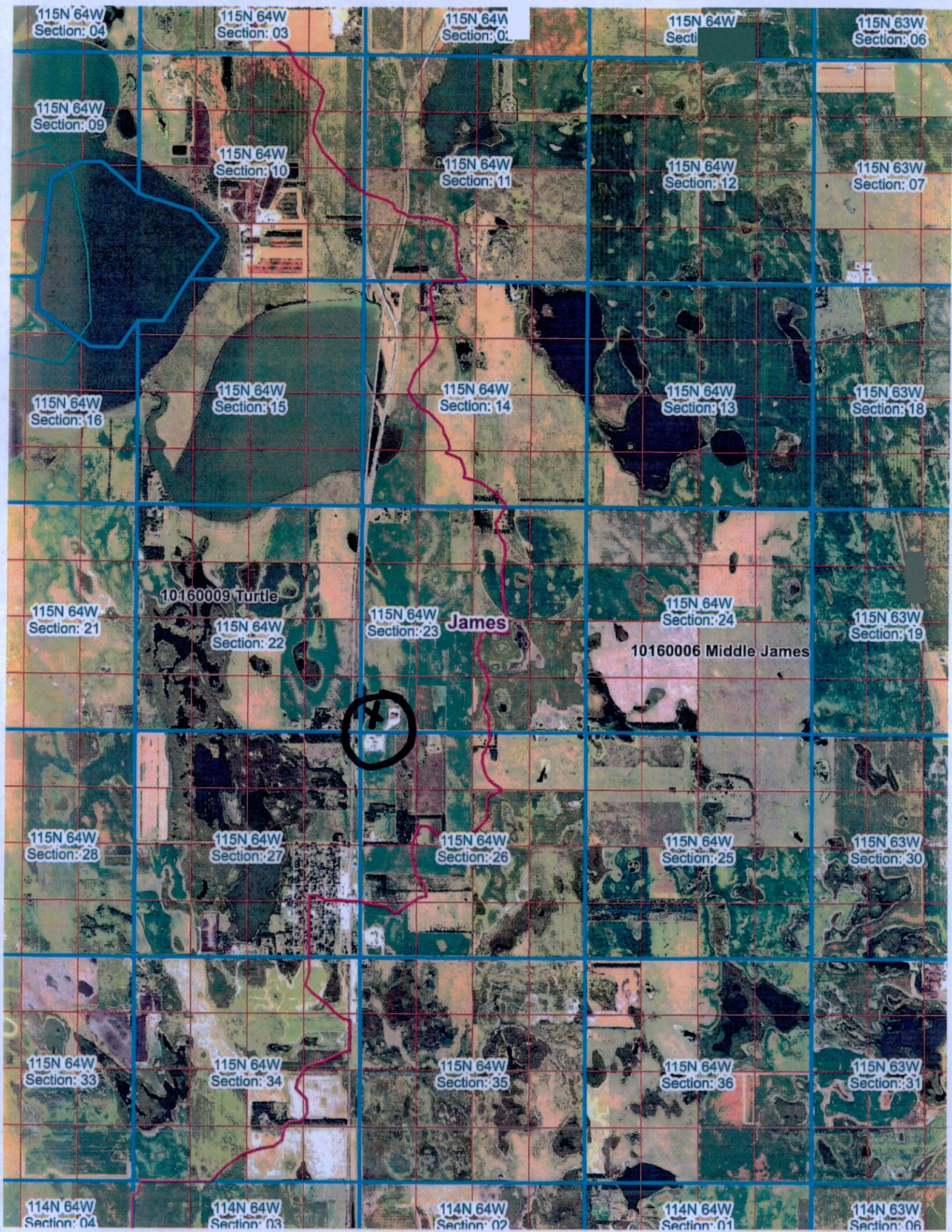
Downstream _____

h) Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





115N 64W
Section: 04

115N 64W
Section: 03

115N 64W
Section: 02

115N 64W
Section: 01

115N 63W
Section: 06

115N 64W
Section: 09

115N 64W
Section: 10

115N 64W
Section: 11

115N 64W
Section: 12

115N 63W
Section: 07

115N 64W
Section: 16

115N 64W
Section: 15

115N 64W
Section: 14

115N 64W
Section: 13

115N 63W
Section: 18

115N 64W
Section: 21

10160009 Turtle

115N 64W
Section: 22

115N 64W
Section: 23

James

115N 64W
Section: 24

10160006 Middle James

115N 63W
Section: 19

115N 64W
Section: 28

115N 64W
Section: 27

115N 64W
Section: 26

115N 64W
Section: 25

115N 63W
Section: 30

115N 64W
Section: 33

115N 64W
Section: 34

115N 64W
Section: 35

115N 64W
Section: 36

115N 63W
Section: 31

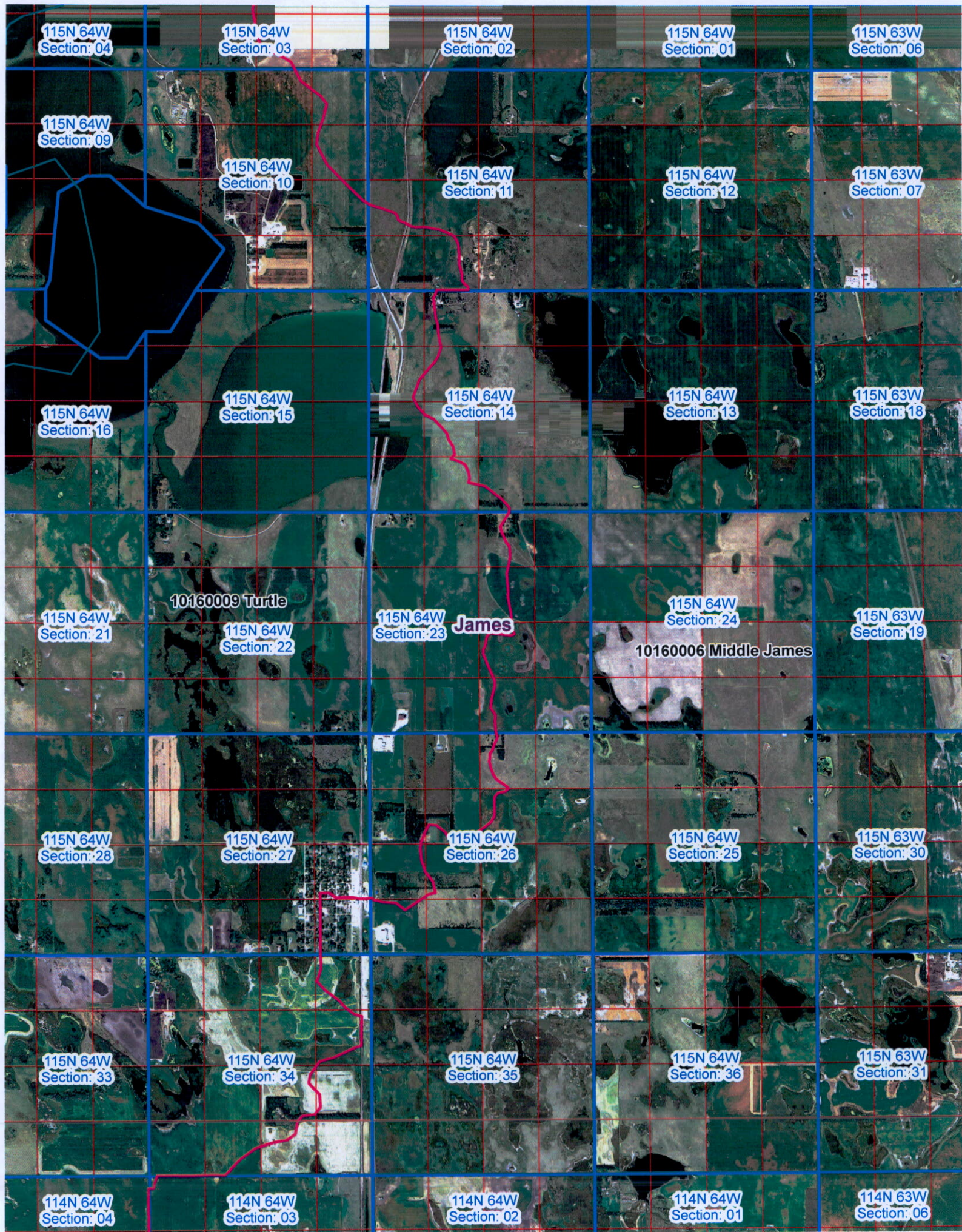
114N 64W
Section: 04

114N 64W
Section: 03

114N 64W
Section: 02

114N 64W
Section: 01

114N 63W
Section: 06



RECEIPT

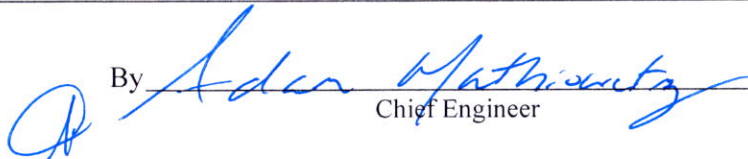
WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 24, 2026

RECEIVED OF Wilbur Ellis c/o Jake Miller 18100 US Highway 281 Tulare SD 57476

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

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

Rodriguez, Rachel

From: Jake Miller <Jake.Miller@wilburellis.com>
Sent: Tuesday, March 24, 2026 4:12 PM
To: Rodriguez, Rachel
Subject: Re: [EXT] [EXTERNAL] Water Permit Application

No, that date range works. It would not be used year round



Jacob Miller
Retail Location Operations Manager

Tulare Wilbur-Ellis
18100 US Hwy 281
Tulare, SD 57476
Office: 605-596-4200
Cell: 605-450-5811
jake.miller@wilburellis.com
wilburellisagribusiness.com

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Tuesday, March 24, 2026 3:42 PM
To: Jake Miller <Jake.Miller@wilburellis.com>
Subject: RE: [EXTERNAL] Water Permit Application

Yes, 1 AF per year works. Based on 1 AF, the application fee would be \$500.00 + \$200.00 = \$700.00. You may pay by check or credit card. For checks, please make the check payable to Water Rights Program and mail to: DANR – Water Rights Program, 523 East Capitol Ave., Pierre SD 57501. For credit card, please call our fiscal department at 605-773-5559.

One more question, you have 2026 for annual period during which water will be used, would the date range of April 1 – October 31 work? Or do you plan to use it year-around?

Once I receive payment, I will begin processing your application.

Thank you,

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



From: Jake Miller <Jake.Miller@wilburellis.com>
Sent: Tuesday, March 24, 2026 3:29 PM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: Re: [EXT] [EXTERNAL] Water Permit Application

I think if I'm calculating correctly it is around 1 acre foot/year. Does that sound right?



Jacob Miller
Retail Location Operations Manager

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Tulare, SD 57476
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Cell: 605-450-5811
jake.miller@wilburellis.com
wilburellisagribusiness.com

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Tuesday, March 24, 2026 3:23 PM
To: Jake Miller <Jake.Miller@wilburellis.com>
Subject: RE: [EXTERNAL] Water Permit Application

The application has the commercial use so no change to the application. We just need the total annual acre feet so I can calculate the fees.

Thank you,

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



From: Jake Miller <Jake.Miller@wilburellis.com>
Sent: Tuesday, March 24, 2026 3:14 PM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: Re: [EXT] [EXTERNAL] Water Permit Application

I am not sure if this changes what you are requesting, but we do custom spraying applications. This is not used for irrigation. The well will be used to fill our bulk tanks for application. Rough estimate is about 20,000 acres of spraying at 15 gallons per acre.



Jacob Miller
Retail Location Operations Manager

Tulare Wilbur-Ellis
18100 US Hwy 281
Tulare, SD 57476
Office: 605-596-4200
Cell: 605-450-5811
jake.miller@wilburellis.com
wilburellisagribusiness.com

