

WATER PERMIT NO. 6094-3

Name of Applicant: Dan R Christensen

Address: PO Box 235, Hurley SD 57036

Phone: 605 238-5854

Amount of Water Claimed: 0.09 cfs (40 gpm)

Total Acres: NA

Source of Water Supply: groundwater (2 wells)

Water to be used for: commercial

County: Turner

Type of Waste Disposal System:

Location: 4 miles southwest of Hurley

PRIORITY

Date Received: 8-13-1998

Fee: \$50.00

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: SW ¼ SW ¼, NW ¼ SW ¼

Sec 12-T97N-R54W

Land to be Irrigated: NA

Depth of Well: 54 feet deep

Well Driller: Marion Well Drilling

Remarks:

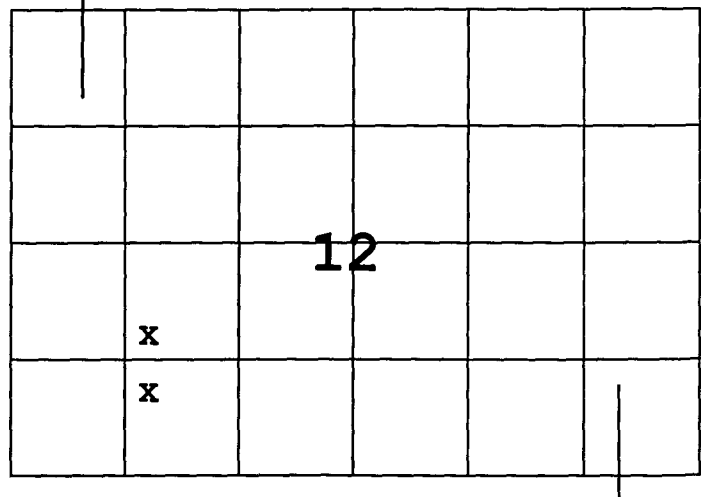
Type of Map: topo

Prepared by: David L Johnson, PE

Reviewed and the Number Assigned on: 8-13-1998

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
WATER PERMIT NO. 6094-3

Date of first receipt of application August 13, 1998.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6094-3 to Dan R Christensen, PO Box 235, Hurley SD 57036 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. 6094-3 to appropriate 0.09 cubic feet of water per second (40 gallons per minute) from two wells 54 feet deep (Turkey Ridge Creek Aquifer) located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12-T97N-R54W.
2. The water appropriated shall be used for the purpose of supplying water for 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 of approval of Permit No. 6094-3 is March 3, 1999.
5. The date from which applicant may claim right is August 13, 1998.
6. One-fifth of the construction is to be completed on or before September 3, 2001.
7. All construction is to be completed on or before March 3, 2004.
8. Water is to be put to beneficial use on or before March 3, 2008.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights
2. Permit No. 6094-3 is subject to compliance with requirements of the General Water Pollution Control Permit for concentrated swine feeding operation.
3. The wells authorized by Permit No. 6094-3 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. 6094-3

Dan R Christensen

Page 2

4. Permit No. 6094-3 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

APR 14 1999

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	(office use only)
	No. <u>6094-3</u> Hydrologic Unit <u>10170102</u>
	Basin <u>Vermillion River</u>
	Newspaper <u>Hurley Leader, E. Hurley, 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 _____

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 DAN R CHRISTENSEN Phone 605-238-5854
(check one) ☒ Owner ☐ Tenant/lessee
- Mailing Address PO BOX 235 HURLEY State SD 57036
(Street, RR. or Box) (Zip Code)
2. Amount of water claimed 0.09 *CFS or 40 **GPM (total capacity of pumps in two wells)* 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 Turkey Ridge Creek Aquifer
~~UPPER VERMILION - MISSOURI AQUIFER (?)~~ may be undifferentiated Pleistocene outwash(?)
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) SW 1/4 of SW 1/4 and
the NW 1/4 of SW 1/4, both in Section 12, T97N, R54W
Turner County South Dakota
5. County or counties where water will be used Turner County
6. Annual period during which water is to be used Year round 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. (Attach sheet if more space is needed)
The wells will supply livestock watering and process water needs for a swine confined animal feeding operation. Plans for the feeding operation and the manure management system have been submitted to the DENR Surface Water program. Two wells are proposed, one will be used as primary, the other is intended as back-up and for peak day demand (e.g. cooling water).
- 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) Test hole log attached.

STATE OF SOUTH DAKOTA)

SS

County of Turner)

I, Dan R. Christensen, 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 Dan R Christensen

Subscribed and sworn to before me this 7th day of August 19 98

Charlotte Lange
03-15-03 Notary Public

Supplemental Information

(type or print in ink)



1. Well Information - Proposed Construction

- a) Drill Hole Diameter 10 Depth 54'
- b) Casing Type PLASTIC Diameter 5" Thickness 250 #
- c) Screen Type PLASTIC Diameter 5 Thickness 250 #
- d) Gravel Pack Thickness 2 1/2" Length of Gravel Pack 5'
- e) Depth to Top of Water Bearing Material 49
- f) Depth to Water (ground surface to water level) FLOW
- g) Distance to nearest existing domestic well:
On applicants property 450' On property owned by others 6/10 MI

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ c) Year Constructed _____
- d) Connected to the City of _____ Sanitary System.

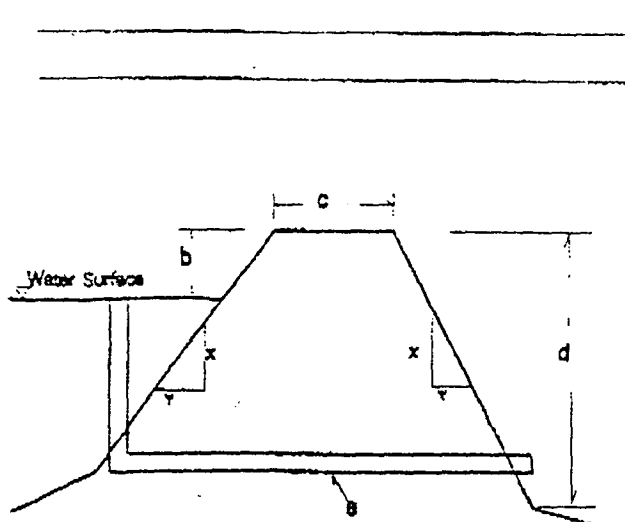
3. Dugout Information

- 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



DAKOTA ENVIRONMENTAL, INC.

Engineers...Hydrogeologists...Geologists...Remedial Specialists

"Yours for a cleaner Earth"

August 12, 1998

Eric Gronlund
Natural Resources Engineer
Department of Environment and Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181



Re: Application for Water Permit
Christensen Farms
Turner County, SD
DEC Project No. 98112

Dear Mr. Gronlund:

Transmitted herewith is an application for a permit to appropriate water from Mr. Dan R. Christensen, owner of Christensen Farms in Turner County, South Dakota. The application is to withdraw water from up to two new wells constructed into Pleistocene glacial outwash deposits that may be part of the Upper Vermillion-Missouri aquifer. The proposed well(s) would supply water livestock watering, cleaning, and other process water needs for a confined swine feeding operation. The total amount of appropriation requested is 40 GPM (0.09 CFS). The log of a test hole completed at the site is included with the application. Plans and specifications for the facility manure management system have been submitted previously to the Department of Environment and Natural Resources Surface Water Quality program.

If there are any questions relative to this application, please let me know.

Sincerely,


David L. Johnson, PE
Senior Engineer

encl.

cc: Dan R. Christensen

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 415837

Pierre, August 13, 19 98

RECEIVED OF Dan Christensen, Box 235, Hurley, SD 57036
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. 6094-3 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 _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By _____
Chief Engineer

John Hatch

TEST HOLE

DAN CHRISTENSEN
DRILLED - Aug 12- 98

Log

0-1	Top Soil
1-17	Yellow Clay
17-49	BLUE CLAY
49-54	SAND



TEST HOLE DRILLED + LOGGED
BY ELTON SCHOENWALD
MARION SD.

07-92

Well Owner: DAN CHRISTENSEN

Business Name: _____
Address: HURLEY S.D. 57036

Well Completion Date 12-51-98

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.) 100 ft. from old well (identify source).

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

LODRY

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
200 LB/FT	5 IN	0 FT	51 FT	110 IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

Grout Type	No. of Sacks	Grout Weight	From	To
Cement	16	13 lb./gal	5 ft.	47 ft.
		lb./gal	ft.	ft.

Describe grouting procedure

TREMEE LINE

Diameter 5 IN Length 4 FEET

Material PLASTIC
Slot Size 25 Set From 47 Feet to 51 Feet

Other information

if so, what material?

Describe packer(s) and location?

Was well disinfected upon completion? YES, How:

NO, Why Not?

