

**Permit Number - ND2023-21413**

**State of North Dakota  
Temporary Water Permit**

In response to an application for a temporary water permit dated 1/17/23 as received in this office 1/17/23, authority is hereby granted to:

Olson Farms  
11089 Hwy 200  
Killdeer, ND 58640

**A Temporary Water Permit as follows:**

**Source:** Gumbo Creek

**Point of Diversion:** Sec. 01 Twp. 145 Rng. 096

**Nature of Use:** Industrial - Water Depot

**Total Quantity of Water:** 164.000 Acre-Feet

**Maximum Withdrawal Rate:** 2,500.0 gpm

**Period of authorized usage:** 4/1/23 through 12/31/23

This temporary water permit does not authorize the construction of any dam or crossing. Future water use from this source for this purpose may require a conditional water permit. Temporary water permits are not a water right, are non-transferrable, cannot be modified, and water must only be used for the specified nature of use. This temporary water permit is granted subject to water use by senior appropriators. Withdrawals authorized by this temporary water permit must cease upon order of the Department of Water Resources. Noncompliance with permit conditions may result in possible civil or criminal penalties. Development of a water project with a temporary water permit is at the permitholder's risk.

Conditions

- 1. Temporary Water Permit ND2023-21413 CANNOT be operated at the same time as Temporary Water Permit ND2023-21414.**
- 2. Temporary Water Permit ND2023-21413 and Temporary Water Permit ND2023-21414 CANNOT exceed a combined total appropriation of 164.0 acre-feet of water.**
- 3. The latitude and longitude location of the meter station must be provided to the Department of Water Resources at initial placement and each time the location is changed.**

Dated: 3/24/23

\_\_\_\_\_  
John A Paczkowski, P.E.  
State Engineer  
ND Department of Water Resources  
1200 Memorial Hwy  
Bismarck, ND 58504



Christopher D. Bader  
Director, Water Appropriations Division

cc: Dunn WRD

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4. From the start date of this permit, Winter Protocols shall be followed until released. After release from Winter Protocols, a minimum flow of 7.00 cubic feet per second (cfs) must be reported at U.S. Geological Survey gaging station No. 06340000, Spring Creek at Zap, ND at all times when water is being withdrawn from the river under this Temporary Water Permit. The permit holder may not withdraw any water from the river at times when the flow in Spring Creek at the above referenced gage is less than 7.00 cfs. The permit holder shall check the flow in the river before starting to pump and shall monitor the flow in the river while pumping. This gage can be accessed via the Internet at <http://waterdata.usgs.gov/nd/nwis/uv?06340000>. This condition is subject to modification by the Department of Water Resources
5. The permit holder must not cause streamflow to cease.
6. Sufficient water for downstream superior water rights must flow past the point of diversion while water is being withdrawn under this water permit.
7. Failure to complete the development of this industrial project and become operational within four (4) months may result in temporary water permit cancellation.
8. A weather-protected copy of this temporary water permit must be present and on display at the equipment withdrawing water and the industrial depot at all times.
9. An in-line, continuous recording, totalizing water flow meter must be installed on the pump discharge line to measure the water quality pumped from the water source. The water flow meter must:
  - a. Be certified by the manufacturer to record between 98 to 102 percent of the actual water volume passing the water flow meter when installed according to the manufacturer's instructions.
  - b. Have a display that is readable at all times, whether the system is operating or not.
  - c. Have a totalizer that meets the following criteria
    - i. Is continuously updated to read directly only in acre-feet, acre-inches, gallons, cubic feet, or barrels (42 U.S. gallons)
    - ii. Has sufficient capacity, without cycling past zero more than once each year, to record the water quantity diverted in any one calendar year
    - iii. Has a dial or counter that can be timed with a stopwatch over not more than a 10- minute period to accurately determine the flow rate under normal operating conditions, and
    - iv. Has a nonvolatile memory if the meter is equipped with an electronic totalizer.
  - d. Be installed according to manufacturer's specifications and must be properly maintained according to manufacturer's recommendations including proper winterization such as removal during the winter.
  - e. Be available for inspection by the Department of Water Resources.

