

**Permit Number - ND2024-22068**

**State of North Dakota  
Temporary Water Permit**

In response to an application for a temporary water permit dated 1/11/24 as received in this office 1/11/24, authority is hereby granted to:

Northwest Water Transfer  
5458 134th Ave NW

Williston, ND 58801

Contact Person: Jerry Shae

Telephone: (701) 425-1913

**A Temporary Water Permit as follows:**

**Source:** Powers Lake

**Point of Diversion:** N1/2 Sec. 18 Twp. 158 Rng. 092

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

**Total Quantity of Water:** 500.000 Acre-Feet

**Maximum Withdrawal Rate:** 5,000.0 gpm

**Period of authorized usage:** 1/25/24 through 1/14/25

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. **The issuance of Temporary Water Permit No. ND2024-22068 CANCELS Temporary Water Permit No. ND2023-21537.**


**Conditions**

1. Temporary use of surface water must cease whenever the water level elevation declines to less than 2190.70 feet (NAVD88) at observation well site 15909336DAD. Water level information can be accessed at the following website: [https://www.swc.nd.gov/info\\_edu/map\\_data\\_resources/groundsurfacewater/single.php?id=15909336DAD](https://www.swc.nd.gov/info_edu/map_data_resources/groundsurfacewater/single.php?id=15909336DAD)

Dated: 1/23/24

cc: Mountrail WRD

John A Paczkowski, P.E.  
State Engineer  
ND Department of Water Resour  
1200 Memorial Highway  
Bismarck, ND 58504-5262

  
Hydrologist Manager  
Water Appropriation Division

**State of North Dakota  
Temporary Water Permit**

2. Failure to complete the development of this industrial project and become operational within four (4) months may result in temporary water permit cancellation.
3. 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.
4. 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.
5. Prior to the withdrawal of water from the authorized source, real-time monitoring devices must be installed that comply with the following specifications:
  - a. 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.
  - b. 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)
  - c. 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.
6. 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

Dated: 1/23/24

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State Engineer  
ND Department of Water Resour  
1200 Memorial Highway  
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Water Appropriation Division

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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.

- a. Depot Number: **2025**
  - b. Depot Name: **Northwest Water Transfer Depot**
  - c. Depot Location: **15809218N**
  - d. Permit Number: **ND2024-22068**
  - e. Depot Login:
  - f. Password:
7. 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.
8. The permitholder must complete every enclosed Annual Water Use Report, even if no water is withdrawn based on the following:
- a. For temporary water permits that are inclusive to one (1) calendar year:
    - 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.
9. 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.

Dated: 1/23/24

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State Engineer  
ND Department of Water Resour  
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Water Appropriation Division

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10. Failure to comply with any order of the Department of Water Resources may result in temporary water permit forfeiture.

Dated: 1/23/24

cc: Mountrail WRD

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State Engineer  
ND Department of Water Resour  
1200 Memorial Highway  
Bismarck, ND 58504-5262



Hydrologist Manager  
Water Appropriation Division

To: Andrea Travnicek, Ph. D., Director, Department of Water Resources  
John A. Paczkowski, P.E., State Engineer  
Approved By: Andrew Nygren, Hydrologist Manager  
Reviewed By: Joe Nett, Hydrologist Manager  
From: Sam Devries, Hydrologist - Surface Water  
Subject: Temporary Water Permit Application - Northwest Water Transfer ND2024-22068  
Date: January 23, 2024

Northwest Water Transfer holds Temporary Water Permit (TWP) No. ND2023-21537 at the same POD, effective through March 21, 2024. Jerry Shae of Northwest Water Transfer requested that TWP No. ND2023-21537 be canceled and this application be reviewed for a higher rate.

