

WATER PERMIT NO. 2889-2

Name of Applicant: Cameron Dougherty Living Trust & Cheryl Dougherty Living Trust

Address: 28615 321st Avenue, Colome SD 57528 Phone: 605-842-1115

Amount of Water Claimed: 0.33 cfs Total Acres: 102.7

Source of Water Supply: Surface

Water to be used for: Irrigation County: Tripp

Type of Waste Disposal System:

Location: Approx. 1.25 miles southwest of Colome

PRIORITY Date Received: 03-24-25

Application/License Fee: \$950.00

Corrected Application Received: 03-31-25

Period of Annual Use: March 1 – September 30

Remarks:

Diversion Point: SE 1/4 SW 1/4, SE 1/4 SE 1/4 Sec
5-T97N-R75W

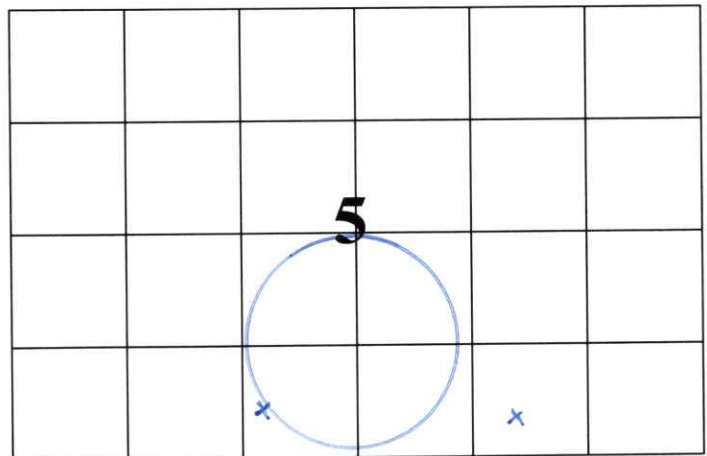
Land to be Irrigated: E 1/2 SW 1/4, W 1/2 SE 1/4
Sec 5-T97N-R75W

Depth of Well: N/A

Well Driller: N/A

Remarks:

Type of Map: aerial



Reviewed and the Number Assigned on: 04-01-25

By: Rachel Rodriguez

Notice of Hearing - date to intervene: _____

SOUTH DAKOTA
WATER PERMIT NO. 2889-2

Date of first receipt of application March 24, 2025.

Date of return to applicant for corrections, amendments or changes March 25, 2025.

Date of receipt of corrected application March 31, 2025.

The Acting Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2889-2 to Cameron Dougherty Lv Trust & Cheryl Dougherty Lv Trust, 28615 321st Avenue, 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. 2889-2 appropriates 0.33 cubic feet of water per second from Ponca Creek, with diversion points located anywhere within the S1/2 S1/2 Section 5-T97N-R75W. Water will be diverted from Ponca Creek to two animal confinement wastewater ponds (combined storage capacity of 23.1 acre-feet) located in the W 1/2 NW 1/4 Section 5-T97N-R75W which also captures incidental surface runoff. Water from the creek will be used to dilute the wastewater effluent before being applied for irrigation of 118 acres located in the E 1/2 SW 1/4, W 1/2 SE 1/4 Section 5-T97N-R75W. This site is located approximately one and one quarter of a mile southwest of Colome SD.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: March 1 – September 30.
3. The date from which applicant may claim right is March 24, 2025.
4. The date of approval of Permit No. 2889-2 is June 30, 2025.
5. One-fifth of the construction is to be completed on or before December 30, 2027.
6. All construction is to be completed on or before June 30, 2030.
7. Water is to be put to beneficial use on or before June 30, 2034.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.
2. Water Permit No. 2889-2 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)

3. Water Permit No. 2889-2 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 including approval of plans and specifications for any modification made to the permitted manure management system.
4. No diversion of water from Ponca Creek to the wastewater pond(s) may occur when the water level in the pond(s) is at or above the maximum operating elevation included as part of the permit application under 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.
5. Water Permit No. 2889-2 authorizes application of wastewater only to the acreage identified on this Permit and included in the Department-approved nutrient management plan included as part of the permit application under 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.
6. Water Permit No. 2889-2 does not authorize pumping from Ponca Creek after June 1st of each calendar year unless written permission is granted by the Chief Engineer.
7. Pursuant to SDCL 46-2-19, the Chief Engineer, or designated representative, may enter upon the lands authorized by this water permit for the purpose of inspecting works and determining if the irrigation system is operating.
8. This Permit is approved subject to the irrigation water use questionnaire being submitted each year reporting the amount of water pumped from Ponca Creek to the wastewater pond(s).

WATER MANAGEMENT BOARD

By: Mark Mayer
Mark Mayer, PE
Director of Office of Water
Department of Agriculture and Natural Resources

7/29/25
date



FORM 2: Application for irrigation in South Dakota
(type or print)

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MAR 31 2025

OFFICE OF
WATER

PAID

MAR 31 2025

Ck# 018657

Rec't#

PAID

MAR 31 2025

Ck# 018659

Rec't#

Mail to: SD DANR, Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2889-2</u> Hydrologic Unit <u>16150001</u> Basin <u>Missouri R</u> Newspaper <u>Winner Advocate</u> <u>Huron Plainsman</u> (office use only)
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Application for Permit to Appropriate Water for Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name to Appear on Irrigation Permit Cameron Dougherty Lv Trust & Cheryl Dougherty Lv Trust

Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.

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

Phone (605) 842-1115 Mobile (605) 840-0286 Email herbdougherty@yahoo.com

2. Amount of water claimed 0.33 *CFS or 150 **GPM 102.69 ***AF Total Acreage 118
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Ponca Creek

4. Location of point of diversion SE1/4 SW1/4, S5-T97N-R75W and SE1/4 SE1/4, S5-T97N-R75W

(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

See attached map for greater detail. County Tripp

5. County or counties where water will be used Tripp

6. Annual period during which water is to be used March-September¹30

7. List below each forty-acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>5 1/2, S1/2, S5-T97N-R75W</u>	<u>102.7</u>		

8. Give a description of the project. (Attach sheet if more space is needed)

Dougherty Cattle Company, Inc. operates a permitted cattle feeding operation. The operation plans to install an irrigation pivot to distribute runoff water (used for the growing of crops) that is contained within the wastewater containment system. To supplement the effluent water to be used, the operation would like to divert water seasonally from Ponca Creek. The diverted water would be pumped from the creek using a self-contained mobile pump to be installed and removed as needed. The diverted water is to be transported to the wastewater containment system and will not exceed the max operating level of the system. The water is to be pumped down as weather permits or at proper crop timing.

I, Cam 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.

2021-08

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

43.24205 / -99.74557

Supplemental Information

(type or print)

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MAR 24 2025

Water Rights
Program

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 _____ Provide copy of log(s), if available. Drilled by _____

For either existing or proposed wells:

- c) Well Depth (required) _____ Depth to Top of Water Bearing Material _____ Depth to Water from Surface _____
- d) Distance to nearest domestic well on applicant's property _____ Property owned by others _____

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.

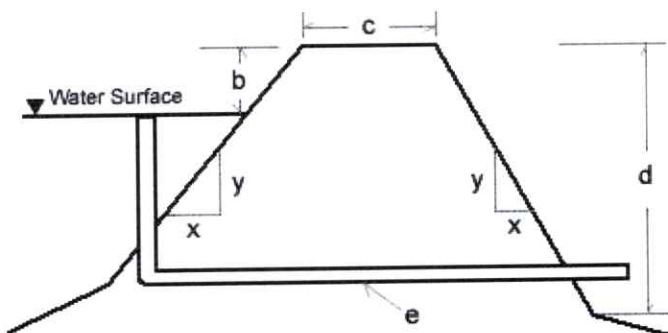
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

DeHaan, Grabs & Associates, LLC
PO Box 522
Mandan, ND 58544

- b) Freeboard 11' (HP#1); 9.5' (HP#2)
- c) Crest Width _____
Crest Length _____
- d) Height 14.3'(HP#1); 12' (HP#2)
- e) Primary Outlet Capacity 6" hose, 700 gpm

If pipe, diameter _____

- f) Secondary Spillway Capacity no discharge
Spillway Width n/a
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream 3 to 1
Downstream 3 to 1
- h) Area of Impoundment 5.7 acres
- i) Storage 9.6 (HP#1); 13.5 (HP#2) Acre Feet
- j) Drainage Area Above Dam 63.2 Acres



Measure Area

Planar

Acres

Result

Area

Area (ac)	Sum (ac)
117.36	117.36

Distance

Segment (m)	Perimeter (m)	Sum (m)
71.18		
71.83		
87.50		
82.48		
64.41		
71.58		
86.57		
76.89		
83.76		
83.78		
77.53		
74.94		
72.74		
82.11		
65.18		
72.80		
74.53		
99.68		
80.21		
91.90		
143.46		
98.21		
97.21		
96.37		



Dougherty Cattle Co.

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- ✕ Proposed Diversion Points
- Yellow outline Irrigated Area
- Red outline PLSS Township
- White outline PLSS Section

Water Permit for Irrigation Application

County: Tripp
Legal: S5-T97N-R75W



Dougherty Cattle Co.