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Tuesday, March 24, 2026 3:08 PM
To: Jake Miller <Jake.Miller@wilburellis.com>
Subject: RE: [EXTERNAL] Water Permit Application

AF mean acre feet and it should be for annual water use.

Thank you,

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



From: Jake Miller <Jake.Miller@wilburellis.com>
Sent: Tuesday, March 24, 2026 3:03 PM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Cc: Cole O'Daniel <CODANIEL@wilburellis.com>
Subject: Re: [EXT] [EXTERNAL] Water Permit Application

What does annual AF use mean? I have added to the map with an X. Also we are using Stretch's Well service and there have not been any test holes



Jacob Miller
Retail Location Operations Manager

Tulare Wilbur-Ellis
18100 US Hwy 281
Tulare, SD 57476
Office: 605-596-4200
Cell: 605-450-5811
jake.miller@wilburellis.com
wilburellisagribusiness.com

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Tuesday, March 24, 2026 1:51 PM
To: Jake Miller <jake.miller@wilburellis.com>
Subject: [EXTERNAL] Water Permit Application

Good afternoon,

In looking over your application, I see a few issues:

- We need to total annual AF use.
- A map needs to be submitted that references a government section corner or quarter corner including section, township and range. For your use, I have enclosed a map with those designations. Please outline the proposed well location with an "X" and the area where the water will be used.
- Just to clarify, you will be using Stretch's Well Service but have not had test holes correct?

Once I know the annual AF, I will be able to provide the fees for this application.

Thank you,

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



Dewell, Amanda

From: Dewell, Amanda
Sent: Wednesday, April 1, 2026 10:01 AM
To: jake.miller@wilburellis.com
Subject: Water Permit Application 9032-3

Good morning,

I'm reviewing the application submitted by Wilbur Ellis before it gets assigned to one of our staff engineers and I just wanted to follow-up on the annual volume of water being requested and the dates of use.

In email correspondence with our Program Assistant, Rachel, you indicated that on average this would be utilized for custom applications to approx. 20,000 acres @ 15 gal/acre. Those numbers add up to 300,000 gallons of water, which again, is understood to be an average, and would only leave you 25,851 gallons for emergency fire suppression before you'd reached the maximum allotted volume for your permit.

Commercial or Industrial Fires: Can require tens of thousands of gallons of water, depending on the size and complexity of the fire.

I would ask that out of an abundance of caution you request at least 2 acre-feet of water annually. There would be NO CHANGE to the fees. I would also ask that the annual period of use be changed to year-round (Jan 1 – Dec 31) since fires can happen at any time - please advise.

Thank you,

Amanda Dewell

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



4/1/26 @ 10:30 AM

Jake called after getting my email and agreed that it's best to apply for 3 ac-ft and have the date range for use extend year-round since fires aren't something to be scheduled.

Amanda Dewell



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

April 17, 2025

Cole O'Daniel
Wilbur Ellis
18100 US HWY 281
Tulare, SD 57476

Mr. O'Daniel:

As requested by email and approved by informal email on April 15, 2026, pursuant to South Dakota Well Construction Standard 74:02:04:21, you are authorized to have Stretch's Well Service, LC No. 722, construct a test well prior to approval of a water permit. The test well is to be located in the SW corner of Section 23-T115N-R64W in Spink County.

The target aquifer is the Dakota aquifer with estimated total well depth of 1,000 ft. All test wells must be constructed in accordance with the SD Well Construction Standards. Any test holes or test wells that are abandoned must be plugged pursuant to the SD Well Construction Standards. This test well **CANNOT** be constructed using the alternative well construction standards for the Dakota aquifer, commonly known as a "slim hole" well.