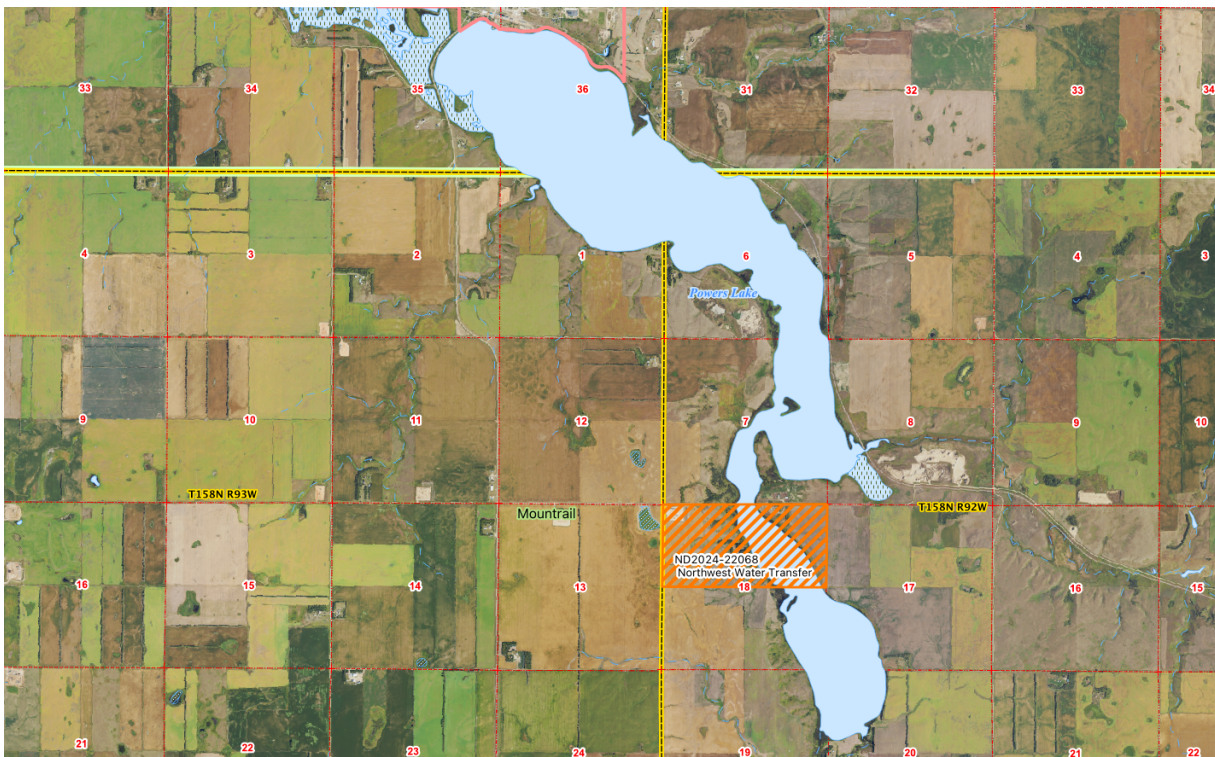


Figure 1. Overview of requested water source.



The requested POD is on Powers Lake in the Powers Lake sub-watershed, Upper White Earth River watershed, Lake Sakakawea sub-basin, and Lake Sakakawea basin. There are no documented senior appropriators on Powers Lake. There are multiple USFWS wetland easements and fee lands adjacent to the requested source. USFWS does not oppose the permit, as the POD is off the easements. The North Dakota Game and Fish Department (NDGF) describes the lake adjacent to the POD as follows: Powers Lake - Pike in good numbers and a variety of sizes. The surface area of Powers Lake is approximately 1,698.8 acres according to NDGF and stores 9,738.2 acre-feet (Figure 2). No objections to the use were provided by NDGF. Powers Lake maintains a public interest consideration through recreational and fishery use. The requested temporary water permit may be canceled if it is determined to have a negative impact to public interest. Due to the public interest of the NDGF managed lake, the permitholder must contact the Aaron Larsen at the NDGF (701-328-6347) prior to pumping or removing water from the POD.