Water Permit for Irrigation Application

-  Proposed Diversion Points
-  Irrigated Area
-  PLSS Township
-  PLSS Section

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MAK 24 2025

Water Rights
Program

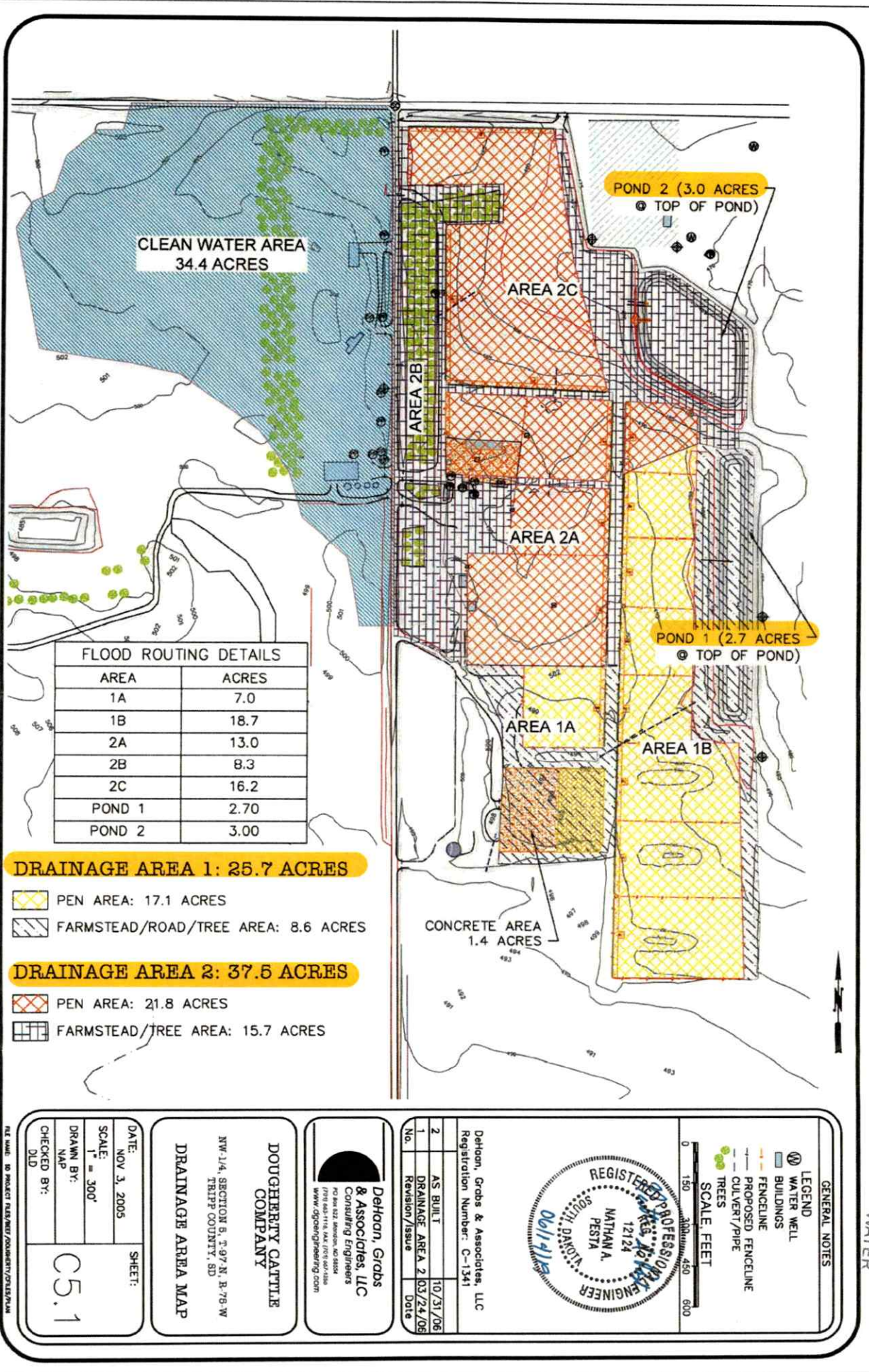
County: Tripp
Legal: S5-T97N-R75W



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MAR 31 2025

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WATER



DeHoon, Grobs & Associates, LLC
Registration Number: C-1341

No.	AS BUILT	Date
1	AS BUILT	10/31/06
2	DRAINAGE AREA 2	03/24/06
3	Revision/Issue	

DeHoon, Grobs & Associates, LLC
Consulting Engineers
PO Box 622, Leola, SD 57055
www.dgaengineering.com

DOUGHERTY CATTLE COMPANY
NW 1/4, SECTION 8, T97N, R78W
TRIPP COUNTY, SD
DRAINAGE AREA MAP

DATE: NOV 3, 2005
SCALE: 1" = 300'
DRAWN BY: NMP
CHECKED BY: DLD
SHEET: C5.1

FILE NAME: SD PROJECT FILE/SD/DOUGHERTY/C5.1.DWG

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MAR 31 2025

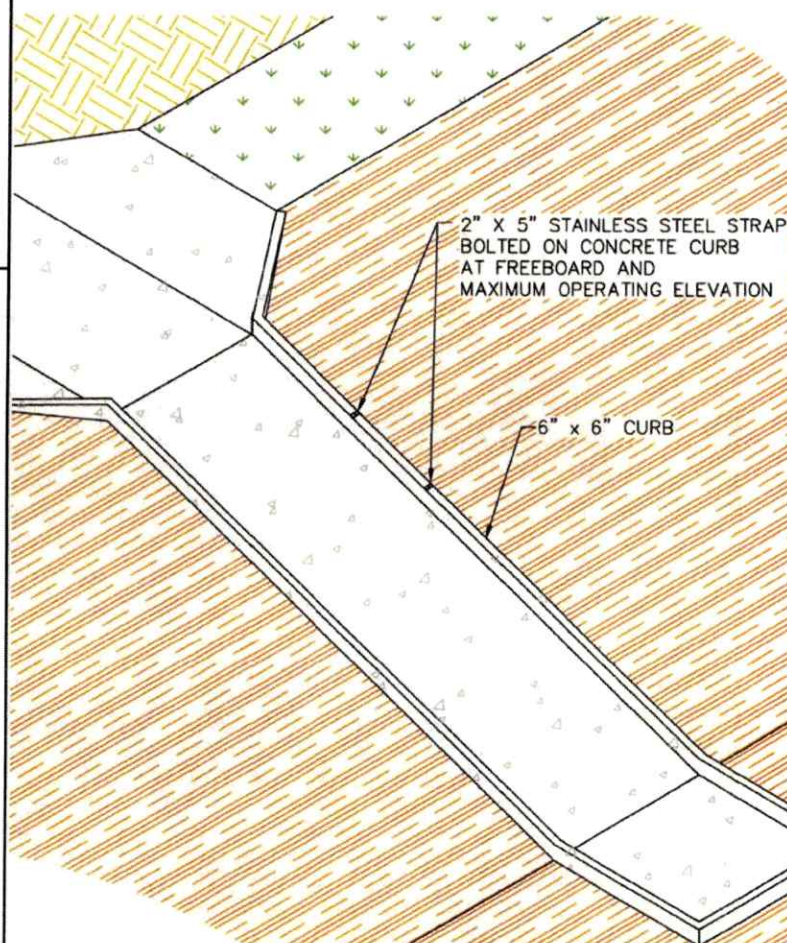
OFFICE OF
WATER

Settling Basin 2 Stage Storage Table

Elevation (ft)	Area (ft ²)	Volume (ft ³)	Cum. Volume (ft ³)	Cum. Volume (acre-feet)	
476.8	167,815	76,338	278,750	6.4	Top
476.3	137,537	61,374	202,412	4.6	
475.8	107,959	46,666	141,038	3.2	Freeboard
475.3	78,705	34,173	94,372	2.2	
474.8	57,987	33,634	60,199	1.4	Solid Storage El.
474.0	26,098	11,633	26,565	0.6	
473.5	20,434	9,572	14,932	0.3	
473.0	17,854	5,360	5,360	0.1	
472.5	0	0	0	0.0	Bottom

Holding Pond 2 Stage Storage Volumes

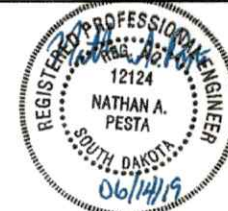
Elevation (ft)	Area (ft ²)	Volume (ft ³)	Cum. Volume (ft ³)	Cum. Volume (acre-feet)	
478.0	129,730	64,380	1,276,102	29.3	Top of Berm
475.5	127,791	63,413	1,211,722	27.8	
475.0	125,862	62,452	1,148,309	26.4	
474.5	123,944	61,496	1,085,857	24.9	
474.0	122,039	60,545	1,024,361	23.5	
473.5	120,140	59,598	963,817	22.1	Freeboard Elevation
473.0	118,250	58,656	904,219	20.8	
472.5	116,372	57,718	845,564	19.4	
472.0	114,501	56,785	787,845	18.1	
471.5	112,640	55,858	731,060	16.8	
471.0	110,791	54,931	675,202	15.5	
470.2	107,877	53,008	587,735	13.5	Max Operating Elevation
470.0	107,128	52,110	566,235	13.0	
469.5	105,313	50,206	513,125	11.8	
469.0	103,510	48,308	460,919	10.6	
468.5	101,721	46,416	409,611	9.4	
468.0	99,944	44,531	359,195	8.2	
467.5	98,179	42,652	309,664	7.1	
467.0	96,428	40,780	261,013	6.0	
466.5	94,690	38,914	213,233	4.9	
466.0	92,965	37,058	166,319	3.8	
465.5	91,178	35,213	120,264	2.8	
465.0	89,372	33,378	75,146	1.7	Residual Elevation
464.5	87,580	31,552	30,908	0.7	
464.0	36,052	0	0	0.0	Bottom



GENERAL NOTES

- INSITU MATERIAL
- CLAY LINER
- CONCRETE

SCALE, FEET



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

3	MAX OPERATING LEVEL	11/19/14
2	BASIN UPDATE	6/11/13
1	AS BUILT	10/31/06
No.	Revision/Issue	Date

**DeHaan, Grabs
& Associates, LLC**
Consulting Engineers
PO Box 822, Mandan, ND 58554
(701) 663-1116, FAX (701) 667-1354
www.dgaengineering.com

