

WATER PERMIT NO. 6038-3

Name of Applicant: Todd Thiesse

Address: 28246 418th Ave, Tripp SD 57346

Phone: 605 583-4228

Amount of Water Claimed: 0.07 cfs (30 gpm)

Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: livestock confinement facility

County: Hutchinson

Type of Waste Disposal System:

Location: 7 miles east of Tripp

PRIORITY

Date Received: 1-16-1998

Fee: \$150.00

Corrected Application Received:

Period of Annual Use: January 1 - December 31

Remarks:

Diversion Point: NW 1/4 SW 1/4 Sec 8-
T97N-R59W

Land to be Irrigated: NA

Depth of Well: 600 feet deep

Well Driller:

Remarks: well not drilled

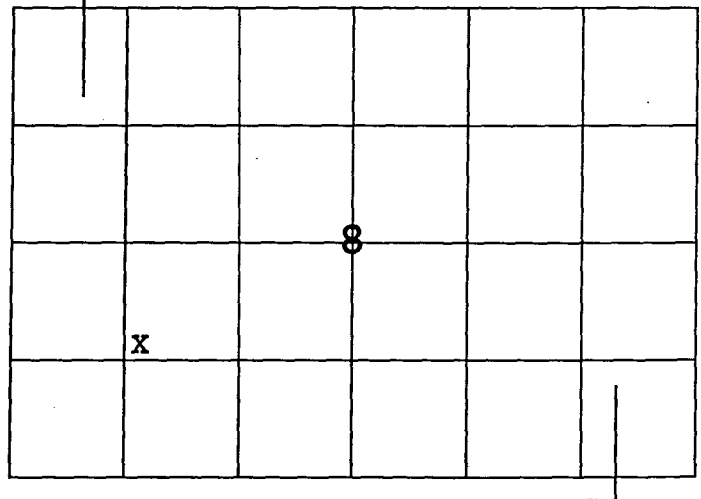
Type of Map: topo

Prepared by: Mark E Johnson, LS

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

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 6038-3**

Date of first receipt of application January 16, 1998.

The Water Management Board approved Water Permit Application No. 6038-3 on February 25, 1998 for Todd Thiesse, 28246 418th Ave, Tripp SD 57346 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. 6038-3 appropriates 0.07 cubic feet of water per second (30 gallons per minute) from one well approximately 600 feet deep located in the NW 1/4 SW 1/4 Section 8-T97N-R59W.
2. The water appropriated shall be used for the purpose of supplying water for a livestock 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 16, 1998.
5. One-fifth of the construction is to be completed on or before August 25, 2000.
6. All construction is to be completed on or before February 25, 2003.
7. Water is to be put to beneficial use on or before February 25, 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

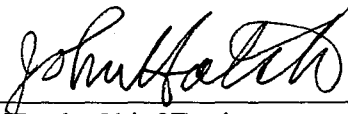
1. Permit No. 6038-3 is subject to compliance with requirements of the General Water Pollution Control Permit for swine feeding operations.
2. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this 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. 6038-3 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) from the producing formation to the surface pursuant to Section 74:02:04:28.
4. The well approved under this Permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used (directly or for storage purposes). If this well is abandoned or the Permit canceled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.

(continued)

5. Permit No. 6038-3 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, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 10 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>6038-3</u>	(office use only) Hydrologic Unit <u>10160011</u>
	Basin <u>James River</u>	
	Newspaper <u>The Parkston Advance, Parkston, 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 Todd Thiesse Phone 605-583-4228
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 28246 418th Ave Tripp, State SD 57346
(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 SW 1/4 Section 8, T97N, R59W

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
One well in SW 1/4 Section 8, T97N, R59W
County Hutchinson

5. County or counties where water will be used Hutchinson

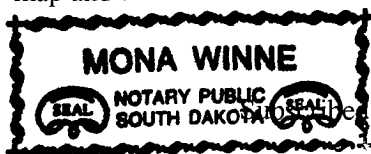
6. Annual period during which water is to be used Year round with peak from June to September Jan 1 - Dec 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. **2,100 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.**

s
STATE OF SOUTH DAKOTA) SS
County of Hutchinson)

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, Todd Thiesse, 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 Todd Thiesse

and sworn to before me this 13th day of January 19 1998

[Signature]
Notary Public

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 5 inch Depth 600
- 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 580 feet
- f) Depth to Water (ground surface to water level) 25 feet to flowing
- g) Distance to nearest existing domestic well: 1/2 mile
- On applicants property _____ On property owned by others Glen Ziegler

2. Wastewater Disposal System Information

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

3. Dugout Information

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

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



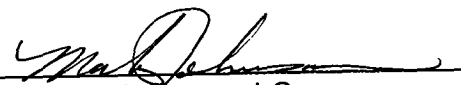
ATTACHMENT #1

Proposed Well Location

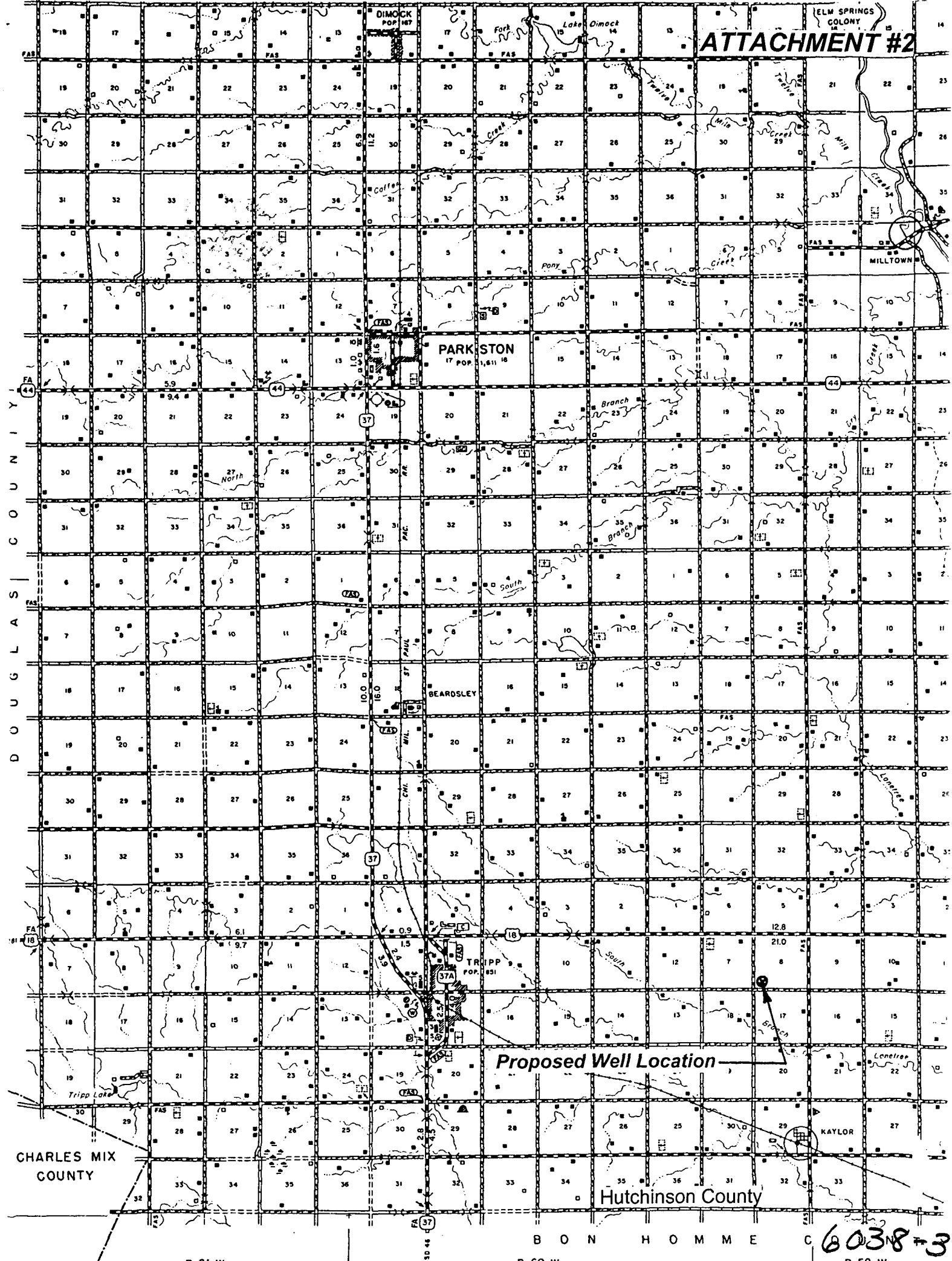
SW Corner
Section 8, T97N, R59W
Hutchinson County, SD

I, Mark E. Johnson, a Registered Land Surveyor in the State of South Dakota, do hereby certify that at the request of Todd Thiesse did prepare this map depicting the proposed location of one well in Hutchinson County, South Dakota.