Dated: 3/24/23

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10. Prior to the withdrawal of water from the authorized source, real-time monitoring devices must be installed that comply with the following specifications:
- Electronic delivery of water flow meter readings to the Department of Water Resources' Water-Use Database, at least once per day. This must occur each day whether or not pumping has occurred until pumping equipment is removed from the authorized point of diversion.
  - The electronic delivery of real-time data must be through a Simple Object Access Protocol (SOAP) service. The SOAP service and telemetry specifications/requirements are listed on the North Dakota Department of Water Resources website at: [http://www.dwr.nd.gov/pdfs/telemetry\\_requirements.pdf](http://www.dwr.nd.gov/pdfs/telemetry_requirements.pdf)
  - Written notification and a final water flow meter reading must be given to the Department of Water Resources within three (3) days of the removal of the pumping equipment from the authorized point of diversion. Electronic mail (e-mail) notification will satisfy this requirement.
11. The proper telemetry credentials to deliver water-use data from the water flow meter directly to the Department of Water Resources' Water-Use Database are listed below. These credentials must be submitted to the telemetry vendor and the **communications between the water flow meter and the Department of Water Resources' Water-Use Database must be completed prior to the withdrawal of water.** Please contact the Water Resource Program Administrator at (701) 328-2754 or [depotreporting@nd.gov](mailto:depotreporting@nd.gov) to obtain the depot login and password.
- Depot Number: **1942**
  - Depot Name: **Olson Farms Depot**
  - Depot Location: **14509601**
  - Permit Number: **ND2023-21413**
  - Depot Login:
  - Password:
12. The permitholder must complete the enclosed Monthly Water Meter Reading Report for every month a meter and its telemetry system is communicating with the Department of Water Resources' Water-Use Database, even if water has not been withdrawn. Monthly Water Meter Reading Reports are used to determine that the telemetry associated with this temporary water permit is properly calibrated. Monthly Water Meter Reading Reports must be submitted to the Department of Water Resources before the 10<sup>th</sup> day of the following month.
13. The permitholder must complete every enclosed Annual Water Use Report, even if no water is withdrawn based on the following:
- For temporary water permits that are inclusive to one (1) calendar year:

Dated: 3/24/23

cc: Dunn WRD

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State Engineer  
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- i. One (1) Annual Water Use Report must be submitted to the Department of Water Resources within thirty (30) days after the expiration date of the permit.
  - b. For temporary water permits that span two (2) calendar years:
    - i. The first Annual Water Use Report must be submitted to the Department of Water Resources within thirty (30) days after the close of the first calendar year, which must report the total water withdrawn in the first calendar year, and
    - ii. The second Annual Water Use Report must be submitted to the Department of Water Resources within thirty (30) days after the expiration date of the permit, which must report the total water withdrawn in the second calendar year.
14. Any works associated with this temporary water permit are subject to inspection at any time by representatives of the Department of Water Resources. Refusal to allow inspection is grounds for temporary water permit cancellation.
15. Failure to comply with any order of the Department of Water Resources may result in temporary water permit forfeiture.

Dated: 3/24/23

cc: Dunn WRD

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John A Paczkowski, P.E.  
State Engineer  
ND Department of Water Resources  
1200 Memorial Hwy  
Bismarck, ND 58504



Christopher D. Bader  
Director, Water Appropriations Division

**Department of Water Resources  
Recommended Decision**

To: Andrea Travnicek, Ph.D., Director, Department of Water Resources  
John A. Paczkowski P.E., State Engineer  
Approved By: Chris Bader, Director, Water Appropriations Division  
Reviewed By: Andrew Nygren, Hydrologist Manager  
Reviewed By: Joe Nett, Hydrologist Manager  
From: Michaela Halvorson, Hydrologist - Surface Water  
Subject: Temporary Water Permit Application ND2023-21413 and ND2023-21414  
Date: March 24, 2023

Two applications for a temporary water permit were received from Olson Farms on January 17, 2023. The requested withdrawal period is March 1, 2023, through December 31, 2023. The nature of use for the requested allocation is Industrial Water Depot. The applications are summarized as follows:

Temporary Water Permit Application No.	Point of Diversion	Source Name	Requested Allocation (Ac-Ft)	Requested Rate (gallons per minute)
ND2023-21413	14509601	Gumbo Creek	250.0	2,500
ND2023-21414	14509602A	Gumbo Creek	250.0	2,500

