

WATER PERMIT NO. 2804-2

Name of Applicant: Dougherty Cattle Company Inc.

Address: 28615 321st Ave, Colome SD 57528

Phone: 605 842-1115

Amount of Water Claimed: 0.13 cfs 76.62 AF

Total Acres: NA

Source of Water Supply: groundwater (3 wells)

Water to be used for: commercial

County: Tripp

Type of Waste Disposal System:

Location: 1 mile west of Colome

PRIORITY Date Received: 8-30-19

Application/License Fee: \$ 700

Corrected Application Received: 9-10-19

Period of Annual Use: Jan 1 – Dec 31

Remarks: cattle feedlot operation

Diversion Point: ^WNW 1/4 NE 1/4 sec 5-T97N-
R75W

Land to be Irrigated: NA

Depth of Well: 2 wells – 70 feet, 1 well-1963 feet

Well Driller:

Remarks:

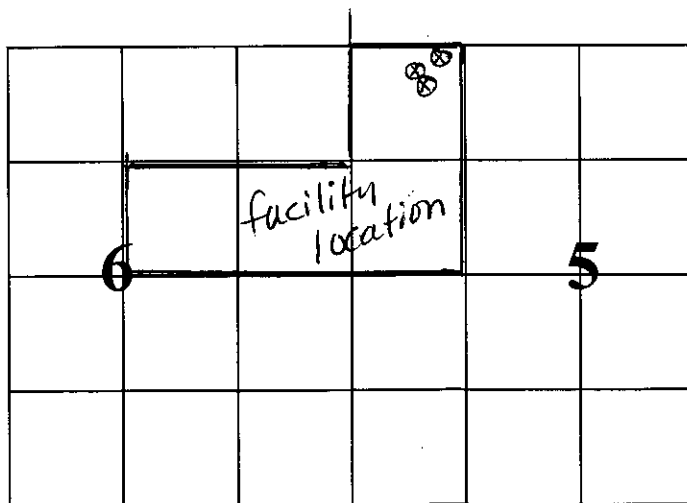
Type of Map: plat

Prepared by:

Reviewed and the Number Assigned on: 9-10-19

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 2804-2**

Date of first receipt of application August 30, 2019.

Date of receipt of corrected application September 10, 2019.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2804-2 to Dougherty Cattle Company Inc, 28615 321st Ave, Colome SD 57528 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. 2804-2 appropriates 76.62 acre-feet of water annually at a maximum pump rate of 0.13 cubic feet of water per second from one well completed into the Dakota Aquifer (1,963 feet deep – 60.5 acre-feet annually) and two wells completed into the Ogallala Aquifer (70 feet deep – 16.12 acre-feet annually) all located in the NW 1/4 NW 1/4 Section 5 for commercial use in a livestock confinement facility located in the W 1/2 Section 5 and S 1/2 NE 1/4 Section 6; all in T97N-R75W. This site is located approximately 1 mile west of Colome SD.
2. The water appropriated shall be used for the purpose of commercial use 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. 2804-2 is December 16, 2019.
5. The date from which applicant may claim right is August 30, 2019.
6. One-fifth of the construction is to be completed on or before June 16, 2022.
7. All construction is to be completed on or before December 16, 2024.
8. Water is to be put to beneficial use on or before December 16, 2028.
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 wells approved under Water Permit No. 2804-2 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall 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. Water Permit No. 2804-2 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.

(continued)

3. Water Permit No. 2804-2 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions
4. The Permit holder shall separately report to the Chief Engineer annually the amount of water withdrawn from the Upper Dakota and the Ogallala aquifer.
5. Water Permit No. 2804-2 authorizes a total annual diversion of 60.5 acre feet of water from the Dakota aquifer and 16.12 acre feet of water from the Ogallala aquifer.

WATER MANAGEMENT BOARD

By: *Jeanne Goodman*
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 10 2020
date



Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2804-2</u> (office use only) Hydrologic Unit <u>10150001</u>
	Basin <u>Niobrara Trib</u>
	Newspaper <u>Winner Advocate</u>
	<u>Capital Journal</u>

RECEIVED
email
SEP 10 2019

WATER RIGHTS
PROGRAM

*Originally received
8/30/19*

Application For Permit To Appropriate Water Within The State Of 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 'Livestock Facility | |

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 Dougherty Cattle Company, Inc.

Mailing Address 28615 321st Ave Colome SD 57528
(Address) (City) (State) (Zip Code)

Phone 605-842-1115 Mobile _____ Email herbdougherty@yahoo.com

2. Amount of water claimed 0.13 *CFS or 60 **GPM and Old Well 1: 8.06 AF 76.62 AF
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) Old Well 2: 8.06 AF or _____ Gallons
Well 00070460: 60.5 AF capacity of dam/dugout or annual use)

3. Source of water supply 3-Wells, Registered Well 00070460 50 GPM, two old wells 5 GPM each

4. Location of point of diversion Wells in NW 1/4, NW1/4 Section 5-T97N-R75W County Tripp
(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? Includes W 1/2 of, Sec/ 5 and S 1/2 NE 1/4 Sec. 6, T 97 N, R 75 W
(example - NW1/4 section 12-T104N-R53W)

5. County or counties where water will be used Tripp

6. Annual period during which water is to be used Year Round 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)

Application for existing wells to serve an 8,500 head beef feedlot

I, Cameron Dougherty Owner _____, 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.

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 _____ Have test holes been drilled ☐ Yes ☐ No Drilled by _____
(if yes, please provide copies of logs)

b) If existing wells, how many 3 Provide copy of log(s), if available. Drilled by 2014 well, Rapid Drilling LLC

For either Existing or Proposed Wells: Two old wells are approximate 70' deep.

Note: Well information is for registered 00070460 well

c) Well Depth (required) 1,963' Depth to Top of Water Bearing Material 456' Depth to Water from Surface 456'

d) Distance to nearest domestic well on applicant's property 210' Property owned by others 130'

2. Wastewater Disposal System Information

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

b) System Capacity (gallons) _____ Year Constructed _____

c) Connected to the City of _____ Sanitary System

3. Dugout Information

a) Surface Dimensions _____ Depth _____

b) Depth to water (ground surface to water level) _____

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)

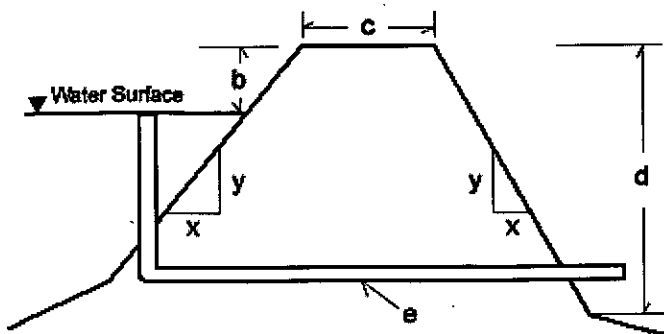
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

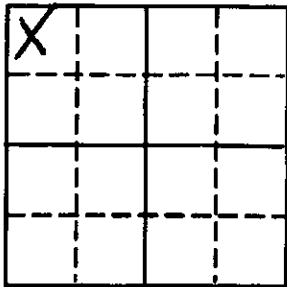
i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



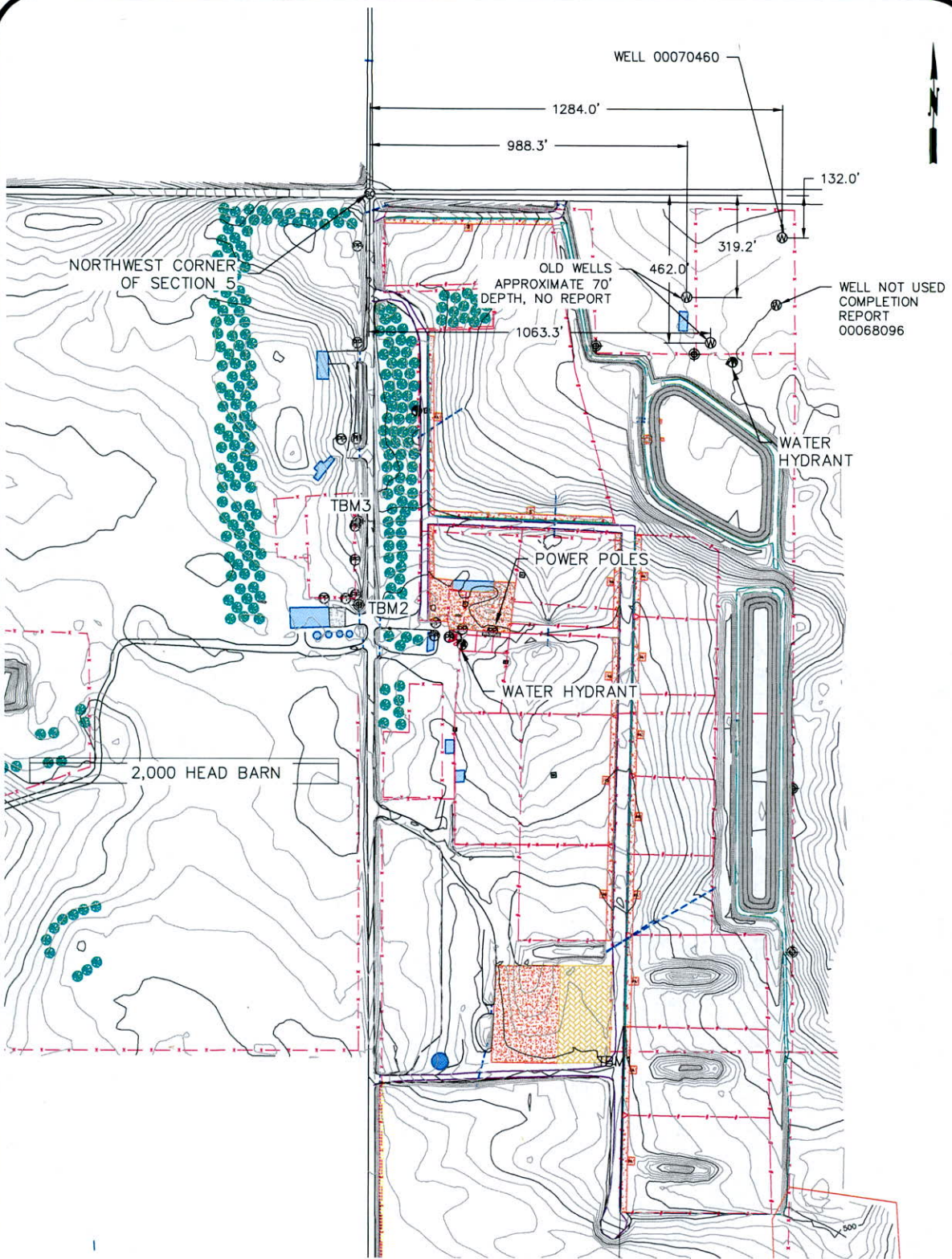
SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location <u>NW 1/4 NW 1/4 Sec 5 Twp 97N Rg 75W</u> County <u>Tripp</u> Please mark well location with an "X"  Well completion Date <u>7-28-14</u> Distance from nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.) <u>1,000</u> ft. from <u>Feed lot</u> (Identify source)		Well Owner: <u>Cam Dougherty</u> Business Name: _____ Address1: <u>28615 321st Ave</u> Address2: _____ City, State, Zip: <u>Colome SD 57528</u> WELL LOG: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">FORMATION</th> <th style="text-align: center;">FROM</th> <th style="text-align: center;">TO</th> </tr> </thead> <tbody> <tr><td><u>Yellow clay</u></td><td><u>0</u></td><td><u>65</u></td></tr> <tr><td><u>peric shale</u></td><td><u>65</u></td><td><u>200</u></td></tr> <tr><td><u>Nickelstone</u></td><td><u>200</u></td><td><u>1060</u></td></tr> <tr><td><u>Turner sand</u></td><td><u>1060</u></td><td><u>1100</u></td></tr> <tr><td><u>shale</u></td><td><u>1100</u></td><td><u>1400</u></td></tr> <tr><td><u>Greenhorn</u></td><td><u>1400</u></td><td><u>1445</u></td></tr> <tr><td><u>shale</u></td><td><u>1445</u></td><td><u>1745</u></td></tr> <tr><td><u>Sand</u></td><td><u>1745</u></td><td><u>1963</u></td></tr> </tbody> </table>		FORMATION	FROM	TO	<u>Yellow clay</u>	<u>0</u>	<u>65</u>	<u>peric shale</u>	<u>65</u>	<u>200</u>	<u>Nickelstone</u>	<u>200</u>	<u>1060</u>	<u>Turner sand</u>	<u>1060</u>	<u>1100</u>	<u>shale</u>	<u>1100</u>	<u>1400</u>	<u>Greenhorn</u>	<u>1400</u>	<u>1445</u>	<u>shale</u>	<u>1445</u>	<u>1745</u>	<u>Sand</u>	<u>1745</u>	<u>1963</u>
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PROPOSED USE: ☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes ☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well METHOD OF DRILLING: <u>Mud Rotary</u> CASING DATA: ☒ Steel ☐ Plastic ☐ Other If other describe: _____ <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>PIPEWEIGHT</th> <th>DIAMETER</th> <th>FROM</th> <th>TO</th> <th>HOLE DIAMETER</th> </tr> </thead> <tbody> <tr> <td><u>20</u> LB/FT</td> <td><u>7"</u> IN</td> <td><u>0</u> FT</td> <td><u>975</u> FT</td> <td><u>8 3/4</u> IN</td> </tr> <tr> <td><u>10.50</u> LB/FT</td> <td><u>4 1/2</u> IN</td> <td><u>963</u> FT</td> <td><u>1963</u> FT</td> <td><u>6 1/4</u> IN</td> </tr> </tbody> </table>		PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER	<u>20</u> LB/FT	<u>7"</u> IN	<u>0</u> FT	<u>975</u> FT	<u>8 3/4</u> IN	<u>10.50</u> LB/FT	<u>4 1/2</u> IN	<u>963</u> FT	<u>1963</u> FT	<u>6 1/4</u> IN	STATIC WATER LEVEL <u>456</u> FEET If flowing: closed in pressure _____ PSI GPM flow _____ through _____ inch pipe. Controlled by ☐ Valve ☐ Reducers ☐ Other _____ Reduced flow rate _____ GPM Can well be completely shut in? _____ WELL TEST DATA: ☒ Pumped Describe: <u>Air</u> ☐ Bailed ☐ Other _____ Pumping Level Below Land Surface <u>700</u> FL After <u>6</u> Hrs. pumped <u>50</u> GPM _____ FL After _____ Hrs. pumped _____ GPM If pump installed, pump rate: _____ GPM													
PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER																										
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GROUTING DATA: Grout Type No. of Sacks Grout Weight From To <u>Portland cement</u> <u>150</u> Lb/gal <u>0</u> Ft <u>975</u> Ft <u>Portland cement</u> <u>105</u> Lb/gal <u>963</u> Ft <u>1963</u> Ft Describe grouting procedure <u>Pumped Through casing</u> SCREEN: ☐ Perforated pipe ☐ Manufactured Diameter _____ inches Length _____ Feet Material _____ Slot Size _____ Set From _____ Feet to _____ Feet Other Information <u>Electronically Perforated.</u>		REMARKS <u>Perforated 80' 1800 - 1880</u> <u>4 shots per ft</u> <u>0.67 shot size</u> RECEIVED AUG 11 2014 WATER RIGHTS PROGRAM																												
WAS A PACKER OR SEAL USED? ☐ Yes ☒ No If so, what material? _____ Describe packer(s) and location _____ DISINFECTION: Was well disinfected upon completion? ☐ Yes, How? _____ ☒ No, Why Not? <u>Not Completed</u> Lab sample sent to for water quality analysis _____		This well was drilled under license # <u>739</u> And this report is true and accurate. Drilling firm: <u>Rapid Drilling L.L.C.</u> Signature of License Representative: _____ Signature of Well Owner or Equitable Property Holder: _____ Date: _____																												

