

Considered: _____

WATER PERMIT NO. 5198-3

MAP No. same 402-564-1211

Name of Applicant Houser - Sand Partnership

Post Office Address 1418 25th Street, Columbus NE 68601

Amount of Water Claimed 0.22 cfs Total Acres NA

Source of Water Supply ground water 2 wells

Water to be used for swine operation County Spink

About 5 miles NE of Doland.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received June 9, 1988 Fee \$225⁰⁰ Remarks _____

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

WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

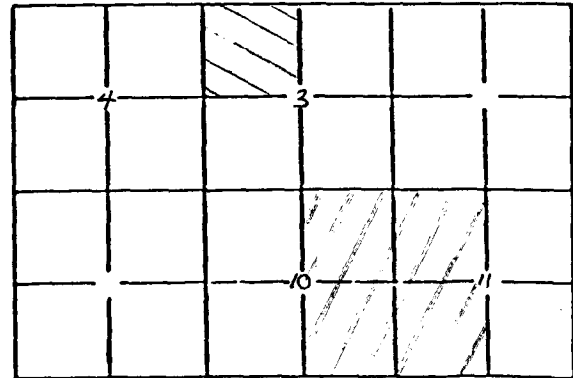
Diversion Point 2 wells: NW 1/4 section 3 -

T117N-R60W

Land to be Irrigated NA, effluent is to be

disposed of on the W 1/2 section 11; E 1/2

section 10; all in T117N-R60W



Well Log: Driller Huran Drilling Licensed YES _____ NO _____

Depth of Well 70 feet REMARKS shale between 70-100 feet

Type of Map aerial photo PREPARED BY Jay Wlokey Reviewed and the Number

assigned on June 22, 1988 By Ron T. Wall

Finisher

FORM 2: Application for uses other than irrigation (type or print)

Mail to: Water Rights Div.
DWNR, Foss Bldg.
Pierre, SD 57501
(605) 773-3352

No. 5198-3 Hydrologic Unit 10160006
Map No. same Basin James River
Newspaper Oakland Times-Record, Box 387 (Thur)
Clark Co. Courier, Box 189 (Wed)

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 Houser - Sand Partnership Phone No. (402) 564-1211

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

2. Amount of water claimed (c.f.s.) 100 gal. per minute 0.22 cfs

3. Source of water supply water wells ground water

4. Location of point of diversion 2 wells located in NW 1/4, Section 31, TWP117N, RNG60W

County Spink

5. Counties where water will be used Jan 1 - Dec 31 Spink

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 100 gpm to supply a swine confinement unit. Effluent will be held in a 70 acre foot storage lagoon. Effluent will ultimately be land applied 95

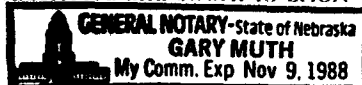
Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF ~~SOUTH DAKOTA~~ NEBRASKA
County of PLATTE

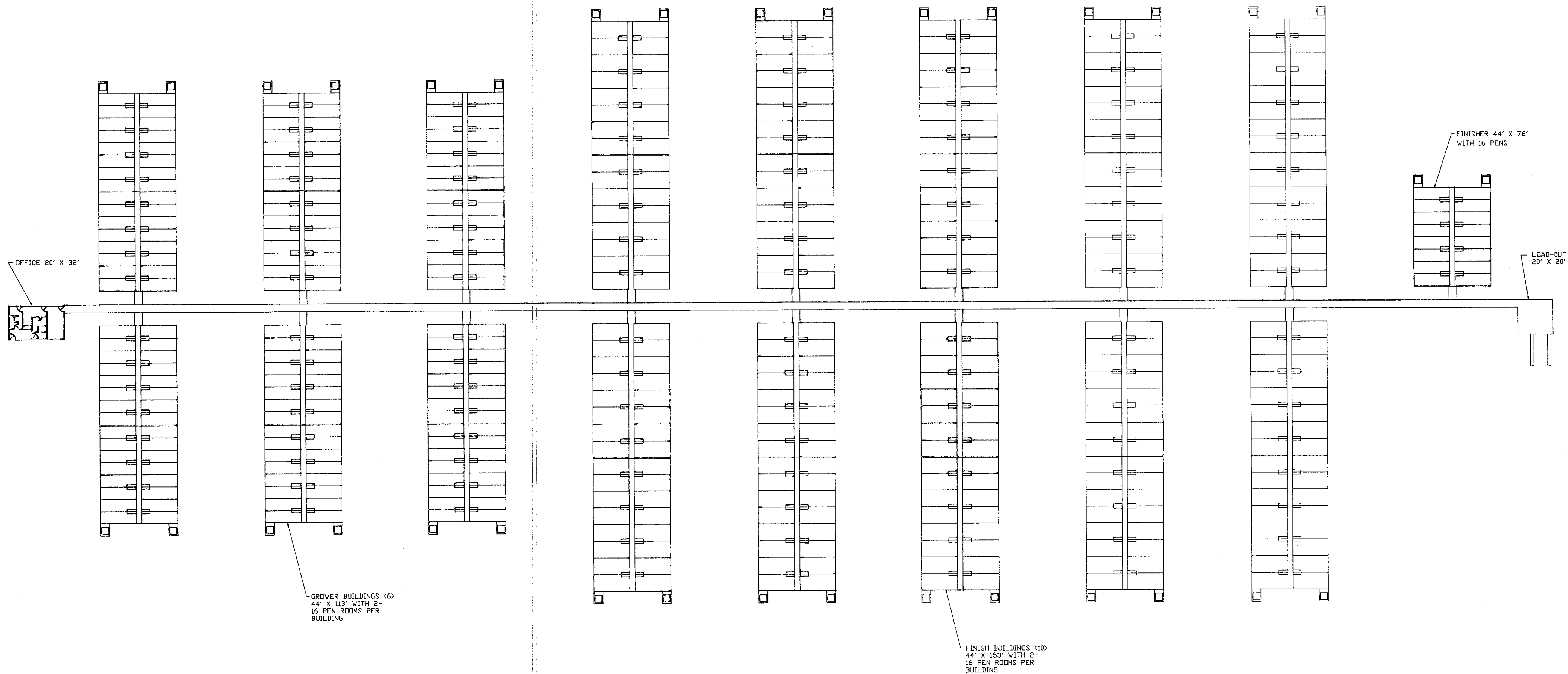
I, KEVIN RATH for H-S Partnership the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed [Signature]

Subscribed and sworn to before me this 8th day of June 19 88



[Signature]
Notary Public



PRELIMINARY

SAND LIVESTOCK SYSTEMS, INC. COLUMBUS, NEBRASKA 68501 (402) 564-1211			
ENGINEERING DEPARTMENT	SCALE 1" = 30'-0" 1:360	DRAWN BY <i>Ray Huelbeck</i>	APPROVED BY
TITLE GROW/FINISH COMPLEX LAYOUT			
DATE 6-8-88	JOB NO. HOWSER-SAND PARTNERSHIP	DRAWING NO. HSPGFR08	

APL 5198-3

DATE	SYM	REVISION RECORD	OK	OK

FARROWING II 28' X 202'
80 FARROWING CRATES IN
4 ROOMS

FARROWING I 28' X 209'
80 FARROWING CRATES IN
4 ROOMS, WITH CENTRAL SOW
WASH AND MEDICINE ROOM

GESTATION BARN 44' X 170'
40 PENS 8'-0" X 20'-0"

BREEDING BARN 41' X 328'
40 BREEDING PENS, 8 HOLDING PENS,
AND 448 GESTATION STALLS

OFFICE 20' X 32'

PRELIMINARY

SAND LIVESTOCK SYSTEMS, INC. COLUMBUS, NEBRASKA 68601 (402) 564-1211			
ENGINEERING DEPARTMENT	SCALE 1/8" = 1'-0" 1:192	DESIGNED BY <i>Ray Haslock</i>	APPROVED BY
TITLE BREEDING - FARROWING COMPLEX LAYOUT			
DATE 4-12-88	JOB NO. HOWSER-SAND PARTNERSHIP	DRAWING NO. HSP0820A	

App'l No. 5197-3

DATE	SYM	REVISION RECORD	DR	CK

Nursery

Don't worry
about quality
These 8 quarters plus 62
acres will be used for
waste from the quarter
facility

102.1
7-3009

679-808

117.60
L-182
4PC
679-80L

NOT TO SCALE

679-80-L

Total acres = 536

Prepared by:

Lynn Beck
Lynn Beck
Natural Resources Engineer
DENR, Water Rights Program
9-4-96

Blackhawk
ASCS 9/18
Don't worry
about quality

117-60
300' sp.

NW SE 40 ac.
SE 40 ac.
6" aluminum
NE SE 40 ac.
SE SE 40 ac.

These four quarters
will be used for waste
from the growing and
finishing facility.

NE NE 1/8 ac.

NW NW 40 ac.
SW NW 40 ac.

NE NW 40 ac.
SE NW 40 ac.

NW SW 40 ac.
SW SW 40 ac.
NE SW 40 ac.
SE SW 40 ac.