Dated this 12TH day of JANUARY, 1998.


Mark E. Johnson, LS

603843



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NO 415605

Pierre, January 16, 19 98

RECEIVED OF Todd Thiesee, 28246 488th Ave., Tripp, SD 57346

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

Fee for Application for Permit No. <u>6038-3</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

Jon Hatch (P)

Eisenbraun and Associates

Professional Engineers • Licensed Land Surveyors

January 14, 1998

Mr. Eric Gronlund
Water Rights Program, DENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



REF: Miner Prairie, Miner County, South Dakota
EA Project #98002D01

Dear Mr. Gronlund:

You will find attached two (2) copies of Form 2 and 2A for a Water Rights Permit application for Todd Thiesse. Also included is his \$150.00 check for the application fee. Mr. Thiesse is requesting a Water Rights Permit for his proposed agricultural livestock production project. The project is in the SW1/4 of Section 8, T97N, R58W, Hutchinson County, South Dakota.

Your timely processing of this application would be greatly appreciated by Mr. Thiesse. If you have any questions or need additional data, contact John Childs or myself. Thank you.

Sincerely,
Eisenbraun & Associates, Inc.

Todd Van Maanen, P.E.,
Project Manager

Enclosures: 2

CC: Todd Thiesse

PAYMENT REQUEST FORM

PAYEE: Todd Thiesse
28246 418th Ave.
Tripp, SD 57346

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 H. Hattel

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.



February 10, 1998

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Todd Thiesse
28246 418th Avenue
Tripp, SD 57346

Dear Mr. Thiesse:

Enclosed is a copy of the report and recommendation prepared for Water Permit Application No. 6038-3.

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 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

REPORT ON WATER PERMIT APPLICATION NO. 6038-3
for Todd Thiesse
January 28, 1998

Application No. 6038-3 proposes to appropriate 0.07 cfs (30 gpm) from one well approximately 600 feet deep located in the NW 1/4 SW 1/4 of Section 8, T97N-R59W in Hutchinson County. The water is for commercial use in a livestock confinement facility.

AQUIFER - DAKOTA FORMATION (DKOT)

The Dakota Formation consists of interbedded shale, silt, sand and sandstone which is under confined or artesian conditions at this site (Schoon, 1971). The Dakota Formation is about 100 to 200 feet thick in this area (Lindgren, 1990). The aquifer underlies 684 square miles and contains an estimated 2.298 million acre feet of recoverable water in storage in Hutchinson County (Hedges, 1982). Some of the wells completed into the Dakota Formation do free flow at the land surface in this area. The direction of ground water flow is from west to east across Hutchinson County (Lindgren, 1990). The Dakota Formation is a tremendously large aquifer extending into Turner and Yankton Counties to the east, Bon Homme County to the south, Charles Mix and Douglas Counties to the west and Davison County to the north.

No test well information was included with this application, however, there is sufficient information in the geologic reports and existing data files to evaluate water availability for this application.

The Water Rights Program does monitor an observation well completed into the Dakota Formation which is located about 14 miles southeast of this application. Water levels for this well have not fluctuated much since monitoring began in 1980. A hydrograph for this well, HT-80B, is included with this report. The water level record indicates that the aquifer is capable of sustaining additional withdrawals. (Water Rights, 1998).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing water permits/rights in this area. Interference is not a concern. The Dakota Formation is a source for domestic water in this area. Many of the domestic wells will free flow at the land surface. A domestic well located about one mile north of this application reports a shut-in pressure of 15 psi with a flow of 10 to 50 gpm.

CONCLUSIONS

1. Water is available from the Dakota Formation.
2. The aquifer is confined and under artesian conditions. In fact, a well at this site will probably free flow at the land surface. The well must be valved and controlled to prevent the waste of water.
3. Interference is not expected to be a concern. Even though drawdown will result from use of this well, this will not effect water availability from the aquifer. It may be necessary to install a pump to maintain the needed water supply.
4. The well authorized by this application must be completed in accordance with SD Well Construction Standards. This means grouting the casing from the top of the Dakota Formation to the land surface.
5. Plans and Specifications for this facility must be submitted to and approved by the SD DENR, Division of Environmental Services.
6. The applicant should consider the need for a backup water supply. A livestock confinement facility must have a contingency plan for water should there be well or pump problems.



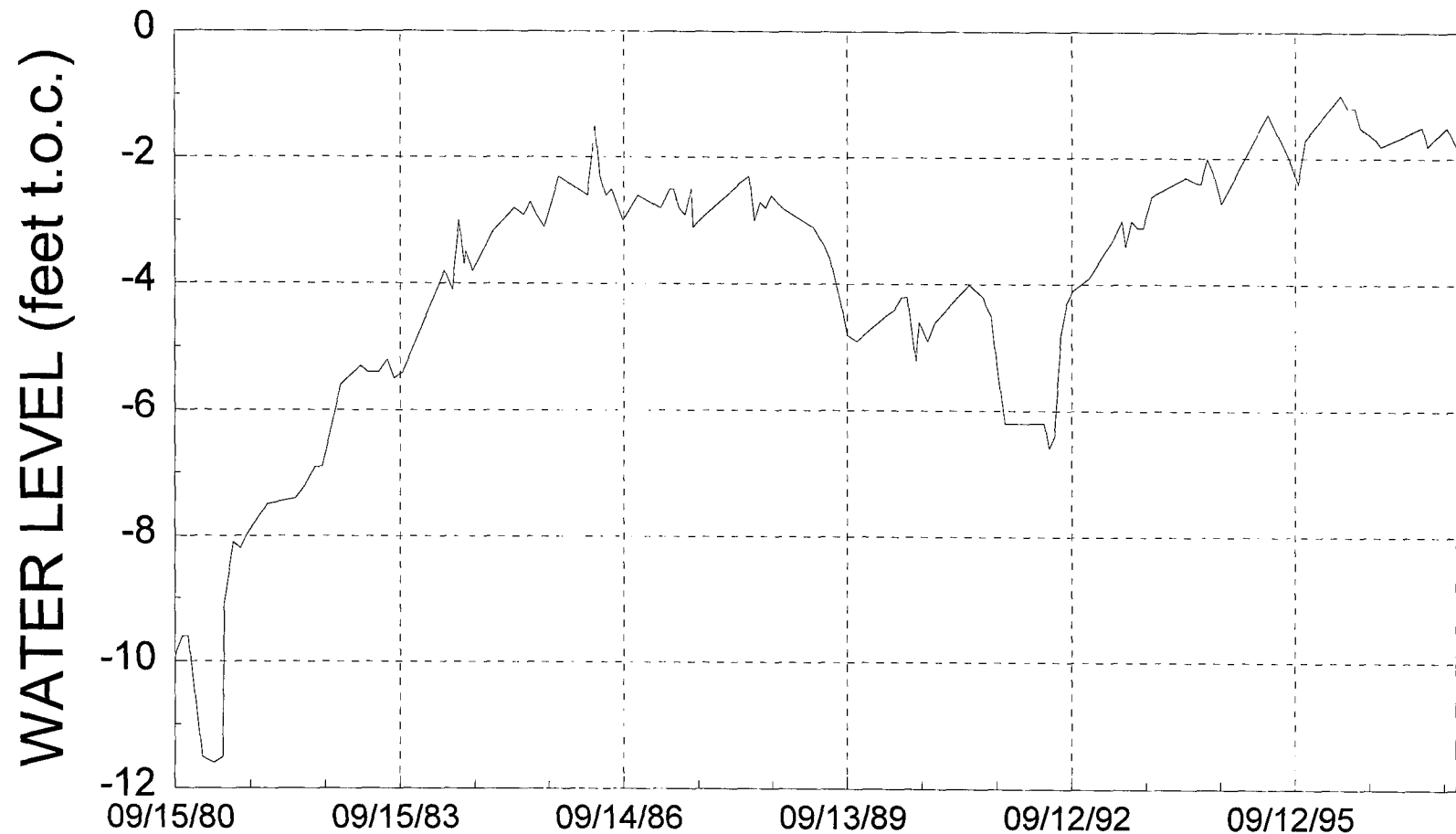
James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., etal, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Lindgren R.J., D.S. Hansen, 1990, Water Resources of Hutchinson and Turner Counties, South Dakota, USGS WRI 90-4093, USGS, Huron, SD, 57350.
- Schoon, R.A., 1971, Geology and Hydrology of the Dakota Formation in South Dakota, Report of Investigations No. 104, SD DENR, SDGS, Vermillion, SD, 57069.
- Water Rights, 1998, Unpublished Observation Well Records for Hutchinson County, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS OBSERVATION WELL