Please return White Copy to DENR Water Rights

523 E. Capitol Ave., Pierre SD 57501



GENERAL NOTES

LEGEND

- WATER WELL
- BUILDINGS
- FENCELINE
- CULVERT/PIPE
- TREES

SCALE FEET



DRAFT

"NOT FOR CONSTRUCTION"

DeHaan, Grabs & Associates, LLC
Registration Number: C-1341

No.	Revision/Issue	Date



DOUGHERTY FEEDLOT

NW 1/4, SECTION 8, T.97 N., R.78 W.
TRIPP COUNTY, SD

WELL LOCATION

DATE: AUG. 30, 2019	SHEET: 2
SCALE: 1" = 300'	
DRAWN BY: CAS	
CHECKED BY: DLD	



530730829

B0088-8835 02/06/2019 11:01AM Rec'd by SD SOS

Secretary of State
500 E. Capitol Ave
Pierre, SD 57501-5070
(605) 773-4845

2019
FILING YEAR

ANNUAL REPORT

Domestic Business Corporation
SDCL 59-11-24, 24.1

Please Type or Print Clearly in Ink
Please submit one Original
Make payable to the SECRETARY OF STATE

Filing Fee: \$50

Total Fee: \$50

1. Business ID and Name:

DB042454
BUSINESS ID

DOUGHERTY CATTLE COMPANY, INC.
BUSINESS NAME

2. The jurisdiction under whose law it is formed **SOUTH DAKOTA**

3. The address of the principal executive office (business address):

Actual Street Address

28615 321ST AVE
COLOME, SD 57528-6303

Mailing Address

28615 321ST AVE
COLOME, SD 57528-6303

4. The South Dakota Registered Agent's Name:

South Dakota law permits the registered agent to be either (a) a noncommercial registered agent, (b) a commercial registered agent, or (c) an office holder.

(a) The South Dakota Noncommercial Registered Agent's name

Name **CAMERON DOUGHERTY**

Actual Street Address in this State

28615 321ST AVE
COLOME, SD 57528-6303

Mailing Address in this State

5. The names and business addresses of its principal officers.

Title	Name	Address
President	CAMERON DOUGHERTY	28615 321ST AVE, COLOME, SD, 57528
Vice President	CHERYL DOUGHERTY	28615 321ST AVE, COLOME, SD, 57528
Secretary	CHERYL DOUGHERTY	28615 321ST AVE, COLOME, SD, 57528
Treasurer	CHERYL DOUGHERTY	28615 321ST AVE, COLOME, SD, 57528

6. The names and business addresses of its directors (governors).

Name	Address
------	---------

7. Beneficial Owners (optional): A beneficial owner is a person who has or in some manner controls an equity security. Please consult an attorney for legal advice if you have any questions concerning this entry. Any question under this heading is considered a request for legal advice and the secretary of state's office is, by statute, not permitted, to provide legal advice.

No person may execute this report knowing it is false in any material respect. Any violation may be subject to a civil and/or criminal penalty (SDCL 47-1A-129; 22-39-36).

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 9, 2019

RECEIVED OF Dehaan, Grabs & Associates, LLC 4200 21st St SE Unit 101 Mandan ND 58554

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

Fee for Application for Permit No. <u>2804-2</u> to Appropriate Water, to construct and to put water to beneficial use	500	00
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>2804-2</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	700 00

No. **09202**

By Jeanne Goodman
Chief Engineer Jm



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

September 9, 2019

RECEIVED

SEP 10 2019

WATER RIGHTS
PROGRAM

Cam Dougherty
Dougherty Cattle Company, Inc.
28615 321st Avenue
Colome, SD 57528-6303

RE: Dougherty Cattle Company, Inc. – Proposed Expansion & 2017 State General Permit
Application Plans and Specifications Review

Dear Mr. Dougherty:

The Department of Environment and Natural Resources received three copies of plans and specifications for your proposed expansion with your application for state permit coverage under the 2017 *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* (general permit), **permit application number SDG-100321**. The existing manure management system is located in the West ½ of the West ½ of Section 5, Township 97 North, Range 75 West in Tripp County, South Dakota. The proposed deep pit barn will be located in the Northeast ¼ of Section 6, Township 97 North, Range 75 West in Tripp County, South Dakota.

Your permitted manure management system consists of two separate systems feeding a maximum of 6,500-head of beef cattle. Your south system consists of piping, diversion dikes and channels, a sediment basin, a holding pond, and 25.7 acres of drainage area. Your north system consists of piping, diversion dikes and channels, a sediment basin, a holding pond, and 37.5 acres of drainage area. Each sediment basin is designed with at least 365 days of solids storage and the holding ponds are designed with at least 365 days of liquid storage.

Your proposed manure management system is for a new housed lot feeding a maximum of 2,000-head of beef cattle for a total population of 8,500-head. Your proposed system consists of a deep pit barn and no acres of drainage area. The proposed deep pit barn meets the requirements of the general permit and has at least 270 days of liquid storage capacity.

State Permit Application

Your submittal includes an application for state permit coverage under the 2017 *General Water Pollution Control Permit for Concentrated Animal Feeding Operations*. The submitted documents include a new Certification of Applicant Form, a new Notice of Intent Form, documents identifying the officers, shareholders, and those with signatory authority for the corporation, a new Operation and Maintenance Guideline, an evaluation of the holding ponds using the Soil, Plant, Air, and Water

(SPAW) model with 100 years of climatic data showing the holding ponds are designed to not discharge, and an updated nutrient management plan (NMP). Your facility will continue to have permit coverage under the 2003 general permit until permit coverage is issued to you under the 2017 state general permit.

We have reviewed and hereby conditionally approve the plans and specifications for your proposed expansion with your state permit application. This approval expires on September 9, 2021, unless construction of the deep pit barn has been started by that date. Once construction has commenced, you will have three years to complete construction and submit a Notice of Completion. If construction is not completed within the three year timeframe this approval will expire. Two copies of the approved plans and specifications are being retained for our files and requirements you must implement are listed on the attached pages.

If any deviations are required from the approved plans, as-built plans will be required. A complete set of as-built plans will be required if any major deviations result. If you plan to make any of the following modifications to your approved permit application prior to obtaining permit coverage, you will need to start the permitting process over which will require a new public notice. These modifications include: a change to the location of a process wastewater containment structure where additional soil borings are needed; a change to the type of manure or process wastewater storage structure; an increase in the amount of manure or process wastewater generated; a decrease in the manure or process wastewater storage volume in the manure containment system; or a modification to the nutrient management plan that results in a change in crop rotation or an increase in the land application acres.

Upon completion of construction, the enclosed Notice of Completion must be returned to the department. **You cannot populate the deep pit barn, use the deep pit barn for manure storage, or confine more than 6,500-head of beef cattle at the operation until an amended Certificate of Compliance is issued and coverage is granted under the 2017 state general permit. Once the Notice of Completion has been received and a satisfactory construction inspection has been conducted, the department will issue an amended Certificate of Compliance and coverage under the 2017 state general permit.**

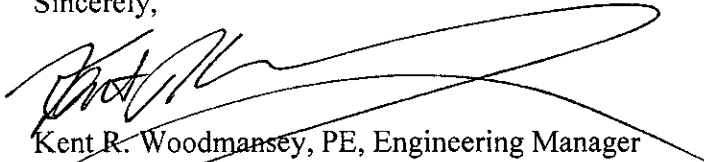
Continued compliance is dependent upon you performing proper operation and maintenance activities. You will be liable for any noncompliance with applicable South Dakota environmental laws or regulations.

Our review covers works of sanitary significance and does not cover items such as quality of material, structural soundness, or electrical and mechanical design features. Approval of the plans and specifications does not in any way release the applicant from the responsibility that the project will be an operable facility when construction is completed.

Cam Dougherty
Dougherty Cattle Company, Inc.
September 9, 2019
Page 3 of 10

If you have any questions regarding the content of this letter, please feel free to contact Neal Konda, Feedlot Permit Program at (605) 773-3351. Thank you for your cooperation.

Sincerely,



Kent R. Woodmansey, PE, Engineering Manager
Feedlot Permit Program
Phone: (605) 773-3351

cc: Nathan Pesta, PE, DGA Consulting Engineers, 4200 21st Street SE, Unit 101, Mandan,
ND 58554
Joe Guenther, Nutrient Advisors, LLC, 449 E Deere Street, West Point, NE 68788
Tripp County Commissioners
Eric Gronlund, DENR Water Rights Program

Enclosures: Construction Schedule Postcard
Notice of Completion Form

REQUIREMENTS

The following requirements must be implemented before we will issue an amended Certificate of Compliance and coverage under the 2017 state general permit. Failure to implement these requirements will invalidate this approval.

Plans & Specifications

The plans and specifications review is to determine whether seepage, storage, and other design requirements will be met.

1. Revised Site Plan

An as-built site plan that includes the all the components of your manure management system must be submitted for review and approval.

State General Permit

You will be required to operate your feeding operation and manure management system in accordance with the requirements in the general permit.

1. Unpermitted Open Lots

During operation and maintenance inspections, the department has noted open lots that are outside the drainage boundary of the permitted operation being used to feed cattle. Any open lot meeting the definition of an animal feeding operation that is within one mile and under common ownership must be included as part of the permitted operation. These open lot areas must be included as part of the system and have runoff controls installed or be operated in such a manner so as to not meet the definition of an animal feeding operation. **A written plan detailing how open lot areas outside the permitted facility will be used in a manner that does not meet the animal feeding operation definition is required to be submitted. The written plan must be submitted before the department will issue 2017 permit coverage for the deep pit barn.**

2. Environmental Training

Kelly Dougherty is your on-site representative and he attended the environmental training session on March 6, 2019. A copy of the training certificate was included with the permit application.

3. Ground Water Monitoring

Based on the system design, soil boring logs, and other published reports and information, this system does not appear to overlie a shallow aquifer and should not impact ground water. Therefore, a Ground Water Discharge Permit and ground water monitoring will not be required. Should the design or operation of the facility change appreciably, new hydrogeological information become available, or any contamination problems be reported, the department reserves the right to reassess

REQUIREMENTS CONTINUED

the need for possible remediation, monitoring of ground water, or a Ground Water Discharge Permit.

As part of the review for the proposed deep pit cattle barn, the existing system was reevaluated to determine the presence of a shallow as defined in SDCL 34A-3A-24. Based on the information from the fourteen test holes submitted with the plans and specifications from the existing and proposed portions of the operation, there does not appear to be a uniform, shallow aquifer within 50 feet of the land surface in the vicinity of the existing and proposed containment structures. Therefore, ground water monitoring at your operation may be discontinued. All monitoring wells at the existing facility should be plugged in accordance with ARSD 74:02:04:69 or 74:02:04:70. **You are required to continue the existing ground water monitoring program until the department receives documentation of proper monitoring well plugging, with plugging reports submitted in accordance with ARSD 74:02:04:71.** For additional information concerning ground water monitoring, please contact Troy Roth, at (605) 773-3351.

4. Disposal of Animal Mortalities

The general permit requires that animal mortalities shall be handled to prevent the discharge of pollutants to surface waters. Proper disposal of animal mortalities, including composting, is regulated by the South Dakota Animal Industry Board. If you plan to compost animal mortalities at your operation, you must contact the Animal Industry Board, at (605) 773-3321, for information on their composting requirements. If manure or process wastewater is used in the composting process, permit coverage for the composting structure is required.

5. Notification

Construction Schedule - You or your engineer must notify the department of the proposed construction schedule for your project to allow our personnel the opportunity for construction inspections. Please fill out the enclosed postcard and return it to us prior to beginning construction of the deep pit barn. If any of the dates change from the ones submitted on the postcard, please notify us at (605) 773-3351 and ask for Neal Konda.

Other Government - You are responsible for contacting your local planning and zoning office to determine if there are any local ordinances or requirements with which you need to comply. If a stream, lake, or wetland will be dredged or filled during the construction of the deep pit barn, you need to contact the United States Army Corps of Engineers' South Dakota Regulatory Office at (605) 224-8531 prior to beginning construction of the manure management system.

