

Considered: _____

WATER PERMIT NO. 4580A-3⁶

MAP No. same

Name of Applicant Sand Livestock Systems, Inc.

Post Office Address 1418 25th Str., Columbus NE 68601

Amount of Water Claimed 31 cfs Total Acres _____

Source of Water Supply groundwater - Gray Goose Aquifer

Water to be used for commercial use County Hughes

About 11 miles N of Pierre

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved Oct. 29, 1986 Subject to _____

F.F. & C.L. Adopted Oct. 29, 1986 Not Approved _____ Deferred _____

PRIORITY _____ Date Received July 29, 1986 Fee \$225.00 Remarks _____

10/29/86

Corrected Application Received _____ Period of Annual Use Jan 1 - Dec 31

WATER QUALITY APPROVAL RECEIVED Not needed APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES NO REMARKS _____

Diversion Point 2 wells & storage lagoon:

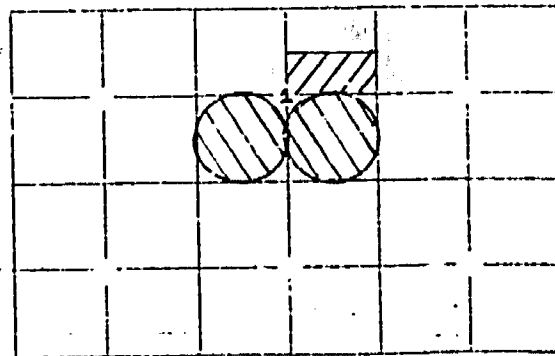
S 1/2 NE 1/4 sec 1 - T112N - R80W; alternate well

site: S 1/2 sec 1 - T112N - R80W

Land to be Irrigated Effluent from lagoon

will be pumped thru pivots on the S 1/2

sec 1 - T112N - R80W



Well Log: Driller _____ Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map Topo PREPARED BY Ron Duvall Reviewed and the Number

assigned on July 29, 1986 By Ron Duvall

No. 458GA-3 Hydrologic Unit 10130105
 Map No. 4580A-3 Basin Missouri River
 Newspaper Capitol Journal

DWNR, Foss Bldg.
 Pierre, SD 57501
 (605) 773-3352

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use of water: Industrial ☐ Commercial ☒ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐
 Domestic ☐ (above 18gpm) Other ☐

Type of Application: Check one or more of the following



New ☒ Vested Right ☐ Future Use ☐ Change Use ☐

☐ Amend Permit No. _____ with old priority date retained

Change diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____

☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____

☐ Construction to use water reserved by Future Use Permit No. _____

1. Name of Applicant Sand Livestock Systems, Inc. Phone No. (402) 564-1211

Post Office Address 1418 25th Street, Columbus, Nebraska State 68601
(Street, RR or Box) Zip Code

2. Amount of water claimed (c.f.s.) 0.31

3. Source of water supply groundwater 2 wells

4. Location of point of diversion 2 wells and storage lagoon: S1/2 Section 1-T112N-R80W

alternate well site: S1/2 Section 1 - T112N-R80W

County Hughes

5. Counties where water will be used Hughes

6. Annual period during which water is to be used January 1 - December 31

7. Give a brief description of proposed 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)
This application proposes to appropriate .31 cfs to supply a swine production unit. Effluent will be pumped to a 47 acre-feet storage lagoon and will be pumped through an existing center pivot system (280 acres) in the S1/2 Section 1-T112N-R80W.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)
 County of Hughes)^{ss}

1. Chuck Sand, President of Sand Livestock Systems, Inc. the applicant, certify that I have read the foregoing application, have examined the attached map and that the map is therein stated are true and that I intend, and am able to complete the necessary construction.

Signed [Signature]

Subscribed and sworn to before me this 29th day of July 1986

[Signature]
 Notary Public (or other qualified officer)

KAREN SCHLAACK

NOTARY PUBLIC

SEAL

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter _____ Depth 125 ft
- b) Casing Type PVC Diameter 16 Thickness _____
- c) Screen Type stainless steel Diameter 16 Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth of Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should 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 1 ft.

c) Crest Width 10 ft.

Crest Length 1950 ft.

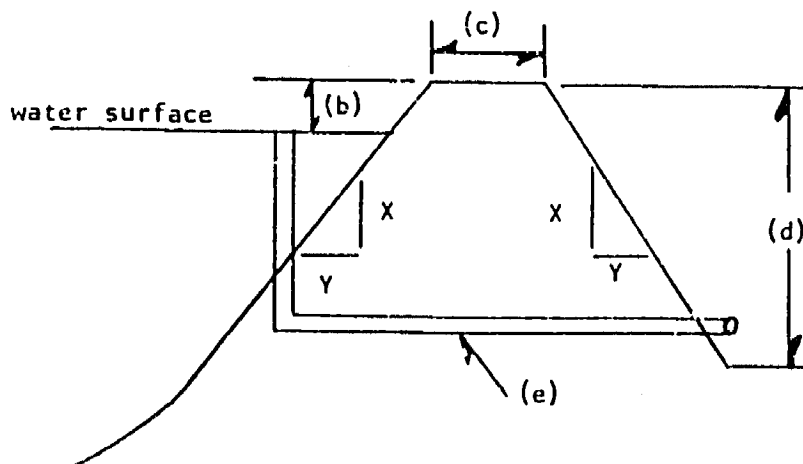
d) Height 13.5 ft.

e) Outlet Dimensions: Pipe diameter 10 in.

Spillway width N/A

f) X & Y Slope Upstream X=1 Y=3

Downstream X=1 Y=3



Surface Area of Impoundment 234,400 ft²

Storage 47 acre feet

Drainage area above dam N/A

Chadwick - Per
Signature of Applicant

Attachment A

3. A reserve storage capacity capable of impounding precipitation from a 12 inch, 24 hour rainfall event shall be maintained in the lagoon. The reserve storage capacity shall be reestablished immediately, as conditions allow, when a 12 inch, 24 hour rainfall cannot be stored due to previous rainfall.
4. No water or wastewater shall be released, except through irrigation, from the lagoon unless the following conditions exist: (1) a 12 inch, 24 hour rainfall event is exceeded, and (2) an extended period of above normal precipitation results in excess stored waters and prevents operation of equipment to lower water levels due to field and weather conditions.
5. Operation of the irrigation systems to dispose of wastewater from the lagoon shall be in a manner that prevents runoff of wastewater from the irrigation sites.

REPORT ON PERMIT APPLICATION NO. 4580A-3
SAND LIVESTOCK SYSTEMS, INC.
July 30, 1986

This application proposes to appropriate 0.31 cfs from two wells approximately 125 feet deep located in the S 1/2 NE 1/4 Section 1, T112N, R80W with an alternate well site in the S 1/2 Section 1, T112N, R80W. Waste water will be pumped to a storage lagoon (47 acre-feet capacity) and will then be disposed of through an existing center pivot system (280 acres) in the S 1/2 Section 1, T112N, R80W. The disposal site acreage is irrigated under Water Permit No. 4580-3. This application does not authorize an increase of the acreage irrigated or authorize a change in amount of water to be used for irrigation of the 280 acres.

Aquifer - Gray Goose

Geology and Aquifer Characteristics

The Gray Goose aquifer is a Pliocene age formation composed of glacial and "western" derived sands and gravels. The aquifer underlies about 120 square miles of Hughes County and contains about 610,000 acres of water not all of which is recoverable to wells (Hamilton, 1986). The aquifer is generally under water table conditions and appears to be hydraulically connected to the Missouri River. The formation thickness in the area of this application varies from 20-40 feet (see map). The aquifer apparently does not underlie the E 1/2 of Section. There are irrigation wells in this area which were test pumped in 1981 which indicated a specific capacity of as much as 53 gpm/ft of drawdown and yields up to 800 gpm per well (Hamilton, preliminary data, 1981). The aquifer is mostly under water table conditions in this area and drawdowns were minimal about 1-2 feet, 1800 feet from the production well.

Water Rights maintains 3 observation wells in this area (HU-30A, HU-80B and HU-82B). Water levels fluctuate very little for this well and generally are highest when Lake Oahe is highest. The ground water level gradient slopes from the reservoir towards the east (see cross section). Records for water levels in this area are available since 1980 (Water Rights, 1986).

Review of Existing Water Permits

There are three groundwater irrigation permits (Nos. 1621-3, 4580-3, 4521-3) in the is area. Of these permits, No. 4580-3 is located in the same section as the proposed diversion point for this application. The amount of water required by this application will not effect the prior irrigation right. It will be necessary for Sand Livestock Systems, Inc. to have an agreement with the owner of Permit No. 4580-3 to go on that land (William Schumacher) in order to develop a well if that becomes necessary.

Conclusions

1. Water is available from the Gray Goose Aquifer.
2. The location proposed (S 1/2 NW 1/4 Section 1) may not be feasible because the aquifer may not be present. It will require test drilling to determine this. The aquifer is present in the S 1/2 Section 1 which is the alternative site.
3. Interference will not be a problem. The aquifer is under water table conditions and test pumping in this area conducted in 1981 indicated minimal drawdowns. For practical purposes spacing of the proposed well should be at least 660 feet from an irrigation well if possible.
4. These wells must be constructed in accordance with South Dakota Well Construction Standards 74:02:04:28.


JAMES GOODMAN
Hydrologist

Bibliography

- Hamilton, L.J., 1986, Major Aquifers in Hughes County, South Dakota, Inf. Pamphlet No. 29, DWNR, SDGS, Vermillion SD 57069.
- Hamilton, L.J., 1981, Preliminary Data on Test Pumping from Gray Goose Aquifer, in Water Rights Division Files Unpublished, DWNR, Water Rights, Joe Foss Building, Pierre SD 57501.
- Water Right Division, 1986, Observation Well HU-80A, HU-80B, HU-82B, unpublished data from observation well files, DWNR, Water Rights Division, Joe Foss Building, Pierre SD.

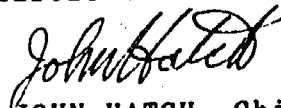
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 4580A-3

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 4580A-3, Sand Livestock Systems, Inc., 1418 25th Street, Columbus NE

The Chief Engineer is recommending APPROVAL of Application No. 4580A-3 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) in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by this Permit shall be constructed in accordance with South Dakota Well Construction Standards 74:02:04:28.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
July 30, 1986



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Water Rights Division
605 773-3352

July 31, 1986

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

Sand Livestock Systems, Inc.
1418 25th Street
Columbus, Nebraska 68601

Dear Sir:

Your Application No. 4580A-3 for a permit to appropriate water for
commercial use, has been examined and found to
comply with the South Dakota Water Laws and applicable rules. A notice of
your intent to appropriate water has been sent to the Publisher of the

Daily Capitol Journal printed at Pierre
South Dakota. For your information, a copy of this notice, the recommendation
of the Chief Engineer and a report on the application are enclosed. Please
review this notice prior to publication and notify this office, if you have
any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice
of intent to appropriate water and to arrange for payment. Early contact with
the paper can eliminate delays. The publisher has been instructed to publish
your notice once each week for two consecutive weeks with the last publication
to occur at least thirty days before the board meeting. We must receive
Proof of Publication before the application can be considered by the Water
Management Board.

Sincerely,

RON DUVALL
Natural Resources Engineer

enclosures



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Water Rights Division
605 773-3352

July 31, 1986

Daily Capitol Journal
Box 878
Pierre, South Dakota 57501

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Sand Livestock Systems, Inc.
Application No. 4580A-3, in Hughes County, South Dakota. Please
publish this notice once each week for two consecutive weeks in your paper. The
first publication should be on, or before August 7, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you
make the first publication. The applicant is to pay the cost of publication and
should make the necessary arrangements with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY
after the FIRST publication, return a copy of the notice with the FIRST Publication
Transmittal form on the bottom of this page. The first copy is needed to check
the publication for errors so any corrections can be made before the second
notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of
Publication form. The permit application cannot be considered by the Water
Management Board until proof of publication has been received.

Thank you for your assistance.

Sincerely,

RON DUVAL
Natural Resources Engineer

cc: applicant

***** CUT HERE *****

FIRST
Publication
Transmittal

No. _____ Date _____
TO: Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

We are in receipt of your letter dated _____ and Notice of Hearing to
Appropriate Water by Application No. _____. The notice was first published
in our issue dated _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME _____ NEWSPAPER _____

Equal Opportunity Employer

No. 4580A-3

Instruction to Newspaper - Publish first publication of the following Notice on or before
August 7, 1986 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 4580A-3 to Appropriate Water
and/or to Amend Water Permit ~~or Water Right~~ No. 4580-3

Notice is hereby given that Sand Livestock Systems, Inc. whose mailing address is

1418 25th Street, Columbus, Nebraska, ~~South Dakota~~ has made an application for a permit

to appropriate .31 cubic feet of water per second from two wells (Gray Goose Aquifer) 125 feet deep to be located in the S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ Section 1-T112N-R80W to supply a commercial swine production unit. This application also proposes to amend Water Permit No. 4580-3 to allow construction of a 47 acre-feet storage lagoon to hold wastewater from the wells supplying the swine unit. The two proposed wells will be drilled within 2000 feet of existing irrigation wells under Permit No. 4580-3. Wastewater will be pumped to the storage lagoon and then be disposed of through an existing center pivot system (280 acres) covered by Permit No. 4580-3 located in the S $\frac{1}{2}$ Section 1-T112N-R80W. This application to amend Permit No. 4580-3 will not increase the acreage irrigated or change the amount of water used for irrigation of the 280 acres. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends

APPROVAL of Application No. 4580A-3 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, SD, September 3 19 86 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by August 22, 1986. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; ~~(ground)~~ 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; ~~(future use)~~ 46-5-38 thru 46-5-40; ~~(transfer lands)~~ 46-5-30.4, 46-5-33 thru 46-5-35; ~~(10,000 AFA)~~ 46-5-20.1, 46-5-8.1, and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; ~~(future use)~~ 74:02:01:24 thru 74:02:01:25; ~~(10,000 AFA)~~ 74:02:01:15:02 thru 74:02:01:15:05.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by August 22, 1986.