Authorization must be obtained before water from the well can be used in excess of domestic use as defined by South Dakota Codified Law 46-1-6(7) or for uses other than domestic use. All test or permanent wells to be constructed under this test well permission must be constructed using the methods described in Administrative Rule of South Dakota (ARSD) 74:02:04:28. Approval of this test well does not assure issuance of a water permit. Following review of a Water Permit Application and assessing the availability of water, the potential impacts to existing users, the beneficial use, and the public interest of a permit, the Chief Engineer will make a recommendation to the Water Management Board regarding the application. The recommendation to approve, deny, or defer the application will be publicly noticed and an opportunity afforded for the public to intervene. A public hearing may be required to consider the water permit. If you have questions regarding permitting, please call Amanda Dewell at (605) 773-3352.

Sincerely,

Adam Mathiowetz, PE
Acting Chief Engineer
SD DANR
(605)773-3352

CC:
Stretch's Well Service



**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. 9032-3, Wilbur Ellis**

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. 9032-3, Wilbur Ellis, 18100 US Highway 281, Tulare, SD 57476.

The Acting Chief Engineer is recommending APPROVAL of Application No. 9032-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. The wells approved under Water Permit No. 9032-3 are located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit must control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Any additional wells or future replacement wells must meet the adequate well construction standard as defined in Administrative Rule of South Dakota (ARSD) 74:02:04:20 and may not be constructed using the alternative construction requirements that are allowed for domestic use wells outlined in ARSD 74:02:04:35.
3. The permit holder must report to the Chief Engineer annually the amount of water withdrawn from the Dakota Aquifer.
4. Water Permit No. 9032-3 authorizes a total annual diversion of up to 3 acre-feet of water.

See report on application for additional information.

Adam Mathiowetz, PE
Acting Chief Engineer
June 01, 2026

Report to the Chief Engineer
On Water Permit Application No. 9032-3

Wilbur Ellis

June 1, 2026

Water Permit Application No. 9032-3 proposes to appropriate up to 3 acre-feet of water annually at a maximum pump rate of 0.222 cubic feet of water per second (cfs) from one well to be completed into the Dakota aquifer (approximately 1,000 feet deep) located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23-T115N-R64W for commercial use and fire suppression purposes. This site is located in Spink County, approximately one-half mile north of Tulare, SD.

AQUIFER: Dakota (DKOT)

HYDROGEOLOGY:

The Dakota Formation is defined as the first relatively continuous sandstone below the Greenhorn Limestone, extending downward to the top of the Skull Creek Shale in western and central South Dakota (Schoon, 1971). In eastern South Dakota, the Skull Creek Shale is not continuous and when absent, the Dakota Formation directly overlies Precambrian bedrock or the Inyan Kara Group (Schoon, 1971). In western South Dakota, a stratigraphically equivalent formation to the Dakota Formation is the Newcastle Formation, which outcrops in the Black Hills (Bredehoeft and others, 1983). In eastern South Dakota, the Dakota Formation can be separated into three layers: 1) upper layer of fine to medium grained, light to reddish brown, quartz sandstone interbedded with minor gray to dark grey shale layers; 2) a middle layer of silty gray clay interbedded with minor sandstone layers; and 3) a lower layer of medium to coarse grained quartz sandstone (Schoon, 1971).

The Dakota aquifer is comprised of the saturated and permeable portions of the Dakota Formation and is primarily a confined bedrock aquifer throughout most of South Dakota (Schoon, 1971; Water Rights, 2026b and 2026d). The Dakota Formation underlies approximately 66,500 square miles of South Dakota and has an average thickness of 150 feet (Schoon, 1971). Using Schoon's (1971) estimates of average thickness (150 feet) and areal extent (66,500 square miles or 42.5 million acres) of the Dakota aquifer, and assuming 15% porosity for the Dakota Formation, approximately 960 million acre-feet of water is stored within the Dakota aquifer in South Dakota.

In Spink County, the average saturated thickness of the Dakota aquifer is approximately 170 feet, with a documented maximum aquifer thickness of approximately 370 feet (Benson, 1997). The depth to Dakota aquifer materials ranges from approximately 740 to 1,000 feet below the ground surface (Benson, 1997). The static water level in wells completed into the Dakota aquifer varies from approximately 65 feet below the ground surface to flowing (Benson, 1997). In Spink County, Benson (1997) estimated the Dakota aquifer to underlie approximately 1,500 square miles, or 960,000 acres, and contain approximately 32.6 million acre-feet of recoverable water in

storage. The Dakota aquifer is generally under confined conditions (Benson, 1997; Water Rights, 2026b and 2026d).

A water well completion report was not submitted with this application. Water well completion reports on file with the DNR-Water Rights Program for wells completed into the Dakota aquifer within approximately 5 miles of the proposed diversion point have saturated aquifer thicknesses ranging from approximately 140 to 300 feet, with the depth to the top of aquifer materials ranging from approximately 825 to 990 feet below the ground surface, and static water levels ranging from 35 feet below ground surface to flowing conditions at ground surface (Water Rights, 2026d). Nearby water well completion reports that indicate flowing conditions at ground surface have a closed-in pressure ranging from 1 to 5 pounds per square inch (psi) at the time of well completion (Water Rights, 2026d). A closed-in pressure of up to 5 psi equates to approximately 11.5 feet of hydraulic head above the top of the casing. Based on the well completion reports on file for nearby wells completed into the aquifer, the Dakota aquifer is expected to be confined at the proposed diversion point (Water Rights, 2026d).

South Dakota Codified Law (SDCL)

Water Permit Application No. 9032-3 proposes to appropriate water from the Dakota aquifer. The probability of unappropriated water being available from the aquifer can be evaluated by considering *SDCL 46-6-3.1*, *SDCL 46-2A-9*.

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 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 Dakota aquifer is older than and stratigraphically lower than the Greenhorn Formation (Fahrenbach et al., 2010). However, 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 Dakota aquifer must be considered.

Pursuant to SDCL 46-2A-9,

“A permit to appropriate water may be issued only if there is a reasonable probability that there is unappropriated water available for the applicant's proposed use, that the diversion point can be developed without unlawful impairment of 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 as defined by SDCL 46-2-9 and 46-2-11.”

This report will only address the availability of unappropriated water and the potential for unlawful impairment of existing domestic water uses and water rights within the Dakota aquifer.

HYDROLOGIC BUDGET:

Recharge

Recharge to the Dakota aquifer in South Dakota occurs through upward leakage from underlying aquifers with a higher potentiometric surface than the Dakota aquifer, downward seepage through overlying confining layers, and through the infiltration of precipitation on the Newcastle Formation that outcrops in the Black Hills (Bredehoeft and others, 1983; Water Rights, 2026b). Using computer modeling, Bredehoeft and others (1983) attempted to match Darton's (1909) potentiometric surface map of the Dakota aquifer and developed a recharge estimate of approximately 79.4 cfs (57,500 acre-feet/year) prior to significant development. However, more recent studies have been completed that allow for updated assumptions to the recharge rate estimated by Bredehoeft and others (1983). For example, the recharge rates estimated for the Madison and Inyan Kara aquifers (underlying aquifers) in the Bredehoeft and others (1983) analysis, the older studies, are much lower than estimates calculated in more recent research completed by Carter and others (2002) and Medler and others (2025). While there has not been an updated study of the recharge to the Dakota aquifer to account for updates to data used for the assumptions, the recharge rate estimated from Bredehoeft and other's (1983) analysis is the best information reasonably available for the recharge rate to the Dakota aquifer in South Dakota. In conclusion, the updated studies on aquifers discharging water to the Dakota aquifer implies the recharge rates to those aquifers is greater than the rates previously used by Bredehoeft and others (1983); thus, suggesting recharge to the Dakota aquifer is likely greater than estimated.