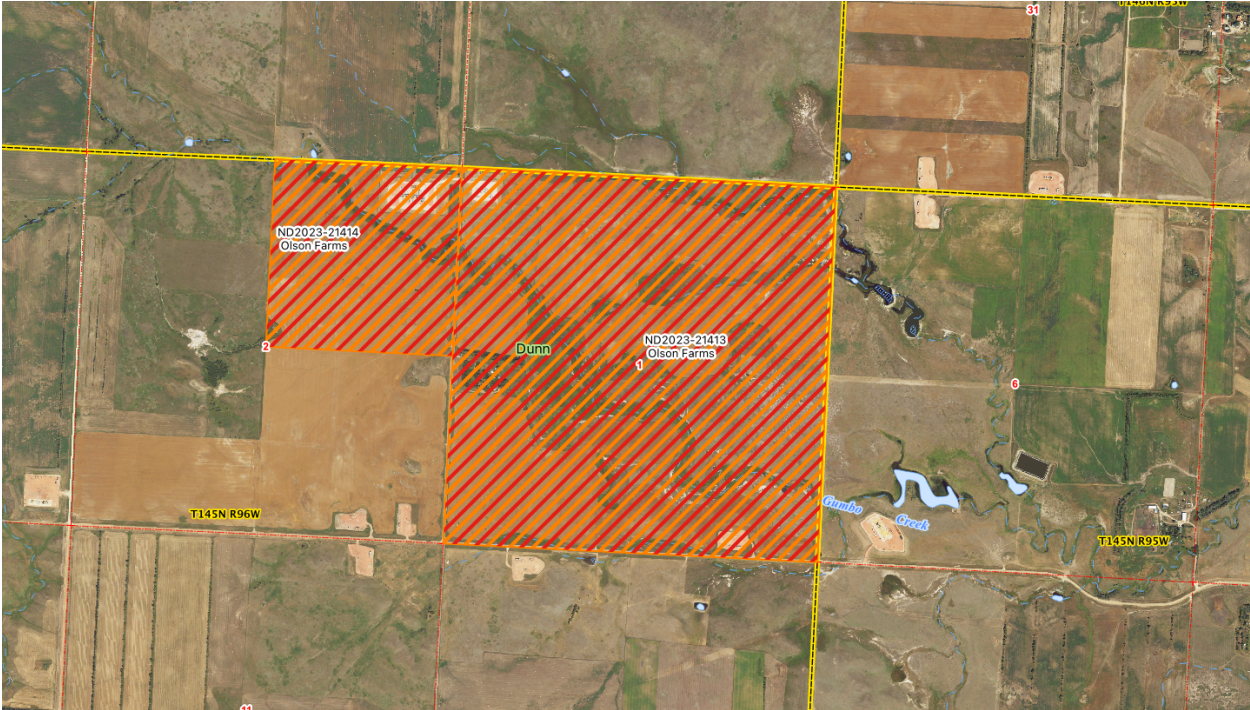


Figure 1. Overview of requested PODs.

A hydrologic review was completed as a part of the review process for the temporary water permit applications. The hydrologic review indicated that the requested PODs are located on Gumbo Creek in the Gumbo Creek sub-watershed, Upper Spring Creek watershed, Knife sub-basin, and Cannonball-Heart-Knife basin. The drainage area upgradient the most downstream requested POD is 3.29 square miles, determined from U.S. Geological Survey (USGS) StreamStats Version 4. According to data from the U.S. Geological Survey Scientific Investigations Report 2019-5144, 50 years out of 100 there will be an estimated 164.87 acre-feet available for allocation and 80 years out of 100 there will be an estimated 44.54 acre-feet of water available for allocation from runoff with approximately 65.18% of runoff generated from snowmelt. There are no adjacent ND Game and Fish managed lakes. Additionally, there are no US Fish and Wildlife Service easements. Senior appropriators located downstream of the requested POD are summarized in Table 1.

