

WATER PERMIT NO. 6329-3

Name of Applicant: Butterflake Aquafarms

Address: PO Box 1283, Watertown SD 57201

Phone: 605 886-3390

Amount of Water Claimed: 1.11 cfs

Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial

County: Brookings

Type of Waste Disposal System:

Location: northwest edge of Bruce

PRIORITY

Date Received: 6-17-02

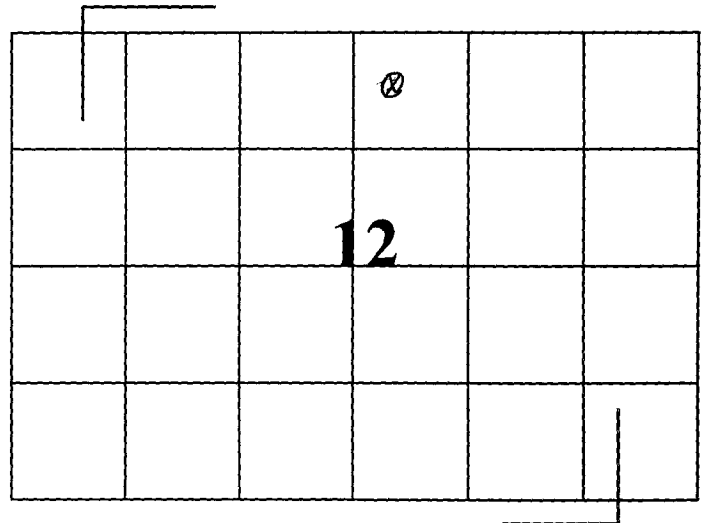
Application/License Fee: \$400

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks: Additional well and increases diversion rate authorized by No. 5403A-3

Diversion Point: NW ¼ NE ¼ Sec 12-T111N-R51W



Land to be Irrigated: NA

Depth of Well: ³⁰
22 feet

Well Driller: : NA

Remarks:

Type of Map: aerial

Prepared by: Dawn Byers, PT

Reviewed and the Number Assigned on: 6-18-2002

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 6329-3**

Date of first receipt of application June 17, 2002.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 6329-3 to Butterflake Aquafarms, PO Box 1283, Watertown SD 57201 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. 6329-3 appropriates 1.11 cubic feet of water per second from one well (Big Sioux:Brookings Aquifer) approximately 30 feet deep located in the NW ¼ NE ¼ Section 12-T111N-R51W. Water will be pumped from this well and the well authorized by Water Permit No. 5403A-3 into dugouts/ponds and the water level maintained for fish propagation.
2. The water appropriated shall be used for the purpose of commercial use and may not exceed the amount of water needed for beneficial use.
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. 6329-3 is September 23, 2002.
5. The date from which applicant may claim right is June 17, 2002.
6. One-fifth of the construction is to be completed on or before March 23, 2005.
7. All construction is to be completed on or before September 23, 2007.
8. Water is to be put to beneficial use on or before September 23, 2011.
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 well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 6329-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump 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.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

OCT 25 2002

date



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

RECEIVED
JUN 17 2002
WATER RIGHTS
PROGRAM

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6329-3</u>	(office use only) Hydrologic Unit <u>10170202</u>
	Basin <u>Sioux River</u>	
	Newspaper <u>Brookings Register, Brookings</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 Butterflake Aquafarms Phone 605-886-3390
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 415 10th St SW, Watertown PO Box 1283 State SD 57201
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 1.11 *CFS or 500 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply well

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) NW 1/4 NE 1/4 12-111-51,
Brookings County

County Brookings

5. County or counties where water will be used Brookings

6. Annual period during which water is to be used year-round use 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)

Construct dugout and maintain level for fish propogation. Dugout is lined to prevent percolation of water.

STATE OF SOUTH DAKOTA)
County of Codington SS

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

I, R. Boyd Fleeger, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature R. Boyd Fleeger

Subscribed and sworn to before me this 14 day of June 2002

[Signature]
Notary Public signature

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 24" Depth 30 - 40'
- b) Casing Type plastic Diameter 16" Thickness 1/2"
- c) Screen Type stainless steel Diameter 16" Thickness 1/2"
- d) Gravel Pack _____ Length of Gravel Pack 20'
- e) Depth to Top of Water Bearing Material 8'
- f) Depth to Water (ground surface to water level) 8'
- g) Distance to nearest existing domestic well:
- On applicants property Permit #5403-3 On property owned by others unknown

2. Wastewater Disposal System Information

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

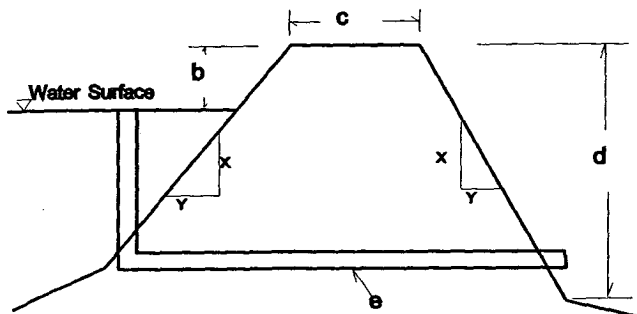
3. Dugout Information

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

4. Water Storage Dams

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

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



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

NOT TO SCALE





SOUTH DAKOTA WATER WELL COMPLETION REPORT

6329-3

07-92

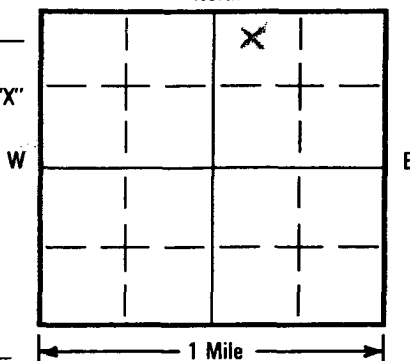
Location NW 1/4 NE 1/4 Sec 12 Twp 111-N Rg 51-W

County

Brookings

North

Please mark well location with an "X"