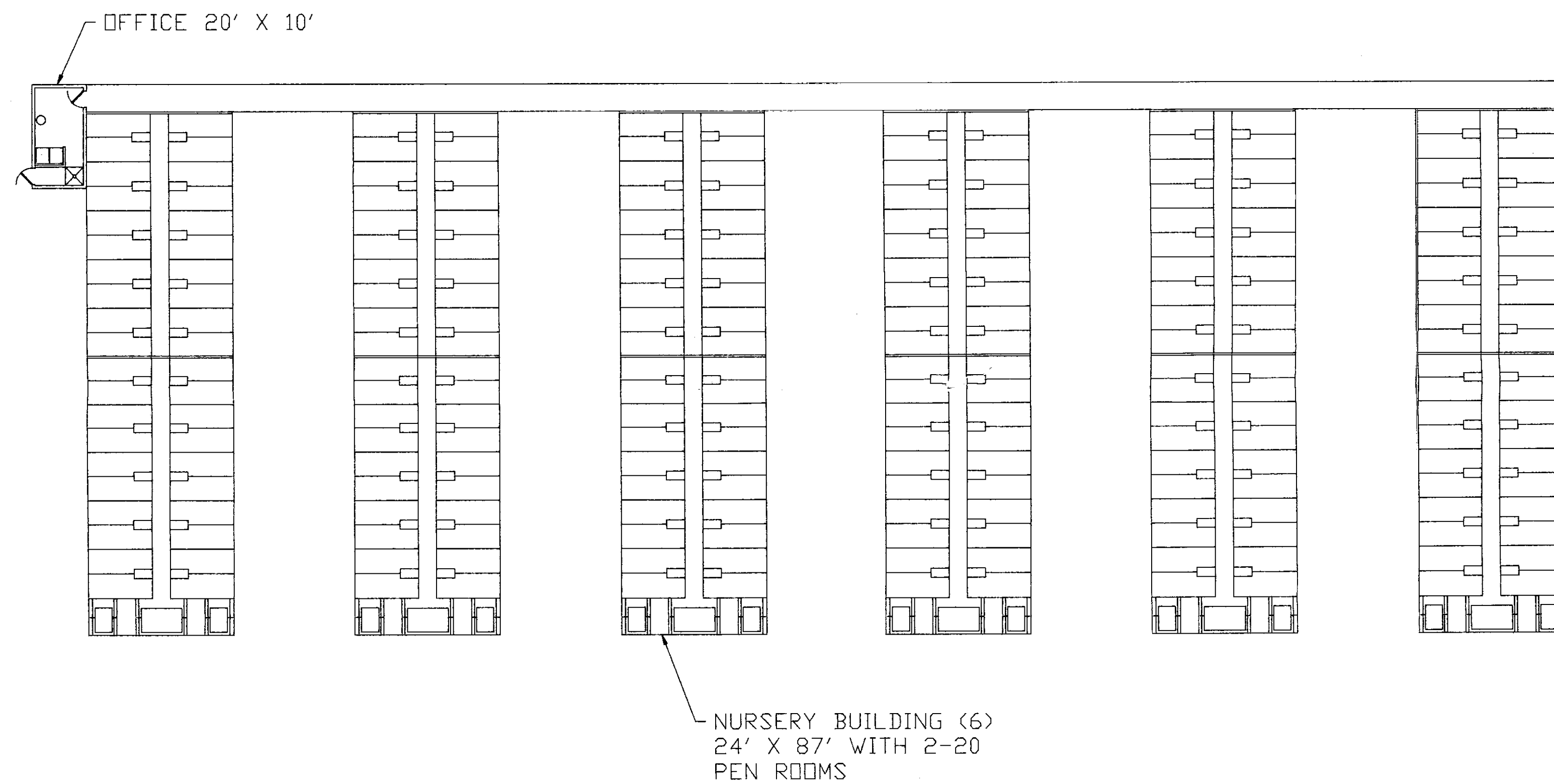
Facility
Lagoon
Not developed

Don't worry
about quality
ASCS 9/18

679-80L

117-60

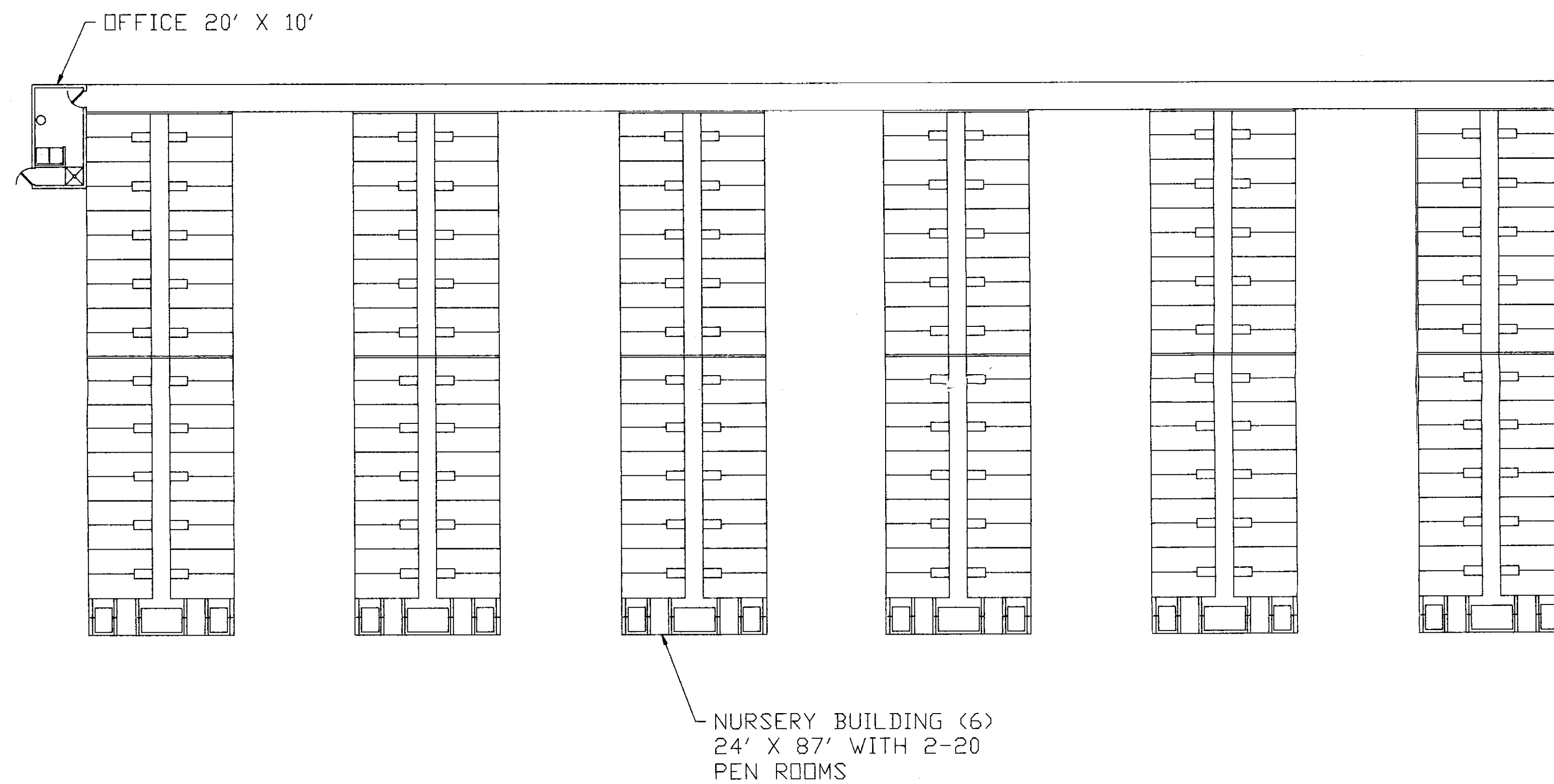
April 1/0 5198-3



PRELIMINARY

SAND LIVESTOCK SYSTEMS, INC. COLUMBUS, NEBRASKA 68601 (402) 564-1211			
ENGINEERING DEPARTMENT	SCALE 1/8" = 1'-0" 1:192	DRAWN BY <i>Ray Hall</i>	APPROVED BY <i>Ray Hall</i>
TITLE NURSERY COMPLEX LAYOUT			
DATE 4-12-88	JOB NO. HOSFER-SAND PARTNERSHIP	DRAWING NO. HSPAN 20A	

DATE	SYM	REVISION RECORD	DR	CK



PRELIMINARY

SAND LIVESTOCK SYSTEMS, INC. COLUMBUS, NEBRASKA 68601 (402) 564-1211			
ENGINEERING DEPARTMENT	SCALE 1/8" = 1'-0" 1:192	DRAWN BY <i>Ray Hall</i>	APPROVED BY
TITLE NURSERY COMPLEX LAYOUT			
DATE 4-12-88	JOB NO. HOMER-SAND PARTNERSHIP	DRAWING NO. HSPAN 20A	