No. 00318

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County Hughes)

I, Theresa K. Mosser hereby

certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Daily Capital Journal

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

_____ of _____

County of Hughes and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

Aug 7, 1986

Aug 14, 1986

Theresa K. Mosser
(Signature)

Proofreader / Legal Rep.
(Title)

August 15, 1986
(Date Signed)

Cost of Printing:

30 lines at a rate
of .39 / (for 2 runs)
total due = 11.73



7/79

Proof of Publication

No. 00318 2dly 8/7, 8/14

NOTICE OF HEARING

on Application No. 4580A-3
to Appropriate Water and to
Amend Water Permit No. 4580-3
Notice is hereby given that
Sanj Livestock Systems, Inc.
whose mailing address is 1418
23th Street, Columbus,
Nebraska, has made an
application for a permit to
appropriate .31 cubic feet of
water per second from two
wells (Gray Geese Aquifer) 125
feet deep to be located in the
S4NE1/4, S4 Section 1-T112N-
R90W to supply a commercial
swine production unit. This
application also proposes to
amend Water Permit No. 4580-3
to allow construction of a 47
acre-foot storage lagoon to hold
wastewater from the wells
supplying the swine unit. The
two proposed wells will be
drilled within 2000 feet of
existing irrigation wells under
Permit No. 4580-3. Wastewater
will be pumped to the storage
lagoon and then be disposed of
through an existing center pivot
system (280 acres) covered by
Permit No. 4580-3 located in
the S4 Section 1 -
T112N-R90W. This application
to amend Permit No. 4580-3 will
not increase the acreage
irrigated or change the amount
of water used for irrigation of
the 280 acres.

Pursuant to SDCL 45-2A-2 the
Chief Engineer of the Water

Rights Division recommends
APPROVAL of Application No.
4580A-3, because 1) unappro-
priated water is available, 2)
will be no unlawful impairment
of existing rights, 3) is
beneficial use of water and 4) is
in the public interest.

This application will be
considered by the Water
Management Board at room
214, Joe Foss Building, 523 E.
Capitol, Pierre, SD, September
3, 1986 at 10:00 a.m. The

recommendation of the Chief
Engineer is not final or binding
upon the Board and the Board is
authorized to 1) approve, 2)
approve with qualifications, 3)
deny, or 4) deny this applica-
tion after it reaches a
conclusion based upon facts
presented at the public hearing.

Any interested person who may
be affected by a Board decision
and who intends to participate
in the hearing before the Board
and present evidence or cross-
examine witnesses according to
SDCL 1-46, must file a written
petition with BOTH the
applicant and the Chief
Engineer by August 22, 1986.
The petition may be informal,
but it must include a statement
describing the petitioner's
interest in the application, the
reasons for the petitioner's
opposition to or support of the
application, and the signature
and mailing address of the
petitioner or his legal counsel if
legal counsel is obtained. The
applicant need not file a
petition.

The application is made
pursuant to the provisions of
SDCL 45-1-1 thru 45-1-9, 45-1-12
thru 45-1-15; 45-2-1, 45-2-2, 45-2-
11, 45-2-13, 45-2-17; 45-2A-1 thru
45-2A-10, 45-2A-12, 45-2A-14, 45-
2A-15; 45-5-1 thru 45-5-11, 45-5-13,
thru 45-5-15, 45-5-24, 45-5-25, 45-5-
30.2, 45-5-30.4, 45-5-31; 45-5-3, 45-
5-3.1, 45-5-6.1, 45-5-10, 45-5-15, 45-
5-16; 45-5-30.4, 45-5-33 thru 45-5-
35; and Board Rules ARSD
74:02:01:01 thru 74:02:01:15.

This hearing is an adversary
proceeding. The applicant or
any person, after filing a
petition, 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.

Any person wishing a copy of
the Chief Engineer's
recommendation, further informa-
tion on this application or to
assure access to the hearing by
the handicapped can contact
the Water Rights Division,
DWRN, Joe Foss Bldg., Pierre,
SD (605 773-3332) for assistance
prior to the hearing date. The
time of the hearing will be
automatically extended for at
least twenty days upon written
request of the applicant or any
person who has filed a petition
to oppose or support the
application. The request for
extension must be filed with the
Chief Engineer by August 22,
1986.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF HUGHES

Phonda Mossner BEING DULY SWORN, ON HIS OATH SAYS:
That the DAILY CAPITAL JOURNAL is a DAILY newspaper of general circulation, printed and published in Pierre, Hughes County, South Dakota, by the Hippie Printing Company, a corporation, and has been such a newspaper during the times hereinafter mentioned, that affiant is an employee of said publisher and has personal knowledge of all the facts stated in this affidavit; that the advertisement headed

Intent to appropriate water

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement thereof, once each week for 2 successive weeks.
The first publication being made on the 7 day of Aug.
The second publication being made on the 14 day of Aug.
The third publication being made on the _____ day of _____.
The fourth publication being made on the _____ day of _____.
The fifth publication being made on the _____ day of _____.
The sixth publication being made on the _____ day of _____.
The seventh publication being made on the _____ day of _____.
The eighth publication being made on the _____ day of _____.
The ninth publication being made on the _____ day of _____.

That said newspaper is a legal newspaper, being published five days or more each week, having a bona fide circulation of more than one hundred copies daily, having been published in the English language within the said County of Hughes for more than one year next prior to the first publication of said notice, and is printed in whole in an office maintained at the place of publication of said newspaper. That the whole amount of the fee paid for the publication of the annexed notice is \$ 11.73, which inures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Phonda Mossner

Subscribed and sworn to before me this 18 day of

Aug, 19 86
Loren H. Kern

Notary Public, Hughes County, S.D.
My commission expires July 1987
Daily circulation 5900

Publication Fees \$ _____

Received Payment,

Daily Capital Journal

By _____



NOTICE OF HEARING

on Application No. 4580A-3 to Appropriate Water and to Amend Water Permit No. 4580-3
Notice is hereby given that Sand Livestock Systems, Inc. whose mailing address is 1418 25th Street, Columbus, Nebraska, has made an application for a permit to appropriate 21 cubic feet of water per second from two wells (Gray Goose Aquifer) 125 feet deep to be located in the S4NE1/4, S4 Section 1-T112N-R20W to supply a commercial swine production unit. This application also proposes to amend Water Permit No. 4580-3 to allow construction of a 47 acre-foot storage lagoon to hold wastewater from the wells supplying the swine unit. The two proposed wells will be drilled within 2000 feet of existing irrigation wells under Permit No. 4580-3. Wastewater will be pumped to the storage lagoon and then be disposed of through an existing center pivot system (220 acres) covered by Permit No. 4580-3 located in the S4 Section 1-T112N-R20W. This application to amend Permit No. 4580-3 will not increase the acreage irrigated or change the amount of water used for irrigation of the 220 acres.

Pursuant to SDCL 46-2A-3 the Chief Engineer of the Water

Rights Division recommends APPROVAL of Application No. 4580A-3 because: 1) unappropriated water is available; 2) will be no unlawful impairment of existing rights; 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 214, Joe Foss Building, 435 E. Capitol, Pierre, SD, September 3, 1986 at 10:00 a.m. The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by August 22, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel. A legal opinion is obtained. The applicant need not file a petition.

The appl
pursuant to
DCL 46-1-1
thru 46-1-13;
11, 46-2-13, 46-2A-10, 46-2A-15, 46-3-15, 46-3-16, 46-3-17, 46-3-18, 46-3-19, 46-3-20, 46-3-21, 46-3-22, 46-3-23, 46-3-24, 46-3-25, 46-3-26, 46-3-27, 46-3-28, 46-3-29, 46-3-30, 46-3-31, 46-3-32, 46-3-33, 46-3-34, 46-3-35, and 46-3-36.
This has
proceeding
any pers
petition,
present o
a lawyer
proceeds
if they
Decision
appealed
and the l
provided
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1986.

Hipple Printing Company, Inc.

Box 878, Pierre, SD 57501

NO. 00318

*Front
of Pub.
of Pierre*

NOTICE Intent to Appropriate Water

PUBLISHED 1 + Dly. 8/7, 8/14

BILL TO:

South Dakota Dept. of Water & Nat. Resources
Joe Foss Bldg, 523 E Capitol
Pierre, S.D. 57501

DAILY	☒	TIMES
LINES	30	RATE, 39
AMOUNT DUE	11.73	

**South Dakota
Department of
Game, Fish and Parks**

**Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381**

A. Post 21, 1986

Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501



Dear Mr. Hatch:

In response to the Notice of Hearing on Applications No. 4580A-3 and 4481A-3 to appropriate water and to amend previous water permits by Sand Livestock Systems, Inc., the S.D. Department of Game, Fish and Parks intends to participate in the public hearing scheduled for September 3, 1986.

The department is an interested party to these proceedings because of the potential difficulties with recreational activities in the immediate vicinity of the proposed facility and because of potential degradation to the downstream aquatic resources.

Thank you for the opportunity to participate in the forthcoming proceeding.

Sincerely,

Act. T. Salyer for

Jim Salyer
Director

JS/ld

cc: Sand Livestock Systems, Inc.
Ron Koth, GF&F
Oahe Fisheries Center, GF&P

RECEIPT

410505

Division of Water Rights
South Dakota Department of Water and Natural Resources

Pierre, _____ August 31, 1966

RECEIVED OF Sands Livestock Systems, Inc. P.O. Box 943, Calumet, NE 68601

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

Fee for Application for Permit No. <u>4580A-3</u> to Appropriate Water, to construct works and to put water to beneficial use _____	225	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. _____			
Fee for Filing Transfer Form _____			
Fee for Filing Extension Request _____			
Fee for Certified Copy of _____			
Fee for Print Copy of Map _____			
Fee for Certifying _____	Total	225	00
Fee for _____ (Any Other Work Provided by Law)			

By

John Hatch
JOHN HATCH/MS

WATER RIGHTS DIVISION
(605) 773-3352

September 11, 1986

Marlene Brakss
610 N. Jackson
Pierre, South Dakota 57501

Dear Ms. Brakss:

This letter is in response to our telephone conversation on September 11, 1986 regarding Water Permit No. 4580A-3, Sand Livestock Systems, Inc. Enclosed is the advertisement which was published in the Daily Capitol Journal on August 7 and 14, 1986.

Please contact us if you have any further questions.

Sincerely,

Ron Duvall
Natural Resources Engineer

RD:ms
Enc.

**South Dakota Department of
Water & Natural Resources**

Joe Foss Building
623 East Capitol
Pierre, South Dakota 57501-3181

September 16, 1986

NOTICE

Jim Salyer, Director
Department of Game, Fish and Parks
Division of Wildlife
Anderson Building
Pierre SD 57501

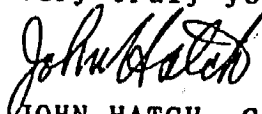
Dear Mr. Salyer:

The Water Management Board at its meeting September 3, 1986 approved Application No. 4580A-3, Sand Livestock Systems, Inc with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by this Permit shall be constructed in accordance with South Dakota Well Construction Standards 74:02:04:28.

South Dakota Statutes provide that the decision by the Board may be appealed to the courts.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

JH:ks

cc: Ron Koth

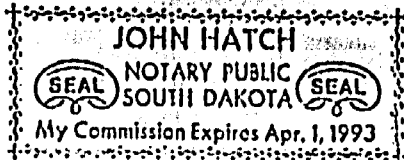
CERTIFICATION

I hereby certify that on September 16, 1906 I have personally deposited in interoffice mail envelopes containing a Notice on Application No. 4580A-3 addressed as stated on the letter and a copy sent to Ron Koth at the same address.

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) ss
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of September 1986.



John Hatch
Notary Public

South Dakota
Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 19, 1986

Pat Tracy
HCR 37, Box 82
Pierre SD 57501

Dear Mr. Tracy:

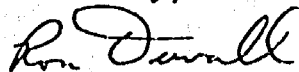
I am writing in response to your telephone conversation with John Hatch on September 17, 1986.

The following legal descriptions describe the advertised well locations for 3 Sand Livestock Systems Water Permit Applications:

1. Permit No. 4580A-3:
S 1/2 NE 1/4, S 1/2 Section 1, T112N, R80W
2. Permit Application No. 4481A-3:
NW 1/4 NW 1/4, Section 20, T113N, R78W
3. Permit Application No. 5099-3:
SW 1/4 SW 1/4, Section 19, T115N, R80W

Please contact us if you have any questions.

Sincerely,



RON DUVALL
Natural Resources Engineer

South Dakota
Department of
Game, Fish and Parks

Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381

September 22, 1986



Mr. John Hatch
Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501

Dear Mr. Hatch:

Pursuant to water right application No. 4580A-3, Sand Livestock Systems, Inc. (which was approved by the Board of Water Management at its September 3, 1986 meeting; the S.D. Department of Game, Fish and Parks requests the Board to prepare Findings of Fact, Conclusions of Law and a Final Decision. The Department of Game, Fish and Parks as a party to the proceeding of September 3, 1986 would like the opportunity to review and comment on these documents.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Salyer".

James Salyer
Director

JS/RK/ld

cc: Sand Livestock, Inc.