Discharge

Discharge from the Dakota aquifer in South Dakota occurs through well withdrawals, uncontrolled flowing wells, outflow through corroded well casings, and outflow to overlying or adjacent aquifers due to a higher potentiometric surface in the Dakota aquifer (Bredehoeft and others, 1983; Water Rights, 2026d). Currently, there are 262 water rights/permits authorized to withdraw from the Dakota aquifer, and seven future use permits reserving water from the Dakota aquifer. The future use permits are shown on Table 1 and are assumed to be fully developable; therefore, the estimated average annual withdrawal rate is 4,287 acre-feet per year (Water Rights, 2026c).

Table 1. Future use permits reserving water from the Dakota aquifer (Water Rights, 2026c)

Permit No.	Name	County	Use	Priority Date	Amount Reserved (ac-ft/yr)
1262C-3	City of Canton	LN	MUN	03/16/1966	674
5219-3		LN	MUN	12/05/1988	1,175
8400-3	City of Harrisburg	LN	MUN	05/15/2019	550
5101-3	City of Lennox	LN	MUN	08/27/1986	*0
5101A-3		LN	MUN	08/27/2007	*0
5155-3	Lincoln County RWS	LN	RWS	10/21/1987	440
4817-3	South Lincoln RWS	LN	RWS	08/17/1981	1,448
LN: Lincoln; MUN: Municipal; RWS: Rural Water System; *City of Lennox has allocated all the water they had reserved				TOTAL:	4,287

Of the 262 active water rights/permits, 97 are primarily for water distribution system use (rural water system, municipal, suburban housing development, etc.), 21 for irrigation, 116 for commercial use, 7 for industrial use, 10 for domestic use, 4 for fish and wildlife propagation, 2 for geothermal use, 2 for institutional use, and 3 for recreation (Water Rights, 2026c). The use type determined for each water right/permit was based on the primary use categorized for each water right/permit as some permits have multiple uses (Water Rights, 2026c). Historically, average water use by non-irrigation appropriations limited by an instantaneous diversion rate have been assumed to be pumping 60% of full time at their respective permitted diversion rate. Water rights/permits limited by an annual volume are assumed to withdraw their entire respective annual volume limitation. This is a standard method used by the DANR-Water Rights Program for estimating annual withdrawals by non-irrigation appropriations from an aquifer and is likely an overestimation of average annual withdrawals (Water Rights, 2026c). Additionally, some water rights/permits withdraw from multiple aquifers. As such, only water from the Dakota aquifer for Water Right Nos. 8199-3 and 8252-3 and Water Permit Nos. 2804-2, 6394-3, 8464-3, 8670-3 and 8697-3 will be considered in total estimated use (Table 2). Some of the water rights/permits authorized to appropriate water from the Dakota aquifer are identified as being connected to a rural water system rather than using their permitted wells likely maintained for standby purposes as allowed under ARSD 74:02:01:37(2) (Drinking Water Program, 2026; Water Rights, 2026c); as such, the average annual water use for these water rights has been estimated to be zero acre-feet per year on (Table 2).

Additionally, the City of Canton purchases 49% of their water from South Lincoln Water System. Therefore, the estimated withdrawal rate for Dakota aquifer water rights/permits held by the City of Canton was adjusted to reflect the estimated use from the Dakota aquifer (Friedeman, 2025). Overall, the estimated average annual withdrawal rate from the Dakota aquifer by the non-irrigation water rights/permits is approximately 25,170 acre-feet per year (Table 2) (Water Rights, 2026c).

Table 2. Estimated annual use for the non-irrigation water right/permits authorized to divert water from the Dakota aquifer (Water Rights, 2026c)

Use Type	Count	Diversion Rate (cfs)	Estimated Diversion Rate Total (ac-ft/yr)	Limited by Volume (ac-ft/yr)	Total Estimated Use (ac-ft/yr)
Commercial	116	11.36	4,936	2,592	7,528
Domestic	10	1.47	640	72	712
Fish and Wildlife Propagation	4	2.73	1,187	0	1,187
Geothermal	2	2.33	1,012	0	1,012
Industrial	7	0.84	367	38	405
Institutional	2	1.34	582	0	582
Municipal	84	5.19	2,253	6,402	8,655
Recreational	3	0.45	195	3.1	199
Rural Water System	6	3.31	1,438	2,005	3,443
Suburban Housing Development	7	3.33	1,447	0	1,447
Total:	241	32.35	14,057	11,112	25,170
COM: Commercial, DOM: Domestic, FWP: Fish & Wildlife Propagation, GEO: Geothermal, IND: Industrial, INS: Institutional, MUN: Municipal, REC: Recreation, RWS: Rural Water System, SHD: Suburban Housing Development					

Currently, there are 21 irrigation water rights/permits authorized to appropriate water from the Dakota aquifer (Water Rights, 2026c). Irrigation water rights/permits have been typically required to report their annual usage on an irrigation questionnaire since 1979. The estimated average annual withdrawal rate for the Dakota aquifer irrigation water rights/permits that have reported over the period of record (1979 to 2025) is approximately 169 acre-feet per year (Table 3) (Water Rights, 2026a). To reflect the current development of irrigation water rights/permits more accurately, the average annual withdrawal rate for irrigation appropriations from 2016 to 2025, which is approximately 260 acre-feet per year (Table 3), will be used for the hydrologic budget (Water Rights, 2026a).

Water Permit No. 2890-2 was approved in 2025 and has not reported an annual usage; therefore, its withdrawal must be estimated. Generally, crop irrigators in eastern South Dakota apply 10 inches (or less) of water per acre per year (Drennon, 2025). Because Water Permit No. 2890-2 is located in western South Dakota, an application rate of one foot per acre per year is used to estimate annual withdrawals. This rate is likely an overestimation, as the water is to be used to dilute feedlot runoff prior to land application. Therefore, Water Permit No. 2890-2 (assuming an application rate of one foot of water per authorized acre) has an estimated annual withdrawal rate of approximately 95 acre-feet per year. Water Permit No. 2890-2, combined with the reported annual average (2016 to 2025), results in an estimated annual irrigation withdrawal rate of 355 acre-feet per year.

Table 3. Reported historic irrigation use from the Dakota aquifer (Water Rights, 2026a)

Year	No. of Permits	Reported (acre-feet)	2004	10	154
1979	2	38	2005	12	147
1980	2	110	2006	13	232
1981	4	45	2007	14	200
1982	5	33	2008	14	196
1983	5	64	2009	15	131
1984	4	0	2010	17	172
1985	5	8	2011	18	175
1986	5	239	2012	18	298
1987	5	1	2013	18	257
1988	4	453	2014	17	163
1989	4	265	2015	17	236
1990	4	234	2016	16	196
1991	5	165	2017	16	229
1992	5	40	2018	16	157
1993	7	112	2019	15	108
1994	7	52	2020	16	246
1995	8	31	2021	16	256
1996	8	34	2022	17	483
1997	9	48	2023	19	376
1998	9	176	2024	18	331
1999	10	102	2025	19	218
2000	10	173	Min	2	0
2001	11	161	Max	19	483
2002	10	179	Avg (1979-2025)	11	169
2003	10	205	Avg (2016-2025)	17	260

There is one pending application for the Dakota aquifer - Water Permit Application No. 9023-3 for Chris Howard Ranch LLC, if approved, proposes to appropriate up to 19 ac-ft/yr at a maximum pump rate of 0.026 cfs from one existing well completed into the Dakota aquifer for irrigation use in Hand County, SD.

There are domestic wells completed into the Dakota aquifer that do not require a water right/permit, so the withdrawal amount from those wells is unknown (Water Rights, 2026d). Due to their relatively low diversion rates, withdrawals from domestic wells are generally not considered to be a significant portion of the hydrologic budget. Additionally, with the development of rural water systems in areas where the Dakota 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 Dakota aquifer. It is currently unknown how much water is being discharged from the Dakota aquifer through uncontrolled flowing wells. The Water Management Board has previously determined water being discharged through uncontrolled flowing wells is not an intentional beneficial use and does not constitute appropriation pursuant to SDCL 46-6-3.1 (Water Rights, 1987).