Notice of Completion - The Notice of Completion form must be completed by your engineer and returned to the department when construction of the deep pit barn is complete. **You cannot populate the deep pit barn, use the deep pit barn for manure storage, or confine more than 6,500-head of beef cattle at the operation until an amended Certificate of Compliance is issued and coverage is granted under the 2017 state general permit. Once the Notice of Completion has been received and a satisfactory construction inspection has been conducted,**

REQUIREMENTS CONTINUED

the department will issue an amended Certificate of Compliance and coverage under the 2017 state general permit.

6. Initial Nutrient Management Plan (NMP)

Your submitted NMP indicates that manure and wastewater will be applied year-round and that the methods of manure application will include broadcast with and without incorporation and injection. If solid manure or process wastewater is applied to fields other than cropped fields, grass, alfalfa, pasture land, or no-till cropland, liquid manure and process wastewater must be incorporated within 24 hours and solid or semi-solid manure must be incorporated within 5 days. Additional requirements pertaining to your NMP are listed on the following pages.

An updated field list will be provided when permit coverage is granted under the 2017 state general permit. Until that time, you may continue to use your currently approved NMP for the land application of manure and wastewater from your operation in compliance with your coverage under the 2003 general permit. Additional items that still need to be submitted for your new NMP and those that will apply to your new NMP when permit coverage is granted under the 2017 state general permit are addressed below.

A. Annual Soil Testing

Annual soil samples from 0 to 2 feet are required on all manure land application fields prior to manure application. The fields identified as being located over a shallow aquifer are shaded in Table 1 and have additional soil testing requirements. For these fields, soil tests are required from 0 to 2 feet **and** 2 to 4 feet prior to manure application.

For fields that require additional soil testing from 2 to 4 feet, you have the option to either conduct the initial 0 to 2-foot and the 2 to 4-foot soil test prior to land application or the alternative option to conduct the initial 0 to 2-foot soil test prior to land application and a second 0 to 2-foot soil test within four weeks of harvesting the crop. Please refer to section 1.4.4.3., beginning on page 35 of the 2017 general permit, for the annual nutrient management requirements. **You must notify the department in writing if you plan to use the alternative post-harvest soil sampling option instead of the 2 to 4-foot soil sampling requirement.**

If you have not elected to conduct the alternative post-harvest soil sampling and the department determines you are not conducting the required 2 to 4 foot soil sampling prior to manure application, you will be required to conduct the alternative post-harvest soil sampling on all fields requiring the additional 2 to 4 foot soil sampling and no longer have the option of taking the additional 2 to 4-foot soil samples prior to land application.

B. Approved Land Application Fields

The fields listed in Table 1 below are approved for the land application of manure or process wastewater once 2017 permit coverage is issued. **Before manure or wastewater can be applied to these fields, you must obtain a current soil test and use the table on page 34 of**

REQUIREMENTS CONTINUED

the 2017 general permit to determine whether the field fits into a nitrogen need, one-year phosphorus crop removal, five-year phosphorus crop removal, or no application category based on the current phosphorus level of the field and the predicted annual erosion. Please refer to the table on page 34 and the annual nutrient management requirements beginning on page 35 of the 2017 general permit prior to the land application of manure to determine the proper procedure for calculating the appropriate application rate for each specific field.

Table 1: Dougherty Cattle Company, Inc. Approved Land Application Fields

CPA-63 Line #	County	Legal Description	Total Acres	Available Acres	Soil Sampling Requirements	
					0-2 feet	Additional
1	Tripp	E ½, Section 8, T98N, R75W	315.5	291.0	Yes	No
2	Tripp	W ½, Section 9, T98N, R75W	364.6	333.1	Yes	No
3A	Tripp	N ½ of NW ¼, Section 35, T98N, R76W	57.9	57.9	Yes	Yes
3B	Tripp	NW ¼, Section 35, T98N, R76W	62.8	62.8	Yes	Yes
3C	Tripp	NE ½ of NE ¼, Section 35, T98N, R76W	40.1	31.4	Yes	Yes
3D	Tripp	S ½ of NW ¼, Section 35, T98N, R76W	76.4	65.6	Yes	Yes
4	Tripp	S ½, Section 35, T98N, R76W	449.4	236.5	Yes	Yes
5	Tripp	SE ¼, Section 29, T98N, R75W	137.3	134	Yes	No
6	Tripp	S ½ of SW ¼, Section 31, T98N, R75W	76.0	60.3	Yes	Yes
7	Tripp	SW ¼, Section 33, T98N, R75W	145.4	143.7	Yes	No
8	Tripp	SW ¼, Section 35, T98N, R75W	122.0	122	Yes	No
9	Tripp	SE ¼, Section 35, T98N, R75W	150.6	141	Yes	No
10	Tripp	NE ¼ of NW ¼, Section 6, T97N, R75W	49.5	44.1	Yes	Yes
11	Tripp	SE ¼ of NW ¼, Section 6, T97N, R75W	52.1	33.5	Yes	Yes
12	Tripp	Part of N ½ of NE ¼, Section 6, T97N, R75W	42.7	33.3	Yes	Yes
13	Tripp	S ½ of NE ¼, Section 3, T97N, R75W	50.5	49.0	Yes	No
14	Tripp	N ½ of NE ¼, Section 3, T97N, R75W	92.4	92.4	Yes	No
15A	Tripp	S ½ of NW ¼, Section 2, T97N, R75W	61.9	61.4	Yes	No
15B	Tripp	N ½ of NW ¼, Section 2, T97N, R75W	89.7	81.3	Yes	No
16A	Tripp	SE ¼, Section 5, T97N, R75W	212.4	208.3	Yes	No
16B	Tripp	W ½ of SW ¼, Section 5, T97N, R75W	59.6	51.7	Yes	No
17	Tripp	S ½ of NE ¼, Section 8, T97N, R75W	89.8	87.6	Yes	No
18	Tripp	W ½ of NW ¼, Section 9, T97N, R75W	75.4	68.5	Yes	No
19	Tripp	N ½ of NW ¼, Section 13, T97N, R75W	80.4	79.8	Yes	No
20	Tripp	NE ¼ of SE ¼, Section 6, T97N, R76W	20.1	20.1	Yes	Yes
21	Tripp	NW ¼ of NW ¼, Section 16, T97N, R76W	32.3	32.3	Yes	Yes
22	Tripp	SE ¼ of SE ¼, Section 34, T98N, R76W	30.6	26.9	Yes	Yes
23	Tripp	Part of Section 6, T97N, R76W	66.2	66.2	Yes	Yes
24	Tripp	Part of NE ¼, Section 6, T97N, R76W	61.3	58.3	Yes	Yes
25	Tripp	NE ¼ of SW ¼, Section 15, T97N, R75W	104.4	104.4	Yes	No
26	Tripp	W ½, Section 15, T97N, R75W	66.8	66.8	Yes	No
27	Tripp	SW ¼, Section 15, T97N, R75W	131.2	124	Yes	No
28	Tripp	SW ¼, Section 22, T97N, R75W	81.9	76.5	Yes	No

REQUIREMENTS CONTINUED

CPA-63 Line #	County	Legal Description	Total Acres	Available Acres	Soil Sampling Requirements	
					0-2 feet	Additional
29	Tripp	NW ¼, Section 22, T97N, R75W	142.6	142.1	Yes	No
30	Tripp	SW ¼, Section 13, T96N, R76W	159.8	150.6	Yes	Yes
31	Tripp	SW ¼ of SE ¼ and SE ¼ of SW ¼, Section 30, T98N, R75W	67.7	67.1	Yes	No
32	Tripp	E ½ of NW ¼ and W ½ of NE ¼, Section 31, T98N, R75W	151.1	146.2	Yes	No
33	Tripp	NE ¼ of SW ¼ and NW ¼ of SE ¼, Section 30, T98N, R75W	79.6	78.4	Yes	No
34	Tripp	N ½ of NW ¼, Section 4, T97N, R75W	64.4	59.6	Yes	No
35	Tripp	N ½ of NE ¼, Section 4, T97N, R75W	74.9	73.6	Yes	No
36	Tripp	S ½ of NE ¼, Section 4, T97N, R75W	75.9	75.9	Yes	No
37	Tripp	NW ¼, Section 3, T97N, R75W	67.6	57.8	Yes	No
38	Tripp	SW ¼, Section 34, T98N, R75W	68.4	68.4	Yes	No
39	Tripp	N ½ of SW ¼, Section 6, T97N, R75W	32.1	29.9	Yes	Yes
40	Tripp	S ½ of SW ¼, Section 6, T97N, R75W	80.1	69.1	Yes	Yes
41	Tripp	SE ¼, Section 13, T98N, R75W	143.5	136.2	Yes	No
Total Available Acres				4,300.6		

Please note in your initial NMP the estimated time it will take to build your listed fields up to 50 ppm (Olsen test) or 75 ppm (Bray-1 test) of phosphorus. You may need additional land in order to apply to your fields based on phosphorus removal at that time.

C. Land Application to Saturated, Snow-Covered, or Frozen Soil

The fields identified on lines 3A, 3B, 7, 13, 14, 16A, 17, 18, 20, 23, 27, 28, 31, 32, 34, and 35 of your submitted NMP are designated as winter or emergency application areas. The winter application maps identify the appropriate setbacks that need to be excluded from land application when the soil is saturated, snow-covered, or frozen and land application is absolutely necessary. You should notify the department and review the winter field map prior to land applying during these soil conditions.

Incorporation to non-vegetated crop ground is required for winter application. If incorporation is not possible, winter application may only be to cropped fields, grass, alfalfa, pasture land, or no-till cropland. The general permit requires manure or process wastewater applied to non-vegetated cropland to be incorporated; liquid manure and process wastewater must be incorporated within 24 hours and solid or semi-solid manure must be incorporated within 5 days.

D. Modification to Crop Rotation

Your initial NMP identifies a specific crop rotation for each field and includes a list of alternative crops that may be substituted into the rotation. If for any reason an alternative crop that is not included in the list of alternative crops is planned to be grown, that change would be

REQUIREMENTS CONTINUED

considered a major modification and would require a revised alternative crop list to be submitted to the department for review and approval.

E. Certified Soil and Manure Testing Laboratories

As part of your annual nutrient management planning requirements, soil and manure tests must be analyzed by certified soil testing and manure testing labs. The laboratory analyzing the soil samples must participate in the **North American Proficiency Testing Programs' Proficiency Assessment Program** and the labs that are currently certified are listed on the following website: <http://www.naptprogram.org/pap/labs>. The laboratory analyzing the manure or process wastewater must be certified by the **Manure Testing Laboratory Certification Program** and the manure testing labs that are currently certified are listed on the following website: <http://www2.mda.state.mn.us/webapp/lis/manurelabs.jsp>.

If you or your crop consultant sends your soil or manure samples to a lab that is not listed on either of these websites, you and/or crop consultant may want to tell them that you need to use a certified lab so they can become certified.

F. Field Addition Requirements

To add fields to your approved NMP, you must submit the required information for each additional field to the department for our review and approval. Information on adding fields to your approved NMP may be obtained from your local Natural Resources Conservation Service (NRCS) office. You may also contact us for assistance at (605) 773-3351, or visit our website at <http://denr.sd.gov/des/fp/FieldAdditions.aspx> for instructions on adding fields to your NMP. **You cannot apply manure to any fields not included in your approved NMP.**

G. Mobile Land Application Systems

If a mobile land application system using temporary piping will be used for the land application of liquid manure or process wastewater, the equipment must be equipped with an on-board radio controller and flow meter that can be overseen by the applicator. See Section 1.4.4.1.m. on page 30 of the 2017 general permit for more information on this requirement.

7. Setback Distance and Water Wells

The manure management system and the application sites must be located at least 100 feet from a private well owned by you if the top of the aquifer is 100 feet or more below the land surface, 150 feet from a private well owned by you if the top of the aquifer is less than 100 feet below the land surface, 250 feet from a private well not owned by you and 1,000 feet from any public supply well. These areas cannot be included in the land application areas.

REQUIREMENTS CONTINUED

8. Other Permits That Will or May Be Required

Storm Water Permit - If construction will disturb more than one acre in total land area, **you must obtain a general storm water construction permit.** This permit must be obtained before you can start constructing your proposed manure management system. Information concerning this permit can be obtained by calling the Surface Water Quality Program at 1-800-737-8676. **A copy of this plan must be kept on-site during construction for review by DENR inspectors.**

Water Right Permit - The Engineering Report dated June 14, 2019, indicates three onsite wells supply water for the feedlot. At the maximum population, usage is estimated to be approximately 118 gallons per minute. Flow rates in excess of 18 gallons per minute continuously or a peak flow rate in excess of 25 gallons per minute require a water right. Department records indicate a water right application has been filed with the water rights program. **Please work with the water rights program to ensure your application is completed.**

If a water right will not be obtained, you are required to install flow meters prior to the first water use location per section 1.4.8.1 of the 2017 permit. The flow meter shall be used to document the operation does not exceed the maximum allowable daily water volume and flow rate allowed without having a Water Right permit. Flow documentation shall be maintained on-site for review during DENR inspections.

Emergency Power Generator - The department has observed that emergency power generators have been installed at similar sized operations. If an emergency power generator will be installed at your operation it may require that you obtain an air quality permit. Please contact Kristen Hendricks with the department's Air Quality Program at (605) 773-3151, to determine whether an air quality permit is required. If an air quality permit is required, you must have that permit prior to using the generator.

Permit to Occupy Right of Way - If manure application will involve placing hoses or other equipment in a state highway right of way (for example, in a road ditch or through a culvert), you must first obtain a Permit to Occupy Right of Way. Application for this permit may be made through the local South Dakota Department of Transportation area office. Contact your local SD DOT area office for more information on this permit. In addition, please contact your county highway superintendent to determine if your county has similar requirements.