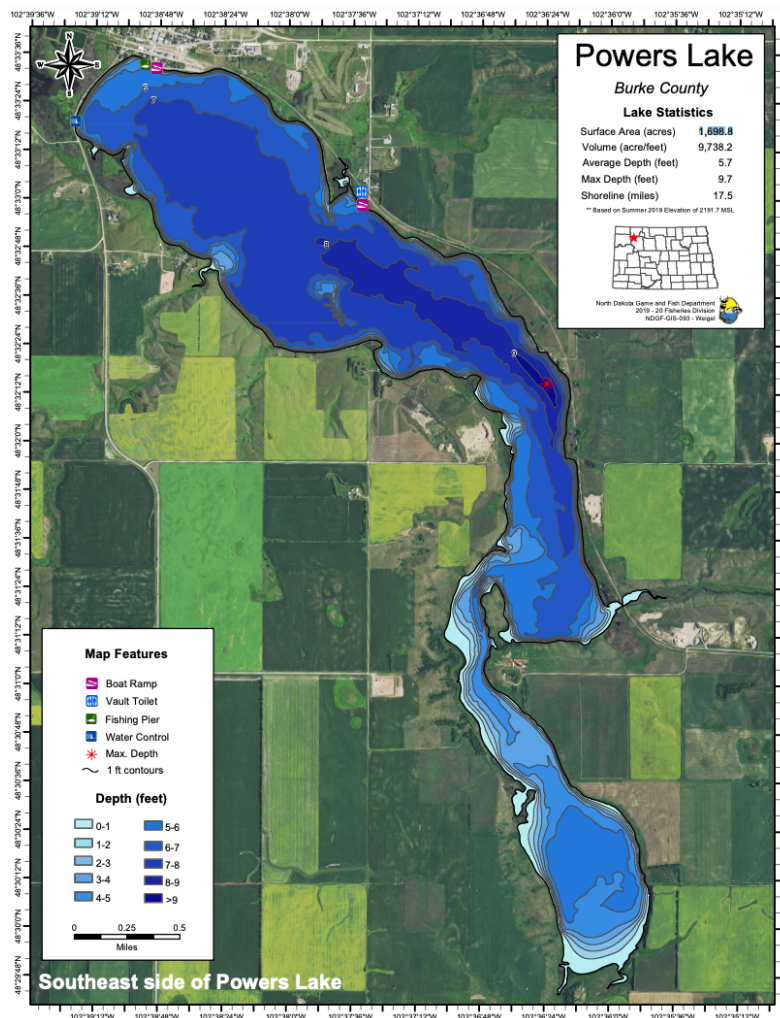


Figure 2. NDGF map of Powers Lake.

A September 17, 2020, survey found that the invert of the concrete structure located at the outlet of Powers Lake is between 2190.56 and 2191.13 feet above the North American Vertical Datum of 1988 (NAVD88). Withdrawals from Powers Lake under temporary water permits are restricted to the measured surface water elevation of 2190.70 feet NAVD88. At this elevation, water nearly ceases to discharge from Powers Lake. A Pushing Remote SENSors (PRESENS) monitoring device was installed on Powers Lake (15909336D) to collect real-time continuous surface water elevations from September 4, 2019, to October 27, 2021, and from May 4, 2022, to October 26, 2022. Another PRESENS monitoring device was installed in observation well 15909336DAD on October 7, 2020, proximate to Powers Lake to collect real-time continuous groundwater measurements. Water-level measurements from observation well 15909336DAD have been found to correspond to the surface water PRESENS unit 15909336D (Figure 3). Therefore, observation well 15909336DAD water levels reasonably estimate Powers Lake water levels.

Withdrawals of water from Powers Lake must cease under TWP No. ND2023-21861 whenever the water level elevation declines to less than 2190.70 feet (NAVD88) at the PRESENS observation well site 15909336DAD. The water level at the observation well as of January 23, 2024, was 2191.31 feet.