Well Completion Date

11-15-02

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 400 ft. from Creek (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Bucket - False CasingCASING DATA: ☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>50</u> LB/FT	<u>12</u> IN	<u>12</u> FT	<u>20</u> FT	<u>20</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	_____	_____ lb./gal	<u>0</u> ft	<u>8</u> ft
_____	_____	_____ lb./gal	_____ ft	_____ ft

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 12 IN Length 5 FEETMaterial Stainless SteelSlot Size 0080 Set From 20 Feet to 25 Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Chlorine Puck

_____ NO, Why Not? _____

Laboratory sent to for water quality analysis

Brookings

Well Owner: _____

Business Name: Butterflake Fish Farm

Address: _____

Bruce, SD

WELL LOG:

DEPTH

FORMATION

FROM

TO

Sand / Topsoil	0	2
Med Gravel	2	20
Coarse Gravel	20	25

STATIC WATER LEVEL 8 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: _____☐ Bailed _____☐ Other _____

Pumping Level Below Land Surface

14 ft. After 6 Hrs. pumped 350 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate 230 GPM

REMARKS

South Well

RECEIVED

FEB - 7 2003

This well was drilled under license # 111 WATER RIGHTS PROGRAM

And this report is true and accurate.

Drilling firm Lacey Well Drilling, Inc

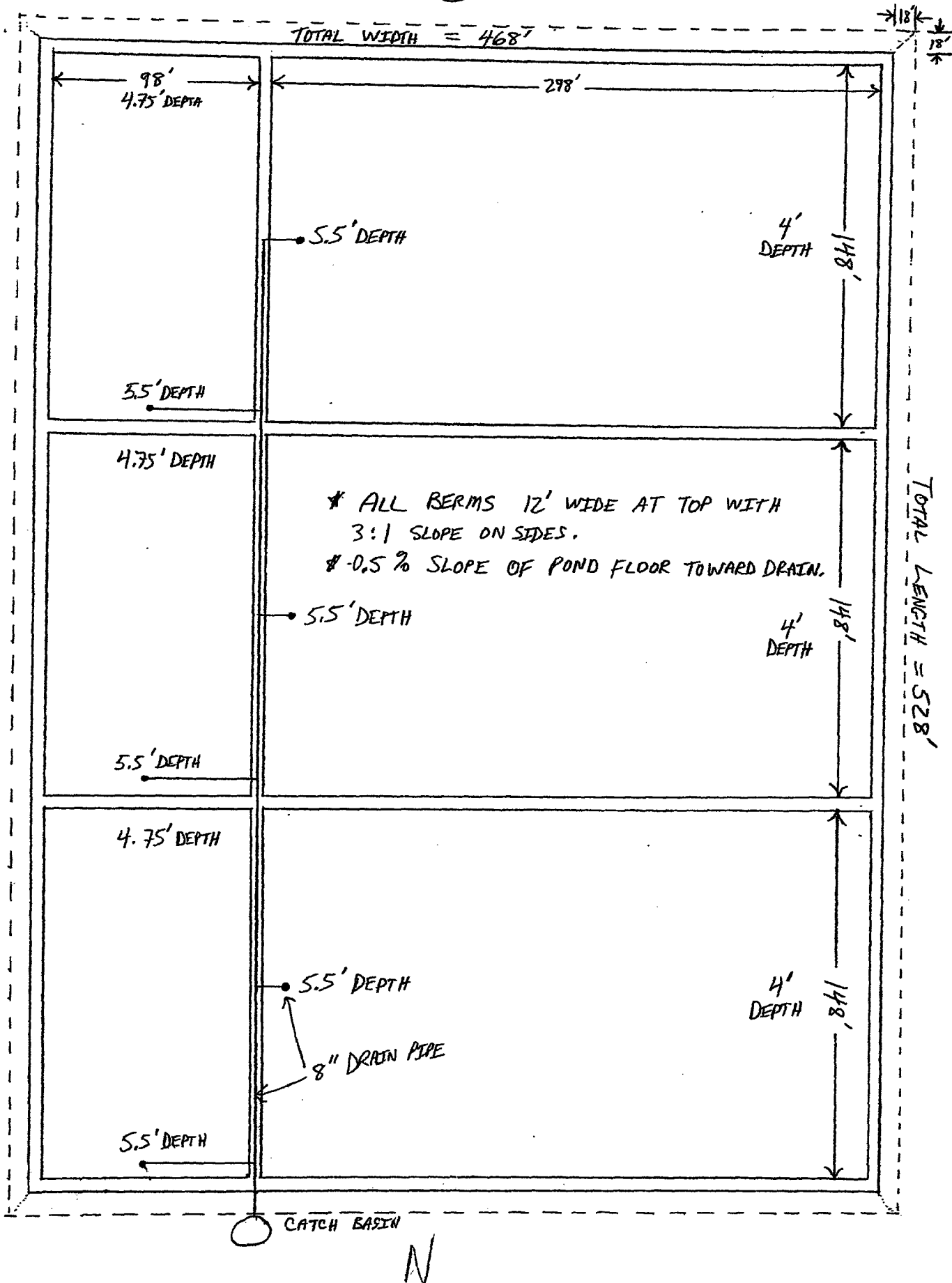
Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: Joan ReddickSignature of Well Owner or Equitable Property Holder: Brad H. FarberDate: 2/3/03

S

E

N



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

417186

Pierre, June 18, 20 02

RECEIVED OF Wiles & Kylance LLP, PO Box 227, Watertown, SD 57201
the following amount in fees for services rendered as provided for by law: (for Butterflake Aquafarms)

Fee for Application for Permit No. <u>6329-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	350	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>6329-3</u> _____	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	400 00

By Darland Eibele
Chief Engineer gm

WILES & RYLANCE LLP

A Registered Limited Liability Partnership

ATTORNEYS AT LAW

3 East Kemp - Suite 200

P. O. Box 227

Watertown, South Dakota 57201-0227

(605) 886-5881

FACSIMILE

(605) 886-3934

E-MAIL:

rdr@wilesandrylance.com

PARTNERS:

John C. Wiles, P.C.

Raymond D. Rylance, P.C.

ASSOCIATE:

Rebecca L. Morlock Reeves

June 14, 2002

Eric Gronlund
Department of Water & Natural Resources
Foss Building
523 E Capitol
Pierre, SD 57501

Re: Butterflake Aquafarms

Dear Eric:

Enclosed find an Application to appropriate ground water for Butterflake Aquafarms, including Form 2A.

