

WATER PERMIT NO. 6036-3

Name of Applicant: Roger Cudmore

Address: 37319 237th St, Wessington Springs SD 57382

Phone: 605 249-2538

Amount of Water Claimed: 30 gpm (0.07 cfs)

Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: livestock confinement facility

County: JE

Type of Waste Disposal System:

Location: 12 miles southwest of Wessington Springs

PRIORITY

Date Received: 1-15-1998

Fee: \$150.00

Corrected Application Received:

Period of Annual Use: January 1 - December 31

Remarks:

Diversion Point: NW 1/4 NW 1/4

Sec 36-T106-R66W

Land to be Irrigated: NA

Depth of Well: 200 feet deep

Well Driller:

Remarks: well not drilled

Type of Map: topo

Prepared by: Mark E Johnson

Reviewed and the Number Assigned on: 1-16-1998

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

	X				
			36		

**SOUTH DAKOTA
WATER PERMIT NO. 6036-3**

Date of first receipt of application January 15, 1998.

The Water Management Board approved Water Permit Application No. 6036-3 on May 6, 1998 for Roger Cudmore, 37319 237th St., Wessington Springs SD 57382 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. 6036-3 appropriates 0.07 cubic feet of water per second (30 gallons per minute) from one well (Crow Lake Aquifer) approximately 200 feet deep located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36-T106N-R66W.
2. The water appropriated shall be used for the purpose of supplying water to a swine confinement facility and may not exceed the amount of water needed for beneficial use for commercial use 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 right is January 15, 1998.
5. One-fifth of the construction is to be completed on or before November 6, 2000.
6. All construction is to be completed on or before May 6, 2003.
7. Water is to be put to beneficial use on or before May 6, 2007.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Permit No. 6036-3 is subject to compliance with requirements of the Department's General Water Pollution Control Permit for swine feeding operations.
2. The well 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.
3. The well authorized by Permit No. 6036-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

(continued)

Water Permit No. 6036-3

Roger Cudmore

Page 2

4. Permit No. 6036-3 is subject to compliance with the existing and applicable Water Management Rules:

- a) Chapter 74:54:01 Ground Water Quality Standards,
- b) Chapter 74:54:02 Ground Water Discharge Permit,
- c) Chapter 74:51:01 Surface Water Quality Standards,
- d) Chapter 74:51:02 Uses Assigned to Lakes,
- e) Chapter 74:51:03 Uses Assigned to Streams, and
- f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.

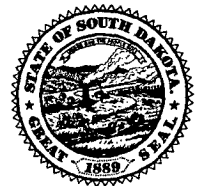
WATER MANAGEMENT BOARD

By: _____

John Hatch
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

SEP 4 1998

date



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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6036-3</u>	(office use only) Hydrologic Unit <u>10140105</u>
	Basin <u>Missouri River</u>	
	Newspaper <u>True Dakotan, Wessington Springs, SD</u>	



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

Check use(s) of water:

☐ Municipal	☐ Suburban Housing	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal Heat
☐ Domestic (over 18 gpm)	☐ Industrial	☒ Other <u>Agricultural Livestock Production</u>	

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

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

1. Name of Applicant Roger Cudmore Phone 605-249-2538
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 37319 237th Street Wessington Springs State SD 57382
(Street, RR. or Box) (Zip Code)

2. Amount of water claimed 0.07 *CFS or 30 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply groundwater (one well)

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

1 well @ NW 1/4, Section 36 - T106N-R66W

County Jerauld

5. County or counties where water will be used Jerauld

6. Annual period during which water is to be used Jan 1 - Dec 31
Year round with peak usage from June to September

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. A 1,040 animal unit sow confinement. Application submitted to SD DENR Surface Water Quality Program to obtain coverage under the SD General Water Pollution Control Permit for Concentrated Swine Feeding Operations.

STATE OF SOUTH DAKOTA)
County of Jerauld SS

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

I, Roger Cudmore, 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 Roger Cudmore
Subscribed and sworn to before me this 13th day of January 19 98

Jeff Abel
Notary Public
My commission expires: 9-8-00

Supplemental Information

(type or print in ink)



1. Well Information - Proposed Construction

- a) Drill Hole Diameter 5 inch Depth approx. 200
- b) Casing Type PVC Diameter 3 inch Thickness _____
- c) Screen Type 0.025 slot Diameter 3 inch Thickness _____
- d) Gravel Pack Yes Length of Gravel Pack 20 feet
- e) Depth to Top of Water Bearing Material 112 feet
- f) Depth to Water (ground surface to water level) 118 feet
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) Earthen Type II holding pond; septic tank/drain field for
- b) System Capacity (gallons) _____ Year Constructed New
- c) Connected to the City of _____ Sanitary System

3. Dugout Information

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

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

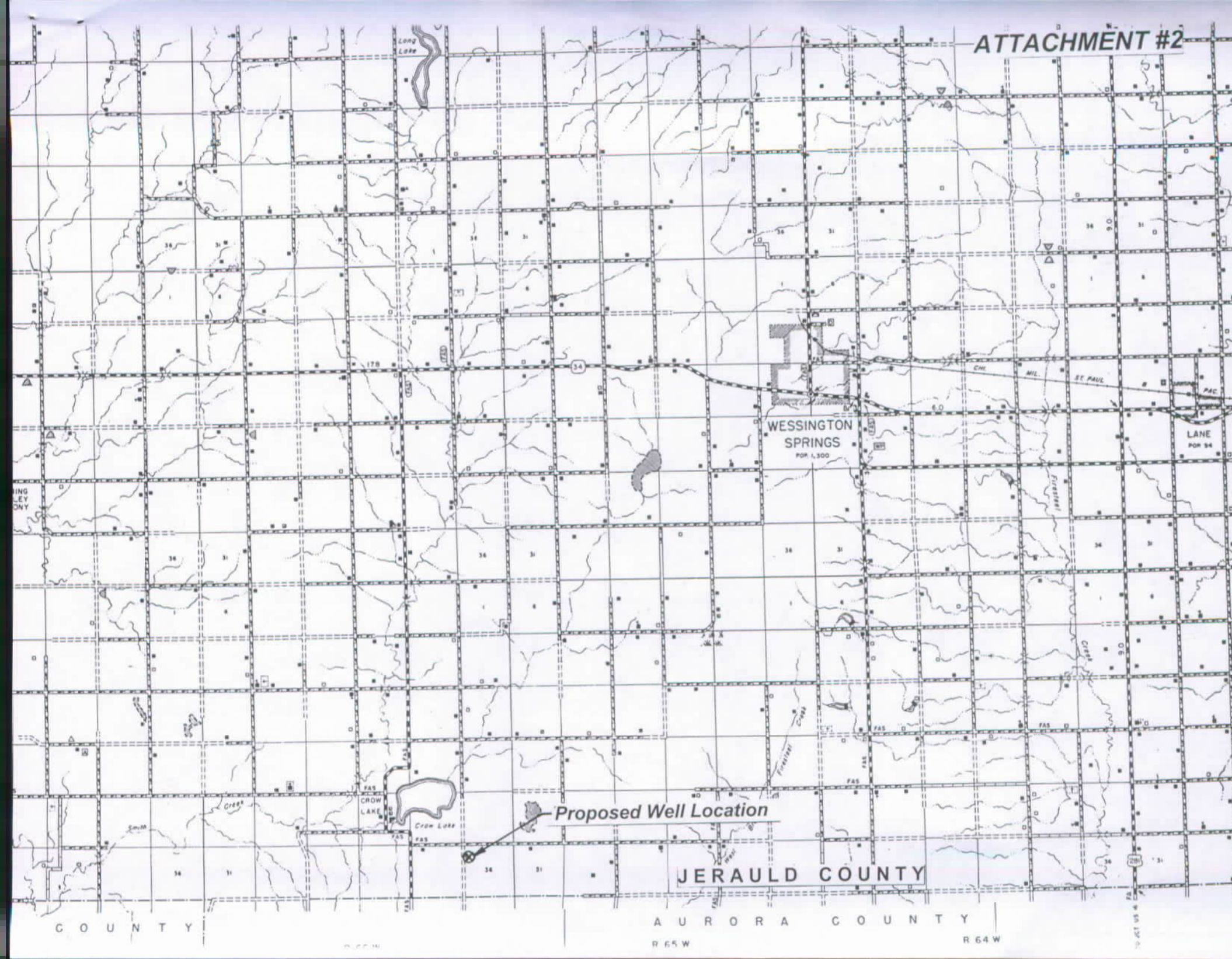
- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

JE 77 H

[illegible]

STATE OF SOUTH CAROLINA - DEPT. OF TRANSPORTATION - DIVISION OF HIGHWAYS - CERTIFICATE OF AUTHENTICITY
THIS IS TO CERTIFY THAT THE MICROPHOTGRAPHIC IMAGE APPEARING ON THIS SLIDE OF MICROFILM IS AN ACCURATE REPRODUCTION OF THE
ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH CAROLINA COMPILATION
LAW 1-27-4. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A MANNER
AND OF MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTOGRAPHIC
REPRODUCTIONS. REDUCTION 25:1 ROLL NO. 3 5-16-67



WESSINGTON SPRINGS
POP. 1,300

Proposed Well Location

JERAULD COUNTY

COUNTY

AURORA COUNTY

R 65 W

R 64 W

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

19 415606

Pierre, January 16, 1998

RECEIVED OF Roger Cudmore, 37319 237th St., Wessington Springs, SD 57382
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>6636-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	150	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 _____		

(Any Other Work Provided by Law)	Total	150 00

By _____
Chief Engineer

John Hatch (y)

PAYMENT REQUEST FORM

PAYEE: Roger Cudmore
37319 237th St.
Wessington Springs, SD 57382

FROM: Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Applicant originally paid \$150. fee, but only owed \$50.; therefore, \$100. needs to be refunded.

AMOUNT: \$100.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION: _____

John Hubbard

1-20-98

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

**SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA 57501-3181**

**GENERAL WATER POLLUTION CONTROL PERMIT FOR
CONCENTRATED SWINE FEEDING OPERATIONS**

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota, chapters 74:03:17 through 74:03:26, the South Dakota Department of Environment and Natural Resources directs Concentrated Swine Feeding Operations to have no discharge from their manure management systems. In the event that chronic or catastrophic storm events occur, this permit allows an overflow or discharge from certain manure management systems provided the producer meets the terms and conditions of this permit.

This permit shall become effective February 1, 1997

This permit and the authorization to discharge shall expire at midnight, January 31, 2002

Signed this 21st day of January 1997


Authorized Permitting Official

Nettie H. Myers
Secretary
Department of Environment and Natural Resources

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I. EFFLUENT LIMITATIONS

A. Definitions.

1. A "25-year, 24-hour storm event" is the amount of rainfall in a 24-hour period expected to occur only once every 25 years. Typically, the 25-year, 24-hour storm event is about 3 inches in western South Dakota and 5 inches in eastern South Dakota. The map in Appendix D shows the actual amount of rainfall that constitutes the 25-year, 24-hour storm event for South Dakota.
2. "Animal unit" is a unit of measurement to determine if a producer needs to obtain coverage under this general permit. For a comparison of animal units to the number of animals in a swine feeding operation, please see the following table:

Comparison of Number of Animals in Feeding Operation to Animal Units			
Type of Animal Feeding Operation	Number of Animals in Unit		
	300 AU	1,000 AU	2,000 AU
Finish Unit	750 finish hogs	2,500 finish hogs	5,000 finish hogs
Nursery Unit	3,000 nursery hogs	10,000 nursery hogs	20,000 nursery hogs
Production Unit (Breeding, Gestating, & Farrowing)	640 sows	2,130 sows	4,260 sows
Farrow to Finish	80 sows	270 sows	540 sows

3. "Best Management Practices" (BMP) means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, manure stockpiles, or drainage from raw material storage.
4. A "Chronic or Catastrophic Event" is a single precipitation event, or a series of rainfall events in a short period of time, that totals or exceeds the volume of a 25-year, 24-hour storm event. The event includes tornadoes, or other catastrophic conditions. The event would directly result in, or cause, an overflow from the containment structure or lagoon that receives and contains runoff from an open lot.
5. A "Concentrated Swine Feeding Operation" is a swine feeding operation that is subject to the terms and conditions of this permit. A swine feeding operation is subject to this permit if one or more of the following criteria are met:
 - a. The operation feeds or maintains more than 1,000 animal units (see definition of animal unit);
 - b. Local level of government requires the producer to obtain coverage under this permit; or
 - c. The Secretary designates the feeding operation as a concentrated swine feeding operation considering the following factors:
 - i. The size of the swine feeding operation and the amount of manure or process wastewater reaching waters of the state;
 - ii. The location of the swine feeding operation in relation to waters of the state;

- iii. The means of conveyance of manure and process wastewater into waters of the state; and
 - iv. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of manure and process wastewater into waters of the state.
-
- 6. "Housed lot" means totally roofed buildings that may be open or completely enclosed on the sides. Animals are housed over solid concrete or dirt floors, slotted floors over pits or manure collection areas in pens, stalls, or cages. Housed lot is synonymous with other industry terms such as slotted floor buildings.
 - 7. "No-till cropland" means land which is subject to a conservation farming practice: where the soil is left undisturbed from harvest to planting; where planting or drilling is done in a narrow seedbed or slot created by coulters, row cleaners, diskopeners, or in-row chisel; and where this conservation farming practice has been ongoing for at least four consecutive years to establish the soil characteristics necessary to reduce or eliminate erosion from runoff.
 - 8. "Manure management system" means any piping, containment structures, and disposal appurtenances associated with the collection, storage, treatment, and disposal of manure or wastewater at a swine feeding operation.
 - 9. "Open Lot" means pens or similar confinement areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Open lot is synonymous with other industry terms such as pasture lot, dirt lot, or dry lot.
 - 10. "Process wastewater" means any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the swine feeding operation. The term includes runoff from an open lot.
 - 11. "Process generated wastewater" means water directly or indirectly used in the operation of a swine feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.
 - 12. "Producer" means the owner or operator of the concentrated swine feeding operation
 - 13. "Secretary" means the Secretary of the South Dakota Department of Environment and Natural Resources, or authorized representative.
 - 14. "Shall" means that the condition is an enforceable requirement of this permit.
 - 15. "Should" means that the condition is a recommendation of the Secretary. If violations of the enforceable requirements of this permit occur, the Secretary will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.
 - 16. "Swine Feeding Operation" is a facility that stables, confines, and feeds or maintains swine in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more swine feeding operations under common ownership are a single swine feeding

operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure.

17. "Waters of the state" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

B. How to Obtain Coverage Under This Permit.

1. Applicability of General Permit. This permit is applicable to all swine feeding operations that meet the definition of a Concentrated Swine Feeding Operation. Producers that submit plans and specifications to the Secretary on or after August 14, 1996, shall obtain coverage under this permit and operate the feeding operations in compliance with the terms and conditions of the permit. All affected swine feeding operations must operate under the terms and conditions specified in this permit. The Secretary may require an existing swine feeding operation to obtain coverage under this permit based on the factors identified in I(A)(5)(c) on page 3 of this permit and complaint(s). The Secretary encourages feeding operations that do not meet the definition of Concentrated Swine Feeding Operations to request coverage under this permit or voluntarily comply with the terms and conditions of the permit. This will make it easier for the producer should the producer want to expand the swine feeding operation and then be required to obtain coverage under this permit.

2. Request for Authorization.

- a. Plans and Specification Approval. The producer shall submit plans and specifications for any new or expanding swine feeding operation that meets the definition of a Concentrated Swine Feeding Operation. The plans and specifications must include all components of the manure management system.

Plans and specifications shall be submitted to the Secretary at least 60 days prior to anticipated construction. The plans shall be stamped and signed by a South Dakota licensed professional engineer or to the extent authorized by state law, prepared by the U.S. Department of Agriculture - Natural Resources Conservation Service. The plans shall include all necessary items to show that the swine feeding operation will comply with the terms and conditions of this permit once constructed. If the Secretary determines that the manure management system meets the terms and conditions of this permit, the Secretary will issue an approval letter with, or without, conditions.

Upon receipt of a signed complaint form, the Secretary will determine whether an existing swine feeding operation needs to obtain coverage under this permit. After conducting an inspection in response to the complaint, the Secretary will notify the producer of the department's findings of that inspection and whether an individual discharge permit is required or whether coverage under this permit is required. The Secretary will use the following criteria to determine the items that a producer with an existing feeding operation must submit to obtain approval under this permit. All plans and specifications for manure management systems must be stamped and signed by a

South Dakota licensed professional engineer or to the extent authorized by state law, prepared by the U.S. Department of Agriculture - Natural Resources Conservation Service:

- 1) Open or housed lot without a manure management system. The producer shall submit plans and specifications for a new manure management system along with a nutrient management plan. These plans need to meet all the requirements of this permit for the department to approve them;
 - 2) Open or housed lot with an existing manure management system built prior to the effective date of this permit. The producer shall submit documentation prepared by a licensed professional engineer or the Natural Resources Conservation Service showing the size and shape of the manure containment structure(s) and the calculated capacity of the structures. Also, the producer shall submit any information that is available detailing the construction of the structure(s) to include as-built drawings, cross-sectional views of the structure(s), location and type of piping, etc. If the system has not been previously approved by the department and does not have a minimum of 180 days of manure storage or cannot contain the 25-year, 24-hour storm, additional storage will be required. Plans and specifications for the additional storage structure(s) need to be submitted to the department for approval and must meet the requirements of this permit. The producer must submit a nutrient management plan in accordance with this permit;
 - 3) If there is evidence of leakage from the existing manure containment structure(s), the producer shall conduct an assessment of the site to determine the extent of leakage and the area that has been polluted. The results of the assessment must be submitted to the department for review. If ground or surface water resources in the area are impacted, remedial cleanup and repairs to the structures will be necessary before the Secretary can approve the site for operation.
 - 4) Any manure management systems built after the effective date of this permit must meet all permit requirements in order to obtain approval from the Secretary.
- b. Obtaining coverage under the general permit. To obtain final coverage under this permit, the producer shall submit to the Secretary a Notice of Completion and Certification of Application Forms (see Appendix A of this permit). The Notice of Completion is a certification that the producer has constructed the manure management system according to the approved plans and specifications. The Certification of Applicant Form certifies that the producer is qualified to perform the obligations of a permit holder as required by SDCL 1-40-27. If the feeding operation has met the conditions of approval, the Secretary will issue a Certificate of Compliance, a letter informing the producer of coverage under this permit, and a copy of this permit. The Certificate of Compliance verifies that the feeding operation has met all department environmental requirements.