DATE	SYM	REVISION RECORD	DR	CK	

**SOUTH DAKOTA
WATER PERMIT**

Date of first receipt of application June 9, 1988

Date of return to applicant for correction, amendments or changes required June 13, 1988

Date of receipt of corrected application June 21, 1988

The Water Management Board approved Water Permit Application No. 5198-3

on July 27, 1988 for Houser-Sand Partnership

<u>1418 25th Street</u> (Street, RR or Box)	<u>Columbus</u> (City)	<u>Nebraska</u> (State)	<u>68601</u> (Zip Code)
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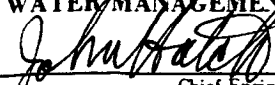
authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5198-3 appropriates 0.22 cubic feet of water per second from two wells approximately 70 feet deep to be located in the NW $\frac{1}{4}$ Section 3, T117N, R60W. Waste water effluent is to be stored in a 95 acre-feet wastewater lagoon located near the W $\frac{1}{4}$ Corner of Section 11-T117N-R60W
2. The water appropriated shall be used for the purpose of supplying the swine finishing portion of a swine production operation and may not exceed the amount of water needed for beneficial use for commercial purposes
3. The water is to be used during the following described annual period: January 1 - December 31
4. The date from which applicant may claim the right is June 9, 1988
5. One-fifth of the construction is to be completed on or before January 27, 1991
6. All construction is to be completed on or before July 27, 1993
7. Water is to be put to beneficial use on or before July 27, 1997
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

SEE ATTACHED SHEET

WATER MANAGEMENT BOARD

By: 
Chief Engineer

Division of Water Rights
Dept. of Water and Natural Resources

DEC 1 1988

QUALIFICATIONS FOR WATER PERMIT NO. 5198-3

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 casings of the wells to be constructed under Permit No. 5198-3 shall be pressure grouted with cement (bottom to top) from the producing aquifer to the surface, constructed by a licensed well driller and the well constructed in compliance with Water Management Board Well Construction Rules, Chapter 74:02:04.
3. Approval of this Permit is subject to submission of plans and specifications for the wastewater lagoon to the chief engineer and the Division of Environmental Quality prior to construction, for review and approval. The plans and specifications shall be prepared by a person who is registered as a professional engineer pursuant to SDCL 36-18.
4. The wastewater storage lagoon shall be designed so that it does not receive surface runoff from the surrounding area.
5. The storage lagoon shall be designed to have a 210 day holding capacity and designed to have a reserve storage capacity to impound precipitation from a Probable Maximum Precipitation (PMP) event. The reserve storage capacity shall be reestablished immediately, as conditions allow, when a PMP event cannot be stored due to previous rainfall.
6. No wastewater may be released from the wastewater lagoon except through the disposal system, unless 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.
7. Operation of the disposal systems to dispose of waste and wastewater shall be in a manner that prevents runoff from the disposal sites and from entering the waters of the State. The diffused drainage of natural precipitation on agricultural land resulting from a "non-point source" is not subject to these conditions.
8. Design, construction and management of the lagoon shall be sufficient to maintain a seepage rate of less than 10^{-7} centimeters per second. Compaction of the soils within the wastewater lagoon must be at least ninety percent of the Standard Procter Density (ASTM D6980-70).
9. Approval of Permit No. 5198-3 is subject to compliance with the following then existing and applicable Water Management Board rules:
 - a. Chapter 74:03:15 Ground Water Quality Standards,
 - b. Chapter 75:03:16 Ground Water Discharge Permit,
 - c. Chapter 74:03:02 Surface Water Quality Standards,
 - d. Chapter 74:03:04 Uses Assigned to Streams, and
 - e. Chapters 74:03:17 through 74:03:26 Surface Water Discharge Provisions.

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter 12" Depth 80'
- b) Casing Type PVC Diameter 6" Thickness SCH40
- c) Screen Type PVC Diameter 6" Thickness SCH40
- d) Gravel Pack Thickness 2" Length of Gravel Pack 30'
- e) Depth to Top of Water Bearing Material 60'
- f) Depth to Water (ground surface to water level) 30'
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

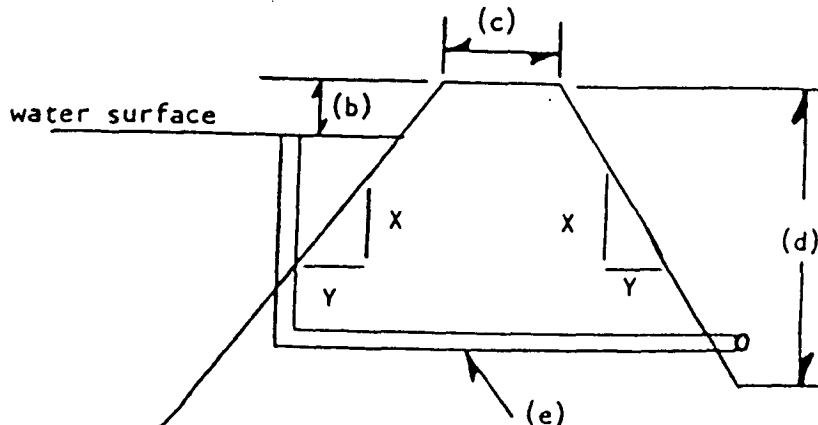
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

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

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



- b) Freeboard 2'
- c) Crest Width 10'
 Crest Length 1900'
- d) Height 14'
- e) Primary Outlet Capacity _____
 If Pipe, diameter 10"
- f) Secondary Spillway Capacity _____
 Spillway width _____
- g) X & Y Slope
 Upstream 1:3
 Downstream 1:3

Surface Area of Impoundment 220,000

Storage 70 acre feet

Drainage area above dam none

Signature of Applicant

10-85

Date June 15, 1988

PAGE NO.

NW 4 - 3 - 117 - 60

6/21/88

260

Dennis
Duvall
FOREMAN

JOB NAME

LOCATION

DATE _____

RIG NO.

FOREMAN

Jt No.	DEPTH	TIME	REMARKS
1	20		0-3 Topsoil
2	40		3-15 Yellow Clay
3	60		15-30 Blue Clay
4	80		30-40 Fine to Medium Sand
5	100		40-70 Coarse Sand + Gravel 70-100 Shale
			Good Water Loss

Cheney Drilling Inc.
By *[Signature]* Pres.



Cheron Duffing Inc
By John D. Duffing Pres.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, June 9, 1988

RECEIVED OF Sand Livestock Systems, Inc., PO Box 948, Columbus, NE 68601

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

Fee for Application for Permit No. <u>5198-3</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 _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	225 00

By John Hatch
Chief Engineer JOHN HATCH

Dear Ron,

Enclosed are the maps
for a future 2000 sow - three
sight swine facility in
Spink County. More infor-
mation from Kevin Rath
of Sands Lenestock Systems
is on its way.

Thanks for all your
work.