**DOUGHERTY CATTLE
COMPANY**

NW-1/4, SECTION 5, T-97-N, R-75-W
TRIPP COUNTY, SD

**HOLDING POND 2
STAGE STORAGE TABLE**

DATE:
FEB 8, 2006
SCALE:
NONE
DRAWN BY:
NAP
CHECKED BY:
DLD

SHEET:

C5.3

FILE NAME: SD PROJECT FILES\WEST DOUGHERTY\FILES\PLAN

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MAR 31 2025

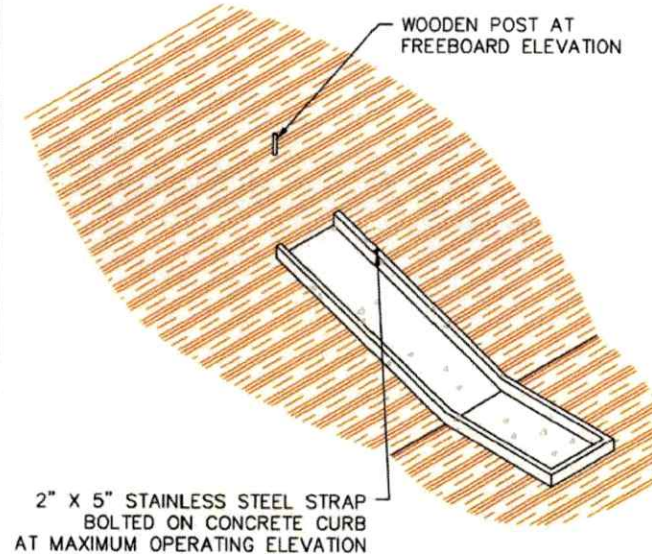
OFFICE OF
WATER

Settling Basin 1 Stage Storage Table

Elevation (ft)	Area (ft ²)	Volume (ft ³)	Cum. Volume (ft ³)	Cum. Volume (acre-feet)	
489.1	82,216	38,543	202,336	4.6	Top
488.6	71,956	33,262	163,793	3.8	
488.1	61,092	29,226	130,531	3.0	Freeboard
487.6	55,820	25,586	101,303	2.3	
487.1	46,524	22,212	75,717	1.7	
486.6	42,324	19,004	53,505	1.2	
486.1	33,692	21,282	34,501	0.8	
485.4	27,113	7,046	13,219	0.3	Solid Storage El.
485.1	19,860	5,720	6,173	0.1	
484.6	1,307	390	453	0.0	
484.1	253	63	63	0.0	
483.7	0	0	0	0.0	Bottom

Holding Pond 1 Stage Storage Volumes

Elevation (ft)	Area (ft ²)	Volume (ft ³)	Cum. Volume (ft ³)	Cum. Volume (acre-feet)	
488.3	117,759	35,039	1,080,018	24.8	Top of Berm
488.0	115,835	57,141	1,044,979	24.0	
487.5	112,727	55,592	987,838	22.7	
487.0	109,640	54,052	932,247	21.4	
486.5	106,567	52,522	878,195	20.2	
486.0	103,519	51,002	825,673	19.0	
485.5	100,487	49,491	774,672	17.8	
485.0	97,475	47,990	725,181	16.6	Freeboard Elevation
484.5	94,483	46,497	677,192	15.5	
484.0	91,504	45,010	630,695	14.5	
483.5	88,537	43,532	585,685	13.4	
483.0	85,590	42,063	542,153	12.4	
482.5	82,663	40,606	500,090	11.5	
482.0	79,759	39,159	459,484	10.5	
481.5	76,878	37,724	420,325	9.6	Max Operating Elevation
481.0	74,017	36,298	382,601	8.8	
480.5	71,176	34,883	346,303	8.0	
480.0	68,357	33,479	311,420	7.1	
479.5	65,559	32,085	277,941	6.4	
479.0	62,780	30,700	245,856	5.6	
478.5	60,021	29,326	215,156	4.9	
478.0	57,282	27,961	185,830	4.3	
477.5	54,563	26,607	157,869	3.6	
477.0	51,863	25,261	131,262	3.0	
476.5	49,181	23,925	106,001	2.4	
476.0	46,518	22,567	82,077	1.9	
475.5	43,749	21,175	59,510	1.4	
475.0	40,952	19,780	38,335	0.9	Residual Elevation
474.5	38,167	18,555	18,555	0.4	
474.0	36,052	0	0	0.0	Bottom

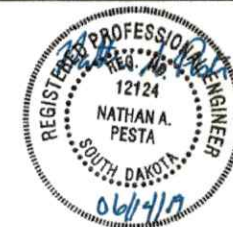


GENERAL NOTES

- INSITU MATERIAL
- CLAY LINER
- CONCRETE

SCALE, FEET

0 2 4 6 8

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

3	SOLIDS STORAGE	12/12/13
2	BASIN UPDATE	6/11/13
1	AS BUILT	10/31/08
No.	Revision/Issue	Date

**DeHaan, Grabs
& Associates, LLC**
Consulting Engineers
PO Box 922, Moorhead, ND 58504
(701) 663-1116, FAX: (701) 663-1356
www.dgoengineering.com

DOUGHERTY CATTLE
COMPANYNW-1/4, SECTION 5, T-97-N, R-75-W
TRIPP COUNTY, SDHOLDING POND 1
STAGE STORAGE TABLEDATE:
FEB 8, 2006SCALE:
NTSDRAWN BY:
NAPCHECKED BY:
DLD

SHEET:

C5.2

FILE NAME: SD PROJECT FILES/NEE/DOUGHERTY/FILES/PLAN

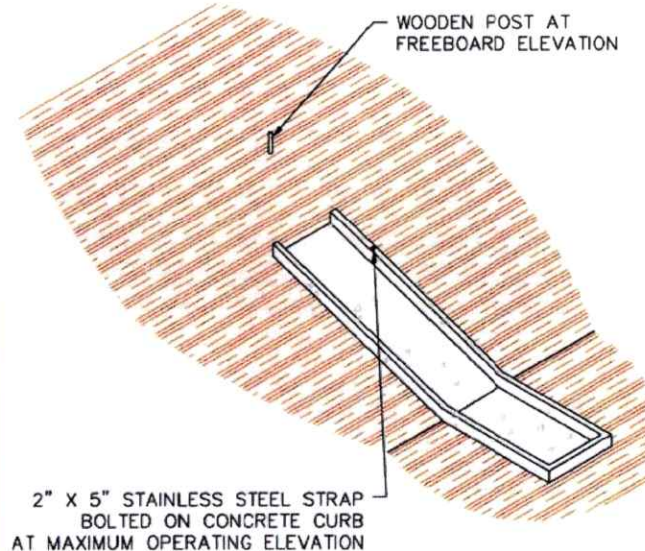
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 Water Rights
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Settling Basin 1 Stage Storage Table

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488.6	71,956	33,262	163,793	3.8	
488.1	61,092	29,228	130,531	3.0	Freeboard
487.6	55,820	25,566	101,303	2.3	
487.1	48,524	22,212	75,717	1.7	
486.6	42,324	19,004	53,505	1.2	
486.1	33,692	21,282	34,501	0.8	
485.4	27,113	7,046	13,219	0.3	Solid Storage El.
485.1	19,860	5,720	6,173	0.1	
484.6	1,307	390	453	0.0	
484.1	253	63	63	0.0	
483.7	0	0	0	0.0	Bottom

Holding Pond 1 Stage Storage Volumes

Elevation (ft)	Area (ft ²)	Volume (ft ³)	Cum. Volume (ft ³)	Cum. Volume (acre-feet)	
488.3	117,759	35,039	1,080,018	24.8	Top of Berm
488.0	115,835	57,141	1,044,879	24.0	
487.5	112,727	55,592	987,838	22.7	
487.0	109,640	54,052	932,247	21.4	
486.6	106,567	52,522	878,105	20.2	
486.0	103,519	51,002	825,673	19.0	
485.5	100,487	49,491	774,672	17.8	
485.0	97,475	47,990	725,181	16.6	Freeboard Elevation
484.5	94,483	46,497	677,192	15.5	
484.0	91,504	45,010	630,695	14.5	
483.5	88,537	43,532	585,685	13.4	
483.0	85,590	42,063	542,153	12.4	
482.5	82,663	40,606	500,090	11.5	
482.0	79,759	39,159	459,484	10.5	
481.5	76,878	37,724	420,325	9.6	Max Operating Elevation
481.0	74,017	36,298	382,601	8.8	
480.5	71,176	34,883	346,303	8.0	
480.0	68,357	33,479	311,420	7.1	
479.5	65,559	32,085	277,941	6.4	
479.0	62,780	30,700	245,856	5.6	
478.5	60,021	29,326	215,156	4.9	
478.0	57,282	27,961	185,830	4.3	
477.5	54,563	26,607	157,869	3.6	
477.0	51,863	25,261	131,262	3.0	
476.5	49,181	23,925	106,001	2.4	
476.0	46,518	22,567	82,077	1.9	
475.5	43,749	21,175	59,510	1.4	
475.0	40,952	19,780	38,335	0.9	Residual Elevation
474.5	38,167	18,555	18,555	0.4	
474.0	36,052	0	0	0.0	Bottom



GENERAL NOTES

- INSITU MATERIAL
- CLAY LINER
- CONCRETE

SCALE, FEET



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

3	SOLIDS STORAGE	12/12/13
2	Basin Update	6/11/13
1	AS BUILT	10/31/08
No.	Revision/Issue	Date

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& Associates, LLC**
Consulting Engineers
PO Box 522, Mondak, ND 58504
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**DOUGHERTY CATTLE
COMPANY**

