

STATEMENT OF BASIS

APPLICANT: Dakota Layers, LLC - DL Specialty Eggs
PERMIT NUMBER: SD0028660
CONTACT PERSON: Jason Ramsdell
22252 SD Hwy 13
Flandreau, SD 57028
PHONE: (605) 864-0165
PERMIT TYPE: CAFO Minor NPDES Permit

Purpose of Statement of Basis

The Administrative Rules of South Dakota (ARSD), §74:52:05:07, requires that a Statement of Basis be prepared for each surface water discharge permit. The Statement of Basis briefly sets forth the principal facts in preparing the proposed permit.

Description

Dakota Layers, LLC - DL Specialty Eggs is an existing layer chicken operation that is located about two miles north and four miles west of Elkton in the Northeast ¼ of Section 10, Township 109 North, Range 48 West in Brookings County, South Dakota (Latitude 44.260566, Longitude 96.57334). For an aerial photograph of the proposed location, see Attachment B.

The poultry operation is comprised of existing and proposed components. The existing poultry operation is designed to house a maximum of 80,000 layers at any one time. The proposed expansion is for an additional 88,172 layers for a maximum of 168,172 layers at any one time. 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 existing poultry operation is not currently permitted under a water pollution control permit, and permit coverage was not required. The proposed expansion to the manure management system consists of two additional layer chicken barns each with internal conveyor systems that transfer the manure and litter to nutrient storage areas. Clean water and roof runoff will be diverted away from the production areas and the manure management system.

Once manure and litter are manipulated and converted to commercial fertilizer during transit on the conveyor system within each barn to the attached nutrient storage areas, the commercial fertilizer will be owned by Ramsdell F&M, Ltd. and will be regulated by the South Dakota Department of Agriculture and Natural Resources (DANR) Inspection, Compliance and Remediation Program through their Bulk Storage Permit and Commercial Fertilizer License requirements. The operation has not indicated that any chemicals will be used in the processing of the commercial fertilizer.

Because the operation intends to convert the litter to a commercial fertilizer and will not land apply it in accordance with an approved nutrient management plan, coverage under DANR's *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* is not available.

This permit contains discharge requirements and limits that are based on technology and water quality considerations, prohibitions, best management practices, and other conditions applicable to the types of manure and litter generated at Dakota Layers, LLC - DL Specialty Eggs.

Definitions

An “Animal Feeding Operation” (AFO) is a lot or facility that stables, confines, and feeds or maintains livestock in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season over any portion of the lot or facility. Two or more AFOs under common ownership are a single AFO if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure.

A “Concentrated Animal Feeding Operation” (CAFO) is an animal feeding operation that meets the following criteria for a large, medium, or small CAFO:

1. A large CAFO as described in Table 1, on the following page.
2. A medium CAFO as described in Table 1 and meets one of the following conditions:
 - a. Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or
 - b. Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.
3. A small CAFO as described in Table 1 and designated as a CAFO by the Secretary considering the following factors:
 - a. The size of the AFO and the amount of manure or process wastewater reaching waters of the state;
 - b. The location of the AFO in relation to waters of the state;
 - c. The means of conveyance of manure and process wastewater into waters of the state; and
 - d. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of manure and process wastewater into waters of the state.

Table 1. Number of animals to define large, medium, and small CAFOs.

| Type of Animal Feeding Operation | CAFO | | |
|--|--|------------------------------------|------------------------------------|
| | Large Animal numbers equal to or more than: | Medium Animal numbers equal to: | Small Animal numbers less than: |
| Dairy cows (mature – milked or dry) ¹ | 700 | 200 to 699 | 200 |
| Veal Calves ¹ | 1,000 | 300 to 999 | 300 |
| Cattle other than mature dairy cows or veal calves ^{1, 2} | 1,000 | 300 to 999 | 300 |
| Swine (weighing more than 55 pounds) ¹ | 2,500 | 750 to 2,499 | 750 |
| Swine (weighing less than 55 pounds) ¹ | 10,000 | 3,000 to 9,999 | 3,000 |
| Horses ¹ | 500 | 150 to 499 | 150 |
| Sheep or Lambs ¹ | 10,000 | 3,000 to 9,999 | 3,000 |
| Turkeys | 55,000 | 16,500 to 54,999 | 16,500 |
| Laying hens or broilers ³ | 30,000 | 9,000 to 29,999 | 9,000 |
| Chickens, other than laying hens ⁴ | 125,000 | 37,500 to 124,999 | 37,500 |
| Laying hens ⁴ | 82,000 | 25,000 to 81,999 | 25,000 |
| Ducks ³ | 5,000 | 1,500 to 4,999 | 1,500 |
| Ducks ⁴ | 30,000 | 10,000 to 29,999 | 10,000 |
| Geese | 30,000 | 10,000 to 29,999 | 10,000 |

¹ Animals are counted individually once separated from the mother.