Sincerely

Duane & Aime Symers

RI Box 24

Raymond, SD

57258



NOT TO SCALE

679-80R

34

118-60

62.1

T-2099

Lagoon

Nursery

679-80R

Jay Wookay
Crack County ASRS P/A

These 2 quarters plus 62
acres will be used for
waste from the nursery

73.5

117.60

L-18

679-80L

Jay Wookay
Crack County
ASRS P/A

⑨

5.5

⑦

6.4

⑥

⑧

7.7

⑤

4.5

③

6.5

④

127.4

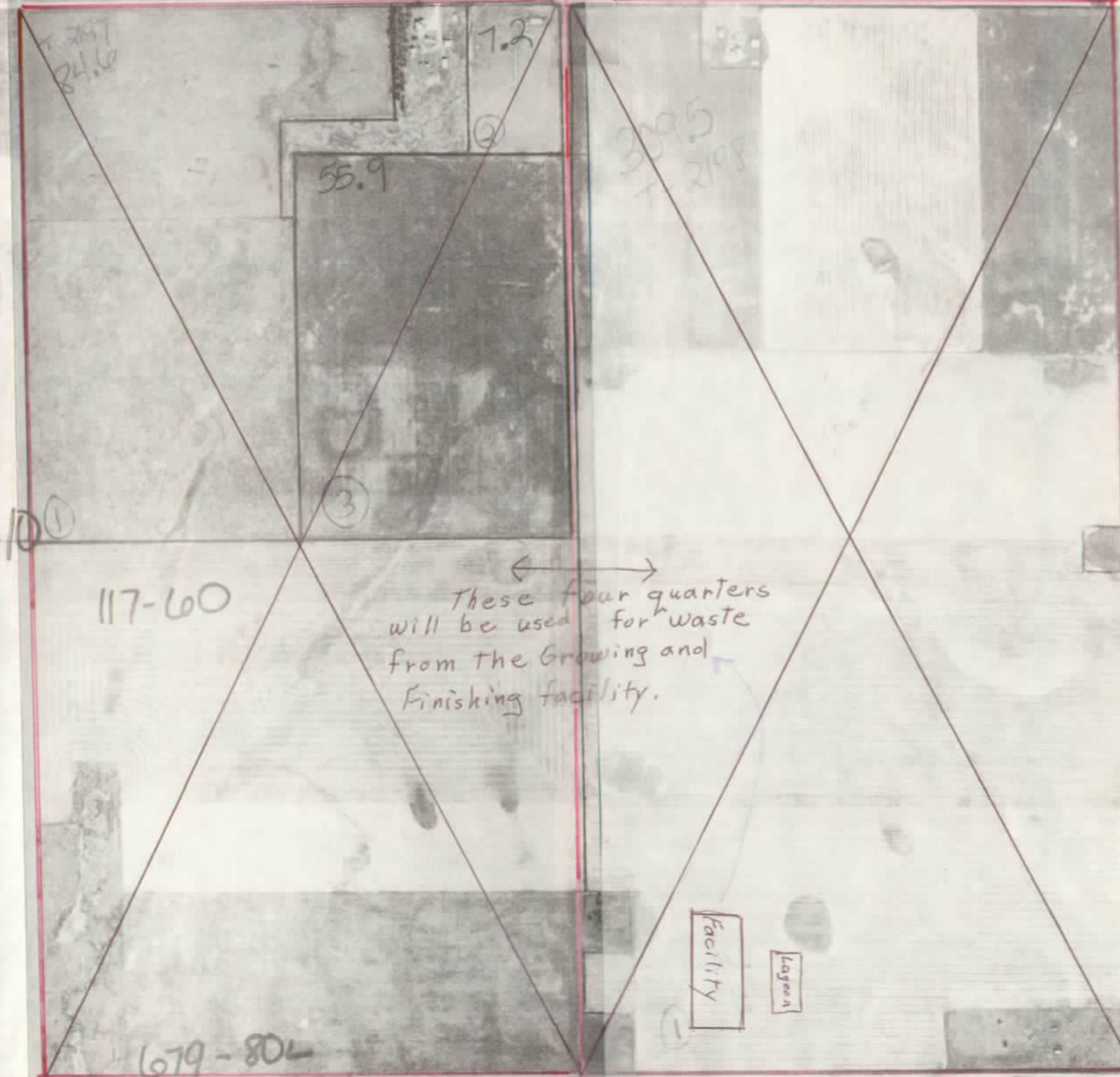
Appl No C 1974-98-3

NOT TO SCALE

NOT TO SCALE

679-80L

679-80-L



Clark County
ASCS P/A
Jay Wootley

Jay Wootley
Clark County
ASCS- P/A

Appl. No 5198-3

SAND LIVESTOCK SYSTEMS, INC.

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

June 8, 1988

South Dakota Department of Water
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501

Attention: Ron Duvall

Dear Mr. Duvall:

Enclosed are two applications to appropriate waste in Spink County. The applications are for a three point swine production complex with the capability to house 2,000 sows and their offspring.

Site 1 is the Breeding/Farrowing area which will be located in Section 8, T117N, R60W. This facility will require 60 gpm. Effluent will be disposed of on 560 acres of land. The land to be fertilized is as follows:

80 acres	$W\frac{1}{2}$	$SW\frac{1}{4}$	Sec. 8	T117N	R60W
160 acres	$NW\frac{1}{4}$		Sec. 17	T117N	R60W
320 acres	$E\frac{1}{2}$		Sec. 17	T117N	R60W

I have enclosed a blueprint of this facility, along with a filing fee of \$150.00. Test borings are currently being drilled in the area of the proposed lagoon, and in the area where the buildings are to be constructed. Well logs will be forwarded to you as soon as they are completed.

The second location will not require a water permit, as only 10 gpm will be used by the nursery facility. This facility will be located in the $SW\frac{1}{4}$, Section 34, T118N, R60W of Spink County. Waste disposal will be carried out on the $S\frac{1}{2}$ of the $SW\frac{1}{4}$ of Section 34, and also on the $NW\frac{1}{4}$ of Section 3, T117N, R60W, for a total of 240 acres.

The third and final location is for the finishing complex which will be located on the $SW\frac{1}{4}$, Section 11, T117N, R60W. This facility will house 11,520 growing and finishing hogs, and will require 100 gpm. I have enclosed a filing fee of \$225.00. Test holes are also being drilled at this site, and logs will be forwarded to you. Waste will be disposed of on 640 acres in the $W\frac{1}{2}$ of Section 11 and on the $E\frac{1}{2}$ of Section 10, all in the T117N, R60W, Spink County.

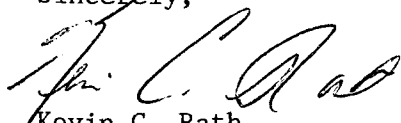
Waste from all facilities will be held in earthen storage lagoons (3) and ultimately land applied. Effluent will be applied through some form of irrigation system, probably a big gun or center pivot. Plans and specifications for the lagoons will be submitted prior to any lagoon construction.

June 8, 1988

Maps of these sites and the irrigation area will be coming to you under separate cover.

If you have any questions or need additional information, feel free to contact me.

Sincerely,



Kevin C. Rath
Project Engineer

/mv

Enclosures

pc: Duane and Avalon Bymers
Chuck Sand
Ron Houser

Conversation or File Documentation

NAME OF PERSON OR FILE: Kevin Rath, Sand Livestock Systems, Inc.ADDRESS: 1418 25th Street, Columbus NE 68601 COUNTY SpinkDATE: June 13, 1988 TELEPHONE 402-564-1211RE: Diversion points on two water permit applications received 6/9/88

COMMENTS:

Kevin Rath with Sand Livestock Systems called regarding the proposed location of wells for two applications held by the Houser - Sand Partnership. Mr. Rath stated the original diversion points needed to be changed because test drilling of the area found no water. The legal description of the new proposed well locations for the Breeding unit is in the SE $\frac{1}{4}$ section 9-T117N-R60W and the SW $\frac{1}{4}$ section 4-T117N-R60W for the Finisher unit. I told Mr. Rath I would make the needed changes to the water permit applications.

6/20/88

Kevin Rath called with updated figures on the lagoon capacity for the Breeder and Finisher units. Breeder unit $\rightarrow$ 34 acre-feet, Finisher unit $\rightarrow$ 95 acre-feet. Kevin Rath also stated Duane Bymers is handling the site location.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Don Duwall

REPORT ON APPLICATION NO. 5198-3
Houser-Sand Partnership
June 24, 1988

This application proposes to appropriate 0.22 cfs from two wells approximately 70 feet deep located in the NW 1/4 of Section 3, T117N, R60W in Spink County. The water will be used to supply the swine finishing portion of a swine production operation. Waste water effluent is to be stored in the 95 acre-feet lagoon located near the W 1/4 corner of Section 11 T117N, R60W. The effluent is to be disposed on approximately 640 acres in the W 1/2 Section 11; E 1/2 of Section 10; all in T117N, R60W in Spink County.

Aquifer - Plietocene - Unnamed (PS-U)

This is a Plietocene glacial (sand and gravel) aquifer which is probably under artesian conditions. Information provided by Huron Drilling is similar to data for a Water Rights Division observation well SP-82C which is located near this site (Water Rights Division, 1988). The records for this well are included with this report. The observation well will produce 30 gpm and there is an irrigation well into this formation about 1/2 mile to the east. The aquifer overlies the Pierre shale and is approximately 40 feet thick at this site. The aquifer is not well mapped and areal extent is not known, however, it appears to extend into a large aquifer system in Clark County.

Review of Existing Water Rights

There is an existing irrigation Permit No. 3464-3 within Section 3. the well is located near the center of the E 1/2 of Section 3. This application proposes to divert 100 gpm and interference is likely although the interference should not adversely affect existing rights. There have been complaints concerning water availability in this area. There are probably two separate aquifers, shallow-water table, and a deeper-artesian aquifer in this area. Complaints have been received concerning both, and also spring flow in Fordham Creek.

Conclusions

1. Water is available from this aquifer.
2. Interference between this well and the nearby irrigation well is likely. The interference should not affect the water availability from the aquifer.
3. This is an area where there has been controversy over ground water appropriations in the past.

4. Waste water will be land applied.
5. A groundwater discharge permit will probably be required for the lagoon in this application.
6. All wells constructed under this permit application must be constructed in compliance with SD Well Construction Standards.