NO, Why Not? *Because it should*

Laboratory sent to for water quality analysis

DEPTH

FORMATION

FROM

TO

CLAY	0	47
SAND & GRAV	47	51

STATIC WATER LEVEL

Flower

Feet

If flowing: closed in pressure _____ PSI

GPM flow 30 through 1 1/4 inch pipe

Controlled by ☒ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate 2 GPM

Can well be completely shut in? Yes

☐ Pumped

☐ Bailed

☒ Other

Describe: _____

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 # 375

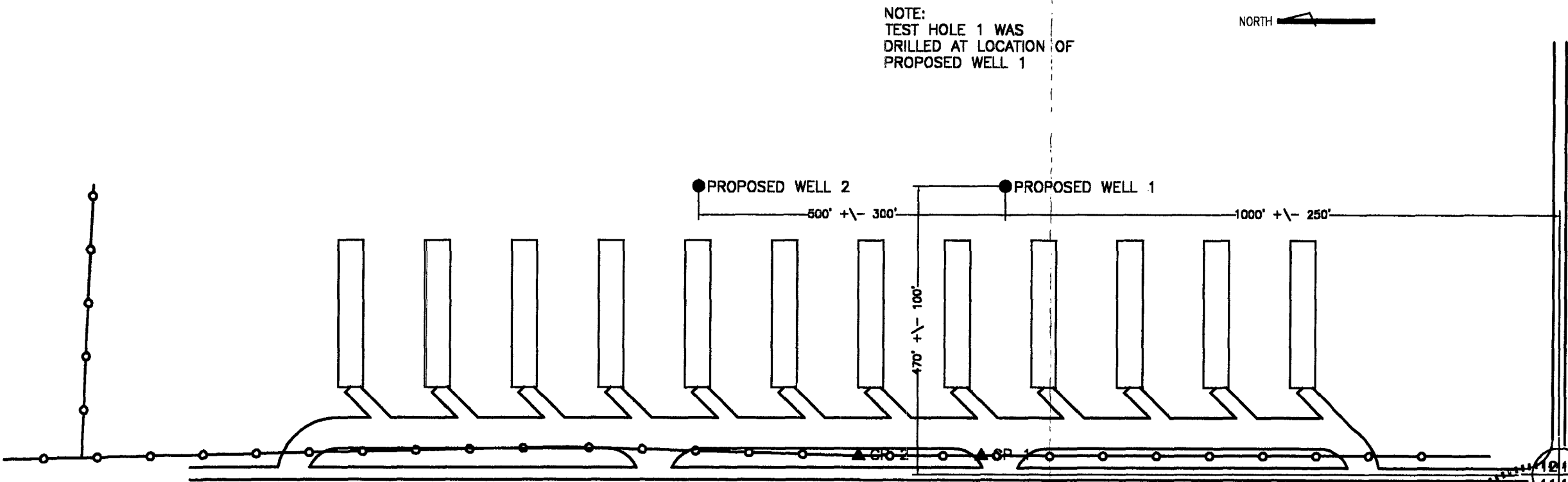
And this report is true and accurate.

Drilling firm MARION Well Drilling

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

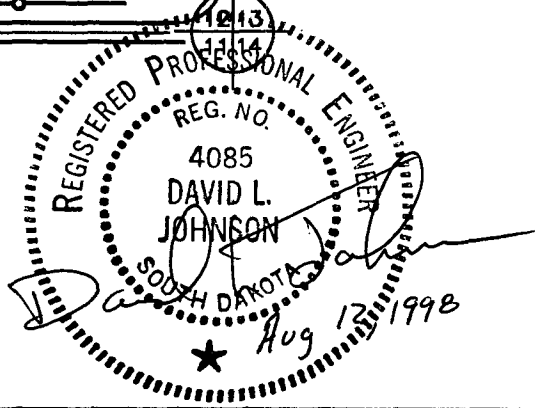
Date: 2-31-98



NOTE:
TEST HOLE 1 WAS
DRILLED AT LOCATION OF
PROPOSED WELL 1

NORTH

SPRING VALLEY TOWNSHIP (T97N, R54W)
TURNER COUNTY, SOUTH DAKOTA



	PROPOSED WELL LOCATIONS										REV.	DATE	DESCRIPTION		BY	CHKD		
	CHRISTENSEN FARMS AWMS																	
	DAKOTA ENVIRONMENTAL CONSULTANTS INCORPORATED																	
											DATE:		8/6/98		DRAWING: SDL		CHECKED: DLJ	
	JOB NO:										98112							
	SCALE:										1"=200'							
	DWG:										5							



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 9, 1998

Dan R. Christensen
P.O. Box 235
Hurley SD 57036

Dear Mr. Christensen:

I am writing in regard to your water right permit application to appropriate water for a proposed 12-barn swine facility in Turner County. The Notice of Hearing for Water Right Permit Application No. 6094-3 was supposed to be published in the Hurley Leader on September 3 and 10, 1998. However, the Hurley Leader did not publish the notice of hearing on September 3, 1998. **Therefore, the October 1st hearing before the Water Management Board on the water right permit application can not take place.**

We discovered that the notice was not published when we contacted the Hurley Leader to request a copy of the September 3rd publication so we could error check the notice. A staff person with the Hurley Leader indicated the notice of hearing was not published on September 3, 1998.

State law is specific on the notice requirements for a water right permit application. Because the first publication did not occur on September 3rd, the statutory requirements can not be met that allow an October hearing. I will now schedule the hearing for the Board's December meeting. Future notice will be sent to the Hurley Leader and you for publication of the notice of hearing on the application.

The Ground Water Discharge Plan for your proposed 4-barn facility is still currently scheduled for 11:00 AM at the October 1st Board meeting. Please feel free to contact me if I you have any questions on the water right permit application.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

c: Dave Johnson, Dakota Environmental, PO Box 636, Huron SD 57350
Hurley Leader, PO Box 218, Hurley SD 57350



September 15, 1998

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

Dan R. Christensen
P. O. Box 235
Hurley, SD 57036-0235

RE: Christensen Farms Spring Valley Finisher Site Manure Management System
General Permit Application Review

Dear Mr. Christensen:

The Department of Environment and Natural Resources has received four copies of your application for coverage under the General Water Pollution Control Permit for Concentrated Swine Feeding Operations. The manure management system will be located in the SW 1/4 of Section 12, Township 97 North, Range 54 West, Turner County, South Dakota.

Your manure management system is for a housed lot feeding a total of 14,400-head of finisher swine (5,760 animal units) and will consist of deep pits with 270 days of storage capacity beneath each of the twelve buildings. The project will be constructed in two phases. Phase 1 will involve construction of no more than eight confinement buildings and Phase 2 will involve the construction of the remaining four buildings, and will not proceed until such time that a water right permit is obtained.

We have reviewed the project and hereby conditionally approve the plans and specifications for your project. This approval expires on September 15, 2000, unless construction of the manure management system has been started by that date. Requirements that you must implement are listed on the attached page(s). Failure to implement the requirements on the following page(s) prior to operation of the manure management system will invalidate this approval.

Two copies of the approved plans and specifications are being retained for our files. If any deviations are required from the approved plans, then those changes and all change orders must be submitted for approval prior to construction. A complete set of as-built plans will be required if several major deviations result.

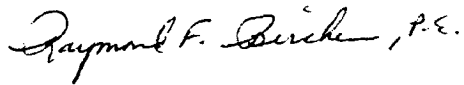
Upon completion of construction, the enclosed Notice of Completion must be returned to the department. **The manure management system cannot be used to store manure until the department issues final permit coverage and a Certificate of Compliance.** Continued compliance is dependent upon you performing proper operation and maintenance activities. You will be liable for any noncompliance with applicable South Dakota environmental laws or regulations.

Our review is primarily to assure that the system meets the requirements of the general permit and does not cover items such as, quality of material, structural soundness, electrical, and mechanical design features. Approval of the plans and specifications does not in any way release the producer from the responsibility that the project will be an operable facility when construction is completed.

Dan R. Christensen
September 15, 1998
Page 2

For more information on this review and approval please see the attached page(s) of requirements. If you have any questions regarding the content of this letter, please feel free to contact me. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Raymond F. Birchem, P.E.".

Raymond F. Birchem, PE
Staff Engineer
Department of Environment and Natural Resources
Phone: (605) 773-3296

cc: Dave Johnson, PE, DEC, Huron, SD
Turner County Commissioners

REQUIREMENTS

The following requirements must be implemented before we will issue a Certificate of Compliance and coverage under the general permit. Failure to implement these requirements will invalidate this approval.

Plans and Specifications

The plans and specifications review is to determine whether seepage, storage, and other design requirements will be met.

1. Ground Water Monitoring

Based on the soil boring logs and other published reports, it appears the site is not located over a shallow aquifer; therefore, ground water monitoring or a Ground Water Discharge Permit will not be required. However, should the design or operation of the facility change appreciably, new hydrogeological information become available, or any contamination problems be reported, the department reserves the right to reassess the need for ground water monitoring, a Ground Water Discharge Permit, or possible remedial action.

General Permit

You will be required to operate your feeding operation and manure management system in accordance with the requirements in the swine general permit.

1. Signatory Requirements / Notification

Notification - You or your engineer must notify the department of the proposed construction schedule for your project to allow our personnel the opportunity for construction inspections. Please fill out the enclosed postcards and return them to us prior to beginning construction of each phase of the manure management system. If any of the dates change from the ones submitted on the postcards, please notify us at (605) 773-3351 and ask for Jeanie Votava.

You are responsible for complying with all local ordinances and requirements. If a stream, lake, or wetland will be dredged or filled during the construction of the feeding operation, then you need to contact the United States Corps of Engineers at (605) 224-8531 prior to construction of the manure management system.

Notice of Completion Form - The Notice of Completion form must be completed by your engineer and returned to the department when construction of the manure management system is complete. The department cannot issue you a Certificate of Compliance and coverage under the general permit until we receive a Notice of Completion. You are not allowed to use the manure management system (to include populating the buildings) until you are issued a Certificate of Compliance and coverage under the general permit.

REQUIREMENTS CONTINUED

2. Annual Soil Testing

The following fields appear to overlie a shallow aquifer and require annual soil samples from zero to two feet and two to four feet:

Field 5: SE $\frac{1}{4}$, Section 1, Township 97 North, Range 54 West and
Field 20: S $\frac{1}{2}$, SW $\frac{1}{4}$, Section 15, Township 97 North, Range 54 West
Field 23: NE $\frac{1}{4}$, Section 8, Township 97 North, Range 54 West

All of the other fields will only need to have annual soil samples from zero to two feet.