² Cattle includes but is not limited to heifers, steers, and bulls.

³ AFO uses a liquid manure handling system.

⁴ AFO uses other than a liquid manure handling system.

NOTE: Other animal types not listed in the above table may be considered on a case-by-case basis.

Requirements to Obtain Permit Coverage

With the proposed expansion, Dakota Layers, LLC - DL Specialty Eggs meets the definition of an animal feeding operation, and their maximum number of layers will exceed 82,000 hens, making the operation a large concentrated animal feeding operation (CAFO) under the laying hens (other than a liquid manure handling systems) category. Because Dakota Layers, LLC - DL Specialty Eggs is a large CAFO it is required by South Dakota Codified Laws (SDCL) 34A-2-36.2 to operate under a water pollution control permit. A National Pollutant Discharge Elimination System (NPDES) permit is a water pollution control permit issued using the Secretary’s authority in SDCL, Chapter 34A-2, ARSD, Article 74:52, and the authority to issue NPDES permits granted to the Secretary by the U.S. EPA on December 30, 1993.

For an individual permit application, in addition to the Certification of Applicant form, Dakota Layers, LLC - DL Specialty Eggs is required to submit the DANR General Information Form and EPA Form 2B to fulfill the information required by Title 40 of the *Code of Federal Regulations* (40 CFR) 122.21(i). Dakota Layers, LLC - DL Specialty Eggs is also required to provide information on their legal structure including any parent corporation or subsidiary corporations. The applicant shall also identify the name, title/position, and residential address (a P.O. Box is not acceptable) of every officer, LLC member, trustee, investor, director, or person performing a function similar to a director; the applicant, and each person who is the recorded or beneficial owner of 10 percent or more of any class of voting stock of the applicant, or any other responsible official(s) of the applicant with legal or decision making responsibility or authority for the operation. This requirement has been included in this permit so the Secretary can verify SDCL §1-40-27 will be met prior to issuing permit coverage. A complete individual permit application has been received.

Technical requirements included in this permit include plans and specifications for the manure management system including proposed and existing structures, an Operation and Maintenance Guideline, and best management practices. In accordance with SDCL §34A-2-29 and §34A-2-32, plans and specifications and applicable testing to verify specifications have been met for the manure management system are required to be submitted for review and approval.

Permit Termination and Closure Requirements

This permit contains permit termination and closure requirements to ensure that manure and process wastewater is properly removed from the production areas and manure management system before permit coverage is terminated should Dakota Layers, LLC - DL Specialty Eggs close or cease to require permit coverage during the term of the permit. Where a change in the operation has eliminated the requirement for a permit, this permit sets operation and maintenance conditions required for permit termination.

Receiving Waters

This permit does not allow a discharge from the operation's manure management system. If a discharge were to occur, it would flow overland to an unnamed tributary of Medary Creek located immediately (0.1 miles) northwest of Dakota Layers, LLC - DL Specialty Eggs. The unnamed tributary flows into Medary Creek approximately 2.2 miles northwest of the operation.

The unnamed tributary of Medary Creek is classified by the South Dakota Surface Water Quality Standards (SDSWQS), ARSD §74:51:03:01, for the following beneficial uses:

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

Medary Creek is classified by the SDSWQS, ARSD §74:51:03:01 and §74:51:03:07, 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.

Shallow Aquifer

The facility does not currently have a liquid manure containment structure and therefore is not required to be evaluated to determine if the facility is located over a shallow aquifer as defined by SDCL §34A-3A-24. Soil borings were not required for this facility.

Flood Plain

The facility is located outside the 100-year flood plain area as indicated by the Federal Emergency Management Agency (FEMA) 100-year flood map.