We enclose copies of a map showing the location of the proposed well site. We enclose a copy signed by Dawn Byers dated 5/7/02. The original was enclosed with our previous Application requesting additional use on Permit #5403-3.

Because of the close proximity to Permit #5403-3, the well log or test log for that permit, we understand, will be sufficient for the purposes of this Application.

Should you have any further questions concerning this Application, please do not hesitate to contact the undersigned. Thank you.

Very truly yours,

WILES & RYLANCE LLP

Raymond D. Rylance

RECEIVED

JUN 17 2002

WATER RIGHTS
PROGRAM

RDR:bjs
Enclosures

WILES & RYLANCE LLP

A Registered Limited Liability Partnership

ATTORNEYS AT LAW

3 East Kemp - Suite 200

P. O. Box 227

Watertown, South Dakota 57201-0227

(605) 886-5881

FACSIMILE

(605) 886-3934

E-MAIL:

rdr@wilesandrylance.com

RECEIVED

JUN 18 2002

**WATER RIGHTS
PROGRAM**

PARTNERS:

John C. Wiles, P.C.

Raymond D. Rylance, P.C.

ASSOCIATE:

Rebecca L. Morlock Reeves

June 17, 2002

Eric Gronlund
Department of Water & Natural Resources
Foss Building
523 E Capitol
Pierre, SD 57501

Re: Butterflake Aquafarms

Dear Eric:

I neglected to send you our filing fee on the Butterflake application dated June 14, 2002.

Therefore, enclosed find our check made payable to the Department of Water & Natural Resources in the amount of \$400.00.

Thank you.

Very truly yours,

WILES & RYLANCE LLP

Raymond D. Rylance

RDR:bjs

Enclosure

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Application No. 6329-3, Butterflake Aquafarms

ADDRESS: COUNTY: Brookings

DATE: June 20, 2002 TELEPHONE:

RE: Call from Ray Rylance

COMMENTS:

Mr. Rylance who is the attorney for Butterflake Aquafarms called in response to my e-mail regarding the location of the well. Mr. Rylance stated they have a well driller coming out to see if a new pump can be put in the existing well to increase the production to the amount desired. If that is not possible they will drill a new well approximately 20 feet east of the existing well.

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

NAME: Eric Mendenhall

REPORT ON WATER PERMIT APPLICATION NO. 6329-3
For Butterflake Aquafarms
August 7, 2002

Application No. 6329-3 proposes to appropriate 1.11 cfs from one well approximately 30 feet deep located in the NW ¼ NE ¼ of section 12, T111N R51W in Brookings County. This application is for commercial use. The water will be pumped from this well and the existing well authorized by Water Permit No. 5403-3 into dugouts/ponds and the water level maintained for fish propagation.

AQUIFER - BIG SIOUX BROOKINGS (BS-B)

The Big Sioux Brookings is a surficial outwash (sand and gravel) which is under water table conditions at this site. The aquifer underlies 74,500 acres and contains an estimated 245,850 acre-feet of recoverable water in storage in Brookings County (Hedges, 1982). The aquifer extends into Hamlin County to the north and is hydraulically connected to the Big Sioux River. The USGS reported the entire Big Sioux aquifer underlies 540 square miles and contains an estimated 2.0 million acre-feet of water in storage in Brookings and Kingsbury Counties (Hamilton, 1989). The reason for the apparent discrepancy in water volume estimates is that the Hedges report breaks up the Big Sioux aquifer into a series of management units based upon specific hydrologic criteria. Also, the Hamilton report has the benefit of better geologic data and mapping that resulted in a larger area underlain by the aquifer. Ground water movement is toward the Big Sioux River and in general from the northeast to southwest in the Bruce area.

The test well information submitted with the original Water Right No. 5403-3 indicates sand and gravel from one to 22 feet below land surface and a static water level of about eight feet below land surface. The inspection report for the water right indicates an eight-inch diameter well about 22 feet deep with eight feet of slotted plastic screen capable of pumping 75 gpm.

The Water Rights Program monitors two observation wells completed into the Big Sioux Brookings aquifer and located within a two-mile radius of this application. These are monitoring wells BG-75E and BG-75F. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2002). Hydrographs for these two wells are included with this report.

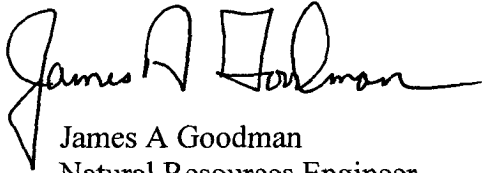
REVIEW OF EXISTING WATER PERMIT/RIGHTS

The City of Bruce has a municipal well (Water Right No. 4950-3) located about one-half mile southeast of this application. However, the city is supplied water by Brookings-Deuel RWS. The well for the existing water right and water permit Nos. 5403-3 and 5403A-3 respectively, will be located within 20 feet of this new well. Drawdown will

extend from the new well to the old well. Since the applicant will control both wells, it is manageable. Interference is not a concern.

CONCLUSIONS

1. Water is available from the Big Sioux Brookings aquifer.
2. The aquifer is under water table conditions at this site. Drawdown created by pumping is not significant and does not extend very far from individual production wells. Interference is not a concern.
3. The well authorized by this application, if approved, must be constructed in accordance with SD Well Construction Standards.
4. The applicant indicates that the ponds will be lined to prevent leakage of water out of the ponds. Because of the site geology the ponds/dugouts would not hold water unless they are lined.
5. This facility will generate wastewater. The facility overlies the Big Sioux aquifer and is within one-quarter mile of the Big Sioux River. No plans or specifications for this facility have been submitted to the DENR for review.