Table 1. Water permits approved from Spring Creek, tributary to the Knife River

Permit No.	Permitholder	Active PODs	Permit Status	Approved Acre-Feet	Approved Rate (gpm)	Use Type	Period of Use
373	Rhode, John and Annette	14509130BB	Perfected	100.0	450	Irrigation	Apr 1-Oct 31
6003	Robert Ferebee Water, LLC	14509223B	Perfected	50.0	300	Industrial	Jan 1-Dec 31

This permit had been placed on hold until recent review due to the water claim at Lake Ilo for fill of its reservoir. In a March 20, 2023, conversation with U.S. Fish and Wildlife Service representatives, Lake Ilo will pass all spring runoff this year and will forgo their ability to fill to capacity. Both water permits listed in Table 2 are downstream of the requested POD as well. Perfected Water Permit No. 6003 is the closest downstream appropriator and has a drainage area of 288.0 square miles determined from U.S. Geological Survey (USGS) StreamStats Version 4. According to data from the U.S. Geological Survey Scientific Investigations Report 2019-5144, 80 years out of 100 there will be an estimated 3,718.08 acre-feet of water available for allocation from runoff, with approximately 65.4% of runoff generated from snowmelt.

The drainage area above the requested POD comprises less than 10% of the drainage area above USGS Gage No. 06340000, Spring Creek at Zap, ND. Given the difference in drainage areas, the drainage area ratio method for estimating mean discharge at the requested POD will not be used.

There are also known livestock water rights downstream of the requested POD. Conditions will be attached to the temporary water permit requiring the permitholder to not cause streamflow to cease when water is being withdrawn and to pass sufficient water for superior water rights downstream. A minimum flow condition of 7.00 cubic feet per second must be reported at the USGS Gage No. 06340000, Spring Creek at Zap, ND at all times when water is being withdrawn to protect senior water rights. Due to the review date of this application, the period of use will be modified.

The Palmer Drought Severity Index (PDSI) in North Dakota Climate Division 4 is in the near normal category (Figure 2). Forecasts by the Climate Prediction Center indicate equal chances of above or below temperatures and precipitation through April. The forecasts also indicate a good chance of below average temperatures and equal chances of above or below precipitation from April through June (Figure 3). The U.S. Drought Monitor indicates that this area is currently experiencing abnormally dry conditions. The Seasonal Drought Outlook indicates the drought conditions will most likely improve resulting in drought notice removal (Figure 4).

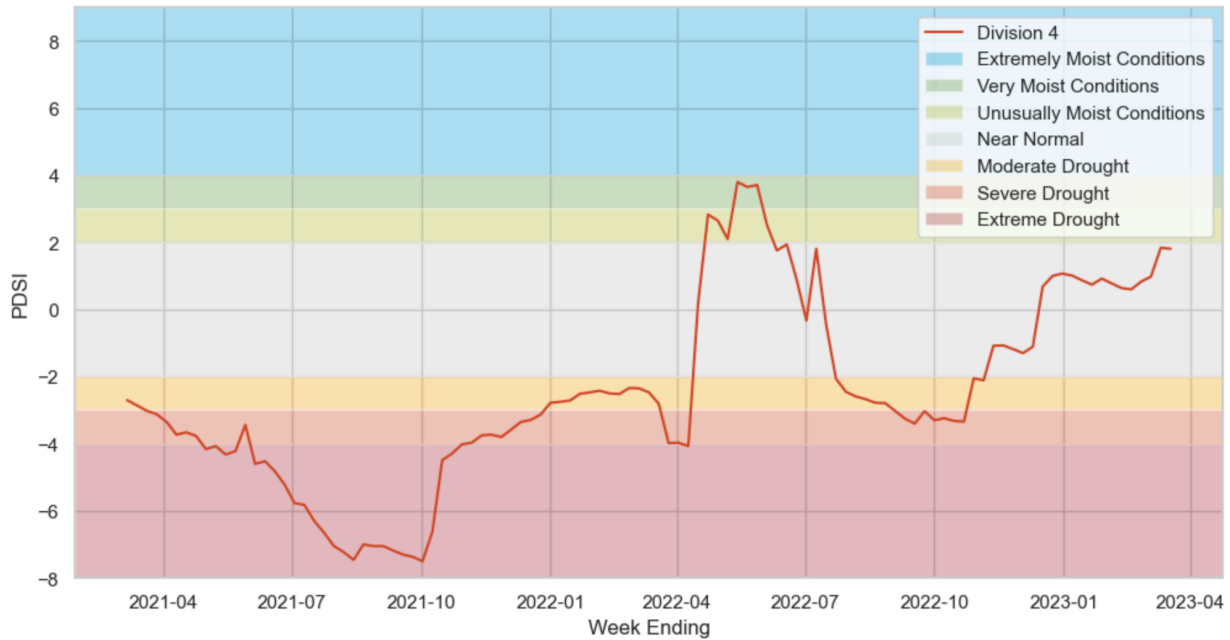


Figure 2. Palmer Drought Severity Index plot at requested POD.