HT-80B



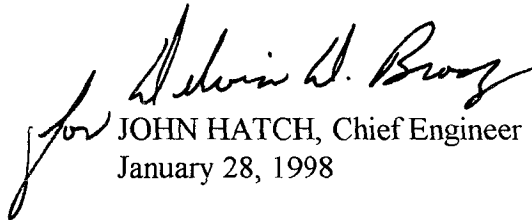
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6038-3, Todd Thiesse

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. 6038-3, Todd Thiesse, 28246 418th Ave., Tripp, SD 57346..

The Chief Engineer is recommending APPROVAL of Application No. 6038-3 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. 6038-3 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. 6038-3 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) from the producing formation to the surface pursuant to Section 74:02:04:28.
4. The well approved under this Permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used (directly or for storage purposes). If this well is abandoned or the Permit canceled, the well must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.
5. Permit No. 6038-3 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

NOTE: Equipping the well with a pressure gauge and semi-annually recording of pressure readings is encouraged. Monitoring and recording pressure fluctuations is beneficial in determining changing conditions in the aquifer and detecting problems with the well.



**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.**

January 22, 1998

Todd Thiesse
28246 418th Ave.
Tripp, SD 57346

Dear Mr. Thiesse:

Water Permit Application No. 6038-3 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 Parkston Advance printed at Parkston, SD (Ph # (605) 928-3111). For your information, a copy of the notice of hearing 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

January 22, 1998

The Parkston Advance
Box J
Parkston, SD 57366

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 6038-3 to be published twice. Please publish the first notice on January 28, 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 Todd Thiesse, 28246 418th Ave., Tripp, SD 57346 (Ph # (605) 583-4228).

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 28, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6038-3 to Appropriate Water

Notice is given that Todd Thiesse, 28246 418th Ave, Tripp, SD 57346 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 600 feet deep located in the NW 1/4 SW 1/4 Section 8-T97N-R59W. 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. 6038-3 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, Joe Foss Building, 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)
) SS
County of Hutchinson)

I, Scott E. Ehler

certify that the attached printed Notice was taken

from the Parkston Advance

printed and published in Parkston

County of Hutchinson and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

January 28, 1998

February 4, 1998

Cost of Printing \$52.77


(Signature)

Publisher
(Title)

February 4, 1998
(Date Signed)

NOTICE OF APPLICATION NO. 6038-3

TO APPROPRIATE WATER

Notice is given that Todd Thiesse, 18246 418th Ave., Tripp, SD 57376, 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 500 feet deep located in the NW 1/4 SW 1/4 Section 8, T97N, R59W. 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. 6038-3 because 1.) inappropriated 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, Joe Foss Building, 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. 4-5c



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 10 1998

Todd Thiesse
28246 418th Ave.
Tripp, SD 57346

Dear Mr. Thiesse:

Enclosed is Water Permit No. 6038-3 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.



April 14, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Edwin E. Ziegler
P.O. Box 117
Kaylor, SD 57354-0117

Dear Mr. Ziegler:

Thank you for your recent letter regarding the proposed CRP hog confinement unit in Hutchinson County. I will try to answer your questions and explain our involvement with this project thus far.

CRP Swine Facility has submitted two separate applications to the department. When we process these applications, we have to follow certain procedures established in law to provide notice to the general public. I will briefly describe the process we followed with each application.

The first application was for a water permit to appropriate 30 gallons per minute from the Dakota Formation. State law requires that a notice be published for two successive weeks in one official newspaper in the county where water will be diverted or used. The second publication has to be at least 20 days prior to a scheduled hearing. When we provide notice of a water permit application, we pick one of the legal newspapers in the county. If there is more than one official legal newspaper, we typically choose a newspaper with the largest circulation that is nearest to the proposed facility. That is why we chose the *Parkston Advance*. The notice for the CRP Swine Facility was published in the *Parkston Advance* on January 28 and February 4, 1998 (see enclosed Affidavits of Publication).

The department did not receive any comments on this application. A hearing was held on February 25 before the Water Management Board and the board issued the permit with several conditions. I have enclosed a copy of the water right listing the conditions that CRP Swine Facility must meet.

The second application was for coverage under the General Water Pollution Control Permit for Concentrated Swine Feeding Operations. This general permit contains the design, construction, and operational requirements for a swine feeding operation. We received the application on January 6, 1998. The general permit requires that we publish notice in a newspaper of general circulation in the locality of the feeding operation. The notice must appear in the newspaper at least 30 days prior to the department approving the application. The notice appeared in the *Tripp Star-Ledger* on January 21, 1998 (see enclosed Affidavit of Publication). The department reviewed the application, determined it to be complete and met all state requirements, and

approved the application on March 12, 1998. This approval allows CRP Swine Facility to construct the manure management system provided it is constructed following the conditions of our approval. I have enclosed a copy of the department's approval letter.

I want to assure you that we have not tried to be sneaky about handling the applications from CRP Swine Facility. We have made attempts to notify the local citizenry of this project by providing notice in local newspapers on three different occasions. We try to give as many people notice as possible and make the department staff and applications available to those who may be interested in these projects.

The other two concerns you describe in your letter are the potential for excess drainage from this proposed operation and the siting of the operation. The Legislature has given local governments the authority to address both drainage and planning and zoning issues. The Hutchinson County Commission has the authority to address any drainage problems. I would encourage you to take those concerns regarding the drainage to your county commissioners.

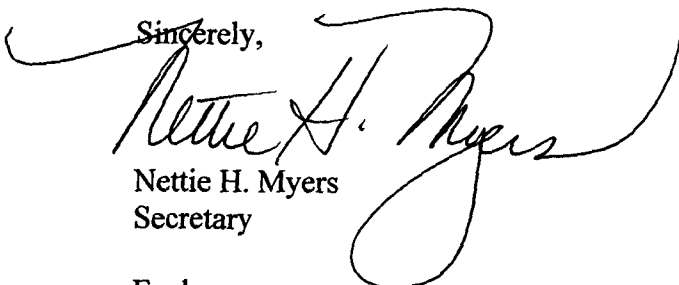
As for the siting issue, the Hutchinson County Commission also has the authority to make land use decisions. The decision to give local governments this authority is based on the principle that the government closest to the people most closely reflects the desires of the people. I have been told that Hutchinson County does not have any planning and zoning requirements. That is unfortunate because local zoning is the process that allows the citizens of a county to decide the appropriate locations for livestock production facilities, as well as other land uses. To ensure the county develops adequate zoning regulations, you should work through the Hutchinson County Commission.

At this time, I cannot rescind either the water permit or the approval of the manure management system. CRP Swine Facility has submitted all the proper applications and met all the state requirements. Therefore, I have no basis to rescind the applications.

I only had an address for you. I am enclosing copies of this letter and ask that you please provide a copy to Marlene and Don Konrad and Gary and Lori Suess. If you have any questions about the state's involvement with this project, please feel free to contact us. Eric Gronlund (605-773-3352) is the contact on the water permit application and Heath Mathis (605-773-3351) can answer questions regarding the general permit application.

I am sorry I cannot be of more assistance to you. Again, I would encourage you to work with the Hutchinson County Commission to address your drainage and siting concerns.