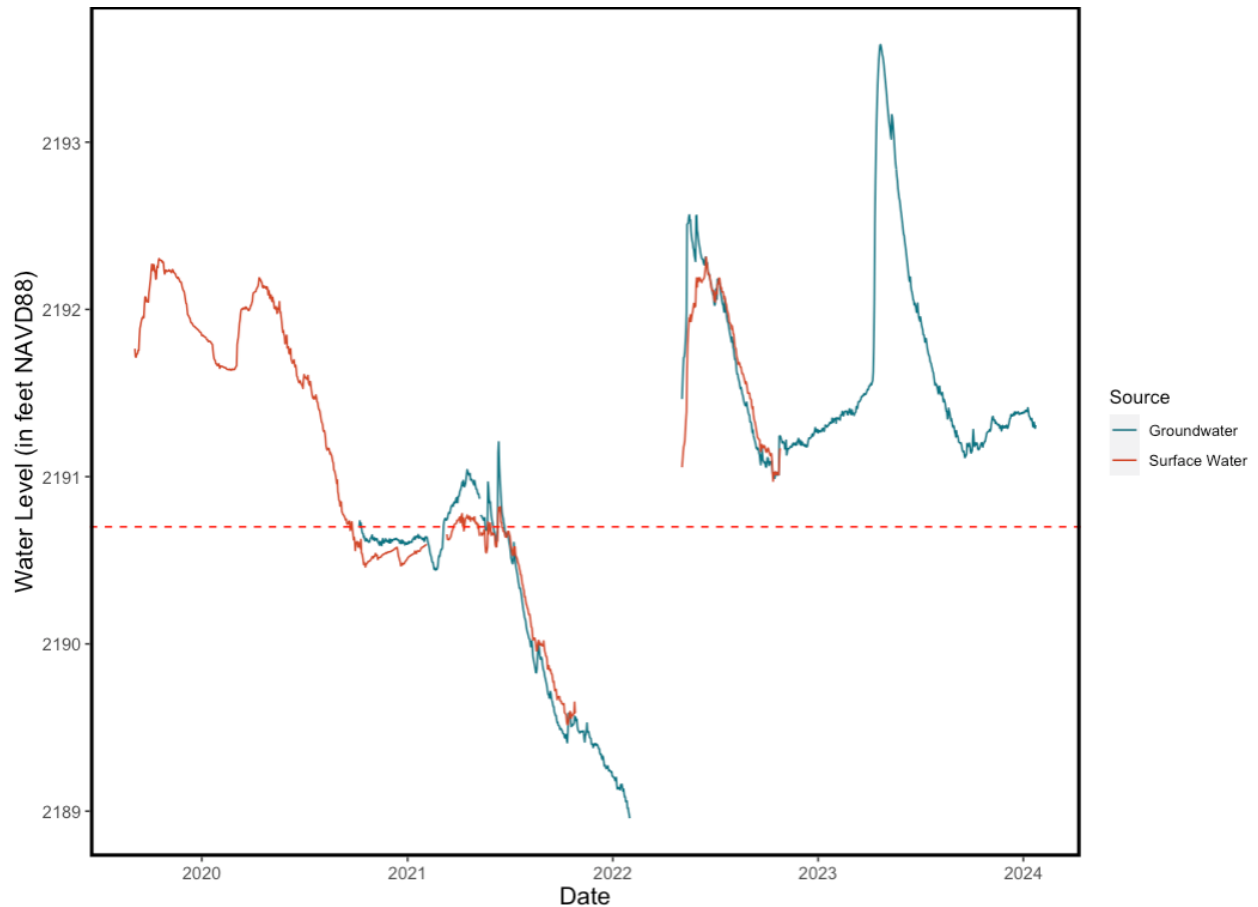


Figure 3. Recorded water levels from observation well 15909336DAD and surface water site 15909336D from September 4, 2019, to January 23, 2024. Elevation of 2190.7 feet NAVD88 shown as dashed red line.

The weekly Palmer Drought Severity Index (PDSI) in North Dakota Climate Division 1 for the previous and current years are shown in Figure 4, including the current trend in near normal conditions. A 30-day forecast by the Climate Prediction Center indicates a good chance of above normal temperatures and an equal chance of above or below normal precipitation through February. The forecast also indicates good chance of above normal temperatures and an equal chance of above or below normal precipitation through April (Figure 5). The Seasonal Drought Outlook in Figure 6 indicates that there are no drought conditions expected through April.