Schlaak, Karen

From: Nathan A. Pesta <nate@dgaengineering.com>
Sent: Tuesday, September 10, 2019 1:24 PM
To: Gronlund, Eric
Cc: 'Kelly Dougherty'; Schlaak, Karen
Subject: RE: [EXT] Dougherty Water rights permit
Attachments: Dougherty Water Permit Application.pdf

Eric,
I have checked in with Kelly and Cam,
We have updated the Permit Application to have Cameron's name on it.
Nathan

From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Monday, September 9, 2019 2:45 PM
To: Nathan A. Pesta <nate@dgaengineering.com>
Cc: 'Kelly Dougherty' <herbdougherty@yahoo.com>; Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: Dougherty Water rights permit

The name on the application signature block is Kelly Dougherty. The Secretary of State's web site show Cameron and Cheryl Dougherty as the listed principal officers for Dougherty Cattle Company, Inc. Can you either change the name on the signature block on the application and resubmit or provide a statement of authority for Kelly Dougherty to act in this capacity on behalf of the corporation. Eric

From: Nathan A. Pesta <nate@dgaengineering.com>
Sent: Friday, August 30, 2019 3:31 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: 'Kelly Dougherty' <herbdougherty@yahoo.com>; Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] Dougherty Water rights permit

Yes I think so, the location in section 5 I would want to simplify it to the W ½.

From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Friday, August 30, 2019 3:06 PM
To: Nathan A. Pesta <nate@dgaengineering.com>
Cc: 'Kelly Dougherty' <herbdougherty@yahoo.com>; Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: Dougherty Water rights permit

\$500 application filing fee + \$200 licensing fee for a total of \$700.

Do you concur with the location of the wells and area where water will be used?

From: Nathan A. Pesta <nate@dgaengineering.com>
Sent: Friday, August 30, 2019 2:30 PM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: 'Kelly Dougherty' <herbdougherty@yahoo.com>; Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] Dougherty Water rights permit

Eric,
I have updated per your request. Given the 60 GPM what is payment required?

From: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Sent: Friday, August 30, 2019 1:14 PM
To: Nathan A. Pesta <nate@dgaengineering.com>
Cc: Kelly Dougherty <herbdougherty@yahoo.com>; Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: Dougherty Water rights permit

Nathan & Kelly:

Based on the map – DENR's understanding is the two older wells are in the same aquifer at a depth of approximately 70 feet and the 2014 well is in a different aquifer as it is 1963 feet deep. Let us know if you think otherwise.

Under Item No. 2 of the agenda, in addition to the pump rate please provide annual volume to be diverted (either gallons or acre feet) from each source. When estimating be reasonable but do not under estimate the annual volume.

Under Item No. 4 - based on the map, it appears all three wells are in the NW ¼ NW ¼ Section 5 and the place of use includes the W ½ NW ¼ NW ¼ SW ¼ Section 5 and the S ½ NE ¼ Section 6; all in T97N-R75W. Do you concur?

We will await receiving the application filing fee.

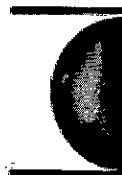
Eric

From: Nathan A. Pesta <nate@dgaengineering.com>
Sent: Friday, August 30, 2019 11:02 AM
To: Gronlund, Eric <Eric.Gronlund@state.sd.us>
Cc: Kelly Dougherty <herbdougherty@yahoo.com>
Subject: [EXT] Dougherty Water rights permit

Eric,
Here is the application for Kelly Dougherty Water rights permit. The application fee will be put in the mail.
Let me know if you need anything else.

Thanks,

Nathan Pesta | P.E.
Senior Engineer | Owner
Send Large Files to:
<https://www.dropbox.com/request/TPNH>



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WWW.DGAENGINEERING.COM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2804-2, Dougherty Cattle Company, Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2804-2, Dougherty Cattle Company, Inc., c/ Cameron Dougherty, 28615 321st Avenue, Colome SD 57528.

The Chief Engineer is recommending APPROVAL of Application No. 2804-2 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 rights, 3) the proposed use is a beneficial use and, 4) it is in the public interest with the following qualifications:

1. The wells approved under Water Permit No. 2804-2 will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under these Permits shall 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. Water Permit No. 2804-2 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-36.2 or 34A-2-112 or 34A-2-124 for concentrated animal feeding operations.
3. Water Permit No. 2804-2 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions

(continued)

4. The Permit holder shall separately report to the Chief Engineer annually the amount of water withdrawn from the Upper Dakota and the Ogallala aquifer.
5. Water Permit No. 2804-2 authorizes a total annual diversion of 60.5 acre feet of water from the Dakota aquifer and 16.12 acre feet of water from the Ogallala aquifer.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "Jeanne Goodman", with a long horizontal flourish extending to the right.

Jeanne Goodman, Chief Engineer
November 13, 2019

- * The well completed into the Ogallala aquifer using concrete curbing casing cannot be used since it does not meet the South Dakota Well Construction Standards. This application affords Dougherty Cattle Company to plug this well and drill a replacement well that meets the well construction standards or rehabilitate the well to bring it into compliance with the standards. Independent of what is done with the well that does not meet the standards, if this application is approved, Dougherty Cattle Company will be authorized to use the Dakota aquifer well and the Ogallala aquifer well that meets the construction standards up to the permitted amount of water.

**Report to the Chief Engineer
Water Permit Application No. 2804-2**

Dougherty Cattle Company, Inc.

23 October 2019

Dougherty Cattle Company, Inc. c/o Cameron Dougherty proposes to appropriate 76.62 acre-feet of water annually (ac-ft/yr) at a maximum pump rate of 0.13 cubic feet of water per second from one well completed into the Dakota aquifer (1963 ft deep, 60.5 ac-ft/yr) and two wells completed into the Ogallala aquifer (70 ft deep, 16.12 ac-ft/yr) in the NW ¼ NW ¼ Section 5 for commercial use in a livestock confinement facility located in the W ½ Section 5 and S ½ NE ¼ Section 6; all in T97N-R75W. This site is located approximately 1 mile west of Colome, SD. Because this application seeks to withdraw from two different aquifers, separate analyses are required for each aquifer.

Aquifer: Dakota (DKOT)

Hydrogeologic characteristics

The Dakota Formation is composed of sandstone, siltstone, and clay/shale deposited during the late Cretaceous Period, which extends throughout most of South Dakota. It lies directly below the Greenhorn Formation and overlies the Skull Creek shale in most of South Dakota (Schoon, 1971). Where the Skull Creek shale is not present, the Dakota Formation overlies older sedimentary rocks which are aquifers in some places (Schoon, 1971). A stratigraphically equivalent formation to the Dakota formation, called the Newcastle formation, outcrops near the Black Hills. In South Dakota, the Dakota aquifer is composed of the saturated and permeable portions of the Dakota and Newcastle Formations. It underlies approximately 66,500 square miles in South Dakota with an average thickness of at least 150 feet (Schoon, 1971). The amount of water in storage within the Dakota aquifer can be estimated by conservatively assuming a porosity estimate of 15% and multiplying the porosity (Rahn, 1979), average thickness, and areal extent of the aquifer together, resulting in at least 960 million acre-feet of water in storage in South Dakota. The Dakota aquifer is under confined conditions except near the outcrops of the Newcastle Formation in the Black Hills and the Dakota Formation near Dakota City, Nebraska (Schoon, 1971).

The well the applicant proposes to use was completed on July 28, 2014. The driller reported finding yellow clay from land surface to 65 feet below grade, Pierre Shale from 65 to 200 feet, Niobrara formation from 200 to 1,060 feet, "Turner sand" from 1,060 to 1,100 feet, shale from 1,100 to 1,400 feet, the Greenhorn Formation from 1,400 to 1,445 feet, shale from 1,445 to 1,745 feet, and sand from 1,745 to 1,963 feet. The static water level at the time of drilling was 456 ft below grade. The geology and static water level reported are consistent with previously mapped data for the Greenhorn Formation's structure and potentiometric surface of the Dakota aquifer, so the sand the driller encountered from 1,745 to 1,963 feet below grade is sandstone from the Dakota Formation (Schoon, 1971). Figure 1 shows a map of the area of interest, Ogallala and Dakota aquifer water rights (SD Water Rights, 2019a), DENR observation wells completed into the Ogallala and Dakota aquifers (SD Water Rights, 2019d), and surface geology (Martin, et al., 2004).

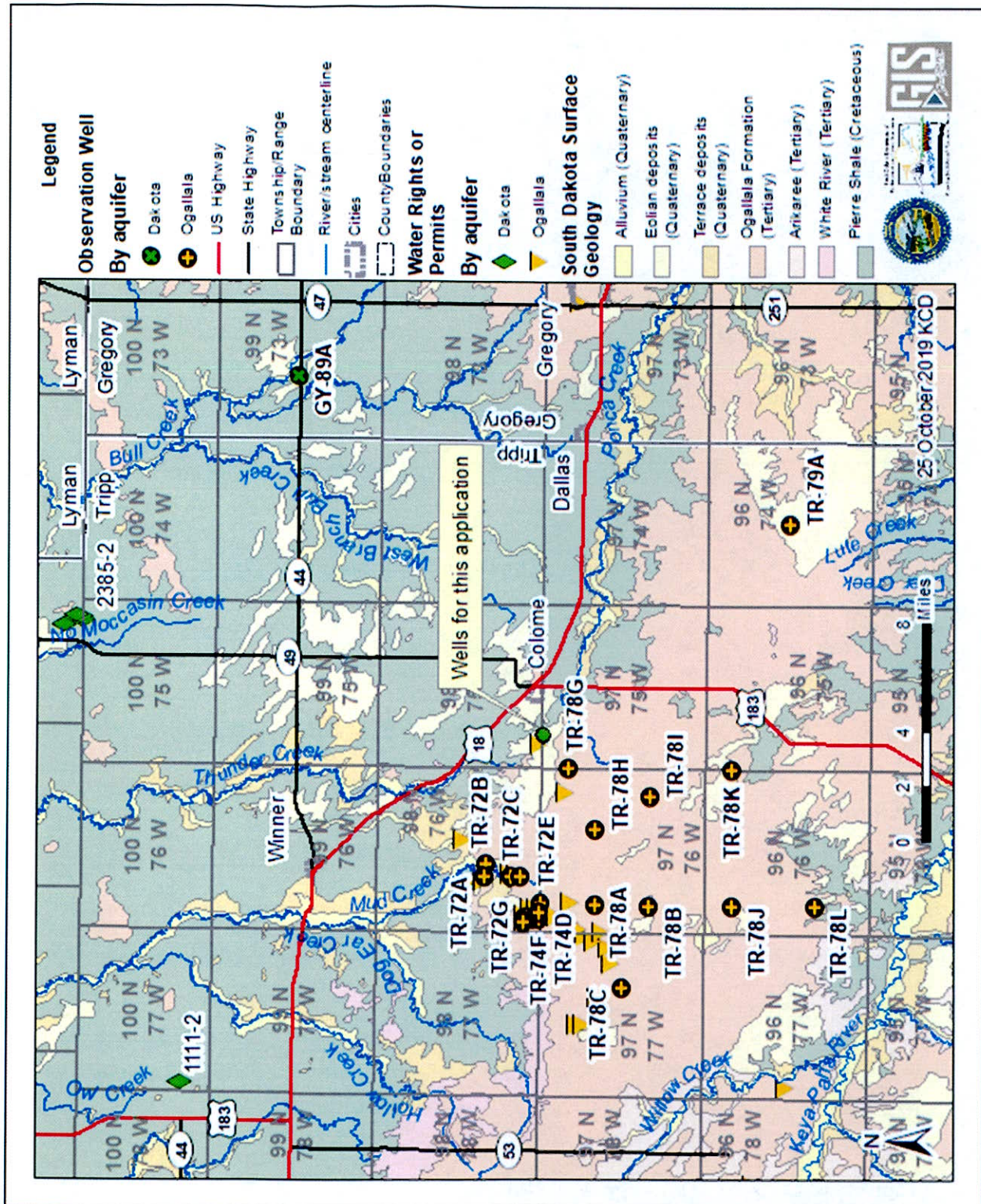


Figure 1: The applicant's well locations, Dakota and Ogallala water rights/permits, observation wells, and South Dakota surface geology in the area of interest (SD Water Rights, 2019a, 2019d; Martin, et al., 2004)

Applicable South Dakota Codified Law (SDCL)

Pursuant to SDCL 46-2A-9, a permit to appropriate water may be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights, and that the proposed use is a beneficial use and in the public interest. This report will assess the availability of water and possibility of developing this application without unlawful impairment of existing rights only.

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 the water to the groundwater source. An exception allows water distribution systems to withdraw from groundwater sources older or stratigraphically lower than the Greenhorn Formation regardless of the results of a hydrologic budget. The Dakota aquifer is older and stratigraphically lower than the Greenhorn Formation. However, Dougherty Cattle Company, Inc. is not a water distribution system as defined in SDCL 46-1-6(17). Therefore, it is necessary to find that recharge exceeds withdrawals to approve this application.

Availability of water

Hydrologic budget

Recharge

Recharge to the Dakota aquifer is by seepage from lower aquifers and infiltration from precipitation where the Newcastle formation crops out at the edge of the Black Hills (Bredehoeft, et al., 1983). Bredehoeft, et al. (1983) calibrated a multidimensional computer model to match the modeled potentiometric surface of the Dakota aquifer to the one mapped by Darton (1909) and estimated that before development of the Dakota aquifer, recharge was approximately 79.4 cfs (approximately 57,500 ac-ft/yr). However, that model is based on a number of incorrect or outdated assumptions. For example, Bredehoeft et al. (1983) assume there is no flow across state boundaries, and the recharge estimates they use for the Madison aquifer are significantly less than estimates found by more recent research (Carter, et al., 2002). Bredehoeft et al.'s (1983) estimate may provide a sense of scale of the aquifer's recharge rate, but it cannot be used as a precise value for water management purposes. The number of confounding factors make it uncertain whether the true recharge rate is higher or lower than Bredehoeft et al.'s (1983) estimate.

Discharge

Discharge from the Dakota aquifer is by outflow to the Dakota Formation in other states, outflow to adjacent aquifers when the potentiometric surface of the Dakota aquifer is higher than the adjacent aquifers, outflow to uncontrolled/uncontrollable flowing wells to the land surface or stratigraphically higher aquifers, and outflow to rivers when the potentiometric surface of the Dakota aquifer is higher than the stage of the rivers (Schoon, 1971). The Water Management Board does not consider uncontrolled flow from wells a withdrawal, but rather as discharge available for capture (SD Water Rights, 2019a). There are 241 active water rights/permits authorized to withdraw from the Dakota aquifer and 7 future use permits associated with the

Dakota aquifer, two of which reserve no water (SD Water Rights, 2019a). The total amount of water reserved for future use is 4,287 ac-ft/yr. Table 1 shows the number of each kind of permit withdrawing from the Dakota aquifer (SD Water Rights, 2019a).