Effluent Limits

The existing operation started construction after April 14, 2003, and is considered a new source. As required by 40 CFR 412.46 (New Source Performance Standards for Swine, Poultry, and Veal

Calves) adopted by reference (a.b.r.) in ARSD 74:52:10:01, this permit does not allow a discharge of manure or process wastewater from production areas and manure management system.

Section 303(d) of the federal Clean Water Act requires states to develop Total Maximum Daily Loads (TMDLs) for waters at levels necessary to achieve and maintain water quality standards. TMDLs are calculations of the amount of pollution a waterbody can receive and still maintain applicable water quality standards. TMDLs are necessary for waters that do not meet or are not expected to meet water quality standards with the application of technology-based controls for point sources. TMDLs address specific waterbodies, segments of waterbodies, or even entire watersheds, and are pollutant specific. TMDLs must allow for seasonal variations and a margin of safety, which accounts for any lack of knowledge concerning the relationship between pollutant loads and water quality.

The receiving segment of Medary Creek was identified in DANR's 2024 Integrated Report for Surface Water Quality Assessment as being impaired for limited-contact water usage by *Escherichia coli* (*E. coli*) bacteria. For this section of Medary Creek, DANR's Watershed program set the TMDL at 1178 cfu/100 mL in 2023. Dakota Layers, LLC - DL Specialty Eggs' waste load allocation is set at zero because the operation shall have no discharge of solid or liquid manure, litter, or process wastewater from the production areas and manure management system to waters of the state as described earlier in this section. This effluent limit will ensure the federal technology based standards for CAFOs and the SDSWQS are met.

This segment of Medary Creek was also identified in the 2024 Integrated Report as having average nitrogen or phosphorus concentrations above the respective targets. However, determination of whether narrative standards for nutrients have been met requires additional data. Due to the no discharge requirement of this permit, Dakota Layers, LLC - DL Specialty Eggs is expected to be able to meet any future wasteload allocation resulting from the development of a TMDL. Commercial fertilizer generated by the operation is not subject to this permit but is subject to SDCL, Chapter 38-19 and is not subject to a TMDL.

As part of the permit application, Dakota Layers, LLC - DL Specialty Eggs submitted information identifying that the layer hens will have access to pasture areas adjacent to the barns. The operation and maintenance guideline included in the permit application contains guidelines and practices to ensure these pasture areas will remain vegetated and will not meet the definition of an AFO. Any stormwater runoff from vegetated pasture areas is a nonpoint source discharge and is not covered by this permit. If DANR observes that the pasture areas are being operated or maintained in a way that meets the definition of an AFO, the Secretary may reopen the permit to require the appropriate containment structure(s) and a nutrient management plan for these areas.

In *Lois Alt d/b/a Eight is Enough v. EPA*, the District Court concluded that stormwater runoff containing dust, feather, manure or litter, and dander particles discharged from Alt's poultry house exhaust fans that landed outside the production areas were agricultural stormwater discharges exempt from the federal Clean Water Act permit requirements. Although EPA and the environmental intervenors had appealed the district court's decision, they dropped those appeals in October 2014. Because DANR agrees with the Alt decision, pursuant to this decision, dust, feather, manure or litter, and dander particles discharged from the facility's exhaust fans that land outside the production areas will be considered agricultural stormwater discharges and are not covered under this permit.

Representative Monitoring

This permit contains representative monitoring requirements to protect surface waters. ARSD §74:52:03:06 Monitoring Requirements and ARSD §74:52:03:26 Requirements for Monitoring set forth the permit requirements to ensure representative and accurate results. ARSD §74:52:03:06(5) requires that samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

Discharge Monitoring

The U.S. EPA's *NPDES Permit Writers' Manual for Concentrated Animal Feeding Operations* (2012), the DANR (formerly Department of Environment and Natural Resources) *Reasonable Potential Implementation Procedure for SWD Permits* (2013), ARSD, Article 74:51 Surface Water Quality, and the proposed permit conditions were reviewed. With properly designed, constructed, operated, and maintained manure management systems covered by this permit, Dakota Layers, LLC - DL Specialty Eggs is not believed to have the reasonable potential to cause or contribute to an exceedance of the SDSWQS.