Producers that have approved plans and specifications, but do not have a Certificate of Compliance, need only submit a Notice of Completion and Certification of Applicant Form. Producers with approved plans and specifications and a Certificate of Compliance must only submit a letter to the Secretary requesting coverage under this general permit along with the Certification of Applicant Form. Upon verification of compliance with the terms and conditions

of the plans and specification approval, the Secretary will authorize coverage under the terms and conditions of this permit.

By December 12, 1997, a producer that has obtained coverage under this permit must submit verification that the producer has taken an environmental training course pertaining to proper operation and maintenance of a manure management system and proper natural resource management (See Page 17, item f.). After December 12, 1997, any producer that is required to obtain coverage under this permit must submit this verification before the Secretary will approve plans and specifications.

If the Secretary has approved a design prior to the effective date of this permit, the producer can obtain coverage under this permit without modifying the manure management system used at that feeding operation. However, the producer shall be required to operate the feeding operation in compliance with the terms and conditions of this permit. Should violations occur due to design deficiencies, the Secretary may require modifications to the manure management system to ensure compliance with this permit.

- c. Public Notice. The Secretary will prepare a notice for any new or expanding feeding operation that is covered by this permit. The notice will be published once in a newspaper of general circulation in the locality of the feeding operation. The producer will be responsible for paying for the notice. The notice shall contain information on the feeding operation location, number of animals, a brief description of the proposed manure management system, and where to obtain further information. Notice must appear in the newspaper at least 30 days prior to the Secretary issuing approval of the manure management system.
- d. Address. Plans and specifications and the other forms necessary to obtain coverage under this permit shall be submitted to:

South Dakota Department of Environment and Natural Resources
Air and Surface Water Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351
Fax: (605) 773-5286

- 3. Responsibilities upon Authorization. Owners and operators who are producers of a feeding operation shall operate in accordance with: the approved plans and specifications (see I(B)(2)(a) on page 5); the conditions of this permit; the Best Management Practices (see I(D)(3) starting on page 9) required by this permit to be implemented; and the Best Management Practices incorporated by a producer into the Operation and Maintenance Guideline or Nutrient Management Plan.

C. Notice of Permit Termination and Closure Requirements.

1. The producer shall notify the Secretary if coverage under this permit is no longer necessary because the feeding operation is no longer in operation. The producer shall use the form provided in Appendix B of this permit for this notification.
2. The producer shall notify the Secretary if the permit is no longer necessary due to a change in operations and the producer no longer needs coverage under the general permit. The producer should use the form in Appendix B to provide this notification. The producer needs to list the reasons why coverage is no longer necessary for the swine feeding operation. The Secretary will review these requests on a case-by-case basis.
3. The producer is responsible for ensuring that upon closure of the swine feeding operation, all manure and wastewater has been removed and safely land applied in accordance with the terms and conditions of this permit before coverage under this permit can be terminated.

D. Permit Conditions.

1. Effluent Limits.

a. Housed Lot.

Effective immediately and lasting through the life of this permit, the producer shall have no discharge of process wastewater, or solid or liquid manure, from the concentrated swine feeding operation to waters of the state.

b. Open Lot.

Effective immediately and lasting through the life of this permit, the producer shall have no discharge of process wastewater, or solid or liquid manure, from the concentrated swine feeding operation to waters of the state. The only time this permit allows a discharge from an open lot is if a rainfall event, either chronic or catastrophic, causes an overflow from the manure containment structure. However the containment structure shall be designed, constructed, maintained, and operated at all times in compliance with the terms and conditions set forth in this general permit. Should a discharge occur, the producer shall keep rainfall records to document that a 25-year, 24-hour rainfall event occurred. The producer may use an ordinary rain gauge to determine rainfall amounts.

c. Manure and Wastewater Land application sites.

Effective immediately and lasting through the life of this permit, the producer shall have no discharge of process wastewater, or solid or liquid manure, from the manure or wastewater land application sites. A discharge may occur from these sites only when chronic or catastrophic rainfall events occur. The producer shall keep rainfall records to document that a 25-year, 24-hour rainfall event occurred. The producer may use an ordinary rain gauge to determine rainfall amounts.

2. Proper Operation and Maintenance. Producers shall construct, operate, and maintain the animal feeding operation in compliance with: the conditions of this permit; the approved plans and specifications (see I(B)(2)(a) on page 5); and the Best Management Practices (see I(D)(3) starting on page 9) required by this permit to be implemented. The producer shall prepare and follow an Operation and Maintenance Guideline and Nutrient Management Plan using Best Management Practices.
3. Best Management Practices. The producer is responsible for implementing Best Management Practices to ensure compliance with the terms and conditions of this permit. The producer shall include the Best Management Practices that will be implemented at the swine feeding operation in the Operation and Maintenance Manual or Guideline and Nutrient Management Plan. The following sections describe several Best Management Practices that may assist the producer in complying with this permit and prevent pollution. Whenever the word "shall" is used, that is a requirement of the permit that the producer must meet.
 - a. Location Standards. This section establishes the minimum standards that the producer shall consider when selecting a site for a new concentrated swine feeding operation.
 - 1) The producer shall contact the local planning and zoning office to determine all local requirements. The producer is responsible for complying with all local ordinances and requirements. Local governments may have setback distances, buffer zone widths and other siting or environmental requirements established in local ordinances.
 - 2) The producer should take every precaution to minimize the possibility of exposing the public to nuisance conditions and prevent locating a swine feeding operation in an area unsuitable or inappropriate. Factors that the producer should consider are:
 - a) Distance to roads, homes, churches, schools, residential areas, towns, cities, etc.;
 - b) Prevailing wind direction;
 - c) Fencing the lagoon or containment structure for safety and post signs around the structure;
 - d) Plant trees or shrubs to screen the lagoons or containment structure to help control odors and improve aesthetics; and
 - e) Distance to public and individual water supplies.
 - 3) The producer should evaluate the design, construction, or operational features of the manure management system to minimize contamination of surface or ground waters. In making this evaluation, the producer should consider the following factors:
 - a) Soil conditions;
 - b) Depth to the aquifer;
 - c) Distance from the feeding operation to the aquifer and nearby drainages, streams, rivers, lakes, wetlands, etc.;
 - d) Ground water conditions such as ground water flow rate, quality, and aquifer recharge or discharge conditions;

- e) Active natural processes such as flooding, erosion, settling, submergence, etc.;
 - f) Local weather conditions; and
 - g) Terrain slopes.
- 4) Wastewater containment structures should not be located in wetlands. If required by federal law, the producer shall obtain a Section 404 permit from the US Corps of Engineers prior to any dredging or filling of wetlands.
 - 5) Wastewater containment facilities should not be located over shallow aquifers. The Secretary will evaluate whether monitoring wells or a ground water discharge permit will be required on a case-by-case basis if facilities are located over shallow aquifers.
 - 6) The producer shall maintain appropriate buffer zones around wastewater containment structures or lagoons or land application areas for manure disposal.
 - 7) The producer should maintain appropriate distances from neighbors, cities and other residential areas. Sites proposed in areas located in predominately upwind direction from residential areas should be avoided.
- b. Containment Structure Design and Storage. The producer shall construct containment structures to store the 25-year, 24-hour storm event plus all other process wastewater and liquid and solid manure. The containment structures shall be designed and constructed in accordance with good engineering and construction practices. The producer shall incorporate the following design characteristics into the containment structure:
- 1) The freeboard shall not be less than two feet for any containment structure constructed with earthen materials. The freeboard shall not be less than one foot for any containment structure constructed with concrete. Freeboard is measured from the high water mark to the bottom elevation of the emergency spillway or lowest part of the dike or containment structure if no spillway is present. The high water mark is the elevation in the containment structure necessary to contain the designed storage of accumulated manure and process generated wastewater and the 25-year, 24-hour rainfall event;
 - 2) A containment structure or lagoon for an open lot may be constructed with an emergency spillway or overflow channel to remove water in a controlled manner when the capacity of the containment facility is exceeded. If applicable, the emergency spillway shall be designed to safely pass the flow expected from the 25-year, 24-hour storm event;
 - 3) Uncontaminated storm water runoff shall be diverted away from the containment structure whenever possible;
 - 4) Ditches, dikes, berms, terraces, or other such structures shall be used to divert peak flows to the containment structure or lagoon. These structures shall be designed to carry the peak flow expected during the 25-year, 24-hour rainfall event;
 - 5) If applicable, permanent markers (measuring devices) shall be maintained in the containment structure to show the volume required to contain a 25-year, 24-hour rainfall event. The measuring device can also be used to determine the amount of solid or liquid manure in the lagoon or the amount of manure that will be applied during land application;

- 6) Manure and wastewater containment structures shall not be located within the 100-year flood plain unless the structure is protected from inundation and damage that may occur during flood events;
- 7) Wastewater containment structures or the manure and wastewater disposal sites cannot be located closer than 1,000 feet from an existing public water well or drinking water source nor 250 feet from an existing private water well or drinking water source. Wastewater containment structures and the manure and wastewater disposal sites shall not be located closer than 150 feet from a water well or drinking water source that is owned by the producer;
- 8) Manure holding ponds (South Dakota Technical Guide #425; NRCS; 5/94), waste storage ponds (South Dakota Technical Guide #425; NRCS; 5/94), or waste storage pits or tanks (South Dakota Technical Guide #313; NRCS; 2/93) shall be designed based on the minimum storage time of 270 days and must include all sources of manure and wastewater that will enter the containment structure;
- 9) Anaerobic lagoons (South Dakota Technical Guide #359; NRCS; 2/93) shall be designed based on volatile solids loading. The loading rate for an anaerobic lagoon shall not exceed 3.0 pounds of volatile solids per 1,000 cubic feet of pond volume. Loading rates less than 3.0 pounds are allowed. The minimum depth of liquid shall be 6 feet;
- 10) Naturally aerobic lagoons (South Dakota Technical Guide #359; NRCS; 2/93) shall be designed based on daily biochemical oxygen demand (BOD_5) loading per acre of lagoon. The loading rate for an aerobic lagoon shall not exceed 25 pounds of biochemical oxygen (BOD_5) demand per acre of lagoon per day. Loading rates less than 25 pounds are allowed. The maximum depth of liquid shall be five feet;
- 11) For mechanically aerated lagoons (South Dakota Technical Guide #359; NRCS; 2/93), the aeration equipment shall provide a minimum of one pound of oxygen for each pound of biochemical oxygen demand (BOD_5) per day. The minimum depth of liquid shall be 6 feet;
- 12) Manure containment structures shall provide for a minimum design capacity of 270 days of storage. The design volume includes the following:
 - a) Liquid and solid manure, process generated wastewater and mean annual runoff (if the structure receives runoff from the lots or pens);
 - b) Process wastewater;
 - c) Normal precipitation less evaporation on the pond surface;
 - d) 25-year, 24-hour precipitation on pond surface and runoff (if structure receives runoff from an open lot);
 - e) Additional water necessary to meet volatile solids loading or other loading rates specified in items 9, 10, and 11 listed above, if the structure is an anaerobic, naturally aerobic or mechanically aerated lagoon; and
 - f) Solids accumulation. An allowance of at least one foot shall be provided in the bottom of the containment structure to accommodate materials that are not removed during emptying.
- 13) If applicable, the South Dakota Dam Safety requirements shall be met for construction of lagoons. A lagoon shall meet these regulatory requirements if the lagoon is 25 feet high and holds more than 15 acre-feet of water; or holds more than 50 acre-feet of water and is over 6 feet high;

- 14) Interior and exterior slopes of earthen embankment walls of lagoon structures shall be no steeper than one foot vertical to three feet horizontal;
- 15) Earth embankments of any lagoon shall have a top width of at least 10 feet; and
- 16) Any earthen lagoon having a surface area of five acres or more shall be provided with erosion protection.

c. Surface Water Protection. The producer shall construct, manage and maintain the manure management system in a manner to prevent pollution of surface waters of the state. The following is a list of practices to help ensure compliance with the permit and protect surface water quality. The producer shall include a list of practices in the operation and maintenance guideline that the producer shall follow to ensure protection of surface water. In developing the operation and maintenance guideline, and in operating the facility, the producer shall comply with all mandatory best management practices and may use any or all of the recommended best management practices noted below:

- 1) Practices to decrease the lot runoff and water volume are as follows:
 - a) Divert runoff from clean areas above lot by constructing ditches, terraces and waterways above an open lot;
 - b) Install gutters, downspouts, and buried conduits to divert roof drainage;
 - c) Provide more roofed area;
 - d) Decrease open lot surface area;
 - e) Repair or adjust waterers and water systems to minimize water wastage;
 - f) Use practical amounts of water for cooling purposes; and
 - g) Recycle water if practical and applicable.
- 2) Practices to decrease the potential of discharging manure and process wastewater are as follows:
 - a) Collect manure more frequently;
 - b) Eliminate areas that slope in directions such that wastewater or rainfall runoff cannot be collected;
 - c) Collect and allow wastewater to evaporate; and
 - d) Collect and evenly apply wastewater to land only during dry weather.
- 3) Practices to decrease the potential of discharging manure or process wastewater to surface water are as follows:
 - a) Do not stockpile manure near watercourses. **Note:** The producer shall not stockpile manure in an area that will pollute waters of the state;
 - b) Avoid land that is susceptible to excessive water erosion; and
 - c) Utilize off-site areas for manure application consistent with Best Management Practices, good agricultural practices, and the Nutrient Management Plan.
- 4) If applicable, the producer should collect manure that accumulates along holding pens or open lot fence lines, in feeding lanes, and feed storage areas on a weekly basis.

- d. Ground Water Protection. Where the potential exists for the contained manure or process wastewater to contaminate ground water, the producer shall take every precaution to prevent migration of pollutants to the ground water. The following best management practices shall be followed to ensure protection of ground water;
- 1) All new or modified wastewater containment structures that have liners constructed of compacted or in-situ earthen materials shall meet the following minimum requirements:
 - a) 30% or more of the liner material passes through a number 200 mesh sieve. Material used for the clay lining shall be either CL or CH Unified Classification. Liner materials shall contain no frozen material, ice, snow, sod, brush, roots, or other perishable materials, or rocks larger than four inches in diameter. No liner shall be placed on a frozen surface (Reference: NRCS Construction Specifications A1-34 AWMS Pond Clay Liners; 2/93);
 - b) Earthen liners shall be placed in approximately equal horizontal layers. Each layer shall not exceed six inches for machine compaction. Each layer adjacent to structures shall not exceed four inches for hand-directed power tampers (Reference: NRCS Construction Specifications A1-34 AWMS Pond Clay Liners; 2/93);
 - c) A liquid limit of 30% or greater;
 - d) A plasticity index of 15 or greater;
 - e) Hydraulic conductivity equal to or less than 1×10^{-7} centimeters per second (cm/sec) or 1/16 inch per day at maximum operating depth;
 - f) Soil compaction for liners and embankments shall be done according to standard proctor density at optimum moisture content plus or minus two percent; and
 - g) A minimum thickness of compacted soil liners of 1.5 feet on the bottom and sides after compaction.
 - 2) If the earthen containment structure or lagoon cannot meet the requirements in item 1) above, then an alternative lining material shall be used. Alternative liner materials include flexible membrane linings, asphalt-sealed fabric liners, and bentonite sealants.
 - 3) Containment structures may be constructed with concrete. These structures must be properly designed using adequate structural reinforcement to minimize cracking of the concrete and to ensure the structural integrity of the containment structure. Acceptable standards for concrete design are found in the following sources:
 - a) Waste Storage Structure Design Standard 313 (February 1993) and Design Technical Note No. 24 (December 14, 1993) available from the Natural Resources Conservation Service;
 - b) Midwest Plan Service (MWPS-36) *Concrete Manure Storage Handbook* (1994 Edition) available from the Extension Service;
 - c) American Concrete Institute Standards 318-89 (Rev. 1992) *Building Code Requirements for Reinforced Concrete*; and
 - d) American Concrete Institute Standards 350R-89 and 350IR-93/AWWA(1994) *Environmental Engineered Concrete Structures*.

- 4) Livestock shall be prohibited entry into earthen lagoons, on lagoon dikes, and the immediate surrounding area to ensure protection of the liner.
- 5) If stockpiling of manure is a usual practice at a swine feeding operation, the producer shall construct a designated stockpiling site. The stockpile shall include a liner that minimizes seepage and dikes to keep runoff away from the stockpile and to contain runoff from leaving the stockpile.
- 6) Wastewater containment structures or the manure and wastewater application sites cannot be located closer than 1,000 feet from an existing public water well or drinking water source nor 250 feet from an existing private water well or drinking water source. Wastewater containment structures and the manure and wastewater application sites shall not be located closer than 150 feet from a water well or drinking water source that is owned by the producer;
- 7) The Secretary will determine on a case-by-case basis whether swine feeding operations covered by this permit are located over shallow aquifers. If so, the Secretary may require that ground water monitoring wells be installed. If monitoring is required, a licensed well driller in South Dakota must install the wells.

The producer shall sample the monitoring wells on a quarterly basis (January, April, July, and October) for the following parameters;

- a) Total dissolved solids
- b) Sulfates;
- c) Nitrates;
- d) Ammonia;
- e) Chlorides; and
- f) Water elevations.

The producer shall submit the monitoring well data collected from the monitoring wells by January 31 of each year to the following address:

Ground Water Quality Program
Department of Environment and Natural Resources
523 E. Capitol
Pierre, SD 57501
Telephone: (605)773-3296 Fax: (605)773-6035

If the ground water is not impacted after one year of sampling, the producer may request the Secretary to reduce the monitoring frequency. However, if the ground water is affected, the Secretary may require more frequent monitoring, ground water remediation, or a ground water discharge permit;

- 8) Depending on the site conditions, the Secretary may require the producer to obtain a Ground Water Discharge Permit or may require the producer to conduct ground water monitoring. The Secretary will use the criteria listed in a) through c) below to make this determination.