NW-1/4, SECTION 5, T-97-N, R-75-W
TRIPP COUNTY, SD

**HOLDING POND 1
STAGE STORAGE TABLE**

DATE: FEB 8, 2006	SHEET:
SCALE: NTS	C5.2
DRAWN BY: NAP	
CHECKED BY: DLD	

FILE NAME: SD PROJECT FILES/2007/DOUGHERTY/SPDES/PLAN

MAR 24 2025

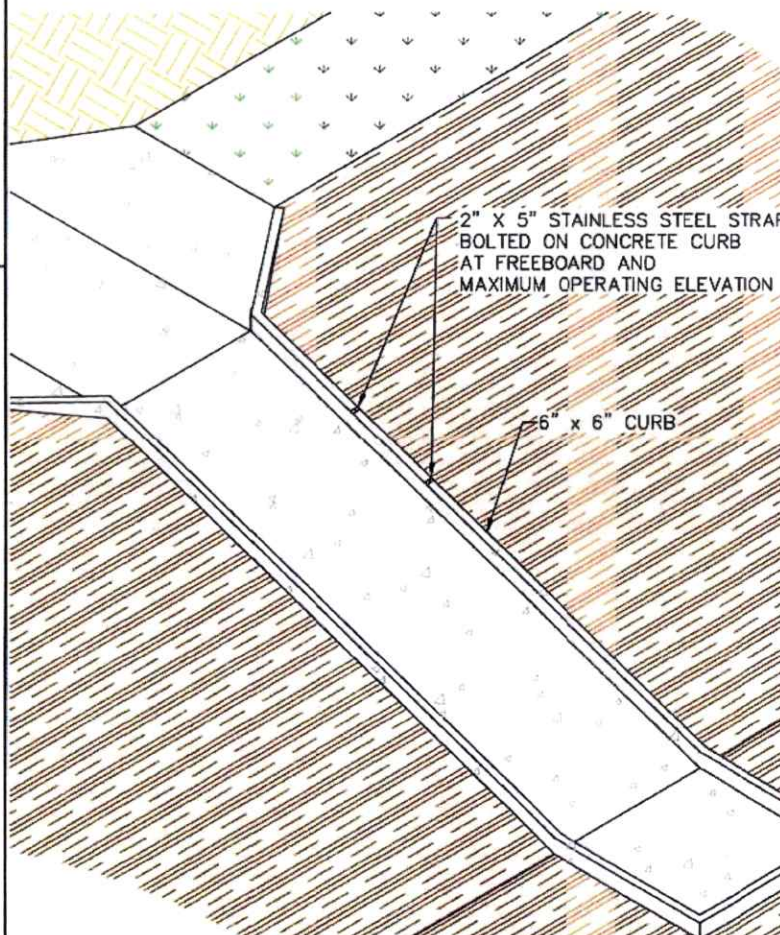
RECEIVED

Settling Basin 2 Stage Storage Table

Elevation (ft)	Area (ft ²)	Volume (ft ³)	Cum. Volume (ft ³)	Cum. Volume (acre-feet)	
476.8	167,815	76,338	278,750	6.4	Top
476.3	137,537	61,374	202,412	4.6	
475.8	107,959	46,666	141,038	3.2	Freeboard
475.3	78,705	34,173	94,372	2.2	
474.8	57,987	33,634	60,199	1.4	Solid Storage El.
474.0	26,098	11,633	26,565	0.6	
473.5	20,434	9,572	14,932	0.3	
473.0	17,854	5,360	5,360	0.1	
472.5	0	0	0	0.0	Bottom

Holding Pond 2 Stage Storage Volumes

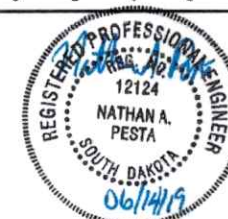
Elevation (ft)	Area (ft ²)	Volume (ft ³)	Cum. Volume (ft ³)	Cum. Volume (acre-feet)	
478.0	129,730	64,380	1,276,102	29.3	Top of Berm
475.5	127,791	63,413	1,211,722	27.8	
475.0	125,862	62,452	1,148,309	26.4	
474.5	123,944	61,496	1,085,857	24.9	
474.0	122,039	60,545	1,024,361	23.5	
473.5	120,140	59,598	963,817	22.1	Freeboard Elevation
473.0	118,250	58,656	904,219	20.8	
472.5	116,372	57,718	845,584	19.4	
472.0	114,501	56,785	787,845	18.1	
471.5	112,640	55,858	731,080	16.8	
471.0	110,791	54,937	675,202	15.5	
470.2	107,877	51,500	587,735	13.5	Max Operating Elevation
470.0	107,128	51,110	566,235	13.0	
469.5	105,313	50,206	513,125	11.8	
469.0	103,510	49,308	460,919	10.6	
468.5	101,721	48,416	409,611	9.4	
468.0	99,944	47,531	359,195	8.2	
467.5	98,179	46,652	309,664	7.1	
467.0	96,428	45,780	261,013	6.0	
466.5	94,690	44,914	213,233	4.9	
466.0	92,965	44,036	166,319	3.8	
465.5	91,178	43,138	120,284	2.8	
465.0	89,372	42,238	75,146	1.7	Residual Elevation
464.5	87,580	41,308	30,908	0.7	
464.0	38,052	0	0	0.0	Bottom



GENERAL NOTES

- INSITU MATERIAL
- CLAY LINER
- CONCRETE

SCALE, FEET



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

3	MAX OPERATING LEVEL	11/19/14
2	BASELINE UPDATE	6/11/13
1	AS BUILT	10/31/06
No.	Revision/Issue	Date

**DeHaan, Grabs
& Associates, LLC**
Consulting Engineers
PO Box 822, Mission, ND 58554
(701) 643-1118, FAX (701) 637-1568
www.dgoengineering.com

**DOUGHERTY CATTLE
COMPANY**

NW-1/4, SECTION 6, T-97-N, R-75-W
TRIPP COUNTY, SD

**HOLDING POND 2
STAGE STORAGE TABLE**

DATE:
FEB 8, 2006

SCALE:
NONE

DRAWN BY:
NAP

CHECKED BY:
DLD

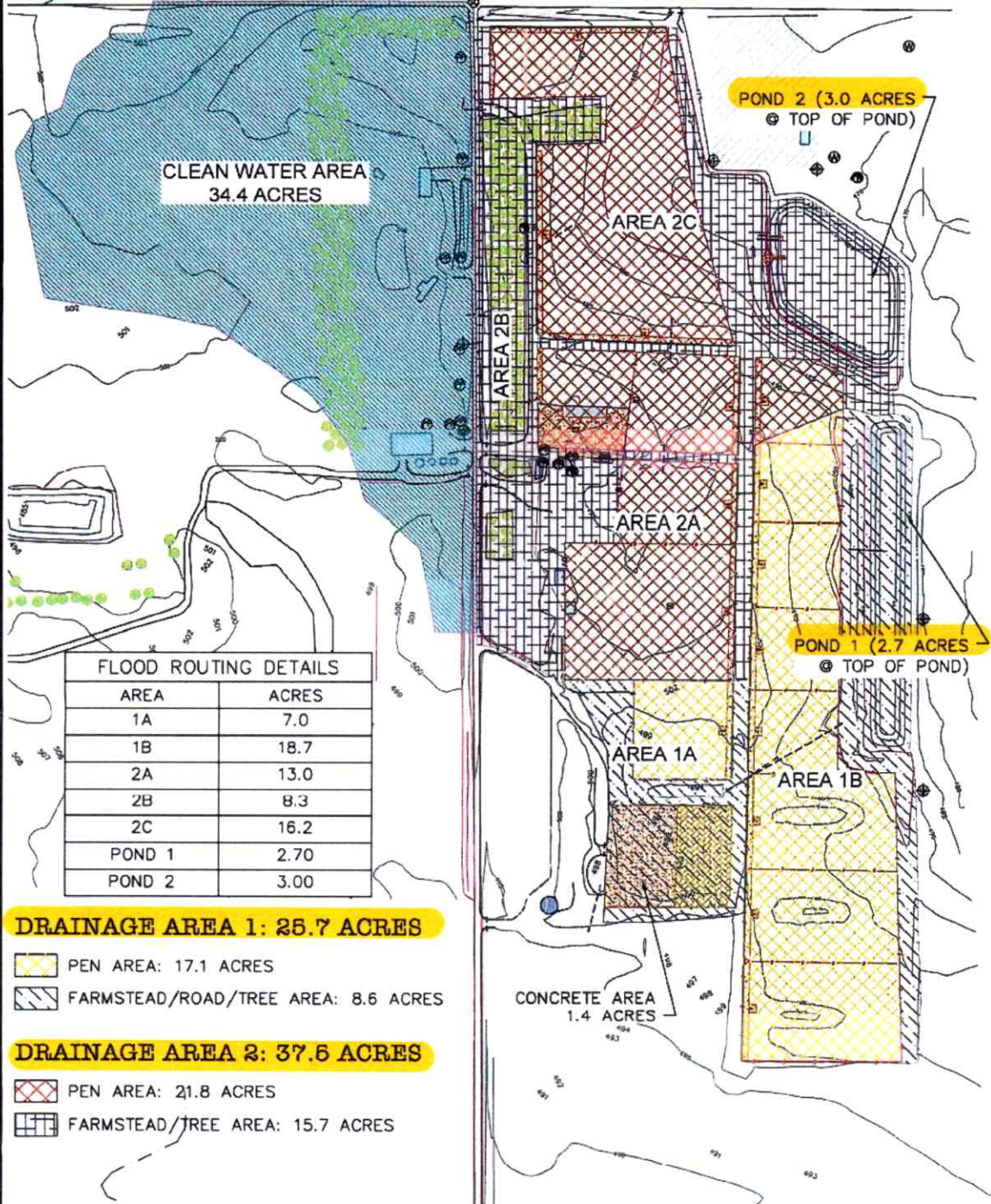
SHEET:

C5.3

FILE NAME: SD PROJECT FILES\NEED DOUGHERTY\FILES\PLAN

MAR 24 2025

RECEIVED



FLOOD ROUTING DETAILS

AREA	ACRES
1A	7.0
1B	18.7
2A	13.0
2B	8.3
2C	16.2
POND 1	2.70
POND 2	3.00

DRAINAGE AREA 1: 25.7 ACRES

- PEN AREA: 17.1 ACRES
- FARMSTEAD/ROAD/TREE AREA: 8.6 ACRES

DRAINAGE AREA 2: 37.6 ACRES

- PEN AREA: 21.8 ACRES
- FARMSTEAD/TREE AREA: 15.7 ACRES

FILE NAME: SD PROJECT FILES\NET\DOUGHERTY\DRAINAGE

DATE: NOV 3, 2005
SCALE: 1" = 300'
DRAWN BY: NAP
CHECKED BY: DLD
SHEET: C5.1

DOUGHERTY CATTLE
COMPANY
NW 1/4, SECTION 6, T-97 N, R-76 W
TRIPP COUNTY, SD
DRAINAGE AREA MAP

DeHoon, Grobs
& Associates, LLC
Consulting Engineers
1000 322 Avenue, NE, Suite 200
Fargo, ND 58103
www.dgengr.com

No.	AS BUILT	10/31/06
1	REVISION/ISSUE	2 03/24/08
2	REVISION/ISSUE	Date



- GENERAL NOTES
- WATER WELL
 - BUILDINGS
 - FENCELINE
 - PROPOSED FENCELINE
 - CULVERT/PIPE
 - TREES
 - SCALE: FEET
- 0 150 300 450 600

White

10140204 Lower White

CEMETERY RD

98N,75W
Section: 31

98N,75W
Section: 32

98N,75W
Section: 33

286 ST

97N,75W
Section: 06

10150001 Ponca

97N,75W
Section: 05

Lewis and Clark Lake

97N,75W
Section: 04

287 ST

97N,75W
Section: 07

97N,75W
Section: 08

97N,75W
Section: 09

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date March 31stth, 2025

RECEIVED OF Nutrient Advisors for Cameron Dougherty Lv Tr & Cheryl Dougherty Tr 28615 321st Avenue Colome SD 57528

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$200.00
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>2889-2</u>	\$ _____
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$200.00

By

Mark Mayke
Chief Engineer

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date March 31stth, 2025

RECEIVED OF Nutrient Advisors for Cameron Dougherty Lv Tr & Cheryl Dougherty Tr 28615 321st Avenue Colome SD 57528

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

Fee for Application for Permit No. <u>2889-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>750.00</u>
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. _____	\$ _____
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>750.00</u>

By

Mark Mayke
Se Chief Engineer

2889-2 Additional Qualification from Adam

This came about from a discussion between Whitney and I and feedback from the Livestock Services Program. They will want to review the final language before we finalize the recommendation. This should also be mentioned in the water use section by the incidental runoff into the ponds and have its own conclusion in the report.

Proposed Qualification

Water cannot be diverted from Ponca Creek into the wastewater ponds if the diverted water would result in the water level of the ponds to exceed the maximum operating level of the wastewater ponds.

Waiting on Konda for other info.
start Ponca Creek part only

Dewell, Amanda

From: Dewell, Amanda
Sent: Thursday, April 3, 2025 11:49 AM
To: herbdougherty@yahoo.com
Subject: Dougherty Living Trust - Irrigation Application
Attachments: Screenshot 2025-04-03 113956.png

Good afternoon,

I am reaching out today in regard to a Water Permit application that was submitted on behalf of the Can & Cheryl Dougherty Living Trusts.

In reviewing the application, our software estimates the intended irrigated area to be approximately 117.4 acres; however, the application request 102.7 acres. With the way our fee schedule is set up, the applicant could request as many as 120 acres, without an increase to the cost of the application. I would like to recommend increasing the number of requested acres to reflect 118, rather than the currently requested 102.7. My recommendation is due to the fact that, if the system is developed and an inspection finds that more acres were developed than originally indicated on the application, additional permitting would be required, and this process would need to be gone through again for those additional acres.

Please take a moment to review the map and measurements (*see attached*) and let me know if you are agreeable to me adjusting your application to 118 acres.

Thank you,

Amanda Dewell

DANR - Water Rights Program
Permitting Administrator
Main Phone: 605 773-3352
Website: danr.sd.gov



I spoke w/ Cam the morning
of 4/7/2025 and he
was agreeable to increasing
the number of acres to 118.

AD

RECEIVED

MAR 31 2025

OFFICE OF
WATER



NUTRIENT
ADVISORS

RECEIVED

MAR 31 2025

OFFICE OF
WATER

March 25, 2025

South Dakota Department of Agriculture and Natural Resources
Water Rights Program
c/o Rachel Rodriguez
523 East Capitol Ave
Pierre, SD 57501-3182

RE: Dougherty Cattle Co.
Subject: Application for Water Permit for Irrigation

Dear Ms. Rodriguez:

Enclosed is an application for Permit to Appropriate Water for Irrigation along with a \$750.00 check to cover the application fee and a \$200.00 check to cover the final inspection/licensing fee for Dougherty Cattle Co.

If you have any questions, please feel free to contact our office.

Sincerely,

Matt Kennedy

Nutrient Advisors



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

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Tuesday, March 25, 2025 11:19 AM
To: mkennedy@nutrientadvisors.com
Subject: Water Permit Application

Good morning,

I am in receipt of the water permit application for irrigation. I just need to clarify a few items:

- The fee for 102.7 acres is \$950.00. Application fee \$750.00 + inspection fee \$200.00.
- Based on the map submitted, the diversion points are in the SE 1/4 SW 1/4, and SE 1/4 SE 1/4 Sec 5-T97N-R75W, do you agree?
- The GPM of 150 for 0.33 cfs, the 0.33 was in the AF slot.

Once I receive the items above, I can begin processing your application.

Thank you,

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



RECEIVED

MAR 24 2025

Water Rights
Program



**NUTRIENT
ADVISORS**

March 24, 2025

South Dakota Department of Agriculture and Natural Resources
Water Rights Program
c/o Amanda Dewell
523 East Capitol Ave
Pierre, SD 57501-3182

RE: Dougherty Cattle Co.
Subject: Application for Water Permit for Irrigation

Dear Ms. Dewell:

Enclosed is an application for Permit to Appropriate Water for Irrigation along with a check for \$750.00 to cover the application fee for Dougherty Cattle Co.

If you have any questions, please feel free to contact our office.

Sincerely,

Matt Kennedy

Nutrient Advisors



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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

**RECOMMENDATION OF ACTING CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2889-2, Cameron Dougherty Lv Trust & Cheryl Dougherty Lv Trust**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Acting Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 2889-2, Cameron Dougherty Lv Trust & Cheryl Dougherty Lv Trust, 28615 321st Avenue, Colome SD 57528.

The Acting Chief Engineer is recommending APPROVAL of Application No. 2889-2 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 domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.
2. Water Permit No. 2889-2 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
3. Water Permit No. 2889-2 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 including approval of plans and specifications for any modification made to the permitted manure management system.
4. No diversion of water from Ponca Creek to the wastewater pond(s) may occur when the water level in the pond(s) is at or above the maximum operating elevation included as part of the permit application under 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.
5. Water Permit No. 2889-2 authorizes application of wastewater only to the acreage identified on this Permit and included in the Department-approved nutrient management plan included as part of the permit application under 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.
6. Water Permit No. 2889-2 does not authorize pumping from Ponca Creek after June 1st of each calendar year unless written permission is granted by the Chief Engineer.

(continued)

Report to the Chief Engineer
Water Permit Application No. 2889-2
Cameron & Cheryl Dougherty Living Trust
May 27, 2025

Water Permit Application No. 2889-2 proposes to appropriate 0.33 cubic feet of water per second (cfs) from Ponca Creek, with diversion points located anywhere within the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 5, T97N-R75W. Water will be diverted from Ponca Creek to two animal confinement wastewater ponds with a combined storage capacity of 23.1 acre-feet (ac-ft), located in the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 5, T97N-R75W which will also capture incidental surface runoff. Water from the creek will be used to dilute the wastewater effluent before being applied for irrigation of 118 acres located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 5, T97N-R75W. This site is located in Tripp County, approximately 1 $\frac{1}{4}$ miles southwest of Colome, South Dakota.

Water Source: Ponca Creek and surface runoff

South Dakota Codified Law (SDCL) 46-2A-2

“Within sixty days of receipt of a completed application, the chief engineer shall recommend in writing approval, disapproval or deferral until further notice and shall schedule the application for hearing by the Water Management Board. The recommendation shall include any terms, conditions, restrictions, qualifications, quantifications, or limitations on perpetuity which are consistent with this chapter, necessary to protect the public interest and related to matters within the jurisdiction of the chief engineer or the board.”

SDCL 46-2A-9

“A permit to appropriate water may only be issued if there is reasonable probability that unappropriated water is available for the applicant’s proposed use, the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, the proposed use is a beneficial use, and the permit is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board as defined by SDCL 46-2-9 and 46-2-11.”

This report will address the availability of water from Ponca Creek and incidental surface runoff, as well as whether the proposed appropriation can be developed without unlawful impairment of existing domestic water uses and water rights.