Hydrologic Budget Summary

Bredehoeft and others (1983) estimated the recharge rate to be approximately 57,500 acre-feet/year. However, the Bredehoeft and others (1983) recharge estimate relies on many assumptions, and the actual recharge rate of the Dakota aquifer could be higher or lower than previously estimated. The estimated average annual withdrawal rate from the Dakota aquifer is approximately 29,834 acre-feet per year (future use: 4,287 acre-feet/year; non-irrigation: 25,170 acre-feet/year; irrigation (2016 to 2025): 355 acre-feet/year; Water Permit Application No. 9032-3 (if approved, assuming full volume): 3 acre-feet/year; pending Water Permit Application No. 9023-3 (if approved, assuming full volume): 19 acre-feet/year. Based on the hydrologic budget, there is a reasonable probability unappropriated water is available from the Dakota aquifer for the proposed appropriation.

OBSERVATION WELL DATA:

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

Observation wells provide data on how the aquifer reacts to regional climatic conditions and local pumping. The DANR-Water Rights Program monitors 46 observation wells completed into the Dakota aquifer (Water Rights, 2026b). The four closest observation wells to the proposed diversion point are HD-87A (approximately 33 miles southwest), ED-85A (approximately 48 miles north), AU-89A (approximately 69 miles south), and BL-83A (approximately 79 miles southwest) (Figures 1 & 2) (Water Rights, 2026b). Due to an access issue, measurements have not been collected for the last several years at HD-87A. Additionally, due to the presence of iron bacteria found in the well, measurements of the water level in observation well BL-83A ceased several years ago. The data points utilized to construct the hydrographs are measurements of the static water level in the observation wells from the top of the well casing which were then converted to elevation in feet from the NGVD29 vertical datum.

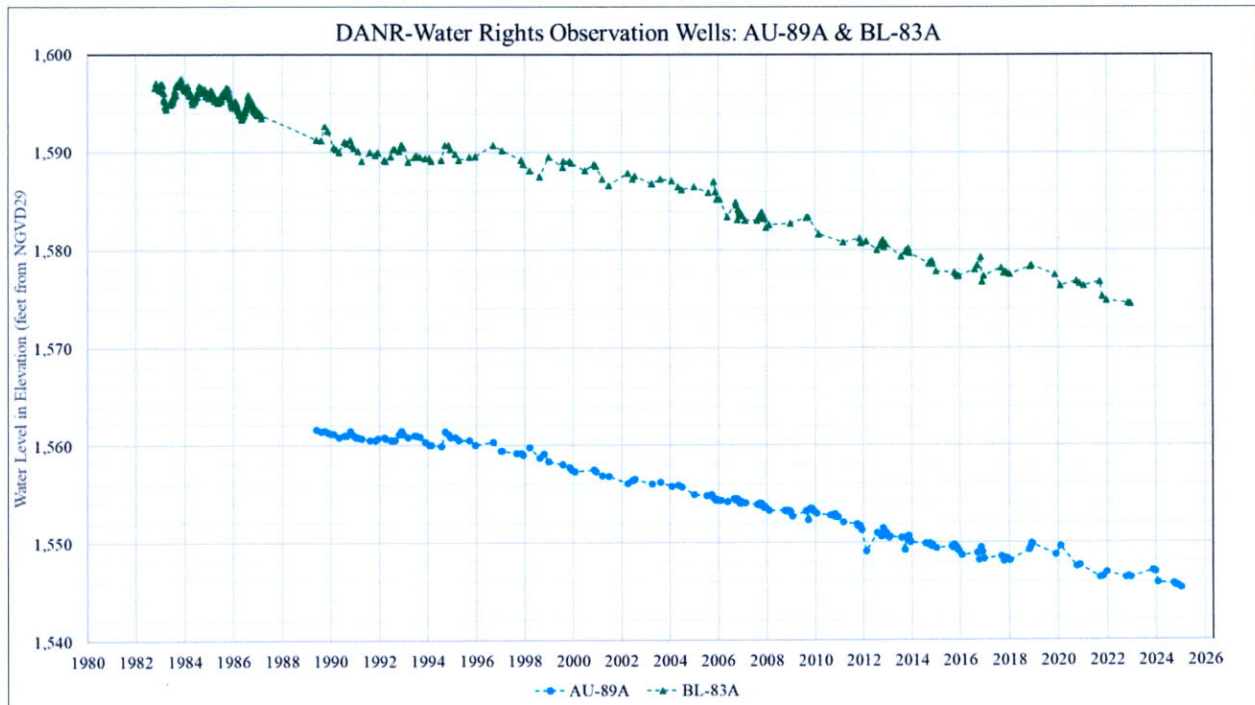


Figure 1. A graph showing the elevation of water levels for observation wells: AU-89A & BL-83A (Water Rights, 2026b)

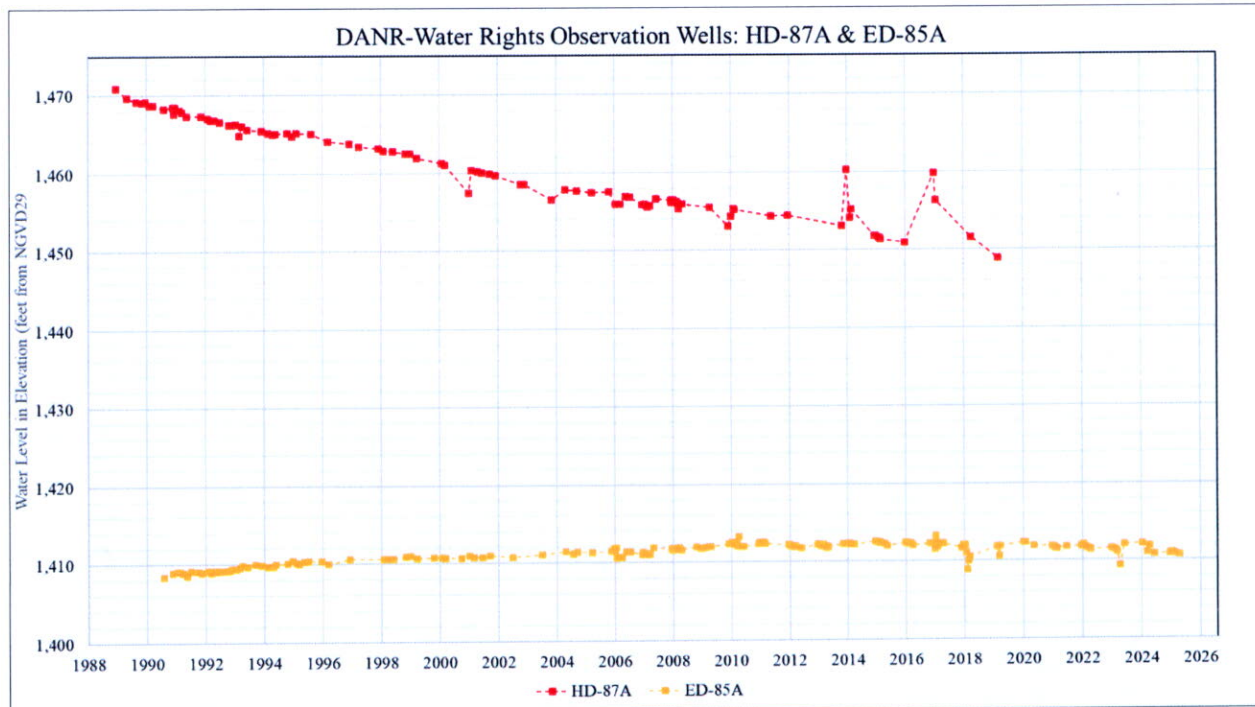


Figure 2. A graph showing the elevation of water levels for observation wells: HD-87A & ED-85A (Water Rights, 2026b)

In addition to the observation well hydrographs, a record of the potentiometric surface is available through historical accounts. Schoon (1971) developed maps of the potentiometric surface of the Dakota aquifer, which include this area, using data modified from Darton (1909), and from the State Engineer's office for the period of 1914 to 1915. Wells that have been completed into the Dakota aquifer in roughly the past 10 years and within approximately five miles of the proposed well site were used to approximate the current potentiometric surface conditions (Table 4) (Water Rights, 2026d).