Table 1: Number and kinds of Dakota aquifer water rights/permits (SD Water Rights, 2019a)

Primary Use Type:	Number of Licenses/Permits:
Commercial	95
Domestic	11
Fish and Wildlife Propagation	4
Geothermal	2
Industrial	6
Institutional	2
Irrigation	17
Municipal	89
Recreation	2
Rural Water System	6
Suburban Housing Development	7
Total:	241

Irrigation water right holders generally are required to submit an annual irrigation report. However, two irrigation water rights withdrawing from the Dakota aquifer are not required to report their withdrawals (SD Water Rights, 2019a). The two water rights not required to report comprise 31.2 of the 1,013.8 acres authorized to irrigate from the Dakota aquifer. Figure 2 shows the irrigation reported from the Dakota aquifer over the entire period of record (SD Water Rights, 2019b). The average irrigation reported over the period of record is 147.0 ac-ft/yr. By conservatively assuming the two non-reporting irrigation water rights apply at a rate of 1 acre-foot per acre, the total estimated average annual use for irrigation is 178.2 ac-ft/yr.

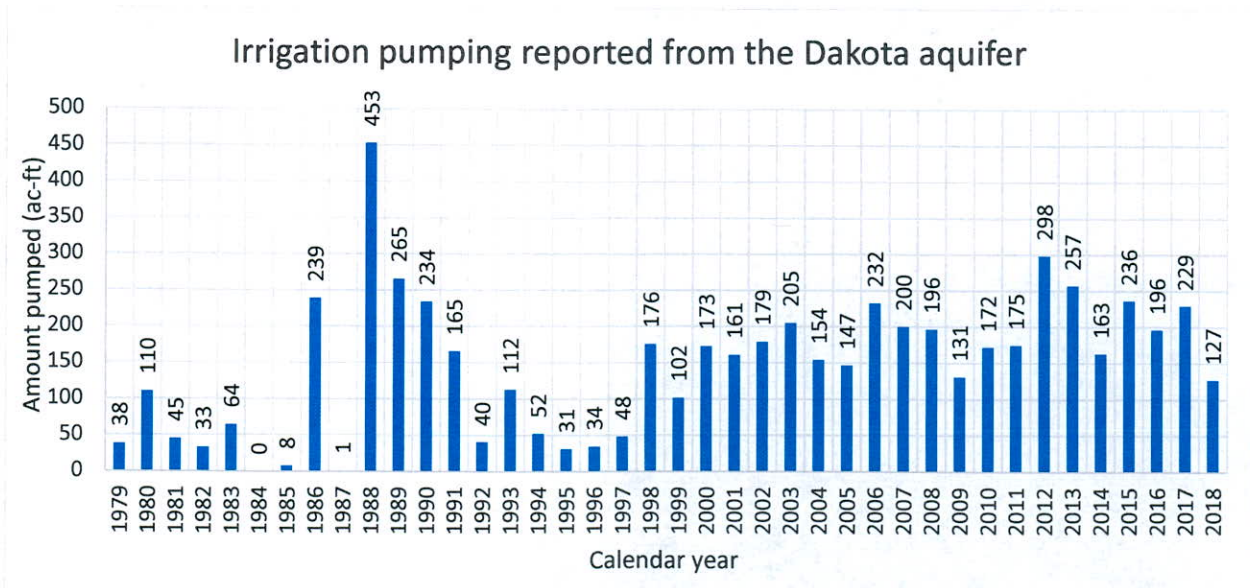


Figure 2: Irrigation pumping reported from the Dakota aquifer (SD Water Rights, 2019b)

Of the non-irrigation water rights/permits, some are required to report annual use, some are limited to an annual volume, and some have neither requirement. Water rights for municipal

users, rural water systems, and suburban housing developments that are known to purchase their water from a different water distribution system were assumed to withdraw a negligible amount of water (Friedeman, 2019b). For water rights/permits with an annual volume limit that were also required to report, the greater value between their annual volume limit and their average annual use was used in this withdrawal estimate (SD Water Rights, 2019c). This method increases the estimated use from the Dakota aquifer considerably above the actual average annual reported use, but some water right/permit holders report increased use each year while remaining below their permitted volume limit. This method of estimation accounts for the full volume of water appropriated for them. Non-irrigation water rights/permits only required to report their annual use are assumed to use their average annual reported use. Non-irrigation water rights only limited by an annual volume and not required to report their annual use are assumed to use their entire permitted annual volume (SD Water Rights, 2019c). The rest of the non-irrigation permits, or those only required to report their average annual use but have not reported enough years to find an average, are conservatively assumed to pump their maximum pump rate licensed/permitted 60% of the time. Therefore, the total annual use for non-irrigation water rights/permits is estimated to be 19,733.4 ac-ft/yr. Table 2 summarizes the estimated annual use calculations for non-irrigation water rights/permits in the Dakota aquifer.

Table 2: Summary of non-irrigation water right/permit use estimates (SD Water Rights 2019a, 2019c)

	No. Licenses/ Permits	Total pump rate (cfs)	Estimated use (ac-ft/yr)
Annual volume limit	27	N/A	8,625.1
Average reported use	11	N/A	603.2
Pumps 60% of the time	109	24.168	10,505.1
Purchased from other systems	94	0	0
Total	224		19,733.4

Balance of hydrologic budget

There is no certain estimate of the average annual recharge available. Bredehoeft et al. (1983) estimated a recharge rate on the order of 57,500 ac-ft/yr but several confounding factors make it uncertain if that is a high or low estimate. The estimated average annual use by irrigation water rights/permits is 178.2 ac-ft/yr. The estimated average annual use by non-irrigation water rights/permits is 19,733.4 ac-ft/yr. The amount of water reserved for future use is 4,287 ac-ft/yr. Therefore, the total estimated withdrawal from the Dakota aquifer is 24,198.6 ac-ft/yr, including the amount reserved for future use. This application seeks to withdraw an additional 60.5 ac-ft/yr from the Dakota aquifer. The total estimated withdrawal is less than 0.01 percent of the water stored in the Dakota aquifer in South Dakota. Therefore, based on the hydrologic budget, there is reasonable probability unappropriated water is available for this application.

Observation wells

Administrative Rule of South Dakota (ARSD) 74:02:05:07 requires that the Water Management Board must rely upon observation well measurements in addition to other information to determine the availability of unappropriated water for a groundwater use permit. The SD DENR Water Rights Program maintains 46 observation wells completed into the Dakota aquifer (SD Water Rights, 2019d). The nearest observation well maintained by the DENR to the well for this application is Observation Well GY-89A, located approximately 16 miles northeast of the well for this application. The hydrograph for GY-89A contains some rises and declines in 2016 and

2017 that may be from incorrect measurements and are still under review. The next nearest observation well is BL-83A, located approximately 41 miles north-northeast of the well for this application. Both observation well hydrographs are shown in Figure 3 (SD Water Rights, 2019d).

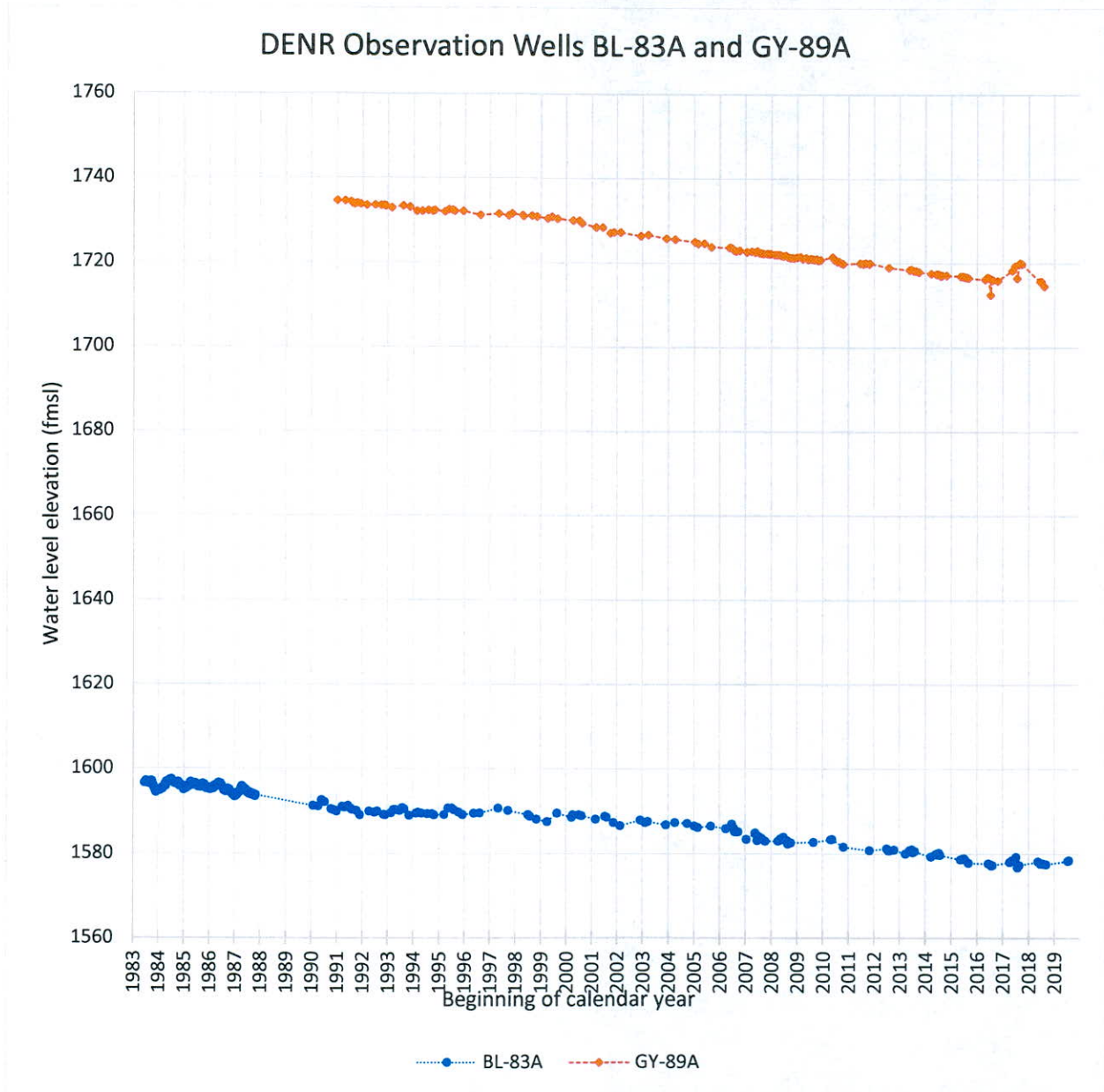


Figure 3: DENR Observation Wells BL-83A and GY-89A (SD Water Rights, 2019d)

Other than the observation well readings from 2016 and 2017 that are under review for accuracy, the hydrographs for these two wells are representative of the behavior of the Dakota aquifer in that portion of the state. In general, the water levels of DENR observation wells completed into the Dakota aquifer are slowly declining, although some observation wells in eastern South Dakota and Observation Well ED-85A in Edmunds County demonstrate an increase in water levels (SD Water Rights, 2019d). A decline in observation well water level does not necessarily indicate a significant decrease in water stored in confined aquifers, since the water level measured merely indicates the hydraulic head in the aquifer at the location measured. The

decline in water levels implies that some water that was leaving the aquifer by natural discharge or uncontrolled flowing wells is now being withdrawn for beneficial use. In the March 2010 hearing on the matter of Water Permit Application No. 7165-3, the Water Management Board determined that DENR observation well data indicated that recharge exceeded withdrawals and that the aquifer was approaching a new equilibrium as withdrawals increased (SD Water Rights, 2019a). Observation well water level trends have not changed significantly in the area of this application since then (SD Water Rights, 2019d). Therefore, based on observation well data, there is reasonable probability unappropriated water is available for this application.

Existing users

According to the map submitted with the application, the nearest domestic well on file with the DENR that is likely to be in the Dakota aquifer is located approximately 200 feet south of the well for this application and is owned by Kelly Dougherty, who works with the applicant. The map submitted with the application says that well is “not used.” The nearest domestic well on file with the DENR not owned by the Dougherty family is located approximately 9.1 miles northwest of the well for this application (SD Water Rights, 2019e). The nearest water right/permit withdrawing from the Dakota aquifer is Water Permit No. 2385-2, located approximately 17 miles north of the well for this application (SD Water Rights, 2019a). Since the Dakota aquifer is under confined conditions, drawdown from wells completed into it can extend for a significant distance. The exact drawdown behavior of the well cannot be known without an aquifer pumping test. However, in order to put the waters of the state to maximum beneficial use, SDCL 46-6-6.1 does not protect hydraulic head and well owners may be required to lower their pumps. In order to protect well owners, ARSD 74:02:04:20(6) defines an adequate well as:

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

There are no complaints on file with the Water Rights Program regarding well interference in Tripp County (SD Water Rights, 2019f). Given the lack of well interference complaints in Tripp County and the distance from the applicant’s well to the nearest Dakota aquifer domestic well or water right/permit, there is reasonable probability this application can be developed without unlawful impairment of existing rights or domestic users.

Aquifer: Ogallala (OGLL)

Hydrogeologic characteristics

In South Dakota, the Ogallala aquifer is an unconfined aquifer composed of the Ogallala Formation (sand and silt deposited during the Tertiary period) as well as eolian sands deposited during the Quaternary period (Filipovic, 2004). The Ogallala aquifer is also the stratigraphically highest local aquifer within the High Plains regional aquifer system (Filipovic, 2004). For water management purposes, the SD DENR Water Rights Program and the SD Water Management Board have historically considered appropriations from the High Plains aquifer to be either from the Ogallala aquifer or from the Arikaree aquifer (SD Water Rights, 2019a). In general, the Ogallala Formation overlies the Arikaree Formation. However, near the wells for this application, the Arikaree Formation is absent and the Ogallala Formation directly overlies the Pierre Shale (SDGS, 2019). The Ogallala aquifer extends over 1,140,360 acres (1,782 square miles) in South Dakota and is estimated to store approximately 19,929,600 acre-feet of water (Allen, et al., 1985).