Background

Dougherty Cattle Company Inc. operates a commercial cattle feeding operation. The operation plans to install an irrigation pivot to distribute surface runoff water that will be captured within the wastewater containment system to irrigate 118 acres. There are two proposed wastewater ponds with a combined storage of 23.1 ac-ft (Basin 1: 9.6 ac-ft and Basin 2: 13.5 ac-ft) at the maximum operating levels.

To supplement the wastewater to be disposed of through a center pivot, the operation would like to divert water seasonally from Ponca Creek. The diverted water would be pumped from the creek using a self-contained mobile pump to be installed and removed as needed, as weather allows or at proper crop timing. The diverted water is to be transported to the wastewater containment system and cannot exceed the max operating level of the system, which will also hold incidental surface runoff and

wastewater. Diversion from Ponca Creek cannot occur if the diverted water would result in the water levels of the wastewater ponds exceeding the maximum operating levels as approved by the DANR Livestock Services Program.

This application is proposing to appropriate flows of Ponca Creek at a maximum diversion rate of 0.33 cfs to be applied to 118 acres for irrigation at a location near Colome, SD which is near the headwaters of the creek. The maximum amount of collective storage that can be held inside the two wastewater ponds is 23.1 acre-feet which includes incidental runoff water and wastewater from the operation.

Description of Proposed Water Source

Ponca Creek is an intermittent tributary of the Missouri River, which headwaters in Tripp County near Colome, and flows generally southeast through Gregory County before its confluence with the Missouri River in a location approximately six miles northwest of Niobrara, Nebraska. The creek is approximately 139 miles in length (GNIS, 2025). The stream has flow most of the year except during extended dry periods (USGS, 2019 and 2025).

The approximate size of the Ponca Creek watershed from the proposed diversion points located in the S ½ S ½ of Section 5, T97N-R75W is 6.09 square miles, or 3,898 acres (USGS, 2019). There are four USGS streamgages located on Ponca Creek, listed in **Table 1**.

Table 1. USGS streamgages located on Ponca Creek with daily discharge data (USGS, 2025).

Name	Gage No.	Contributing Drainage Area	Status	Approx. distance downstream of proposed diversion	Years of Daily Discharge Data
Ponca Creek near Naper, NE	06453400	373 sq. miles	Inactive	50 miles	1960 - 1974
Ponca Creek at Anoka, NE	06453500	505 sq. miles	Inactive	70 miles	1949 - 1994
Ponca Creek at Lynch, NE	06453550	n/a	Inactive	100 miles	1960 - 1964
Ponca Creek at Verdel, NE	06453600	812 sq. miles	Active	120 miles	1957 - 2025

Water Availability: Ponca Creek

The USGS Ponca Creek streamgage with the most continuous daily discharge data is the gage at Anoka, NE, located approximately 70 river miles downstream from the proposed diversion site and approximately 15 river miles downstream from the South Dakota-Nebraska border. Using gage data this far downstream from the proposed site will be an overestimation of available flows since this application is proposing to divert near the headwaters of the creek by Colome. **Figure 1** shows a map of Ponca Creek and the proposed diversion site, locations of existing water rights, and the locations of the USGS streamgages listed in **Table 1**.

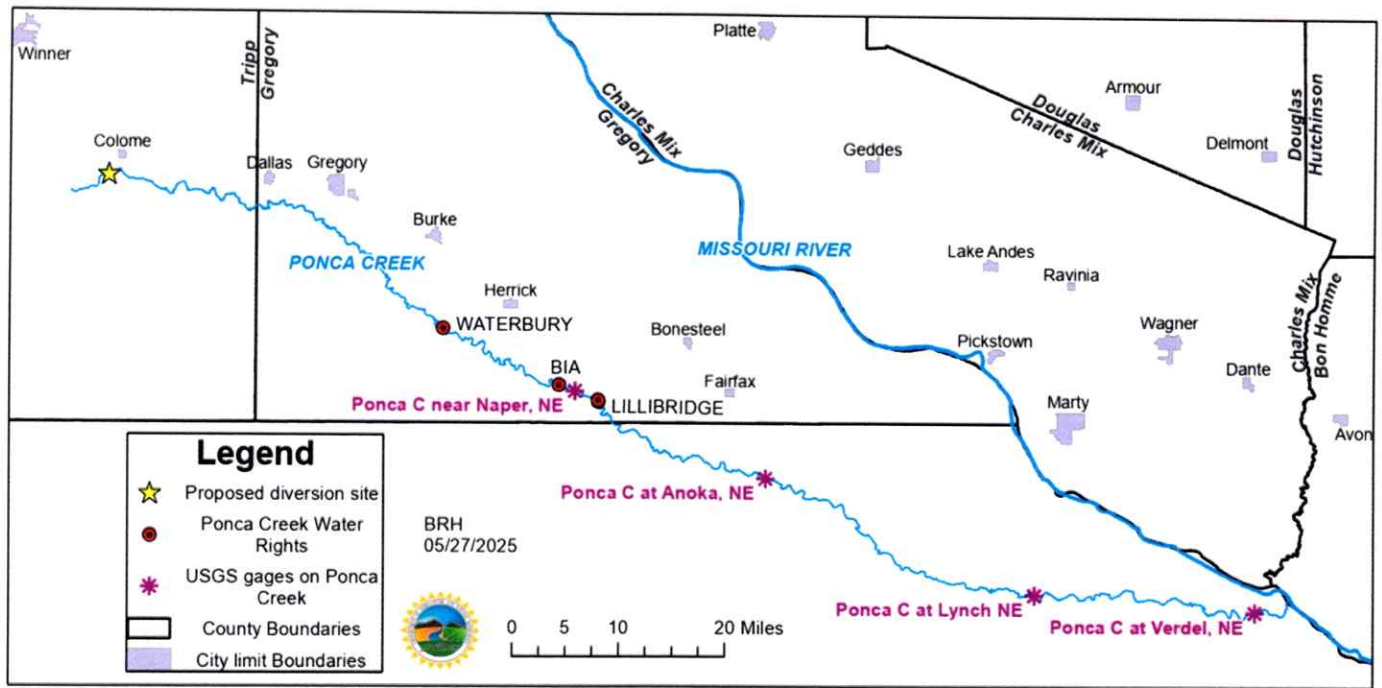


Figure 1. Location of proposed diversion site, Ponca Creek water rights, and USGS streamgages on Ponca Creek (Water Rights, 2025a; USGS, 2025).

The NRCS annual surface yield Method A for South Dakota has been typically used by the Water Rights Program for watersheds that are ungaged. This method does not account for baseflow into the stream in question. This method estimates the volume of runoff which can be expected for a twelve-month period at certain annual exceedance probabilities using contributing drainage area, a runoff curve number (CN), and the drainage basin location on an isogram map (USDA-NRCS, 1984).

Exceedance probabilities of annual yields in acre-feet were determined for the calendar years 1950 through 1993 at the Anoka gage using daily discharge values. The actual annual yields at this gage were compared to annual yields calculated using NRCS Method A at the same location to determine the best curve number to apply to the upstream watershed at the proposed diversion site. **Table 2** below shows a comparison of the NRCS curve numbers that yield similar annual volumes to the actual annual volumes at the Anoka gage, with a contributing drainage basin of 505 square miles (323,200 acres) and using isogram no. 2.5.

Table 2. Comparisons of annual yields for the watershed above the Ponca Creek streamgage at Anoka, NE using both the 1950 to 1993 daily discharge data and the NRCS Method A (USGS, 2025; USDA-NRCS, 1984). Volumes reported in acre-feet.

Exceedance Probabilities	Gage Data from Ponca Creek at Anoka, NE	NRCS Method A CN 70	NRCS Method A CN 75	NRCS Method A CN 79	NRCS Method A CN 80	NRCS Method A CN 81
80%	8,183	2,424	4,848	8,080	9,427	10,773
50%	22,175	7,272	12,389	19,123	21,547	23,971
20%	51,111	23,971	36,091	50,365	54,944	59,523

Based on **Table 2**, the curve number volume at a 50% exceedance probability that most closely matches historical data for a Ponca Creek watershed is 80. Applying this curve number to the drainage area of the proposed diversion point on Ponca Creek (3,898 acres) and using isogram no. 2.5, **Table 3** below shows the annual yield exceedance probabilities for the watershed in question. For example, an 80% probability shows the annual volume that was equaled or exceeded 80% of the time with the available data.

Table 3. Annual yield estimates for the watershed above the proposed diversion points on Ponca Creek, determined by NRCS Method A (USDA-NRCS, 1984).

Exceedance Probabilities	Annual Yield (acre-feet)
80%	114
50%	260
20%	663

Available water in Ponca Creek is not evenly distributed throughout the calendar year, and the amount of water available at any given time varies seasonally and annually. The mean monthly discharges for the gage at Anoka can be used to find the annual distribution of flows on Ponca Creek. Then, the annual yield at the 50% exceedance probability from **Table 3** was converted into average daily discharges based on that distribution. **Table 4** shows what the typical daily discharges may be for each month at the proposed diversion site.

Table 4. Daily discharges (cfs) calculated from the estimated annual yield of 260 acre-feet for the watershed above the proposed diversion site and the distribution of annual flows at the Anoka gage (USGS, 2025).

Month	Discharge (cfs)
Jan	0.04
Feb	0.23
Mar	1.13
Apr	0.94
May	0.62
June	0.60
July	0.32
Aug	0.16
Sept	0.09
Oct	0.06
Nov	0.07
Dec	0.05

For a normal year, the creek at the proposed location is likely to receive 260 acre-feet of water a year (**Table 3**). This application proposes to store water in two wastewater ponds. Water from Ponca Creek will be diverted at a rate of 0.33 cfs to supplement the ponds in addition to wastewater and incidental runoff water. The analysis shows that Ponca Creek maintains a flow large enough at this location to accommodate storage in the wastewater ponds during spring runoff months.