Table 4. Historic and current approximate water level elevations within approximately 5 miles of the proposed well site (Schoon, 1971; Water Rights, 2026d)

Data Source	Year(s)	Approximate potentiometric surface in the vicinity of the existing well (fmsl)
Schoon (1971), after Darton	1909	1,800 to 1,700
Schoon (1971), State Engineer's Office	1914 - 1915	1,400 to 1,350
Well Logs Database	2016 - Present	1,350 to 1,300

Throughout South Dakota, most of the hydrographs for observation wells completed into the Dakota aquifer, and the potentiometric surface measurements of the Dakota aquifer show a decreasing trend in hydraulic head (Water Rights, 2026b). A decline in water levels in a confined aquifer does not necessarily indicate a significant decrease in water stored in the aquifer, as water levels above the top of the aquifer materials are representative of the hydraulic head (water pressure) inside the aquifer. Additionally, there are uncontrolled, flowing wells discharging water from the Dakota aquifer at ground surface, and it is expected water from the aquifer is also being discharged to other aquifers if wells completed into the Dakota aquifer have experienced casing failure.

The hydrographs in Figures 1 and 2 display both declining and stable water levels in the Dakota aquifer in central and south-eastern South Dakota. Several observation wells in southeast and south-central South Dakota were shown to have water levels that stabilize over time or have recently begun stabilizing. The observation wells under the influence of heavy and continuous pumping quickly stabilized after the pumping starts. Since the late 1800's, there has been history of well development into the Dakota aquifer. Concerns have developed over time about the decline in artesian head pressure of the Dakota aquifer. The Water Management Board has concluded and reaffirmed that withdrawals exceeding the average annual recharge cannot be determined solely upon a decline in head pressure, and in theory the Dakota aquifer head is stabilizing relative to withdrawals and discharges (Water Rights, 1987 and 2010). As the aquifer naturally seeks to establish its equilibrium, it will continue to discharge from uncontrolled flowing wells. Since the aquifer is likely to continue to discharge until such a time as water levels and head pressure decline to being at or below ground surface, it is logical to allow continued pumping and placement of water to beneficial use, which would otherwise be lost. The Water Management Board's decision to optimize development of the Dakota aquifer is favorable to issuance of permits. Therefore, there is a reasonable probability unappropriated water is available for the proposed appropriation.

POTENTIAL FOR UNLAWFUL IMPAIRMENT OF EXISTING WATER RIGHTS:

Currently, there are 262 water rights/permits authorized to withdraw from the Dakota aquifer and seven future use permits reserving water. The closest water right/permit not held by the applicant to the proposed diversion point is Water Right No. 1085-3, which is held by City of Tulare. The City of Tulare is connected to a rural water system and likely maintains the well authorized by their permit for standby purposes (Drinking Water Program, 2026; Water Rights, 2026c). The next nearest water right/permit not held by the applicant to the proposed diversion point is Water Permit No. 6484-3, which is held by Lee Gatzke. The diversion point for Water Permit No. 6484-3 is located approximately four miles south of the proposed diversion point for this application (Figure 3) (Table 5) (Water Rights, 2026c).

Based on the domestic wells on file with the DANR-Water Rights Program that are completed into the Dakota aquifer, the closest domestic well on file (not held by the applicant) is located approximately 1.1 miles southwest of the proposed diversion point for this application (Water Rights, 2026d). There could potentially be other domestic wells completed into the Dakota aquifer near the proposed diversion point that are not on file with the DANR-Water Rights Program. The location of the domestic wells in the well completion report database maintained by the Water Rights Program is based on the location listed by the driller on the well completion report.

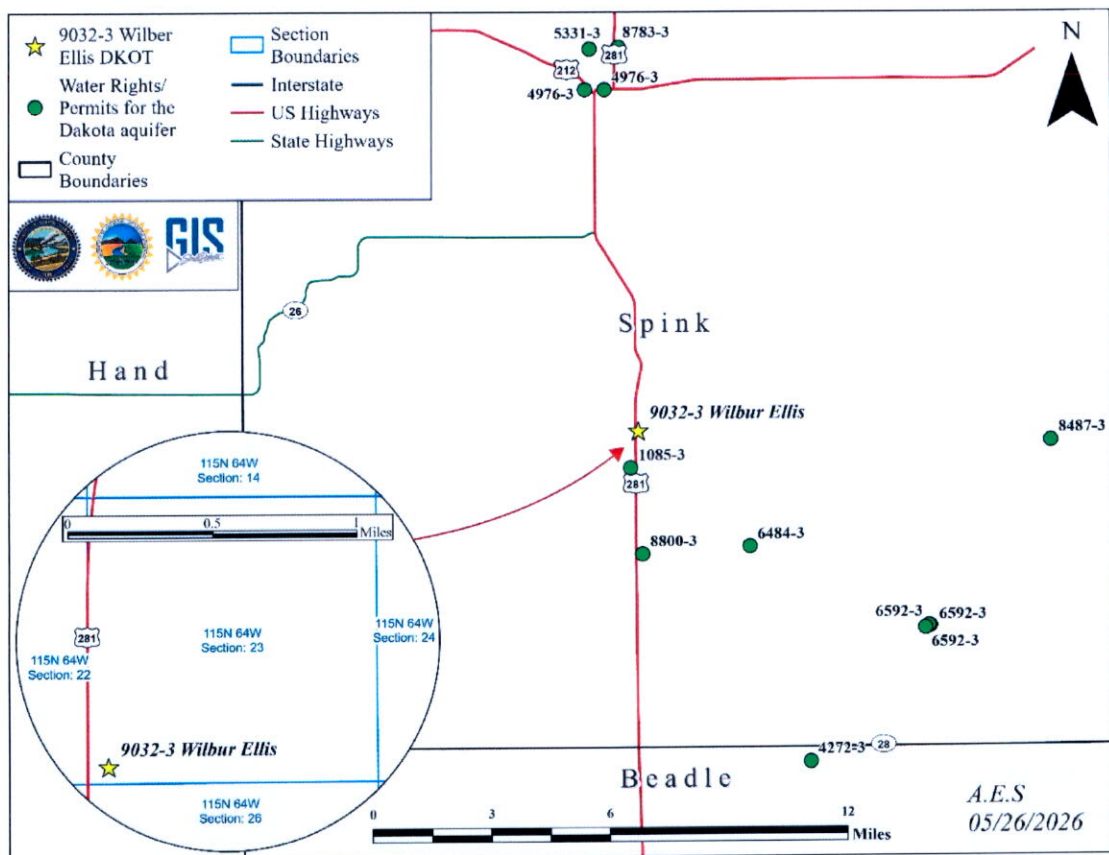


Figure 3. Water rights/permits authorized to withdraw from the Dakota aquifer within approximately 10 miles of the proposed diversion point by Water Permit Application No. 9032-3 (Water Rights, 2026c)

Table 5. Water rights/permits within approximately 10 miles of the proposed diversion point by Water Permit Application No. 9032-3 as shown in Figure 3 (Water Rights, 2026c)