James A Goodman
Natural Resources Engineer

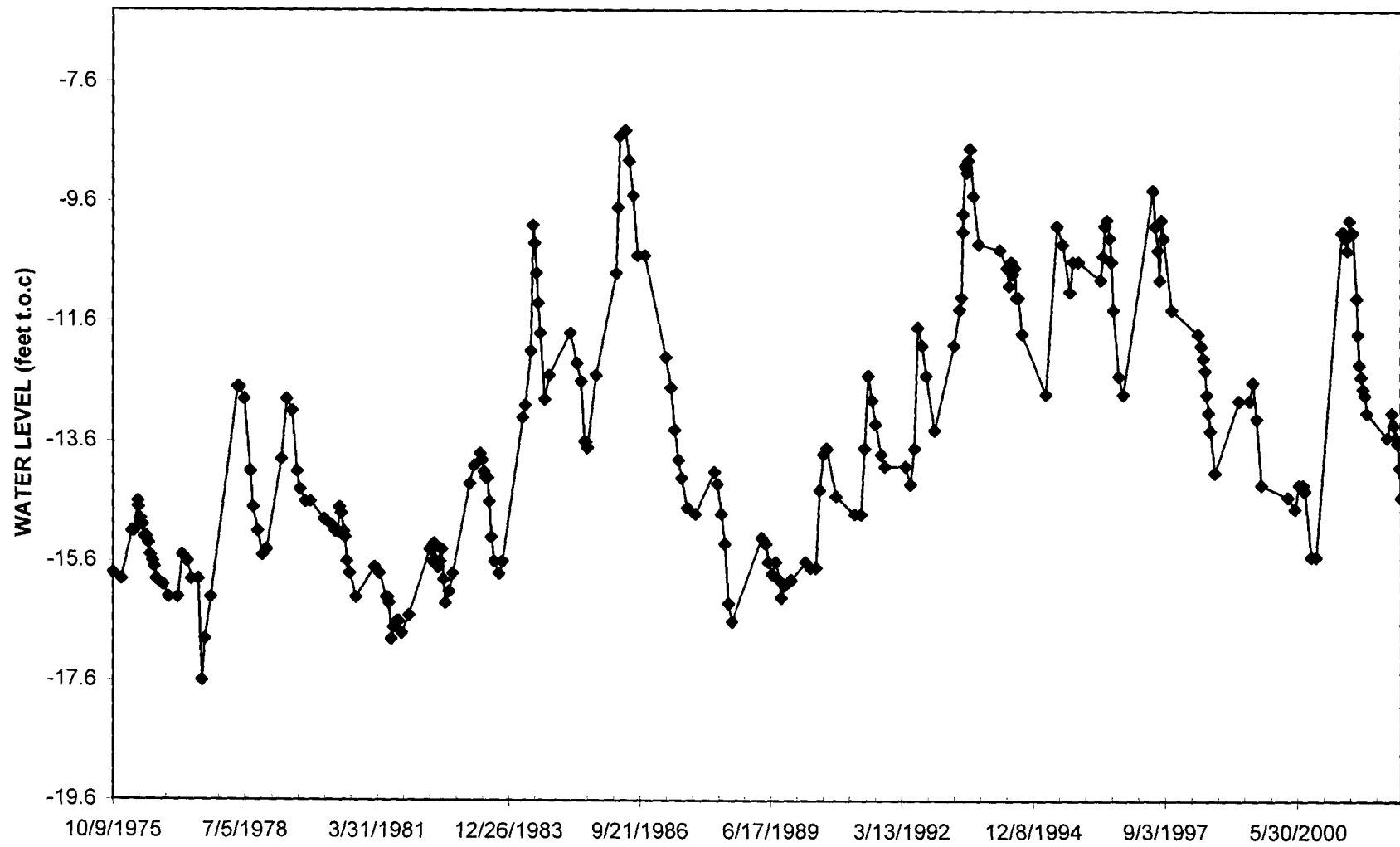
BIBLIOGRAPHY

Hamilton, L.J., 1989, Water Resources of Brookings and Kingsbury Counties, South Dakota, WRI 88-4185, Huron, SD, 57350.

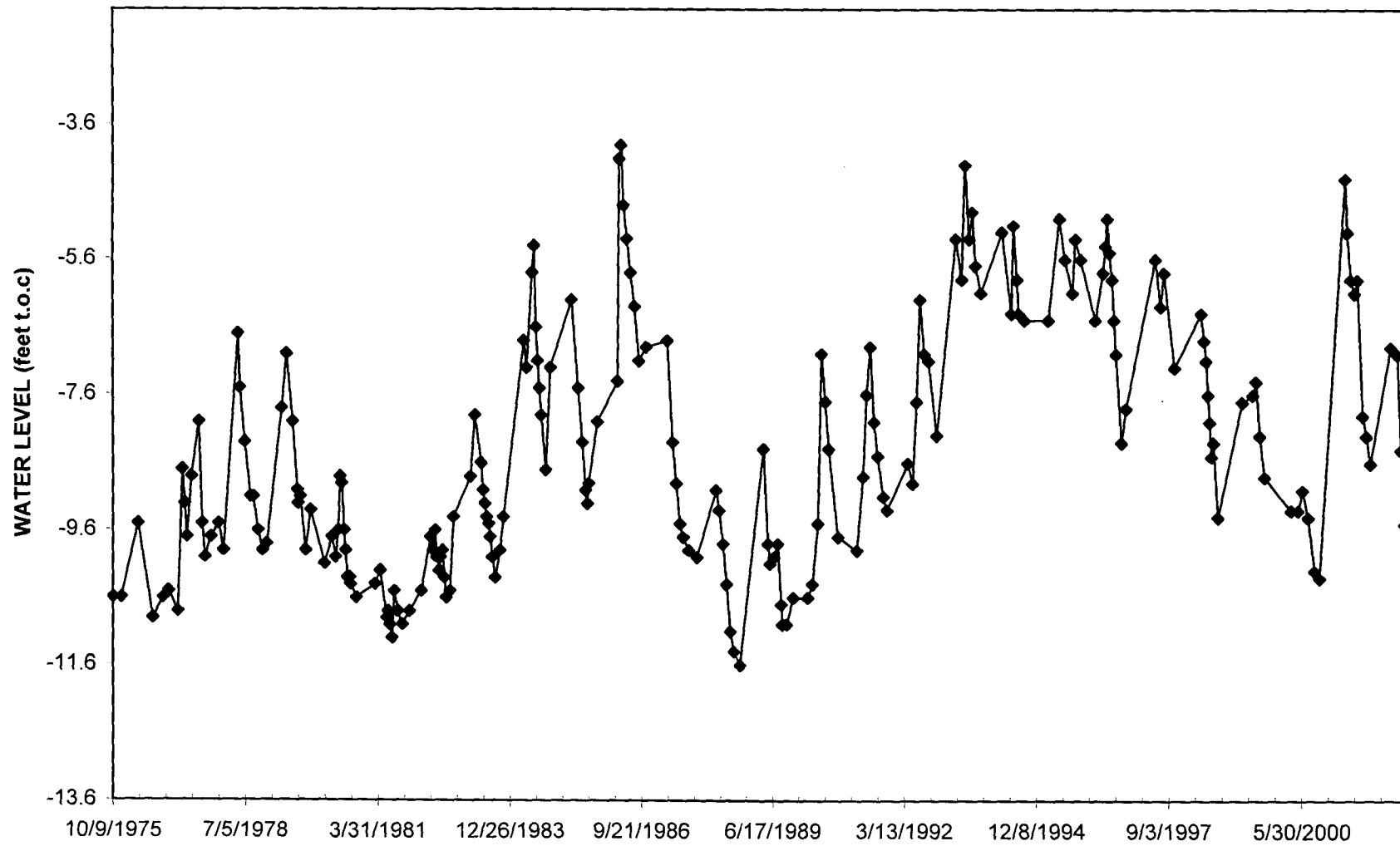
Hedges, L.S., 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