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

818 St. Joe Street

Mailing Address P. O. Box 2670

Rapid City, South Dakota 57709

605-343-1040

Telecopier 605-343-1503

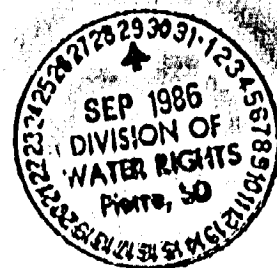
September 24, 1986

George A. Bangs
W. A. McCullen
J. M. Butler
Thomas H. Foye
Thomas E. Simmons
Ronald E. Claibough

Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Mark F. Marshall
Terry L. Hofer

Water Management Board
South Dakota Dept. of Water
and Natural Resources
Water Rights Division
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

Attn: Jim Goodman, John Hatch,
Dan Doyle, John Guhin



Gentlemen:

Our office represents Harvey Sheehan. It is our understanding that the Water Management Board held a hearing on Sand Livestock Systems, Inc.'s application #4580A-3 for a permit to appropriate water, on September 3, 1986. It is further our understanding that the Water Management Board approved the application although the Department of Game, Fish and Parks opposed.

Please forward a copy of the transcript of that hearing to this office. Also, please forward the Water Management Board's Findings of Fact and Conclusions of Law, if any, to this office.

Thank you.

Sincerely,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

Terry L. Hofer
Terry L. Hofer

TLH/gb

**South Dakota Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 25, 1986

NOTICE

TO: Chuck Sand, Sand Livestock Systems, Inc.
PO Box 948, Columbus NE 68601
and Other Interested Persons

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

John Hatch

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and
Final Decision

The South Dakota Department of Game, Fish and Parks, a party to the hearing on Sand Livestock Water Permit Application No. 4580A-3, has requested (copy enclosed) that written Findings of Fact, Conclusions of Law and a Final Decision be prepared on the Approval of Application No. 4580A-3. Proposed Findings of Fact, Conclusions of Law and a Final Decision regarding approval of Permit Application No. 4580A-3, Sand Livestock Systems, Inc. will be prepared by John Guhin, Water Management Board Attorney. The Board will consider the proposed Findings, Conclusions and Final Decision at 11:00 am, December 10, 1986, Room 216, Joe Foss Building, Pierre SD.

Mr. Guhin will be mailing a copy of the proposed Findings, Conclusions and Final Decision to the Board members and other interested parties by November 20, 1986. Any comments on or objections to the proposed Findings, Conclusions and Decision are to be mailed to the Board members and other interested parties by December 3, 1986.

The public hearing on Permit Application No. 4580A-3, Sand Livestock Systems, Inc. was completed September 3, 1986. No additional testimony on this permit application will be received on December 10, 1986. Permit No. 4580A-3 will not be issued until after the Board adopts Findings, Conclusions and a Final Decision.

cc: Board Members
John Guhin, Assistant Attorney General
Dan Doyle, Assistant Attorney General
James Salyer, Dept. Game, Fish and Parks
Ron Koth, Dept. Game, Fish and Parks
Kevin Rath

Equal Opportunity Employer

CERTIFICATION

I hereby certify that on September 25, 1906 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice and letter pertaining to Water Permit Application No. 4500A-3 addressed as stated below:

Chuck Sand, Sand Livestock Systems, Inc.
PO Box 948, Columbus NE 68601
Kevin Rath, PO Box 948, Columbus NE 68601

Water Management Board Members

Interoffice Mail:

John Guhin, Assistant Attorney General
Dan Doyle, Assistant Attorney General
James Salyer, Dept. Game, Fish and Parks
Ron Koth, Dept. Game, Fish and Parks

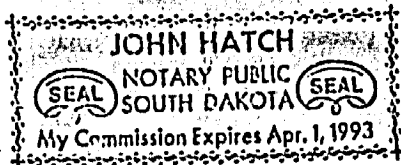
Garen Schlaak

KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of September, 1986.

John Galt
Notary Public



**South Dakota Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 25, 1986

NOTICE

TO: Chuck Sand, Sand Livestock Systems, Inc.
PO Box 948, Columbus NE 68601
and Other Interested Persons

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352



SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The South Dakota Department of Game, Fish and Parks, a party to the hearing on Sand Livestock Water Permit Application No. 4580A-3, has requested (copy enclosed) that written Findings of Fact, Conclusions of Law and a Final Decision be prepared on the Approval of Application No. 4580A-3. Proposed Findings of Fact, Conclusions of Law and a Final Decision regarding approval of Permit Application No. 4580A-3, Sand Livestock Systems, Inc. will be prepared by John Guhin, Water Management Board Attorney. The Board will consider the proposed Findings, Conclusions and Final Decision at 11:00 am, December 10, 1986, Room 216, Joe Foss Building, Pierre SD.

Mr. Guhin will be mailing a copy of the proposed Findings, Conclusions and Final Decision to the Board members and other interested parties by November 20, 1986. Any comments on or objections to the proposed Findings, Conclusions and Decision are to be mailed to the Board members and other interested parties by December 3, 1986.

The public hearing on Permit Application No. 4580A-3, Sand Livestock Systems, Inc. was completed September 3, 1986. No additional testimony on this permit application will be received on December 10, 1986. Permit No. 4580A-3 will not be issued until after the Board adopts Findings, Conclusions and a Final Decision.

cc: Board Members
John Guhin, Assistant Attorney General
Dan Doyle, Assistant Attorney General
James Salyer, Dept. Game, Fish and Parks
Ron Koth, Dept. Game, Fish and Parks
Kevin Rath

Equal Opportunity Employer

Mrs. Marian Gunderson
Page Two
September 29, 1986

5. Build two permanent housing residences for the two managers to be employed by the operations.
6. Buy supplies and building materials from local merchants.

We have a hearing scheduled for October 7 to resolve the issue of obtaining a special use permit to allow these facilities to be built. In an effort to answer any questions that people may have about this project, we have invited a large group of local residents to Nebraska this Wednesday to visit operations similar to that proposed in Hughes County.

Knowing the concern that the Department of Game, Fish and Parks people have, we invited Mr. Art Talsma of that organization to come along with the Wednesday group. Unfortunately, and surprisingly, we received very little interest from Mr. Talsma on this offer. I was highly disappointed in his apparent lack of enthusiasm since his department apparently will be responsible for eliminating this project.

I would like to request that we try to resolve the Department of Game, Fish and Parks' questions by the October 7 date of our special use permit hearing.

If this cannot be accomplished, I'm afraid this project will be permanently cancelled.

Sincerely,



Chuck Sand
President

j1/

pc: Governor William Janklow, Governor of South Dakota
Dennis W. Potter, Pierre Economic Development Corporation
John Hatch, Division of Water Rights
James Saylor, Division of Wild Life, Game Fish and Parks
John Guhin, Assistant Attorney-General
Dan Doyle, Natural Resource Section



OFFICE OF ATTORNEY GENERAL

NATURAL RESOURCE SECTION
Room B-102, Anderson Building
Pierre, South Dakota 57501-3188
Phone (605) 773-3805/(605) 773-4075

MARK V. MEIERHENRY
ATTORNEY GENERAL

September 26, 1986

Mr. James Saylor
Division of Wild Life
Game, Fish and Parks
Anderson Building
Pierre, South Dakota 57501

Sand Livestock Systems Inc.
P.O. Box 948
Columbus, Nebraska 68601

Mr. John Hatch
Division of Water Rights
Foss Building
Pierre, South Dakota 57501

Mr. Dan Doyle
Natural Resource Section
Anderson Building
Pierre, South Dakota 57501

RE: Water Right Application 4580A-3

Dear Gentlemen:

By letter of September 22, 1986 the South Dakota Department of Game, Fish and Parks requested preparation of Findings of Fact and Conclusions of Law with regard to the Board's September 3, 1986 decision on Water Right Application 4580A-3. A copy of this letter was sent to Sand Livestock.

Ordinarily, the Board chairman directs the counsel for the Board to prepare such Findings at the time the Board decision is made, if it believes such Findings are appropriate. No such direction was made in this case.

Upon receiving a copy of this letter from the Chief Engineer, I consulted with him. Chief Engineer Hatch informed me that the permit has not been signed by him.



September 26, 1986
page 2

Furthermore, I have consulted with Chairman Marian Gunderson who has reviewed the draft minutes of the September 3, 1986 hearing.

Chairman Gunderson has directed me to comply with the Game, Fish and Parks request to prepare Proposed Findings of Fact and Conclusions of Law and I will do so. See generally SDCL 1-26-25. These will be considered by the Board at its December 1986 meeting.

Chief Engineer Hatch will inform the parties of the precise dates by which the proposals must be prepared and by which objections to those proposals must be submitted.

Chairman Gunderson's direction to me to prepare the Findings is not intended to be preclude legal argument on the merits of that direction.

Sincerely yours,



John P. Guhin
Assistant Attorney General

JPG:pjh

cc: Water Management Board Members

SAND LIVESTOCK SYSTEMS, INC.

PHONE: (402) 564-1211
1418 - 25th Street P.O. Box 948
COLUMBUS, NEBRASKA 68601



September 29, 1986

Mrs. Marian Gunderson
Chairperson
Water Rights Management Board
327 Idaho Southeast
Huron, South Dakota 57350

RE: REQUEST FROM DEPARTMENT OF GAME, FISH AND PARKS

Dear Mrs. Gunderson:

I recently received a notice from John Hatch (see enclosure) informing us that the South Dakota Department of Game, Fish and Parks has requested that written Findings of Fact, Conclusions of Law and a Final Decision be prepared on the approval of the Water Permit received by us on September 3, 1986.

As you are aware, this permit is associated with a livestock project that we have just begun construction on in Hughes County.

While appreciating the interests of the Department of Game, Fish and Parks, it appears that their request means the permit issue will not be resolved until at least the December 10, 1986 Board Meeting.

The delay caused by this new request will, quite likely, mean the end of this project.

Between weather considerations and a fixed timetable that we have to meet for the partnership that will own the operation, it will be impossible to continue this project if this permit issue cannot be resolved by mid-October.

One of the primary reasons that our company originally selected South Dakota for this project was because we anticipated a welcome environment that would appreciate and encourage the development of new business enterprises that would stimulate the local economy.

This project will do the following for South Dakota:

1. Add over \$2,000,000 to the local property tax base.
2. Use over 200,000 bushels of locally-grown corn annually.
3. Employ local construction laborers.
4. Employ permanent local personnel to operate the facilities.



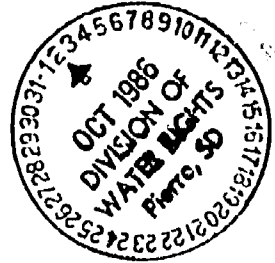
OFFICE OF ATTORNEY GENERAL

NATURAL RESOURCE SECTION
Room B-102, Anderson Building
Pierre, South Dakota 57501-3188
Phone (605) 773-3805/(605) 773-4075

MARK V. MEIERHENRY
ATTORNEY GENERAL

October 1, 1986

Mr. Chuck Sand
Sand Livestock Systems, Inc.
1418 Twenty-fifth Street
P.O. Box 948
Columbus, Nebraska 68601



RE: Your letter of September 29, 1986

Dear Mr. Sand:

In my capacity as attorney for the Water Management Board I have discussed your letter with Mrs. Marian Gunderson, Chairman of the Board.

Mrs. Gunderson informs me that it is her opinion that the concerns raised in your letter cannot be handled except by an open hearing. Mrs. Gunderson therefore would invite Sand Livestock Systems to consider whether it wishes to request a hearing earlier than that originally scheduled (i.e., December of 1986). If you would desire to request such an earlier hearing, please make that request to Mrs. Marian Gunderson, with copies to the other Board members, Mr. James Saylor, Mr. Dan Doyle and me. The decision to grant or not to grant such an earlier hearing would be made by Mrs. Gunderson.

At such hearing, the proposed Findings of Fact and Conclusions of Law could be considered and either adopted, rejected, or modified by the Board. New evidence is ordinarily not accepted at such a hearing; such evidence could be presented only if the Board grants leave to enter such evidence as a result of a motion made at the hearing.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "John P. Guhin".

John P. Guhin
Assistant Attorney General

JPG:do

cc: Mrs. Marian Gunderson
Mr. David Waldner
Mr. Joel Rickenbach
Ms. Bernita Loucks
Mr. Dan Doyle

Mr. Rodney Freeman, Jr.
Ms. Elizabeth A. Benning
Mr. John Hatch
Mr. James Saylor

RECEIVED

OCT 1 1986

Notice of Hearing

DEPT. OF WATER &
NATURAL RESOURCES

Notice Is Hereby Given, that a public hearing will be held on 7th day of October 1986. This will be held by the Planning and Zoning Board. The meeting will be at 10:00 a.m. in the City Commission Room located at City Hall, Pierre, South Dakota.

The meeting will be held for the purpose of a hearing for a request for a conditional use for a hog confinement system. The request is by Sand Livestock Systems, Inc.

No building permit shall be issued for a conditional use unless such use has been approved by the Planning Commission.

The legal description is as follows: Commencing at the southeast corner of the northeast quarter of section 1, T 112N, R 80W; thence westerly 770 feet; thence northerly parallel to the east line said northeast quarter 1320 feet; thence easterly parallel to the south line said northeast quarter 770 feet to the east line said northeast quarter; thence southerly on said east line 1320 feet to the point of beginning. This is approximately 23.34 acres.

Any person or persons interested in the approval or rejection of said program, may appear and be heard.

By the order of the Planning and Zoning Board of Hughes County, South Dakota.

Roger Fuller
Director of Equalization
Zoning Administrator

SAND LIVESTOCK SYSTEMS, INC.

PHONE: (402) 564-1211
1418 - 25th Street P.O. Box 948
COLUMBUS, NEBRASKA 68601

October 3, 1986

Mrs. Marian Gunderson
Chairperson
Water Rights Management Board
327 Idaho Southeast
Huron, South Dakota 57350



RE: REQUEST FOR EARLIER MEETING

Dear Mrs. Gunderson:

Pursuant to the October 1, 1986 letter from Assistant Attorney-General John Guhin, we would like to request that, if it is necessary to have another hearing on a Water Permit, that you schedule it as soon as possible.

As you may recall from my September 29, 1986 letter, we are facing a deadline on these permit issues that, unless resolved by next week will, quite likely, force this project to be cancelled.