3. Setback Distances

The manure management system and the application sites must be located at least 150 feet from a private well owned by you, 250 feet from a private well not owned by you, and 1,000 feet from any public supply well.

4. Storm Water Permit

The storm water pollution prevention plan for your Spring Valley swine operation must be kept on-site during construction and will be reviewed during our inspection to ensure that it is being implemented.

**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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Appendixes

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- B. Notice of Termination of Coverage Form
- C. Nutrient Management Plan
- D. 25-year, 24-hour Rainfall Map for South Dakota
- E. Generalized Map of Shallow Aquifers in South Dakota

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 _____ operation for _____ animal units and _____ acres of drainage area. I hereby certify that I am a 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 Received: _____
Date Terminated: _____ 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:

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

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

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 = $\underline{\hspace{2cm}}$ 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 lbs of Nitrogen (#16)	x	b % of total manure applied to field	=	c 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.

Total tons of wet manure (#11) x % of manure to each field (#23b) = tons of wet manure per acre
number of acres in each field (#17c) x 100

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)	Oat	(bu/a)	(lb/acre-2)	Feed Barley	(bu/a)	(lb/acre-2)
	80	72		8	62		40	68
	80	98		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	78		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)	Mating Barley	(bu/a)	(lb/acre-2)	Alfalfa	(tons/a)	(lb/acre-2)
	40	44		40	60		4	180
	60	66		50	75		6	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	(bu/a)	(lb/acre-2)	Potatoes	(cw/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	(cw/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	(cw/a)	(lb/acre-2)	Rapeseed	(cw/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	(bu/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	(cw/a) = Hundred weights/acre		
	5	125		7	175			
	6	150		8	200			
	7	175						

APPENDIX D

25-YEAR, 24-HOUR RAINFALL MAP

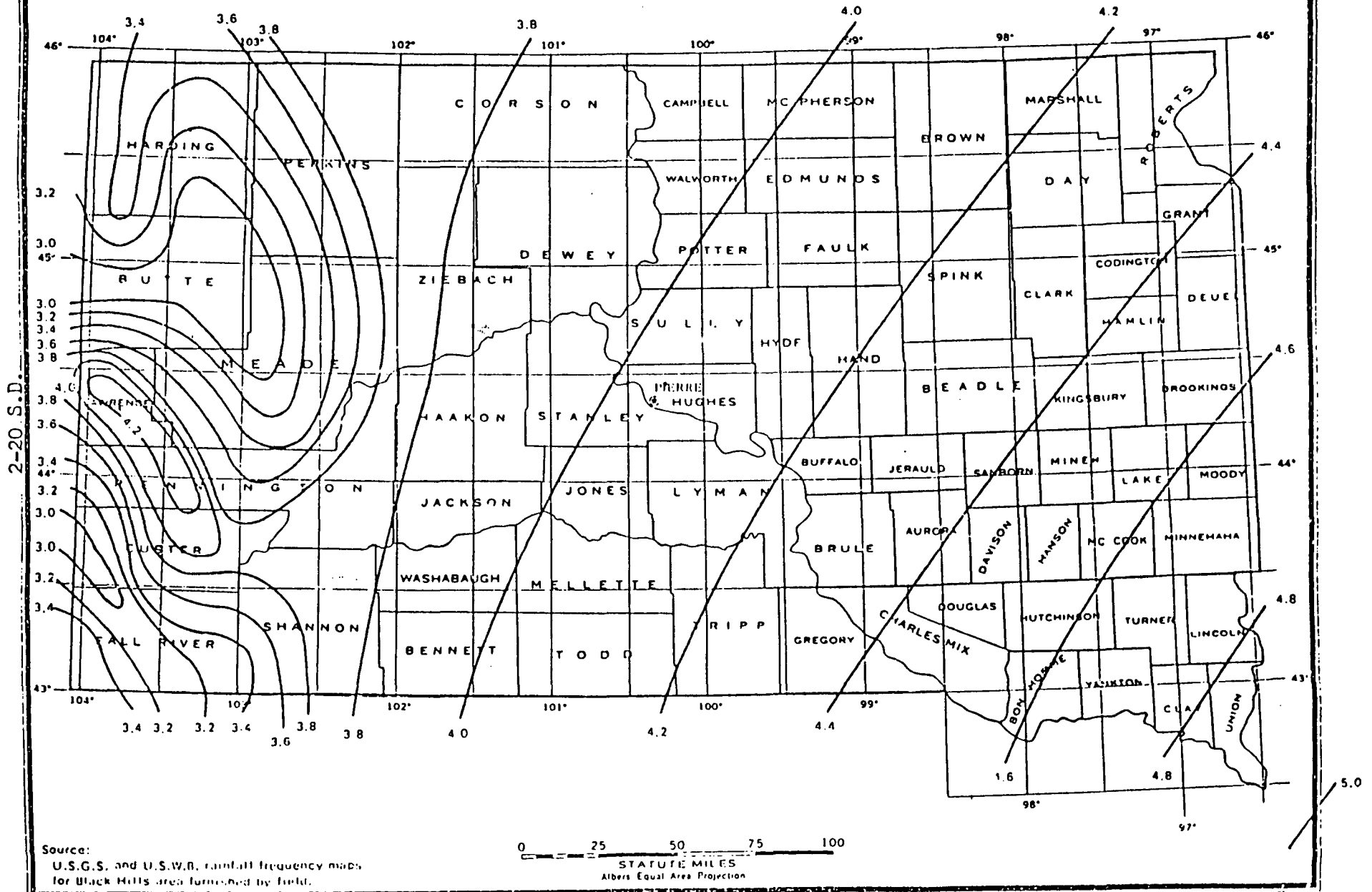
FOR SOUTH DAKOTA

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.N. rainfall frequency maps for Black Hills area furnished by field.