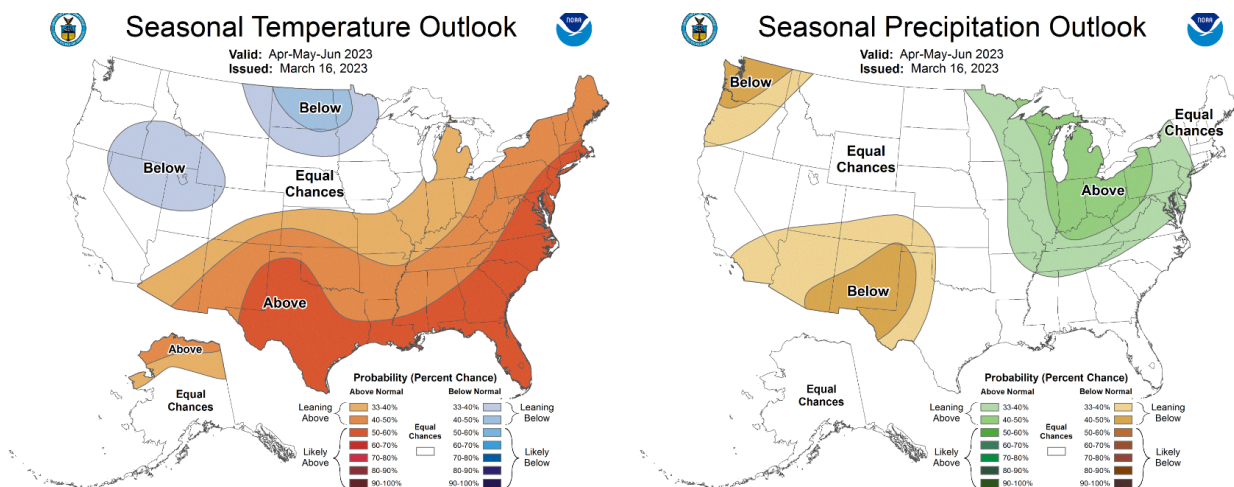


Figure 3. Three-month temperature and precipitation outlook.

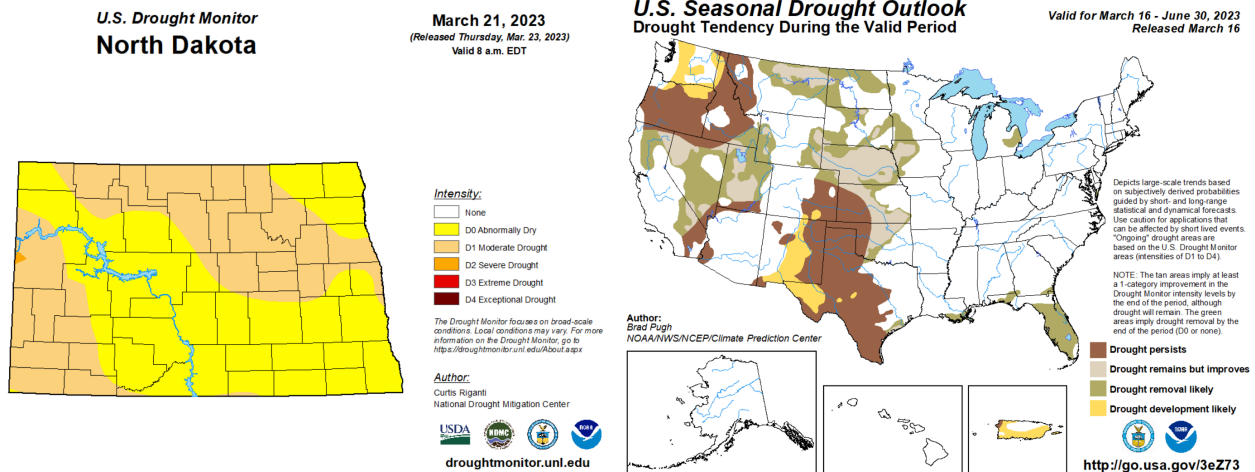


Figure 4. U.S Drought Monitor and Seasonal Drought Outlook

Statutory authority for issuing emergency or temporary use of water is given to the Department of Water Resources in North Dakota Century Code section 61-04-02.1 and North Dakota Administrative Code section 89-03-01-10.