Sincerely,



Nettie H. Myers
Secretary

Enclosures

Hagen, Wilka & Archer, P.C.

A Professional Corporation
ATTORNEYS AND COUNSELORS

JOEL T. HAGEN
THOMAS K. WILKA*
JOHN F. ARCHER
STEVEN C. HEY**

SUITE 418, 100 SOUTH PHILLIPS
P.O. BOX 964
SIOUX FALLS, SOUTH DAKOTA 57101-0964
(605) 334-0005

FAX: (605) 334-4814

E-MAIL: jth@iw.net

* Also admitted in District of Columbia
** Also admitted in Minnesota

February 15, 2000



Chief Engineer
Water Rights Program, DENR
523 East Capitol
Pierre, SD 57501-3181

Re: Notice of Transfer of Ownership
Water Permit/Right No.: 6038-3

Dear Sir or Madam:

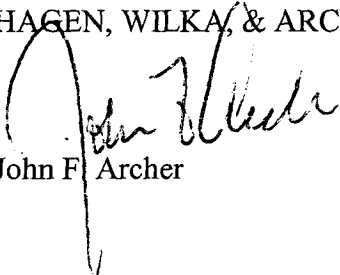
Pursuant to the request of Todd Van Maanen, my client's engineer, I have completed a Notice of Transfer of Ownership of the Water Permit/Right No. 6038-3 from Todd Thiesse to Choice Pork II, L.L.P., c/o Donald A. Dunham, Jr.

Enclosed please find the executed Notice of Transfer of Ownership, together with the filing fee in the amount of \$2.50 as required under SDCL 46-2-13.

If you have any questions with regard to this document, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,

HAGEN, WILKA, & ARCHER, P.C.


John F. Archer

JFA/lm
Enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. _____

Date: _____



I/We request that Water Permit/Right No. 6038-3

formerly owned by: Todd Thiesse, 28246 418th Avenue, Tripp, SD 57346

be transferred to: (name & address) Choice Pork II LLP, c/o Donald A. Dunham, Jr., Suite 202 Shrivvers Square,

230 S. Phillips, Sioux Falls, SD 57104-6041

Telephone No. 1-605-339-9400

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

Tracts A and B, lying in the SW ¼ of Section 8, Township 97 North, Range 59 West 5th P.M., in Hutchinson County, South Dakota.

I understand that the validity of Water Permit/Right No. 6038-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

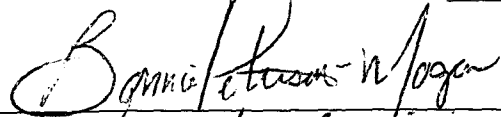
A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

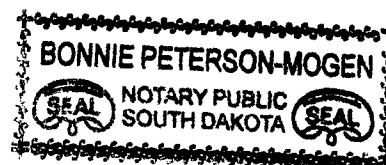
STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF MINNEHAHA)

I, Donald A. Dunham, Jr., Managing Partner of Choice Pork II, L.L.P., being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.


(Signed) _____

Subscribed and sworn to before me this 10th day of February, 2000.


(Notary Public) My Commission Expires: 10-19-2000



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

Nº 416389

Pierre, _____ February 18, 2000

RECEIVED OF Hagen, Wilka, & Archer, P.C. (Chadce Pork II LLP), P.O. Box 964, Sioux Falls, SD
the following amount in fees for services rendered as provided for by law: 57101-0964

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

Fee for Application for Permit No. _____ to Appropriate Water, for Future
Use _____

Fee to retain Future Use Permit No. _____ after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water
License No. _____

Fee for Filing Transfer Form Water Permit No. 6038-3

2 50

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

By

Harland Erbe
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 23, 2000

6038-3

John F Archer
HAGEN, WILKA & ARCHER, PC
PO Box 964
Sioux Falls, SD 57101-0964

Dear Mr. Archer:

Thank you for following up on the transfer for Water Permit No. 6038-3 formerly held by Todd Thiesse. The transfer of ownership has been completed and the permit is now listed in the name of **Choice Pork II, L.L.P., %Donald A Dunham, Jr.**

Enclosed is your Receipt No. 416389 in the amount of \$2.50 which you paid for filing the transfer.

If I can answer any questions for you, please get in touch with me.

Sincerely,

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

enclosure

c: Donald A Dunham, Jr, Choice Pork II, LLP

Eisenbraun and Associates

Professional Engineers • Licensed Land Surveyors



May 22, 2000

Mr. Jim Goodman
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

RE: Choice Pork II, LLP, Hutchinson County, South Dakota
E/A Project No. 97050A.D01

Dear Jim:

Choice Pork II, LLP, is currently constructing their swine breeding operation in Hutchinson County. They had previously obtained a permit to appropriate water (Permit No. 6038-3). The permit allowed the construction of one (1) well with a maximum withdrawal rate of thirty (30) gallons per minute. As planning for the project has progressed, the need to provide a backup well to assure a continual flow of water to the livestock was determined. The amended permit does not ask for an increase in the withdrawal rate.

The permit is submitted for your review and approval. If you need additional information or clarification of what has been presented, please contact me. Your cooperation in this matter is greatly appreciated. Thank you.

Sincerely,

EISENBRAUN & ASSOCIATES, INC.

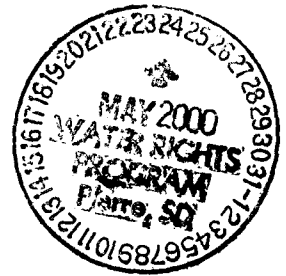
Todd Van Maanen, PE
Vice President

TVM/njh

Enclosures

cc: Choice Pork II, LLP (c/o Bonnie Mogen)

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	(office use only) No. _____ Hydrologic Unit _____
	Basin _____
	Newspaper _____

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>Livestock Confinement Facility</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. 6038.3

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) The Owner desires to construct a backup well for operational continuity and not increase the withdrawal rate of 30 gpm.

- Name of Applicant Choice Pork II, LLP, c/o Don Dunham, Jr. Phone 605-339-9400
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address Suite 202, Shrivvers Square, 230 S. Phillips, State SD 57104-6041
(Street, RR, or Box and City) Sioux Falls (Zip Code)
- Amount of water claimed _____ *CFS or 30 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Dakota Aquifer
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
NW 1/4, SW 1/4, Section 8, T97N, R59W
County Hutchinson
- County or counties where water will be used Hutchinson
- Annual period during which water is to be used Year-round, peak June - September
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The facility is a swine breeding operation. The SD DENR has approved the AWMS application for the site and has an application on file. Construction is scheduled to be completed by mid-summer 2000. The first barn is scheduled for population by June 15, 2000.

STATE OF SOUTH DAKOTA)

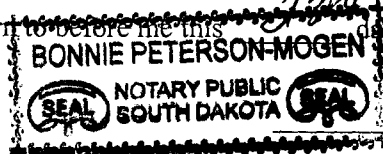
County of Minnichaha SS

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, Donald R. Dunham, Jr., 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.

Applicant's signature Donald R. Dunham, Jr.