USDA SEC 6142JLN 0100, 1000

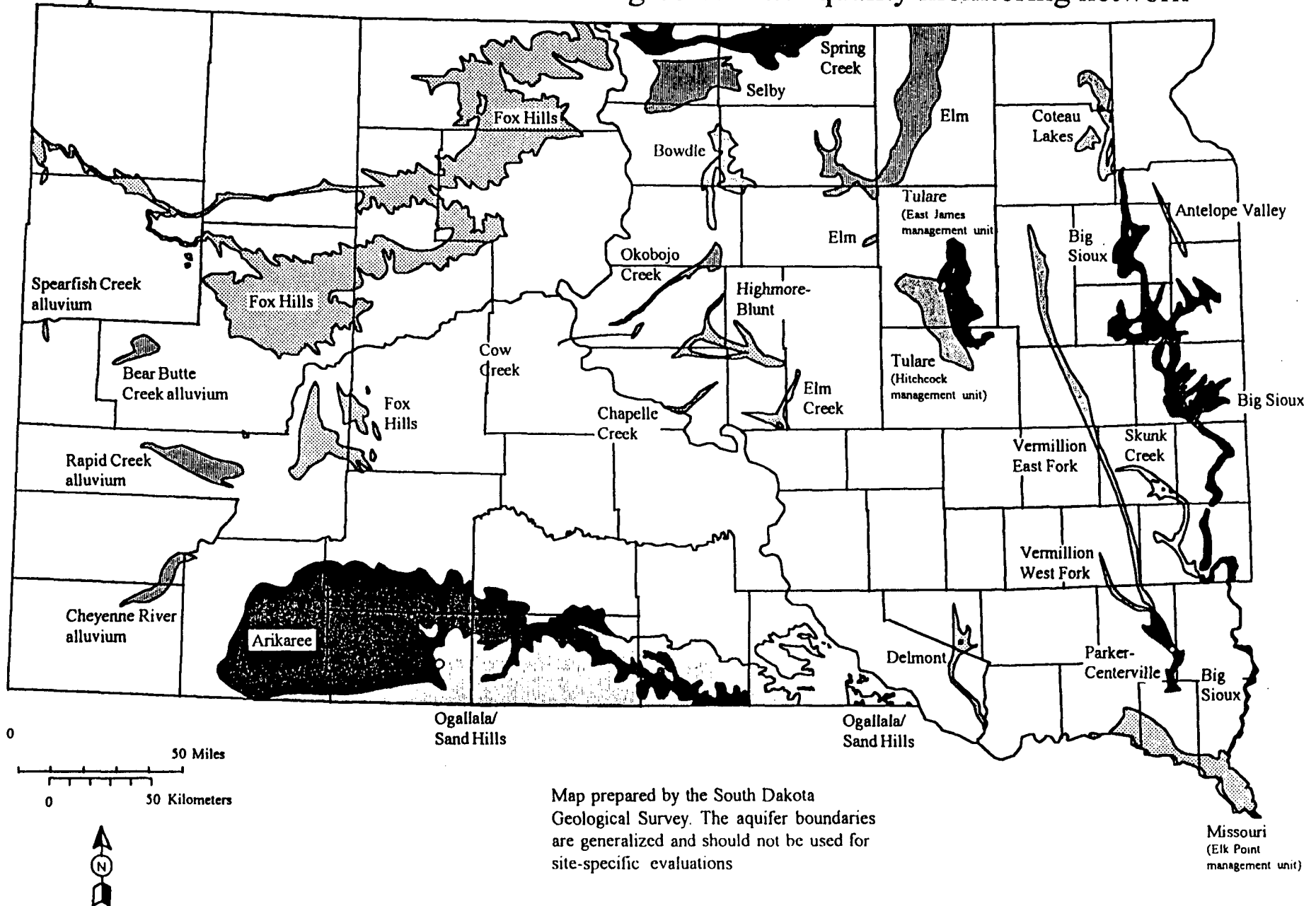
APPENDIX E

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



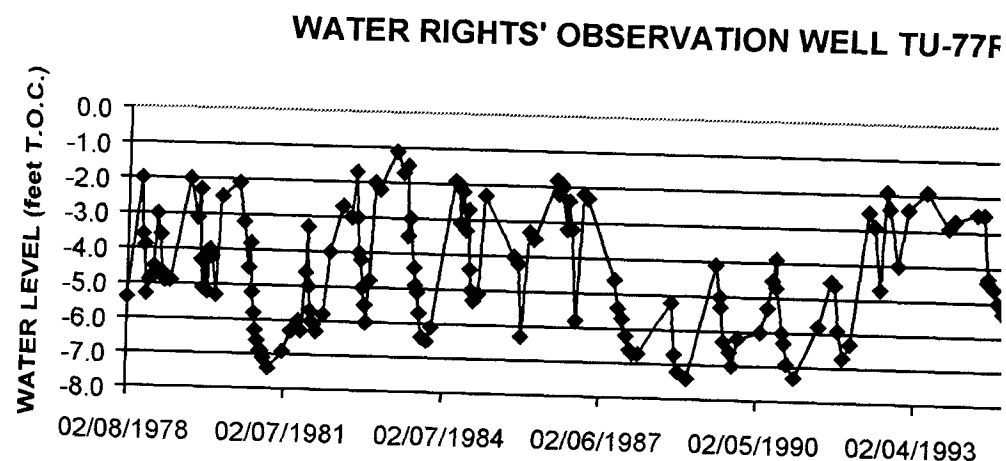


Figure 1

Review of Existing Water Permits/Rights:

There are two permits that may appropriate water from the same aquifer as the Turkey Ridge Creek Aquifer. They are:

Water Right No. 3471-3, Donald Benson

Water Permit No. 4903-3, Harold Unruh

Interference this appropriation may have on these permits/rights will be minimal the distance from this site (2.5 miles and 7 miles respectively), and the low draw this application.

CONCLUSIONS:

1. Water Permit Application No. 6094-3 proposes to appropriate 0.09 cfs from a well that might be part of the Turkey Ridge Creek Aquifer.
2. Water Permit Application No. 6094-3 proposes to use the water for commercial swine confinement facility.
3. There is a reasonable probability unappropriated water is available for this application whether this is part of the Turkey Ridge Creek Aquifer or is an undifferentiated aquifer.
4. There is a reasonable probability this appropriation can be made without adverse effects on other rights.
5. Plans and Specifications for waste handling for a swine confinement facility have been submitted to the Department of Environment and Natural Resources, Surface Water Quality Division and is pending.

[Signature]
KEN BUHLER

Natural Resources Engineer

REPORT FOR
WATER PERMIT APPLICATION NO. 6094-3
DAN R. CHRISTENSEN
AUGUST 24, 1998

Application No. 6094-3 proposes to appropriate 0.09 cubic feet of water per second (40 gallons per minute) from two wells 54 feet deep located in the NW¼ SW¼, SW¼ SW¼ Section 12, T97N-R54W. The water is for commercial use in a swine confinement facility.

AQUIFER: Turkey Ridge Creek Aquifer or Pleistocene Series Undifferentiated

AQUIFER CHARACTERISTICS:

The test hole log identifies the potential water source for this application as a sand layer 49-54 feet below grade. Although the test hole reportedly flows approximately 50 gallons per minute, the fact that there is only 5 feet of saturated thickness cannot be overlooked. This outwash may be a small isolated lens or on the edge of the Turkey Ridge Creek Aquifer. The areal extent of the Turkey Ridge Creek Aquifer was not mapped this far south (Lindgren, 1990) but this outwash is at approximately the same elevation as the Turkey Ridge Creek Aquifer and the potentiometric surface is expected to be about the same ($\approx 1300'$ msl).

The Turkey Ridge Creek Aquifer is an unconsolidated sand and gravel outwash deposit that underlies approximately 18 square miles of Turner County and contains an estimated 44,000 acre-feet of water in storage in the county (Lindgren, 1990). The aquifer is confined by glacial till and under artesian conditions at this well site although portions of the aquifer are under water table conditions. The Water Rights Program monitors two observation wells (TU-77Q and TU-77R) completed into Pleistocene outwash deposits that may actually be part of the Turkey Ridge Creek Aquifer. The direction of water movement in the aquifer is to the east and south and generally towards Turkey Ridge Creek (Lindgren, 1990). Recharge to the Turkey Ridge Creek aquifer is through direct infiltration of precipitation where the aquifer is at or near land surface and possibly from leakage from the underlying Niobrara aquifer. The average annual recharge has not been quantified for this aquifer and is not expected to be ascertained in the near future.

The best information available to evaluate development as it relates to recharge is data from observation wells. The difference between withdrawal from an aquifer and recharge is reflected by the water levels of the aquifer. If the water level of an aquifer continues to decline, it may suggest that withdrawals exceed recharge.

Water Rights' Observation Well TU-77R is located approximately 3 miles north of this project site. The hydrograph for this well (figure 1) shows the aquifer responds well to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. At the current level of development from the aquifer, it is not possible to distinguish between natural water level fluctuations and the effects of pumping. The water level record indicates that the aquifer is capable of sustaining additional withdrawals.

REFERENCES:

- Lindgren, R., and D. Hansen, 1990, Water Resources of Hutchinson and Turner Counties, South Dakota, U.S. Geological Survey Water Resources Investigations Report 90-4093
- Water Rights Program, 1998, "Observation Well Files", DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Water Rights Program, 1998, "Water Permit/Right Files", DENR-Water Rights Program, Joe Foss Building, Pierre, SD

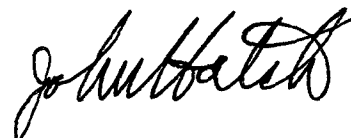
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6094-3, Dan R. Christensen**

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. 6094-3, Dan R. Christensen, PO Box 235, Hurley SD 57036.

The Chief Engineer is recommending APPROVAL of Application No. 6094-3 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. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights
2. Permit No. 6094-3 is subject to compliance with requirements of the General Water Pollution Control Permit for concentrated swine feeding operation.
3. The wells authorized by Permit No. 6094-3 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. 6094-3 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
August 25, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

August 25, 1998

Dan Christensen
P.O. Box 235
Hurley, SD 57036

Dear Mr. Christensen:

Water Permit Application No. 6094-3 for commercial use 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 Hurley Leader printed at Hurley, SD (Ph # (605) 238-5229). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above 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

c: David Johnson, Dakota Environmental, Box 636, Huron, SD 57350.

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
www.state.sd.us/denr

August 25, 1998

Hurley Leader
Box 218
Hurley, SD 57036

ATTENTION: Legal Department

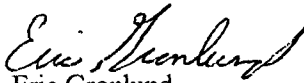
Enclosed is a Notice of Hearing on Application No. 6094-3 to Appropriate Water to be published twice. Please publish the first notice on September 3, 1998, with the second publication 7 days later.

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 Dan R. Christensen, P.O. Box 235, Hurley, SD 57036 (Ph # (605) 238-5854).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, please send us an affidavit or use the enclosed Proof of Publication form. The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 6094-3

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

Date _____

We are in receipt of your letter of August 25, 1998, enclosing Notice of Hearing to Appropriate Water by Application No. 6094-3 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 September 3, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 6094-3 to Appropriate Water

Notice is given that Dan Christensen, P.O. Box 235, Hurley, SD 57036 has filed an application for a water permit to appropriate 0.09 cubic feet of water per second (40 gallons per minute) from two wells 54 feet deep (Turkey Ridge Creek Aquifer or Pleistocene Series) located in the NW 1/4 SW 1/4, SW 1/4 SW 1/4 Section 12-T97N-R54W. The water is for commercial use in a swine confinement facility.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6094-3 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 September 21, 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 1:15 p.m., October 1, 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 October 1, 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 September 21, 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 September 21, 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 29, 1998

James Oursland
28645 451st Avenue
Hurley SD 57036

Dear Mr. Oursland:

Please find enclosed a copy of the report prepared on Mr. Christensen's Water Right Permit Application No. 6094-3. If you have any questions on water availability after reviewing this report, please contact Ken Buhler at (605) 773-3352.

I will be sending you a copy of the notice of hearing that will be published in the local newspaper scheduling a hearing on the application before the Water Management Board. I anticipate the hearing on this application to be held on December 2, 1998.

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
www.state.sd.us/denr

October 6, 1998

James Oursland
28645 451st Avenue
Hurley SD 57036

Dear Mr. Oursland:

Please find enclosed a copy of the notice of hearing on Dan Christensen's water right permit application. The notice will be published October 15 and 22, 1998, in the Hurley Leader and The New Era. This notice of hearing schedules a December 2, 1998, hearing on the application before the Water Management Board. A petition to intervene must be filed by November 20, 1998, by any person wanting to participate in the hearing.

If you have any question on the hearing process, please give me a call at (605) 773-3352.

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
www.state.sd.us/denr

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

October 6, 1998

Dan R. Christensen
P.O. Box 235
Hurley SD 57036

Dear Mr. Christensen:

Water Permit Application No. 6094-3 for commercial use 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 Hurley Leader printed at Hurley SD (Ph # 605 238-5229) and the New Era printed at Parker SD (Ph # 605 297-4419). A copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Mr. Christensen, I am publishing the notice of hearing in both the Hurley and Parker newspapers. This is to ensure that no errors occur that may invalidate the notice. The Water Rights Program will pay for the cost of publication in the Parker newspaper and you will be responsible for payment for the publication in the Hurley Leader.