Permit No.	Name	Status	Use Type	Authorized Diversion Rate (cfs)	Licensed/Permitted Volume (ac-ft/yr)
1085-3*	City Of Tulare	LC	MUN	0.33	**
4272-3*	Town Of Hitchcock	LC	MUN	0.08	**
4976-3*	City Of Redfield	LC	MUN	1.34	**
5331-3	SD Development Center	LC	INS	0.9	**
6484-3	Lee Gatzke	PE	COM	0.133	**
6592-3	Gatzke Feedlot Llc	LC	COM	0.33	**
8487-3	Spink Httm Brth	PE	COM, DOM	0.144	55
8783-3	Dave & Stacey Marlow	PE	COM		2.3
8800-3	Simplot Ab Retail Inc. Dba Simplot Growers Solution	PE	IND	0.33	7
LC: License; PE: Permit; COM: Commercial; DOM: Domestic; IND: Industrial; INS: Institutional; MUN: Municipal; *Identified as being connected to a rural water system and currently do not use their well except for emergency purposes; ** Limited by diversion rate					

Based on the well completion reports on file for nearby wells completed into the aquifer, the Dakota aquifer is expected to be confined near the proposed diversion point (Water Rights, 2026d). Since the Dakota aquifer is expected to be confined at the proposed diversion point, drawdown can extend some distance but the exact drawdown behavior of a well cannot be known without an aquifer performance test. However, observation wells completed into the Dakota aquifer near permitted/licensed diversion points can provide some insight on how the aquifer responds to pumping.

Observation well HD-87A (approximately 33 miles southwest of the proposed diversion point) has four high-yield wells (assumed to be a well with an authorized diversion rate greater than 0.2 cfs) within approximately 30 miles of it (Water Rights, 2026b and 2026c). The lithologic log on file for HD-87A noted the well was drilled 1,235 feet deep below the ground surface, with a casing stick up height of approximately 0.6 feet, and the top of aquifer materials located approximately 1,170 feet below the ground surface (SDGS, 2026). The lowest recorded static water level on the hydrograph (displayed in Figure 2) is approximately 301 feet below the ground surface, which indicates there was still approximately 868 feet of artesian head pressure in HD-87A even during drier periods when high-yield wells are expected to be pumping more water and when water levels are generally naturally lower in response to drier conditions (SDGS, 2026; Water Rights, 2026b).

Based on the well completion reports for wells completed into the aquifer near the proposed diversion point, there is expected to be a saturated aquifer thicknesses ranging from approximately 140 to 300 feet and enough artesian head pressure to be flowing at ground surface (greater than 1,000 feet) (Water Rights, 2026b). This would generally allow for enough thickness for a pump to be placed 20 feet below the top of the aquifer, which is required for the well to be considered adequate under ARSD 74:02:04:20(6). Any drawdown as a result of the proposed diversion is not expected to unlawfully impair nearby adequate wells. In Spink County, there are no substantiated complaints on file with the DANR-Water Rights Program regarding well interference for adequate wells completed into the Dakota aquifer (Water Rights, 2026e).

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 Dakota 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 saturated thickness of the Dakota aquifer near the proposed diversion point, and the lack of substantiated well interference complaints for adequate wells completed into the Dakota aquifer in Spink County (Water Rights, 2026e), any drawdown created from the proposed diversion is not expected to cause an unlawful impairment to 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 to existing users with adequate wells.

Special Consideration: Well Construction

The well to be constructed for this application needs to meet the adequate well definition in the well construction standards, ARSD 74:02:04:20(6):

“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 near to the bottom of the aquifer as is practical if the aquifer thickness is less than 20 feet.”

Dakota aquifer wells constructed per the alternative rule (74:0204:35), are not fully grouted, and do not have the ability to have a pump installed 20 feet into the saturated aquifer as required in ARSD 74:02:04:20(6). Furthermore, the alternative well construction standard for certain Dakota

aquifer wells (74:02:04:35) is not allowed for appropriative uses when a new well is constructed. This also applies to any future additional or replacement wells.

CONCLUSIONS:

1. Water Permit Application No. 9032-3 proposes to appropriate up to 3 acre-feet of water annually at a maximum pump rate of 0.222 cfs from one well to be completed into the Dakota aquifer (approximately 1,000 feet deep) located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23-T115N-R64W for commercial use and fire suppression purposes. This site is located in Spink County, approximately one-half mile north of Tulare, SD
2. The Water Management Board's position has been that beneficial use of water from the Dakota aquifer may reduce the amount of water discharged from uncontrolled flowing wells.
3. Based on observation well data and the hydrologic budget, there is a reasonable probability that unappropriated water is available from the Dakota aquifer to supply to the proposed appropriation. The Water Management Board has concluded and reaffirmed that withdrawals exceeding the average annual recharge cannot be determined solely upon a decline in head pressure for confined aquifers. Declining head pressure may indicate the aquifer is reaching equilibrium under current recharge and discharge from the aquifer.
4. There is reasonable probability that the diversion by Water Permit Application No. 9032-3 will not unlawfully impair adequate wells for existing water rights/permits holders or domestic users with adequate wells.
5. The well for this application and any potential additional wells or future replacement wells must meet the adequate well construction standard as defined in ARSD 74:02:04:20(6).



Austin Settje
Natural Resources Engineer I
SD DANR - Water Rights Program

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**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.**

June 2, 2026

Wilbur Ellis
c/o Jake Miller
18100 US Highway 281
Tulare SD 57476

Dear Mr. Miller:

Water Permit Application No. 9032-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Redfield Press printed in Redfield (Ph # 605 353-7412) and the American News printed in Aberdeen (see attachment for contact number). 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. 9032-3 to Appropriate Water

Notice is given that Wilbur Ellis, 18100 US Highway 281, Tulare SD 57476, has filed an application for a water permit to appropriate up to 3 acre-feet of water annually at a maximum pump rate of 0.222 cubic feet of water per second from one well to be completed into the Dakota Aquifer (approximately 1,000 feet deep) located in the SW 1/4 SW 1/4 Section 23-T115N-R64W for commercial use and fire suppression purposes. This site is located in Spink County, approximately one-half mile north of Tulare SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9032-3 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 Amanda Dewell 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 22, 2026.

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 _

Rodriguez, Rachel

From: Gannett Legals Public Notices 4 <ganlegpubnotices4@gannett.com>
Sent: Tuesday, June 2, 2026 8:30 AM
To: Rodriguez, Rachel
Cc: jake.miller@wilburellis.com
Subject: [EXT] 12385283 RE: 9032-3 Wilbur Ellis - Public Notice
Attachments: Order_Confirmation_Liners (9).pdf

Hello!

Please find your order confirmation and proof attached.

Your notice is set to run in the Aberdeen American on 6/10. The order cost is \$56.60 which includes an affidavit that will be sent 7-10 business days after the last day of the notice printing. Please review the notice and email before 8am on Monday with any changes.

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

Our invoicing is done monthly. You will receive an invoice for this ad after the close of the month.

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

Thank you!

Kerri Furnace
Public Notice Representative

USA TODAY CO.

 844-254-5287

National voice. Local strength. Subscribe TODAY.

#TeamUSATODAY

Tell my boss I rock [HERE!](#)

*NOTE: We cannot advise on legal matters, and it is your responsibility to make sure your ad meets the requirements of your State/Court, including wording and publication dates/frequency. Please verify all information is included and correct. If your ad is not compliant with applicable law and needs to be republished, you will be responsible for all additional fees incurred.

From: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Sent: Tuesday, June 2, 2026 9:05 AM
To: SD-Aberdeen Legals <aan-legals@aberdeennews.com>
Subject: 9032-3 Wilbur Ellis - Public Notice

Attached is a notice to be published on June 10, 2026.

Wilbur Ellis, c/o Jake Miller, 18100 US Highway 281, Tulare SD 57476, 605-596-4200,
jake.miller@wilburellis.com 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, Attn Rachel Rodriguez, 523 E Capitol Ave, Pierre SD 57501.

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

Thank you,

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



USA TODAY CO.