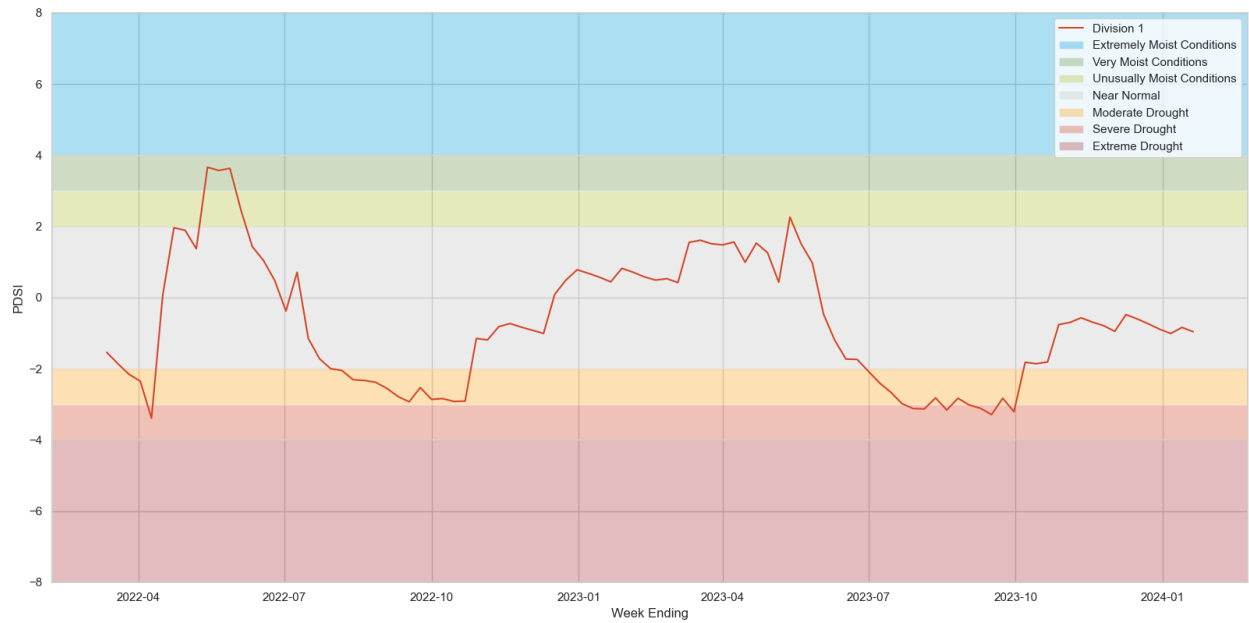


Figure 4. ND Climate Division 1 PDSI for previous and current year.

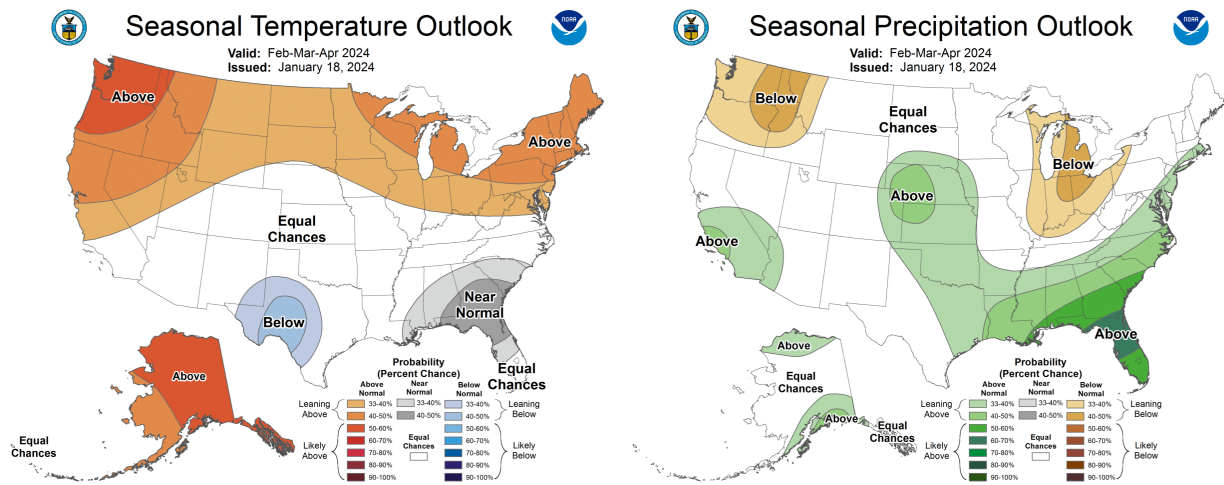


Figure 5. Climate Prediction Center three-month temperature and precipitation probabilities.