Be sure to contact the above newspapers to authorize publication of your Notice of Hearing and to arrange for payment with the Hurley Leader. Early contact with the paper can eliminate delays. The publishers have been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur at least 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

c: David Johnson, Dakota Environmental, Box 636, Huron SD 57350

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.



October 6, 1998

Hurley Leader
Box 218
Hurley, SD 57036

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 6094-3 to Appropriate Water to be published twice. Please publish the first notice on October 15, 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 Dan R. Christensen, P.O. Box 235, Hurley, SD 57036 (Ph # (605) 238-5854).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CU T HERE-----

No. 6094-3

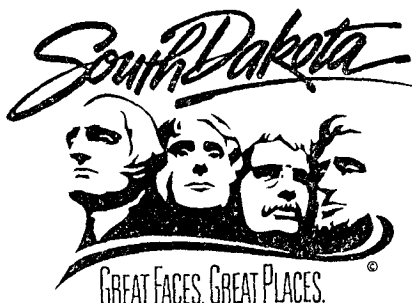
TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of October 6, 1998, enclosing Notice of Hearing to Appropriate Water by Application No. 6094-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



October 6, 1998

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

The New Era
Box 579
Parker, SD 57053-0579

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 6094-3 to Appropriate Water to be published twice. Please publish the first notice on October 15, 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 WATER RIGHTS PROGRAM for the cost of publication.**

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CU T HERE-----

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

No. 6094-3

Date _____

We are in receipt of your letter of October 6, 1998, enclosing Notice of Hearing to Appropriate Water by Application No. 6094-3 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 October 15, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 6094-3 to Appropriate Water

Notice is given that Dan Christensen, P.O. Box 235, Hurley, SD 57036 has filed an application for a water permit to appropriate 0.09 cubic feet of water per second (40 gallons per minute) from two wells 54 feet deep (Turkey Ridge Creek Aquifer or Pleistocene Series) located in the NW 1/4 SW 1/4, SW 1/4 SW 1/4 Section 12-T97N-R54W. The water is for commercial use in a swine confinement facility.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6094-3 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 November 20, 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., December 2, 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 December 2, 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 November 20, 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 November 20, 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.

AFFIDAVIT OF PUBLICATION
STATE OF SOUTH DAKOTA)
:SS
COUNTY OF TURNER

Kay Schooley, Editor, being first duly sworn, on oath says HURLEY LEADER is a WEEKLY newspaper published in HURLEY in said county of TURNER, State of South Dakota; and that she is authorized to and does make this affidavit on behalf of said HURLEY LEADER; that affiant has personal knowledge of all facts stated in this affidavit; that said newspaper is a legal newspaper as defined by SDCL 17-2-2.1 through 17-2-2.4 inclusive as amended, has a bona fide circulation of at least two hundred copies WEEKLY, has been published in the English language within said county and has been admitted to the United States mail under the second class mailing privilege, for at last one year continuously next prior to the publication of the notice herein mentioned and was and is printed wholly or in part in an office maintained at said place of publication; that said notice, a printed copy of which taken from the paper in which the same was published is hereto attached and is made part of this affidavit, was published in said newspaper

2 time(s) as follows: that the first publication of said notice in said newspaper aforesaid was on Thursday the 14th day of October, 1998, and that the succeeding publications were severally

on Thursday, the 21st day of October, 1998;

on Thursday, the ____ day of _____, 1998;

on Thursday, the ____ day of _____, 1998;

on Thursday, the ____ day of _____, 1998;

Affiant further says that the full amount of the fees charged for the publication of said notice inures to the benefit of the publishers of said newspaper; that no agreement of understanding for the division thereof has been made with any other person, that no part therefore has been agreed to be paid to any person whomsoever; and that the fees charged for the publication thereof are:

DOLLARS(\$ 46²⁶)

(x) Kay Schooley

Subscribes and sworn to before me this 29th day of

October, 1998.

Cyndi Jensen
Notary Public

My commission expires April 15, 2000.

**Notice Of Hearing
on Application
No. 6094-3 to
Appropriate Water**

Notice is given that Dan Christensen, P.O. Box 235, Hurley, SD 57036 has filed an application for a water permit to appropriate 0.09 cubic feet of water per second (40 gallons per minute) from two wells 54 feet deep (Turkey Ridge Creek Aquifer or Pleistocene Series) located in the NW 1/4 SW 1/4, SW 1/4 SW 1/4 Section 12-T97N-R54W. The water is for commercial use in a swine confinement facility.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6094-3 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 November 20, 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., December 2, 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 December 2, 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 November 20, 1998.

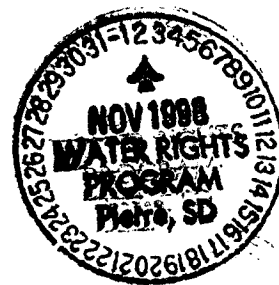
Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26.

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 November 20, 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, 46-6-12, 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



Affidavit of Publication



STATE OF SOUTH DAKOTA }
COUNTY OF TURNER } ss.

J. Mary Lee of the City of Parker,
County of Turner, State of South Dakota, being first duly sworn on oath,
deposes and says:

The New Era is a weekly legal newspaper of general circulation, printed
and published in the City of Parker, in said County of Turner, by The New
Era, Lyon-Sioux Press, publishers, and has been such legal newspaper
during the times hereinafter mentioned; that the said newspaper has been
in existence as such legal newspaper for more than one year prior to the
publication of the notice hereunto attached, and has during all of said
time had, and now has, more than 200 bona fide subscribers; that the

undersigned, the affiant, is the Office Manager of the said news-
paper, in charge of the advertising department thereof and has personal
knowledge of all the facts stated in this affidavit and the advertisement

headed #1901 - Water Rights - Christensen

Dept of Eno. & Nat. Resources
printed copy of which hereunto attached, was printed and published in the

said newspaper for 2 successive weeks, once each week and
on the same day of the week, on the following dates, to-wit:

On Thursday, the 15 day of October, 1998;

On Thursday, the 22 day of October, 1998;

On Thursday, the _____ day of _____, 19____;

On Thursday, the _____ day of _____, 19____;

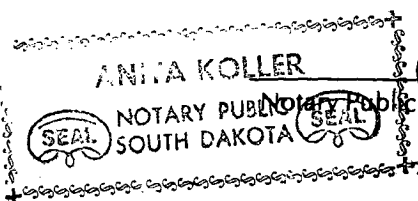
On Thursday, the _____ day of _____, 19____;

On Thursday, the _____ day of _____, 19____;

On Thursday, the _____ day of _____, 19____;

That \$ 29.03 being the full amount of the fees for publication of
the attached notice insures solely for the benefit of the publishers of the said
newspaper; that no arrangement or understanding for a division thereof has
been made with any other person and that no part thereof has been agreed to
be paid to any other person whomsoever.

Mary Lee
Subscribed and sworn to before me this 28
day of October, 1998.



Anita Koller
Notary Public, Turner County, South Dakota.
9-12-01

Notice of Hearing on Application No. 6094-3 to Appropriate Water

Notice is given that Dan Christensen,
P.O. Box 235, Hurley, S.D. 57036, has filed
an application for a water permit to appro-
priate 0.09 cubic feet of water per second
(40 gallons per minute) from two wells 54
feet deep (Turkey Ridge Creek Aquifer or
Pleistocene Series) located in the NW 1/4
SW 1/4, SW 1/4 SW 1/4 Section 12-T97N-
R54W. The water is for commercial use in a
swine confinement facility.

Pursuant to SDCL 46-2A-2, the chief
Engineer recommends APPROVAL of
Application No. 6094-3 because 1.) unap-
propriated 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 writ-
ten 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, S.D. 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 Nov. 20, 1998. The petition
may be informal, but must include a state-
ment 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 con-
sider this application at 11 a.m., Dec. 2,
1998, Floyd Mathew Training Center, Joe
Foss Building, 523 East Capitol, Pierre,
S.D. 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 pre-
sented at the public hearing. The Dec. 2,
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 automa-
tic delay must be filed by Nov. 20, 1998.

Any hearing will be an adversary pro-
ceeding. Any person filing a petition and/or
the applicant have the right to be repre-
sented by a lawyer and may present evidence or
cross-examine witnesses according to SDCL
1-26. These and other due process rights
may be forfeited if not exercised. Decision
of the Board may be appealed to the Circuit
Court and State Supreme Court as provided

Publication Fees - - - \$ 29.03

Notary Fees - - - - - \$

Total - - - - - \$ 29.03

Received Payment,

by law. Contact Eric Gronlund by Nov. 20, 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

#1901, Oct. 5 and 22, 1998.

PAYMENT REQUEST FORM

PAYEE: Lyon-Sioux Press
P.O. Box 28
Rock Rapids, IA 51246

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

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Publication of Application No. 6094-3 to Appropriate
Water which was published in The New Era newspaper.

AMOUNT: \$29.03

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION: _____

John H. Hatcher

11-9-98

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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 15, 1998

Eric Axelund
Water Rights Program



Dear Mr. Axelund:

I will attend the hearing for Mr. Christentensen's water right permit application.

I am opposed to having twelve thousand hogs one quarter of a mile from my home since my only source of water is from my well.

Sincerely,
Jim Oursland

Jim Oursland
28645 451st Ave.
Hurley, S.D. 57036
605-327-3527

has been

December 2nd
re SD.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 8, 1998

NOTICE

TO: Dan R. Christensen
P.O. Box 235
Hurley SD 57036

Jim Oursland
28645 451st Ave.
Hurley SD 57036

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

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision for Water Permit Application No. 6094-3, Dan Christensen

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. 6094-3, Dan Christensen. The Board will consider the proposed Findings, Conclusions and Final Decision at 1:00 PM on March 3, 1999, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 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 by February 11, 1999. 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 (mailing list enclosed) and the other Parties of Record by February 22, 1999.