Water Rights, 2002, Unpublished Observation Well Data for Brookings County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

**WATER RIGHTS' OBSERVATION WELL
BG-75E**



**WATER RIGHTS' OBSERVATION WELL
BG-75F**





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 6329-3, Butterflake Aquafarms**

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. 6329-3, Butterflake Aquafarms, c/o R. Boyd Fleeger, PO Box 1283, Watertown SD 57201.

The Chief Engineer is recommending APPROVAL of Application No. 6329-3 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:

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

The well authorized by Permit No. 6329-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump 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.

See report on application for additional information.

Garland Erbele, Chief Engineer
August 26, 2002

Affidavit of Publication

State of South Dakota

SS

County of Brookings

Jessica Johnson of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed in the office maintained at said place of publication; and that the

RECEIVED
SEP 23 2002
WATER RIGHTS
PROGRAM

Legal # 904 No. 6329-3 .Appropriate Water

Brookings and State of South Dakota, for more than one a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit "A," and is made a part of this affidavit, was published in said newspaper for _____ 2 times, to-wit:

September 4, 2002

September 11, 2002

said Exhibit "A" inures to the sole benefit to the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Forty four dollars and twenty-one cents \$ 44.21

Subscribed and sworn to before me this

September

2002.

20 day of

Jessica Johnson
Christina Nelson

Notary Public in and for the County of Brookings, South Dakota.
My Commission expires April 27, 2006

Legal 904, 2x, 9/4, 11
NOTICE OF APPLICA-
TION NO. 6329-3 to
Appropriate Water

Notice is given that Butterflake Aquafarms, PO Box 1283, Watertown SD 57201 has filed an application for a water permit to appropriate 1.11 cubic feet of water per second from one well (Big Sioux: Brookings Aquifer) approximately 30 feet deep located in the NW 1/4 NE 1/4 Section 12-T11 1N-R51W. This application is for commercial use. Water will be pumped from this well and the well authorized by Water Permit No. 5403A-3 into dugouts/ponds and the water level maintained for fish propagation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6329-3 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 23, 2002.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

August 26, 2002

Butterflake Aquafarms
% R. Boyd Fleeger
PO Box 1283
Watertown SD 57201

Dear Mr. Fleeger:

Water Permit Application No. 6329-3 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 Brookings Register printed at Brookings, SD (Ph # 605-692-6271). You will need to contact the newspaper and authorize publication of this notice. 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. Upon receiving authorization, 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 also 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: Raymond Rylance, Wiles & Rylance LLP, PO Box 227, Watertown SD 57201-0227

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 57501-3182
www.state.sd.us/denr

August 27, 2002

Brookings Register
PO Box 177
Brookings, SD 57006-0177

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 6329-3 to Appropriate Water to be published twice. Please publish the first notice on September 4, 2002 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 Butterflake Aquafarms, % R Boyd Fleeger, PO Box 1283, Watertown, SD 57201 (Ph # 605-886-3390).

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. 6329-3

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

Date _____

We are in receipt of your letter of August 27, 2002 enclosing Notice of Hearing to Appropriate Water by Application No. 6329-3 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 4, 2002 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6329-3 to Appropriate Water

Notice is given that Butterflake Aquafarms, PO Box 1283, Watertown SD 57201 has filed an application for a water permit to appropriate 1.11 cubic feet of water per second from one well (Big Sioux:Brookings Aquifer) approximately 30 feet deep located in the NW ¼ NE ¼ Section 12-T111N-R51W. This application is for commercial use. Water will be pumped from this well and the well authorized by Water Permit No. 5403A-3 into dugouts/ponds and the water level maintained for fish propagation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6329-3 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 23, 2002.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 25 2002

Butterflake Aquafarms
% R. Boyd Fleeger
PO Box 1283
Watertown SD 57201

Dear Mr. Fleeger:

Enclosed is Water Permit No. 6329-3 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.

Sincerely,

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

enclosures

6329-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 20, 2005

Brad G Farber
PO Box 286
Bruce SD 57220

Dear Mr. Farber:

I am writing in regard to a well driller's report filed by Lacey Well Drilling. The report shows a new well was completed for Butterflake Aquafarms on May 28, 2004. A review of our files indicates that Butterflake Aquafarms holds Water Permit Nos. 5403A-3 and 6329-3. No. 5403A-3 authorizes 0.17 cubic feet per second (cfs) from one well and No. 6329-3 authorizes 1.11 cfs from one well, both for commercial use.

Mr. Farber, is the new well a replacement well or an additional well? I spoke with a woman from your Watertown office. She indicated she thought the well was a replacement but was not sure of the specifics.