Where manure management systems include an earthen lined containment structure, and where the swine feeding operation site meets one or more of the following criteria, the producer must obtain a ground water discharge permit prior to any storage of manure. Where manure management systems include a concrete or synthetically lined containment structure, and the swine feeding operation site meets one or more of the following criteria, the producer must conduct ground water monitoring. The criteria are as follows:

- a) The feeding operation is located over a mapped aquifer included in the statewide ground water quality monitoring network. In Appendix E of this permit, a map of these aquifers is included. This map only serves as a general guide to the location of these aquifers. County studies and other information shall be used, where available, to better determine more precise aquifer locations. Aquifer boundaries shown in Appendix E are drawn at the discretion of geologists and hydrologists based on best available information. Therefore, actual site specific aquifer boundaries may differ from the attached map and other information. Hydrogeologic information is necessary to verify the location of a feeding operation in relation to an underlying shallow aquifer;
 - b) The feeding operation is located over an aquifer not shown on the map in Appendix E, and meets one of the following criteria:
 - i. The aquifer is within 50 feet or less below the land surface with 15 feet or less of continuous, overlying, extremely low permeability, geologic material such as unweathered clayey till or shale. Weathered till or highly fractured/weathered shale is not considered to be extremely low permeability material;
 - ii. The aquifer is greater than 50 feet but less than 100 feet below the land surface with 30 feet or less of continuous overlying low to extremely low permeability geologic material that may be a combination of weathered and unweathered till, shale, or till and shale; or
 - iii. The aquifer is greater than 100 feet below the land surface, the vulnerability will be determined on a case-by-case basis.
 - c) As determined by the Secretary on a site-by-site basis.
- 9) The producer must provide the drilling logs from soil borings in the vicinity of the containment structure. There shall be a minimum of two soil borings or at least one boring per acre of pond or lagoon area. All borings shall be within 200 feet of the proposed location of the containment structure, and all borings must extend to a depth to at least six feet below the bottom of the containment structure. At least one of these borings must be a deep subsurface boring. The deep subsurface boring must extend to a minimum of 25 feet below the ground surface and may stop when one of the following criteria has been met:
- i. At least 15 continuous feet of extremely low permeability, geologic material (unweathered clayey till or shale) is encountered in the boring;

- ii. At least 30 continuous feet of low to extremely low permeability, geologic material (weathered or unweathered till or shale) is encountered, if the boring is greater than 50 feet in depth;
- iii. The boring reaches an aquifer; or
- iv. A total depth of 100 feet.

e. Feedlot Manure Utilization or Disposal by Land Application. The producer is responsible for the safe utilization of manure and process wastewater generated at the swine feeding operation. The following items establish the minimum standards for the safe disposal of manure and process wastewater and shall be followed by the producer. NOTE: Producers subject to this permit are required to develop and submit a nutrient management plan to the department for approval (see 4. starting on Page 18).

- 1) Containment structures shall be equipped with either irrigation, evaporation, liquid removal systems, or a combination of these systems. These systems shall be capable of dewatering the containment structures. The producer shall maintain freeboard in the manure containment structure at all times as required by Section I.D.3.b.1) on page 10 of this permit. For open lots, the producer shall restore the storage capacity necessary to contain the 25-year rainfall event within 14 days of any rainfall event or accumulation of manure or process wastewater that results in storage above the high water mark of the containment structure. The high water mark is the elevation in the containment structure necessary to contain the designed storage of accumulated manure and process generated wastewater and the 25-year, 24-hour rainfall event. Producers that operate open lots shall have equipment capable of dewatering the containment structures available at all times.
- 2) The producer shall dispose solids, sludges, manure, or other pollutants in a manner to prevent pollution of surface or ground water;
- 3) Spray Irrigation. Spray irrigation is allowed for land application of manure provided the producer incorporates the manure within 24 hours of application. The producer must maintain at least a 50-foot buffer zone to any natural or manmade drainage.

If the application area is a cropped field, alfalfa, grass or pasture land, incorporation is not required. However, the producer shall maintain at least 200-foot wide buffer zones between the spray irrigation application area and any natural or manmade drainage.

If the application area is no-till cropland, incorporation is not required. The producer shall maintain at least a 50 foot buffer zone to any natural or manmade drainage.

The producer shall comply with all mandatory best management practices listed below, and may use any or all of the recommended best management practices to ensure compliance with this permit and prevent pollution:

- a) Fields should be diked or terraced to prevent the release of applied wastewater;
- b) Land to be irrigated should have a slope less than 6%;
- c) Highly erodible soils due to water erosion should be avoided;
- d) Irrigation practices should be managed to prevent ponding of wastewater on the land application site;
- e) Application of manure shall not exceed the water storage capacity of the soil; and

f) Process wastewater or manure shall not be spray irrigated on frozen ground.

- 4) Surface broadcast, injection or incorporation of manure. The producer shall inject, or incorporate within 24 hours of application any manure or wastewater upon application to nonvegetated cropland. The producer shall maintain at least a 50 foot buffer zone to any natural or manmade drainage.

If the manure is surface broadcast to cropped fields, grass, alfalfa, or pasture land, the producer shall maintain at least 200-foot wide buffer zones between the disposal areas and any natural or manmade drainage.

If the application area is no-till cropland, incorporation is not required. The producer shall maintain at least a 50 foot buffer zone to any natural or manmade drainage.

The producer shall comply with all mandatory best management practices listed below, and may use any or all of the recommended best management practices to ensure compliance with this permit and prevent pollution:

- a) All manure stockpiles should be removed and land applied as soon as practicable;
- b) Land to receive manure should have a slope less than 6%;
- c) Highly erodible soils due to water erosion should be avoided;
- d) Manure should not be applied to frozen ground. If application to frozen ground is absolutely necessary, the producer shall only apply manure on land with slopes less than 4%. The producer shall also maintain a minimum of a 200 foot buffer zone to any natural or manmade drainage;
- e) A producer may apply manure to property owned by other persons upon obtaining permission from the property owner. Any lands owned by other persons which will be used for manure application by a producer shall be identified in the nutrient management plan, and shall be included in the soil and manure testing procedure described in 5. starting on page 19. The producer shall be responsible for ensuring that the application of manure to the other person's property is in compliance with the terms and conditions of this permit and the nutrient management plan. Prior to such an application, a producer shall provide the person with a copy of the annual nutrient analysis performed by the producer in accordance with section I(D)(5) on page 19 of this permit and a list of possible best management practices to ensure protection of surface and ground water.

- f. Training and education. The producer shall participate in an approved environmental training program pertaining to proper operation and maintenance of a manure management system and proper natural resource management. Anyone wishing to provide an approved environmental training program must submit an outline of the training program to the Secretary for approval. Upon request, the Secretary will provide producers with a listing of approved environmental training programs. By December 12, 1997, any producer that is covered under the permit shall submit verification that the producer has taken this training. Effective December 12, 1997, the producer must submit this verification with the Notice of Completion and Certification of Applicant Form required in Section I.B.2.b on page 6. The Secretary will not provide approval

until this verification is received. One source to obtain this type of training is the program developed by the South Dakota Pork Producers Council. This program is called the Environmental Assurance Training Program. For more information, contact the Pork Producers Council at (605)256-4501.

4. Nutrient Management Plan. The producer shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water. The Secretary must approve the plan prior to land application of any manure. The nutrient management plan is a planning document to ensure that the producer has enough land available to safely land apply the manure. For the actual application of manure, the producer shall also follow the soil and manure testing requirements in Section I.D.5. starting on page 19 of this permit.

Appendix C of this permit contains a generic nutrient management plan that the producer may use in developing a nutrient management plan. The generic nutrient management plan is based on application of nitrogen. The producer may use other plans provided the alternate plan contains all the information necessary to determine compliance with conditions of this general permit. Nitrogen, in addition to that allowed in the nutrient management plan, may be applied up to the amounts as indicated by soil nitrogen test results that are necessary to obtain the realistic crop yield.

The Secretary recommends and encourages producers to develop nutrient management plans for other nutrients such as phosphorous. Over application of phosphorous may lead to water quality problems in area lakes and streams and result in potential damage to the producer's land and crop.

As an alternative to a nitrogen-based nutrient management plan, producers regulated by this permit may submit a phosphorus-based nutrient management plan to the department for review and approval. However, because nitrogen poses the greatest risk to ground water quality, the phosphorus-based nutrient management plan must include nitrogen soil and manure testing and total nitrogen application rates as well as phosphorous.

The Nutrient Management Plan shall contain and address the following items:

- a. General information on local requirements and whether the producer has complied with those requirements;
- b. The type or types of manure containment structures;
- c. The total number of days of storage in the manure containment structure(s);
- d. The method(s) of manure application;
- e. The maximum amount of livestock that will be confined and the average weight of the animals through the production cycle;
- f. An estimate of the daily and annual amount of manure produced in tons of wet manure;
- g. An estimate of the total nitrogen in pounds that will be available for crop production. The producer may use either estimated nutrient concentrations in swine manure or nutrient concentrations from laboratory analysis. If laboratory analysis is conducted, the analysis shall be included with the plan. If estimated concentrations are used to determine the total nitrogen

available, the source of the estimated concentrations of nitrogen in swine manure shall be provided;

- h. The legal description of all fields to be used for land application, the crop to be planted on each field, the number of acres in each field, and whether the field is irrigated. Land identified or classified as wetlands, lakes, rivers, or streams shall not be included in the total number of acres available for land application. Also, if either this permit or local governments require setback distances or buffer zones, those areas within those buffer zones cannot be included in the total number of acres;
 - i. A map showing the location of the fields listed in item h;
 - j. A soils map for the land application fields and a description of the predominate soil type(s) for each field;
 - k. Realistic yield goals for each field and crop listed in item h. Yield goal calculations for initial nutrient management planning must be determined from the South Dakota Agricultural Statistics Service using the published continuous five-year average yield plus ten percent. Other sources of crop yields may be used in place of the continuous five-year average and include yields established for purchasing multi-peril crop insurance and proven yields on a field-by-field or farm-by-farm basis. Proof of field-by-field or farm-by-farm yields must be based on an average of actual crop receipts from a minimum of three consecutive years;
 - l. Determination of the total amount of nitrogen that can be applied to each field based on the crop planted at the field, the realistic yield goal, and any residual nitrogen left in the field from past agricultural practices or crops;
 - m. Comparison of the total nitrogen requirement for each field to the total nitrogen available in the manure. If the nitrogen in the manure exceeds the field nitrogen requirements, the producer shall identify additional land that can be used for the application of manure;
 - n. The application rate of the manure to ensure the nitrogen requirement of the crop(s) will not be exceeded;
 - o. A copy of each written agreement executed with the owner of the land where manure will be applied. The written agreement shall indicate the acres that manure from the swine feeding operation may be applied and the length of the agreement. The producer shall ensure that there is enough land to apply manure consistent with the approved nutrient management plan; and
 - p. Times of the year that land application is planned.
5. Soil and Manure Testing. The producer shall use the following procedure to determine the appropriate application rates of manure and process wastewater. Upon determining this application rate, the producer shall apply the manure and process wastewater according to this calculated rate. Failure to apply manure at the calculated rate is a violation of this permit. The following is the procedure for calculating the application rate:
- a. The producer must take annual soil samples to a depth of two feet. The Secretary will determine on a case-by-case basis whether a land application site is located over a shallow aquifer. If manure application sites are located over shallow aquifers, the producer shall take soil samples from both 0 to 2 feet and 2 to 4 feet;

- b. A minimum of 15 soil sample cores shall be taken from each field or landscape position to determine the residual nitrogen in the field;
- c. Those cores that represent similar soil and landscape position may be composited into one sample. All samples, either individual or composited, must be analyzed for nitrate nitrogen;
- d. The producer shall take a representative sample each year of the manure or process wastewater that will be land applied and have it tested for total nitrogen and inorganic nitrogen. Organic nitrogen is equal to the total nitrogen minus the inorganic nitrogen;
- e. Based on the soil testing, types of crops, expected yields, legume credits, and sampling date, the producer shall determine the total nitrogen that can be applied to each field. The total nitrogen that can be applied shall be determined as follows:
 - 1) The total nitrogen necessary to meet the expected yield goals in pounds of nitrogen per acre shall be determined using SDSU Extension Publication EC750, Fertilizer Recommendation Guide, January 1996. This value is determined by the crop to be grown and the expected yield. These same values are found in Table 1 on page C-10 of Appendix C of this permit;
 - 2) Nitrogen credits must be subtracted from the total nitrogen value determined in item 1) above. The following credits must be subtracted from this value:
 - a) The results from the two-foot nitrate soil test conducted in accordance with item c. above. If a two to four-foot-deep nitrate test is required and the result of the test is greater than 30 pounds of nitrogen, then reduce the nitrogen recommendation an additional four pounds of nitrogen for each 5 pound increment above 30 pounds (for example, if there are 50 pounds of nitrate nitrogen in the 2-4 foot depth, 16 pounds of nitrogen in addition to the 0-2-foot-deep test must be subtracted).
 - b) Any legume credits. For legume credits, please see the table in #21 of Appendix C of this permit or SDSU Extension Publication EC 750, Fertilizer Recommendation Guide, January 1996.
 - c) Sampling date adjustment. Breakdown of organic material continues to release nitrates until soils cool in the fall. Therefore, the nitrogen requirement must be adjusted if the soil samples are taken between August 1 and September 15. To make this adjustment, reduce the nitrogen requirement (item 1) above) by 0.5 pounds of nitrogen per day prior to September 15. The maximum adjustment would be 23 pounds (August 1 sampling). Samples taken in July should receive the same adjustments as those taken on August 1. Soil samples from fallow fields do not need to be adjusted for time of sampling because most of the residue from the previous crop should have mineralized during the fallow period.
 - d) The resulting value in pounds of nitrogen per acre is the application rate of the additional nitrogen that may be applied to the field.
 - 3) Based on the results of the manure testing required in item d. above, the producer shall apply manure to each field at a rate not to exceed the rate calculated in item e.2.d. above. (NOTE: If the yields that are used to calculate the application rate are not consistently attained, residual nitrogen will increase in subsequent years and will decrease the amount of manure

that can be applied to that field. This nitrogen carry-over will be evident in future soil sampling);

- f. The producer shall keep the following records regarding manure application. These records are to be kept by the producer for a minimum of three years and made available to the department upon request or inspection. Failure to keep these records is a violation of this permit:

- 1) All soil and manure testing results;
- 2) Nitrogen application rates used during disposal of manure;
- 3) Fields used during application;
- 4) Dates and times of application;
- 5) Records showing the calculations to determine the application rates described above; and
- 6) Methods of application.

6. Inspection requirements.

- a. The producer shall inspect the manure management system on at least a weekly basis. The inspection is to determine if a discharge is occurring, has occurred since the previous inspection, or if a discharge is likely to occur before the next inspection. In addition, the inspection is to determine if proper operation and maintenance procedures are being followed and if Best Management Practices are being implemented. The producer shall keep documentation of each inspection that the Secretary can review upon request or during an inspection.
- b. The producer shall inspect the land application site on a daily basis while land application of wastewater is occurring. This inspection is to ensure that runoff from the land application site is not occurring. If a discharge is found, the producer is responsible for taking immediate steps to stop the discharge and follow the reporting requirements of this permit. The producer shall keep documentation of these inspections that the Secretary can review upon request or during an inspection.

E. Retention of Records. The producer shall retain records of all monitoring information, maintenance and inspection records, copies of reports required by this permit, and data used to complete the Notice of Completion for this permit. The producer shall keep the records for at least three years from the date of the sample, measurement, report, or application. Data collected and a copy of this permit must be kept at the swine feeding operation or the usual place of business where employees of the operation have access to them.

F. Twenty-four Hour Reporting. The producer shall report any discharge as soon as possible, but no later than twenty-four (24) hours from the time the producer first became aware of the discharge. The report shall be made to the State of South Dakota at (605) 773-3351. If after normal business hours (8:00 am to 5:00 pm central time on Monday through Friday), the producer shall report the discharge by calling (605) 773-3231. The producer shall also take immediate steps to stop the discharge and notify anyone downstream that may be impacted by the discharge.

G. Inspection and Entry. The producer shall allow the Secretary, upon presentation of credentials, to:

1. Enter the premises of a swine feeding operation or where records are kept;
2. Inspect any swine feeding operation covered under this general permit;
3. Access and copy, at reasonable times, records specified under this general permit; and
4. Sample or monitor any substance or parameter, at reasonable times, to determine compliance with this permit or other requirements of the South Dakota Water Pollution Control Act.

The Secretary shall only have access to the inside of the hog confinement building if it becomes absolutely necessary in order to determine compliance with this general permit. If access becomes necessary, the Secretary will abide by all security measures implemented by the producer to ensure protection of the health of the animals at the swine feeding operation.

II. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. In accordance with ARSD 74:03:19:02, owners and operators who are producers shall comply with all the conditions of the general permit; the approved plans and specifications (see I(B)(2)(a) on page 5 of this permit); the Best Management Practices required by this permit to be implemented; and the Best Management Practices incorporated by the producer(s) into the operation's Operation and Maintenance Guideline and Nutrient Management Plan.
- B. Penalties for Violations of Permit Conditions. The South Dakota Water Pollution Control Act provides that any producer in noncompliance with this general permit may be subject to a fine of not more than \$10,000 per day per violation.
- C. Need to Halt or Reduce Activity not a Defense. In enforcing violations of this permit, the Secretary will not consider that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the permit.
- D. Duty to Mitigate. Each producer shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. Each producer shall at all times properly operate and maintain the manure management system in a manner to achieve compliance with the conditions of this permit.
- F. Removed Substances. The producer shall dispose of the manure in accordance with the conditions of this permit to prevent any pollution of surface or ground water of the state or create a health hazard. The manure from the feeding operation shall be land applied in accordance with this permit and the Nutrient Management Plan developed for the feeding operation.

III. GENERAL REQUIREMENTS

- A. Planned Changes. The producer shall give notice to the Secretary as soon as possible of any planned physical alterations or additions that significantly change the permitted swine feeding operation. During and after implementation of those changes, the producer is bound to the terms and conditions of this general permit.

- B. Permit Actions. The Secretary may modify, revoke and reissue, or terminate this permit in accordance with ARSD Chapter 74:03:20. If the Secretary decides to modify or revoke and reissue the permit, the terms and conditions of this general permit will remain in effect until a new or modified permit becomes effective.
- C. Duty to Reapply. At the expiration of this permit, the Secretary will provide each producer authorized to operate under this permit with a renewal application. The producer will be responsible for returning the renewal form to the Secretary to receive coverage under the new permit.
- D. Continuation of the Expired General Permit. An expired general permit continues in force and effect until the Secretary issues a new general permit so long as the producer remains in compliance with the conditions of this permit, the approved plans and specifications, the Best Management Practices required by this permit to be implemented, and the Best Management Practices incorporated by the producer(s) into the Operation and Maintenance Guideline and the Nutrient Management Plan.
- E. Duty to Provide Information. The producer shall provide any information that the Secretary requests in order to determine whether cause exists for revoking or terminating coverage under this permit. The Secretary may also request information to determine if the producer is in compliance with this permit. The producer shall provide to the Secretary, upon request, copies of records that the permit requires the producer to keep.
- F. Other Information. If the producer becomes aware that any relevant facts in a Notice of Completion and Certification of Applicant Forms were not submitted, or incorrect information was submitted, the correct information shall be promptly submitted to the Secretary.
- G. Signatory Requirements. The producer shall sign and certify all reports submitted to the Secretary.
1. The owner of the feeding operation shall sign all permit applications or forms to receive coverage under this permit.
 2. The owner, or his duly authorized representative, may sign all reports required by the permit and other information requested by the Secretary. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by the owner and submitted to the Secretary; and
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the swine feeding operation. This position may be a manager, operator, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
 3. Changes to authorization. If an authorization under paragraph III.G.2. on page 22 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph III.G.2. must be submitted to the Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. **Certification.** Any person signing a document under this section shall make the following certification:

"I also certify under penalty of law that this document and all other plans and application documents to obtain coverage under the swine feeding general permit were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are penalties for submitting false information."