The applicant proposes to withdraw water from two existing wells that are 70 feet deep and indicated the location of the wells on a draft plan submitted with the application. There are no well completion reports on file with the DENR that match the location and depth of those wells, which is reasonable if the wells were completed prior to the State of South Dakota implementing certain well construction standards. In general, ARSD 74:02:01:08.01 requires an applicant to submit a log of a test hole or test well with an application for a permit to use groundwater. However, an exception allows the Chief Engineer of the Water Rights Program to waive that requirement if sufficient geologic information is already available or it is not practical to have a test hole or well drilled at the time of application. Test holes drilled in 1968 did not find any saturated thickness in the Ogallala aquifer near the applicant's wells at that time (Barari, 1969). However, during wet periods, there may be saturated thickness in that area. A lithologic log approximately 0.2 miles southeast of the proposed wells in SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 6-T97N-R75W encountered light brown sand from 0 to 7 feet below grade, light gray sand from 7 to 11 feet, sandy, dark brown clay from 11 to 14 feet, and yellowish-brown clay from 14 to 24 feet (SDGS, 2019). A well completion report approximately 0.2 miles northwest of the proposed wells in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32-T98N-R75W encountered topsoil from land surface to 3 feet below grade and a clay and sand mix from 3 to 60 feet (SD Water Rights, 2019e). Both the well completion report and the lithologic log indicate that some aquifer material is available in the area of this application, and the aquifer is under unconfined conditions at this location. Therefore, sufficient geologic information is already available to evaluate this application.

Based on the lithologic log and well completion report mentioned above and an aquifer study for the City of Colome, which maps geology near Colome at an approximately 1:1,700 scale, the 70 feet deep wells the applicant proposes to use are likely to be completed into the Ogallala formation (Barari, 1969). Since the wells are 70 feet deep and the deepest nearby well completion report is 60 feet deep, it is possible a portion of the 70 feet deep wells penetrate into the Pierre Shale as well. For the withdrawal rate proposed by the applicant, the Pierre Shale is not considered an aquifer and the extra depth in those wells likely acts as a sump or place for sediments to collect. Figure 4 shows a map similar to Figure 1 but at a smaller scale to better show the details of the area of the project.

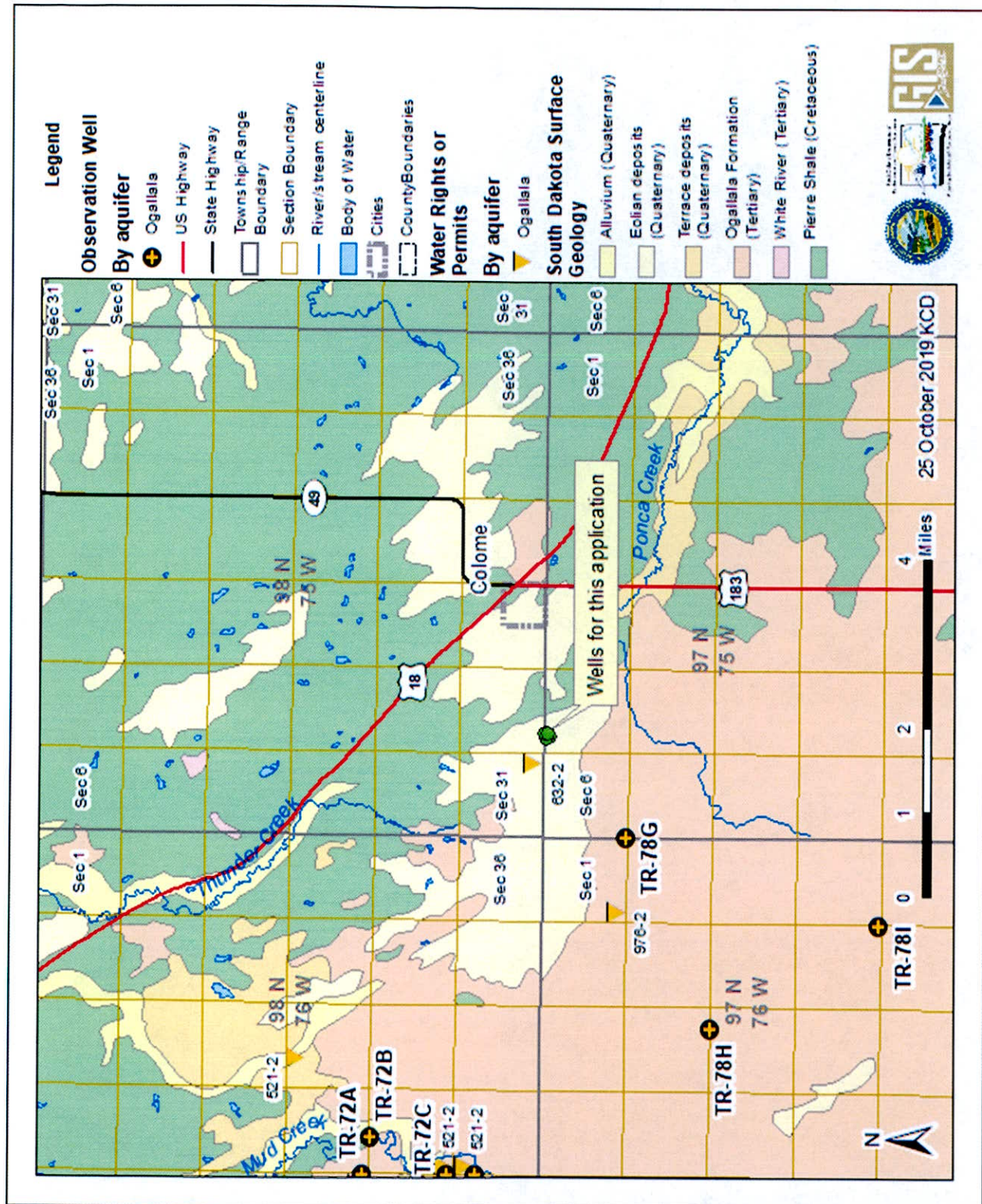


Figure 4: The applicant's well locations, Ogallala aquifer water rights/permits and observation wells, surface geology (SD Water Rights 2019a, 2019d; Martin et al., 2004)

Applicable South Dakota Codified Laws (SDCL)

Since the Ogallala aquifer is another groundwater source, the same laws mentioned in the section on the Dakota aquifer apply for the wells proposed to withdraw from the Ogallala aquifer. However, in this case, the Ogallala aquifer is stratigraphically higher and younger than the Greenhorn Formation. Therefore, in order to approve this application, SDCL 46-6-3.1 requires the Water Management Board to find that there is reasonable probability recharge to the Ogallala aquifer would exceed withdrawals regardless of the applicant's status as a water distribution system.

Availability of water

Hydrologic budget

Recharge

Recharge to the Ogallala aquifer is by infiltration from precipitation and surface water features when the stage of the surface water is higher than the hydraulic head of the aquifer. Several estimates of recharge to the aquifer are available from several sources, shown in Table 3. From the table, annual recharge estimates range from 123,540 ac-ft/yr to 276,540 ac-ft/yr.

Table 3: Ogallala recharge estimates (Kolm and Case, 1983; Hedges and Burch, 1985; Long and Putnam, 2010)

Est. Avg. Ann. Recharge rate (in/yr)	Method	Source	Est. Avg. Ann Recharge (ac-ft/yr)
1.3 - 1.8	Computer model	Kolm and Case, 1983	123,540 - 171,050
2.2 - 3.4	Observation well data	Hedges and Burch, 1985	209,070 - 323,100
1.88	Base-flow recession	Hedges and Burch, 1985	178,660
2.91	Computer model	Long and Putnam, 2010	276,540

Discharge

Discharge from the Ogallala aquifer is by evapotranspiration when the hydraulic head of the aquifer is near the surface of the land, discharge to surface water features when the hydraulic head of the aquifer is higher than the stage of the surface water features, outflow to adjacent aquifers when the hydraulic head of the Ogallala aquifer is higher than that of the adjacent aquifers, and withdrawal from wells by domestic and appropriative users (Filipovic, 2004). Due to the low pump rates for domestic use and prevalence of rural water systems in the area, self-serve domestic use is considered negligible for the hydrologic budget. There are 169 active water rights/permits withdrawing from the Ogallala aquifer and four future use permits, although one reserves no water (SD Water Rights, 2019a). The American Indian tribes that overlie the Ogallala aquifer manage water use for American Indians on land entrusted to the tribes within Indian Reservation boundaries. Their average annual withdrawal from the Ogallala aquifer is unknown. Of the 169 active water rights/permits issued by the State of South Dakota, 140 are for irrigation, 19 are for municipal use, five are for rural water systems, two are for institutional use, and one each are for commercial, domestic, and fish and wildlife propagation (SD Water Rights, 2019a). The four future use permits reserve a total of 2,251 ac-ft/yr (SD Water Rights, 2019a).

Irrigation water rights/permits are generally required to report their annual withdrawal. Figure 5 shows irrigation reported in the Ogallala aquifer over the period of record. The average reported withdrawal rate for irrigation water rights/permits in the Ogallala aquifer is 19,126.9 ac-ft/yr (SD Water Rights, 2019b).

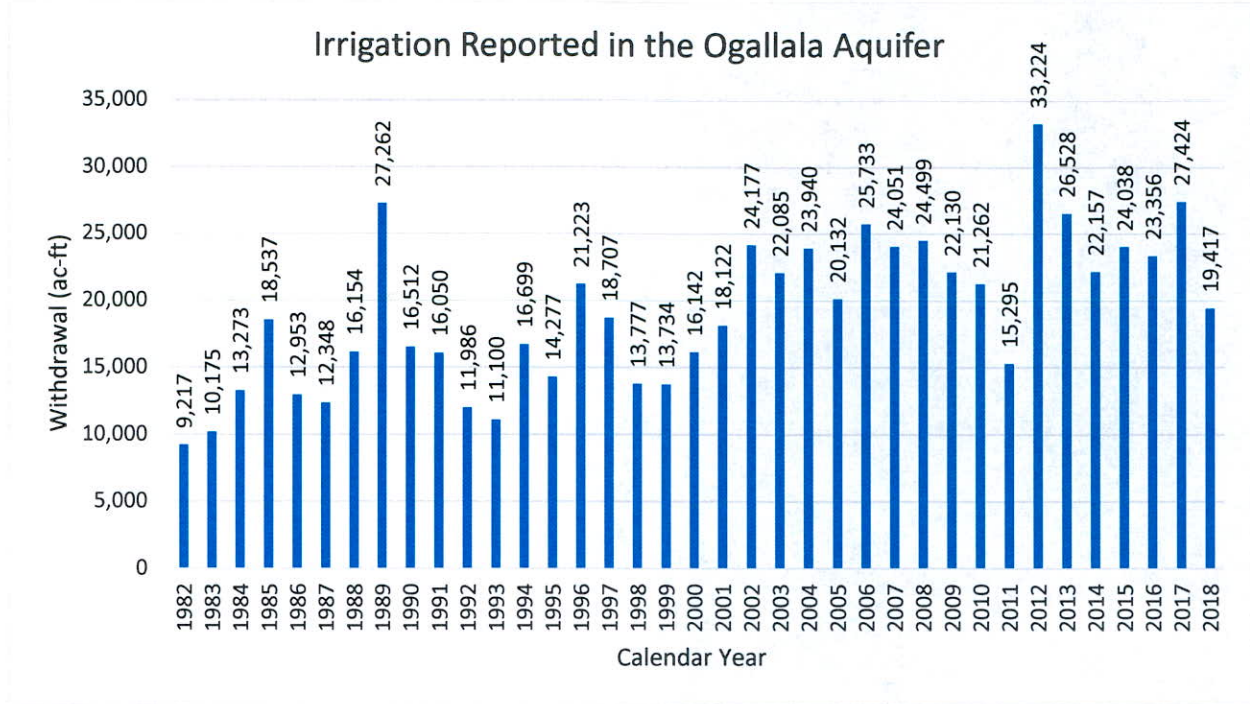


Figure 5: Irrigation reported in the Ogallala aquifer for the period of record (SD Water Rights, 2019b)

Some non-irrigation water rights/permits are required to report their annual use, some are limited to an annual volume, and some have neither of those requirements (SD Water Rights, 2019a). Water distribution systems known to purchase their water from a different water distribution system are assumed to keep their water right/permit on standby for emergencies and withdraw a negligible amount of water (Friedeman, 2019c). For water rights/permits that are required to report their annual withdrawal and are limited to an annual volume, the greater value between their average reported withdrawal and their annual volume limit is used to estimate their average annual withdrawal (SD Water Rights, 2019c). Average reported use is used to estimate withdrawals by water rights/permits only required to report their annual withdrawal (SD Water Rights, 2019c). There are no water rights/permits in the Ogallala aquifer that are limited to an annual volume but not required to report their annual use (SD Water Rights, 2019a). The rest of the water rights/permits are conservatively estimated to pump at their maximum permitted pump rate 60% of the time. Table 4 shows all the non-irrigation water rights/permits withdrawing from the Ogallala aquifer. Based on this analysis, the average estimated withdrawal rate for non-irrigation water rights/permits is 5,052.3 ac-ft/yr.