Subscribed and sworn to before me this 23rd day of May 2000



Notary Public signature Bonnie Peterson-Mogen

Supplemental Information

(type or print in ink)



1. Well Information - Proposed Construction

- a) Drill Hole Diameter 5" Depth 580
- b) Casing Type PVC Diameter 3" Thickness _____
- c) Screen Type 0.025 slot Diameter 3" Thickness _____
- d) Gravel Pack no Length of Gravel Pack N/A
- e) Depth to Top of Water Bearing Material 580 feet
- f) Depth to Water (ground surface to water level) 25 feet to flow
- g) Distance to nearest existing domestic well:
On applicants property - On property owned by others Glen Ziegler, 0.5 mile

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) Type II Holding Pond, Septic Tank and drain field for office
- b) System Capacity (gallons) 8.0 million Year Constructed 2000
- c) Connected to the City of N/A Sanitary System N/A

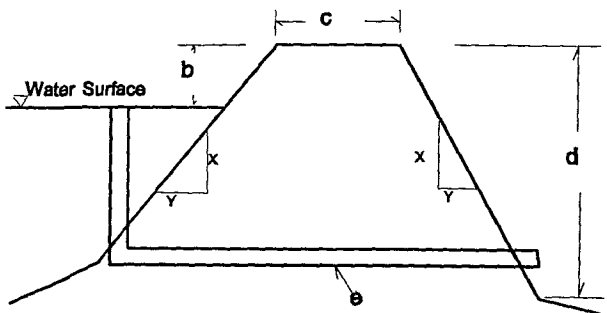
3. Dugout Information

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

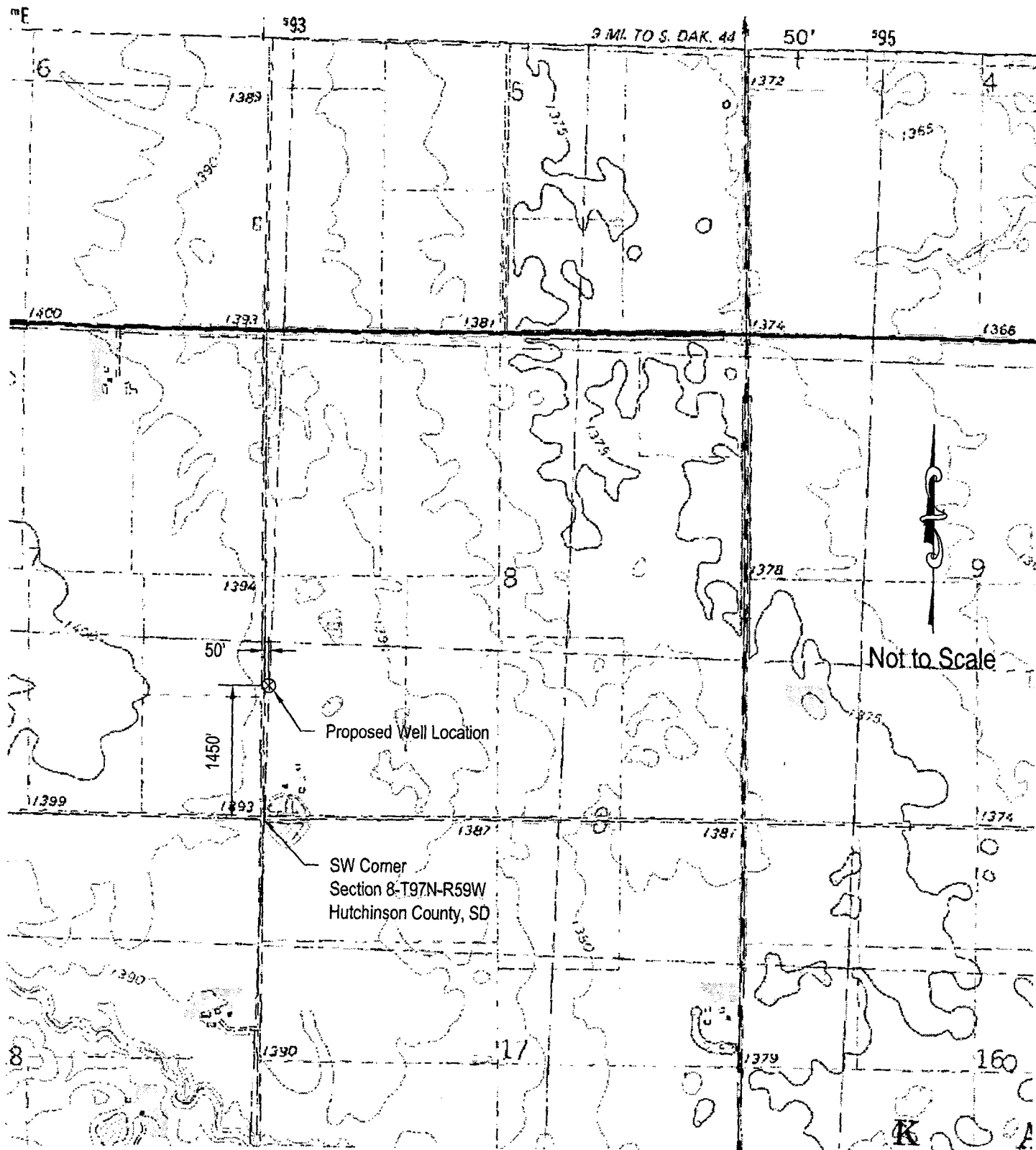
4. Water Storage Dams

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:

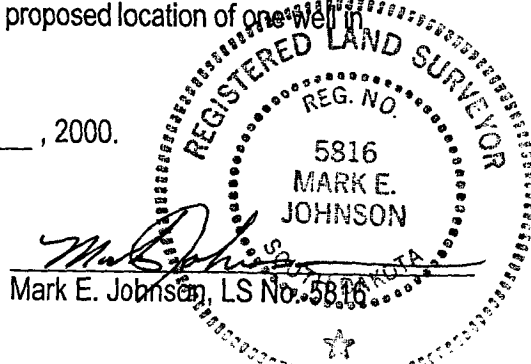


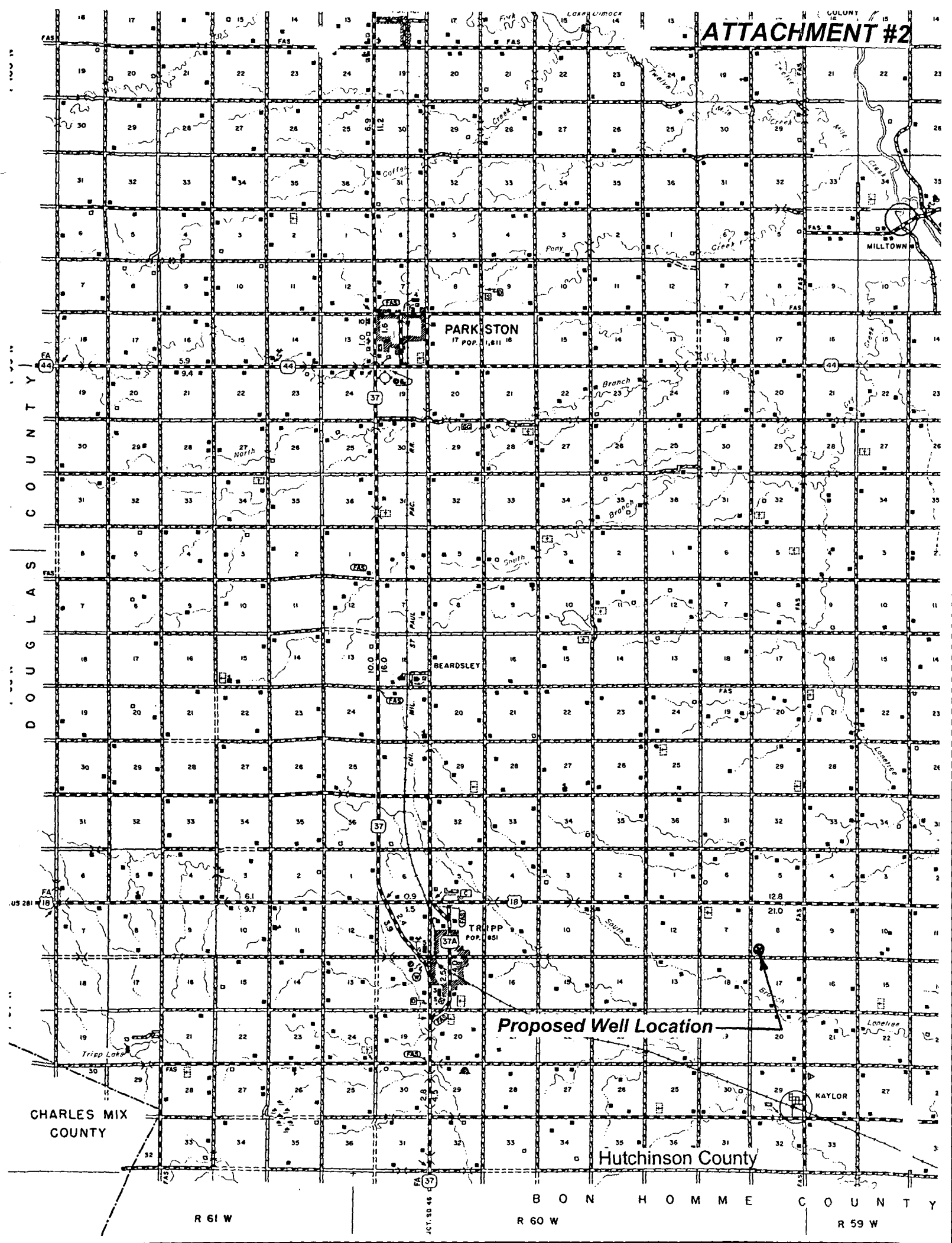
- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage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



I, Mark E. Johnson, a Registered Land Surveyor in the State of South Dakota, so hereby certify that at the request of Todd Thiesse did prepare this map depicting the proposed location of one well in Hutchinson County, South Dakota.