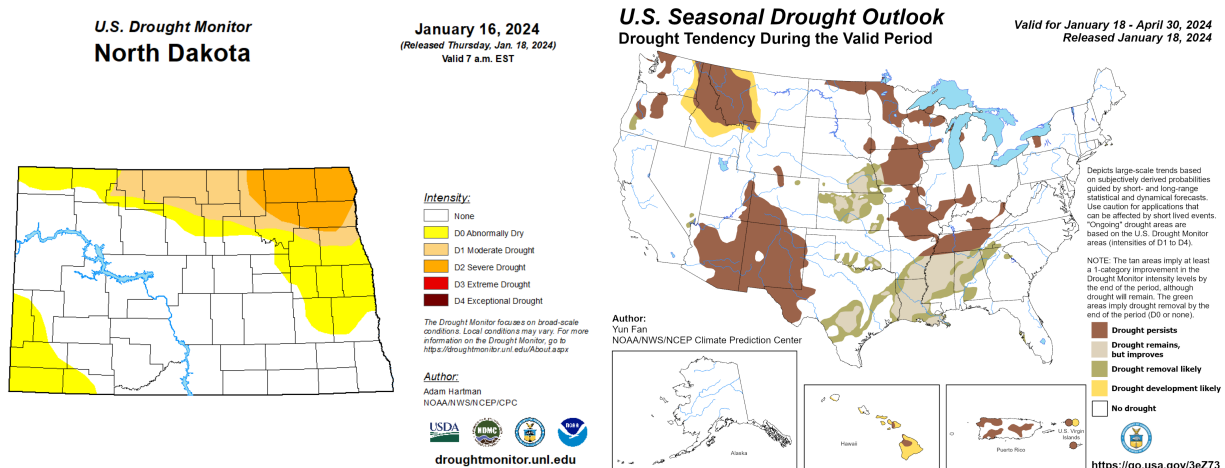


Figure 6. Current drought conditions and seasonal drought outlook.

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.*

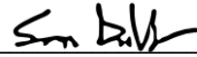
**89-03-01-10. Emergency or temporary authorization.**

*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 water use, if the situation warrants, may call the department requesting immediate water use. 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 application submitted by Northwest Water Transfer to withdraw water from January 15, 2024, through January 14, 2025, is hereby modified to January 25, 2024, through January 14, 2025. It is recommended to approve 500.0 acre-feet of water for industrial water depot purposes at a rate of 5,000 gpm, from Powers Lake, via a point of diversion in the N1/2 of Section 18, T158N, R92W of Mountrail County. The approval of this application cancels TWP No. ND2023-21537



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Sam Devries  
Hydrologist - Surface Water



**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 • 1200 Memorial Highway • Bismarck, ND 58504-5262  
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 Northwest Water Transfer			
Mailing Address 5458 134th Ave NW			
City Williston		State ND	Zip Code 58801
Home Telephone Number 7014251913		Work Phone Number	
Cell Phone Number		E-Mail jshae50@gmail.com	
Contact Person (if applicant is not individual) Jerry Shae		Contact Person Phone Number 7014251913	
<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): Powers Lake		County Mountrail	
1/4 1/4 (if needed) N2	Section 18	Township 158	Range 92
<i>Only one Point of Diversion can be requested.</i>			
Purpose for Which Water Will be Used: industrial			
Total Quantity of Water Requested: 500 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 : 5000	
Period of Usage: (up to 12 months)		From 1/15/24	Through 1/14/25
Signature:			
Printed Name: Jerry Shae			

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

**2025 Temporary Permit Annual Water Use Report**  
(Return all pages of this form even if no water was used)

**ND2024-22068**

Permit Number:ND2024-22068

Make Name and/or Address corrections below:

Northwest Water Transfer  
5458 134th Ave NW

\_\_\_\_\_

Williston, ND 58801

\_\_\_\_\_

Phone: (701) 425-1913

\_\_\_\_\_

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

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 N1/2 Sec. 18 Twp. 158 Rng. 092**

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:** Powers Lake

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

**Total Quantity of Water:** 500.000 Acre-Feet

**Maximum Withdrawal Rate:** 5,000.0 gpm

**Period of Authorized Usage:** 1/25/24 through 1/14/25

**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 : \_\_\_\_\_

**2024 Temporary Permit Annual Water Use Report**  
(Return all pages of this form even if no water was used)

**ND2024-22068**

Permit Number:ND2024-22068

Make Name and/or Address corrections below:

Northwest Water Transfer  
5458 134th Ave NW

\_\_\_\_\_

Williston, ND 58801

\_\_\_\_\_

Phone: (701) 425-1913

\_\_\_\_\_

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

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 N1/2 Sec. 18 Twp. 158 Rng. 092**

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:** Powers Lake

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

**Total Quantity of Water:** 500.000 Acre-Feet

**Maximum Withdrawal Rate:** 5,000.0 gpm

**Period of Authorized Useage:** 1/25/24 through 1/14/25

**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 : \_\_\_\_\_