JAMES GOODMAN
Hydrologist

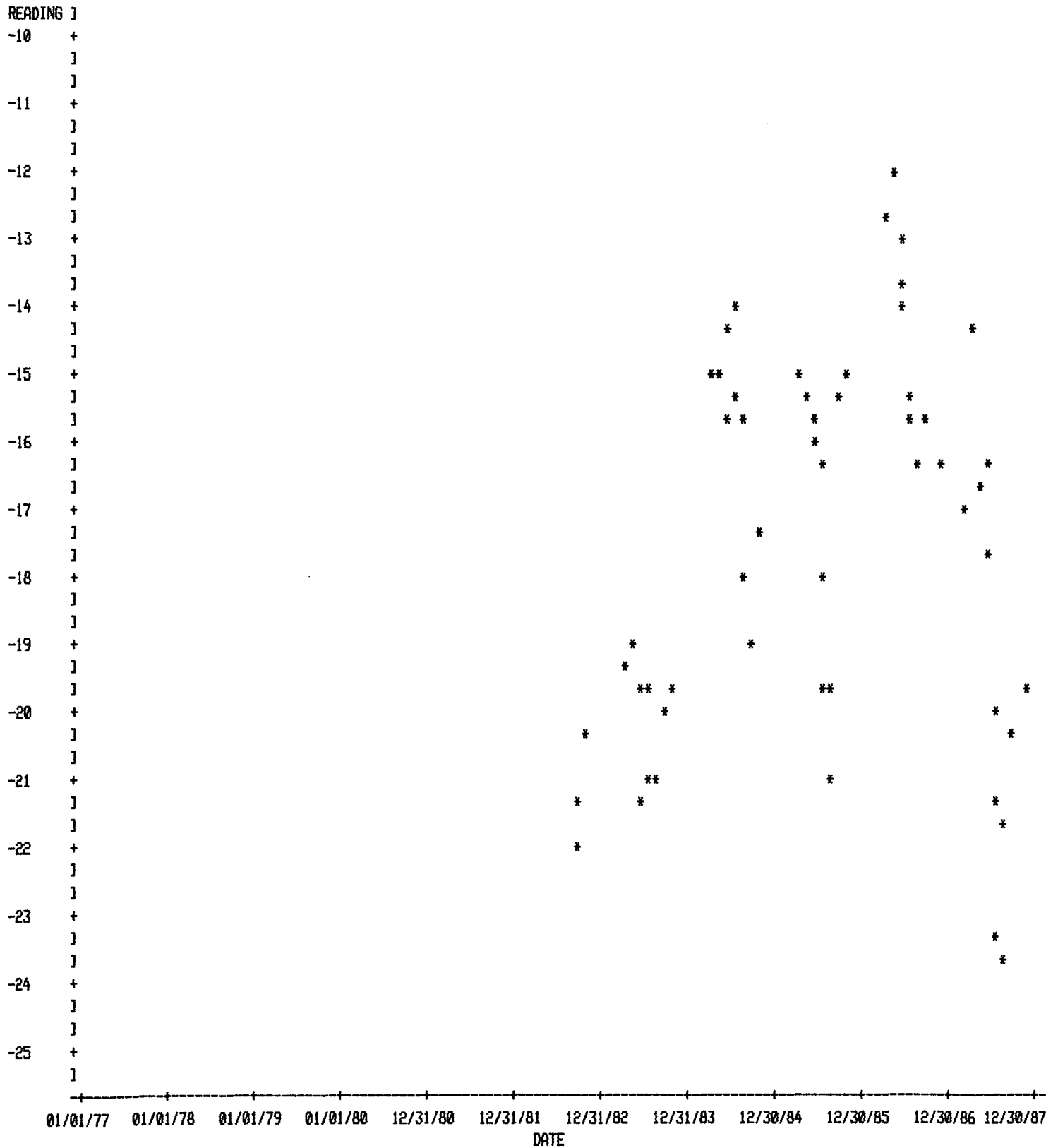
Bibliography

Water Rights, 1988, Records for Observation Well SP-82C, DWR, Division of Water Rights, Joe Foss Building, Pierre SD 57501.

						14:00 FRIDAY, JUNE 24, 1988	1
OBS	LOCATION	SAS OBS_WELL	DATE	NEG	READING		
1	118N-60W-34CCDD	SP-82C	09/16/82	X	-21.9		
2	118N-60W-34CCDD	SP-82C	09/21/82	X	-21.5		
3	118N-60W-34CCDD	SP-82C	10/20/82	X	-20.2		
4	118N-60W-34CCDD	SP-82C	04/05/83	X	-19.4		
5	118N-60W-34CCDD	SP-82C	05/12/83	X	-19.0		
6	118N-60W-34CCDD	SP-82C	05/25/83	X	-19.1		
7	118N-60W-34CCDD	SP-82C	06/08/83	X	-21.2		
8	118N-60W-34CCDD	SP-82C	06/22/83	X	-19.6		
9	118N-60W-34CCDD	SP-82C	07/08/83	X	-19.6		
10	118N-60W-34CCDD	SP-82C	07/21/83	X	-20.9		
11	118N-60W-34CCDD	SP-82C	08/09/83	X	-21.1		
12	118N-60W-34CCDD	SP-82C	09/14/83	X	-19.9		
13	118N-60W-34CCDD	SP-82C	11/10/83	X	-19.6		
14	118N-60W-34CCDD	SP-82C	04/18/84	X	-14.9		
15	118N-60W-34CCDD	SP-82C	05/16/84	X	-14.9		
16	118N-60W-34CCDD	SP-82C	05/29/84	X	-15.6		
17	118N-60W-34CCDD	SP-82C	06/12/84	X	-14.3		
18	118N-60W-34CCDD	SP-82C	07/10/84	X	-13.9		
19	118N-60W-34CCDD	SP-82C	07/24/84	X	-15.2		
20	118N-60W-34CCDD	SP-82C	08/07/84	X	-15.6		
21	118N-60W-34CCDD	SP-82C	08/21/84	X	-18.0		
22	118N-60W-34CCDD	SP-82C	09/12/84	X	-19.1		
23	118N-60W-34CCDD	SP-82C	10/25/84	X	-17.2		
24	118N-60W-34CCDD	SP-82C	04/02/85	X	-14.9		
25	118N-60W-34CCDD	SP-82C	04/23/85	X	-15.0		
26	118N-60W-34CCDD	SP-82C	05/21/85	X	-15.5		
27	118N-60W-34CCDD	SP-82C	06/04/85	X	-15.7		
28	118N-60W-34CCDD	SP-82C	06/18/85	X	-16.1		
29	118N-60W-34CCDD	SP-82C	07/02/85	X	-16.3		
30	118N-60W-34CCDD	SP-82C	07/16/85	X	-19.8		
31	118N-60W-34CCDD	SP-82C	07/31/85	X	-17.9		
32	118N-60W-34CCDD	SP-82C	08/14/85	X	-19.7		
33	118N-60W-34CCDD	SP-82C	08/20/85	X	-20.9		
34	118N-60W-34CCDD	SP-82C	09/18/85	X	-15.2		
35	118N-60W-34CCDD	SP-82C	10/16/85	X	-14.9		
36	118N-60W-34CCDD	SP-82C	11/05/85	X	-14.9		
37	118N-60W-34CCDD	SP-82C	03/26/86	X	-12.6		
38	118N-60W-34CCDD	SP-82C	04/29/86	X	-11.9		
39	118N-60W-34CCDD	SP-82C	06/09/86	X	-13.6		
40	118N-60W-34CCDD	SP-82C	06/17/86	X	-13.1		
41	118N-60W-34CCDD	SP-82C	06/23/86	X	-14.0		
42	118N-60W-34CCDD	SP-82C	07/08/86	X	-15.4		
43	118N-60W-34CCDD	SP-82C	07/22/86	X	-15.6		
44	118N-60W-34CCDD	SP-82C	08/07/86	X	-16.2		
45	118N-60W-34CCDD	SP-82C	08/19/86	X	-16.4		
46	118N-60W-34CCDD	SP-82C	10/01/86	X	-15.8		
47	118N-60W-34CCDD	SP-82C	11/19/86	X	-16.2		
48	118N-60W-34CCDD	SP-82C	03/10/87	X	-17.0		
49	118N-60W-34CCDD	SP-82C	04/22/87	X	-14.5		
50	118N-60W-34CCDD	SP-82C	05/22/87	X	-16.6		
51	118N-60W-34CCDD	SP-82C	06/04/87	X	-16.3		
52	118N-60W-34CCDD	SP-82C	06/18/87	X	-17.6		
53	118N-60W-34CCDD	SP-82C	07/02/87	X	-21.2		
54	118N-60W-34CCDD	SP-82C	07/15/87	X	-19.9		
55	118N-60W-34CCDD	SP-82C	07/29/87	X	-23.2		

		SAS			
OBS	LOCATION	OBS_WELL	DATE	NEG	READING
56	118N-60W-34CCDD	SP-82C	08/13/87	X	-23.8
57	118N-60W-34CCDD	SP-82C	08/28/87	X	-21.6
58	118N-60W-34CCDD	SP-82C	10/07/87	X	-20.4
59	118N-60W-34CCDD	SP-82C	11/17/87	X	-19.7
N=	59				

PLOT OF READING*DATE SYMBOL USED IS *



NOTE: 4 OBS HIDDEN

UQS0009 - END OF DATA SET

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5198-3, Houser-Sand Partnership

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. 5198-3, Houser-Sand Partnership, 1418 25th St, Columbus NE.