Dated this 22nd day of May, 2000.





PARK STON

17 POP. 1,611

BEARDSLEY

TRIPP

POP. 851

KAYLOR

Proposed Well Location

CHARLES MIX
COUNTY

Hutchinson County

BON HOMME COUNTY

R 61 W

R 60 W

R 59 W

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM

June 15, 2000

RE: Request for an additional point of diversion for Water Permit No. 6038-3, Choice Pork II, LLP

Choice Pork II, LLP submitted an application requesting authorization for an additional point of diversion for Water Permit No. 6038-3. SDCL 46-5-13.1 provides that a point of diversion may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Water Permit No. 6038-3 appropriates 0.07 cubic feet of water per second (30 gallons per minute) from one well approximately 600 feet deep (Dakota Formation) located in the NW ¼ SW ¼ Section 8-T97N-R59W. The water is to supply a livestock confinement facility. The additional point of diversion will also be located in the NW ¼ SW ¼ Section 8-T97N-R59W approximately 100 feet north of the existing well. Todd Van Maanen, engineer for Choice Pork II, LLP states this request is for a backup well to assure continual flow of water to the livestock. The proposed well is to be constructed to an approximate depth of 580 feet into the Dakota Formation.

The Water Right Program does monitor an observation well completed into the Dakota Formation which is located about 14 miles southeast of the proposed additional well. Water levels for this well have not fluctuated much since monitoring began in 1980.

There are no other existing water permit/rights in this area based on Water Rights Program records. The Dakota Formation is a source for domestic water in this area. Many of the domestic wells will free flow at the land surface. Interference has not been a concern in the past and the additional diversion point should not affect existing conditions. This request is for no additional appropriation of water to Permit No. 6038-3. The proposed well will serve as a backup well for the facility.



Karen Schlaak
Water Rights Program

The Chief Engineer makes a finding that this additional point of diversion does not increase the potential for interference with existing diversions. In making the finding "does not increase the potential for interference" is interpreted to mean potential for adverse interference. The holder of Water Permit No. 6038-3 may construct an additional point of diversion without requiring an application or publication of a notice of hearing pursuant to SDCL 46-2A-4 for an additional diversion point. This approval does not authorize an increase in the diversion rate authorized by Water Permit No. 6038-3.



Garland Erbele, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 27, 2000

Todd Van Maanen, PE
Eisenbraun and Associates
215 Walnut St
Yankton SD 57078

RE: Choice Pork II, LLP

Dear Mr. Van Maanen:

I am writing in regard to your request on behalf of Choice Pork II, LLP for an additional diversion point under Water Permit No. 6038-3. This water permit appropriates 0.07 cubic feet of water per second (30 gpm) from one well (Dakota Formation) 600 feet deep located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 8-T97N-R59W.

Upon review of the request and pursuant to SDCL 46-5-13.1, Choice Pork II, LLP is authorized to construct an additional diversion point into the Dakota Formation without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. A copy of the report prepared on your request is enclosed.

It is our understanding that the additional well will be used as a backup water source. A new water right permit will be necessary if more than 30 gallons per minute will be pumped.

If you have any questions, please feel free to contact Eric Gronlund at (605) 773-3352.

Sincerely,

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

enclosure

c: Choice Pork II, LLP

SOUTH DAKOTA WATER WELL COMPLETION REPORT

6038-3

07-92

Location NW 1/4 SW 1/4 Sec 8 Twp 97N Rg 59W

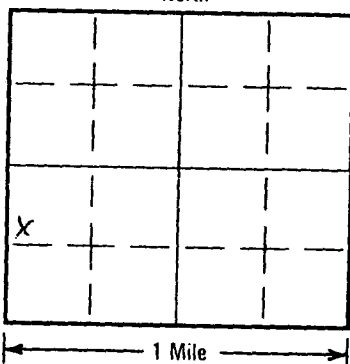
County

Hutchinson

Please mark well location with an "X"

W

E



Well Completion Date

7-14-01

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 350' ft. from Lagoon (identify source).

PROPOSED USE:

- ☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Rotary

CASING DATA:

- ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>50R17</u> LB/FT	<u>5</u> IN	<u>0</u> FT	<u>460</u> FT	<u>8 3/4</u> IN
<u>3680</u> LB/FT	<u>5</u> IN	<u>460</u> FT	<u>620</u> FT	<u>8 7/8</u> IN
<u>5</u> LB/FT	<u>5</u> IN	<u>620</u> FT	<u>640</u> FT	<u>8 3/4</u> IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Portland</u>	<u>56</u>	<u>9.4</u> lb./gal	<u>610</u> ft.	<u>50</u> ft.
<u>Portland</u>	<u>28</u>	<u>15.4</u> lb./gal	<u>0</u> ft.	<u>50</u> ft.

Describe grouting procedure pressure thru
annulus

SCREEN: ☐ Perforated pipe ☒ Manufactured

Diameter 5 IN Length 20 FEET

Material Stainless Steel

Slot Size .025 Set From 620 Feet to 640 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

YES, How: Chlorine

NO, Why Not? _____

Laboratory sent to for water quality analysis

State

Well Owner: _____

Business Name: Chorice Park II

Address: 230 S. Phillips Ave

Sioux Falls SD 57104

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Clay</u>	<u>0</u>	<u>76</u>
<u>Niobrara</u>	<u>76</u>	<u>214</u>
<u>Carlisle</u>	<u>214</u>	
<u>Codell</u>	<u>228</u>	<u>251</u>
<u>Granhorn</u>	<u>386</u>	<u>403</u>
<u>Graneros</u>	<u>403</u>	<u>506</u>
<u>Dakota</u>	<u>506</u>	<u>640</u>

STATIC WATER LEVEL

_____ Feet

If flowing: closed in pressure 20 PSI

GPM flow 60 through 3 inch pipe

Controlled by ☒ Valve ☒ Reducers ☐ Other _____

Reduced Flowrate 30 GPM

Can well be completely shut in? Yes

WELL TEST DATA:

☐ Pumped

Describe: Developed

☐ Bailed

by air

☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 213

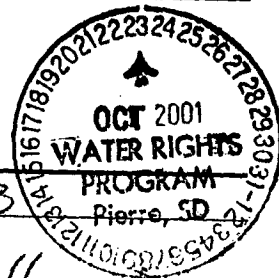
And this report is true and accurate.

Drilling firm Hatchmeyer Drilling Inc

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: 10-14-01





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 18, 2005

6038-3

Donald A Dunham Jr
Choice Pork II LLPS
Suite 202 Shrivvers Square
230 S Phillips
Sioux Falls SD 57104-6041

Dear Mr. Dunham:

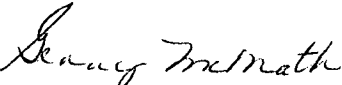
On October 11, 2005, the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 6038-3, was completed by Ron Duvall, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact me.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date DECEMBER 5, 20 05

RECEIVED OF Schwartz Farms Inc., 32296 190th Street, Sleepy Eye MN 56085

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>6038-3</u>		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50.00

No.

000037

By

Darlene Ebele
Chief Engineer *gm*

Permit No. 6038-3
James River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

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

I have this day, **October 11, 2005**, made a thorough examination of the water use system constructed by **Choice Pork II LLP, c/o Donald A. Dunham, Jr. of Suite 202 Shrivvers Square, 230 S. Phillips, Sioux Falls, SD 57104-6041** holder of Permit No. **6038-3**, bearing the priority of **January 16, 1998** authorizing the diversion of **0.07** cu. ft. per second of the waters of **ground water (Dakota Formation)** for **commercial** purposes, in **Hutchinson** County.