- H. **Penalties for Falsification of Reports.** Any person who knowingly makes a false statement in any record submitted or required to be maintained under this permit, shall be subject to enforcement under the South Dakota Water Pollution Control Act.
- I. **Availability of Reports.** Except for data determined to be confidential under ARSD 74:03:18:13, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Secretary. The Secretary will not consider applications, operation and maintenance guidelines, nutrient management plans, notices of completion, permits, plans and specifications, and monitoring data, or any correspondence related to these items, to be confidential information.
- J. **Property Rights.** Any authorization to operate under the general permit does not convey any property rights or any exclusive privilege.
- K. **Severability.** Any portion of the general permit that is found to be void, or is challenged, shall not affect the validity of the other permit requirements that are not void or challenged.
- L. **Transfers.** The Secretary will automatically transfer coverage under this permit to a new owner if:
1. The current owner notifies the Secretary at least 30 days in advance of the proposed transfer date;
 2. The notice includes a written agreement between the existing and new owners containing a specific date for transfer of permit responsibility, coverage, and liability between them;
 3. The new owner or operator submits a Certification of Applicant form.

If the operation of the facility will essentially remain unchanged and the Secretary takes no action, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 of this section. If the new owner proposes to change the swine feeding operation, the permit must be transferred as set forth in Administrative Rules of South Dakota, Chapter 74:03:20:01.

- M. **Reopener Provision.** If state or federal statutes or regulations change, the Secretary may reopen and modify this permit (following proper administrative procedures) to include appropriate conditions (and a compliance schedule, if necessary), to address the additional requirements.

N. Requiring an Individual Permit. The Secretary may either deny coverage or require any producer requesting coverage under the general permit to apply for, and obtain, an individual permit. The Secretary's decision to require an individual permit will be primarily based on the ability of the producer, or the producer's past history, to comply with the state's environmental requirements for swine feeding operations.

The Secretary will notify the producer in writing if an individual permit is required. When the Secretary issues an individual permit to a producer, the producer is responsible for complying with the terms and conditions of the new individual permit and relieved from responsibility of complying with this general permit.

APPENDIX A

NOTICES OF COMPLETION

and

CERTIFICATION OF APPLICANT FORMS

NOTICE OF COMPLETION OF
MANURE MANAGEMENT SYSTEM CONSTRUCTION

Please complete this form for receiving a Certificate of Compliance from the Department of Environment and Natural Resources. Use this form if a licensed Professional Engineer in the State of South Dakota designed the manure management system. Please return the form to:

Air and Surface Water Program
Department of Environment and Natural Resources
Joe Foss Building - 523 E. Capitol
Pierre, SD 57501-3181

FACILITY (Please print): _____ (PRODUCER)

LAST NAME

FIRST NAME

ADDRESS

CITY

ZIP CODE

Construction of the manure management system for the above producer that had plans and specifications

approved by letter by the DENR on _____ is completed. The system was designed for a _____
(date) (animal type)

operation for _____ animal units and _____ acres of drainage area. I hereby certify that I am a
(number) (number)

licensed engineer in the state of South Dakota. To the best of my knowledge, information and belief, the

_____ was constructed in general conformance with the plans and specifications,
and in my professional opinion, is in compliance with applicable laws, codes, and ordinances as of the date of
construction (or this date)."

Dated at _____, South Dakota this ____ day of _____, 19__.

Design Engineer's Signature

(Stamp)

NOTICE OF COMPLETION OF
MANURE MANAGEMENT SYSTEM CONSTRUCTION

Please complete this form for receiving a Certificate of Compliance from the Department of Environment and Natural Resources. Use this form if an employee or representative of the Natural Resources Conservation Service designed the manure management system. Please return the form to:

Air and Surface Water Program
Department of Environment and Natural Resources
Joe Foss Building - 523 E. Capitol
Pierre, SD 57501-3181

FACILITY (Please print): _____ (PRODUCER)

LAST NAME FIRST NAME

ADDRESS

CITY ZIP CODE

Construction of the manure management system for the above producer that
had plans and specifications approved by letter by the DENR on _____ is
DATE
completed. The system was designed for a _____ operation with _____
ANIMAL TYPE #
animal units and _____ acres of drainage area. The facility was constructed in accordance

with the approved plans and specifications.

Dated at _____, South Dakota this _____ day of _____, 19__.

NRCS Designer's Signature

STATE OF SOUTH DAKOTA)
COUNTY OF _____) SS

Signed and sworn before me for the purposes stated herein and satisfactorily proven to be the person whose
name appears in this document this _____ day of _____, 19__.

(SEAL)

Notary Public
My Commission Expires:

Department of Environment and Natural Resources
Air and Surface Water Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181
Telephone: (605) 773-3351

STATE OF SOUTH DAKOTA

BEFORE THE SECRETARY OF

THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE	)	CERTIFICATION OF
APPLICATION OF _____	)	
_____	)	APPLICANT
(FACILITY NAME)	)	
STATE OF _____	)	
	) SS	
COUNTY OF _____	)	

I, _____, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

South Dakota Codified Laws Section 1-40-27 provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner or resident general manager of the facility for which application has been made:

(a) Has intentionally misrepresented a material fact in applying for a permit;

(b) Has been convicted of a felony or other crime involving moral turpitude;

(c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;

(d) Has had any permit revoked under the environmental laws of any state or the United States; or

(e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or

(2) *The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.*

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26.

I also certify under penalty of law that this document and all other plans and application documents to obtain coverage under the swine feeding general permit were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are penalties for submitting false information."

Pursuant to SDCL 1-40-27, I certify that I have read the forgoing provision of state law, and that I am not disqualified by reason of that provision from obtaining the permit for which application has been made.

Dated this _____, day of _____, 19____.

Applicant

Subscribed and sworn before me this _____ day of _____, 19____.

Notary Public

My commission expires: _____

(SEAL)

PLEASE ATTACH SHEET DISCLOSING ALL FACTS PERTAINING TO
SDCL 1-40-27 (1) (a) THROUGH (e).
ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT
AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION.

APPENDIX B

NOTICE OF TERMINATION OF COVERAGE

FORM



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF TERMINATION OF COVERAGE
UNDER THE GENERAL WATER POLLUTION CONTROL PERMIT
FOR CONCENTRATED SWINE FEEDING OPERATIONS

This form is required to be submitted when a discharge permit is no longer required or necessary. Submission of this form shall in no way relieve the producer of permit obligations required prior to submission of this form. Please submit this form to the following addresses:

original to: South Dakota Department of Environment
and Natural Resources
Air and Surface Water Program
Joe Foss Building
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351 FAX: (605) 773-5286

PLEASE PRINT OR TYPE

1. Name of Swine Feeding Operation: _____

2. Mailing Address of Producer:

Name _____ Phone: () _____
Street _____ Fax: () _____
City _____
State _____ County _____ Zip Code _____

3. Mailing address of the swine feeding operation (if different from producer):

Name _____ Phone: () _____
Street _____ Fax: () _____
City _____
State _____ County _____ Zip Code _____

4. Check the reason for termination of permit coverage:

- ☐ You are no longer the operator of the facility ☐ Concentrated Swine Feeding Operation is no longer in operation
☐ Other reason(s): _____

I certify under penalty of law that all concentrated swine feeding operations at the above facility that are authorized by a Surface Water Discharge general permit have been eliminated or that I am no longer the operator of the facility. I understand that by submitting the Notice of Termination, I am no longer covered under the general permit for concentrated swine feeding operation under this general permit. I also understand that the submittal of this Notice of Termination does not release me from liability for any violations of this permit or the South Dakota Water Pollution Control Act. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NOTE: Notice of Termination must be signed by the authorized chief executive officer of the applicant, or by the applicant, if an individual.

Name (print) _____ Title _____

Signature _____ Date _____

Permit Number: _____
Date Terminated: _____

Date Received: _____
PCS: _____

APPENDIX C

NUTRIENT MANAGEMENT PLAN

APPENDIX C

NUTRIENT MANAGEMENT PLAN

This Nutrient Management Plan was developed for _____
Producer or Feeding Operation Name

Mailing Address

County

This plan was developed by _____ Date: _____

The General Permit for Concentrated Swine Feeding Operations requires the producer to develop, maintain and follow an approved nutrient management plan. The Secretary of the Department of Environment and Natural Resources must approve the plan prior to land application of solid or liquid manure. The producer may use this form and check list to aid in the development of the plan.

The producer is encouraged to follow and implement as many of the best management practices that are listed in the General Permit as possible. Implementing these practices will ensure protection of the state's water resources. Due to crop rotation, site changes, and other operational changes, the producer should update this plan annually to reflect the current operation and crops grown.

The producer is responsible for complying with all local ordinances and requirements. The producer shall address all of the following items and incorporate any local requirements into this plan to ensure compliance with both state and local requirements. If you have any questions on completing this form, please call the Department of Environment and Natural Resources at (605)773-3351.

1. Does the county have any ordinances that require special permitting or approvals for siting animal feeding operations or land application of manure? ☐ Yes ☐ No If yes, has the county permitted or approved this site? ☐ Yes ☐ No If no, do you intend to get approval or obtain local permits prior to land application of manure? ☐ Yes ☐ No **Application of manure cannot occur until the producer obtains all local approvals.**
2. Is the land application area, or any portion, located within the jurisdictional area of a city or town? ☐ Yes ☐ No. If yes, does the city or town have any special permitting for siting animal feeding operations or application of manure within their jurisdictional area? ☐ Yes ☐ No If yes, has the city or town permitted or approved this site? ☐ Yes ☐ No If no, do you intend to get approval or obtain local permits prior to land application of manure? ☐ Yes ☐ No -- **Application of manure cannot occur until the producer obtains local approval.**
3. Are there specific setback distances that the county or city requires for application of manure (For example: application of manure must be at least 300 feet away from a nearby residence.) ☐ Yes ☐ No. If yes, any field that does not meet local setback distances cannot be used for manure disposal or included in this plan.
4. Is the land application site located in a wellhead protection area? ☐ Yes ☐ No If yes, the producer needs to contact the local county, city, or public water supply official to discuss specific requirements. Often times, the local planning and zoning official will be aware of the requirements of the wellhead protection program.

5. What type of structure is used to store the manure at this animal feeding operation? Please refer to a. through g. below. _____

Type of structure	% of Nitrogen retained *
a. Open lot with an earthen lagoon	25
b. Housed lot with earthen lagoon	75
c. Housed lot with concrete manure pit below building	80
d. Storage tank - uncovered	75
e. Storage tank - covered	80
f. Anaerobic lagoon	25
g. Other - please describe:	Producer will need to provide percentage with source of information
* Source of this information is Form SD-CPA-7 dated 12/90 developed by the Natural Resources Conservation Service.	

If more than one type of structure is used, questions 5. through 12. will have to be answered for each structure using the amount of manure to be land applied from each structure. For example, a producer may have a housed lot with a concrete pit and an open lot with earthen lagoon. Questions 5 through 12 would have to be answered for each type of system.

6. Total number of days of storage in the structure? _____

7. What method will be used to land apply the manure? Please refer to a. through e. below. _____

Land application Method	% of Nitrogen Delivered from Storage to Land by Application Method *
a. Injection	95
b. Broadcast	80
c. Broadcast with immediate incorporation	95
d. Sprinkling	70
e. Other - please describe:	Producer will need to provide percentage with source of information
* Source of this information is Form SD-CPA-7 dated 12/90 developed by the Natural Resources Conservation Service.	

NOTE: If more than one method is used, questions 5 through 12 have to be answered for each method based on the amount of manure land applied using the different methods. For example, a producer with an open lot may broadcast the solids collected and sprinkle the runoff water collected.

8. Livestock numbers:

- a. # of sows _____ Average weight during production cycle _____
- b. # of market hogs _____ Average weight during production cycle _____
- c. # of nursery pigs _____ Average weight during production cycle _____

9. Determination of 1,000 lb. weight units:

a. $\frac{\text{\# of sows (\#8a)} \times \text{Average weight of sows (\#8a)}}{1,000} = \underline{\hspace{2cm}} \text{ 1,000 lb. weight units}$

b. $\frac{\text{\# of market hogs (\#8b)} \times \text{Average weight of hogs (\#8b)}}{1,000} = \underline{\hspace{2cm}} \text{ 1,000 lb. weight units}$

c. $\frac{\text{\# of nursery pigs (\#8c)} \times \text{Average weight of pigs (\#8c)}}{1,000} = \underline{\hspace{2cm}} \text{ 1,000 lb. weight units}$

d. Add three steps: $9a + 9b + 9c = \underline{\hspace{2cm}}$ Total number of 1,000 lb. weight units

10. Daily weight of manure produced:

$\frac{\text{Weight units (\#9d)} \times 69 \text{ lbs/day/1,000 lb weight units}^*}{2,000 \text{ lbs per ton}} = \underline{\hspace{2cm}} \text{ tons/day manure (wet manure)}$

* Value is the average production of animal manure for swine. Source: Form SD-CPA-7 dated 12/90 developed by the Natural Resources Conservation Service.

11. Amount of manure available for field application:

$\text{\# days storage (\#6)}^{**} \times \text{tons/day manure (\#10)} = \underline{\hspace{2cm}} \text{ tons wet manure}$

** If the answer to #6 is less than 365 days, 365 days shall be used in this calculation to determine annual production of manure to be applied. If the answer to #6 is greater than 365 days, the answer to #6 shall be used to determine total manure to be applied when the containment structure is emptied.

12. Estimate pounds of nitrogen initially in manure:

$\text{Tons of manure (\#11)} \times 13 \text{ pounds of nitrogen per ton}^* = \underline{\hspace{2cm}} \text{ pounds of N}$

* Value is the average nitrogen content of swine manure. Source: Source of this information is Form SD-CPA-7 dated 12/90 developed by the Natural Resources Conservation Service.

13. Estimate amount of nitrogen remaining after collection and storage:

$\frac{13 \text{ lbs of N/ton} \times \% \text{ of N retained (table in \#5)}}{100} = \underline{\hspace{2cm}} \text{ lbs of N per ton wet manure}$

$\frac{13 \times}{100} = \underline{\hspace{2cm}} \text{ lbs N per ton of wet manure}$

If the producer tests the manure for nitrogen content immediately prior to land application, use the tested value instead of the calculated value. Tested value = lbs N/ton wet manure

14. Nutrient value of manure delivered to the land:

$$\frac{\text{lbs of N/ton wet manure (\#13)} \times \% \text{ N delivered (table in \#7)}}{100} = \text{lbs of N per ton wet manure}$$

$$\frac{\text{ } \times \text{ }}{100} = \text{ } \text{ lbs N per Ton wet manure}$$

15. Amount of nutrients available from manure for the planned crop per ton of wet manure:

$$\frac{\text{lbs N/ton wet manure (\#14)} \times \% \text{ N Available (table in \#15)}}{100} = \text{lbs of N/ton wet manure}$$

$$\frac{\text{ } \times \text{ }}{100} = \text{ } \text{ lbs N/ton wet manure}$$

Percent General Mineralization Rates for Nitrogen *			
Manure Management Method	Years after Initial Application **		
	Percent Available for uptake by plant		
	1	2	3
Fresh manure collected for daily spreading	75	79	81
Manure stored on open lot	50	55	55
Manure stored in a covered watertight structure	65	70	73
Manure stored in an uncovered watertight structure	60	66	68
Manure held in manure storage pond (lagoon)	50	56	59
Manure stored in pits beneath slatted floor	80	82	83
Manure treated in anaerobic lagoon or stored in manure storage pond after being diluted more than 50%	40	46	49
* Information obtained from Forms SD-CPA-7 and SD-CPA-8 developed by Natural Resources Conservation Service			
** The producer should use the first year percentage for developing the first nutrient management plan. However, the producer should update this plan on an annual basis to ensure manure is being applied at proper rates. When developing future plans, the second and third year values must be used.			

16. Total amount of nitrogen available for a crop:

$$\text{Tons of manure (\#11)} \times \text{lbs N/ton wet manure (\#15)} = \text{ } \text{ lbs of N.}$$

17. Location of fields receiving manure and crops grown on fields (please include legal location down to quarter section for land application sites - example: NW1/4 of Section 16, T117N, R59W).

Any portion of a field that is within 1,000 feet of an existing public drinking water source or a stream or lake classified as a drinking water source or 250 feet from an existing private drinking water source or well cannot be used as a land application site for manure in accordance with the General Permit for Swine Feeding Operations. Also, any portion of a field within 150 feet of a drinking water source or well that is owned by the producer can also not be used for land application of manure. A field, or portions of the field, cannot be used if it does not meet any local setback distances in local zoning regulations. The number of acres must only include tillable acres and cannot include streams, wetlands, lakes, or applicable buffer zones to waterbodies in determining the total amount of acres .

	a. Location	b. Crop planted	c. # of Acres	d. Irrigated field (yes or no)
Field 1	_____	_____	_____	_____
Field 2	_____	_____	_____	_____
Field 3	_____	_____	_____	_____
Field 4	_____	_____	_____	_____
Field 5	_____	_____	_____	_____
Field 6	_____	_____	_____	_____

If more space is needed, please attach a list of the other fields to receive manure, the crop planted, number of acres for each field and whether the field is irrigated.

18. Please attach a copy of a map showing the location of the fields listed in question #17. An aerial photo from the Natural Resources Conservation Service works well for this purpose. The soils map submitted for question #19 can be used provided the land application fields are identified

19. Please attach a copy of the soils map for the fields listed in question #17 along with a description of each soil type. This information can be obtained from the county soil surveys published by the Natural Resources Conservation Service (formerly SCS), county extension agents or local conservation district.

20. What are the realistic yield goals for each field listed in question #17?

Field 1	_____	Field 2	_____	Field 3	_____
Field 4	_____	Field 5	_____	Field 6	_____

Yield goal calculations for initial nutrient management planning must be determined from the South Dakota Agricultural Statistics Service using the published continuous five year average yield plus ten percent. Other sources of crop yields may be used in place of the continuous five year average and include yields established for purchasing multi-peril crop insurance and proven yields on a field-by-field or farm-by-farm basis. Proof of field-by-field or farm-by-farm yields must be based on an average of actual crop receipts from a minimum of three consecutive years.

21. Determine the additional nitrogen need per acre for the crops (#17b) and crop yields (#20). Complete either (a) or (b) below.