Report on Water Permit Application No. 2804-2

Table 4: Non-irrigation water rights/permits in Ogallala aquifer (SD Water Rights, 2019a, 2019c; Friedeman, 2019c)

Permit No:	Status:	Name/Business:	Type of use:	Priority Date:	Permitted Pump Rate (cfs):	Volume limit (ac-ft/yr)	Estimation Method	Est. Use (ac-ft/yr)
1603-2	LICENSE	City of Bonesteel	MUN	08/17/1977	0.070		standby	0.0
2091-2	LICENSE		MUN	11/01/1919	0.100			
1661-2	LICENSE	City of Burke	MUN	04/07/1977	0.100		standby	0.0
2065A-2	LICENSE		MUN	12/21/1988	0.210			
455-2	LICENSE		MUN	08/01/1936	0.330			
872-2	LICENSE		MUN	04/30/1969	0.260			
632-2	LICENSE	City of Colome	MUN	01/01/1930	0.220		estimate	95.6
976-2	LICENSE		MUN	09/03/1968	0.330		estimate	143.4
1031-2	LICENSE	City of Gregory	MUN	07/10/1970	0.600		average reported use	63.5
1668-2	LICENSE		MUN	04/18/1979	0.140			
2728-2	LICENSE		MUN	01/13/1977	0.700			
1038-2	LICENSE	City of Winner	MUN	02/21/1966	0.870		estimate	378.2
1285-2	LICENSE		MUN	02/21/1966	0.670		estimate	291.2
1286-2	LICENSE		MUN	02/21/1966	0.720		estimate	313.0
1416-2	LICENSE		MUN	02/21/1966	0.690		estimate	299.9
521-2	LICENSE		MUN	01/01/1920	4.110		estimate	1,786.5
2505-2	LICENSE	Lakeview Christian Reformed Church	INS	05/01/2003	0.033		estimate	14.3
1942-2	LICENSE	Littau & Massa, et al.	DOM	08/12/1985	0.090		estimate	39.1
2455-2	LICENSE	Martin J Vanderploeg	FWP	02/15/2001	0.045		estimate	19.6
1085-2	LICENSE	Schmitz Well Group	RWS	06/11/1971	0.060		estimate	26.1
2758-2	PERMIT	Steffen Farms LLC	COM	01/09/2017	0.140	63	volume limit	63.0
256-2	LICENSE	Town of Fairfax	MUN	08/29/1930	0.250		standby	0.0
1842-2	LICENSE	Town of Herrick	MUN	01/01/1908	0.160		standby	0.0
2339-2	LICENSE		MUN	06/12/1995	0.220		standby	0.0
1719-2	LICENSE	Tripp County Water User District	RWS	06/26/1980	0.200		average reported use	1,510.1
2293-2	LICENSE		RWS	09/07/1993	3.880			
2435-2	LICENSE		RWS	12/27/1999	0.280			
2515-2	LICENSE		RWS	12/04/2003	2.680	1,200		
2621-2	LICENSE	Tuthill Community Presbyterian Church	INS	08/31/2007	0.020		estimate	8.7
Total estimated average annual use for non-irrigation:								5,052.3
COM – Commercial, DOM – Domestic, FWP – Fish and Wildlife Propagation, INS – Institutional, MUN – Municipal, RWS – Rural Water System								

Balance of hydrologic budget

The estimated average annual recharge rates range from 123,540 ac-ft/yr to 276,540 ac-ft/yr. The estimated average annual withdrawal, including reservations for future use is 26,430.1 ac-ft/yr. This application seeks to withdraw an additional 16.12 ac-ft/yr from the Ogallala aquifer. Withdrawals by water users managed by tribes that overly the Ogallala aquifer are unknown, but withdrawals by water users permitted by the SD DENR Water Rights Program account for approximately 21.4% of the smallest recharge estimate available. Therefore, based on a hydrologic budget, there is reasonable probability withdrawals will not exceed recharge if this application is approved.

Observation wells

The nearest observation well maintained by the Water Rights Program completed into the Ogallala aquifer is Observation Well TR-78G, located approximately 1.6 miles southwest of the wells for this application. Figure 6 shows a graph of water levels in that well over time.

Observation Well TR-78G is representative of the Ogallala aquifer in that the water levels rise during wet periods and decline during dry periods, showing that the aquifer is mostly influenced by climactic conditions rather than human-made withdrawals (NOAA, 2019; SD Water Rights, 2019d). This means that the effects of recharge and natural discharge exceed the effects of pumping done in the aquifer. Therefore, based on observation well analysis, there is reasonable probability unappropriated water is available for this application.

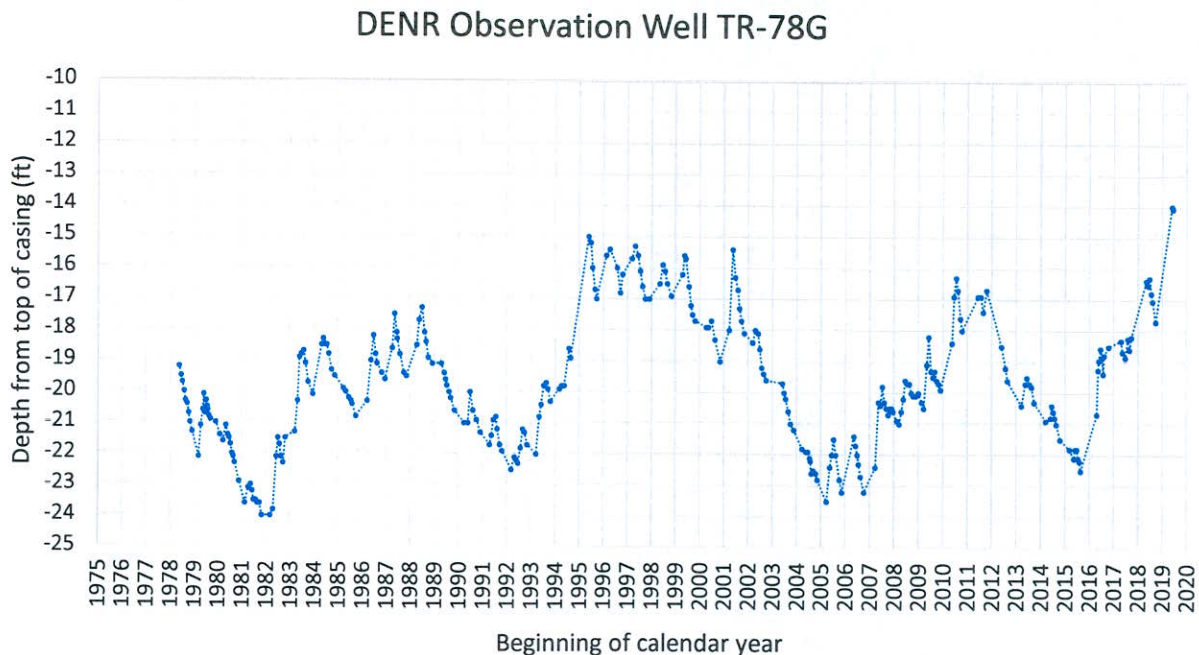


Figure 6: Hydrograph of DENR Observation Well TR-78G (SD Water Rights, 2019d)

Existing users

The nearest domestic well on file with the DENR is the domestic well in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 32-T98N-R75W mentioned in the section of this report on Ogallala aquifer hydrogeologic characteristics (SD Water Rights, 2019e). The nearest water right/permit withdrawing from the Ogallala aquifer is Water Right No. 632-2 held by the City of Colome, located approximately 0.3 miles northwest of the proposed wells. That water right is the main source of water for the City of Colome (Friedeman, 2019a).

Documentation in the file for Water Right No. 632-2 indicates the City of Colome could not supply enough water during 1968 with the Ogallala aquifer wells authorized by that water right (SD Water Rights, 2019a). The city applied for Water Right No. 976-2, which was opposed by local landowners who were concerned about a lack of water, but the Water Management Board approved it based on Barari's (1969) study. Near the applicant's wells, the Ogallala aquifer is relatively thin, with a limited amount of water in storage. While the average annual withdrawal would not exceed average annual recharge to the aquifer, conditions may occur where the

withdrawal from the aquifer exceeds recharge. When this occurs, water will be removed from storage, reducing the saturated thickness of the aquifer. If this occurs for an extended period of time such that other water rights/permits can no longer pump at their developed or “historically established” rates, this may be considered an adverse impact. Precise drawdown behavior in the aquifer cannot be known without an aquifer pumping test. However, since the Ogallala aquifer is under unconfined conditions, drawdown is not expected to extend from the applicant’s wells over a significant distance. Nevertheless, the applicant should control their withdrawals so that other domestic users and senior water right/permit holders are not adversely impacted. As stated in the section on the Dakota aquifer, there are no complaints regarding well interference in Tripp County on file with the DENR (SD Water Rights, 2019f). The wells the applicant proposes to use are also existing wells that were already used for domestic/stock watering purposes without complaint. Given the lack of well interference complaints, there is reasonable probability this application can be developed without unlawfully impacting existing domestic users and senior water right/permit holders.

Special considerations

During review of Permit Application No. 2804-2, it was determined one of the wells the applicant proposed to use was constructed using concrete curbing for casing material (Mathiowetz, 2019). Administrative Rule of South Dakota (ARSD) 74:02:04:46 states in part:

“Precast curbing or concrete casing may be used to construct wells for private and reasonable domestic use, irrigation wells, and noncommercial livestock watering wells. **Precast curbing or concrete curbing may not be used for public water supply wells or any other wells which require water permits...**” (emphasis added)

The well with concrete curbing casing cannot be used if this application is approved. There are several possible solutions to this issue. These include but are not limited to (1) plugging the well and operating using only two wells, (2) plugging the well and drilling a replacement well to be completed into the Ogallala aquifer that meets SD Well Construction Standards, or (3) rehabilitate the well to bring it into compliance with SD Well Construction Standards such as installing and properly grouting an interior casing made of materials such as PVC or steel that meet SD Well Construction Standards.

Conclusions

1. Water Permit Application No. 2804-2 seeks to withdraw at a maximum instantaneous pump rate of 0.13 cfs 60.5 ac-ft/yr from one well completed into the Dakota aquifer and 16.12 ac-ft/yr from two wells completed into the Ogallala aquifer. All wells are located in the NW ¼ NW ¼ Section 5 T97N-R75W.
2. Based on hydrologic budgets and observation well analyses for the Dakota and Ogallala aquifers, there is reasonable probability unappropriated water is available for this application for withdrawals as described in the application.
3. There is reasonable probability this application can be developed without unlawfully impacting existing domestic wells or senior water rights/permits in either aquifer.



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Natural Resources Engineer

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- SD Water Rights. 2019f.** *County files*. Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019f.
- . **2019b.** *Irrigation questionnaire summaries*. Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019b.
- . **2019c.** *Non-irrigation reports*. Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019c.
- . **2019d.** *Observation wells*. [Electronic database] Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019d.
- . **2019a.** *Water rights/permits*. [Electronic database] Pierre, South Dakota : SD DENR Water Rights Program, 2019a.
- . **2019e.** *Well completion reports*. [Electronic database] Joe Foss Bldg., Pierre, South Dakota : SD DENR Water Rights Program, 2019e.
- SDGS. 2019.** *Lithologic logs*. [Electronic Database] Vermillion, South Dakota : SD DENR Geological Survey Program, 2019.

RECEIVED

DEC 19 2019

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hughes) SS

I, Marylin Baker

certify that the attached printed Notice was taken

from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following date:

12-3-19

Cost of Printing \$35.00

Marylin Baker
(Signature)

Business Manager
(Title)

12-16-19

(Date Signed)

Legal Notice

ENRLEP-17427-1
1101/12/19
NOTICE OF
APPLICATION
NO. 2804-2

to Appropriate Water
Notice is given that
Dougherty Castle Company
Inc., c/o Cameron Dough-
erty, 28815 321st Ave.
Colome SD 57526 has filed
an application for a water
permit to appropriate 78.62
acre-feet of water annually
at a maximum pump rate of
0.13 cubic feet of water per
second from one well com-
pleted into the Dakota
Aquifer (1,963 feet deep -
60.5 acre-feet annually)
and two wells completed
into the Ogallala Aquifer
(70 feet deep - 15.12 acre-
feet annually) all located in
the NW 1/4 NW 1/4 Section
5 for commercial use in a
livestock confinement facil-
ity located in the W 1/2 Sec-
tion 5 and S 1/2 NE 1/4
Section 6; all in T87N-
R73W. This site is located
approximately 1 mile west
of Colome SD.
Pursuant to SDCL 40-2A-
2, the Chief Engineer rec-

IEDS

Legal Notice

Commends APPROVAL of
Application No. 2804-2 with
qualifications because 1)
unappropriated water is
available, 2) existing rights
will not be unlawfully im-
paired, 3) it is a beneficial
use of water, and 4) it is in
the public interest. The
Chief Engineer's recom-
mendation with qualifica-
tions, the application, and
staff report are available at
<http://dwr.sd.gov/public> or
contact Eric Gronlund for
this information or other in-
formation at the Water
Rights Program address
provided below.

Any person interested in
opposing or supporting this
application or recommen-
dation must file a written
petition with BOTH the ap-
plicant and Chief Engineer.
The applicant must file a
petition if contesting the
Chief Engineer's recom-
mendation. The Chief Engi-
neer's address is Water
Rights Program, Court
Building, 523 E. Capitol
Pierre SD 57501 (605 773-
3352) and the applicant's
mailing address is given
above. A petition filed by
either an interested person or
the applicant must be filed
by December 16, 2019.

The petition may be infor-
mal, but must include a
statement describing the
petitioner's interest in the
application, the petitioner's
reasons for opposing or
supporting the application,
and the signature and mail-
ing address of the petitioner
or the petitioner's legal
counsel, if legal counsel is
obtained.

If the applicant does not
contest the recommenda-
tion of the Chief Engineer
and no petition to oppose
the application is received,
the 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 the 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 \$35.00.

AFFIDAVIT OF PUBLICATION

RECEIVED

NOV 25 2019

State of South Dakota, county of Tripp-ss.

WATER RIGHTS
PROGRAM

Dan Bechtold

of said county being first duly sworn, on oath says that he is the Editor of the

WINNER ADVOCATE

a weekly newspaper printed and published at Winner, said county of Tripp, and has full and personal knowledge of all the facts herein stated that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies weekly and has been published within said county for fifty-two successive weeks prior to the publication of the notice herein mentioned, and was printed wholly or in part in an office maintained at said place of publication; that the

67 lines @ 1 column X 90%

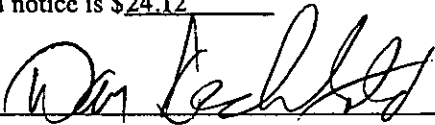
Notice of Application

Dougherty Cattle Company Inc.