The Chief Engineer is recommending APPROVAL of Application No. 5198-3 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 casings of the wells to be constructed under Permit No. 5198-3 shall be pressure grouted with cement (bottom to top) from the producing aquifer to the surface, constructed by a licensed well driller and the well constructed in compliance with Water Management Board Well Construction Rules, Chapter 74:02:04.
3. Approval of this Permit is subject to submission of plans and specifications for the wastewater lagoon to the chief engineer and the Division of Environmental Quality prior to construction, for review and approval. The plans and specifications shall be prepared by a person who is registered as a professional engineer pursuant to SDCL 36-18.
4. The wastewater storage lagoon shall be designed so that it does not receive surface runoff from the surrounding area.
5. The storage lagoon shall be designed to have a 210 day holding capacity and designed to have a reserve storage capacity to impound precipitation from a Probable Maximum Precipitation (PMP) event. The reserve storage capacity shall be reestablished immediately, as conditions allow, when a PMP event cannot be stored due to previous rainfall.
6. No wastewater may be released from the wastewater lagoon except through the disposal system, unless 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.

7. Operation of the disposal systems to dispose of waste and wastewater shall be in a manner that prevents runoff from the disposal sites and from entering the waters of the State. The diffused drainage of natural precipitation on agricultural land resulting from a "non-point source" is not subject to these conditions.
8. Design, construction and management of the lagoon shall be sufficient to maintain a seepage rate of less than 10^{-7} centimeters per second. Compaction of the soils within the wastewater lagoon must be at least ninety percent of the Standard Procter Density (ASTM D6980-70).
9. Approval of Permit No. 5198-3 is subject to compliance with the following then existing and applicable Water Management Board rules:
 - a. Chapter 74:03:15 Ground Water Quality Standards,
 - b. Chapter 75:03:16 Ground Water Discharge Permit,
 - c. Chapter 74:03:02 Surface Water Quality Standards,
 - d. Chapter 74:03:04 Uses Assigned to Streams, and
 - e. Chapters 74:03:17 through 74:03:26 Surface Water Discharge Provisions.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
June 24, 1988

Instruction to Newspaper - Publish first Notice on or before June 30, 1988 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARINGS on Application Nos. 5197-3 and 5198-3 to Appropriate Water

Notice is given that Houser-Sand Partnership, 1418 25th St, Columbus NE 68601 has filed Application Nos. 5197-3 and 5198-3 for water permits.

Application No. 5197-3 is to appropriate 0.133 cubic feet of water per second from 2 wells approximately 90 feet deep to be located in the SW1/4 section 9-T117N-R60W to supply the swine breeding/farrowing portion of a swine production operation. Wastewater effluent is to be stored in a 34 acre-feet waste water lagoon in the SW1/4 section 9-T117N-R60W. The effluent is to be disposed of by mechanical means (e.g. big guns) on approximately 744 acres in the W1/2 SW1/4, NE1/4 SW1/4 section 8; NW1/4, E1/2 section 17; W1/2 section 9; all in T117N-R60W.

Application No. 5198-3 is to appropriate 0.22 cubic feet of water per second from 2 wells approximately 70 feet deep to be located in the NW 1/4 section 3-T117N-R60W to supply the swine finishing portion of a swine production operation. Waste water effluent is to be stored in a 95 acre-feet wastewater lagoon located near the W1/4 corner section 11-T117N-R60W. The effluent is to be disposed of by mechanical means (e.g. big guns) on approximately 640 acres in the W1/2 section 11; E1/2 section 10; all in T117N-R60W.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application Nos. 5197-3 and 5198-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. These applications will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD on July 27, 1988 at 1:00 pm. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny these applications based on the facts presented at the public hearing.

Any interested person that intends to participate in a hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by July 15, 1988. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in an application, the petitioner's reasons for opposing or supporting an application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on an application or to assure access to the hearing by the handicapped.

These hearings are adversary proceedings. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of a hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by July 15, 1988.

These applications are made pursuant to 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

STATE OF SOUTH DAKOTA)
Clark) ss.
County _____)

I, Bert Moritz _____ hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Clark County Courier _____

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

State _____ of South Dakota _____

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

6-29 and _____

7-6-88 _____

Bert Moritz
(Signature)
Publisher
(Title)
7/2/88
(Date Signed)

Cost of Printing: \$41.81

101 lines
2 times



WNR-808-7/79

Proof of Publication

NOTICE OF HEARINGS

on Application Nos. 5197-3 and 5198-3 to Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 5197-3 and 5198-3 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. These applications will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E. Capitol, Pierre, SD on July 27, 1988 at 1:00 p.m. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny these applications based on the facts presented at the public hearing.

Any interested person that intends to participate in a hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by July 15, 1988. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in an application, the petitioner's reasons for opposing or supporting an application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on an application or to assure access to the hearing by the handicapped.

These hearings are adversary proceedings. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of a hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by July 15, 1988.

These applications are made pursuant to 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD



Department of Water & Natural Resources

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

DEC 1 1988

Kevin Rath
Houser-Sand Partnership
1418 25th Street
Columbus, Nebraska 68601

Dear Mr. Rath:

Enclosed is Water Permit No. 5198-3 as approved by the Water Management Board authorizing you to construct your water diversion system and put the water to beneficial use, not exceeding the limits as specified in Water Permit No. 5198-3.

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 the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

JH:

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.



January 7, 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

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

Dear Mr. Rath:

This letter is in response to our phone conversation on January 6, 1992, regarding Water Permit No. 5198-3, Houser-Sand Partnership.

Permit No. 5198-3 authorizes an appropriation of 0.22 cfs from two wells, 70 feet deep, to supply a swine confinement operation. The location of facilities, such as buildings and the wastewater lagoon, are not required to be constructed in a specific location unless a permit qualification identifies a specific location. Permit No. 5198-3 does not contain a qualification identifying a specific location. However, qualifications pertaining to lagoon construction and operation must be followed.

Please let us know if you have any other questions.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

January 8, 1993

No. 5198-3

Kevin Rath
Houser-Sand Partnership
Box 948
Columbus, NE 68601

Dear Mr. Rath:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Permit No. 5198-3. The water permit is currently listed in the name of Houser-Sand Partnership.

The transfer form should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

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

enclosure



NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date 1-11-93

TO: Water Rights Division, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM: BYFORK INC 1418 25th St. Box 948
(name) (address)
Columbus NE 68661 (402) 564-1211
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5198-3.

Water Permit No. _____ states that the diversion system is to be constructed by _____, and that the water is put to beneficial use by _____
(date)

(date)

The diversion system was completed on 11-92
(date)

Applying the water to beneficial use was completed on 11-92
(date)

You may schedule an inspection so that the Water License may be issued.

[Signature]
(signature)

NOTICE OF TRANSFER OF OWNERSHIP

No. 5198-3

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

Date: 1-11-93



I, We request that Water Permit/Right No. 5198-3

formerly owned by: Houser-Sand Partnership

be transferred to: (name & address) BYFORK, INC.

1418 25th St. Box 948, Columbus, NE 68601 (telephone No.) (402) 564-1211

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

2 wells-NW 1/4 Section 3-T117N-R60W (ACTUALLY DRILLED IN NW 1/4 of SW 1/4
SEC 3 - T117N - R60W)

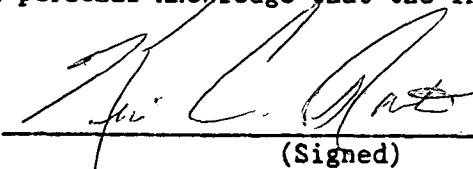
I/We understand that the validity of Water Permit/Right No. 5198-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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.

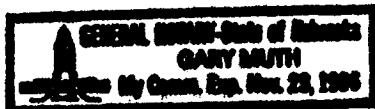
A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

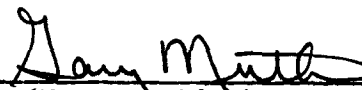
STATE OF ~~SOUTH DAKOTA~~)
NEBRASKA)
County of PLATTE)

I/We _____ 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.


(Signed)

Subscribed and sworn to before me this 11th day of JANUARY, 1993.




(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

413596

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, January 19, 19 93

RECEIVED OF ~~XXXXXXXXXXXXXXXXXXXX~~ Bypork, Box 948, 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. _____		
Fee for Filing Transfer Form <u>Water Permit No. 5198-3</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By *John H. H. H. H.*
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

No. 5198-3

January 21, 1993

Kevin Rath
BYPORK, Inc.
Box 948
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. 5198-3.

Our records now show BYPORK, Inc. as the owner of Water Permit No. 5198-3.

The 'Transfer of Ownership' you submitted indicates the wells were drilled in the NW1/4 SW1/4 Section 3, T117N, R60W. The water permit was issued as advertised for the wells to be located in the NW1/4 Section 3, T117N, R60W. An application for a change of diversion point to amend Water Permit No. 5198-3 will be required unless the wells are located within 660 feet of the W1/4 line. Please contact me if you need application forms or need further explanation of whether an amendment to the permit is necessary.