Inspection contact & relationship to permit holder, if applicable: **Todd Thiesse, Operator**

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: **Grosz & Hutmacher**
- 2) No. of Wells **2**
- 3) Depth(s) **538 & 640** feet
- 4) Well log is available **Y**
- 5) **Backup well has silt problems**

Casing:

- 1) Diameter **both 5** inches
- 2) Length **520 & 620** feet
- 3) Type **Plastic**

Screen:

- 1) Type **Plastic & Stainless**
- 2) Length **18 and 20** feet
- 3) Static water level **flowing** feet

Motor/Pump:

- 1) Make **unknown submersible units**
- 2) Capacity **30** GPM

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

Water is used to supply 4 buildings as part of a swine confinement operation.

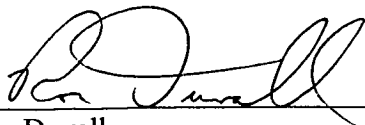
C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by **Y**
- 2) Exceptions to compliance are: **none**

The system is in **good** condition with the point(s) of diversion located as follows: **North Well: 1,675 feet N and 285 feet East (Latitude 43.23135, Longitude -97.85432); South Well: 1,600 feet N and 310 feet E (Latitude 43.23114, Longitude -97.85423); both from the SW corner section 8-T97N-R59W (NW¼ SW¼).** The works are capable of diverting and conveying to the place of use **0.07** cu. ft. per second of water which is to be used for **commercial uses in a swine confinement operation**. Water has been put to beneficial use to the maximum extent and the license should be issued for **0.07** cfs.

All structures, wells and lands on map **Y**

Comments or other permit(s) associated with the project: **Second well added as backup to initial permitted well.**



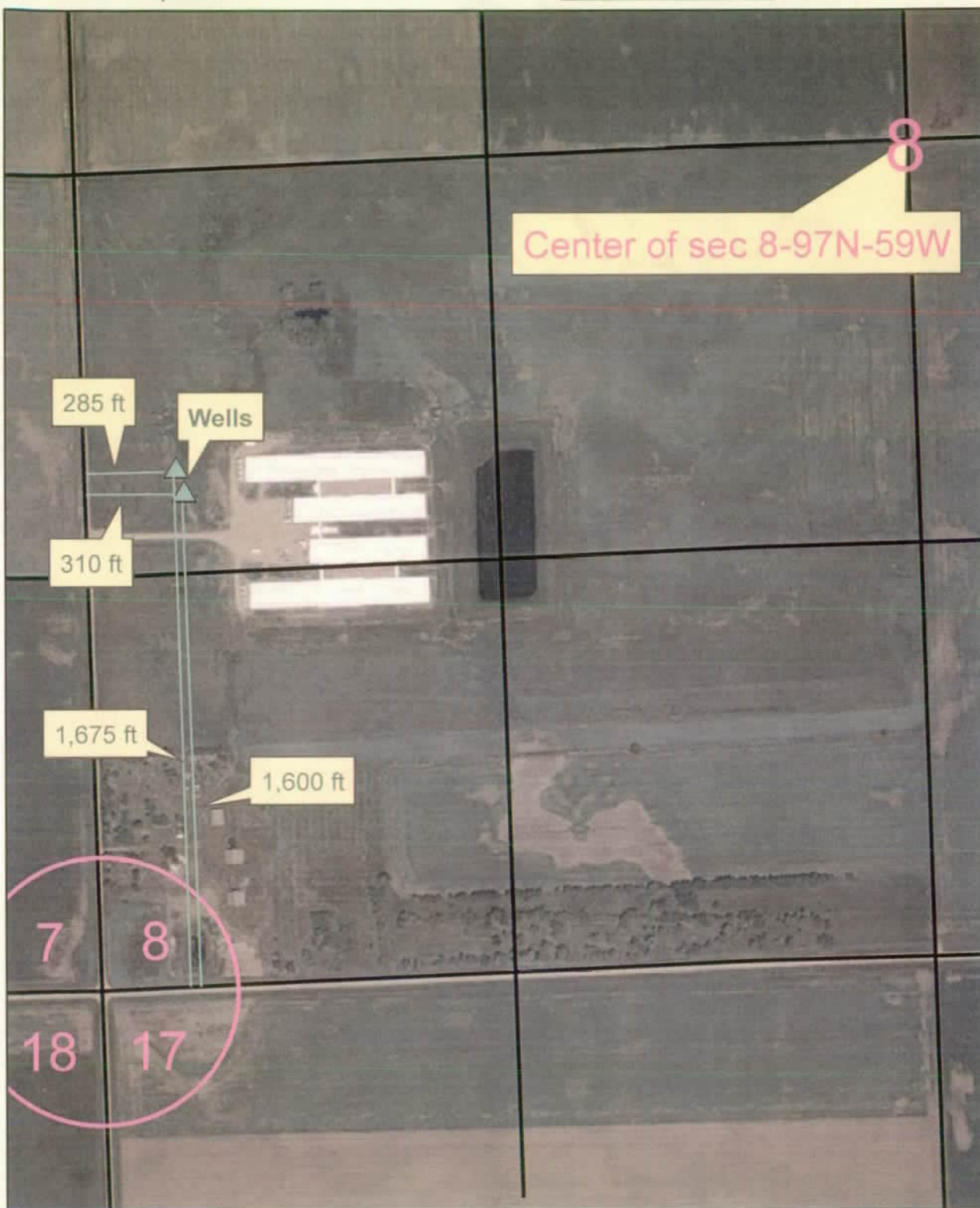
Ron Duvall
 Natural Resources Engineer
 DENR, Water Rights Program

Date report completed: **November 17, 2005**

Scale: 1 inch equals 478 feet

680

Feet



South Dakota
Department of Environment
& Natural Resources
Water Rights

Completed by:

Ron Duvall, Natural Resources Engineer
Water Rights Program

Diversion point(s) located using GeoExplorer II GPS

Date: Nov 17, 2005

Water Right No. 6038-3

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6038-3

(1) Todd Theisse, Tripp SD made Application No. 6038-3, January 16, 1998 for a water permit to divert 0.07 cubic feet of water per second from groundwater (one well), Hutchinson County, South Dakota for commercial use purposes. Permit No. 6038-3, with a priority date of January 16, 1998 was approved February 25, 1998 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before February 25, 2003 and for the application to beneficial use of water on or before February 25, 2007.

On February 17, 2000, Water Permit No. 6038-3 was transferred to Choice Pork II LLP, c/o Donald A Dunham Jr., Suite 202 Shrivvers Square, 230 S Phillips, Sioux Falls SD 57104-6041.

On June 27, 2000, pursuant to SDCL 46-5-13.1, the Chief Engineer made a finding that an additional diversion point did not increase the potential for interference with existing water rights. The second well is a backup water source.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 6038-3 is issued a license, bearing a priority date of January 16, 1998 to appropriate 0.07 cubic feet of water per second from groundwater (two wells) for commercial use in a swine confinement operation.

The diversion points are located: North well – 1,675 feet north and 285 feet east; South Well – 1,600 feet north and 310 feet east; both from the southwest corner of Section 8-T97N-R59W (NW ¼ SW ¼).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6038-3 including the following now applicable qualifications:

- Permit No. 6038-3 is subject to compliance with requirements of the General Water Pollution Control Permit for swine feeding operations.
- The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The wells authorized by Permit No. 6038-3 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) from the producing formation to the surface pursuant to Section 74:02:04:28.
- The wells approved under this Permit shall be valved and the flow reduced to the amount needed or to a minimum when not being used (directly or for storage purposes). If the wells are abandoned or the Permit cancelled, the wells must be plugged in accordance with Water Management Board Rules, Chapter 74:02:04.