The U.S. Food and Drug Administration (FDA) Center for Veterinary Medicine regulates animal drugs under the Federal Food, Drug, and Cosmetic Act (FFDCA). Starting June 11, 2023, animal owners were required to have a veterinary prescription to purchase antibiotics. Antibiotics are purchased from a licensed pharmacy and are not available for purchase over the counter. Feed stores must be licensed to accept prescriptions. No antibiotics are listed in the SDSWQS and no antibiotic monitoring is required by this permit.

If a discharge of manure or process wastewater is found from the production area, the producer is required to collect and have a grab sample of the discharge analyzed. The producer is required to report the following information to DANR: date and time of sample collection, Total Suspended Solids (TSS) mg/L, Total Nitrogen (as N) mg/L, Ammonia-Nitrogen (as N) mg/L, Total Phosphorus (as P) mg/L, Five-Day Biochemical Oxygen Demand (BOD₅) mg/L, *E. coli* no./100 mL, and estimated flow rate in gallons per day. Additionally, the producer shall record date and time the discharge was identified, date and time the discharge is halted, and an estimate of the volume of the discharge. If the producer provides sufficient justification, by phone, the monitoring requirement may be waived by DANR staff due to unsafe conditions associated with sampling.

Samples taken in compliance with the monitoring requirements for a discharge of manure or process wastewater established under this permit shall be collected prior to reaching surface waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Monitoring shall be conducted according to test procedures approved under 40 CFR 136 a.b.r. ARSD§ 74:52:03:06, unless other test procedures have been specified in this permit or approved by the Secretary. Analysis methods shall be sufficiently sensitive to ensure the minimum detection level for a pollutant is below the permit limit. If no sufficiently sensitive method is available, the method with the lowest minimum detection level shall be used.

Design, Construction, Operation, and Maintenance Requirements

The permit contains design, construction, operation, and maintenance requirements to ensure Dakota Layers, LLC - DL Specialty Eggs can comply with this permit's effluent limits, protect surface water quality, protect shallow aquifers, and ensure manure management systems are designed and constructed using proper engineering and construction standards.

DANR recommends implementing best management practices to reduce odor, flies, dust, noise, and other nuisances. These best management practices are not required because many of these issues are normally handled at the county level through land use ordinances.

Concrete Design Standards

This permit identifies the acceptable standards for concrete design for concrete structures and requires that the standards be applied within the scope of the specific standard.

- American Concrete Institute Standard (ACI) 318-25 (2025) *Building Code Requirements for Structural Concrete*.
- ACI 350-20 (2020) *Code Requirements for Environmental Engineering Concrete Structures*.
- ACI 360R-10 (2010) *Guide to Design of Slabs-on-Ground* Chapter 8 “Design of slab reinforced for crack-control width control.”

While Dakota Layers, LLC - DL Specialty Eggs does not require a containment structure for the submitted plans and specifications, these standards have been included to provide standards should a containment structure be required in the future.

Nutrient Management Requirements

An initial nutrient management plan was not required to be submitted with the permit application. All manure and litter generated at the operation will be converted on-site to commercial fertilizer. 40 CFR 122.42(e)(3) a.b.r. ARSD §74:52:02:22 allows for the transfer of manure, litter, or process wastewater to other persons, as long as they are provided with the most current nutrient analysis. As required by ARSD §74:52:02:22, Dakota Layers, LLC - DL Specialty Eggs will be required by this permit to annually provide a nutrient analysis to Ramsdell F&M, Ltd. Commercial fertilizer is regulated by the DANR Inspection, Compliance, and Remediation Program. Dakota Layers, LLC has obtained a bulk storage permit and a commercial fertilizer license under SDCL, Chapter 38-19 which must be maintained as a condition of this permit.

The SD-CPA-63 worksheet developed by South Dakota State University (SDSU), National Resources Conservation Service (NRCS), and DANR may be used to calculate the nutrient requirements and application rates for commercial fertilizer. DANR recommends that the SD-CPA-63 be used by landowners to prevent over application of nutrients. A producer interested in implementing conservation practices, including nutrient management planning, should contact their local NRCS Field Office to discuss the Environmental Quality Incentives Program and other assistance that may be available.

Inspection and Record Keeping Requirements

This permit contains inspection and recordkeeping requirements for the production area. These inspection and recordkeeping requirements are based on ARSD, Chapters 74:52:03, 74:52:10, and best professional judgment.