We have a meeting arranged with Jeff Stingly of the Department of Game, Fish and Parks for 3:00 p.m. Monday, October 6 at their offices in Pierre. If at all possible, I would encourage you and others of the Water Management Board to attend. We intend to address any and all concerns that that Department might have.

Please understand that it is not our intention to circumvent any processes that are legally required, but if you can either waive this request from the Department of Game, Fish and Parks for another hearing or arrange to have this hearing sometime during the week of October 6, it will be a project lifesaver.

Sincerely,


Chuck Sand
President

j1/

cc: Governor William Janklow, Governor of South Dakota
Mr. James Saylor, Director-Water Management Board; Div. of Game, Fish & Parks
Mr. Dan Doyle, Director-Water Management Board; Natural Resource Section
Mr. John P. Guhin, Asst. Atty-General; Director-Water Management Board
Mr. John Hatch, Division of Water Rights
Mr. Jeff Stingly, Department of Game, Fish & Parks
Mr. David Waldner, Water Rights Board
Mr. Joel Rickenbach, Water Rights Board
Ms. Bernita Loucks, Water Rights Board
Mr. Rodney Freeman, Jr., Water Rights Board
Ms. Elizabeth A. Benning, Water Rights Board



OFFICE OF ATTORNEY GENERAL

NATURAL RESOURCE SECTION
 Room B-102, Anderson Building
 Pierre, South Dakota 57501-3188
 Phone (605) 773-3805/(605) 773-4075

MARK V. MEIERHENRY
 ATTORNEY GENERAL

October 7, 1986

TO: Members of the Water Management Board
 and Interested Parties

RE: Application for Water Permit No. 4580A-3

Dear Board Members and Interested Parties:

In response to the written request of Sand Livestock, Inc., Chairman Marian Gunderson has directed me to forward copies of the proposed Findings of Fact, Conclusions of Law and Final Decision in the above-entitled matter as of this date. Responses and objections of any parties to these proposals are to be mailed to the Board members and any other party not later than October 17, 1986.

Chairman Gunderson has suggested that the Board's telephone conference call on three unrelated matters on Thursday, October 9, 1986, at 9:00 a.m. could be used by the Board to determine a hearing date on whether to accept, amend or reject these proposals. The telephone conference call constitutes a public meeting of the Water Management Board and the public can observe the call in the office of the Chief Engineer, John Hatch.

Chairman Gunderson informs me that she does not intend to open the question of the hearing date to the parties but to reserve that question for the Board members.

The merits of whether to accept, reject or modify the proposed Findings of Fact, Conclusions of Law and Final Decision in this matter will not be discussed at the October 9, 1986 conference call.

Sincerely yours,

John P. Guhin
 Assistant Attorney General

JPG:do
 Enclosure

cc: Marian Gunderson
 Joel Rickenbach
 David Waldner
 Bernita Loucks
 Rodney Freeman, Jr.
 Ron Olinger/Jim Robbennolt

Elizabeth A. Benning
 Chuck Sand
 Jim Salyer
 Dan Doyle
 John Hatch



STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN RE APPLICATION FOR WATER)
PERMIT NO. 4580A-3)

) PROPOSED FINDINGS OF
) FACT, CONCLUSIONS OF LAW,
) AND FINAL DECISION

FINDINGS OF FACT

I.

On February 20, 1981 William Schumacher was granted a water permit by the Water Management Board. The amount of water claimed was 4.57 c.f.s. from 4 points of diversion. Three hundred and twenty acres were specified for irrigation use. The source of the water was 4 wells.

II.

On July 29, 1986, Sand Livestock, Inc. submitted an application for a new water right and for an amendment to Water Permit 4580-3. The effect of the new water right would be to allow Sand Livestock to withdraw .31 c.f.s. of water from 2 new wells at a depth of 120 feet to supply a commercial swine production unit. The wells will be within 2,000 feet of wells now allowed under Permit 4580-3 and will be in the same aquifer. The effect of amending Permit No. 4580-3 would be to allow construction of a 47 acre foot storage lagoon to hold waste water from the swine unit. Waste water would be disposed of through an existing center pivot system covering 280 acres now permitted under Permit No. 4580-3.

III.

The application will not increase the acres irrigated or the amount of water used for irrigation.

IV.

Water is available for the project.

V.

Water levels fluctuate very little in the area and there will be no appreciable effect on other water rights holders within the area.

VI.

The Board can grant a water permit only if it is in the "public interest" to do so.

VII.

If excessive odor will be generated by the permit applicant so as to impede recreational or economic use of South Dakota's natural resources, the grant of the permit might not be in the public interest.

VIII.

The proposed facility will be located close to the Spring and Cow Creek recreation areas on the Missouri River. These facilities receive 50,000 visitors annually.

IX.

The applicant for the permit will manage the facility to minimize odor. This will be accomplished by flushing fresh water through the facility several times a day. The water flushed through the system will be transported to a deep lagoon.

X.

Although the facility will be well managed as outlined in part above, it is reasonable to expect that odor from the facility will reach the recreation areas at least twice a year. The odor will be unpleasant.

XI.

The presence of an unpleasant odor from the facility twice a year at established recreation areas constitutes a significant public interest concern.

XII.

There are also significant public interest concerns which favor the grant of the permit. The facility will employ 6 people, only 2 of whom will be brought from the existing facilities elsewhere. The facility will annually use approximately 2,000 bushels of corn grown locally. The facility will purchase significant amounts of other materials in the area.

XIII.

The probable difficulties with odors are outweighed by the probable benefits from economic development of the swine facility.

XIV.

The proposed lagoon is located above the Spring Creek subimpoundment which leads directly into Lake Oahe. In the event of heavy precipitation there is a possibility that water will escape from the lagoon flowing thereupon to the creek and to Lake Oahe.

XV.

A reasonable restriction on discharge from the lagoon would require the permittee to provide sufficient storage to contain water from runoff which will flow into the lagoon from a 25 year, 24 hour storm in addition to the water from the operation of the swine facility and the wells permitted under this permit.

CONCLUSIONS OF LAW

I.

All notices required by statute and constitution have been given.

II.

There is a reasonable probability that there is .31 c.f.s. of water available for the applicants proposed use.

III.

The proposed use can be developed without unlawful impairment of existing rights.

IV.

The use of water to supply a commercial swine operation is a beneficial use as defined by SDCL 46-1-6(6).

V.

When the factors favoring and disfavoring the public interest are weighed, the grant of the permit is found clearly to be in the public interest.

VI.

The problem of potential overflow from the lagoon can be handled by an adequate condition on the permit.

VII.

Pursuant to ARSD 12:08:03:09 no new soil water compatibility permit is required as a precondition of granting this application.

VIII.

The permit should be granted under conditions.

FINAL DECISION

I.

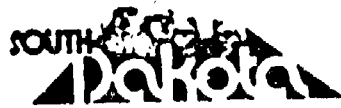
Application No. 4580A-3 for the amendment of existing permit 4580-3 and new permit 4580A-3 is approved subject to the following conditions:

- a. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- b. The wells authorized by this Permit shall be constructed in accordance with South Dakota Well Construction Standards 74:02:04:28.
- c. A reserve storage capacity capable of impounding the runoff from a 25 year, 24 hour rainfall event shall be maintained in the lagoon. The reserve storage capacity shall be reestablished immediately, as conditions allow, when a 25 year, 24 hour rainfall

cannot be impounded due to previous rainfall or runoff.

- d. No water or waste water shall be released from the lagoon unless the following conditions exist: (1) a 25 year, 24 hour rainfall event is exceeded, and (2) an extended period of above normal precipitation results in excess runoff and prevents operation of equipment to lower water levels do to field and weather conditions.

BY THE BOARD



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

October 9, 1986

NOTICE

TO: Chuck Sand, Sand Livestock Systems, Inc.
PO Box 948, Columbus NE 68601
and Other Interested Persons

FROM: John Hatch, Chief Engineer *John Hatch*
Water Rights Division
605 773-3352

SUBJECT: Consideration of Findings of Fact, Conclusions of Law
and Final Decision for Water Permit Application No.
4580A-3

During a special telephone conference call Water Management Board meeting, October 9, 1986, the Board changed the date for consideration of Findings of Fact, Conclusions of Law and a Final Decision on Application No. 4580A-3, Sand Livestock Systems, Inc. The Findings, Conclusions and Final Decision were scheduled for consideration at the December 10, 1986 Water Management Board Meeting. The Board will now consider the proposed Findings, Conclusions and Final Decision at a special Board Meeting at 1:00 pm, October 29, 1986, Room 216, Joe Foss Building, Pierre SD.

A copy of the draft minutes from the September 3, 1986 meeting is enclosed. As stated in the Notice dated September 25, 1986, the hearing on Application No. 4580A-3 has been closed and no additional testimony on Application No. 4580A-3 will be received.

cc: Water Management Board Members
John Guhin, Assistant Attorney General
Dan Doyle, Assistant Attorney General
James Sulyer, Dept. Game, Fish and Parks
Ron Koth, Dept. Game, Fish and Parks
Kevin Rath, Sand Livestock
Terry L. Hofer, Attorney
Ron Olinger, Attorney

CERTIFICATION

I hereby certify that on October 9, 1986 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice and draft copy of minutes from September 3, board meeting pertaining to Water Permit Application No. 4580A-3 addressed as stated below:

Chuck Sand, Sand Livestock Systems, Inc.
PO Box 948, Columbus NE 68601
Kevin Rath, PO Box 948, Columbus NE 68601
Terry L. Hofer, Attorney
PO Box 2670, Rapid City SD 57709
Ron Olinger, Attorney
117 E Capitol, Pierre SD 57501

Water Management Board Members

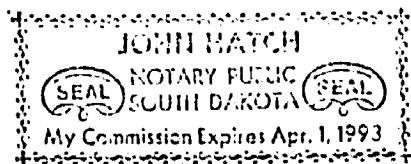
Interoffice Mail:

John Guhin, Assistant Attorney General
Dan Doyle, Assistant Attorney General
James Salyer, Dept. Game, Fish and Parks
Ron Koth, Dept. Game, Fish and Parks

KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of October, 1986.



John H. H. H.
Notary Public



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3131

October 9, 1986

NOTICE

TO: Chuck Sand, Sand Livestock Systems, Inc.
PO Box 948, Columbus NE 68601
and Other Interested Persons

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Consideration of Findings of Fact, Conclusions of Law
and Final Decision for Water Permit Application No.
4580A-3

During a special telephone conference call Water Management Board meeting, October 9, 1986, the Board changed the date for consideration of Findings of Fact, Conclusions of Law and a Final Decision on Application No. 4580A-3, Sand Livestock Systems, Inc. The Findings, Conclusions and Final Decision were scheduled for consideration at the December 10, 1986 Water Management Board Meeting. The Board will now consider the proposed Findings, Conclusions and Final Decision at a special Board Meeting at 1:00 pm, October 29, 1986, Room 216, Joe Foss Building, Pierre SD.

A copy of the draft minutes from the September 3, 1986 meeting is enclosed. As stated in the Notice dated September 25, 1986, the hearing on Application No. 4580A-3 has been closed and no additional testimony on Application No. 4580A-3 will be received.

cc: Water Management Board Members
John Guhin, Assistant Attorney General
Dan Doyle, Assistant Attorney General
James Salyer, Dept. Game, Fish and Parks
Ron Koth, Dept. Game, Fish and Parks
Kevin Rath, Sand Livestock
Terry L. Hofer, Attorney
Ron Olinger, Attorney

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

818 St. Joe Street

Mailing Address P. O. Box 2670

Rapid City, South Dakota 57709

605-343-1040

Telex 605-343-1503

Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Mark F. Marshall
Terry L. Hofer

George A. Bangs
W. A. McCullen
J. M. Butler
Thomas H. Foye
Thomas E. Simmons
Ronald E. Clabaugh

October 3, 1986



Water Management Board
South Dakota Dept. of Water
& Natural Resources
Water Rights Division
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

Re: Sand Livestock Systems, Inc.
Application No. 4580A-3

Gentlemen:

Enclosed please find a Petition to Reopen Hearing in regard to the above matter. We are submitting this Petition on behalf of Harvey Sheehan.

By copy of this letter, I am serving a copy of the Petition on James Robbennolt, counsel for Sand Livestock Systems, Inc.

Sincerely,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

Terry L. Hofer
Terry L. Hofer

TLH/dae
Enclosure

cc: James Robbennolt
Harvey Sheehan

DEPARTMENT OF WATER AND NATURAL RESOURCES
DIVISION OF WATER RIGHTS

In the Matter of the Decision of
the Water Management Board,
Department of Water and Natural
Resources, Division of Water
Rights, Approving Water Permit
No. 4580A-3.

PETITION TO REOPEN HEARING

Petitioner, Harvey Sheehan, by and through counsel, Terry L. Hofer, Bangs, McCullen, Butler, Foye & Simmons, Rapid City, South Dakota, respectfully petitions the Water Management Board to reopen the hearing conducted by the Board on September 3, 1986, relative to Sand Livestock Systems, Inc.'s application for permit to appropriate water. Petitioner asserts failure of compliance with SDCL 46-2A-4 in two respects.

First, SDCL 46-2A-4 requires that:

[t]he second publication [of the notice of application and recommendation] shall be at least twenty [20] days before the first day of the water management board meeting at which the matter is noticed to be heard.

SDCL 46-2A-4 (emphasis added). The second publication was dated August 14, 1986. The Water Management Board meeting at which the application was noticed to be heard was held September 3, 1984. The twenty (20) day provision was violated.

Second, SDCL 46-2A-4 requires that:

The applicant shall publish notice of the application and recommendation at least once a week for two successive weeks in one official newspaper in each county where the water will be diverted . . .