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 March 3, 1999. The public hearing was completed December 2, 1998. No additional testimony will be received on March 3, 1999.

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

Enclosure

WATER MANAGEMENT BOARD MEMBERS

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

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

Marian Gunderson
811 West 3rd
Yankton, SD 57078-3702

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

Bernita Loucks
219 42nd Street
Rapid City, SD 57702-0240

Joel Rickenbach
Box 97
Oelrichs, SD 57763-0097

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

BOARD ATTORNEY

John Guhin, Deputy Attorney General
Office of Attorney General
Natural Resource Section
State Capitol Building
Pierre, SD 57501

WATER RIGHTS PROGRAM

Department of Environment and
Natural Resources

John Hatch, Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

STAFF ATTORNEY

Diane Best
Assistant Attorney General
Office of Attorney General
Natural Resource Section
State Capitol Building
Pierre, SD 57501

CERTIFICATION

I hereby certify that on December 8, 1998, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 8, 1998, along with a copy of the Water Management Board Members' names and addresses, and the Board Attorney's name and address, regarding Preparation of Findings of Fact, Conclusions of Law and Final Decision for Water Permit Application No. 6094-3, Dan Christensen, addressed as stated below:

Dan R. Christensen, P.O. Box 235, Hurley, SD 57036.

Jim Oursland, 28645 451st Ave., Hurley, SD 57036.

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

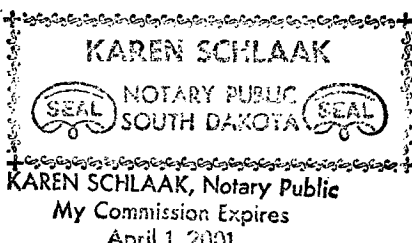
John Guhin, Deputy Attorney General, Capitol Building.

Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of December, 1998


Notary Public


STATE OF SOUTH DAKOTA

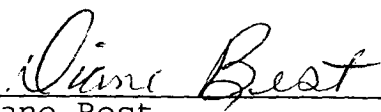
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	DENR'S RESPONSE TO FINDINGS OF
APPLICATION NO. 6094-3,)	FACT, CONCLUSIONS OF LAW
DAN CHRISTENSEN)	AND FINAL DECISION

The Department of Environment and Natural Resources, Water Rights Program (DENR), responds to the proposed Findings of Fact, Conclusions of Law and Final Decision in the above-entitled matter:

1. Finding of Fact number 5 pertains to the DENR's test observation wells in the area of the permit application. The DENR requests that each reference to these wells include language indicating that these are "test observation wells."
2. Finding of Fact number 8 addresses the definition of an "adequate" well, and explains that, given the character of the aquifer involved in this case, an adequate well would be one which is placed at the bottom of the aquifer. The DENR asks that the final line of this Finding of Fact be changed by inserting the words "this thin" instead of the work "the." This serves to further illustrate the nature of the aquifer and is consistent with testimony presented at hearing.
3. On page 5, the heading "Conclusions of Law" appears to be a typographical error and should contain the words "Final Decision."
4. On page 5, the proposed document provides for signature by Board Secretary Loucks. The DENR has no objection to signature by Ms. Loucks, but this appears, however, to be a departure from the Board's past practice.

Dated this 16th day of February 1999.



Diane Best
Assistant Attorney General
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	
APPLICATION NO. 6094-3,)	CERTIFICATE OF SERVICE
DAN CHRISTENSEN)	

The undersigned hereby certifies that a true and correct copy of DENR's Response to Findings of Fact, Conclusions of Law and Final Decision was served by United States mail, certified, postage prepaid, upon the following:

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

Bernita Loucks
219 42nd St.
Rapid City, SD 57702-0240

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

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

Marian Gunderson
811 W. 3rd
Yankton, SD 57078-3702

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

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

Dan R. Christensen
P.O. Box 235
Hurley, SD 57036-0235

Jim Oursland
28645 451st Ave.
Hurley, SD 57036

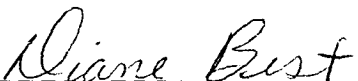
By hand delivery

John P. Guhin
Deputy Attorney General
Office of Attorney General
500 E. Capitol Ave.
Pierre, SD 57501-5070

By interoffice mail

John Hatch, Chief Engineer
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

on this 16th day of February 1999.



Diane Best
Assistant Attorney General
500 East Capitol Avenue
Pierre, SD 57501-5070
Telephone: (605) 773-3215



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 12, 1999

NOTICE

TO: Dan R. Christensen Jim Oursland
P.O. Box 235 28645 451st Ave.
Hurley SD 57036 Hurley SD 57036

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 March 3, 1999, by the Water Management Board for Water Permit Application No. 6094-3, Dan R. Christensen. 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
David Johnson, Dakota Environmental, PO Box 636, Huron SD 57350

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6094-3,)
DAN CHRISTENSEN)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate .09 cubic feet of water per second (40 gallons per minute) from two wells, fifty-four feet deep, in Turner County. The water is proposed to be used in a swine confinement facility for commercial purposes.

2. The best evidence available indicates that the source of the water is the Turkey Ridge Creek Aquifer. A USGS map of this aquifer indicates that it ends about two miles from this location but, in all probability, the map maker simply did not extend the aquifer to areas in which the saturated thickness was not substantial. Evidence that the water in question comes from the Turkey Ridge Creek Aquifer is found in the fact that the outwash in which the test hole was drilled is approximately at the same elevation as the Turkey Ridge Creek Aquifer and the potentiometric surface is expected to be about the same.

3. The Turkey Ridge Creek Aquifer is an unconsolidated sand and gravel outwash deposit which underlies approximately eighteen square miles in Turner County and contains an estimated 44,000 acre feet of water in storage in the county. The aquifer is confined by glacial till and under artesian conditions at the well site, although portions of the aquifer are under water table conditions.

4. Recharge to the Turkey Ridge Creek Aquifer is by direct infiltration of precipitation at points where the aquifer is at or near the land surface and possibly from leakage from the underlying Niobrara Aquifer.

5. There are two test observation wells in the area. The records of the test observation wells indicate that the aquifers respond to climatic conditions and rise during wet years and gradually decline during dry years. The test observation wells do not show the effects of the current level of development. These facts indicate that the aquifer is capable of sustaining additional withdrawals.

6. The hydrologic evidence set forth above, combined with the fact this application is for .09 cubic feet of water per second, a small amount, indicates that water is available for the proposed purpose.

7. The opponent to the permit indicates that his domestic well is under artesian head pressure and flows at the surface at the rate of approximately 7 gallons per minute. Other nearby wells flow at 5 gallons per minute and 2 gallons per minute. The opponent to the permit argues that the application should be denied because the pumping will decrease the head pressure in his well so that it no longer flows.

8. The opponent to the permit was unable to testify whether his well is "adequate" as defined by statute and regulation. An adequate well is one in which the pump can be placed either at the bottom of the aquifer, or at least 20 feet into the aquifer. Here, the requirement would be satisfied if the pump could be placed at the bottom of this thin aquifer.

9. Legal precedent requires the Board to consider, as a matter of the public interest, protection of head pressure even for inadequate domestic wells. The Board has assumed, for the purpose of this finding, that the well of the opponent is not adequate, and has also weighed, in the public interest, the protection of the head pressure in this well against the development of the project. In this case, the development of the project outweighs the protection of the head pressure for this well. The project will provide the normal economic growth associated with such projects. Moreover, the opponent to the project can easily make his well adequate by improving the well, if necessary, so he is able to place a pump into the bottom of the aquifer in question. If that is done, there will then be sufficient water for his uses in any event.

10. The facility which will be built will generate substantial amounts of manure. The opponent is concerned that seepage from the manure will pollute the groundwater which is the source for his well. The Board finds that this concern is not supported by the facts. The facility in question will be constructed such that there will be a concrete pit under each barn. The floor will be slotted and manure will be contained within the concrete pits. Manure will not be held in any earthen storage. Moreover, soil borings in the area have a tight clay structure. The Board thus finds that it is very unlikely that there will be any seepage from the facility.

11. Moreover, the Board has considered the fact that this Applicant is subject to compliance with the requirements of the General Water Pollution Control Permit for Concentrated Swine

Feeding Operations as set out in Qualification Number Two. In addition, the Applicant is subject to various water quality rules as set out in Qualification Number Four. In this light, the Board finds that there will be no effect on the quality of the opponent's well water caused by this project.

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 can be developed without unlawful impairment of existing rights, when developed in accordance with the qualifications set forth below.
4. The proposed use for a swine confinement facility is a beneficial use.
5. The proposed use is in the public interest. The Board in this regard notes that it has weighed the public interest considerations regarding a well not shown to be adequate against the public interest in the development of a commercial swine facility. The Board has found that the public interest in maximum development of the state's water outweighs the interest in protecting head pressure in the well. The Board has further concluded that because the well in question may be drilled such that it becomes adequate, there will be water available to the opponent, and that the project can proceed and the opponent have water.
6. Furthermore, the Board has considered, in the public interest, the opponent's concern that pollution to his well will

be caused by the development of this project. The Board has rejected this possibility as set forth in the findings above.

7. The Board also concludes that, because the facts do not in this case demand it, it is unnecessary to come to a final decision with regard to the full extent of Board's duties in light of the requirement that swine feeding operations comply with the General Water Pollution Control Permit.

FINAL DECISION

The application for Permit No. 6094-3 is GRANTED with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. Permit No. 6094-3 is subject to compliance with requirements of the General Water Pollution control Permit for concentrated swine feeding operation.