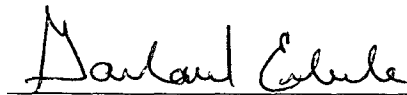
(continued)

Water License No. 6038-3

Choice Pork II LLP

Page 2

- Permit No. 6038-3 is subject to compliance with all existing and applicable Water Management Board Rules including:
 - 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



Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

JAN 26 2008

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAN 27 2008

6038-3

Choice Pork II LLP
% Donald A Dunham Jr
Suite 202 Shrivvers Square
230 S Phillips
Sioux Falls SD 57104-6041

Dear Sir:

Enclosed is Water License No. 6038-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 002037 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 13, 2016

6038-3

Joe Schwartz
Schwartz Farms Inc.
32296 190th St
Sleepy Eye MN 56085

Dear Mr. Schwartz:

I am writing in regard to Water Right No. 6038-3 which authorizes diversion of ground water for commercial purposes in a swine confinement operation. The water right is currently listed in the name of Choice Pork II LLP. Records on file with our Surface Water Program within DENR indicate you own the facility.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

I have included a copy of the water right for your records. If you have any questions or if the water right should not be transferred, please let me know.

Sincerely,

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

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

McMath, Genny

From: Wegleitner, Paul
Sent: Wednesday, February 25, 2015 2:54 PM
To: Duvall, Ron; Woodmansey, Kent
Cc: Goodman, Jeanne; Gronlund, Eric; McMath, Genny
Subject: RE: Water Permits/Rights flagged as Livestock Confinement Operations

Follow Up Flag: Follow up
Flag Status: Flagged

Choice Pork II Water Right Permit 6038-3

Joe Schwartz
Schwartz Farms, Inc.
32296 190th Street
Sleepy Eye, MN 56085
(507) 794-5779

Ron Walker Water Right Permit

MJ Fuller Feedyard
Jessie Fuller
30170 191st Street
Onida, SD 57564
(605) 310-4769

From: Duvall, Ron
Sent: Wednesday, February 25, 2015 2:42 PM
To: Wegleitner, Paul; Woodmansey, Kent
Cc: Goodman, Jeanne; Gronlund, Eric; McMath, Genny
Subject: RE: Water Permits/Rights flagged as Livestock Confinement Operations

Paul,

Thanks for the heads up on Dakota Layers. It is flagged as a commercial use (which it is) but we have also been trying to flag commercial uses that are livestock confinement operations with an "LOC" designation in our database because of requests such as this one. I have it so noted now so it will show up in the future. If you can provide a phone number for the operations that have changed ownership we can contact them about getting the ownership transferred on the water permit.

Thank you,

Ron
5670

From: Wegleitner, Paul
Sent: Wednesday, February 25, 2015 10:55 AM
To: Woodmansey, Kent
Cc: Duvall, Ron
Subject: RE: Water Permits/Rights flagged as Livestock Confinement Operations

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

MAY - 2 2016

WATER RIGHTS
PROGRAM

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

No. 6038-3

Date: 4-20-16

I/We request that Water Right No. 6038-3

formerly owned by: Choice Pork II LLP

be transferred to: (name & address)

Schwartz Farms, Inc. - Kaylor Site
32296 190th Street
Steep Eye, MN 56085 Telephone No. 507-294-5729

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

Diversion point locations: two wells in the NW ¼ SW ¼ Section 8, T97N, R59W

I/We understand that the validity of Water Right No. 6038-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Mark G. Miller, the new owner, certify that the above information is true and correct.
COO

Mark G. Miller COO
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/2, 20 16

RECEIVED OF Schwartz Farms Inc 32296 190th St Sleepy Eye MN 56085

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>6038-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **07840**

By Jeanne Loolman *g*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 3, 2016

6038-3

Mark G Miller
Schwartz Farms Inc.
32296 190th St
Sleepy Eye MN 56085

Dear Mr. Miller:

I am writing to acknowledge receipt of the transfer form and filing fee submitted for changing ownership on Water Right No. 6038-3.

The ownership change has been completed. Water Right No. 6038-3, formerly held by Choice Pork II LLP is now listed in the name of **"Schwartz Farms Inc – Kaylor Site"**.

Enclosed for your records is Receipt No. 07840 in the amount of \$50 which you paid for filing the ownership change. If you have any questions, please contact me.

Sincerely,

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

enclosure



6038-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 26, 2017

Mark G Miller
Schwartz Farms Inc.
32296 190th St
Sleepy Eye MN 56085

Dear Mr. Miller:

A well driller's report filed by Pullman Well Drilling shows that they recently completed a new well for Schwartz Farms located in the SW 1/4 NW 1/4 Section 8-T97N-R59W.

A review of our files indicates Water Right No. 6038-3 was licensed for 30 gallons per minute (gpm) from two wells (one was a back-up well), approximately 520 and 620 feet deep for commercial use in a swine confinement operation.

Mr. Miller, is this a replacement well or an additional well which does not increase the total appropriation of 30 gpm? If the authorized diversion rate is increased, a new water permit will need to be obtained. Once we know this information, we can determine what additional action, if any, needs to be taken to ensure the water right accurately reflects your use of water.

Please contact Eric Gronlund or me regarding the status of this well or if you have any questions.

Sincerely,

Karen Schlaak

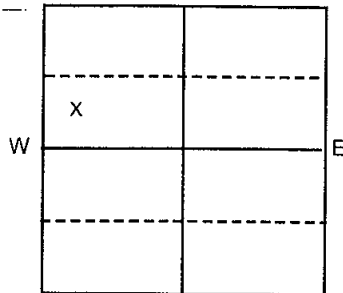
Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 NW 1/4 Sec 8 Twp 59 Rg 97County Hutchinson ☒

North

Please mark well
location with an "X"

Well Completion Date

10/17/016

1 Mile

Distance to nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)?
ft. from _____ (identify source)

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Forward Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	5 IN	0 FT	300 FT	8.75 IN
LB/FT	2 IN	300 FT	460 FT	6 IN
LB/FT	2.5 IN	460 FT	700 FT	5.88 IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
DF Grout	31	Lb/gal	0 Ft	496 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure _____

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 2.5 Inches Length 200 FeetMaterial Sch 80Slot Size 0.025 Set From 500 Feet to 700 Feet

Other information _____

WAS A PACKER OR SEAL USED?

☒ Yes ☐ NoIf so, what material? Sand

Describe packer(s) and location

496-700'

DISINFECTION:

Was well disinfected upon completion?

☐ Yes, How?☐ No, Why Not?Lab to which water
quality sample sent for analysis

Well Owner: _____

Business Name: Schwartz FarmsAddress: 41151 275th StCity, State, Zip: Parkston ☒ SD ☒ 57366

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Yellow Clay	0	20
Blue Clay w/ Rocks & S/S	20	290
Shale w/ Hard Spots	290	500
Tight to Fair Sand	500	530
Shale	530	538
Fair Sand	538	552
Shale w/ S/S	552	560
Tight to Fair Sand w/ Shale Breaks	560	660
Tight Sand w/ Hard Spots	660	700

STATIC WATER LEVEL

FEET

If flowing: closed in pressure 20 PSIGPM flow 75 through 2 Inch pipeControlled by ☒ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☒ Pumped Describe: w/ Air☐ Bailed☐ Other _____

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped 150 GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

RECEIVED

JAN 18 2017

WATER RIGHTS
PROGRAMDAKOTA 193This well was drilled under license # 440 and this
report is true and accurate.Drilling firm: Pullman Well Drilling Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: _____

Schlaak, Karen

From: Mark Miller <mmiller@schwartzfarms.net>
Sent: Tuesday, January 31, 2017 7:36 AM
To: Schlaak, Karen
Cc: Kevin Barnhart; Buhler, Ken
Subject: well drillers report

Karen

Good morning

I received your letter dated 1-26-17 regarding questions about the new well that was drilled by Pullman at our hog site located in the SW ¼ NW ¼ Section 8-T97N – R59W (water well competition report rec'd at your office on 1-18-17)

This new well replaces an existing well which had a "drilling completion date of 6-6-00" as per a well completion report dated 2-8-01 by Grosz Drilling. The aforementioned old well is to be sealed by Pullman – we have been in contact with Pullman numerous times so they are very aware the old well needs to be sealed and the proper documents filed with your office.

Kevin Barnhart of Schwartz Farms has been in communications with Mr. Ken Buhler of your office regarding this process as well.

Please let myself or Kevin know if there is any other actions you require from us at this time.

Best regards,

Mark Miller

COO

Schwartz Farms Inc.

32296 190th St.

Sleepy Eye MN 56085

Office: 507-794-5779

Mobile: 507-828-2609



Schwartz Farms