- a. If the producer has taken soil samples and a laboratory has recommended a nitrogen application rate to meet the expected yield goals, please record that amount and attach the laboratory analysis. Legume credits must be subtracted from the application rate recommended by the laboratory. Legume credits are found in the table below. The laboratory recommended application rates are:

Laboratory recommended rate - Legume credit #21b(ii) = Additional pounds of N per acre

Field 1: _____ - _____ = _____ lbs of N/acre
 Field 2: _____ - _____ = _____ lbs of N/acre
 Field 3: _____ - _____ = _____ lbs of N/acre
 Field 4: _____ - _____ = _____ lbs of N/acre
 Field 5: _____ - _____ = _____ lbs of N/acre
 Field 6: _____ - _____ = _____ lbs of N/acre

- b. If the producer has not done soil sampling, the nutrient recommendations used in the "Fertilizer Recommendations Guide" Extension Circular (EC 750) must be used. To determine the nitrogen credits for each field, please use the following credits, as appropriate, for each field receiving manure.

i) For recropped fields, the producer shall use a nitrogen credit of 40 lbs of nitrogen per acre. For fallow fields, the producer shall use a nitrogen credit of 75 lbs of nitrogen per acre.

ii) Previous crop credits. For legume credits, please use the appropriate values that are listed in the following table. The legume credit is zero if there was not a legume crop the previous year on the field.

First Year Legume Nitrogen Credits		
Previous Crop	Crop to be Grown	
	Short Season (small grains, etc) (lbs of N per acre)	Full Season (corn, sunflowers, etc) (lbs of N per acre)
Soybeans	20	40
Alfalfa (harvested) or sweetclover (unharvested) *	50	100
Sweetclover (harvested) *	10	20
Red Clover (harvested) *	35	70
Edible beans, field peas *	10	20
* Second year Nitrogen credits are half of first year credits.		
The source of this information is Extension Circular #EC-750 dated January 1996. The information for soybeans and alfalfa in this table is an average. If the producer wishes to use more detailed information and not the average, please see Extension Circular #EC-750, page 3, for a full listing of legume credits for these two types of crops.		

Table 1 entitled "Nitrogen Requirements for Selected Crops" is found on page 10 of this plan. The source of these values is the Extension Circular EC 750 (12/96) and the Livestock Waste Facilities Handbook (1985 - 2nd edition). From Table 1, list the nitrogen requirements for each field using the crop (#17b) and expected yield (#20). Then subtract the appropriate nitrogen credit determined from 21b(i) and 21b(ii) to determine the additional nitrogen needed to meet the estimated yield goal.

Nitrogen Requirement (Table 1 - Page C-10)	-	Nitrogen Credit #21b(i)	-	Legume Credit #21b(ii)	=	Additional pounds of Nitrogen per acre
Field 1: _____	-	_____	-	_____	=	_____ lbs N/acre
Field 2: _____	-	_____	-	_____	=	_____ lbs N/acre
Field 3: _____	-	_____	-	_____	=	_____ lbs N/acre
Field 4: _____	-	_____	-	_____	=	_____ lbs N/acre
Field 5: _____	-	_____	-	_____	=	_____ lbs N/acre
Field 6: _____	-	_____	-	_____	=	_____ lbs N/acre

22. Total additional nitrogen needed for each field:

lbs of N/acre (#21a or #21b)	x	number of acres in field (#17c)	=	lbs of N needed
Field 1: _____	x	_____	=	_____ lbs N
Field 2: _____	x	_____	=	_____ lbs N
Field 3: _____	x	_____	=	_____ lbs N
Field 4: _____	x	_____	=	_____ lbs N
Field 5: _____	x	_____	=	_____ lbs N
Field 6: _____	x	_____	=	_____ lbs N

23. Determine percentage of total nitrogen that will be applied to each field. For example, if the producer has two fields and the manure are split evenly between the two fields, the percentage for each field would be 50%:

a		b		c
lbs of Nitrogen (#16)	x	% of total manure applied to field	=	lbs of N to each field
Field 1: _____	x	_____	=	_____ lbs of N
Field 2: _____	x	_____	=	_____ lbs of N
Field 3: _____	x	_____	=	_____ lbs of N
Field 4: _____	x	_____	=	_____ lbs of N
Field 5: _____	x	_____	=	_____ lbs of N
Field 6: _____	x	_____	=	_____ lbs of N

24. Comparison of nitrogen available (#23) vs. nitrogen needed (#22) to meet yield goals (#20).

	lbs of N needed (#22)	-- lbs of N in manure per field (#23)	=	lbs of N
Field 1:	_____	_____	=	_____ lbs of N
Field 2:	_____	_____	=	_____ lbs of N
Field 3:	_____	_____	=	_____ lbs of N
Field 4:	_____	_____	=	_____ lbs of N
Field 5:	_____	_____	=	_____ lbs of N
Field 6:	_____	_____	=	_____ lbs of N

A positive number for any field listed in question 24 indicates the additional amount of nitrogen needed to meet the crop and yield goal listed in this plan. A negative number indicates the excess of that nutrient needed to meet the designated crop and yield goal. If a negative value is obtained for any field(s), the amount of nitrogen applied to that field shall be reduced so the resulting value in question #24 is no longer negative. If the value for every field is negative, additional land is necessary to avoid applying excessive nitrogen to the field and damaging the crop and to obtain state approval.

25. Convert pounds of nitrogen for each field into tons of wet manure per acre or pounds of nitrogen per acre to ensure proper application rate of manure. You can only proceed with this final step if all values in question # 24 are equal to or greater than zero.

$$\frac{\text{Total tons of wet manure (\#11)} \times \text{\% of manure to each field (\#23b)}}{\text{number of acres in each field (\#17c)} \times 100} = \text{tons of wet manure per acre}$$

Field 1:	_____	(#11) x	_____	(% in #23b)	=	_____ tons wet manure/ acre
		(#17c) x	100			
Field 2:	_____	(#11) x	_____	(% in #23b)	=	_____ tons wet manure/ acre
		(#17c) x	100			
Field 3:	_____	(#11) x	_____	(% in #23b)	=	_____ tons wet manure/ acre
		(#17c) x	100			
Field 4:	_____	(#11) x	_____	(% in #23b)	=	_____ tons wet manure/ acre
		(#17c) x	100			
Field 5:	_____	(#11) x	_____	(% in #23b)	=	_____ tons wet manure/ acre
		(#17c) x	100			
Field 6:	_____	(#11) x	_____	(% in #23b)	=	_____ tons wet manure/ acre
		(#17c) x	100			

	lbs. of N (#23c)	÷	# of acres in field (#17c)	=	lbs of N per acre
Field 1:	_____	÷	_____	=	_____ lbs of N/acre
Field 2:	_____	÷	_____	=	_____ lbs of N/acre
Field 3:	_____	÷	_____	=	_____ lbs of N/acre
Field 4:	_____	÷	_____	=	_____ lbs of N/acre
Field 5:	_____	÷	_____	=	_____ lbs of N/acre
Field 6:	_____	÷	_____	=	_____ lbs of N/acre

These application rates shall be followed to ensure compliance with this nutrient management plan. Annual updates to this plan may result in different application rates. If that is the case, those rates shall be followed for subsequent years.

26. Time of the year of anticipated application _____
(month or season, plant or crop stage, etc.) _____

27. If the producer does not own or rent the land described in this plan, the producer must include with this plan a written agreement with the owner of the land described in question #17. The agreement must include the legal description of the land application site and the length of the agreement.

The Secretary recommends that producers also develop and follow a nutrient management plan for phosphorous. Over-application of phosphorous may lead to water quality problems in area lakes and streams and possibly result in damage to the producer's land and crop.

Submit plan to: Air & Surface Water Program
 Department of Environment and Natural Resources
 523 E. Capitol
 Pierre, SD 57501

Approval: _____ Date: _____
Secretary
Department of Environment & Natural Resources

Table 1
Nitrogen Requirements for Selected Crops

CROP	YIELD GOAL	TOTAL NITROGEN	CROP	YIELD GOAL	TOTAL NITROGEN	CROP	YIELD GOAL	TOTAL NITROGEN
Corn	(bu/a)	(lb/acre-2)	Corn Silage	(tons/a)	(lb/acre-2)	Feed Barley	(bu/a)	(lb/acre-2)
	60	72		6	62		40	66
	80	96		10	104		50	85
	100	120		14	146		60	102
	120	144		18	187		70	119
	140	168		22	229		80	136
	160	192		26	270		90	153
	180	216					100	170
	200	240						
Oats	(bu/a)	(lb/acre-2)	Wheat	(bu/a)	(lb/acre-2)	Rye	(bu/a)	(lb/acre-2)
	60	76		30	75		30	75
	70	91		40	100		40	100
	80	104		50	125		50	125
	90	117		60	150		60	150
	100	130		70	175		70	175
	110	143		80	200		80	200
Sorghum	(bu/a)	(lb/acre-2)	Maltng Barley	(bu/a)	(lb/acre-2)	Alfalfa	(tons/a)	(lb/acre-2)
	40	44		40	60		4	180
	60	66		50	75		8	450
	80	88		60	90			
	100	110		70	105			
	120	132		80	120			
	140	154		90	135			
	160	176		100	150			
Forage Sorghum	(tons/a)	(lb/acre-2)	Edible Beans	(lb/a)	(lb/acre-2)	Potatoes	(cwts/a)	(lb/acre-2)
	3	75		1000	50		200	80
	4	100		1400	70		250	100
	5	125		1800	90		300	120
	6	150		2200	110		350	140
	7	175		2600	130		400	160
	8	200		3000	150		450	180
Sunflowers	(lb/a)	(lb/acre-2)	Soybean	(bu/a)	(lb/acre-2)	Safflower	(lb/a)	(lb/acre-2)
	1000	50		30	123		800	40
	1400	70		40	180		1200	60
	1800	90		50	257		1600	80
	2200	110		60	336		2000	100
	2600	130					2400	120
Buckwheat	(bu/a)	(lb/acre-2)	Flax	(bu/a)	(lb/acre-2)	Mustard	(cwts/a)	(lb/acre-2)
	24	52		20	60		10	65
	32	70		30	90		15	97
	40	88		40	120		20	130
	48	106		50	150		25	162
Millet	(lb/a)	(lb/acre-2)	Canola	(cwts/a)	(lb/acre-2)	Rapeseed	(cwts/a)	(lb/acre-2)
	1000	35		10	65		10	65
	1400	49		15	97		15	97
	1800	63		20	130		20	130
	2200	77		25	162		25	162
	2600	91						
Grass	(tons/a)	(lb/acre-2)	Sudan Grass	(tons/a)	(lb/acre-2)	*Total Nitrogen Indicates soil nitrogen		
	1	25		3	75	plus fertilizer		
	2	50		4	100			
	3	75		5	125	(lb/acre-2) = Two foot nitrate soil test		
	4	100		6	150	(cwts/a) = Hundred weights/acre		
	5	125		7	175			
	6	150		8	200			
	7	175						

APPENDIX D

25-YEAR, 24-HOUR RAINFALL MAP

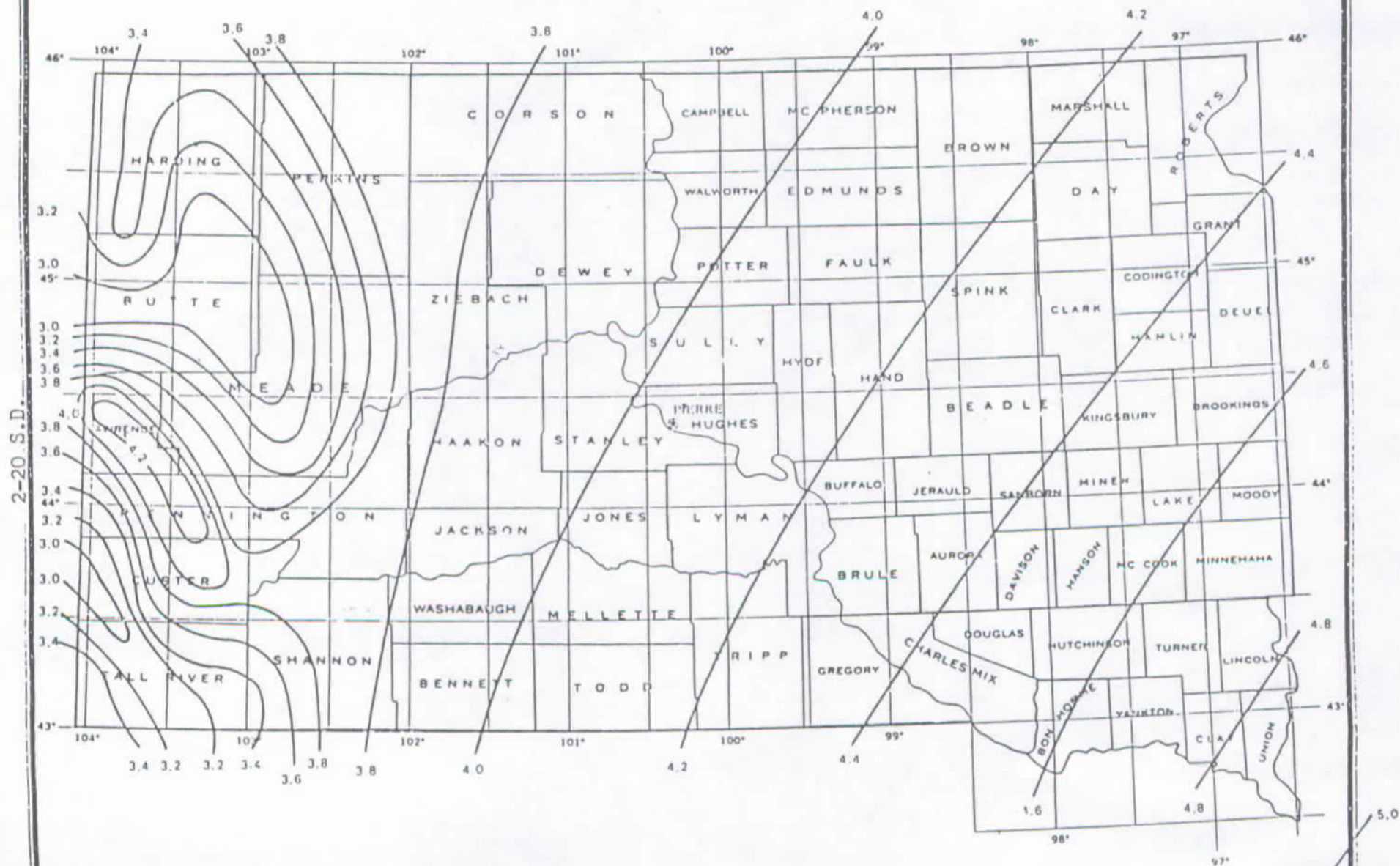
FOR SOUTH DAKOTA

SOUTH DAKOTA

U. S. DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

25-YEAR 24-HOUR RAINFALL (INCHES)



Source:
U.S.G.S. and U.S.W.B. rainfall frequency maps
for Black Hills area furnished by field.

APPENDIX E

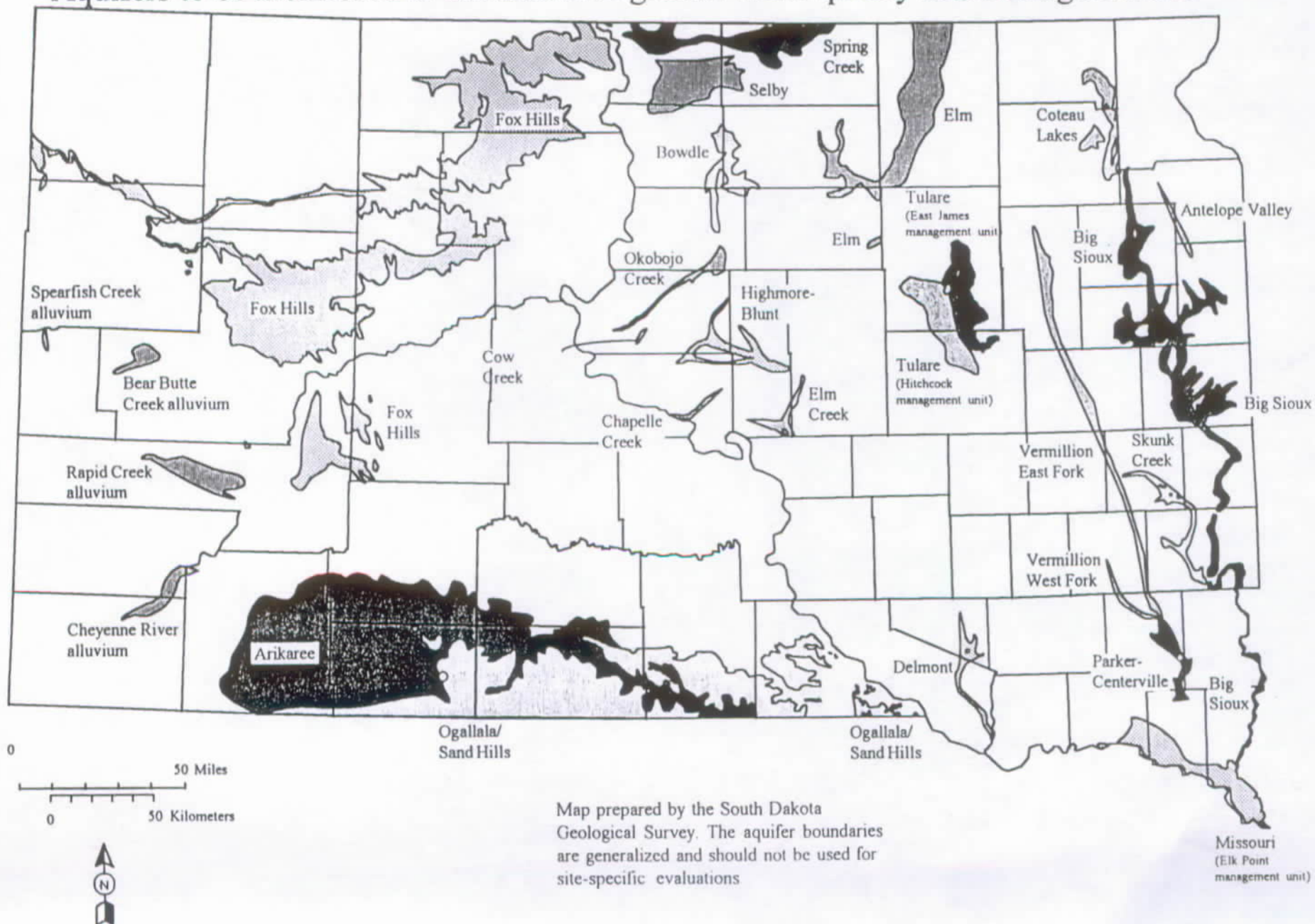
GENERALIZED MAP OF SHALLOW

AQUIFERS

IN SOUTH DAKOTA

APPENDIX E: Generalized Map of Shallow Aquifers in South Dakota

Aquifers to be monitored in the statewide ground water quality monitoring network



STATEMENT OF BASIS

PERMIT TYPE: General Permit for Concentrated Swine Feeding Operations

PERMIT NUMBER: SDG-0440000

Purpose of Statement of Basis

The Administrative Rules of South Dakota (ARSD), Chapter 74:03:21, require that a Statement of Basis be prepared for each surface water discharge permit. The Statement of Basis briefly sets forth the principal facts in preparing the proposed permit.