Based on the estimated normal annual yield to determine daily flows on Ponca Creek at that location, there is a reasonable probability that water is available to satisfy the proposed appropriation between the months of March through June, with flows naturally diminishing during the summer and fall months. This application requests to pump from March through September. There will be years where

water is not available as needed during the full requested period of March through September, while still maintaining a low flow bypass for downstream domestic use and senior water rights.

Water Availability: Incidental Runoff

The drainage areas of the two ponds were provided with the engineering report submitted by the applicant. They are 25.7 acres for Basin 1 and 37.5 acres for Basin 2 for a total drainage area covering 63.2 acres. At the max operating elevation, the area of impoundment is 1.76 acres for Basin 1 and 2.48 acres for Basin 2 for a total of 4.24 acres.

A CN of 80 and isogram no. 2.5 was used for NRCS Method A to estimate incidental surface flow to the two holding ponds using the total drainage area of 63.2 acres (USDA-NRCS, 1984). At an 80% exceedance probability, the estimated annual yield is 1.8 acre-feet, at 50% the yield is 4.2 acre-feet, and at 20% the yield is 10.7 acre-feet. These yields will be seasonally distributed to where majority of the runoff occurs during the spring and early summer months.

The amount of surface runoff that is available for the two wastewater ponds will vary from year to year depending on the quantity and temporal distribution of precipitation. The normal annual precipitation near the location of the proposed diversion is 23.93 inches (1.99 feet) (U.S. Climate Data, 2025).

The annual average pan evaporation near the location of the proposed diversion is estimated to be 46 inches (3.8 feet) (Poudyal, 2006). Applying a reduction coefficient from pan evaporation to lake coefficient (0.7), the annual evaporation at this site is estimated to be approximately 2.7 feet from lake surfaces. Applying the estimated annual evaporation loss and direct precipitation to the surface areas of the ponds (4.24 acres) is an annual loss of approximately 3 acre-feet per year. On a normal year the annual incidental runoff into the two wastewater ponds will be enough to offset the annual surface loss from evaporation, however, there is not a reasonable probability that surface runoff and direct precipitation into the ponds will be enough to satisfy the proposed appropriation into September of any given year since the majority of annual precipitation falls in the months of April through July.

Potential for Unlawful Impairment

The proposed location for this application is upstream of all other existing water rights on the creek (**Figure 1**). The nearest existing water right appropriating water from Ponca Creek is approximately 35 river miles downstream of this proposed diversion. There is a location notice for a small impoundment approximately ½ mile downstream of the proposed diversion site located on an off-stream tributary. **Table 5** below lists the four active water rights appropriating water from Ponca Creek (Water Rights, 2025a).

Table 5. Active water rights appropriating water from Ponca Creek (Water Rights, 2025a).

Name	Water Right No.	Use Type	Priority Date	Licensed Diversion Rate (cfs)	Licensed Volume for off-stream storage dam (acre-feet)
Waterbury	1650-2	Irrigation	01/12/1979	13.33	750
BIA	US19-2	Irrigation	12/18/1936	1.5	
Lillibridge	1320-2	Irrigation	09/05/1975	3.87	
Lillibridge	2499-2	Irrigation	02/05/2003	0.54	

Water Right No. US19-2 held by Bureau of Indian Affairs (BIA) is for appropriation of 1.5 cfs for the irrigation of Ponca Day School Reserve. Information on file for this water right shows that there is no documentation of completed works or confirmation of use after the original "Certificate of Withdrawal" from 1936. Since this water right is still active, it will be assumed that they are pumping water for irrigation.

Water Right No. 1650-2 was contested by multiple people in 1992 when the permit was readvertised after its initial issuance in 1979. Concerns were that during drought years, 1979 and 1980, the owners of Water Right No. 1650-2 were not bypassing enough water for downstream users. However, the readvertisement in 1992 was for a lower diversion rate and less acreage, and the readvertised permit was approved. There have been no complaints of unlawful impairment on Ponca Creek on file since the contested readvertisement (Water Rights, 2025b).

There is a reasonable probability that this application will not impair existing water rights because more water is available downstream than at the location of the proposed diversion site as is evident by respective drainage basins and historical flow data from the four USGS gages located on the creek (USGS, 2025). The USGS streamgage near Naper, NE is actually located in South Dakota and is approximately 2 ½ river miles upstream of the Lillibridge water rights (**Figure 1**). The medians of the mean monthly discharge data at this gage are 28 cfs in March, 46 cfs in April, 20 cfs in May, and 34 cfs in June.

Water Right Nos. 1320-2, 1650-2, and 2499-2 have qualifications that do not authorize pumping after June 1 of each year, unless written permission is given by the Chief Engineer (Water Rights, 2025a). To protect downstream domestic use, nearby location notices, and the existing water rights, a low flow bypass qualification and a June 1 cutoff date will be included in the Recommended Qualifications below.

Recommended Qualifications

1. Low flows of Ponca Creek as needed for downstream domestic use, including livestock watering, must be bypassed. To be consistent with other water rights issued from this source, this permit does not authorize diversion of water from Ponca Creek after June 1 of each calendar year, nor at any time when the stream flow is low, unless written orders have been issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. Water Permit No. 2889-2 authorizes application of wastewater only within the area identified on this Permit and also included in the Department-approved nutrient management plan.
3. No diversion of water from Ponca Creek to the wastewater pond(s) may occur when the water level in the pond(s) is at or above the maximum operating elevation identified on the Department's Water Pollution Control Permit.
4. Pursuant to SDCL 46-2-19, the Chief Engineer, or designated representative, may enter upon the lands authorized by this water permit for the purpose of inspecting works and determining if the irrigation system is operating.
5. This Permit is approved subject to the irrigation water use questionnaire being submitted each year to report annual use from Ponca Creek.

Conclusions

1. This application proposes to appropriate 0.33 cfs from Ponca Creek from March 1 to September 30 of the year, with diversion points located anywhere within the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 5, T97N-R75W. Water will be diverted from Ponca Creek to two animal confinement wastewater ponds with a combined storage capacity of 23.1 ac-ft, located in the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 5, T97N-R75W which will also capture incidental surface runoff.
2. Water from Ponca Creek will be used to dilute the wastewater before being applied for the irrigation of 118 acres located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 5, T97N-R75W.
3. Using USGS streamgage data and NRCS Method A to estimate annual yield and expected daily flows in Ponca Creek at the proposed diversion site, there is not a reasonable probability that there is sufficient water available from Ponca Creek throughout the whole period from March 1 through September 30.
4. Using NRCS Method A to estimate annual yield of the incidental surface runoff and incorporating direct precipitation and evaporative losses to the surface area of the two wastewater ponds at the maximum operating level, surface runoff is available to supplement the wastewater pond storage. However, there is not a reasonable probability that water is available from surface runoff to satisfy the proposed appropriation into September of any given year.
5. If this application is approved, it should contain a form of the qualifications listed in the Recommended Qualifications section of this report.
6. Approval of this permit is not expected to adversely impact any existing domestic uses or water rights with the following qualification:
 - a. Low flows of Ponca Creek as needed for downstream domestic use, including livestock watering, must be bypassed. This permit does not authorize diversion of water from Ponca Creek after June 1 of each calendar year, nor at any time when the stream flow is low, unless written orders have been issued by the Chief Engineer. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.



Brittan R. Hullinger
Natural Resource Engineer II
SD DANR Water Rights Program

References

- GNIS. 2025. Geographic Names Information System. Ponca Creek Summary Report. U.S Geological Survey. <<https://edits.nationalmap.gov/apps/gaz-domestic/public/search/names/832302>> Accessed May 19, 2025.
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- USGS. 2019. U.S. Geological Survey StreamStats. <<https://streamstats.usgs.gov/ss/>> Accessed May 20, 2025
- USGS. 2025. Water Data for the Nation: U.S. Geological Survey National Water Information System database. <<https://waterdata.usgs.gov/nwis>> Accessed May 20, 2025.
- Water Rights. 2025a. Water Right/Permit Files. SD DANR Water Rights Program. Joe Foss Building. Pierre, South Dakota.
- Water Rights. 2025b. County Complaint Files. SD DANR Water Rights Program. Joe Foss Building. Pierre, South Dakota.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

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

June 12, 2025

Nutrient Advisors
c/o Matt Kennedy
551 E. Deere Street
West Point NE 68788

RE: Cameron Dougherty Living Trust & Cheryl Dougherty Living Trust

Dear Mr. Kennedy:

Water Permit Application No. 2889-2 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Winner Advocate printed at Winner SD (Ph # 605 842-1481) and the Plainsman printed at Huron SD (Ph # 605 353-7414). 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 Acting 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 publishers have been instructed to publish your notice. The newspapers have 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,

Rachel Rodriguez

Rachel Rodriguez
Water Rights Program
(605) 773-3352

enclosures

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

NOTICE OF APPLICATION NO. 2889-2 to Appropriate Water

Notice is given that Cameron Dougherty Living Trust and Cheryl Dougherty Living Trust, 28615 321st Avenue, Colome SD 57528, have filed an application for a water permit to appropriate 0.33 cubic feet of water per second from Ponca Creek, with diversion points located anywhere within the S1/2 S1/2 Section 5-T97N-R75W. Water will be diverted from Ponca Creek to two animal confinement wastewater ponds (combined storage capacity of 23.1 acre-feet) located in the W 1/2 NW 1/4 Section 5-T97N-R75W which also captures incidental surface runoff. Water from the creek will be used to dilute the wastewater effluent before being applied for irrigation of 118 acres located in the E 1/2 SW 1/4, W 1/2 SE 1/4 Section 5-T97N-R75W. This site is located approximately one and one quarter of a mile southwest of Colome SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 2889-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Acting Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 30, 2025.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 30, 2025.