Sincerely,

Eric Gronlund
Water Rights Division
(605) 773-3352

enclosure

Conversation or File Documentation

NAME OF PERSON OR FILE: Kevin Rath - Bypark

ADDRESS: _____ COUNTY _____

DATE: 1/29/93 TELEPHONE _____

RE: _____

COMMENTS:

Mr. Rath called in response to my January 21, 1993
letter. He stated the wells were 10 feet from the
W¹/₄ well within the 660'. I told him that if
that is true a application to change the diversion point
would not be necessary

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Hundert

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM**

September 17, 1996

**RE: CHANGE IN LOCATION OF THE DIVERSION POINTS FOR WATER
PERMIT No. 5198-3, Bypork, Inc.**

An inspection of Permit No. 5198-3 found the diversion points and a lagoon in a location not authorized by Permit No. 5198-3. SDCL 46-5-13.1 provides that a point of diversion may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Water Permit No. 5198-3 appropriates 0.22 cubic feet of water per second (cfs) from a Pleistocene - Unnamed Aquifer from two wells located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3, T117N, R60W. Water Permit No. 5198-3 also authorizes a 95 acre-feet wastewater storage lagoon located near the W $\frac{1}{4}$ corner Section 11, T117N, R60W. An inspection found two diversion points from a Pleistocene - Unnamed aquifer located 10 feet and 20 feet south of the center of Section 3 and a 32 acre-feet wastewater storage lagoon located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10 all in T117N, R60W. No additional appropriation of water is required for this diversion.

There is one other permitted well in the Pleistocene - Unnamed Aquifer within one mile of these diversion points. There is at least one domestic well within one mile of these diversion points.

If a finding is made that this change does not increase the potential for interference with existing diversions, Water Right No. 5198-3 will be reissued for two well located 10 feet and 20 feet south of the center of Section 3, T117N, R60W.



Lynn Beck
Natural Resources Engineer III

The Chief Engineer makes a finding that the additional diversion points do not increase the potential for interference with existing diversions. In making the finding, "does not increases the potential for interference" is interpreted to mean potential for adverse interference.

 9-20-96

John Hatch, Chief Engineer
Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 5198-3

DATE OF INSPECTION: 7-25-96

Other permit(s) associated with the project: 5197-3 not developed

NAME & ADDRESS OF INSPECTION CONTACT: Duane Bymers, RR 1 Box 24, Raymond SD 57258

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: stockholder

NAME & ADDRESS OF PERMIT HOLDER: Bypork Inc., 1418 25th Street, Columbus NE 68601

DIVERSION POINT LEGAL LOCATION: Well #1 is 10' south and well #2 is 20 feet south of the center of Section 3, T117N, R60W.

WELL INFORMATION:

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 2
- 3) Depth(s) # feet
- 4) Well log is available #

Casing:

- 1) Diameter 6 inches
- 2) Length # feet
- 3) Type pvc

Screen:

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

Pump: for both wells

- 1) Make submersible
- 2) Model #
- 3) Size #
- 4) Capacity 36 GPM

Motor: for both wells

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

DISTRIBUTION LINES OR CANALS:

- 1) Type pvc 2) Size 6 inches 3) Length 2575 feet
- 1) Type aluminum 2) Size 6 inches 3) Length 2770 feet
- 1) Type pvc 2) Size 4 inches 3) Length 2970 feet

SYSTEM TYPE:

Traveling Gun:

- 1) Make Rainbird
- 2) Nozzle size 1¼ inches
- 3) Hose size 4 inches
- 4) Capacity 500 GPM

CHEMIGATION EQUIPMENT:

- 1) Does chemigate no

DUGOUT INFORMATION:

- 1) Height to crest 12 feet
- 2) Crest width 10 feet
- 3) Size of dugout 350 x 350 feet
- 8) Approximate storage 32 ac-ft

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes

Permit No. 5198-3
James 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, 7-25-96 made a thorough examination of the water use system constructed by Bypork Inc. of 1418 25th Street, Columbus NE 68601 holder of Permit No. 5198-3, bearing the priority of June 9, 1988 authorizing the diversion of 0.22 cu. ft. per second and/or the storage of 95 acre-feet of the waters of Pleistocene - Unnamed Aquifer for commercial purposes, in Spink County.

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

A. Works used to divert the water:

Two wells 80 feet deep with 60 feet of 6 inch pvc casing and 20 feet of pvc screen. The wells have submersible pumps and motors with a capacity of 36 gpm and 3 hp each.

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

2970 feet of 4 inch pvc pipe from the wells to the hog confinement building, 2575 feet of 6 inch pvc and 2770 feet of 6 inch aluminum from the lagoon to land application areas.

C. Works used to apply water to beneficial use:

Rainbird traveling gun, nozzle size 1 $\frac{1}{4}$ inches, 4 inch 660' long hose, and a 500 gpm capacity.

The system is in the following condition good. The point of diversion is located 10 feet and 20 feet south of the center of Section 3, T117, R60W. The lagoon is located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, T117N, R60W. The works are capable of diverting and conveying to the place of use 0.16 cu. ft. per second of water and/or storing 32 acre-feet of water which is to be used for commercial purposes. Water has been put to beneficial use to the maximum extent as follows:

Waste water effluent is land applied in the following areas, all in T117N, R60W:

Section 10

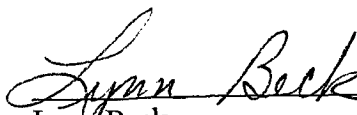
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 18 acres	SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 acres		
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres	NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$ 40 acres

Section 11

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres	SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres	SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40 acres
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres

comprising a total of 538 acres of land and the license should be issued for 0.16 cfs and/or 32 acre-feet of storage. Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none


 Lynn Beck
 Natural Resources Engineer
 DENR, Water Rights Program

9-4-96
 Date



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

September 25, 1996

5198-3

Kevin Rath
Bypork, Inc.
1418 25th Street
Columbus, NE 68601

Dear Mr. Rath:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 5198-3, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection 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

415129

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____, October 1, 19 96

RECEIVED OF Bypork, HC 68, Box 11, Doland, SD 57436

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. <u>5198-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By

Chief Engineer

John Hatch 

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5198-3

(1) Houser-Sand Partnership, Columbus NE 68601 made Application No. 5198-3, June 9, 1988 for a water permit to divert 0.22 cubic feet of water per second from groundwater (two wells), Spink County, South Dakota for commercial purposes. Permit No. 5198-3, with a priority date of July 27, 1988 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 27, 1993 and for the application to beneficial use of said water on or before July 27, 1997.

On January 19, 1993, Water Permit No. 5198-3 was transferred to ByPork, Inc.

An investigation conducted for licensing purposes found the two wells and wastewater storage lagoon under Water Permit No. 5198-3 were not in the locations authorized by the permit. Pursuant to SDCL 46-5-13.1, the Chief Engineer makes a finding that the change in location of diversion points and lagoon does not increase the potential for interference with existing water rights.

(2) It is certified that the applicant 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 0.16 cubic feet of water per second for beneficial use. The location of the diversion points are Well #1 - 10 feet and Well #2 - 20 feet south of the center of Section 3; and the storage lagoon (32 acre-feet capacity) is located in the NW 1/4 NE 1/4 Section 10; all in T117N-R60W.

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use. The wastewater effluent is applied to the following land: all in T117N-R60W

Section 10	NE 1/4 NE 1/4	18 acres	NE 1/4 SE 1/4	40 acres
	SE 1/4 NE 1/4	40 acres	NW 1/4 SE 1/4	40 acres
			SW 1/4 SE 1/4	40 acres
			SE 1/4 SE 1/4	40 acres
Section 11	NE 1/4 NW 1/4	40 acres	NE 1/4 SW 1/4	40 acres
	NW 1/4 NW 1/4	40 acres	NW 1/4 SW 1/4	40 acres
	SW 1/4 NW 1/4	40 acres	SW 1/4 SW 1/4	40 acres
	SE 1/4 NW 1/4	40 acres	SE 1/4 SW 1/4	40 acres

Total 538 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 ByPork Inc., 1418 25th St, Columbus NE 68601 the holder and/or owner of Water Permit No. 5198-3 is issued a license to appropriate water, the right to use 0.16 cubic feet of water per second from groundwater (two wells) with a priority date of June 9, 1988 from the location specified in (2) of this license, for the purpose of commercial use (hog confinement unit). This license is subject to any limitations or qualifications listed in Water Permit No. 5198-3 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

DEC 26 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

DEC 26 1996

5198-3

Kevin Rath
Bypork, Inc.
1418 25th St.
Columbus, NE 68601

Dear Mr. Rath:

Enclosed is Water License No. 5198-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 415129 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. 5198-3, 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.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

ks
enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 3, 2007

5198-3

Jim Quackenbush
PO Box 31
Chokio MN 56221

Dear Mr. Quackenbush:

I am contacting you in regard to ownership of Water Right No. 5198-3 (copy enclosed) Eric Gronlund with our program visited with you today about the water right and requested I mail you the necessary form for changing ownership.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. 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.

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

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

APR 11 2007

WATER RIGHTS
PROGRAM

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

No. 5198-3

Date: 4-9-07

I/We request that Water Right No. 5198-3

formerly owned by: ByPork Inc

be transferred to: (name & address) Dakota 10, LLC
40948 167th Street
Doland, SD 57436 Telephone No. 605-635-6913

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

Two wells located in Section 3; storage lagoon located in the NW ¼ NE ¼ Section 10; all in

T117N, R60W

I/We understand that the validity of Water Right No. 5198-3 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 James G. Quaderstad, the new owner, certify that the above information is true and correct.