South Dakota Codified Law 46-5-13.1 provides that a point of diversion may be changed or additional points of diversion may be approved without application or publication of a notice of hearing if the additional point of diversion is from the same source of water, no additional water is appropriated and the Chief Engineer makes a finding that the change does not increase the potential for interference with existing diversions.

Please let us know the status of this new well. If you have any questions, please contact Eric Gronlund or me. Thank you for your cooperation.

Sincerely,

Karen Schlaak

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

07-92

Date:



6329-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 2005

Brad Farber
ButterFlake AquaFarms, Inc.
PO Box 286
Bruce SD 57220

Dear Mr. Farber:

I am writing in regard to the ButterFlake AquaFarms's request for an additional well to the two wells currently authorized by Water Permit Nos. 5403A-3 and 6329-3. The water permits, combined, appropriate 1.28 cubic feet of water per second (575 gallons per minute) from two wells constructed into the Brookings Management Unit of the Big Sioux Aquifer for commercial use in a fish farming operation.

Upon review of the request and pursuant to SDCL 46-5-13.1, the additional well is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. A total of three wells located in the NW ¼ NE ¼ Section 12, T111N, R51W are authorized by Water Permit Nos. 5403A-3 and 6329-3. No increase in the diversion rate of 1.28 cfs is allowed

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

Approval of Additional Diversion Point

NAME: Butterflake Aquafarms, c/o Brad Farber**ADDRESS:** PO Box 286, Bruce SD 57220**DATE:** February 1, 2005 **COUNTY:** Brookings **TELEPHONE:** 605 627-9334

Butterflake Aquafarms has made a request to authorize the use of an additional well which was drilled in May 2004. This new well is in addition to the two existing wells authorized by Water Permit Nos. 5403A-3 and 6329-3.

Water Permit No. 5403A-3 authorizes the addition of commercial use and changes the annual period of use of Water Right No. 5403-3. Water Right No. 5403-3 appropriates 0.17 cfs from one well (Big Sioux: Brookings Aquifer) located in the NW ¼ NE ¼ Section 12 to irrigate 16 acres located in the NW ¼ NE ¼ Section 12, T111N, R51W. Permit No. 5403A-3 authorized water to be pumped from the well into ponds for fish propagation. Water Right No. 5403-3 continues to authorize irrigation.

Water Permit No. 6329-3 appropriates 1.11 cfs from one well (Big Sioux: Brookings Aquifer) located in the NW ¼ NE ¼ Section 12, T111N, R51W for the same purpose of fish propagation. Water Permit Nos. 5403A-3 and 6329-3, combined, appropriate 1.28 cfs (575 gpm) from two wells for use in the aquafarm.

Butterflake Aquafarm had an additional well drilled for the operation in May 2004 by Lacey Well Drilling. This well is also located in the NW ¼ NE ¼ of Section 12, T111N, R51W. Butterflake Aquafarm was contacted about water permitting requirements for this new well. Based on this contact a request was filed to authorize an additional diversion point pursuant to SDCL 46-5-13.1.

Butterflake's request states that the two original wells are used only to fill and maintain four acres of above ground ponds. This diversion does not exceed two weeks each year. The new well is used to provide water to a flow through system for holding bait fish. The request states that the new well will not be used at the same time as the previously permitted wells, therefore, the permitted amount of 1.28 cfs will not be exceeded.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The new well and the two existing wells are all constructed into the Brookings Management Unit of the Big Sioux Aquifer. All three wells are 20 to 25 feet deep. The three wells will not be operated at the same time so the authorized diversion rate of 1.28 cfs will not be exceeded.

- **If irrigation, no new land is irrigated**

This new well is used solely for the commercial use of fish farming. Water Right No. 5403-3 is the originating water right that appropriated water for irrigation of 16 acres. This irrigation component remains unchanged, although it is unclear whether irrigation is still intended. The annual irrigation submittal for this water rights shows no irrigation taking place the last four years. No action has been taken to reissue the water right for only commercial use. Regardless, no new land is being irrigated.

- **Review of Existing Diversions**

There are numerous domestic and irrigation wells on record in the area. The well log database maintained by the Water Rights Program shows seven domestic wells within a one mile radius of the ButterFlake's diversion. This review only represents the well reports on file. It does not account for wells in which the driller did not file a report. This review also does not represent whether these domestic wells are in use. A review of appropriate water rights finds eleven water rights in existence within a one mile radius.

Brookings-Deuel Rural Water System serves this area including the city of Bruce. Presumably many of the rural residents are supplied by the rural water system. Authorizing this additional diversion point will not adversely affect area wells. This request is not for an increase to the current diversion rate and is solely to allow diversions to be managed between three wells. The wells are used extensively but instead are used to make-up for incidental losses and evaporation.

RECOMMENDED ACTION

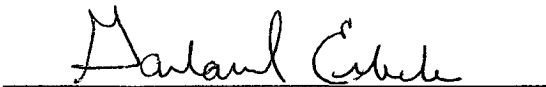
Based on the above criteria, it is recommended that the additional diversion point be authorized.



Eric Gronlund, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This additional diversion point does not increase the potential for adverse effects to existing diversions.



Garland Erbele, Chief Engineer
Water Rights Program

ButterFlake®



AquaFarms, Inc.

www.butterflake.net

January 25, 2005

Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre SD 57502-3182

RECEIVED

JAN 27 2005

WATER RIGHTS
PROGRAM

Dear Ms. Schlaak:

I am writing in response to your letter dated January 20, 2005 regarding a well driller's report filed by Lacey Well Drilling for a new well at ButterFlake AquaFarms in Bruce SD. I spoke with Eric from your office about the new well and am requesting that this new well be considered for approval as an additional diversion point without application or publication of notice of hearing based on my discussions with him. The basis for this request is that the existing permits, Nos. 5403A-3 and 6329-3, allow for a total of 1.28 cfs for commercial use. These wells are only used for filling four acres of above ground, lined ponds as needed for stocking and raising of fish. They are in use less than two weeks total each year. They would not be used at the same time as the new well that was installed last May 28, 2004. Therefore, the existing permitted use of 1.28 cfs is sufficient to cover this additional diversion without exceeding the permitted amount. The new diversion pumps approximately 50 gallons per minute and is used for holding bait in a flow-through tank system which returns the water on a continual basis to a dugout pond in the aquifer. The only water use or loss is via evaporation.