SDCL 46-2A-4. Publication was made in the Daily Capital Journal, Pierre, Hughes County, South Dakota. It appears from the file compiled in this matter by the Department of Water and Natural Resources, Division of Water

Rights, that the water applied for in this permit will be diverted from and affects Sully County, South Dakota. Petitioner's land in Sully County lies immediately adjacent to the Hughes County property where the proposed location of the point of diversion lies, according to the application. More importantly, however, principles of fundamental fairness and due process require that notice be given in Sully County, as well as Hughes County, under the circumstances of this case. This was not done.

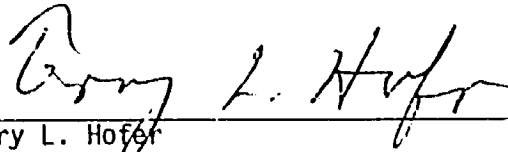
Accordingly, Petitioner respectfully requests that the Water Management Board reopen the hearing on the application for water permit to allow proper compliance with SDCL 46-2A-4 and with principles of due process, so that interested parties in Sully County may be afforded an opportunity to be heard. No prejudice will result because Findings of Fact and Conclusions of Law have not yet been entered by the Board.

Dated this 9th day of October, 1986.

Respectfully submitted,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

By


Terry L. Hofer

South Dakota
Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

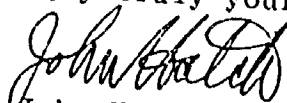
WATER MANAGEMENT BOARD
(605) 773-3352

October 17, 1986

Water Management Board:

Enclosed for your consideration is a letter and petition
to reopen the September 3, 1986, hearing on Permit
Application No. 4580-3 - Sand Livestock, Incorporated.

Very truly yours,



John Hatch, Chief Engineer
Water Rights Division

JH:RD:ms
Enc.

WATER MANAGEMENT BOARD

Marian Gunderson - Chairman
327 Idaho SE
Huron SD 57350

Joel Rickenbach - Vice-Chairman
Box 97
Oelrichs SD 57763

David Waldner - Secretary
Rt 3, Box 265
Mitchell SD 57301

Bernita Loucks
219 42nd St
Rapid City SD 57702

Rodney Freeman, Jr.
PO Box 176
Huron SD 57350

Elizubeth Benning
RR 1, Box 234F
Spearfish SD 57783

mailed
Bd member

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

NATURAL RESOURCE SECTION
Room B-102, Anderson Building
Pierre, South Dakota 57601-3188
Phone (605) 773-3805/(605) 773-4075

MARK V. MEIERHENRY
ATTORNEY GENERAL

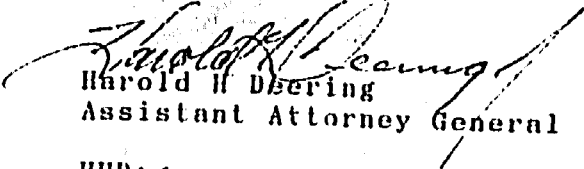
October 17, 1986

RE: IN THE MATTER OF APPLICATION FOR WATER PERMIT NO.
4580A-3

To All Water Management Board Members:

Enclosed please find a copy of the Objections to Proposed Findings of Fact, Conclusions of Law and Final Decision in the above-entitled matter.

Sincerely,


Harold H. Deering
Assistant Attorney General

HHD:gm

enclosure

cc: All parties

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF APPLICATION	)	OBJECTIONS TO PROPOSED
WATER PERMIT NO. 4580A-3	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW, AND FINAL DECISION

The Division of Water Rights objects to the Proposed Findings of Fact, Conclusions of Law, and Final Decision prepared by the Board's lawyer. These objections are as follows:

1. Objection to Finding of Fact No. VIII, The Division requests the following language: "The proposed facility confinement unit and lagoon will be located close-to-the at least 2 1/2 miles from and the irrigation center pivots are at least 2 miles from the east side of the Spring Creek and Cow Creek recreation areas on the Missouri River. These facilities receive 50,000 visitors annually." "Close to" is imprecise. The above distances are from the map included with the application.

2. Objection to the first sentence of Finding of Fact No. X. The Division requests the following language: "Although the facility will be well managed as outlined in part above, it is reasonable to expect that odor from the facility will may reach the recreation areas at-least once or twice a year under correct temperature, humidity, and wind direction and velocity conditions. The odor will be unpleasant." The testimony

presented was that the odor condition may happen two days out of a year.

3. Objection to the third sentence of Finding of Fact No. XII. The phrase "2,000 bushels" is not correct. It should read "200,000 bushels".

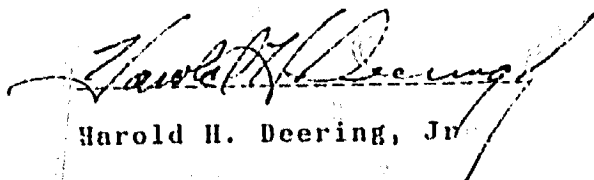
4. Objection to Finding of Fact No. XIV. The Division requests the following language: "The proposed lagoon is located above the-Spring Cow Creek subimpoundment which leads directly into Lake Oahe. The lagoon is not designed to impound any runoff from the surrounding area. Only precipitation falling directly into the lagoon will be collected. In the event of heavy precipitation, ~~there-is-a-possibility~~ it is unlikely that water will escape from the lagoon and flowing-thereupon to the creek and to Lake Oahe." Testimony was that no runoff would enter the lagoon.

4. Objection to Finding of Fact No. XV. The Division requests the following language: "A reasonable restriction on discharge from the lagoon would require the permittee to provide sufficient storage to contain water from runoff-which-will-flow into-the-lagoon direct precipitation from a 25 year, 24 hour storm in addition to the water from the operation of the swine facility and the wells permitted under this permit." There will be no runoff into the lagoon.

5. Objection to Final Decision No. 1 part c. The first sentence: The phrase "...impounding the 'runoff' from a 25 year,..." is not correct. The Division requests the following language "...impounding the 'direct precipitation' from a 25 year,...". The Division requests the following language for the second sentence: "The reserve storage capacity shall be reestablished immediately, as conditions allow, when a 25 year, 24 hour rainfall cannot be impounded stored due to previous rainfall.~~or-runoff.~~" There will be no runoff into the lagoon.

6. Objection to Final Decision No. 1 part d, (2), the Division requests the following language: "... an extended period of above normal precipitation results in excess runoff stored water and prevents operation of equipment to lower water levels do due to field and weather conditions." There will be no runoff into the lagoon.

Respectfully submitted,



Harold H. Deering, Jr

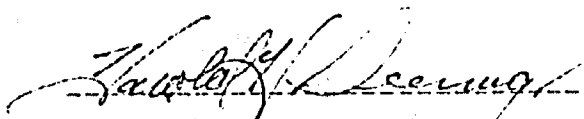
for Daniel J. Doyle

Attorney for the Division

of Water Rights

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Objections to Proposed Findings of Fact, Conclusions of Law and Final Decision were served by First Class mail, postage prepaid, in envelopes addressed to the following: Chuck Sand, Sand Livestock Systems, Inc., PO Box 948, Columbus, NE 68601; Kevin Rath, PO Box 948, Columbus, NE 68601; Terry L Hofer, Attorney, PO Box 2670, Rapid City, SD 57709; James Robbennolt, Attorney, 117 East Capitol, Pierre, SD 57501; which are said persons' last known addresses to me, and further certify that a copy was hand-delivered to the following: James Salyer, Director, Division of Wildlife, and Ron Koth, South Dakota Department of Game, Fish & Parks, Anderson Building, Pierre, SD 57501; and Mr. John P Guhin, Assistant Attorney General, Natural Resource Section, Room B-102, Anderson Building, Pierre, SD 57501 all on this 17th day of October, 1986.



Harold H Deering, Jr

Assistant Attorney General

Office of Attorney General

Natural Resource Section

Room B-102, Anderson Building

Pierre, South Dakota 57501

Telephone: (605) 773-4075



October 17, 1986

TO: John Guhin, Assistant Attorney General

RE: Response to Application for Water Permit No. 4580A-3

We just discovered your proposed Finding of Fact regarding Application for Water Permit 4580A-3 at 4 p.m., October 17. We therefore intend to send our objections to these Findings on October 20. Please accept this one working-day time extension for our response.

Sincerely,

Jim Salyer
Director

cc: Marian Gunderson
Chuck Sand
John Hatch

South Dakota
Department of
Game, Fish and Parks

Office of the Secretary
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501
(605) 773-3387

October 20, 1986



RE: IN THE MATTER OF APPLICATION FOR WATER PERMIT NO.
4580A-3

To All Water Management Board Members:

Enclosed please find a copy of the Objections to Proposed Findings of Fact, Conclusions of Law and Final Decision in the above-entitled matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeff Stingley".

Jeff Stingley
Secretary

JS/ld

enclosure

cc: All parties

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF APPLICATION	)	OBJECTIONS TO PROPOSED
WATER PERMIT NO. 4580A-3	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW, AND FINAL DECISION

The South Dakota Department of Game, Fish and Parks objects to the Proposed Findings of Fact, Conclusions of Law, and Final Decision prepared by the Board's lawyer. These objections are as follows:

1. Objection to Finding of Fact No. VIII, Game, Fish and Parks requests the following language: "The proposed facility will be located within 2.5 miles from the east side of the Spring and Cow Creek recreation areas on the Missouri River. These two recreation areas receive at least 50,000 visitors annually." "Close to" is imprecise. The above distances are from the map included in the water rights application package. "50,000 visitors annually" was given in testimony as an estimate of users of Cow and Spring Creeks whereas the actual number of users was 126,964 in the most current full years accounting.

2. Objection to Finding of Fact No. X. Game, Fish and Parks requests the following language: "Although the facility will be well managed as outlined in part above, it is reasonable to expect that odor from the facility will reach the recreation

areas at least several times per year. The odor will be unpleasant." The testimony presented was that the odor condition may happen two days out of the year but Game, Fish and Parks believes the Board was mislead by comments made by the Sand Livestock representative and that odor may in fact reach the recreational areas on a regular basis throughout the year when weather conditions are correct and/or the hog confinement is fully stocked with animals.

3. Objection to Finding of Fact No. XIII. Game, Fish and Parks requests the following language: "The probable difficulties with odors are not outweighed by the probable benefits from economic development of the swine facility." The annual valuation of the recreational use at Cow and Spring Creek recreational areas is \$2,539,280 based on \$20/day/user (see exhibits A & B attached). This valuation does not account for the approximately \$1,000,000 of capital improvements made to the recreational areas by the State of South Dakota, U.S. Army Corps of Engineers, and private concessionaires. Jeopardizing this resource by allowing unpleasant odors from 15-20 thousand hogs to turn potential users away is not in the best interest of the State.

4. Objection to Conclusions of Law No. V. Game, Fish and Parks requests the following language: "When factors favoring and disfavoring the public interest are weighed, the grant of the permit is not found to be clearly in the public interest, unless

certain safeguards are initiated to protect the existing uses and economic values of the surrounding area."

5. Game, Fish and Parks requests that an additional condition be placed on new permit 4580A-3 as condition (e) as follows: "No offensive odor should be detectable beyond two miles of Sec. 1, T112N, R80W, for a period of more than three consecutive days. Complaints of offensive odors will be investigated by at least three members of a panel of five citizens of the area representing the following interests: (1) county government, (2) local business, (3) local landowners, (4) Game, Fish and Parks, and (5) Water and Natural Resources. At the time of investigation of a complaint the investigative group shall have one of the investigators from one of the local interests above and one investigator from either Game, Fish and Parks or Water and Natural Resources. If offensive odors are verified, the Board or its designee will determine what corrective action is to be taken, but during the interim Sand Livestock will be required direct immediate effort towards eliminating the offensive odor. Should Sand Livestock fail to comply, permit 4580A-3 will be subject to suspension and/or revocation by the Board.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

DATE: October 29, 1986

TO: Water Management Board

FROM: John Hatch, Chief Engineer
Water Rights Division

A handwritten signature in cursive script, appearing to read "John Hatch".

The following is proposed as an additional qualification to the approval of Permit No. 4580A-3.

"e. Operation of the irrigation systems to dispose of wastewater from the lagoon shall be in a manner that prevents runoff of wastewater from the irrigation sites."

The proposed final decision does not include operation of the irrigation systems to dispose of the lagoon wastewater.

Equal Opportunity Employer

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN RE APPLICATION FOR WATER	)	FINDINGS OF
PEPMIT NO. 4580A-3	)	FACT, CONCLUSIONS OF LAW,
	)	AND FINAL DECISION

FINDINGS OF FACT

I.

On February 20, 1981 William Schumacher was granted a water permit by the Water Management Board. The amount of water claimed was 4.57 c.f.s. from 4 points of diversion. Three hundred and twenty acres were specified for irrigation use. The source of the water was 4 wells.

II.

On July 29, 1986, Sand Livestock, Inc. submitted an application for a new water right and for an amendment to Water Permit 4580-3. The effect of the new water right would be to allow Sand Livestock to withdraw .31 c.f.s. of water from 2 new wells at a depth of 120 feet to supply a commercial swine production unit. The wells will be within 2,000 feet of wells now allowed under Permit 4580-3 and will be in the same aquifer. The effect of amending Permit No. 4580-3 would be to allow construction of a 47 acre foot storage lagoon to hold waste water from the swine unit. Waste water would be disposed of through an existing center pivot system covering 280 acres now permitted under Permit No. 4580-3.

III.

The application will not increase the acres irrigated or the amount of water used for irrigation.

IV.

Water is available for the project.

V.

Water levels fluctuate very little in the area and there will be no appreciable effect on other water rights holders within the area.

VI.

The Board can grant a water permit only if it is in the "public interest" to do so.

VII.

If excessive odor will be generated by the permit applicant so as to impede recreational or economic use of South Dakota's natural resources, the grant of the permit would not be in the public interest.

VIII.