3. The wells authorized by Permit No. 6094-3 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.

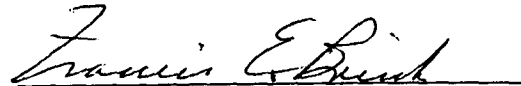
4. Permit No. 6094-3 is subject to compliance with the existing and applicable Water Management Rules:

- 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 March, 1999.

BY THE BOARD


Francis E. Brink
Chairman

s-pld10.jpg

CERTIFICATION

I hereby certify that on March 12, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 12, 1999, along with a copy of the Findings of Fact, Conclusions of Law and Final Decision in the Matter of Water Permit Application No. 6094-3, Dan Christensen, regarding Adoption of Findings of Fact, Conclusions of Law and Final Decision, addressed as stated below:

Dan R. Christensen
P.O. Box 235
Hurley, SD 57036

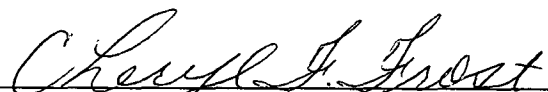
Jim Oursland
28645 451st Ave.
Hurley, SD 57036

David Johnson
Dakota Environmental
P.O. Box 636
Huron, SD 57350

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

John Guhin, Deputy Attorney General, Capitol Building.

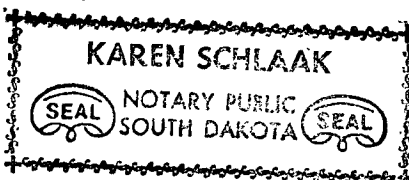
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 15th day of March, 1999


Notary Public



KAREN SCHLAACK, 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
www.state.sd.us/denr

APR 14 1999

Dan R. Christensen
P.O. Box 235
Hurley, SD 57036

Dear Mr. Christensen:

Enclosed is Water Permit No. 6094-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Very truly yours,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 3, 1999

6094-3

Dave Johnson
Dakota Environmental
PO Box 636
Huron, SD 57350-0636

Dear Mr. Johnson:

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change with Water Permit No. 6094-3. The permit is currently listed in the name of Dan Christensen.

In order to complete the transfer, the form will need to be signed in the presence of a notary public (by the new owner) and returned to our office with a required filing fee of \$2.50.

I have included a blank form in the event there are errors in the partially completed one. If you have any questions concerning the water permit or completion of the form, please let me know.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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



No. 6094-3

Date: _____

I/We request that Water Permit No. 6094-3

formerly owned by: Dan R Christensen, PO Box 235, Hurley, SD 57036-0235

be transferred to: (name & address) Spring Valley LLC, Dan Hensch, 4701 S Lewis Ave., Sioux Falls, SD 57103

Telephone No. _____

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

diversion point locations: NW ¼ SW ¼ & SW ¼ SW ¼ Section 12, T97N, R54W

I/We understand that the validity of Water Permit No. 6094-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

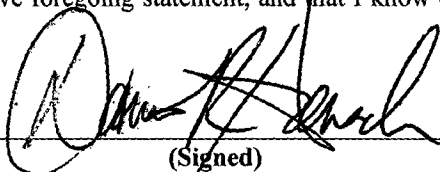
You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)

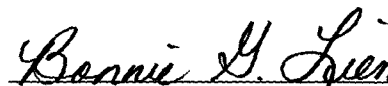
County of _____)

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


(Signed)

Subscribed and sworn to before me this 21st day of June, 19 99.

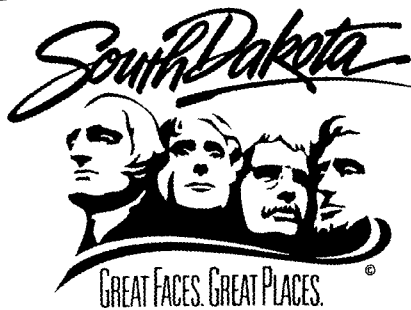



(Notary Public)

My Commission expires July 15, 2004

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 30, 1999

6094-3

Dan Hensch
Spring Valley LLC
4701 S Lewis Ave
Sioux Falls, SD 57103

Dear Mr. Hensch:

Thank you for sending in the ownership change for Water Permit No. 6094-3. The transfer has been completed and the water permit is now listed in the name of Spring Valley LLC.

In the event you do not have one, I am enclosing a copy of Water Permit No. 6094-3. You may keep this for your records. Also enclosed are your Receipt No. 416154 and a copy of the transfer form you submitted.

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

Sincerely,

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

enclosures

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



Date

9/8/2000

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

FROM: Dan Christensen Box 235
(name) (address)
Hurley SD 57036 238-5854
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 6094-3.

Water Permit No. 6094-3 states that the diversion system is to be constructed by 3/3/2004, and that the water is put to beneficial use by
(date)

3/3/2008
(date)

The diversion system was completed on 8/25/2000.
(date)

Applying the water to beneficial use was completed on 8/25/2000.
(date)

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

Dan Christensen
(signature)

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NE 416154

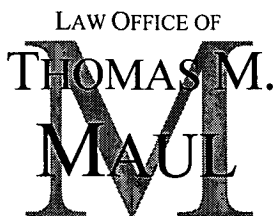
Pierre, June 30, 1999

RECEIVED OF Prairie Pride, Inc. (Spring Valley LLC), 901 N. Lincoln Ave., Sioux Falls, SD 57104
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Water Permit No. 6094-3</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By John Hatch
Chief Engineer

**THOMAS M. MAUL**

ATTORNEY AT LAW

2468 18TH AVENUE, P.O. BOX 145
COLUMBUS, NEBRASKA 68602-0145

TELEPHONE: (402)564-5880

FACSIMILE (402)564-7767

EMAIL: maullaw@megavision.com

July 14, 2005

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

RECEIVED

JUL 18 2005

WATER RIGHTS
PROGRAM

RECEIVED

JUL 18 2005

WATER RIGHTS
PROGRAM

Re: *Notice of Transfer of Water Permit No. 6094-3*

Dear Chief Engineer:

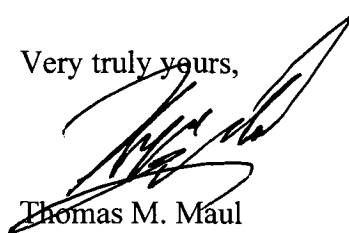
On behalf of JDP, LLC, I am enclosing herewith the original **Notice of Transfer of Ownership** concerning Water Right/Permit No. 6094-3.

This Permit was originally in the name of Dan Christensen and then subsequently transferred to Spring Valley, LLC. The history/documentation concerning this particular Permit is also enclosed, for your information.

My office check in the amount of \$2.50 is enclosed to cover the cost of the filing fee associated with this Notice of Transfer and a stamped, self-addressed envelope is enclosed for your use in returning a filed-stamped copy of this **Notice of Transfer of Ownership** form only (without attachments), to me.

I appreciate your time and attention to this matter and if you are in need of any further information or documentation from me in order to transfer this particular water permit, please let me know.

Very truly yours,



Thomas M. Maul

TMM:smb

Encl.

cc: JDP, LLC

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 18, 20 05

RECEIVED OF Thomas M. Meni, PO Box 135, Columbus NE 68601 (JDP LLC)

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2.50	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>6094-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

0059

By

David L. Eide
Chief Engineer

RECEIVED

JUL 18 2005

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

Water Right/Permit No. 6094-3

Date: 7/14/05

I/We request that Water Right/Permit No. 6094-3 formerly owned by:

Spring Valley, LLC, Dan Hensch

be transferred to:

New Owner Name: JDP, LLC

Address: 3214 25th Street

City, State, Zip Columbus, NE 68601

Telephone No. (402) 564-0407

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

Diversion point locations: NW 1/4 SW 1/4 & SW 1/4 SW 1/4, Section 12, T97N, R54 W,
Turner County, South Dakota

☒ I understand that the validity of Water Right/Permit No. 6094-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, James D. Pillen, sole member of JDP, LLC, the new owner, certify that the above information is true and correct.

JDP, LLC,

By: 

Member

(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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 18, 2005

6094-3

Thomas M Maul, Attorney at Law
PO Box 145
Columbus NE 68602-0145

RE: Transfer of Water Permit No. 6094-3

Dear Mr. Maul:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted on behalf of JDP LLC. The transfer has been completed. The water permit formerly listed in the name of Spring Valley LLC is now listed in the name of JDP LLC.

Enclosed is your Receipt No. 001902 in the amount of \$2.50 and your copy of the "Notice of Transfer of Ownership" form. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure

c: James Pillen

Permit No. 6094-3
Vermillion 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 **JDP, LLC** of **3214 25th Street, Columbus, NE 68601** holder of Permit No. **6094-3**, bearing the priority of **August 13, 1998** authorizing the diversion of **0.09** cu. ft. per second of the waters of **ground water (Turkey Ridge Creek aquifer)** for **commercial** purposes, in **Turner** County.

Inspection contact & relationship to permit holder, if applicable: **Spencer Bose, Manager**

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: **Marion Well Drilling**
- 2) No. of Wells **2**
- 3) Depth(s) **51 & 60** feet
- 4) Well log is available **Y**
- 5) Comment:

Casing:

- 1) Diameter **5** inches
- 2) Length **47 & 50** feet
- 3) Type **Plastic**

Screen:

- 1) Type **Plastic**
- 2) Length **4 & 10** feet
- 3) Static water level **flowing (40 gpm)**

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

Water is used to supply 7 buildings in 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 points of diversion located as follows: **West well: 900 feet N and 425 feet E (Latitude 43.23061, Longitude -97.17965); East well: 850 feet N and 525 feet E (Latitude 43.23055, Longitude -97.17927) both from the SW corner section 12-T97N-R54W (SW $\frac{1}{4}$ SW $\frac{1}{4}$).** The works are capable of diverting and conveying to the place of use **0.09** cu. ft. per second of water which is to be used for **commercial purposes in a swine confinement operation.** Water has been put to beneficial use to the maximum extent and the license should be issued for **0.09** cfs.