Permit Description

This general permit contains discharge requirements and limits that are based on technology and water quality considerations, prohibitions, best management practices, and other conditions applicable to the types of wastewater generated at concentrated swine feeding operations.

Background

South Dakota Codified Law 34A-2-112 gives the Secretary authority to issue a general permit. ARSD 74:03:18:48 outlines the requirements that must be met in order to issue a general permit. The sources to be covered under the general permit must meet the following requirements:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitation or operating conditions;
4. Require the same or similar monitoring; and
5. In the opinion of the Secretary, are more appropriately controlled under a general permit.

Swine feeding operations meet all of these requirements and, therefore, a general permit is appropriate for this source.

Coverage under General Permit

A swine feeding operation is subject to this permit if one or more of the following criteria are met:

1. New or expanding operations that feed or maintain more than 1,000 animal units (see listing below for animal units);
2. A local level of government, such as a county commission or planning and zoning committee, requires coverage; or
3. The Secretary determines coverage is necessary.

The following table contains a comparison of animal units.

Comparison of Number of Animals in Feeding Operation to Animal Units			
Type of Animal Feeding Operation	Number of Animals in Unit		
	300 AU	1,000 AU	2,000 AU
Finish Unit	750 finish hogs	2,500 finish hogs	5,000 finish hogs
Nursery Unit	3,000 nursery hogs	10,000 nursery hogs	20,000 nursery hogs
Production Unit (Breeding, Gestating, & Farrowing)	640 sows	2,130 sows	4,260 sows
Farrow to Finish	80 sows	270 sows	540 sows

To obtain coverage for new or expanding feeding operations, the producer must submit plans and specifications of the manure management system to the department for review. The plans must be stamped and signed by a South Dakota licensed professional engineer or prepared by the U.S. Department of Agriculture - Natural Resources Conservation Service. The department will review the plans to ensure minimum requirements are met. If the plans are approved, the producer may construct the manure management system. After construction, the producer must submit a Notice of Completion that certifies that the system was constructed as approved. The producer must also submit a signed and notarized Certification of Applicant form. Both of these forms are found in Appendix A of the permit. Upon receipt of the two forms, the Secretary will issue authorization to the producer to operate under the terms and conditions of the general permit.

Upon receipt of a signed complaint form, the Secretary will determine whether an existing animal feeding operation needs to obtain coverage under this permit. After conducting an inspection in response to the complaint, the Secretary will notify the producer whether coverage under the general permit is required. If the Secretary requires coverage, the department will use the criteria listed in the permit in section I.B.2.a. to determine what actions will be necessary for the producer to obtain compliance.

Producers that have approved plans and specifications, but do not have a Certificate of Compliance, need only submit a Notice of Completion and Certification of Applicant Form. Producers with approved plans and specifications and a Certificate of Compliance must only submit a letter to the Secretary requesting coverage under this general permit along with the Certification of Applicant Form. Upon verification of compliance with the terms and conditions of the plans and specification approval, the Secretary will authorize coverage under the terms and conditions of the general permit.

Effluent Limits

The following effluent limits apply to concentrated swine feeding operations. The limits are based on 40 CFR (Code of Federal Regulations) Part 122 and ARSD Chapter 74:03:18.

1. Housed Lot. Effective immediately and lasting through the life of this permit, the producer shall have no discharge of process wastewater, or solid or liquid manure, from the concentrated swine feeding operation to waters of the state.
2. Open Lot. Effective immediately and lasting through the life of this permit, the producer shall have no discharge of process wastewater, or solid or liquid manure, from the concentrated swine feeding operation to waters of the state. The only time this permit allows a discharge from an open lot is if a rainfall event, either chronic or catastrophic, causes an overflow from the manure containment structure. However the containment structure shall be designed, constructed, maintained, and operated at all times in compliance with the terms and conditions set forth in this general permit. Should a discharge occur, the producer shall keep rainfall records to document that a 25-year, 24-hour rainfall event occurred. The producer may use an ordinary rain gauge to determine rainfall amounts.
3. Manure and Wastewater Land application sites. Effective immediately and lasting through the life of this permit, the producer shall have no discharge of process wastewater, or solid or liquid manure, from the manure or wastewater land application sites. A discharge may occur from these sites only when chronic or catastrophic rainfall events occur. The producer shall keep rainfall records to document that a 25-year, 24-hour rainfall event occurred. The producer may use an ordinary rain gauge to determine rainfall amounts.

Best Management Practices

The producer is responsible for implementing Best Management Practices listed in the general permit to ensure compliance with the terms and conditions of the permit. The producer shall include the Best Management Practices that will be implemented at the swine feeding operation in the Operation and Maintenance Manual or Guideline and Nutrient Management Plan. The permit describes several Best Management Practices that may assist the producer in complying with the permit and prevent pollution. Best Management Practices are listed for location standards, containment structure design and storage, surface water protection, ground water protection, feedlot manure utilization or disposal by land application, and training and education. Whenever the word "shall" is used, that is a requirement of the permit that the producer must meet.

Nutrient Management Plan

The producer shall develop, maintain, and follow a nutrient management plan to ensure safe disposal of manure and protection of surface and ground water. The Secretary must approve the plan prior to land application of any manure. The nutrient management plan is a planning document to ensure that the producer has enough land available to safely land apply the manure. For the actual application of manure, the producer shall also follow the soil and manure testing requirements in Section I.D.5. of the general permit.

Appendix C of this permit contains a generic nutrient management plan that the producer may use in developing a nutrient management plan. The generic nutrient management plan is based on application of nitrogen. The producer may use other plans provided the alternate plan contains all the information necessary to determine compliance with conditions of this general permit. A

main source of information to assist in developing this plan is the Natural Resources Conservation Service. Nitrogen, in addition to that allowed in the nutrient management plan, may be applied up to the amounts as indicated by soil nitrogen test results that are necessary to obtain the realistic crop yield.

The Secretary recommends and encourages producers to develop nutrient management plans for other nutrients such as phosphorous. Over application of phosphorous may lead to water quality problems in area lakes and streams and result in potential damage to the producer's land and crop.

As an alternative to a nitrogen-based nutrient management plan, producers regulated by this permit may submit a phosphorus-based nutrient management plan to the department for review and approval. However, because nitrogen poses the greatest risk to ground water quality, the phosphorus-based nutrient management plan must include nitrogen soil and manure testing and total nitrogen application rates as well as phosphorous.

The Nutrient Management Plan shall contain and address all the items listed in Section I.D.4 of the general permit.

Soil and Manure Testing

The producer is required to use the procedure described in the general permit to determine the appropriate application rates of manure and process wastewater. The application rate is based upon soil and manure analysis for nitrogen, type of crop, expected crop yields, legume credits, and sampling date. Upon determining this application rate, the producer shall apply the manure and process wastewater according to this calculated rate. Failure to apply manure at the calculated rate is a violation of the general permit. The procedure for calculating the application rate is found in Section I.D.5 of the general permit.

Inspections

The producer is responsible for conducting the following inspections:

1. **The producer shall inspect the manure management system on at least a weekly basis.** The inspection is to determine if a discharge is occurring, has occurred since the previous inspection, or if a discharge is likely to occur before the next inspection. In addition, the inspection is to determine if proper operation and maintenance procedures are being followed and if Best Management Practices are being implemented. The producer shall keep documentation of each inspection that the Secretary can review upon request or during an inspection.
2. **The producer shall inspect the land application site on a daily basis while land application of wastewater is occurring.** This inspection is to ensure that runoff from the land application site is not occurring. If a discharge is found, the producer is responsible for taking immediate steps to stop the discharge and follow the reporting requirements of this permit. The producer shall keep documentation of these inspections that the Secretary can review upon request or during an inspection.

Endangered Species

The general permit prohibits discharges except those provided for under federal law. Discharges are only allowed during chronic or catastrophic rainfall events, therefore, any potential impacts will be minimized due to the increased flow in the receiving streams. Due to the expected conditions when discharges are allowed, no listed endangered species are expected to be impacted by the issuance of the general permit.

General Permit Duration

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

Contacts for this permit within the Department of Environment and Natural Resources are Tim Tollefsrud, Kent Woodmansey, Kelli Buscher, Alan Bakeberg, Paula Huizenga, or Rodger Seefeldt. The telephone number of the department is (605)773-3351.

REPORT ON WATER PERMIT APPLICATION NO. 6036-3
for Roger Cudmore
January 27, 1998

Application No. 6036-3 proposes to appropriate 0.07 cfs (30 gpm) from one well approximately 200 feet deep located in the NW 1/4 NW 1/4 of Section 36, T106N-R66W in Jerauld County. The water is for commercial use in a livestock confinement facility.

AQUIFER - CROW LAKE (CL)

The Crow Lake aquifer is a buried outwash (sand and gravel) which is under confined or artesian conditions at this site. The aquifer underlies 50 square miles and contains an estimated 190,000 acre feet of water in storage in Aurora and Jerauld Counties (Hamilton, 1985). Ground water movement in the aquifer is basically from north to south with some potential discharge to the Crow Creek aquifer to the west and to the White Lake aquifer to the south.

No test well log information is filed with the application. However, there is sufficient information available from nearby Water Rights observation wells, domestic well logs and information from the Jerauld and Aurora County Study to evaluate this application. The aquifer does appear to underlie this site at a depth of less than 200 feet and the aquifer should be capable of producing the 30 gpm requested.

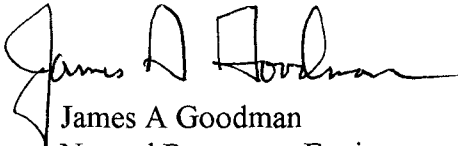
The Water Rights Program does monitor two observation wells, JE-80A and JE-77A, which are completed into the Crow Lake aquifer and located one mile west and one mile west and one mile south of this application respectively. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. In general, the water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1998). A hydrograph for each of these observation wells is included with this report.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing water permits/rights in this area which obtain water from the Crow Lake aquifer. Interference is not a concern. According to well records there is an existing domestic well in the SE 1/4 of Section 36. The location of this domestic well should not be a problem for this appropriation. The diversion rate requested is relatively small and drawdown created by pumping should not be significant.

CONCLUSIONS

1. Water is available from the Crow Lake aquifer.
2. The aquifer is under artesian conditions and drawdown will result from pumping. This requested rate is relatively small and drawdown should not be significant. Interference is not a concern. There are no other permitted users in this area.
3. The well authorized by this application must be constructed in accordance with SD Well Construction Standards.
4. The applicant should consider drilling another well to serve as a backup water supply in the event of pump or well problems with the existing well.
5. Plans and Specifications for this facility must be submitted to and approved by SD DENR, Division of Environmental Services.



James A Goodman
Natural Resources Engineer

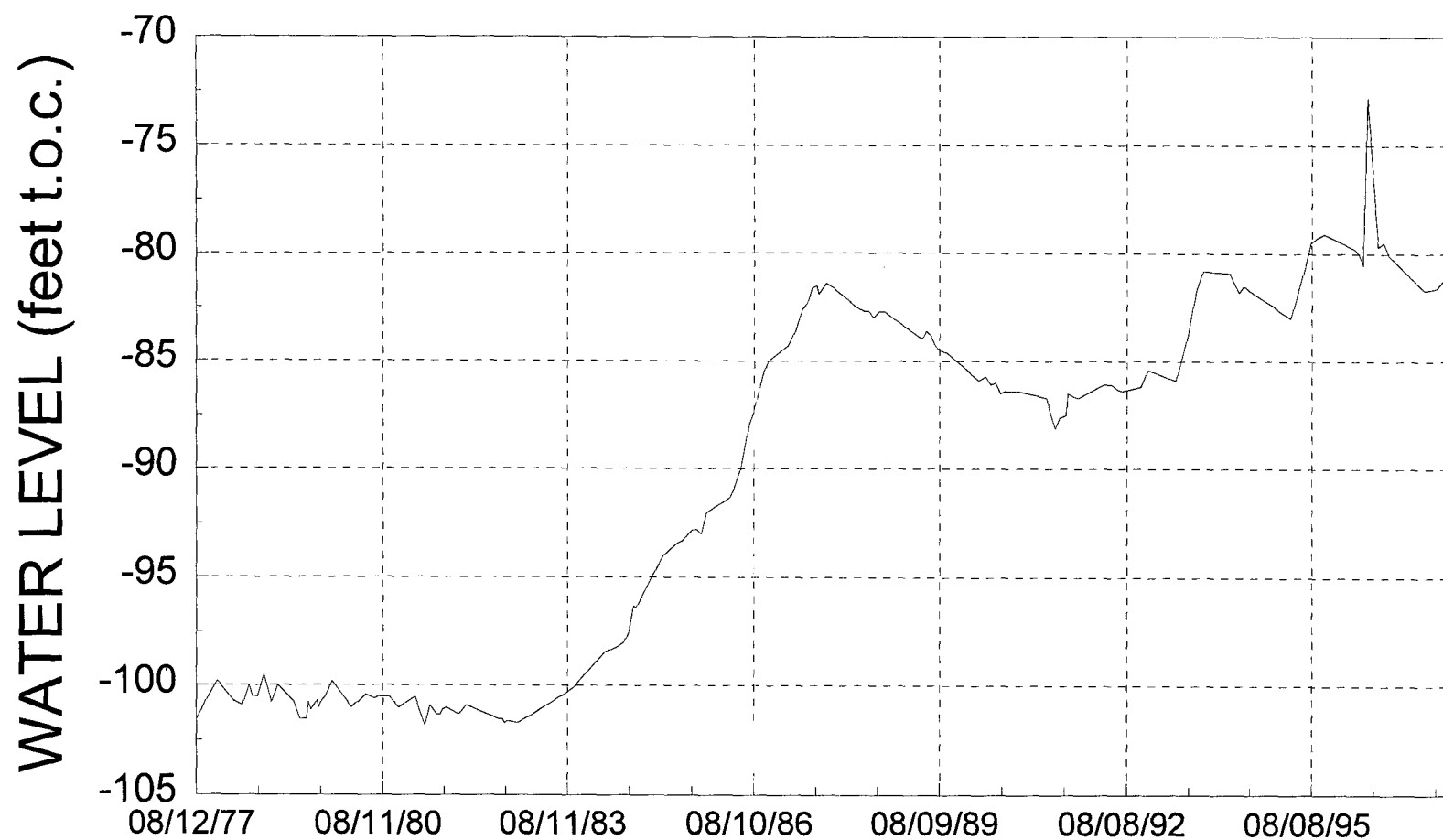
BIBLIOGRAPHY

Hamilton, L.J., 1985, Water Resources of Aurora and Jerauld Counties, South Dakota, USGS WRI 84-4030, USGS, Huron, SD, 57350.

Water Rights, 1998, Unpublished Observation Well Records for Jerauld and Aurora Counties, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

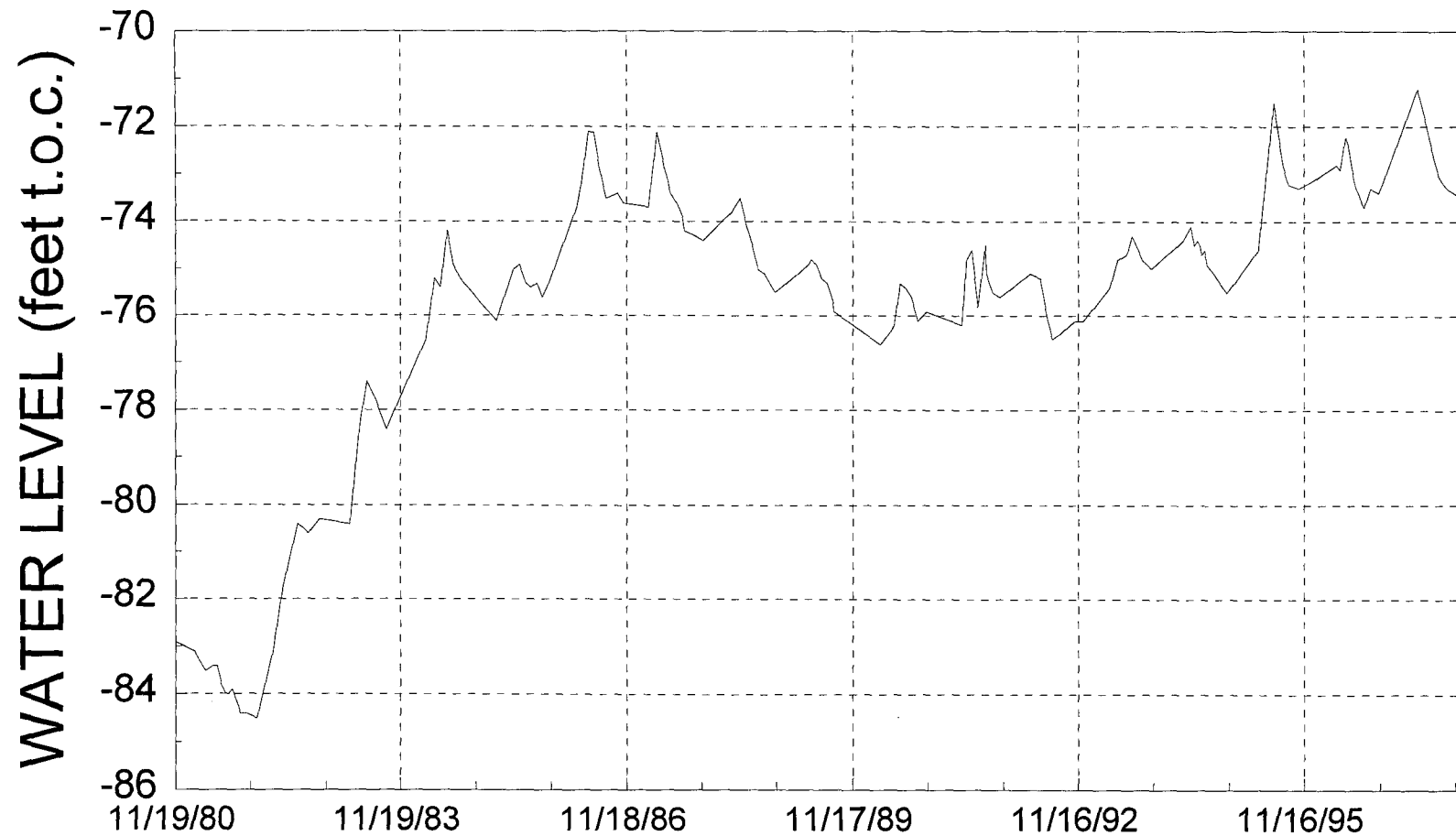
WATER RIGHTS OBSERVATION WELL

JE-77H



WATER RIGHTS OBSERVATION WELL

JE-80A



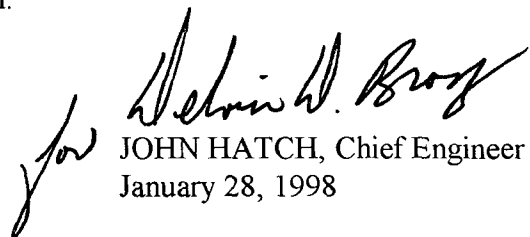
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6036-3, Roger Cudmore**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 6036-3, Roger Cudmore, 37319 237th St., Wessington Springs, SD 57382.