The proposed confinement unit and lagoon will be located at least two and one-half miles from and the irrigation center pivots are at least two miles from the east side of the Spring Creek and Cow Creek recreation areas on the Missouri River. These facilities receive 126,964 visitors annually.

IX.

The applicant for the permit will manage the facility to minimize odor. This will be accomplished by flushing fresh water through the facility several times a

day. The water flushed through the system will be transported to a deep lagoon.

X.

Although the facility may be well managed it is reasonable to expect that unpleasant odors from the facility will reach the recreation areas.

XI.

The occasional presence of unpleasant odors from the facility at established recreation areas constitutes a significant public interest concern.

XII.

The facility will employ 6 people, only 2 of whom will be brought from existing facilities elsewhere. The facility will annually use approximately 200,000 bushels of corn grown locally. The facility will purchase significant amounts of other materials in the area. The annual valuation of the recreational use at Cow and Spring Creek recreational areas is \$2,539,280 annually.

XIII.

The probable difficulties with odors are outweighed by the probable benefits from economic development of the swine facility.

XIV.

The proposed lagoon is located above Cow Creek which leads directly into Lake Oahe. The lagoon is not designed to impound any runoff from the surrounding area. Only precipitation falling directly into the lagoon will be collected. In the event of heavy precipitation, it is unlikely that water will escape from the lagoon and flow to the creek and to Lake Oahe.

XV.

A reasonable restriction on discharge from the lagoon would require the permittee to provide sufficient storage to contain water from direct precipitation from a 12 inch, 24 hour storm in addition to the water from the operation of the swine facility and the wells permitted under this permit.

XVI

In the event of heavy precipitation, there is a possibility that wastewater will escape and run off from the fields irrigated by the lagoon, flowing thereupon to the creek and Lake Oahe.

CONCLUSIONS OF LAW

I.

All notices required by statute and constitution have been given.

II.

There is a reasonable probability that there is .31 c.f.s. of water available for the applicants proposed use.

III.

The proposed use can be developed without unlawful impairment of existing rights.

IV.

The use of water to supply a commercial swine operation is a beneficial use as defined by SDCL 46-1-6(6).

V.

When the factors favoring and disfavoring the public interest are weighed, the grant of the permit is found clearly to be in the public interest.

VI.

The possibility of overflow from the lagoon and waste water runoff can be handled by conditions on the permit.

VII.

Pursuant to ARSD 12:08:03:09 no new soil water compatibility permit is required as a precondition of granting this application.

VIII.

The permit should be granted under conditions.

FINAL DECISION

I.

Application No. 4580A-3 for the amendment of existing permit 4580-3 and new permit 4580A-3 is approved subject to the following conditions:

- a. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer.

The well owner, under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

- b. The wells authorized by this Permit shall be constructed in accordance with South Dakota Well Construction Standards 74:02:04:28.
- c. A reserve storage capacity capable of impounding precipitation from a 12 inch, 24 hour rainfall event shall be maintained in the lagoon. The reserve storage capacity shall be reestablished immediately, as conditions allow, when a 12 inch, 24 hour rainfall cannot be stored due to previous rainfall.
- d. No water or wastewater shall be released, except through irrigation, from the lagoon unless the following conditions exist: (1) a 12 inch, 24 hour rainfall event is exceeded, and (2) an extended period of above normal precipitation results in excess stored waters and prevents operation of equipment to lower water levels due to field and weather conditions.
- e. Operation of the irrigation systems to dispose of wastewater from the lagoon shall

be in a manner that prevents runoff of waste-
water from the irrigation sites.

BY THE BOARD

Marian B. Sunderson
(Chairman)

October 29, 1986

SAND LIVESTOCK SYSTEMS, INC.

PHONE (402) 564-1211
1418 - 25th Street P.O. Box 948
COLUMBUS, NEBRASKA 68601

RECEIVED
File

NOV 10 1986

SOUTH DAKOTA DEPARTMENT OF
WATER AND NATURAL RESOURCES
OFFICE OF WATER QUALITY

November 6, 1986

Raymond F. Birchem, P.E. ^{2/16}
Department of Water and Natural Resources
523 East Capitol
Pierre, South Dakota 57501

Dear Mr. Birchem:

Sand Livestock Systems has received the Department of Water and Natural Resources approval letter with contingencies. I would like to respond to these qualifications:

1. A backflow preventer will be installed on the pipeline from the well to the center pivots. The backflow preventer will replace the chemigation backflow checkvalve as shown on blueprint SNSPD86D, Irrigation Piping Plan.
2. Because there will be two gate valves between the lagoon and the center pivots, we do not feel a checkvalve will be needed. Both gate valves will be closed when the well is being used for irrigation, so there is no chance of a siphon developing.
3. A copy of the report from Twin Cities Testing will be forwarded to you when we receive it.

The water useage and sludge depth will be reported to DWNR annually. Sand Livestock will also submit samples from it's production wells annually.

Access to the Sand Livestock facility will be granted to DWNR personnel after receiving approval from two persons.

Bob Schafer
Operations Manager, Sand Systems
(402) 564-9464

Jim Crane
Manager 86-1
(605) 224-6632

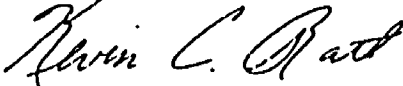
Mr. Crane's phone number is subject to change, as the project is still under construction. DWNR will be notified in the event of a change.

The irrigated property is owned by William Schumacher (605) 224-5651. I am not authorized to grant you access to Mr. Schumacher's property, however, I will discuss this with him.

• Page Two
• Raymond F. Birchem P.E
November 6, 1996

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

Sincerely,

A handwritten signature in cursive script that reads "Kevin C. Rath".

Kevin C. Rath
Project Engineer

KR/eg

Enclosure

pc: Chuck Sand
William Schumacher
Jim Crane

Tim Cumberland
Bob Schafer
Steve Zinter



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

NOV 21 1986

Sand Livestock Systems, Inc.
P.O. Box 948
Columbus, Nebraska 68601

Dear Sir:

Enclosed herewith is your Water Permit No. 4580A-3 as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 4580A-3.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 4580A-3
Sand Livestock Systems, Inc. 1418 25th Street, Columbus
(Applicant) (Post Office Address)
Nebraska 68601
(State) (Zip code)

With the following qualifications.

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner, under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The wells authorized by this Permit shall be constructed in accordance with South Dakota Well Construction Standards 74:02:04:28

See Attachment A

Date of first receipt of application July 29, 1986
Date of return to applicant for correction, amendments or changes required _____, 19____
Date of receipt of corrected application _____, 19____. Approved October 29, 1986

The Water Management Board hereby approves this Water Permit No. 4580A-3 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is July 29, 1986
2. The equivalent of at least one-fifth of the specified work is to be completed on or before March 29, 1989
3. The whole of said work is to be completed on or before October 29, 1991
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is October 29, 1995
5. The water appropriated shall be used for the purpose of commercial use in a hog confinement
unit
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed .31 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served and to which water is actually and beneficially applied for commercial on or before October 29, 1995; said water to be used during the following described annual period: January 1 - December 31

WATER MANAGEMENT BOARD

By: John Hatch

Chief Engineer

JOHN HATCH

Division of Water Rights

Dept. of Water and Natural Resources

NOV 21 1986

, 19____



DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building
522 East Capitol
Pierre, South Dakota 57501-3181

December 7, 1990

4580A-3

Ed Leahy
Attorney At Law
PO Box 1030
Sioux Falls, SD 57101

Dear Mr. Leahy:

Enclosed, as you requested, is a copy of Water Permit No. 4580A-3 currently listed in the name of Sand Livestock Systems, Inc. I included a copy of the report and recommendation for your review.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Genny McMath'.

Genny McMath
Natural Resource Analyst
(605) 773-3352

enclosures

cc: Jeanne Ochsner, Hughes County Abstract Company w/copy of the permit, report and recommendation

SAND LIVESTOCK SYSTEMS, INC.

PHONE: (402) 564-1211
1418 - 25th Street P.O. Box 948
COLUMBUS, NEBRASKA 68601



December 21, 1990

Dept. of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501
Attn: Ron Duvall

Dear Mr. Duvall:

Enclosed please find the completed waste right transfer of ownership form and the required \$2.50 fee.

With regard to Application numbers 5125-3, 5099-3, and 4481A-3, we would request that the Board deny these applications and refund the \$525.00 you mentioned in your letter.

We appreciate your attention to this matter. Please contact me if you have any questions.

Sincerely,


Kevin C. Rath
Western Area Sales Engineer

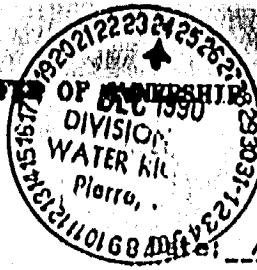
ts

Enclosure

NOTICE OF TRANSFER OF OWNERSHIP

No. _____

TO: Chief Engineer
Water Rights Division, DWNR
523 East Capitol
Pierre, SD 57501-3181



I/We request that Water Permit/Right No. 4580A-3
formerly owned by: SAND LIVERPOOL SYSTEMS, INC
be transferred to: (name & address) S. L. S. FARMS, a Nebraska Partnership
PO Box 948, Columbus, NE 68601
(telephone No.) (402) 564-1211

Title to the following described land(s)/property has been transferred as described above:
The easterly 840 ft of the S 1/2 of the NE 1/4 of
Section 1, T 112 N, R 80 W of the 5th P.M. Hughes County, S.D.

I/We understand that the validity of Water Permit/Right No. 4580A-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file at the Division of Water Rights, as evidence of the change of ownership.

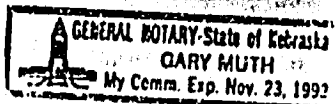
A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

NEBRASKA
STATE OF SOUTH-DAKOTA)
County of PURSE)

I/We Tim Combs being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Tim Combs
(Signed)

Subscribed and sworn to before me this 21st day of December, 1990.



Gary Muth
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a water right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412463

Pierre, December 26, 1990

RECEIVED OF Sand Livestock Systems, Inc., 1418 25th St, Columbus NE 68601

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____

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 Water Permit No. 4580A-3

Fee for Filing Extension Request _____

Fee for Certified Copy of _____

Fee for Print Copy of Map _____

Fee for Certifying _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

By

John H. Hodel
Chief Engineer



DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

January 8, 1991

No. 4580A-3

Kevin C. Rath
Sand Livestock Systems, Inc.
1418 25th St
Columbus NE 68601

Dear Mr. Rath:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Permit No. 4580A-3.

Our records now show you as the owner of this Water Permit No. 4580A-3.

Sincerely,

JACI KONOP
Senior Secretary
Water Rights Division
605 773-3352

enclosure

Permit No. 4580A-3
Missouri River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, August 3, 1999 made a thorough examination of the water use system constructed by Sand Livestock Systems of 1418 25th St., Columbus, NE 68601 holder of Permit No. 4580A-3, bearing the priority of July 29, 1986 authorizing the diversion of 0.31 cu. ft. per second and/or storage of 47 acre-feet of the waters of Gray Goose Aquifer for commercial hog confinement purposes, in Hughes County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water: Two wells both 120' deep with 5½" pvc casing, Grundfuss submersible pumps model no. 40550-15 and 75 gpm capacity, Franklin submersible motors rated at 5 hp. A 488'x488' 47 acre feet capacity lagoon with a Cornell pump model no. 41B5022 pumped at 70 gpm at peak times, Century motor model no. 6-349450-01 and 50 hp.

B. Works used to transport water to place of use:

2570' of 8" pvc pipe from wells to the hog units and lagoon and 2650' of 8" pvc effluent discharge pipe.

C. Works used to apply water to beneficial use:

Water used at a commercial hog confinement.

The system is in the following condition good. The point of diversion is located N. well is 2035' W and 715' N. and the S. well is 2035' W and 690' N of the SE corner; pump station at lagoon for effluent discharge is 1645' S and 565' W of the NE corner all of Section 1, T112N, R80W. The works are capable of diverting and conveying to the place of use 0.17 cu. ft. per second of water and/or storage of 47 acre feet of water which is to be used for commercial use at a hog confinement. Water has been put to beneficial use to the maximum extent as follows:

Hog confinement unit.

The license should be issued for 0.17 cfs and/or 47 acre-feet of storage.

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none

Comments:

The effluent from the lagoon is discharged through two center pivots covered under Water Right No. 4580-3 located in the S½ of Section 1, T112N, R80W.

Lynn Beck
Lynn Beck

Nov. 16, 1999
Date

Natural Resources Engineer
DENR, Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 4580A-3

DATE OF INSPECTION: 8-3-99

Other permit(s) associated with the project: #

NAME & ADDRESS OF INSPECTION CONTACT: Casey Hannum, (605) 224-6714 or 223-2987

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: Unit Manager

NAME & ADDRESS OF PERMIT HOLDER: Sand Livestock Systems, Inc., 1418 25th St., Columbus,
NE 68601
SLS Farms, P.O. Box 948

DIVERSION POINT LEGAL LOCATION: N. well is 2035' W and 715' N and the S. well is 2035' W
and 690' N all of the SE corner of Section 1, T112N, R80W. Effluent discharge point at the
lagoon: 1645' S and 565' W of the NE corner Section 1, T112N, R80W.

WELL INFORMATION: for N. and S. wells

- 1) Well Drilling Firm: Dakota Boring Co.
- 2) No. of Wells 2
- 3) Depth(s) 120 feet
- 4) Well log is available yes

Casing:

- 1) Diameter 5½ inches
- 2) Length # feet
- 3) Type pvc

Screen:

- 1) Type #
- 2) Length # feet
- 3) Static water level 85 feet

Pump:

- 1) Make Grundfuss submersible
- 2) Model 40550-15
- 3) Size #
- 4) Capacity 75 GPM

Motor:

- 1) Make Franklin submersible
- 2) Model No. #
- 3) Horsepower rating 5 hp

Pump: for effluent discharge at the lagoon.