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

| Comments or other permit(s) associated with the project: **none**



Ron Duvall

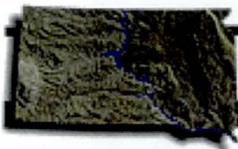
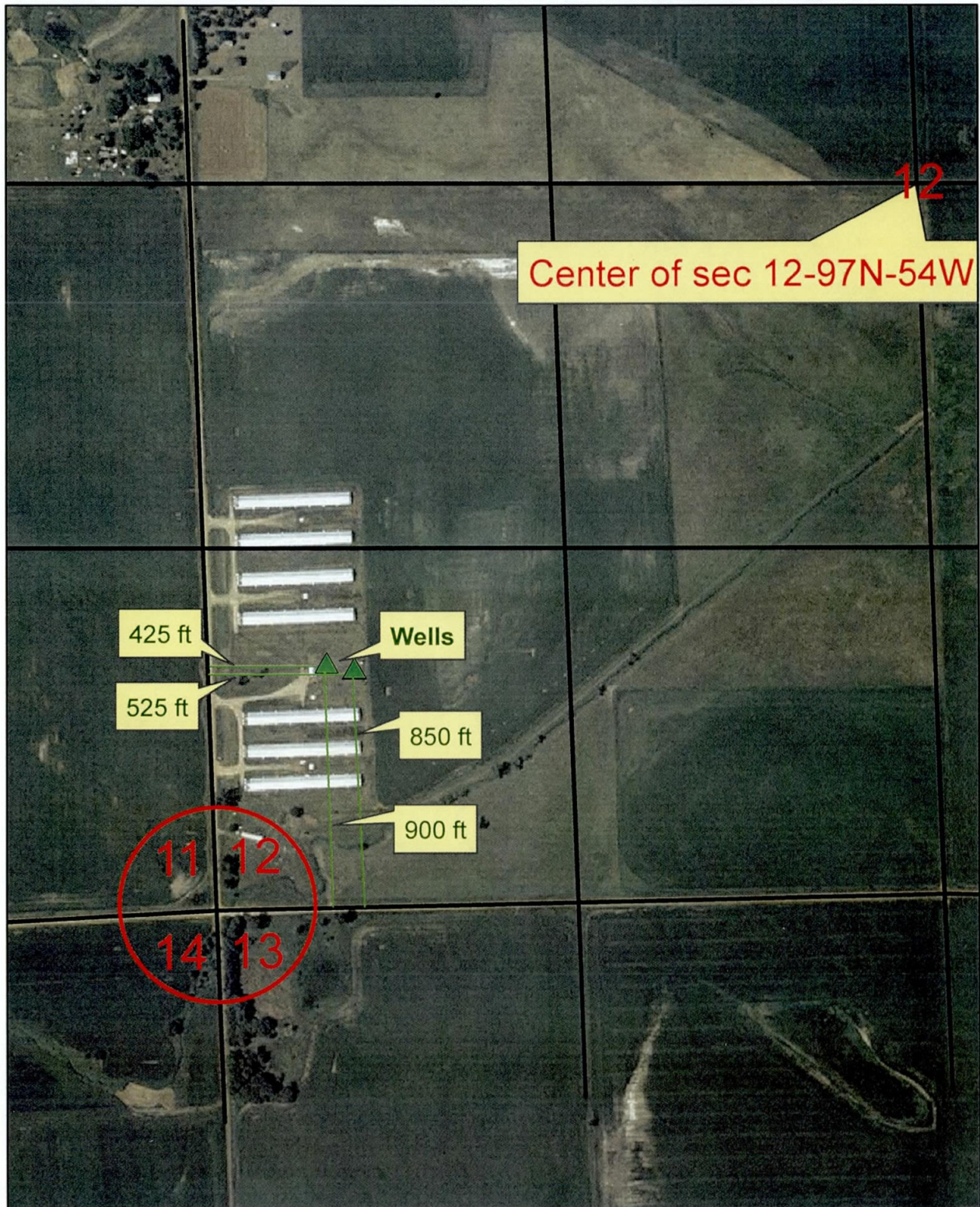
Natural Resources Engineer
DENR, Water Rights Program

Date report completed: **November 18, 2005**

Scale: 1 inch equals 545 feet

775

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 18, 2005

Water Right No. 6094-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 6, 2005

6094-3

JDP, LLC
Attn: Spencer Bose
5301 W 32nd
Sioux Falls SD 57106

Dear Mr. Bose:

On October 11, 2005 the investigation of the water use systems, including the extent of application of water to beneficial use, as developed under Water Permit No. 6094-3 (two wells located in SW ¼ Sec 12-T97N-R54W) and Water Permit No. 6129-3 (one well located in SE ¼ Sec 2-T97N-R54W), was completed by Ron Duvall, a staff engineer with our program. The final water right document, the water license, can now be issued for each permit.

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". Our records indicate the license fee has been paid for Water Permit No. 6129-3.

A 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 Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
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www.state.sd.us/denr

April 20, 2006

REMINDER NOTICE

6094-3

Spencer Bose
JDP, LLC
2608 Abbott Dr
Yankton SD 57078-5348

Dear Mr. Bose:

In October, 2005, an investigation of the water use system described in Water Permit No. 6094-3 was conducted for licensing purposes. The permit authorizes diversion of water from two wells for use in a swine confinement operation.

On December 6, 2005, we advised you that a \$50.00 fee was due for the completed investigation of Water Permit No. 6094-3. The fee also covers issuance of your water license which is the final document in obtaining and perfecting a water permit.

To date, we have not received the fee and therefore can not issue the water license. 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 any permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352. The check or money order for the fee should be made payable to the "Water Rights Program".

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 2, 2006

6094-3
6129-3

James D Pillen
JDP LLC
3214 25th St
Columbus NE 68601

Dear Mr. Pillen:

Thank you for taking the time to visit with me about Water Permit Nos. 6094-3 and 6129-3. Both permits are for swine confinement units near Hurley, South Dakota.

As part of the permitting process, once the systems are completed they are inspected by a staff engineer and then licensed for the "as-built" system. The inspection was conducted on October 11, 2005. Permit Nos. 6094-3 and 6129-3 are now ready for licensing. The required fee of \$50.00 has already been paid for No. 6129-3. The fee still needs to be paid for No. 6094-3.

Also, I am enclosing a partially completed "Notice of Transfer of Ownership" form for changing the name on Water Permit No. 6129-3 to JDP LLC. Please make any necessary corrections and then sign the form and return it to our office with a required filing fee of \$2.50.

To recap, to complete the transfer and licensing; please send in the following:

- 6094-3 \$50.00 fee for inspection and licensing
- 6129-3 The signed "Notice of Transfer of Ownership" form and \$2.50 filing fee

You may make the check or money order for the fee (\$52.50 total) payable to the Water Rights Program. If you have any questions, please contact me.

Sincerely,

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

encl

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 21, 20 06

RECEIVED OF JDP LLC, 3214 25th St., Columbus NE 68601

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct 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>6094-3</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.

02554

By

Darland Ebel
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 30 2006

6094-3
6129-3

JDP LLC
3214 25th Street
Columbus NE 68601

Dear Sir:

Enclosed are Water License Nos. 6094-3 & 6129-3. These are the final water right documents completing your process of obtaining a Water Right. Enclosed is Receipt No. 02554 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License No. 6094-3 and Receipt No. 02555 in the amount of \$2.50 which you paid for the transferring of Water Permit No. 6129-3.

As long as you use the water beneficially, as stated in the Water Licenses, 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

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 6094-3

(1) Dan Christensen, Hurley SD made Application No. 6094-3, August 13, 1998 for a water permit to divert 0.09 cubic feet of water per second from groundwater (two wells), Turner County, South Dakota for commercial use purposes. Permit No. 6094-3, with a priority date of August 13, 1998 was approved March 3, 1999 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 3, 2004 and for the application to beneficial use of water on or before March 3, 2008.

The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on September 14, 2000. The *Notice* stated the diversion system was completed and the water placed to beneficial use on August 25, 2000.

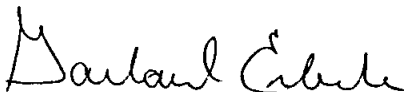
On July 18, 2005, Water Permit No. 6094-3 was transferred to JDP, LLC, 3214 25th St, Columbus NE 68601.

(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. 6094-3 is issued a license, bearing a priority date of August 13, 1998 to appropriate 0.09 cubic feet of water per second from groundwater (two wells) for commercial use in a swine confinement operation.

The diversion points are located: West well – 900 feet north and 425 feet east; East well – 850 feet north and 525 feet east; both from the southwest corner of Section 12-T97N-R54W (SW ¼ SW ¼).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6094-3 including the following now applicable qualifications:

- 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.
- Permit No. 6094-3 is subject to compliance with requirements of the General Water Pollution Control Permit for concentrated swine feeding operations.
- The wells authorized by Permit No. 6094-3 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.
- Permit No. 6094-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:
 - a) Chapter 74:54:01 Ground Water Quality Standards,
 - b) Chapter 74:54:02 Ground Water Discharge Permit,
 - c) Chapter 74:51:01 Surface Water Quality Standards,
 - d) Chapter 74:51:02 Uses Assigned to Lakes,
 - e) Chapter 74:51:03 Uses Assigned to Streams, and
 - f) Chapter 74:52:01 through 74:52:11 Surface Water Discharge Provisions.



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

AUG 30 2006

date