The Chief Engineer is recommending APPROVAL of Application No. 6036-3 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) it is in the public interest with the following qualifications:

1. Permit No. 6036-3 is subject to compliance with requirements of the Department's General Water Pollution Control Permit for swine feeding operations.
2. The well 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.
3. The well authorized by Permit No. 6036-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. Permit No. 6036-3 is subject to compliance with the existing and applicable Water Management Rules:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.

See report on application for additional information.


JOHN HATCH, Chief Engineer
January 28, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

February 22, 1998

Roger Cudmore
37319 237th St.
Wessington Springs, SD 57382

Dear Mr. Cudmore:

Water Permit Application No. 6036-3 for a livestock confinement facility has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the True Dakotan printed at Wessington Springs, SD (Ph # (605) 539-1281). For your information, a copy of the notice of publication is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions. The report and chief engineer's recommendation on the application will be sent to you in advance of the hearing scheduled for February 25, 1998.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing 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 twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 22, 1998

True Dakotan
Box T
Wessington Springs, SD 57382

ATTENTION: Legal Department

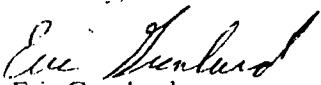
Enclosed is a Notice of Hearing on Application No. 6036-3 to be published twice. Please publish the first notice on January 27, 1998, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Roger Cudmore, 37319 237th St., Wessington Springs, SD 57382- (Ph # (605) 249-2538).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. IMMEDIATELY return the FIRST publication with the FIRST 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 in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on January 27, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6036-3 to Appropriate Water

Notice is given that Roger Cudmore, 37319 237th St, Wessington Springs, SD 57382 has filed an application for a water permit to appropriate 0.07 cubic feet of water per second (30 gallons per minute) from one well approximately 200 feet deep located in the NW 1/4 NW 1/4 Section 36-T106N-R66W. The water is for commercial use in a livestock confinement facility.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6036-3 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.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 16, 1998. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 11:00 a.m. (CST), February 25, 1998, Floyd Matthew Training Center, 523 East Capitol, Pierre, SD. 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 this application based on the facts presented at the public hearing. The February 25, 1998, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 16, 1998.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by February 16, 1998, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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, 46-2A-20, 46-2A-21; 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, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Jerauld) SS

I, Karen Wenzel

certify that the attached printed Notice was taken

from the True Dakotan

printed and published in Wessington Spring

County of Jerauld and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

Jan 27, 1998

Feb. 3, 1998

Cost of Printing \$ 64 51

Karen Wenzel
(Signature)

Bookkeeper
(Title)

2-3-98
(Date Signed)



NOTICE OF APPLICATION

NO. 6036-3

To Appropriate Water

Notice is given that Roger Cudmore, 37319 237th St, Wessington Springs, SD 57382 has filed an application for a water permit to appropriate 0.07 cubic feet of water per second (30 gallons per minute) from one well approximately 200 feet deep located in the NW 1/4 NW 1/4 Section 36-T106N- R66W. The water is for commercial use in a live-stock confinement facility.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6036-3 because 1) un-appropriated 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.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501 (605 773-3353)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 16, 1998. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 11:00 a.m. (CST), February 25, 1998, Floyd Matthew Training Center, 523 East Capitol, Pierre, SD. 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 this application based on the facts presented at the public hearing. The February 25, 1998, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 16, 1998.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact Eric Gronlund by February 16, 1998, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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, 46-2A-20, 46-2A-21; 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, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources. c-15,16

PARTIES OF RECORD LIST
WATER PERMIT APPLICATION NO. 6036-3

ROGER CUDMORE

APPLICANT:

Roger Cudmore
37319 237th St.
Wessington Springs, SD 57382

PETITIONERS

C. C. Bullis
23658 – 373 South Ave.
Wessington Springs, SD 57382

Vince Johnson
37050 – 237 St.
Wessington Springs, SD 57382

Randy McQueen
RR 1, Box 19
White Lake, SD 57383

Wayne Hanks
RR 1, Box 33
White lake, SD 57383

Richard A. McQueen
RR 1, Box 23
Whit Lake, SD 57383

Joseph and Frank Pettrle
37522 235th Street
Wessington Springs, SD 57382

Marcella and Don E. Andersen
P.O. Box A
Wessington Springs, SD 57382



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 9, 1998

Verna Borgmann
37368 239th Street
White Lake, SD 57383

Dear Ms. Borgmann:

Pleased find enclosed five copies of the report and recommendation prepared for Water Right Permit Application No. 6039-3, Roger Cudmore.

I do not consider the letter you submitted requesting information as a petition either in support or opposition of the application. If you wish to participate in the hearing scheduled for February 25, 1998, a petition to intervene must be submitted by February 16, 1998.

Do not hesitate to contact me if you have any questions.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 10, 1998

John Childs
Eisenbraun and Associates
910 N. Central Avenue
Pierre, SD 57501

Dear Mr. Childs:

Please find enclosed the reports and Chief Engineer's recommendations for Water Permit Application Nos. 6036-3 (Cudmore), 6037-3 (Albrecht) and 6038-3 (Thiesse). A copy of the report and recommendation has also been sent to the applicant.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 10, 1998

Roger Cudmore
37319 237th Street
Wessington Springs, SD 57382

Dear Mr. Cudmore:

Enclosed is a copy of the report and recommendation prepared for Water Permit Application No. 6036-3.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 11, 1998

Roger Cudmore
37219 237th Street
Wessington, SD 57382

Dear Mr. Cudmore:

Enclosed is a copy of a petition in opposition received in response to the notice of hearing for Water Permit Application No. 6036-3.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

c: John Childs, Eisenbraun and Associates, 910 N. Central Ave., Pierre, SD 57501



SUBJECT:
Notice of Application No. 6036-3

Dear Sir or Madam;

We (the undersignies) do oppose this application NO. 6036-3
for a water permit--

1. It is NOT in the public interest.
2. This amount of water for a livestock (hog) confinement facility could and would create a hardship to people around Crow Lake plus the wildlife and hatching ground of many different waterfoul at Crow Lake.
3. We are sure that pulling that amount of water from the ground will create a shortage of water for our livestock in the dryer years. Yes, we have seen dry years--in 25 years Crow Lake has been completely dry two times and lasted over two years.
4. The Aquifier is fed by ground water and is easily contaminated by runoff.

Signatures of those opposed
to NO. 6036-3

<u>C.C. Bullis</u>	<u>23658-373rd Ave</u>	<u>Wessington Springs</u>	<u>SD</u>	<u>57382</u>
<u>Don Johnson</u>	<u>37450-237th</u>	<u>Wessington Springs</u>	<u>SD</u>	
<u>Robert McGee</u>	<u>RR1 Box 19</u>	<u>White Lake</u>	<u>SD</u>	<u>57383</u>
<u>Gary Barker</u>	<u>RR1 Box 33</u>	<u>White Lake</u>	<u>SD</u>	<u>57383</u>
<u>Richard Anderson</u>	<u>RR1 Box 23</u>	<u>White Lake</u>		<u>57383</u>
<u>Joseph Pettit</u>	<u>37522-235th St</u>	<u>Wessington Springs</u>	<u>SD</u>	<u>57382</u>
<u>Frank E. Pettit</u>	<u>37522-235th St</u>	<u>Wessington Springs</u>	<u>SD</u>	<u>57382</u>
<u>Marcella Andersen</u>	<u>P.O. Box A</u>	<u>Wessington Springs</u>	<u>SD</u>	<u>57382</u>
<u>Don E. Andersen</u>	<u>P.O. Box A</u>	<u>Wessington Springs</u>	<u>SD</u>	<u>57382</u>

YOUR FARM & HOME PLAT & DIRECTORY

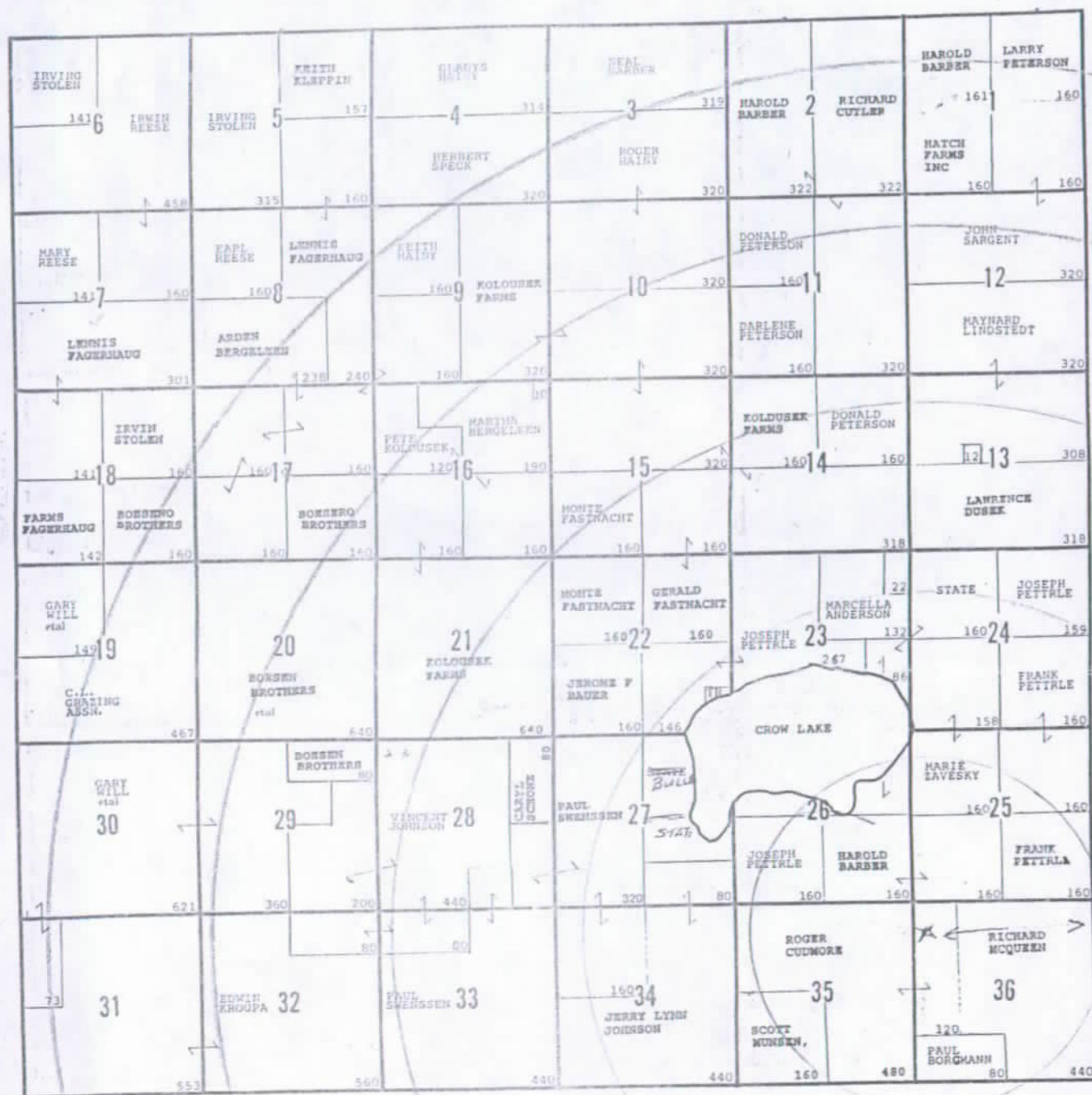
This Directory Contains All Rural Residents, Their Addresses, Outline Of The Farm, Number Of Acres, Telephone Numbers, County Roads, Highways, Interstate, and Landmarks Such As: Rivers, Lakes, Churches and Cemeteries

KEEP IT NEAR YOUR PHONE...You'll Be Surprised At How Many Different Uses You Find For This Handy Rural Directory

T-106-N

CROW LAKE PLAT

R-66-W



STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6036-3, ROGER)
CUDMORE)

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL DECISION

FINDINGS OF FACT

1. This application proposes to appropriate .07 cfs (30 gpm) from one well approximately 200 feet deep in Jerauld County.

2. The water is intended to be used for commercial use in a livestock confinement facility.

3. The proposed source of the water is the "Crow Lake Aquifer." This aquifer is a buried outwash of sand and gravel which is under confined or artesian conditions at the site. The aquifer contains an estimated 190,000 acre feet of water in storage in Aurora and Jerauld Counties and underlies 50 square miles.

4. Two nearby observation wells completed into the aquifer show good response to climatic conditions. Water levels rise during wet years and decline during dry years. The hydrographs demonstrate the ability of the aquifer to be recharged.

5. The Board finds, based upon the testimony of expert witness Jim Goodman, that the aquifer is capable of producing the 30 gallons per minute as requested under the permit. Mr. Goodman's testimony is supported by the evidence as to the area of the aquifer, the amount of water in storage, and the hydrographs.

6. There are no permitted rights in the area so interference with permitted rights is not an issue in this case.

7. There are a number of domestic wells in the same vicinity as the proposed application. According to uncontested testimony, most of these domestic wells are "adequate" under state law and regulation; thus, they are entitled to protection, in accordance with statute and regulation, should unexpected drawdowns occur.

8. Opponents of the application have not offered any specific evidence that any domestic well not considered "adequate" under state law would be affected by this application.

9. The Board finds, in any event, that, because the rate of diversion requested here is relatively small, drawdown created by the pumping should not be significant and most likely will not affect domestic wells, rather adequate or inadequate.

10. The opponents of the application urged denial of the permit based upon use of Crow Lake for recreational purposes. Testimony was received that Crow Lake is used for such purposes and is used by wildlife, geese, and the hatching of waterfowl.

11. Opponents of the permit, however, produced no evidence that the grant of this permit will have any effect upon the level of the lake. Furthermore, opponents of the permit produced no credible evidence that the permit would pollute the lake.

12. Opponents of the permit also urged denial of the permit on the ground that the facility will create an undesirable smell under certain wind conditions. The opponents, however, failed to produce any evidence that any specific household or any specific location would be subject to such odors. Therefore, further consideration need not be given to this argument.

13. Opponents finally suggested that the permit should be denied because it would be harmful to the small community which exists in the area.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. There is a reasonable probability that there is unappropriated water available for the applicant's proposed use.
3. The proposed diversion for a swine feeding operation is of beneficial use.
4. The proposed diversion can be developed without unlawful impairment of existing rights when developed in accordance with the qualifications set forth in the Final Decision.
5. The proposed diversion is in the public interest when developed in accordance with the qualifications set forth in the Final Decision.
6. The Board concludes that its statutory authority does not allow it to deny a permit on the basis that development of an agricultural enterprise will affect the nature of the local community.

FINAL DECISION

The application for Permit No. 6036-3 is granted subject to the following conditions:

1. Permit No. 6036-3 is subject to compliance with requirements of the Department's General Water Pollution Control Permit for swine feeding operations.

2. The well 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.

3. The well authorized by Permit No. 6036-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

4. Permit No. 6036-3 is subject to compliance with the existing and applicable Water Management Rules:

- a) Chapter 74:54:01 Ground Water Quality Standards,
- b) Chapter 74:54:02 Ground Water Discharge Permit,
- c) Chapter 74:51:01 Surface Water Quality Standards,
- d) Chapter 74:51:02 Uses Assigned to Lakes,
- e) Chapter 74:51:03 Uses Assigned to Streams, and
- f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.

Dated this _____ day of _____, 1998.

BY THE BOARD

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6036-3, ROGER)
CUSMORE)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit No. 6036-3, Roger Cudmore were served upon each of the following by enclosing the same in envelopes with first class postage, prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 16th day of April, 1998:

Francis E. Brink
1214 S. Wells Street
Aberdeen, SD 57401-7351

Joel Rickenbach
P.O. Box 97
Oelrichs, SD 57763-0097

Rodney Freeman Jr.
P.O. Box 176
Huron, SD 57350-0176

Bernita Loucks
219 42nd Street
Rapid City, SD 57702-2123

Marian Gunderson
811 W. Third
Yankton, SD 57078-3702

Leo Holzbauer
RR 1 Box 170
Wagner, SD 57380-9681

Dwayne A. Rollag
320 Lincoln Lane S
Brookings, SD 57006-2741

Roger Cudmore
37319 235th Street
Wessington Springs, SD 57382

C.C. Bullis
23658 373rd South Avenue
Wessington Springs, SD 57382

Also served by interoffice mail:

John Hatch, Chief Engineer
Division of Water Rights
523 East Capitol
Pierre, SD 57501

and hand-delivered to:

Diane Best
Assistant Attorney General
500 East Capitol
Pierre, SD 57501-5070



John P. Guhin
Deputy Attorney General
Office of the Attorney General
500 East Capitol
Pierre, SD 57501-5070
Telephone: (605) 773-3215

j-wmb2.jpg(js)

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6036-3, ROGER)
CUDMORE)

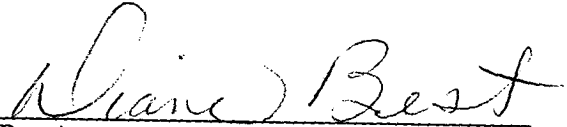
DENR RESPONSE TO
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL DECISION

COMES NOW, the Department of Environment and Natural Resources, Water Rights Program (DENR) and makes its response to the proposed Findings of Fact and Conclusions of Law previously issued by the Board's counsel:

1. Finding of Fact No. 9 appears to contain a typographical error. The word "rather" should be substituted with the word "whether."

2. Other than the foregoing minor change, the DENR has no objection to entry of the proposed Findings of Fact and Conclusions of Law as drafted.

Dated this 22nd day of April, 1998.