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

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, June 11, 2025 2:00 PM
To: winneradvocate@hotmail.com
Subject: 2889-2 Cameron Dougherty Living Trust - Public Notice
Attachments: 2889-2 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 18, 2025.

Cameron Dougherty Living Trust and Cheryl Dougherty Living Trust, 28615 321st Avenue, 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 Ave, Pierre SD 57501.

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

Thank you,

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



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, June 11, 2025 2:01 PM
To: rcrandall@plainsman.com
Subject: 2889-2 Cameron Dougherty Living Trust - Public Notice
Attachments: 2889-2 public.short_final.docx; FORM8.FRM.doc

Attached is a notice to be published on June 18, 2025.

Cameron Dougherty Living Trust and Cheryl Dougherty Living Trust, 28615 321st Avenue, 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 Ave, Pierre SD 57501.

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

Thank you,

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



AFFIDAVIT OF PUBLICATION

State of South Dakota, county of Tripp-ss.

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

104 Lines @ 1 column X 90%

Application

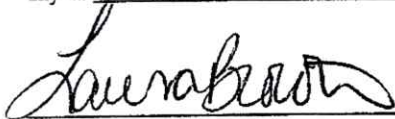
Cam and Cheryl Dougherty Living Trust

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:

6-18-2025

That the full amount of the fees for the publication of the
*annexed notice is \$39.31

Subscribed and sworn to before me this 18th
day of June, 2025



Notary Public

County of Tripp, South Dakota

My Commission Expires June 20, 2031



NOTICE OF APPLICATION

NO. 2889-2

To Appropriate Water

Notice is given that Cameron Dougherty
Living Trust and Cheryl Dougherty Living
Trust, 2861 321st Avenue, Colome SD 57528,
have filed an application for a water permit to
appropriate 0.33 cubic feet of water per sec-
ond from Ponca Creek, with diversion points
located anywhere within the S1/2 S1/2 Section
5-T97N-R75W. Water will be diverted from
Ponca Creek to two animal confinement

wastewater ponds (combined storage capacity
of 23.1 acre-feet) located in the W 1/4 NW 1/4
Section 5-T97N-R75W which also captures
incidental surface runoff. Water from the creek
will be used to dilute the wastewater effluent
before being applied for irrigation of 118 acres
located in the E 1/4 SW 1/4, W 1/4 SW 1/4, W 1/4
SW 1/4 Section 5-T97N-R75W. This site is lo-
cated approximately one and one quarter of a
mile southwest of Colome SD.

Pursuant to SDCL 46-2A-2, the Acting
Chief Engineer recommends APPROVAL of
Application No. 2889-2 with qualifications be-
cause 1) unappropriated water is available, 2)
existing domestic water uses and water rights
will not be unlawfully impaired, 3) it is a be-
neficial use of water, and 4) it is in the public
interest as it pertains to matters within the reg-
ulatory authority of the Water Management
Board. The Acting Chief Engineer's recom-
mendation with qualifications, the application,
and staff report are available at
<https://danr.sd.gov/public> or contact Ron Du-
vall for this information, or other information,
at the Water Rights Program address provided
below.

Any person interested in opposing this ap-
plication or recommendation shall allege that
the application, upon approval, will cause in-
jury to the person that is unique from any in-
jury suffered by the public in general. The

injury must concern a matter either within the
regulatory authority found in SDC 46-2A-9 for
approval or denial of the application, or other
matter concerning the application within the
regulatory authority of the board to act upon
as defined by SDCL 46-2-9 and 46-2-11, or
both. Any person meeting the petitioner re-
quirements and wishing to be a party of record
in a contested case hearing shall file a written
petition to oppose the application with BOTH
the applicant and Acting Chief Engineer. A pe-
tition opposing the application shall be filed
on a form provided by the Acting Chief En-
gineer. The petition form is available online at
<https://danr.sd.gov/public> or by contacting the
Acting Chief Engineer. The Acting Chief En-
gineer's address is "Water Rights Program,
Foss Building, 523 E Capitol, Pierre SD
57501" or call (605) 773-3352. The applicant's
mailing address is given above. If contesting
the Acting Chief Engineer's recommendation,
the applicant shall also file a petition. A pe-
tition filed by either an interested person or the
applicant must be filed by June 30, 2025.

The petition shall include a statement de-
scribing the unique injury upon approval of the
application on the petitioner, the petitioner's
reasons for opposing the application, and the
name and mailing address of the petitioner or
the petitioner's legal counsel, if legal counsel
is obtained.

Any interested person may file a comment
on the application with the Acting Chief En-
gineer. The comment shall be filed on a form
provided by the Acting Chief Engineer and is
available online at <https://danr.sd.gov/public>
or by calling (605) 773-3352 or writing the
Acting Chief Engineer at the address provide
above. Filing a comment does not make the
commenter a party of record or a participant
in any hearing that may be held. Any comment
must be filed by June 30, 2025.

If the applicant does not contest the rec-
ommendation of the Acting Chief Engineer
and no petition to oppose the application is re-
ceived, the Acting Chief Engineer shall act on
the application pursuant to the recommenda-
tion 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 \$39.31 (25) and may be viewed for
free online at www.sdpublishnotices.com

Proof Of Publication

Huron Plainsman
49 3rd Street SE
Huron, SD 57350
605-353-7402
Legal Notice Number: 3167

I, Shelly Ames, being duly sworn on oath say that the Plainsman is a daily paper published at Huron, Beadle County South Dakota, and that said newspaper has a bona fide circulation of at least 250 copies daily; that said newspaper has been published within said county for fifty-two consecutive weeks immediately prior to this date, that said newspaper is printed in whole or in part, in an office maintained at said place of publication; that I am a Legal Advertising Dougherty Living Trust – Water No 2889-2 was published for one day, in said newspaper and not in any supplement of the said newspaper, the publication was on 6/18/2025. The full amount of the fee charged for publishing \$47.90 is to the benefit of the publisher of said newspaper; that no agreement or understanding of the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomever.

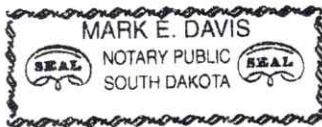
Shelly Ames

Subscribed and sworn to me before this date 6/30/25.

[Signature]

Notary Public, South Dakota

My Term Expires 12/27/2030



F. P. 06-18-25

**NOTICE OF
APPLICATION
NO. 2889-2 to**

Appropriate Water

Notice is given that Cameron Dougherty Living Trust and Cheryl Dougherty Living Trust, 28615 321st Avenue, Colome SD 57528, have filed an application for a water permit to appropriate 0.33 cubic feet of water per second from Ponca Creek, with diversion points located anywhere within the S1/2 S1/2 Section 5-T97N-R75W. Water will be diverted from Ponca Creek to two animal confinement wastewater ponds (combined storage capacity of 23.1 acre-feet) located in the W 1/2 NW 1/4 Section 5-T97N-R75W which also captures incidental surface runoff. Water from the creek will be used to dilute the wastewater effluent before being applied for irrigation of 118 acres located in the E 1/2 SW 1/4, W1/2 SE 1/4 Section 5-T97N-R75W. This site is located approximately one and one quarter of a mile southwest of Colome SD.

Pursuant to SDCL 46-2A-2, the Acting Chief Engineer recommends APPROVAL of Application No. 2889-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Acting Chief Engineer's recommendation with qualifications, the application, and staff

report are av. at <https://danr.sd.gov/> public or contact Ron Duval for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Acting Chief Engineer. A petition opposing the application shall be filed on a form provided by the Acting Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Acting Chief Engineer. The Acting Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Acting Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by June 30, 2025.

The petition shall

include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Acting Chief Engineer. The comment shall be filed on a form provided by the Acting Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Acting Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by June 30, 2025.

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

No. 3167 (adv.) Published one time at the total approximate cost of \$47.90 and may be viewed free of charge at www.sdpublicnotices.com.

Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Wednesday, June 11, 2025 2:31 PM
To: Matt Kennedy
Subject: 2889-2 Cameron Dougherty Living Trust - Public Notice
Attachments: 2889-2 PubNotice.pdf; 2889-2 Letter.pdf; 2889-2 PubNotice.pdf

Good afternoon,

Attached is a copy of the report, acting chief engineer's recommendation, and information regarding the public notice for your water permit application. As stated in the letter, please contact the paper(s) as soon as possible to authorize publication and arrange for payment. This information will be mailed to you tomorrow, as today's mail has already been sent for the day.

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

Thank you,

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





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

JUL 29 2025

Cameron Dougherty Lv Trust &
Cheryl Dougherty Lv Trust
28615 321st Avenue
Colome SD 57528

Dear Mr. & Mrs. Dougherty:

Enclosed is Water Permit No. 2889-2 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,

Mark Mayer, PE
Director of Office of Water

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
Posting on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 2889-2

Name of Applicant: Cameron Dougherty Lv Trust & Cheryl Dougherty Lv Trust, c/o Cam D

Date of Posting: 6/16/2025

Date of Removal: 7/29/2025

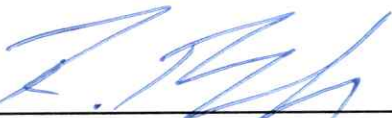


Ron Duvall, Engineer III

7/30/2025

Date

Subscribed and sworn to before me, a notary public, this 29th day of July, 2025.



Notary Public - South Dakota

My commission expires:

**Rachel Rodriguez
My Commission Expires
May 16, 2029**



(SEAL)