- 1) Make Cornell
- 2) Model 41B5022
- 3) Size #
- 4) Capacity 850 GPM

Motor:

- 1) Make Century
- 2) Model No. 6-349450-01
- 3) Horsepower rating 50 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type pvc
- 2) Size 8"
- 3) Length 5240 feet

LAGOON INFORMATION:

- 1) Height to crest 13.5 feet
- 2) Dimensions 488x488 feet
- 3) Crest width 10 feet
- 4) Approx. storage 47 ac-ft
- 5) outlet tubes 10" pipe to center pivots in the S½ of Sec. 1, T112N, R80W.

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by #
- 2) All structures, wells and lands on map yes

Comments:

The effluent from the lagoon is discharged through two center pivots covered under Water Right No. 4580-3 located in the S½ of Section 1, T112N, R80W.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

February 1, 2000

4580A-3

SLS Farms
Casey Hannum, Unit Manager
P.O. Box 948
Columbus, NE 68601

Dear Mr. Hannum:

The investigation of your water use system was conducted on August 3, 1999, by Lynn Beck, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 4580A-3. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT
Water Rights Program

South Dakota Department of Environment and Natural Resources

№ 416395

Pierre, February 28, 2000

RECEIVED OF FURBER COUNTY FARM, P.O. Box 946, Columbus, NE 68602
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 _____

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. 4586A-3

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By

Harold E. Loe (SE)
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3161
www.state.sd.us/denr

APR 10 2000

4580A-3

SLS Farms
%Casey Hannum, Unit Manager
P.O. Box 948
Columbus, NE 68602-0948

Dear Mr. Hannum:

Enclosed is Water License No. 4580A-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416395 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 4580A-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

ks
enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 4580A-3

(1) Sand Livestock Systems, 1418 25th St, Columbus NE 68601 made Application No. 4580A-3, July 29, 1986 for a water permit to divert 0.31 cubic feet of water per second from groundwater (two wells), Hughes County, South Dakota for commercial use purposes. Permit No. 4580A-3, with a priority date of July 29, 1986 was approved October 29, 1986 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before October 29, 1991 and for the application to beneficial use of said water on or before October 29, 1995.

On December 24, 1990, Water Permit No. 4580A-3 was transferred to SLS Farms.

The effluent is pumped into a 47 acre-feet storage lagoon and is discharged through two center pivots covered under Water Right No. 4580-3 located in the S $\frac{1}{2}$ Section 1-T112N-R80W.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.17 cubic feet of water per second and 47 acre-feet effluent storage lagoon for beneficial use. The location of the diversion points are: north well - 2,035 feet west and 715 feet north of the southeast corner (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and the south well - 2,035 feet west and 690 feet north of the southeast corner (SW $\frac{1}{4}$ SE $\frac{1}{4}$) and lagoon - 1,645 feet south and 565 feet west of the northeast corner (SE $\frac{1}{4}$ NE $\frac{1}{4}$); all in Section 1-T112N-R80W.

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use at a hog confinement facility.

(4) Pursuant to South Dakota Water Law 46-5-30.1 SLS Farms, PO Box 948, Columbus NE 68601 the holder and/or owner of Water Right No. 4580A-3 is issued a license to appropriate water, the right to use 0.17 cubic feet of water per second from groundwater (two wells) with a priority date of July 29, 1986 from the location specified in (2) of this license for commercial use purposes. This license is subject to any limitations or qualifications listed in Water Right No. 4580A-3 and subject to South Dakota State Law.

Garland Erbele
GARLAND ERBELE, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 10 2000

date





August 4, 2004

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

4580A-3

John Csukker, Environmental Manager
Nebraska Pork Producers
PO Box 1920
Columbus NE 68601

Dear Mr. Csukker:

In follow-up to your phone conversation with Eric Gronlund with our program, I am sending copies of Water Right Nos. 4580-3 and 4580A-3. No. 4580-3 is held by William Schumacher of Pierre and authorizes irrigation of the S ½ Section 1, T112N, R80W. No. 4580A-3, currently listed in the name of SLS Farms, authorizes diversion of ground water for commercial purposes with the wells and lagoon located in the E ½ Section 1, T112N, R80W.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change with Water Right No. 4580A-3. Please review the form and complete as needed. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

No. 4580A-3 authorized the effluent from the confinement unit to be pumped to a 47 acre-foot storage lagoon. The waste water was then to be discharged through two center pivots covered under Water Right No. 4580-3. I am assuming that Mr. Schumacher still retains ownership of Water Right No. 4580-3 for irrigation purposes however if this is not the case, I can forward you an additional transfer form. Forms can also be downloaded for use from our website:

<http://www.state.sd.us/denr/des/waterrights/waterprg.htm>

If I can answer any questions for you, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

August 13, 2004

RECEIVED

AUG 16 2004

WATER RIGHTS
PROGRAM

Genny McMath
Environmental Scientist
Water Rights Program
South Dakota Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

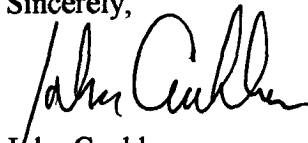
Re: Hughes County, South Dakota
Notice of Transfer – Water Right No. 4580A-3
Nebraska Pork Partners – Pierre/86-1
NE ¼, Section 1, Township 112N, Range 80W, Hughes County

Dear Genny:

Attached is the completed Notice of Transfer of Ownership for the above referenced livestock operation.

Please let me know if you have any questions.

Sincerely,



John Csukker
Environmental Manager

Attach.

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED

AUG 16 2004

WATER RIGHTS
PROGRAM

No. 4580A-3

Date: August 10, 2004

I/We request that Water Right No. 4580A-3

formerly owned by: SLS Farms, A Nebraska Partnership

be transferred to: (name & address) Nebraska Pork Partners

4860 33rd Ave. PO Box 1920

Columbus, Nebraska 68601

Telephone No. 402-564-9464

Title to the following described land(s)/property has been transferred as described above:

Wells are located in the SW ¼ SE ¼ Section 1, T112N, R80W

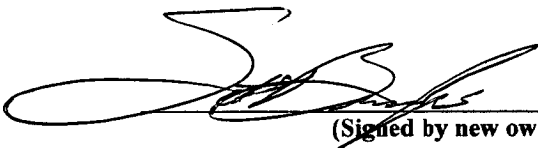
Lagoon is located in the SE ¼ NE ¼ Section 1, T112N, R80W

I/We understand that the validity of Water Right No. 4580A-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Scott Burroughs, the new owner, certify that the above information is true and correct.



(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 16, 20 04

RECEIVED OF Furnas County Farms, PO Box 948, Columbus NE 68602-0948

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	2 50	
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 <u>4580A-3</u>		
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. _____	2.50	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

001383

By

Darland Abete
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 16, 2004

4580A-3

John Csukker, Environmental Manager
Nebraska Pork Producers
PO Box 1920
Columbus NE 68601

Dear Mr. Csukker:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee for Water Right No. 4580A-3. The transfer has been completed. The water right, formerly held by SLS Farms is now listed in the name of Nebraska Pork Partners.

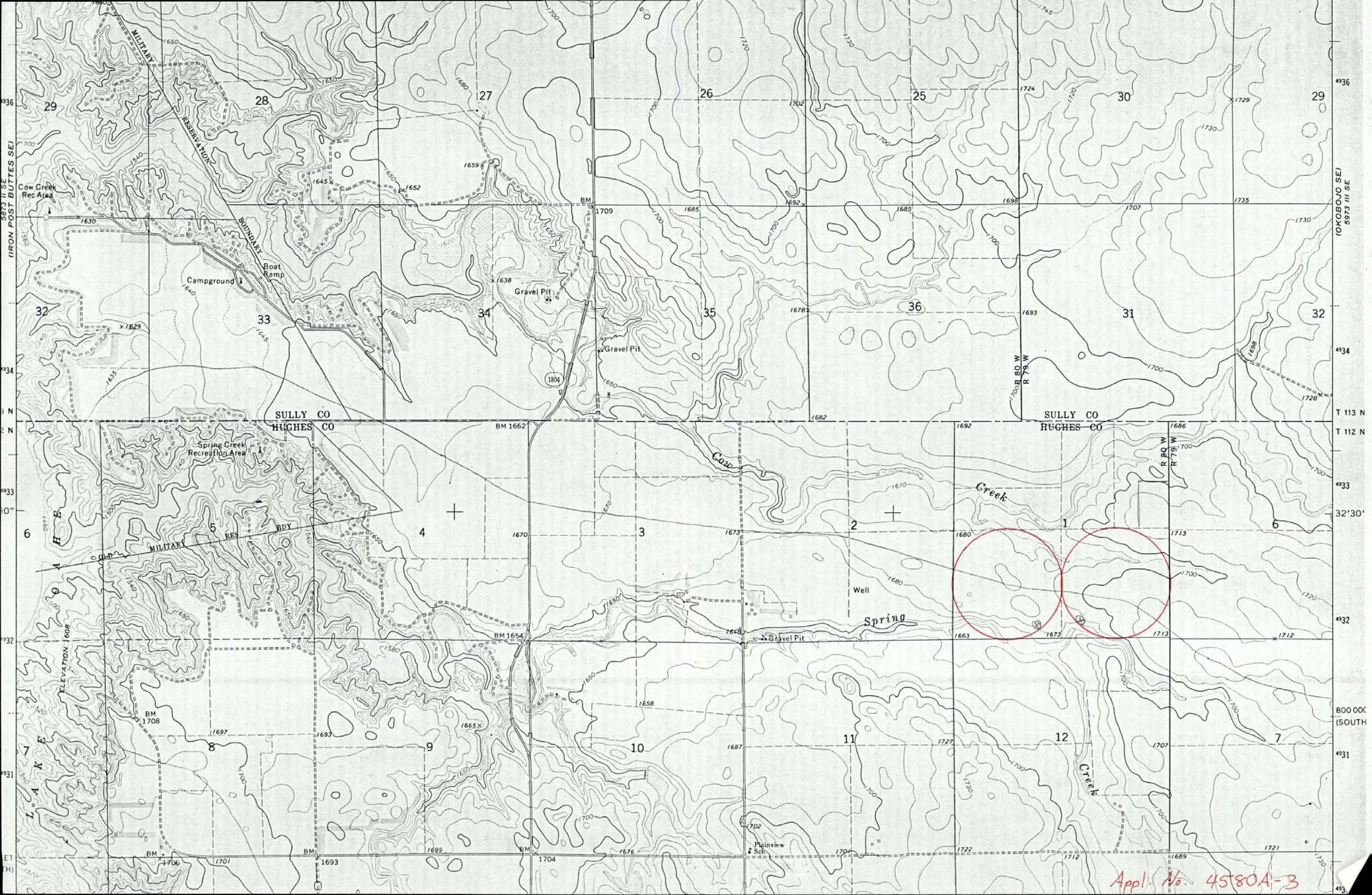
Enclosed is Receipt No. 001393 in the amount of \$2.50.

If I can answer any questions for you, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

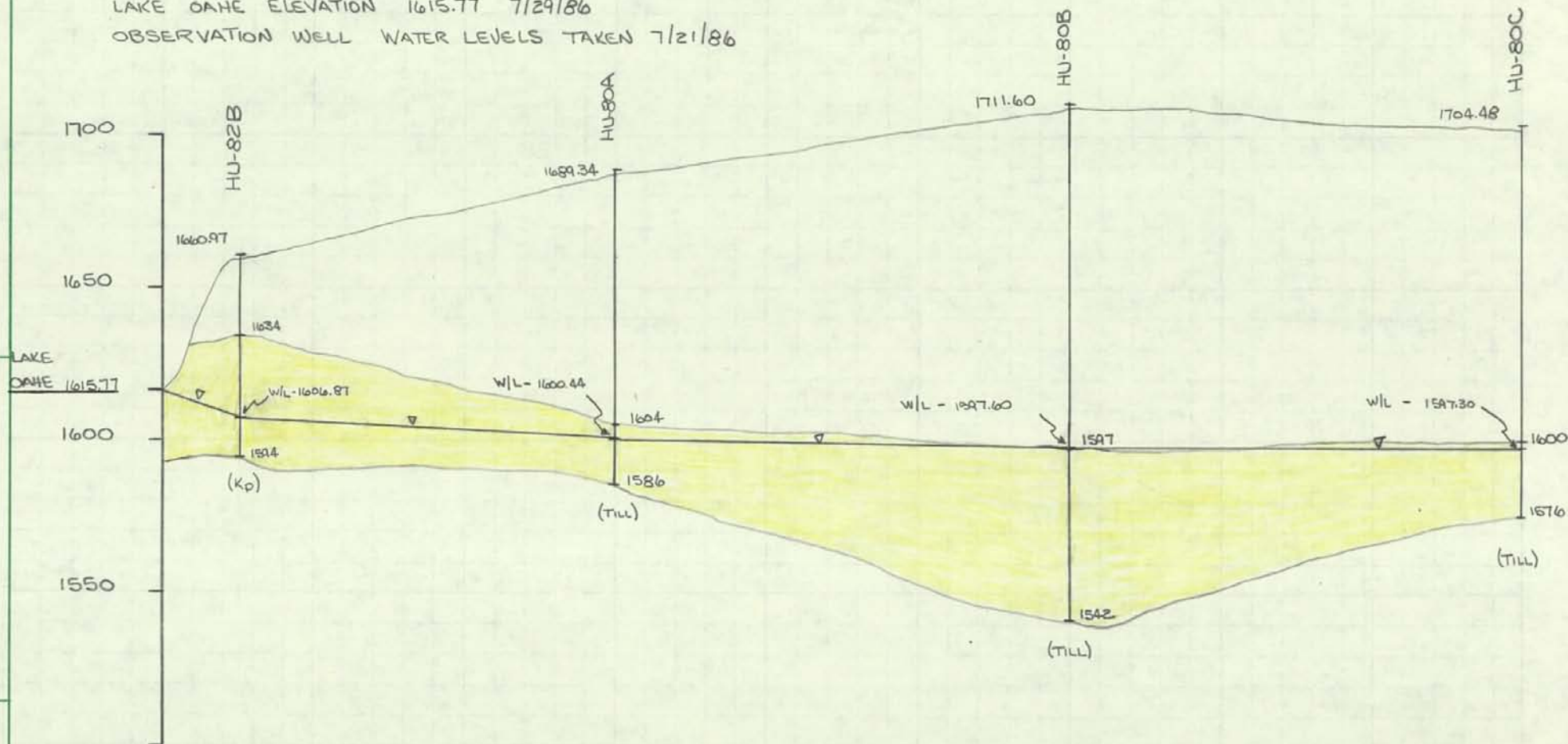


Appl. No. 4580A-3

SKETCH OF GRAY GOOSE AQUIFER AND LAKE OAHÉ RELATIONSHIP

LAKE OAHÉ ELEVATION 1615.77 7/29/86

OBSERVATION WELL WATER LEVELS TAKEN 7/21/86



HORIZONTAL IS NOT TO SCALE
VERTICAL SCALE 1" = 50'