Site Inspection Requirements

This permit requires the producer to conduct daily inspections of water lines and visually inspect and document weekly inspections of all manure and litter containment structures, storm water diversion devices, runoff diversion structures, barns, exterior animal confinement areas, and mortality management facilities. Any deficiencies found as a result of these inspections shall be corrected as soon as possible. This requirement is from 40 CFR 412.37 a.b.r. ARSD §74:52:10:01.

Record Keeping Requirements for the Production Area

The producer shall retain records of all information required by this permit on-site for a period of five years from the date of any sample, measurement, documentation, or report as required by 40 CFR 122.42(e)(2)(B) a.b.r. ARSD §74:52:02:22. Records include:

1. Documentation of the required inspections including the condition of the vegetation in the exterior animal confinement areas.
2. Dates that animals are present in the exterior animal confinement areas.
3. Documentation of any actions taken to correct deficiencies including any necessary explanation of the factors preventing immediate correction.
4. Records of mortalities management and practices used by the CAFO.
5. Records documenting the current design of any manure or litter containment structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity.
6. Records of the date, time and estimated volume of any overflow or discharge of manure, litter, or process wastewater from the manure management system and any discharge monitoring sampling.
7. Records documenting the manure and litter transferred to Ramsdell F&M, Ltd. by the producer including the date of transfer, nutrient content, and the amount transferred.

Annual Reporting Requirements

Dakota Layers, LLC - DL Specialty Eggs will be required to submit an annual report to the department that includes maximum number of animals on site for the year, date and volume of any discharges, total amount of manure, litter, and process wastewater generated at the facility, and the amount of manure and litter transferred to Ramsdell F&M, Ltd. This requirement is from 40 CFR 122.42(e)(4) a.b.r. ARSD §74:52:02:22.

Overflow, Spill, or Discharge Reporting

The producer is required to report to DANR any overflow, spill, or discharge as soon as possible but no later than twenty-four (24) hours from the time the producer first became aware of the overflow, spill, or discharge. This permit includes a CAFO Discharge, Overflow, or Spill Form located in Appendix F of the permit. The 5-day time period for the written report in 40 CFR 122.41(l)6(i) a.b.r. ARSD §74:52:03:13 shall be waived and the report (Appendix F of the permit) be submitted to DANR for an overflow or spill 30 days from the date when the overflow or spill occurred to allow adequate time for sample transportation, laboratory testing, and reporting. In the

event of a discharge, the producer shall complete the CAFO Discharge, Overflow, or Spill Form located in Appendix F and submit it to DANR no later than the 28th day of the month following the month when the discharge occurred.

DANR Inspection

The producer can expect at least one construction inspection during construction of the facility. Based on the maximum poultry population and ARSD 74:57:01, once constructed, the operation will receive an Operation and Maintenance inspection within the first 18 months of operation and then at least annually thereafter.

Other Requirements

Notice of Completion

At the completion of construction and prior to populating the barns, the engineer conducting construction administration shall submit to DANR a Notice of Completion, found in Appendix A of the proposed permit, indicating the system was constructed in accordance with the approved plans. If there are any deviations from the approved plans, revised plans shall be submitted for review and approval prior to construction of those changes. The operation will then be issued a Certificate of Compliance for its maximum animal numbers and can populate the barns.

Environmental Training

The department requires producers seeking permit coverage to participate in an approved environmental training program. Verification was submitted showing that Jason Ramsdell has attended an approved program. The department recommends that individuals involved in the management of the facility attend environmental training as well.

Mortality Management

Animal mortalities will be confined to the nutrient storage areas and shall be handled to prevent the discharge of manure and process wastewater to surface waters of the state. Manure or process wastewater systems cannot be used for the disposal of mortalities. Animal mortality disposal is regulated by the South Dakota Animal Industry Board. The Animal Industry Board may be contacted at (605) 773-3321.

Appendices

Appendix A identifies where the Certification of Applicant form will be placed and provides the producer with a Notice of Completion to be returned to DANR when construction is complete. Appendices B and E have been included in the permit to identify where permit documentation will be placed. Appendices C and D provide the producer with the forms to transfer or terminate permit coverage should a change in ownership or operations at the facility occur. Appendix F has been included to provide the CAFO Discharge, Overflow, or Spill Reporting Form to the producer.

Other Permits That Will or May Be Required

Commercial Fertilizer License – A commercial fertilizer license (Company ID 2865) has been obtained from DANR’s Inspection, Compliance, and Remediation Program. For more information on this license, please contact the DANR at (605) 773-3296.