Diane Best
Assistant Attorney General
Office of Attorney General
500 E. Capitol Ave.
Pierre, SD 57501-5070
Telephone (605) 773-3215

Counsel for Department of
Environment and Natural Resources

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of DENR Response to Proposed Findings of Fact, Conclusions of Law, and Final Decision regarding In The Matter Of Water Permit No. 6036-3, Roger Cudmore, were served by first class United States mail, postage prepaid, upon the following:

Francis E. Brink
1214 S. Wells Street
Aberdeen, SD 57401-7351

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Joel Rickenbach
P.O. Box 97
Oelrichs, SD 57763-0097

Marian Gunderson
811 West 3rd
Yankton, SD 57078

Bernita Loucks
219 42nd Street
Rapid City, SD 57702-2123

Leo Holzbauer
RR 1, Box 170
Wagner, SD 57380

Dwayne A. Rollag
320 Lincoln Lane South
Brookings, SD 57006-2741

Roger Cudmore
37319 235th Street
Wessington Springs, SD 57382

C.C. Bullis
23658 373rd South Ave.
Wessington Springs, SD 57382

and sent by interoffice mail to:

John Hatch, Chief Engineer
Department of Environment and
Natural Resources
Foss Building
523 E. Capitol Avenue
Pierre, SD 57501-3182

and hand delivered to:

John P. Guhin
Deputy Attorney General
State Capitol
500 E. Capitol
Pierre, SD 57501

Dated this 22nd day of April, 1998.



Diane Best
Assistant Attorney General

m-certWB1.db(mjj)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 12, 1998

NOTICE

TO: Roger Cudmore C. C. Bullis
37319 237th Street 23658 373rd Avenue
Wessington Springs, SD 57382 Wessington Springs, SD 57382-6102

FROM: John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

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

This is to notify you that the Final Decision, including Findings of Fact and Conclusions of Law, were adopted May 6, 1998, by the Water Management Board for Water Permit Application No. 6036-3. A copy of the signed Findings of Fact, Conclusions of Law and Final Decision is enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

enclosure

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6036-3, ROGER)
CUDMORE)

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL DECISION

FINDINGS OF FACT

1. This application proposes to appropriate .07 cfs (30 gpm) from one well approximately 200 feet deep in Jerauld County.

2. The water is intended to be used for commercial use in a livestock confinement facility.

3. The proposed source of the water is the "Crow Lake Aquifer." This aquifer is a buried outwash of sand and gravel which is under confined or artesian conditions at the site. The aquifer contains an estimated 190,000 acre feet of water in storage in Aurora and Jerauld Counties and underlies 50 square miles.

4. Two nearby observation wells completed into the aquifer show good response to climatic conditions. Water levels rise during wet years and decline during dry years. The hydrographs demonstrate the ability of the aquifer to be recharged.

5. The Board finds, based upon the testimony of expert witness Jim Goodman, that the aquifer is capable of producing the 30 gallons per minute as requested under the permit. Mr. Goodman's testimony is supported by the evidence as to the area of the aquifer, the amount of water in storage, and the hydrographs.

6. There are no permitted rights in the area so interference with permitted rights is not an issue in this case.

7. There are a number of domestic wells in the same vicinity as the proposed application. According to uncontested testimony, most of these domestic wells are "adequate" under state law and regulation; thus, they are entitled to protection, in accordance with statute and regulation, should unexpected drawdowns occur.

8. Opponents of the application have not offered any specific evidence that any domestic well not considered "adequate" under state law would be affected by this application.

9. The Board finds, in any event, that, because the rate of diversion requested here is relatively small, drawdown created by the pumping should not be significant and most likely will not affect domestic wells, whether adequate or inadequate.

10. The opponents of the application urged denial of the permit based upon use of Crow Lake for recreational purposes. Testimony was received that Crow Lake is used for such purposes and is used by wildlife, geese, and the hatching of waterfowl.

11. Opponents of the permit, however, produced no evidence that the grant of this permit will have any effect upon the level of the lake. Furthermore, opponents of the permit produced no credible evidence that the permit would pollute the lake.

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13. Opponents finally suggested that the permit should be denied because it would be harmful to the small community which exists in the area.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. There is a reasonable probability that there is unappropriated water available for the applicant's proposed use.
3. The proposed diversion for a swine feeding operation is of beneficial use.
4. The proposed diversion can be developed without unlawful impairment of existing rights when developed in accordance with the qualifications set forth in the Final Decision.
5. The proposed diversion is in the public interest when developed in accordance with the qualifications set forth in the Final Decision.
6. The Board concludes that its statutory authority does not allow it to deny a permit on the basis that development of an agricultural enterprise will affect the nature of the local community.

FINAL DECISION

The application for Permit No. 6036-3 is granted subject to the following conditions:

1. Permit No. 6036-3 is subject to compliance with requirements of the Department's General Water Pollution Control Permit for swine feeding operations.
2. The well 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.

3. The well authorized by Permit No. 6036-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.

4. Permit No. 6036-3 is subject to compliance with the existing and applicable Water Management Rules:

- a) Chapter 74:54:01 Ground Water Quality Standards,
- b) Chapter 74:54:02 Ground Water Discharge Permit,
- c) Chapter 74:51:01 Surface Water Quality Standards,
- d) Chapter 74:51:02 Uses Assigned to Lakes,
- e) Chapter 74:51:03 Uses Assigned to Streams, and
- f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.

Dated this 10th day of June, 1998.

BY THE BOARD

Francis E. Brink

CERTIFICATION

I hereby certify that on June 12, 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 12, 1998, along with a copy of the Findings of Fact, Conclusions of Law and Final Decision, regarding Adoption of Findings of Fact, Conclusions of Law and Final Decision on Water Permit Application No. 6036-3, Roger Cudmore, addressed as stated below:

Roger Cudmore, 37319 237th Street, Wessington Springs, SD 57382.

C. C. Bullis, 23658 373rd Avenue, Wessington Springs, SD 57382-6102.

A copy of the above described Notice and attachments was sent to Inter-office to:

John Guhin, Deputy Attorney General, Capitol Building.

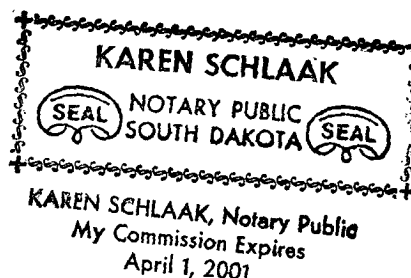
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 15th day of June, 1998


Notary Public





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 4 1998

Roger Cudmore
37319 237th St.
Wessington Springs, SD 57382

Dear Mr. Cudmore:

Enclosed is Water Permit No. 6036-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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 Program
(605) 773-3352

enclosures

PLEASE NOTE: Certain changes may be made to your water permit usually without affecting the priority date. The location of a point of diversion may be changed or additional points of diversion may be approved if the water source remains unchanged; no additional water is appropriated; and, if irrigating, no additional land is irrigated. The change may be allowed without application or publication, if the Water Rights Program is contacted and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

A new water permit application is required to change water sources, increase the permitted diversion rate, or increase the irrigated acreage. If the application is approved, the water permit will receive a new priority date.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 27, 1998

NOTICE

TO: Roger Cudmore
37319 237th Street
Wessington Springs, SD 57382

C. C. Bullis
23658 373rd South Avenue
Wessington Springs, SD 57382

FROM: John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352



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

The Water Management Board directed John Guhin, the Board's attorney, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision to approve Water Permit Application No. 6036-3. The Board will consider the proposed Findings, Conclusions and Final Decision at 8:45 AM on May 6, 1998, in the Conference Room, Floyd Matthew Training Center, 523 E. Capitol Ave., Pierre, SD 57501.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and Parties of Record (names listed above) by April 16, 1998. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney and all Parties of Record by April 27, 1998.

Oral arguments by parties filing written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on May 6, 1998. The public hearing was completed February 25, 1998. No additional testimony will be received on May 6, 1998.

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 27 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 27, 1998, regarding Preparation of Findings of Fact, Conclusions of Law and Final Decision, on Water Permit Application No. 6036-3, addressed as stated below:

Roger Cudmore, 37319 237th Street, Wessington Springs, SD 57382.

C. C. Bullis, 23658 373rd South Avenue, Wessington Springs, SD 57382.

A copy of the above described Notice was sent Inter-office to:

John Guhin, Deputy Attorney General, Capitol Building.

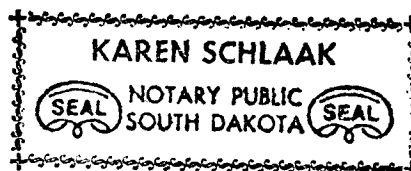
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

[illegible]

Sworn to, before me, this 3rd day of March, 1998

Karen Schlaak
Notary Public



KAREN SCHLAAK, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 30, 1998

Roger Cudmore
37319 237th Street
Wessington Springs, SD 57382

C. C. Bullis
23658 373rd South Avenue
Wessington Springs, SD 57382

Dear Gentlemen:

A notice was sent to you on February 27, 1998, regarding preparation of Findings of Fact, Conclusions of Law and Final Decision in the matter of Roger Cudmore's Water Permit Application No. 6036-3. The mailing address of the Water Management Board members and Board Attorney was inadvertently omitted as an enclosure to this notice. Please find enclosed a copy of this mailing address.

Applicable provisions of the February 27, 1998, notice still apply. John Guhin, the Board's attorney, will send proposed findings to each Board member and Parties of Record by April 16, 1998. Written objections or comments in support of the proposed finding or alternate findings are still to be mailed to each Board member, the Board attorney and all Parties of Record by April 27, 1998. The Board will consider proposed findings on May 6, 1998 at 8:45 AM in the Floyd Matthew Training Center, 523 E. Capitol Ave., Pierre, SD.

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

Sincerely,


Eric Gronlund
Water Rights Program
(605) 773-3352

Enclosure

3/30/98



C. C. BULLIS
23658 373RD AVE
WESSINGTON SPG SD 57382-6102

Attorney General

MAR 31 1998

Dear Diane Best

I am writing to you because you were the only one that seemed concern about this water permit application No 6036-3 in February 1998.

We feel this is not in the public interest.

Conclusions and final decision to be made on May 6 1998 - We need your help.

The SMS (Swine Management system) and Purina feed people are using Roger Andmore to build the hog confinement (5000 pigs) in our area whether people like it or not.

The Crow Lake Township by laws prohibit this. These hog confinement people just ignore our by laws.

So, without a permit to drill into the aquifer to supply water for this hog factory it will not be build.

Diane, There are so many reason why this hog factory should not be built. They just ignore the majority of land owners and residents of Crow Lake Township.

Please help us.

Thankyou
C.C. 'Bud' Bullis

**BE IT ENACTED BY THE TOWNSHIP BOARD OF CROW LAKE TOWNSHIP,
JERAULD COUNTY, SOUTH DAKOTA:**

Section I. Establishing an Agricultural District. The intent of the agricultural district is to protect agricultural lands and residences and other lands consisting of natural vegetation from incompatible land uses of residential, commercial or industrial expansion, so as to preserve a secure land base which can best allow farmers to make the large capital investments necessary to continue the agricultural use of the land thereby maintaining the very important agricultural economy of the region. The Crow Lake Township Board hereby establishes an Agricultural District encompassing the territory within the boundaries of Crow Lake Township, Jerauld County, South Dakota.

The following principal uses and structures shall be permitted in the Agricultural District:

1. A farm operation involving any form of agricultural including the raising of crops, horticulture, nurseries, animal husbandry, poultry husbandry, fur farms and farm feedlots;
2. Hobby farms;
3. Single family dwellings, including mobile homes;
4. Land reclamation, mining and gravel pits;
5. Transportation systems including all roads, highways, railroad tracks, and public airports.

The following accessory uses and structures shall be permitted in the Agricultural District:

1. All accessory uses and structures commonly associated with a farm buildings for storage, barns, silos and all incidental dwelling related uses and structures such as car garages, recreational courts, swimming pools and lawns;
2. Greenhouses of a nonretail nature;
3. Public meeting facilities such as schools or churches, provided they are subordinate to and complementary with the agricultural activities of the district;
4. All utility systems necessary to service the district;
5. Home Occupation associated with the agricultural use of the land;
6. Farmstands for the sale of produce raised on the premises;

6. The minimum side yard shall be twenty (20) feet;
7. The maximum lot coverage for all structures is ten (10) percent;
8. The maximum residential dwelling height is thirty-five (35) feet;

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons, but provided further that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Farm. "Farm means a tract of land together with fields, buildings, farm implements, animals and personnel for the intended purpose of producing crops or raising livestock as a principal source of income for the residents or owner.

Farmer. "Farmer" means one whose occupation is farming.

Farm, Hobby. "Farm, Hobby" means a parcel of land together with fields, buildings, animals and implements, the residents of which may raise crops or livestock primarily for pleasure or a pastime, which does not generate a principal source of income for those residents.

Farming. "Farming" means the occupation of producing crops or raising livestock on a farm.

Feedlot, Commercial. A commercial feedlot is a place where the principal business is the feeding of livestock and such feeding is not done as a subordinate activity to the production of crops on the premises of which the feedlot is a part. Any feedlot where the main source of feed for the livestock is produced off the premises of the farm on which such livestock are being fed shall be considered a commercial feedlot.

Feedlot, Farm. "Feedlot, Farm" means a place where there is feeding, raising or holding of livestock in a confined area as a subordinate use to the raising of crops upon the premises. Under normal growing conditions the crops produced upon the premises constitutes the main source of feed for the livestock being held.

Height of Building. The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

Home Occupation. "Home Occupation" means any gainful occupation or profession conducted within a dwelling or accessory building by a resident thereof, provided the occupation is clearly subordinate to the principal use of such home occupation other than one sign, not exceeding two (2) square feet in a residential district nor more than four (4) square feet in an

agricultural district; that there is no commodity sold upon the premises except that which is prepared on the site furnished as incidental to the service rendered, and that the home occupation shall cause no emission of odor, gas, smoke, dust, or noise that will negatively affect the character of the district in which it is located.

Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to deliver vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be used as off-street parking space in computation of required off-street parking space.

Animal Units. "Animal Unit" means a unit of measure for livestock equated as follows: One animal unit is equivalent to one beef cow, bull, steer, feeder or fat beef animal, excluding calves under 300 pounds; one horse, excluding colts one year and under; 0.6 mature dairy cattle, excluding dairy calves under 300 pounds; one swine over 300 pounds; 2 swine weighing up to 300 pounds; 10 sheep or lambs; 30 laying hens or broilers; 30 ducks; and 55 turkeys.

Section II. It shall be unlawful for any person, corporation, or other entity to establish an animal feeding operation within the boundaries of Crow Lake Township where such operation feeds in excess of five hundred animal units, and where such operation is situated within one linear mile of a shallow aquifer.

Section III. It shall be unlawful for any person, corporation, partnership, or other entity to establish an animal feeding operation, as defined in Sections I and V of this By Law, within three miles of any residence within the boundaries of Crow Lake Township.

Section IV. Before any person, corporation, partnership, or other entity shall establish an animal feeding operation within the boundaries of Crow Lake Township, such entity shall be required to post a bond with the Township Board of Crow Lake Township in an amount to be determined by such Township Board and by a bonding source to be approved by such Township Board in its discretion. Such bond shall provide to Crow Lake Township financial guarantees for payment by the entity seeking to establish such animal feeding operation for any and all environmental damage, including pollution and odor, resulting from such operation.

Section V. "Feeding Operation" shall be defined as any hog or cattle confinement facility, hog or cattle feedlot, or other operation where livestock in excess of five hundred animal units are concentrated for purposes of feeding and ultimate sale.

Section VI. For each day any such person, corporation, partnership or other entity is found to be in violation of any section of this By Law, such entity shall be required to pay a civil fine of not more than Ten Thousand Dollars (\$10,000.00) for each day during which any such entity is in violation.

SUBJECT:
Notice of Application No. 6036-3

Dear Sir or Madam;

We (the undersignies) do oppose this application NO. 6036-3
for a water permit--

1. It is NOT in the public interest.
2. This amount of water for a livestock (hog) confinement facility could and would create a hardship to people around Crow Lake plus the wildlife and hatching ground or many different waterfoul at Crow Lake.
3. We are sure that pulling that amount of water from the ground will create a shortage of water for our livestock in the dryer years. Yes, we have seen dry years--in 25 years Crow Lake has been completely dry two times and lasted over two years.
4. The Aquifier is fed by ground water and is easily contaminated by runoff.

Signatures of those opposed
to NO. 6036-3

Copy

*this was by
sign by
providence to
land owner*

Presented to the

Water Management Board

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106



MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

April 1, 1998

C.C. Bullis
23658 373rd Avenue
Wessington Springs, SD 57382-6102

Re: **Water Permit Application No. 6036-3**

Dear Mr. Bullis:

This letter is in response to your correspondence of March 30, 1998, regarding Water Permit Application No. 6036-3. In your letter, you mentioned that I was concerned about the Cudmore application at the South Dakota Water Management Board's February 1998 hearing in this matter. At this hearing, I represented the South Dakota Department of Environment and Natural Resources. The Department recommended approval of Application No. 6036-3 subject to several conditions. I am enclosing a copy of the Chief Engineer's recommendation for this water permit.

At the hearing, the South Dakota Water Management Board adopted the position advanced by my client, the Chief Engineer of the DENR. Your letter seeks my assistance in urging the South Dakota Water Management Board to reconsider its decision. I cannot assist you with respect to this issue since I am representing the state agency recommending approval. I suggest that you seek the advice of private counsel regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Diane Best".

Diane Best
Assistant Attorney General

DB:js

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106

MARK W. BARNETT
ATTORNEY GENERAL



LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

April 15, 1998

MEMORANDUM

TO: Members of the Water Management Board and
Interested Parties (See Certificate of Service)

FROM: John P. Guhin *John P. Guhin*
Deputy Attorney General

RE: In the Matter of the Application Water Permit No. 6036-3

I am herewith enclosing proposed Findings of Fact, Conclusions of Law, and Final Decision in accordance with the directions of the Board.

JPG:js
Enclosures

File No. 6036-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Roger (Betty) Cudmore 37319 237th St, Wessington Springs, SD 57382

DATE: August 21, 2025

TELEPHONE: 605/249-2538

RE: Water Permit 6036-3

COMMENTS:

It is recommended that this Water Permit be cancelled as of this date because the proposed use was for a commercial swine facility which was not constructed.

A handwritten signature in black ink, appearing to read "Darrell DeBoer". The signature is fluid and cursive, with the first name "Darrell" and last name "DeBoer" clearly distinguishable.

Darrell DeBoer
Water Rights Program

File No. 6036-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Roger (Betty) Cudmore 37319 237th St, Wessington Springs, SD 57382

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Darrell DeBoer
Water Rights Program