Order Confirmation

Not an Invoice

Account Number:	556081
Customer Name:	Wilbur-Ellis Airspray
Customer Address:	Wilbur-Ellis Airspray 18100 Us Highway 281 Tulare SD 57476-7111
Contact Name:	Wilbur-Ellis Airspray
Contact Phone:	6055964200
Contact Email:	
PO Number:	

Date:	06/02/2026
Order Number:	12385283
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	172.0000
Height in Inches:	18.9600

Print

Product	#Insertions	Start - End	Category
ABD The American News	1	06/10/2026 - 06/10/2026	Public Notices
ABD aberdeennews.com	1	06/10/2026 - 06/10/2026	Public Notices

As an incentive for customers, we provide a discount off the total order cost equal to the 3.99% service fee if you pay with Cash/Check/ACH. Pay by Cash/Check/ACH and save!

Total Cash Order Confirmation Amount Due	\$56.60
Tax Amount	\$0.00
Service Fee 3.99%	\$2.26
Cash/Check/ACH Discount	-\$2.26
Payment Amount by Cash/Check/ACH	\$56.60
Payment Amount by Credit Card	\$58.86

Order Confirmation Amount

\$56.60

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, June 2, 2026 8:04 AM
To: ccrook@cmpapers.com
Subject: 9032-3 Wilbur Ellis - Public Notice
Attachments: 9032-3 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 10, 2026.

Wilbur Ellis, c/o Jake Miller, 18100 US Highway 281, Tulare SD 57476, 605-596-4200, jake.miller@wilburellis.com 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, Attn Rachel Rodriguez, 523 E Capitol Ave, Pierre SD 57501.

Let me know if you have questions. Please confirm 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 Spink: ss.

I, Cindy Crook, being duly sworn on oath, say that THE REDFIELD PRESS is a weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS. I, Cindy Crook, am Legal Advertising Coordinator of said newspaper and know the facts herein state. The annexed notice headed:

#8301 NOTICE OF HEARING

was printed and published in said newspaper in 1 issue, to wit: The first publication be made on June 10th. That Forty-Five and 99/100 dollars insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Cindy Crook

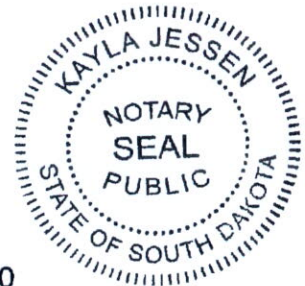
Subscribed and sworn to before me this 10th day of June, 2026

RECEIVED
JUN 23 2026
Water Rights
Program

Kayla Jessen

Notary Public, South Dakota

My commission expires 09/26/2030



NOTICE OF HEARING #8301

NOTICE OF APPLICATION NO. 9032-3 to Appropriate Water

Notice is given that Wilbur Ellis, 18100 US Highway 281, Tulare SD 57476, has filed an application for a water permit to appropriate up to 3 acre-feet of water annually at a maximum pump rate of 0.222 cubic feet of water per second from one well to be completed into the Dakota Aquifer (approximately 1,000 feet deep) located in the SW 1/4 SW 1/4 Section 23-T115N-R64W for commercial use and fire suppression purposes. This site is located in Spink County, approximately one-half mile north of Tulare SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9032-3 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 Amanda Dewell 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 22, 2026.

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Published one time at the total approximate cost of \$45.99 and may be viewed free of charge at www.sdpublishnotices.com (June 10)

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JUN 23 2026
Water Rights
Program

USA TODAY CO.



PO Box 630567 Cincinnati, OH 45263-0567

AFFIDAVIT OF PUBLICATION

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

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JUN 16 2026

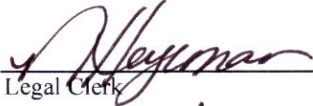
OFFICE OF
WATER

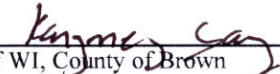
STATE OF SOUTH DAKOTA, COUNTY OF BROWN

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

06/10/2026

That said newspaper is a legal newspaper published five days or more each week; with a bona fide circulation of more than two hundred copies daily; published in the English language within the said county of Brown for more than one year prior to the first publication of said notice; and printed in whole in an office maintained at the place of publication of said newspaper.
Sworn to and subscribed before on 06/10/2026


Legal Clerk


Notary, State of WI, County of Brown

9-3-29

My commission expires

Publication Cost: \$56.60

Tax Amount: \$0.00

Payment Cost: \$56.60

Order No: 12385283

of Copies:

Customer No: 556081

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KONGMENG YANG
Notary Public
State of Wisconsin

NOTICE OF APPLICATION
NO. 9032-3 to Appropriate
Water

Notice is given that Wilbur Ellis, 18100 US Highway 281, Tulare SD 57476, has filed an application for a water permit to appropriate up to 3 acre-feet of water annually at a maximum pump rate of 0.222 cubic feet of water per second from one well to be completed into the Dakota Aquifer (approximately 1,000 feet deep) located in the SW 1/4 SW 1/4 Section 23-T115N-R64W for commercial use and fire suppression purposes. This site is located in Spink County, approximately one-half mile north of Tulare SD. Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 9032-3 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 Amanda Dewell for this information, or other information, at the Water Rights Program address provided below.

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RECEIVED

JUN 16 2026

OFFICE OF
WATER

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 22, 2026.

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Published on June 10, 2026 at the total approximate cost of \$56.60 and may be viewed free of charge at www.sdpublicnotices.com

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JUN 16 2026

OFFICE OF
WATER

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, June 2, 2026 8:43 AM
To: Jake.Miller@wilburellis.com
Subject: 9032-3 Wilbur Ellis - Public Notice
Attachments: 9032-3 Rec.pdf; 9032-3 Ltr.pdf; 9032-3 PubNotice.pdf; AmericanNews Info.pdf

Good Morning Jake,

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 confirm receipt of this email.

Thank you,

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 7, 2026

Wilbur Ellis
c/o Jake Miller
18100 US Highway 281
Tulare SD 57476

Dear Mr. Miller:

Enclosed is Water Permit No. 9032-3 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,

Adam Mathiowetz, PE
Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

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

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

Application No.: 9032-3

Name of Applicant: Wilbur Ellis, c/o Jake Miller

Date of Posting: 6/9/2026

Date of Removal: 8/7/2026

Amanda Dewell, Permitting Administrator

8/7/2026

Date

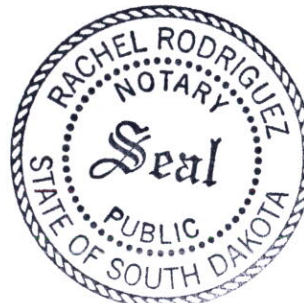
Subscribed and sworn to before me, a notary public, this 7th day of Aug, 2026.

Notary Public - South Dakota

My commission expires:

(SEAL)

**Rachel Rodriguez
My Commission Expires
May 16, 2029**





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 25, 2026

9032-3

Wilber Ellis
C/O Jake Miller
18100 US Highway 281
Tulare, SD 57476

Dear Mr. Ellis:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your water use system.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

Shannon Konst

Shannon Konst
Water Rights Program
(605) 773-3352
email: Shannon.konst@state.sd.us

RECEIVED

AUG 24 2026

OFFICE OF
WATERNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate Aug 14, 2026TO: Water Rights Program, DANR
523 E. Capitol
Pierre, SD 57501-3181FROM: Wilbur Ellis c/o Jake Miller
(name)
18100 US Highway 281
(address)
Tulare SD 57476 605-596-4200
(city, state, zip) (phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 9032-3 states that the water use system is to be constructed by June 22, 2031, and water is to be put to beneficial use by June 22, 2035.
(date) (date)

The water use system was completed on March 24, 2026.
(date)

Applying the water to beneficial use was completed on June 22, 2026.
(date)

You may schedule an investigation so that the water license may be issued.

[Signature]
(signature)