Bulk Commercial Storage Permit – A bulk commercial storage permit (1657-766) has been obtained for storing the manipulated manure/commercial fertilizer from DANR’s Inspection, Compliance, and Remediation Program. For more information on this permit, please contact DANR at (605) 773-3296.

Solid Waste – Eggshells produced by a facility must be treated in accordance with the solid waste rules (ARSD 74:27) and the state statutes for solid waste disposal (SDCL 34A-6). If eggshells are buried or land applied as a soil amendment, a solid waste permit is required. However, if eggshells are disposed of at an existing permitted landfill, the waste generator will not need a permit. For more information on the disposal of eggshells, please contact DANR’s Waste Management Program at (605) 773-3153.

Water Right Permit – A water right permit will not be required at this facility because it is proposing to receive its water from a rural water system that has its own existing water right. If the facility intends to obtain water through another means in the future, DANR’s Water Rights Program will need to be contacted at (605) 773-3352.

Storm Water Permit – A storm water permit (SDR10P5TJ) has been obtained from the Water Quality Program. Information concerning this permit and the pollution prevention plan can be obtained by calling the Water Quality Program at 1-800-737-8676. A copy of this plan must be kept on-site during construction for review by DANR inspectors.

Air Quality Permit – If the operation has sources that release air contaminants to the ambient air, it may need an air quality permit. Examples of equipment that may be regulated in the permit are boilers, emergency generators, and incinerators. If a permit is required, the facility will need to be permitted under the Air Quality Program before construction begins. For more information, please contact DANR’s Air Quality Program at (605) 773-3151.

Other Government – As the South Dakota Legislature has given the authority to establish setbacks to structures and other land uses to counties and municipal planning and zoning bodies, local governments may have setback distances, buffer zone widths, and other siting or environmental requirements established in local ordinances. Dakota Layers, LLC - DL Specialty Eggs is responsible for contacting the Brookings County planning and zoning office to determine if there are any local ordinances or requirements with which they need to comply. The producer is responsible for complying with all local ordinances and requirements.

If a stream, lake, or wetland will be dredged or filled during the construction of the manure containment system, then the United States Corps of Engineers must be contacted at (605) 224-8531 prior to construction of the manure management system.

Historical Sites – If the operation will encroach, damage or destroy any of the historic sites identified at the following websites: <https://history.sd.gov/preservation/default.aspx> or <https://www.nps.gov/subjects/nationalhistoriclandmarks/list-of-nhls-by-state.htm>, the producer shall first contact the State Historic Preservation Office at (605) 773-3458.

Endangered Species

This is an initial permit for an existing facility that is expanding animal numbers to meet the large CAFO definition at its current location. No listed endangered species are expected to be impacted by activities related to this permit. However, the table below shows the species that may be present in Dakota Layers, LLC - DL Specialty Eggs’ geographic area.

| COUNTY | GROUP | SPECIES |
|-----------|--------|--------------------------|
| BROOKINGS | MAMMAL | BAT, NORTHERN LONG-EARED |
| | FISH | SHINER, TOPEKA |

This information was accessible at the following US Fish and Wildlife Service website as of March 17, 2026: <https://ipac.ecosphere.fws.gov/>.

Antidegradation

Antidegradation does not apply to Dakota Layers, LLC - DL Specialty Eggs because discharges are not allowed. The results of this review are included in Attachment A.

Permit Duration

The permit shall be effective for five years from the effective date.

Permit Contact

The contact for this permit within the Department of Agriculture and Natural Resources is Heather Kent. The telephone number of the Livestock Services Program is (605) 773-4647.

ATTACHMENT A

Antidegradation Review

Permit Type: CAFO – New NPDES Applicant: Dakota Layers, LLC - DL Specialty Eggs
Date Received: 4/28/25 Permit #: SD0028660
County: Brookings Legal Description: NE ¼ of Sec. 10, T109N, R48W
Unnamed tributary of
Receiving Stream: Medary Creek Classification: 9, 10
If the discharge affects a downstream waterbody with a higher use classification, list its name and uses: Medary Creek, 6, 8, 9, 10

APPLICABILITY

1. Is the permit or the stream segment exempt from the antidegradation review process under ARSD 74:51:01? Yes No If no, go to question #2. If yes, check those reasons why the review is not required:

- Existing facility covered under a surface water discharge permit is operating at or below design flows and pollutant loadings;
- Existing effluent quality from a surface water discharge permitted facility is in compliance with all discharge permit limits;
- Existing surface water discharge permittee was discharging to the current stream segment prior to March 27, 1973, and the quality and quantity of the discharge has not degraded the water quality of that segment as it existed on March 27, 1973;
- The existing surface water discharge permittee, with DANR approval, has upgraded or built new wastewater treatment facilities between March 27, 1973, and July 1, 1988;
- The existing surface water discharge permittee discharges to a receiving water assigned only the beneficial uses of (9) and (10); the discharge is not expected to contain toxic pollutants in concentrations that may cause an impact to the receiving stream; and DANR has documented that the stream cannot attain a higher use classification. This exemption does not apply to discharges that may cause impacts to downstream segments that are of higher quality;
- Receiving water meets Tier 1 waters criteria. Any permitted discharge must meet water quality standards;
- The permitted discharge will be authorized by a Section 404 Corps of Engineers Permit, will undergo a similar review process in the issuance of that permit, and will be issued a 401 certification by the department, indicating compliance with the state's antidegradation provisions; or
- Other: No discharge is allowed by this permit.

No further review required.

FORMAL REVIEW

2. Is the stream segment classified as an OSRW? Yes No If no, go to question #3. **If yes, no change in water quality allowed. No further review required.**
3. Will there be an insignificant change in water quality? Yes No If no, go to question #4. **If yes, no further review required. List reason why discharge is insignificant**
- Only temporary change in water quality will result from the discharge;
 - Resulting change in water quality from the discharge will only affect a water quality parameter that is only regulated by a narrative standard and the discharge will not adversely impact the stream's beneficial uses;
 - Volume of the proposed discharge is small compared to the flow in the stream. The ratio of the average stream flow to discharge flow is greater than 50:1;
 - The increase in pollutant loading at critical low flow is expected to be less than 20% of the stream's assimilative capacity;
 - The resulting change in water quality from the discharge is less than one standard deviation of the mean concentration of the ambient water quality; or
 - Other: **This permit does not authorize an increase in effluent limits.**
-
4. Are existing, regulated point or nonpoint sources located in the area in compliance with required controls or has a compliance schedule been established for these sources? Yes No If no, establish an appropriate compliance schedule prior to approving, as proposed, the activity under review.
5. Based on available information, are there existing uses that are better than the currently designated uses? Yes No If yes, use protection of the higher existing use(s) as the basis for antidegradation decision-making and arrange to upgrade the currently designated use(s).
6. Will existing uses be fully maintained and protected? Yes No If no, recommend denial of the activity as proposed.

ANTIDEGRADATION REVIEW SUMMARY

7. The outcome of the review is:
- A formal antidegradation review was not required for reasons stated in this worksheet. Any permitted discharge must ensure water quality standards will not be violated.
 - The review has determined that degradation of water quality should not be allowed. Any permitted discharge would have to meet effluent limits or conditions that would not result in any degradation estimated through appropriate modeling techniques based on ambient water quality in the receiving stream, or pursue an alternative to discharging to the waterbody.

- The review has determined that the discharge will cause an insignificant change in water quality in the receiving stream. The appropriate agency may proceed with permit issuance with the appropriate conditions to ensure water quality standards are met.
- The review has determined, with public input, that the permitted discharge is allowed to discharge effluent at concentrations determined through a total maximum daily load (TMDL). The TMDL will determine the appropriate effluent limits based on the upstream ambient water quality and the water quality standard(s) of the receiving stream.
- The review has determined that the discharge is allowed. However, the full assimilative capacity of the receiving stream cannot be used in developing the permit effluent limits or conditions. In this case, a TMDL must be completed based on the upstream ambient water quality and the assimilative capacity allowed by the antidegradation review.
- Other: _____

8. Describe any other requirements to implement antidegradation or any special conditions That are required as a result of this antidegradation review: _____