I have enclosed an aerial photo of the farm with the existing permitted wells and the new well marked on the photo. If there are any questions from your office, please feel free to call us. If a site visit is needed, we would be happy to explain how the existing wells and new well are used at our facility.

Sincerely,

Brad Farber
Hatchery Manager
ButterFlake AquaFarms, Inc.
Bruce SD 57220
605-627-5660

CORPORATE OFFICE

P.O. Box 1283 • Watertown, SD 57201
Phone 605-886-3390 • Fax 605-886-3851

HATCHERY

P.O. Box 286 • Bruce, SD 57220
Phone 605-627-5660 • Fax 605-627-9334

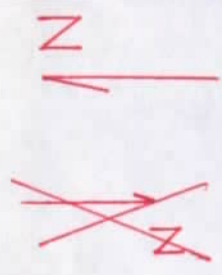


BUTTERFLAKE
AQUAFARMS
BLUE, SD.
605-627-5660

PERMIT No. 6329-3

PERMIT No. 5043A-3

NEW WELL



Butterflake Aquafarms Additional Well Request





6329-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 31, 2006

5403-3
5403A-3
6329-3

Brad Farber
Butterflake Aqua Farms
PO Box 286
Bruce SD 57220-0286

Dear Mr. Farber:

Thank you for calling concerning the need for ownership changes on Water Right No. 5403-3 and Water Permit Nos. 5403A-3 and 6329-3.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing ownership changes. Please review the forms and make any necessary corrections. The forms will need to be signed by the new owner(s) and returned to our office with a required filing fee of \$2.50 each (\$7.50 total). The check or money order for the fee can be made payable to the Water Rights Program.

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

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 6329-3

Date: 9/4/06

I/We request that Water Permit No. 6329-3

formerly owned by: Butterflake Aquafarms, PO Box 286, Bruce SD 57201

be transferred to: (name & address) BRAD G. FARBER, PO BOX 286
BRUCE SD 57220

Telephone No. 605-627-5747

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

NW1/4 NE ¼ Section 12, T111N, R51W

I/We understand that the validity of Water Permit No. 6329-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We BRAD G. FARBER, the new owner, certify that the above information is true and correct.

Brad G. Farber

(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.

RECEIVED

SEP - 6 2006

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 6, 2006

RECEIVED OF Brad Farber, PO Box 286, Bruce SD 57220

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>6329-3</u>		2 50
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.

02574

By

David L. White
Chief Engineer
gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 6, 2006

5403-3
5403A-3
6329-3

Brad G Farber
PO Box 286
Bruce SD 57220

Dear Mr. Farber:

I am writing to acknowledge receipt of the ownership changes you filed with Water Right No. 5403-3 and Water Permit Nos. 5403A-3 & 6329-3. The transfers have been completed. Nos. 5403-3, 5403A-3 and 6329-3, formerly held by Butterflake Aquafarms are now listed in your name.

Enclosed are your Receipt Nos. 02574, 02575 and 02576 in the amounts of \$2.50 each. You may keep these for your records.

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 15, 2008

5403-3
5403A-3
6329-3

Greg Oswald
Oswald Fisheries Inc
PO Box 306
Ellendale MN 56026

Dear Mr. Oswald:

I am writing in follow up to our phone conversation concerning the transfer of Water Right No. 5403-3 and Water Permit Nos. 5403A-3 & 6329-3. I am enclosing copies of them for your review.

Water Right No. 5403-3 is strictly for irrigation use. Water Permit No. 5403A-3 was obtained to authorize use of the existing irrigation well for fish culture. No. 5403A-3 did not authorize additional water. You indicated that you do not irrigate and that water is only used for fish ponds. At some point in time, the project will be inspected for licensing and Nos. 5403-3 and 5403A-3 will be combined and the irrigation portion can be removed. Until that time, we can not cancel No. 5403-3 because the water for the fish ponds is authorized under that water right.

For now, what needs to occur is Nos. 5403-3; 5403A-3 and 6329-3 need to be transferred to reflect current ownership. Enclosed are partially completed Notice of Transfer of Ownership forms for filing the ownership changes. Upon completion, please sign and return them to our office with a required filing fee of \$2.50 each (total of \$7.50). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions when completing the transfer forms, please contact me.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

OCT 30 2008

WATER RIGHTS
PROGRAM

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

No. 6329-3

Date: _____

I/We request that Water Permit No. 6329-3

formerly owned by: Brad G Farber

be transferred to: (name & address) Greg Oswald

P.O. Box 306

Ellendale Mn 56024 Telephone No. 507 684 2606

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

NW1/4 NE ¼ Section 12, T111N, R51W

I/We understand that the validity of Water Permit No. 6329-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

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

Greg Oswald

(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/30, 20 08

RECEIVED OF Oswald Fisheries PO Box 306 Ellendale ND 56026

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>6329-3</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.

03703

By

Garland Erbe
Chief Engineer

6329-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 31, 2008

5403-3
5403A-3
6329-3

Greg Oswald
PO Box 306
Ellendale MN 56026

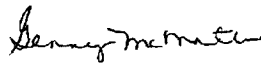
Dear Mr. Oswald:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for Water Right No. 5403-3 and Water Permit Nos. 5403A-3 & 6329-3. The ownership changes have been completed. Nos. 5403-3, 5403A-3 and 6329-3 formerly held by Brad Farber are now listed in your name.

Enclosed are your Receipt Nos. 03781, 03782 and 03783 in the amount of \$2.50 each.

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

enclosures

Permit No. 5403A-3 and 6329-3**Sioux 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, **July 26, 2012**, made a thorough examination of the water use system constructed by **Greg Oswald** of **PO Box 306, Ellendale, MN 56026** holder of Permit No. **5403A-3**, bearing the priority of **May 9, 2002** authorizing the diversion of **No Additional and 1.11** cfs of water of the **Big Sioux Brookings Aquifer** for **Commercial** purposes, in **Brookings** County.