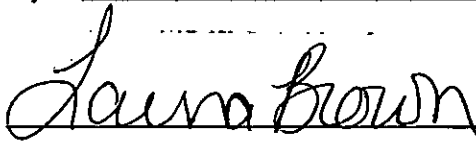
a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this affidavit, was published in said newspaper at least once in each week for 1 week(s), on the day of each week on which said newspaper was regularly published to wit:

11-20-19

That the full amount of the fees for the publication of the *annexed notice is \$24.12



Subscribed and sworn to before me this 20th day of November, 2019



Notary Public

County of Tripp, South Dakota

My Commission Expires June 12, 2025



NOTICE OF APPLICATION

NO. 2804-2 to Appropriate Water

Notice is given that Dougherty Cattle Company Inc., c/o Cameron Dougherty, 28615 321st Ave, Colome SD 57528 has filed an application for a water permit to appropriate 76.62 acre-feet of water annually at a maximum pump rate of 0.13 cubic feet of water per second from one well completed into the Dakota Aquifer (1,963 feet deep - 60.5 acre-feet annually) and two wells completed into the Ogallala Aquifer (70 feet deep - 16.12 acre-feet annually) all located in the NW 1/4 NW 1/4 Section 5 for commercial use in a livestock confinement facility located in the W 1/2 Section 5 and S 1/2 NE 1/4 Section 6; all

in T97N-R75W. This site is located approximately 1 mile west of Colome SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2804-2 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must

file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 2, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the 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 \$24.12 (47)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPERS RIGHT AWAY.**

November 13, 2019

Dougherty Cattle Company Inc
c/o Cameron Dougherty
28615 321st Ave
Colome SD 57528

Dear Mr. Dougherty:

Water Permit Application No. 2804-2 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 Capital Journal printed at Pierre SD (Ph # 605 224-7301) and the Winner Advocate printed at Winner SD (Ph # 605 842-1481). 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 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 publisher has been instructed to publish your notice. The newspaper has 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,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the 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.

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, November 13, 2019 8:32 AM
To: 'winneradvocate@hotmail.com'
Subject: 2804-2, Dougherty Cattle Company Inc
Attachments: 2804-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on November 20, 2019.

Dougherty Cattle Company Inc, c/o Cameron Dougherty, 28615 321st Ave, Colome SD 57528 (605 842-1115) 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, 523 E Capitol, Pierre SD 57501.

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

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, November 13, 2019 8:32 AM
To: 'legals@capjournal.com'
Subject: 2804-2, Dougherty Cattle Company Inc
Attachments: 2804-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on November 20, 2019.

Dougherty Cattle Company Inc, c/o Cameron Dougherty, 28615 321st Ave, Colome SD 57528 (605 842-1115) 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, 523 E Capitol, Pierre SD 57501.

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

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



Instruction to Newspaper - Publish the Notice on November 20, 2019. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2804-2 to Appropriate Water

Notice is given that Dougherty Cattle Company Inc., c/o Cameron Dougherty, 28615 321st Ave, Colome SD 57528 has filed an application for a water permit to appropriate 76.62 acre-feet of water annually at a maximum pump rate of 0.13 cubic feet of water per second from one well completed into the Dakota Aquifer (1,963 feet deep – 60.5 acre-feet annually) and two wells completed into the Ogallala Aquifer (70 feet deep – 16.12 acre-feet annually) all located in the NW 1/4 NW 1/4 Section 5 for commercial use in a livestock confinement facility located in the W 1/2 Section 5 and S 1/2 NE 1/4 Section 6; all in T97N-R75W. This site is located approximately 1 mile west of Colome SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2804-2 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 2, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the 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 _____.

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, November 25, 2019 11:47 AM
To: 'legals@capjournal.com'
Subject: 2804-2, Dougherty Cattle Company
Attachments: 2804-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on December 3, 2019.

Nathan Pesta, DGA Consulting Engineers, 701 663-1116 (consultant for Dougherty Cattle Company) 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, 523 E Capitol, Pierre SD 57501.

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

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, November 25, 2019 11:40 AM
To: Nathan Pesta
Subject: RE: [EXT] Water Permit Application No. 2804-2

The information was mailed to the applicant - - Dougherty Cattle Company, c/o Cameron Dougherty with their mailing address and phone number, thus the reason you were not contacted.

I will resubmit the notice to the Capital Journal to be published the first week of December. At that time, I will give them your name and number as the contact. You will be included in that email also. It will be your responsibility to contact the Capital Journal.

Karen

From: Nathan Pesta <nate@dgaengineering.com>
Sent: Monday, November 25, 2019 11:27 AM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>; herbdougherty@yahoo.com; 'Brook Pesta' <brook@dgaengineering.com>
Subject: RE: [EXT] Water Permit Application No. 2804-2

Karen,
I did not get notified by Capital Journal to authorize. We can take care of payment and authorize publication if they contact us.
701-663-1116 or my email nate@dgaengineering.com
Thanks,
Nathan

From: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Sent: Monday, November 25, 2019 11:12 AM
To: herbdougherty@yahoo.com
Cc: nate@dgaengineering.com
Subject: Water Permit Application No. 2804-2

On November 13, 2019 we sent you a letter regarding your Water Permit Application. No. 2804-2. Along with the letter was the report, recommendation and information regarding the public notice which was to be published on November 20, 2019 in the Winner Advocate and the Capital Journal printed in Pierre. The Capital Journal called me stating they did not receive authorization to publish from you. Therefore, the Capital Journal did not publish the notice. I have called the number on your application several times (605 842-1115) which rings busy.

It is important for you to contact me or Eric Gronlund with this office. After we hear from you, we will resubmit the notice to the Capital Journal for publication. At which time you will need to contact them to authorize publication and arrange for payment. The public notice contains a time sensitive date for petitions to be received. So it is necessary for the notice to be published on a designated date.

We have received an affidavit of publication from the Winner Advocate. The notice will not have to be republished in the Winner Advocate.

Call Eric Gronlund or me and we will proceed with the public notice process.

Karen Schlaak

SD DENR, Water Rights Program

(605) 773-3352



NOTICE OF APPLICATION NO. 2804-2 to Appropriate Water

Notice is given that Dougherty Cattle Company Inc., c/o Cameron Dougherty, 28615 321st Ave, Colome SD 57528 has filed an application for a water permit to appropriate 76.62 acre-feet of water annually at a maximum pump rate of 0.13 cubic feet of water per second from one well completed into the Dakota Aquifer (1,963 feet deep – 60.5 acre-feet annually) and two wells completed into the Ogallala Aquifer (70 feet deep – 16.12 acre-feet annually) all located in the NW 1/4 NW 1/4 Section 5 for commercial use in a livestock confinement facility located in the W 1/2 Section 5 and S 1/2 NE 1/4 Section 6; all in T97N-R75W. This site is located approximately 1 mile west of Colome SD.

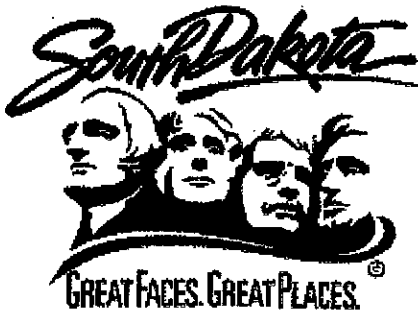
Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2804-2 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by December 16, 2019.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the 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 _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

JAN 10 2020

Dougherty Cattle Company Inc
Cameron Dougherty
28615 321st Ave
Colome SD 57528

Dear Mr. Dougherty:

Enclosed is Water Permit No. 2804-2 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,

A handwritten signature in black ink, reading "Jeanne Goodman". The signature is written in a cursive, flowing style.

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Please Note: The well completed into the Ogallala aquifer using concrete curbing casing cannot be used since it does not meet the South Dakota Well Construction Standards. This permit affords Dougherty Cattle Company to plug this well and drill a replacement well that meets the well construction standards or rehabilitate the well to bring it into compliance with the standards. Independent of what is done with the well that does not meet the standards, this permit is approved, and Dougherty Cattle Company is authorized to use the Dakota aquifer well and the Ogallala aquifer well that meets the construction standards up to the permitted amount of water.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

June 11, 2024

NOTICE OF HEARING

TO: Dougherty Cattle Co., Cameron Dougherty, 28615 321st Ave, Colome SD 57528

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Violation of Permit Qualification to Report Annual Water Use

Our records indicate your 2023 annual water use has not been submitted for Permit No. 2804-2. The request to report water use for 2023 was dated January 5, 2024. Two follow-up attempts to get the required water use report have gone unanswered. The Water Management Board has directed owners of water permits who have not submitted the 2023 water use reporting be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No. 2804-2 qualification:

"The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Dakota and Ogallala aquifer."

The hearing will be held at **Wednesday, July 10, 2024 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No. 2804-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

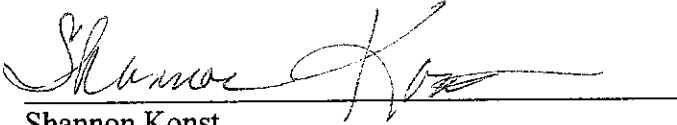
If the water use report(s) is (are) received in this office before the **July 10, 2024** hearing, you will no longer be in violation of your permit and your name will be removed from the Board agenda. You may submit your water use report by providing the information to Rachel Rodriguez at (605) 773-3352 or via email at rachel.rodriguez@state.sd.us. You may also submit the water use report via mail using the address in the NOTE at the bottom of this Notice.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD 57501 or call (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing, dated June 11, 2024, concerning violation water use reporting qualification in the matter of Water Permit No. 2804-2 was served by U.S. certified mail, postage prepaid, upon the following on June 11, 2024.

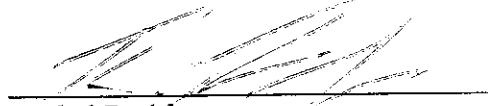
Dougherty Cattle Co.
Cameron Dougherty
28615 321st Ave
Colome SD 57528



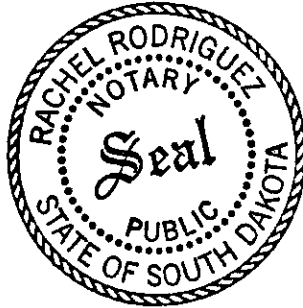
Shannon Konst
Water Rights Program, DANR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this ____ day of _____, 2024.



Rachel Rodriguez
Notary Public
My Commission expires May 16, 2029



Water Rights Program - File Documentation

NAME: Dougherty Cattle Co.

ADDRESS: Herb Dougherty

DATE: June 26, 2024

RE: 2023 Water usage

COMMENTS:

Herb Dougherty called today to report his annual water use for 2023. He reported 72 AF.

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
605 773-3352



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

May 23, 2025

NOTICE OF HEARING

TO: Dougherty Cattle Company Inc., 28615 321st Avenue, Colome SD 57528

FROM: Ron Duvall, Engineer III
for Mark Mayer, PE
Director of Office of Water

SUBJECT: Violation of Permit Qualification to Report Annual Water Use

Our records indicate your 2024 annual water use has not been submitted for Permit No. 2804-2. The request to report water use for 2024 was dated January 3, 2025. Two follow-up attempts to get the required water use report have gone unanswered. The Water Management Board has directed owners of water permits who have not submitted the 2024 water use reporting be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No. 2804-2 qualification:

"The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from the Upper Dakota and the Ogallala Aquifer."

The hearing will be held on **Wednesday, July 9, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No. 2804-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the water use report(s) is (are) received in this office before the **July 9, 2025**, hearing, you will no longer be in violation of your permit and your name will be removed from the Board agenda. You may submit your water use report by providing the information to Rachel Rodriguez at (605) 773-3352 or via email at rachel.rodriguez@state.sd.us. You may also submit the water use report via mail using the address in the NOTE at the bottom of this Notice.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD 57501 or call (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



NUTRIENT
ADVISORS

June 30, 2025

Rachel Rodriguez
SD DENR
523 East Capitol
Pierre, SD 57501

RE: Water Permit No. 2804-2

Dear Rachel:

Dougherty Cattle Company, Inc. received correspondence asking for the total amount of water diverted from the Dakota and Ogallala Aquifer during 2024. On behalf of Dougherty Cattle Company, Inc., 12,410,000 gallons were diverted in 2024.

If you have any questions please call our office.

Converted to AF

38.08

Sincerely,

Matt Kennedy

Nutrient Advisors



551 E. Deere Street • West Point, NE 68788
Phone: 402.372.CAFO nutrientadvisors.com

Rodriguez, Rachel

From: Melanie Biteghe <mvanness@nutrientadvisors.com>
Sent: Tuesday, July 1, 2025 8:28 AM
To: Rodriguez, Rachel
Cc: Matt Kennedy; Jayde Gatzemeyer
Subject: [EXT] Dougherty Cattle Water Usage Reporting
Attachments: DCC 2025 6-30 Water Reporting.pdf

Hi Rachel,

Please see the attached file for Dougherty Cattle Company's water usage report.

If you have any questions, please let us know!

Thank you,

Melanie Biteghe

Nutrient Advisors
551 E Deere Street
West Point, NE 68788
Office: 402-372-2236
mbiteghe@nutrientadvisors.com



RE: [EXT] Dougherty Cattle Water Usage Reporting - Message (HTML)

FileMessageHelpAcrobatTell me what you want to do

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Quick Steps

Move

Tags

Editing

Immersive

Zoom

Reply with Scheduling Poll

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Translate Message

Translator

Viva Insights

Add-in

Delete

Respond

Teams

Apps

Quick Steps

Zoom

Find Time

Translator

Add-in

RE: [EXT] Dougherty Cattle Water Usage Reporting

RR

Rodriguez, Rachel

To

Melanie Biteghe

Cc

Matt Kennedy; Jayde Gatzemeyer

General - Anyone

Reply

Reply All

Forward

Tue 07/01/2025 12:34 PM

Excellent! Permit 2804-2 has been removed from the July water management board meeting.

Thank you,

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