Heather Kent, P.E.
 Reviewer

3/24/26
 Date

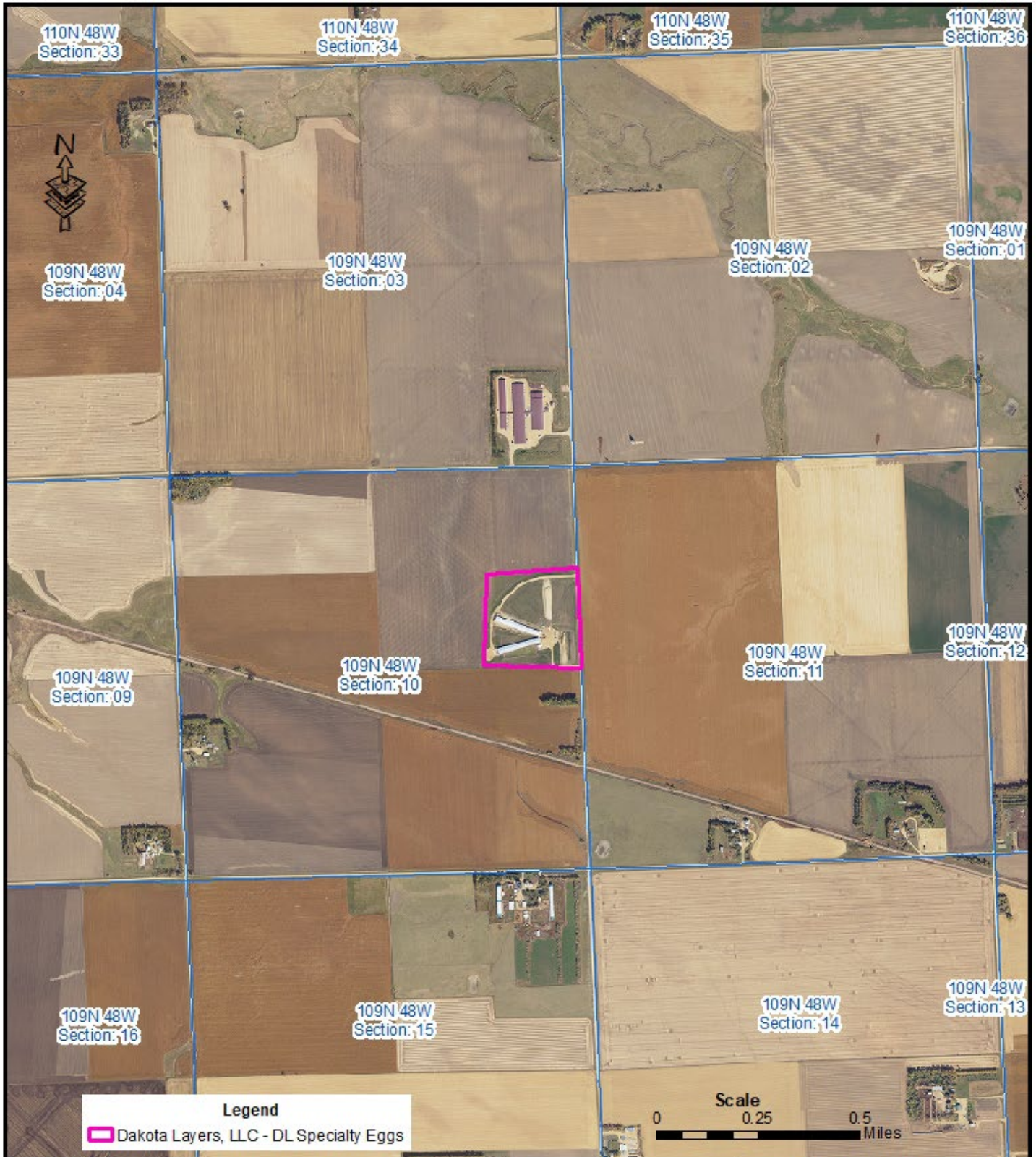
Troy Roth, P.E.
 Program Supervisor or Team Leader

3/24/26
 Date

ATTACHMENT B

Proposed CAFO Location

Dakota Layers, LLC - DL Specialty Eggs



| | |
|---|----------------------------------|
| FACILITY: Dakota Layers, LLC - DL Specialty Eggs | PERMIT NUMBER: SDG-100000 |
| LEGAL DESCRIPTION: Northeast 1/4 of Section 10, Township 109 North, Range 48 West | |
| COUNTY: Brookings | DATE: March 24, 2026 |
| Note: Facility location is approximate within the 1/4 section and should be verified with plans submitted by the producer. | |