A. Works used to divert the water:**Well Information:**

- 1) Well Drilling Firm: **Lacey Well Drilling**
- 2) No. of Wells **3**
- 3) Depth(s) **22, 23 and 25** feet
- 4) Well log is available **Y**

Casing:

- 1) Diameter **12** inches
- 2) Length **17, 18 and 20** feet
- 3) Type **Steel**

Screen:

- 1) Type **(1)PVC and (2) Stainless Steel**
- 2) Length **5** feet
- 3) Static water level **4, 8 and 8** feet

Pump:

- 1) Make **(3)Unknown Submersible**
- 2) Model **Unknown**
- 3) Size **Unknown**

B. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period NA
- 3) Exceptions to compliance are: None

The system is in Good condition with the point(s) of diversion located as follows:

Well for Water Permit No. 5403-3 and 5403A-3:

Approximately 590 feet south and 2,110 feet west of the NE corner of Section 12-T111N-R51W

(N 44.44050, W -96.89503) (NW ¼ NE ¼)

Wells for Water Permit No. 6329-3

Approximately 450 feet south and 2,325 feet west of the NE corner of Section 12-T111N-R51W

(N 44.44049, W -96.89369) (NW ¼ NE ¼)

Approximately 615 feet south and 1,715 feet west of the NE corner of Section 12-T111N-R51W

(N 44.44092, W -96.89584) (NW ¼ NE ¼)

The works are capable of diverting and conveying to the place of use 1.28 cu. ft. per second of water which is to be used for Commercial use.

The license should be issued for 1.28 cfs.

All structures, wells and lands on map Y

Comments or other permit(s) associated with the project:

Permit No. 5403A-3 authorizes commercial use and changes the annual period of use to January 1st through December 31st with no additional water. Water Right No. 5403-3 authorizes 0.17 cfs from one well to irrigate 16 acres in Section 12-T111N-R51W. After reviewing the Irrigation Questionnaires for 5403-3, irrigation of the authorized acres is no longer being irrigated. The irrigation portion of Water Right No. 5403-3 should be cancelled.

Water Right No. 5403-3 was inspected on January 14, 1998 for licensing of the permit. The inspection report prepared by Water Rights staff indicates the pump for this well is a submersible pump capable of producing 75 gpm. The pump information for licensing of Permit No. 5403A-3 is based on the previous inspection.

Water Permit No.6329-3 authorizes one additional well and increases the diversion rate by 1.11 cfs authorized by Water Permit No. 5403A-3 for commercial use. One additional well was also authorized in 2005. Water Permits No.(s) 5403-3, 5403A-3 and 6329-3 combined, authorize appropriation of 1.28 cfs from 3 wells constructed into the Big Sioux:Brookings aquifer.

At the time of the inspection for licensing of Water Permits No(s) 5403A-3 and 6329-3, no additional pump information was available for the wells. As a follow-up of the inspection, I contacted Joanie from Lacey Well Drilling on August 9, 2012 to try and obtain any pump information they might have regarding the pumps in the

Report of Examination of Works

Permit No. 5403A-3 and 6329-3

wells. She informed me that they had no records because of flooding which had occurred and their records had been ruined.

Water Permit No(s) 5403-3, 5403A-3 and 6329-3 should be incorporated while each retaining their priority dates of February 2, 1990, May 9, 2002 and June 17, 2002.



Mike DeFea

Natural Resources Engineer II

DENR, Water Rights Program

Date report completed: **August 6, 2014**

Greg Oswald
Permit Nos. 6329-3 & 5403A-3



0 0.125 0.25 0.5 Miles

Mike DeFea
Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
August 2, 2012





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

5403-3
5403A-3
6329-3

MAY 28 2015

Greg Oswald
PO Box 306
Ellendale MN 56026

Dear Mr. Oswald:

Enclosed is Water License No. 6329-3. This is the final water right document completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6329-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

Note: The applicable portions of No. 5403-3 and 5403A-3 are incorporated into Water License No. 6239-3.

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6329-3

(1) Butterflake Aquafarms, Watertown SD made Application No. 6329-3, June 17, 2002 for a water permit to divert 1.11 cubic feet of water per second (cfs) from groundwater (one well-Big Sioux Brookings Aquifer), Brookings County, South Dakota for commercial use purposes. Permit No. 6329-3, with a priority date of June 17, 2002 was approved September 23, 2002 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 23, 2007 and for the application to beneficial use of water on or before September 23, 2011.

On October 30, 2008, Water Permit No. 6329-3 was transferred to Greg Oswald, PO Box 306, Ellendale MN 56026.

- Water Right No. 5403-3, with a priority date of February 2, 1990 authorized diversion of 0.17 cfs from a well located in the NW 1/4 NE 1/4 Section 12-T11N-R51W to irrigate 16 acres. *The irrigation component of Water Right No. 5403-3 was cancelled by the Water Management Board on October 22, 2014.*
- Water Permit No. 5403A-3, with a priority date of May 9, 2002 authorized the addition of commercial use for 0.17 cfs diversion authority used for irrigation under Water Right No. 5403-3. No. 5403-3 also extended the period of annual use to year around.
- On February 3, 2005, pursuant to SDCL 46-5-13.1, the Chief Engineer authorized an additional diversion point located in the NW 1/4 NE 1/4 Section 12-T11N-R51W.

The applicable portions of No. 5403-3 and 5403A-3 have been incorporated into this Water License No. 6329-3.

(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, Greg Oswald holder of Incorporated Water Right No. 6329-3 is issued a license, bearing priority dates of May 9, 2002 (0.17 cfs) and June 17, 2002 (1.11 cfs) to appropriate a total of 1.28 cfs from groundwater (three wells) for commercial use. Water is pumped from the three wells into dugout/ponds and the water level is maintained for fish propagation.

The location of diversion points are:

- 590'S and 2,110'W of the NE corner of Section 12-T11N-R51W (NW 1/4 NE 1/4)
- 450'S and 2,325'W of the NE corner of Section 12-T11N-R51W (NW 1/4 NE 1/4)
- 615'S and 1,715'W of the NE corner of Section 12-T11N-R51W (NW 1/4 NE 1/4)

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6329-3 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.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAY 28 2015

date