James G. Quaderstad
(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 4/11, 20 07

RECEIVED OF JAMES QUACKENBUSH PO BOX 31 CHOKIO MN 56221

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>5198-3</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	2 50

No.

03028

By

Harland Erbe

Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 11, 2007

5198-3

Jim Quackenbush
PO Box 31
Chokio MN 56221-0031

Dear Mr. Quackenbush:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for Water Right No. 5198-3.

The transfer has been completed. The water right, formerly held by ByPork Inc has been transferred to **"Dakota 10 LLC" at 40948 167th St, Doland SD.**

Enclosed is your Receipt No. 03028 in the amount of \$2.50. You may keep this for your records.

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

enclosure

File No. 5175-3

5198-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Jordyn Anderson (for Dakota 10 and Dakota 17)

DATE: March 12, 2018

TELEPHONE: 320 554-2243 extension 11

RE: contact person change

Ms. Anderson called concerning a change to the contact person for Dakota 10 and Dakota 17 water permits.

James Quackenbush is no longer with the company. Future correspondence can be directed to either Dakota 10 or Dakota 17 at the following address:

108 Livingston St, Villard MN 56385 (contact person is Jeremy Schmidgall)

phone # 320 554-2243



Genny McMath
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

October 16, 2018

Jeremy Schmidgall
Dakota 10, LLC
108 Livingston Street
Villard, MN 56385

RE: Dakota 10, LLC – Change to the Permit Holder

The department received the necessary documents to change the permit holder from Jim Quackenbush to you between March 28, 2018, and October 5, 2018. Thank you for submitting the following documents to allow for this change:

- Signed and notarized Certification of Applicant Form;
- Signed Notice of Intent Form; and
- Signed Operation and Maintenance Guideline.

We are approving the change to the permit holder for your permitted swine operation. Your swine feeding operation currently has permit coverage under the 2003 *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* (2003, general permit).

The 2017 *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* (2017 general permit) became effective on April 15, 2017. You currently have coverage under the 2003 general permit and will need to submit an application for coverage under the 2017 general permit by **April 15, 2019**. Please note that certain modifications may require operations to submit a permit application for coverage under the reissued 2017 permit. We recommend when crafting your NMP under the reissued general permit that you consider writing your plan to maximize your flexibility and minimize the amount of modifications that you may need to make to your NMP.

We would like to thank you for your cooperation in ensuring the protection of our natural resources. If you have any questions regarding this letter, please feel free to contact Paul Wegleitner, Feedlot Permit Program, at (605) 773-3351.

Sincerely,



Kent R. Woodmansey, PE, Administrator
Feedlot Permit Program

cc: SD Water Rights Program
SD Ground Water Quality Program
Spink County Commissioners



5198-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

RECEIVED

MAR 04 2020

WATER RIGHTS
PROGRAM

March 3, 2020

Clint Kreofsky
Dakota 10, LLC
1901 Main Street
Emmetsburg, IA 50536

RE: Dakota 10, LLC – Change to the Permit Holder

The department received the necessary documents to change the permit holder from Jeremy Schmidgall to you on February 26, 2020. Thank you for submitting the following documents to allow for this change:

- Signed and notarized Certification of Applicant Form;
- Signed Notice of Intent Form; and
- Signed Operation and Maintenance Guideline.

We are approving the change to the permit holder for your permitted swine operation. Your swine feeding operation currently has permit coverage under the 2003 *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* (2003 general permit).

The 2017 *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* (2017 general permit) became effective on April 15, 2017. You currently have coverage under the 2003 general permit and should have submitted an application for coverage under the 2017 general permit by **April 15, 2019**. You have indicated that Anez Consulting is preparing your 2017 general permit application and they are waiting for a few soil tests to complete the application and plan to submit the application by April 30th.

We would like to thank you for your cooperation in ensuring the protection of our natural resources. If you have any questions regarding this letter, please feel free to contact Paul Wegleitner, Feedlot Permit Program, at (605) 773-3351.

Sincerely,

Kent R. Woodmansey, PE, Administrator
Feedlot Permit Program

cc: SD Water Rights Program
SD Ground Water Quality Program
Spink County Commissioners

File No. 5175-3
5198-3 ✓

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Austin Domeier, Centrol Crop Consulting

DATE: October 19, 2022

TELEPHONE: 507 337-3021

EMAIL: adomeier@centrol.com

RE: contact change for Dakota 17 and Dakota 10 facilities

COMMENTS:

Austin sent an email about changing the contact person for both of the water rights. The ownership for the facilities stays the same.

The new contact is:

Jerry Joyce
P.O. Box 96
Emmetsburg, IA 50536-0096
(712)-852-8520



Genny McMath
Water Rights Program

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

RECEIVED

AUG 03 2026

OFFICE OF
WATER

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

Water Right/Permit No. 5198-3

Date: 8/3/2026

I/We request that Water Right/Permit No. 5198-3 formerly owned by:
Dakota 10, LLC be transferred to:

New Owner Name: Meyer Farms LLC

Address: 73537 365th Ave mobile: 507-360-6366

City, State, Zip Round Lake, MN 56167 email: meyfarmsllc@gmail.com

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

Meyer Farms, LLC

☒ I understand that the validity of Water Right/Permit No. 5198-3 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, Gene Meyer, the new owner, certify that the above information is true and correct.

Gene Meyer

Gene Meyer (Aug 3, 2026 13:36:00 CDT)

(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, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following 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

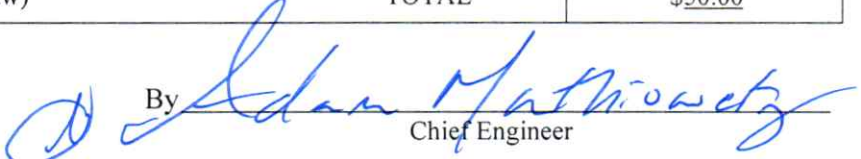
WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 28, 2026

RECEIVED OF Meyer Farms LLC 73537 365th Ave Round Lake, MN 56167

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. _____	\$ _____
Fee for Filing Transfer Form #5198-3	\$ <u>50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>50.00</u>

By  Chief Engineer



Gene Meyer <meyfarmsllc@gmail.com>

Transfer of Ownership for Water Right #5198-3

3 messages

Konst, Shannon <Shannon.Konst@state.sd.us>
To: "meyfarmsllc@gmail.com" <meyfarmsllc@gmail.com>

Mon, Aug 10, 2026 at 9:30 AM

Hello, we received the Transfer of Ownership for Water Right No. 5198-3, to be transferred from Dakota 10 LLC to Meyer Farms LLC. There is a fee of \$50.00 to cover the filing and transfer fee. As soon as we received that payment, we will process this Transfer of Ownership. Please let me know if you have any questions.

Thanks

**Shannon Konst****Program Assistant I****Water Rights Program**

Department of Agriculture and Natural Resources

523 E. Capitol Ave. Pierre SD, 57501

605.773.8204

danr.sd.gov**PAID**

AUG 27 2026

Ck# 3912

Rec't# _____

RECEIVED

AUG 28 2026

**OFFICE OF
WATER**

Gene Meyer <meyfarmsllc@gmail.com>
To: "Konst, Shannon" <Shannon.Konst@state.sd.us>

Mon, Aug 10, 2026 at 11:41 AM

I will drop it in the mail today.

Thanks



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

Meyer Farms LLC
C/O Gene Meyer
73537 365th Ave
Round Lake, MN 56167

5198-3

Dear Mr. Meyer:

The South Dakota Water Rights Program is in receipt of the "Notice of Transfer of Ownership" form and the fee you submitted for Water Right No. 5198-3, enclosed is a \$50.00 receipt of payment for your records.

Water Right No. 5198-3, previously held by Dakota 10 LLC, is now listed under Meyer Farms LLC. I have also updated your contact information in our system.

As a reminder, so long as you use the water beneficially, as stated in the Permit/License (copy enclosed), State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the Permit/License will be subject to cancellation.

I am happy to answer any questions you may have.

Sincerely,

Shannon Konst
Water Rights Program
605 773-3352
Shannon.konst@state.sd.us

NOTE: The validity of Water Right No. 5198-3 has not been determined by this transfer action. Only the Water Management Board has the authority to determine if a water permit/right is valid.

enclosures

RECEIVED

AUG 28 2026

OFFICE OF
WATER

Water Right No. 4732-3
Gerald Benjamin

Water Right No. 4732-3 authorizes 189 acres located in the NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, Section 03-T91N-R50W.

Do you still own the land described above?

Yes ☒

No ☐ (If no, please list the name, mailing address, and phone number of the new owner)

Has the land been re-enrolled in CRP:

Yes ☒ through calendar year 2036

No ☐

If the land has not been re-enrolled in CRP, we will begin mailing irrigation questionnaires to you for annual reporting. Questionnaires are mailed to irrigators in October each year and are due back in December.

For informational purposes:

46-5-37.2. Exceptions to forfeiture for nonuse. The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:

- the water source is not fully appropriated
- if the withdrawal from use does not prevent approval of new permits from the same source, and
- if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.