**61-04-02.1. Emergency or temporary authorization.**

*The department of water resources may authorize emergency or temporary use of water for periods not to exceed twelve months if the department determines such use will not be to the detriment of existing rights. The department shall establish by rule a separate procedure for the processing of applications for emergency or temporary use. No prescriptive or other rights to the use of water shall be acquired by use of water as authorized herein.*

**89-03-01-10. Emergency or temporary authorization.**

*An application for a temporary water permit must be made on the form provided by the department. In that request, the applicant must indicate the purpose for which water will be used, water quantity needed, proposed point of diversion, type of use, withdrawal rate, water source, proposed use dates, and applicant's address. The department will evaluate the request and, if it is granted, the department will list on the temporary water permit the conditions that govern the appropriation.*


*An applicant for emergency use of water, if the situation warrants, may call the department requesting immediate use of water. Following an oral request and oral approval by the department for authorization, a temporary application form must be submitted.*

*The applicant for a temporary water permit is responsible for all damages that may be caused to other appropriators or any other individual because of the emergency or temporary water use.*

The modified applications submitted by Olson Farms are recommended for approval as follows:

Temporary Water Permit No.	Point of Diversion	Source Name	Approved Allocation (Ac-Ft)	Approved Rate (gallons per minute)	Period of Use
ND2023-21413	14509601	Gumbo Creek	164.0	2,500	Apr 1-Dec 31
ND2023-21414	14509602A	Gumbo Creek	164.0	2,500	Apr 1-Dec 31

The remaining 86.0 acre-feet for both applications are hereby recommended for denial. Olson Farms will be required to provide latitude and longitude of the meter station location each time the meter station location for ND2023-21413 is changed for inspection purposes because the requested POD covers an entire section. Due to the proximity of the two applications and the small drainage area, ND2023-21413 and ND2023-21414 cannot be operated at the same time and the combined use for either permit can't exceed 164.0 acre-feet.



Michaela Halvorson, Hydrologist

**Water Appropriation Division  
(701) 328-2754**

**Winter Protocol for Minimum Flow Condition  
Spring Creek at Zap, ND**

November 14, 2022

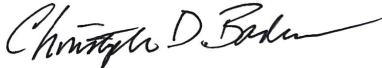
Winter protocol for management of Spring Creek temporary water permits for industrial water depot use is now in place due to ice affecting the U.S. Geological Survey (USGS) Gage No. 06340000, Spring Creek at Zap, ND. USGS discontinues consistent reporting of instantaneous streamflow discharge during the winter at this gage. USGS staff will occasionally measure streamflow discharge at the gage location until the river channel is free of ice.

Temporary water permits for industrial water depot use in the Upper Spring Creek watershed have an attached minimum flow condition of 7.00 cubic feet per second (cfs) at USGS Gage No. 06340000. Permitholders must cease water withdrawals from the source when withdrawals would cause the flow at the gage to drop below the assigned minimum flow condition. During winter protocol, the most recent instantaneous streamflow discharge reported and subsequent field measurements by USGS staff will be used to determine if the minimum flow condition is met or not.

The most recent streamflow discharge measurement at USGS Gage No. 06340000 was 7.8 cfs on November 14, 2022. Therefore, the minimum flow condition of 7.00 cfs is currently met. Notice will be sent to affected permitholders if a future field measurement records streamflow discharge below the minimum flow condition, or when the winter protocol is removed.

