

May 1, 2026

**NOTICE OF SURFACE WATER DISCHARGE APPLICATION AND
RECOMMENDATION**

The South Dakota Department of Agriculture and Natural Resources (DANR) received an application for an individual Surface Water Discharge permit for an expanding poultry operation from the following applicant:

APPLICANT NAME: Dakota Layers, LLC - DL Specialty Eggs
PERMIT NUMBER: SD0028660
FACILITY LOCATION: Located approximately four miles west and two miles north of Elkton in the Northeast $\frac{1}{4}$ of Section 10, Township 109 North, Range 48 North in Brookings County, South Dakota
MAILING ADDRESS: 22252 SD Hwy 13
Flandreau, SD 57028

The existing poultry operation uses a non-liquid (dry/litter) manure handling system and consists of housed lots feeding a maximum of 80,000 layer chickens. Permit coverage was not previously required. The existing manure management system consists of two layer chicken barns, each with internal conveyor systems that transfer the manure and litter to nutrient storage areas.

The expansion consists of housed lots feeding an additional 88,172 layer chickens for a new maximum of 168,172 layer chickens. The expansion consists of two layer chicken barns, each with internal conveyor systems that transfer the manure and litter to nutrient storage areas.

With the expansion, the poultry operation will be a large concentrated animal feeding operation requiring a South Dakota DANR issued water pollution control permit. Because all manure and litter at the operation will be converted to commercial fertilizer and sold, the operation is not eligible for coverage under DANR's *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* and has applied for an individual permit.

This permit does not allow a discharge from the operation's manure management system. If a discharge were to occur, it would flow overland approximately 0.1 miles to an unnamed tributary of Medary Creek which is classified for the following beneficial uses:

- (9) Fish and wildlife propagation, recreation, and stock watering waters; and
- (10) Irrigation waters.

The unnamed tributary flows approximately 2.2 miles to Medary Creek, which is classified for the following beneficial uses:

- (6) Warmwater marginal fish life propagation waters;
- (8) Limited-contact recreation waters;
- (9) Fish and wildlife propagation, recreation, and stock watering waters; and

(10) Irrigation waters.

Federal Regulations at 40 CFR 122.42(e)(3) adopted by reference in the Administrative Rules of South Dakota (ARSD) §74:52:02:22 allow and set the requirements for manure, litter, and process wastewater to be transferred to other persons. In this case, the manure and litter will be converted to a commercial fertilizer and transferred to another person. DANR's Inspection, Compliance, and Remediation (ICR) Program has determined the litter will be manipulated and converted to commercial fertilizer on the conveyors. Once it reaches the nutrient storage areas in each barn, the nutrient storage area and the commercial fertilizer in it will be regulated by DANR's ICR Program through their Bulk Storage Permit and Commercial Fertilizer License requirements and not the Livestock Services Program or this permit.

A tentative determination regarding the permit application has been made and DANR recommends the permit be issued.

In accordance with ARSD §74:52:05:15, any person desiring to comment on DANR's recommendation to issue the permit must submit written comments by close of business on the thirtieth day of this public notice. Commenters are encouraged to submit their comments electronically using the comment link for this permit on DANR's Public Notice website at <https://danr.gov/public>. Alternatively, written comments may be mailed to:

South Dakota Department of Agriculture and Natural Resources
Troy Roth, Livestock Services Program
523 East Capitol Avenue
Pierre, South Dakota 57501-3182

Mail deposited with the U.S. Postal Service may no longer be postmarked on the day it is dropped off. To establish that you have met a public notice deadline, you may need to send mail by certified or registered mail, request a hand-stamped postmark at the time the mail is dropped off, or include an affidavit of mailing. DANR will consider and address all comments that are timely submitted and will notify each person who requested notice or submitted written comments of the final decision for the permit.

Any person desiring to contest the issuance of this permit and request a contested case hearing must file a petition that complies with ARSD §74:50:02:02. This petition must be filed by close of business on the thirtieth day of this public notice. Upon receipt of a petition, DANR will schedule this matter for a contested case hearing before the Secretary.

The proposed permit, statement of basis, and other information may be obtained by contacting Heather Kent at the above address, by telephone at (605) 773-4647, or from DANR's Public Notice Webpage at: <https://danr.sd.gov/public>

Hunter Roberts
Secretary

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