HU-82B - DESIGNATES OBSERVATION WELL
▽ - INDICATES WATER LEVEL
SHADED AREA IS GRAY GOOSE AQUIFER
ELEVATIONS ARE MSL - (MEAN SEA LEVEL)

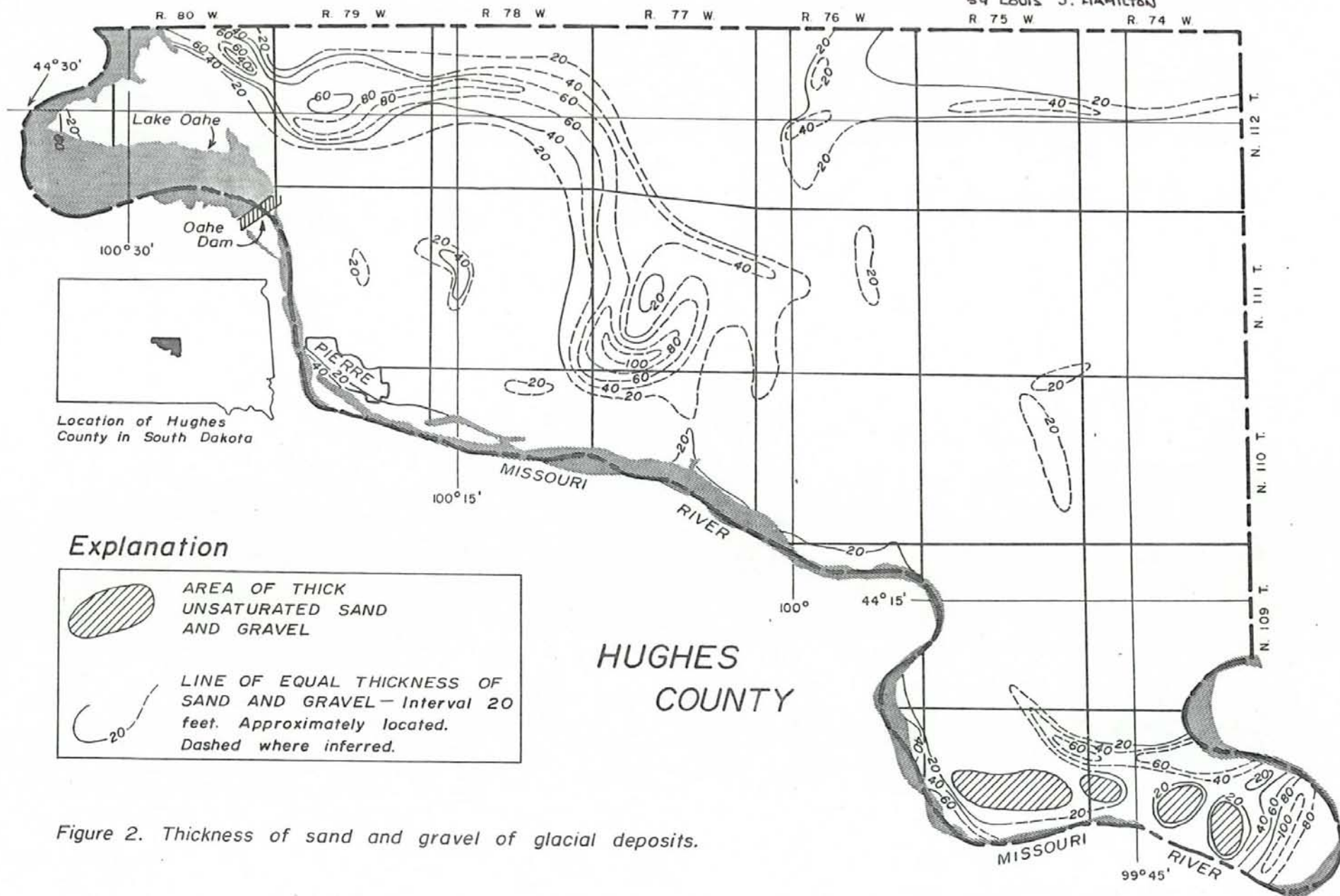


Figure 2. Thickness of sand and gravel of glacial deposits.



Protecting South Dakota's Tomorrow... Today

NOT TO SCALE

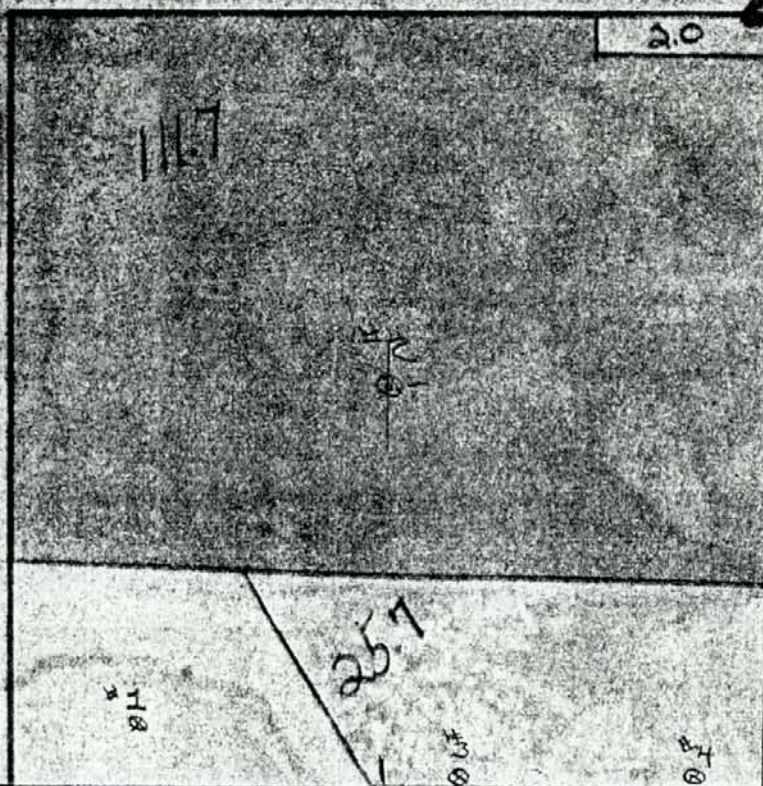
WILLIAM Schumacher
Water Appropriation Map

S. $\frac{1}{2}$, Section 1
T 112 N
R 80 W
Hughes County

STATE OF SOUTH DAKOTA
COUNTY OF STANLEY)

I, M. James Ochlesky, Registered Professional Engineer No. 2722, In the State of South Dakota, do hereby certify that at the request of William Schumacher, proprietor, I have shown the lands proposed to be irrigated within said bottoms on Nov. 24th, 1980 for which application for appropriation of water right is made and that this is a true representation thereof. Witness my hand and seal this 25th day of November, 1980.

/ M. James Ochlesky



4 POINTS OF DIVERSION 25-12

Appl. No. 4580A-3

RECEIVED

MAR - 3 2011

WATER RIGHTS
PROGRAM

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. ~~#4580-3~~ 4580A-3

Date: March 9, 2011

I/We request that Water Right/Permit No. (4580A-3)
#4580-3 formerly owned by:
Nebraska Pork Partners (Formerly Sand Livestock Systems, Inc.) be transferred to:

New Owner Name: The Maschhoffs, LLC

Address: 7475 State Route 127

City, State, Zip Carlyle IL 62231 Telephone No. 618-594-2125

Title to the following described land(s)/property has been transferred as described above:

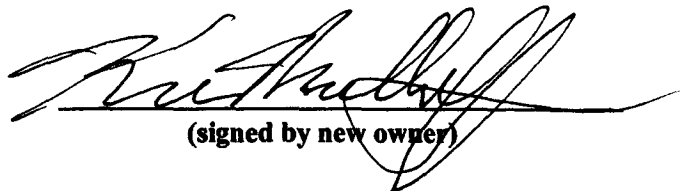
S 1/2 of Section 1, Township 112 North Range 80 West of the fifth Principal Meridian, Hughes
County, South Dakota

☒ I understand that the validity of Water Right/Permit No. #4580-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Ken Maschhoff, mgr, the new owner, certify that the above information is true and correct.


(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date 3/3, 20 11

RECEIVED OF The Maschhoff's 7475 State Route 127 Carlyle IL 62231

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	50 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. _____		
Fee for Filing Transfer Form <u>4580-3 (A^d)</u>		
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	50 00

No. 000941

By *Lurline Erbe* *eg*
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 3, 2011

4580A-3

Ken Maschhoff
The Maschhoffs LLC
7475 State Rt 127
Carlyle IL 62231

Dear Mr. Maschhoff:

I am writing to acknowledge receipt the "Notice of Transfer of Ownership" form and filing fee you submitted for Water Right No. 4580A-3. The ownership change has been completed. The water right formerly held by Nebraska Pork Partners is now listed in the name of "The Maschhoffs LLC".

Enclosed is your Receipt No. 04941 in the amount of \$50.00 which you paid for filing the ownership change.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

encl

KOLEY ■ JESSEN

ATTORNEYS

RECEIVED**JUL 08 2019****WATER RIGHTS
PROGRAM**

KOLEY JESSEN PC, LLO
1125 SOUTH 103RD STREET
SUITE 800
OMAHA, NE 68124
PHONE: 402.390.9500
FAX: 402.390.9005

koleyjessen.com

July 1, 2019

Eric Gromland
PMB 2020
DENR - Water Rights Program
523 East Capitol Avenue
Pierre, SD 57501

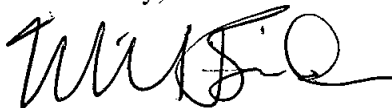
Re: Platte Center West, LLC
Water Right 4880-A
Our File No. 21508-0001

Dear Eric:

Enclosed please find the Notice of Transfer of Ownership for the water right in Hughes County associated with The Maschhoffs, LLC (Oahe Facility) and now Platte Center West, LLC matter.

Thank you for your help on this and please call with any questions.

Sincerely,



Michael J. Linder

MJL/jmw

Enclosure: Notice of Transfer of Ownership
Check No. 144596

cc: Sarah Pillen

RECEIVED

JUL 08 2019

WATER RIGHTS
PROGRAM

PAID

JUL 08 2019

Ck# 144596

SD EForm - 0495LD V2 **NOTICE OF TRANSFER OF OWNERSHIP**

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 4580A-3

Date: July 1, 2019

I/We request that Water Right/Permit No. 4580A-3 formerly owned by:
The Maschhoffs, LLC be transferred to:

New Owner Name: Platte Center West, LLC

Address: 3214 25th Street

City, State, Zip Columbus NE 68601 Telephone No. 402-564-0407

Title to the following described land(s)/property has been transferred as described above:

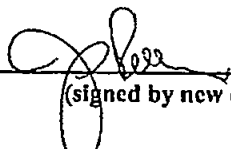
SW1/4, SE1/4, Sec. 1, T112N-R80W
Hughes County

☒ I understand that the validity of Water Right/Permit No. 4580A-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Platte Center West, LLC, the new owner, certify that the above information is true and correct.


(signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

RECEIVED OF Koley Jessen P.C., L.L.O. One Pacific Place Suite 800 1125 South 103rd St
Date July 8, 2019
Omaha NE 68124

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	50	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. _____		
Fee for Filing Transfer Form <u>4580A-3</u>		
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	50 00

No. **09164**

By Jeanne Goodman
Chief Engineer vm



OFFICE OF THE SECRETARY OF STATE

STEVEN J. BARNETT, SECRETARY OF STATE

JASON LUTZ, DEPUTY SECRETARY OF STATE

Filing Information

Name: **Platte Center West, LLC**

General Information

SOS Business ID FL166652
Filing Type: Limited Liability Company - Foreign
 06/27/2019
Status: Good Standing
Duration Term: Perpetual
Managed By: Manager-Managed

Registered Agent Address
 C T CORPORATION SYSTEM
 319 S COTEAU ST
 PIERRE, SD 57501-3187

Principal Address
 3214 25TH STREET
 COLUMBUS, NE 68601

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
06/27/2019	Initial Filing	B0104-0124



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

July 9, 2019

4580A-3

James Pillen
Platte Center West LLC
3214 25th St
Columbus NE 68601

Dear Mr. Pillen:

Our office has received the transfer form and filing fee from Koley Jessen PC, LLO effectively transferring ownership of Water Right No. 4580A-3.

The ownership change has been completed. Water Right No. 4580A-3 formerly listed under the name of "The Maschhoffs, LLC" is now listed under "Platte Center West LLC."

Receipt No. 09164 in the amount of \$50 is being forwarded to the law firm for their records. If you can answer any questions for you, please let us know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352

c: Michael J Linder, Koley Jessen PC LLO w/Receipt