Any questions can be directed to Michaela Halvorson of my staff at (701) 328-2758 or at [mehalvorson@nd.gov](mailto:mehalvorson@nd.gov)

Approved by:

  
\_\_\_\_\_  
FOR  
John A. Paczkowski, P.E.  
State Engineer



**APPLICATION FOR A TEMPORARY WATER PERMIT**  
**NORTH DAKOTA DEPARTMENT OF WATER RESOURCES**  
**WATER APPROPRIATIONS**  
 SFN 60158

MAIL THE COMPLETED APPLICATION TO:  
 ND Department of Water Resources • State Office Building • 900 East Boulevard • Bismarck, ND 58505-0850  
 BY FAX - (701) 328-3696 • BY EMAIL - waterpermits@nd.gov

(SIGNATURE MUST BE PROVIDED)

*NOTE: Use one application for each type of source (surface water or ground water). Use one application for each different surface water source. Complete all lines. If this application is not satisfactorily completed, it will be returned, If more space is necessary, attach additional sheets Please type or print in ink. No map is required.*

Name of Applicant Olson Farms			
Mailing Address 11089 Hwy 200			
City Killdeer	State ND	Zip Code 58640	
Home Telephone Number 7018636689		Work Phone Number	
Cell Phone Number 7015704055		E-Mail justin@elkanwater.com	
Contact Person (if applicant is not individual) Justin Hartel		Contact Person Phone Number 7016090589	
<i>If the applicant does not own the land associated with the Point of Diversion, an agreement or easement with the landowner must accompany the signed temporary water permit application.</i>			
Source of Water Surface Water			
Name of Source (if surface water): Gumbo Creek		County Dunn	
1/4 1/4 (if needed)	Section 1	Township 145	Range 96
<i>Only one Point of Diversion can be requested.</i>			
Purpose for Which Water Will be Used: Industrial - Water Depot			
Total Quantity of Water Requested: 250 Acre-Feet			
Fees:                    < 1 Acre-Feet (\$75)                    1 - 10 Acre-Feet (\$125)                    X > 10 Acre-Feet (\$200) <i>Fee must accompany signed temporary water permit application.</i>			
Withdrawal rate at which water is proposed to be diverted at the location listed above:		GPM : 2500	
Period of Usage: (up to 12 months)		From 03/01/2023	Through 12/31/2023
Signature:			
Printed Name: Justin Hartel			

*The granting of temporary water permit does not create a water right.  
 If you have any questions, call (701) 328-2754.*

**2023 Temporary Permit Annual Water Use Report**  
(Return all pages of this form even if no water was used)

**ND2023-21413**

Permit Number:ND2023-21413

Make Name and/or Address corrections below:

Olson Farms  
11089 Hwy 200

\_\_\_\_\_

Killdeer, ND 58640

\_\_\_\_\_

Phone: (701) 863-6689

\_\_\_\_\_

**Report the total in: Gallons or Barrels or Acre-Feet. Please circle the units used ( gallons, barrels, acre-foot )**

Report the total amount of water per month if applicable:

JANUARY	_____	JULY	_____
FEBRUARY	_____	AUGUST	_____
MARCH	_____	SEPTEMBER	_____
APRIL	_____	OCTOBER	_____
MAY	_____	NOVEMBER	_____
JUNE	_____	DECEMBER	_____

**TOTAL ANNUAL USE** \_\_\_\_\_

**I. INFORMATION ABOUT WELLS, PUMPS, OR POINTS OF DIVERSION**

**Report the following information for the Point of Diversion Sec. 01 Twp. 145 Rng. 096**

Water Source: Ground Water or Surface Water (Circle one)

Pumping Rate: \_\_\_\_\_ ( Circle: Barrels, Acre-Feet, Gallons ) PER ( Circle : Second, Minute, Hour, Day )

Total Water Use from this Point of Diversion : \_\_\_\_\_ ( Circle: Barrels, Acre-Feet, Gallons )

**WATER PERMIT CRITERIA:**

**Source:** Gumbo Creek

**Nature of Use:** Industrial - Water Depot

**Total Quantity of Water:** 164.000 Acre-Feet

**Maximum Withdrawal Rate:** 2,500.0 gpm

**Period of Authorized Useage:** 4/1/23 through 12/31/23

**II. MAKE ANY ADDITIONAL REMARKS BELOW:**

Note: 1 Acre-Foot = 325,851 gallons.

E-Mail: depotreporting@nd.gov

Please return to:

North Dakota Department of Water Resources  
State Office Building  
1200 Memorial Highway  
Bismarck, ND 58504-5262  
Phone (701) 328-2754

Signature \_\_\_\_\_

Date : \_\_\_\_\_