

WATER PERMIT NO. 6581-3

Name of Applicant: **Fremark Feedlot**

Address: **36470 US Highway 14, St. Lawrence SD 57353**

Phone: **605 853-3246**

Amount of Water Claimed: **0.184 cfs**

Total Acres: **NA**

Source of Water Supply: **groundwater (two wells)**

Water to be used for: **commercial**

County: **Hand**

Type of Waste Disposal System:

Location: **2 miles east of St. Lawrence**

PRIORITY

Date Received: **1-25-05**

Application/License Fee: **\$275**

Corrected Application Received: **1-31-05**

Period of Annual Use: **Jan 1- Dec 31**

Remarks: **for use in a cattle feedlot operation**

Diversion Point: **SW ¼ NW ¼ Sec 15-T112N-R67W**

Land to be Irrigated: **NA**

Depth of Well: **1000 & 1340 feet deep**

Well Driller: : **Pullman Well Drilling & Huron Drilling**

Remarks:

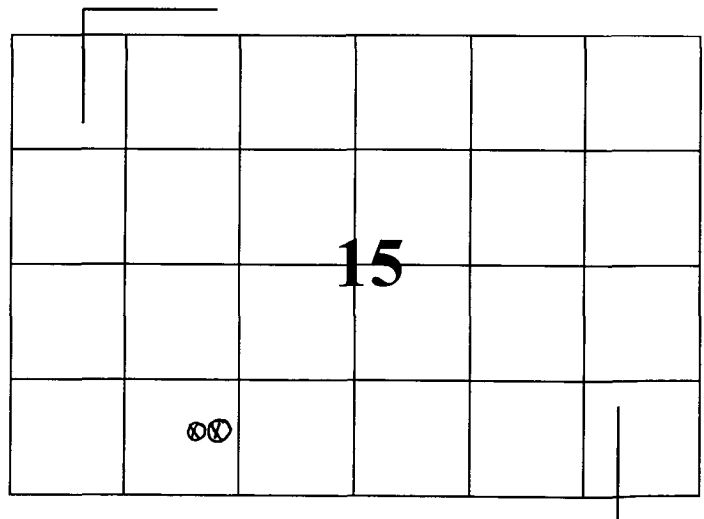
Type of Map: **plat**

Prepared by: **Gregory G Grabs, PE**

Reviewed and the Number Assigned on: **1-31-05**

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____



RECEIVED

JAN 25 2005

WATER RIGHTS
PROGRAM

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

(office use only)
No. 6581-3 Hydrologic Unit 10/60006
Basin James River
Newspaper Miller Press, Miller SD

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

Check use(s) of water:

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

Type of Application: (check one)

- ☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
☐ 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 Fremark Feedlot Phone (605) 853-3246
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 36470 US Highway 14 St. Lawrence State SD 57343
(Street, RR, or Box and City) (Zip Code)
2. Amount of water claimed 0.184 *CFS or 83 **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 Two Current Wells with a backup Rural Water
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Hand
Two wells in NW 1/4, NW 1/4, Section 15, T 112 N, R 67 W
SW 1/4
5. County or counties where water will be used Hand
6. Annual period during which water is to be used Year Around 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)

Application for two existing wells to serve 6,000 head open beef feedlot.

STATE OF SOUTH DAKOTA)

County of _____ 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, _____, 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 [Signature]

Subscribed and sworn to before me this 24th day of JANUARY 20 05

[Signature] Notary Public signature
Exp 11-9-06

**SOUTH DAKOTA
WATER PERMIT NO. 6581-3**

Date of first receipt of application January 25, 2005.

Date of return to applicant for corrections, amendments or changes January 25, 2005.

Date of receipt of corrected application January 31, 2005.

The Water Management Board approved Water Permit No. 6581-3 on July 6, 2005 for Fremark Feedlot, 36470 US Highway 14, St. Lawrence SD 57373 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. 6581-3 appropriates 0.184 cubic feet of water per second from two wells completed into the Dakota Formation (1,175 and 1,340 feet deep) located in the SW ¼ NW ¼ Section 15-T112N-R67W.
2. The water appropriated shall be used for the purpose of commercial use in a cattle feedlot operation 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 from which applicant may claim right is January 25, 2005.
5. 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. 6581-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
3. Permit No. 6581-3 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.

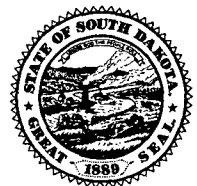
WATER MANAGEMENT BOARD

By: Garland Erbele

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

AUG 22 2005

date



(type or print in ink)

1. Well Information - Proposed Construction Newest Well

- a) Drill Hole Diameter 7.9", 4.3" Depth 300, 1340
- b) Casing Type Plastic Diameter 5", 2", 2.5" Thickness Unknown
- c) Screen Type PVC Diameter Slot Size: 0.016" Thickness Unknown
- d) Gravel Pack no Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) 5 feet
- g) Distance to nearest existing domestic well:
On applicants property 155 feet On property owned by others _____

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

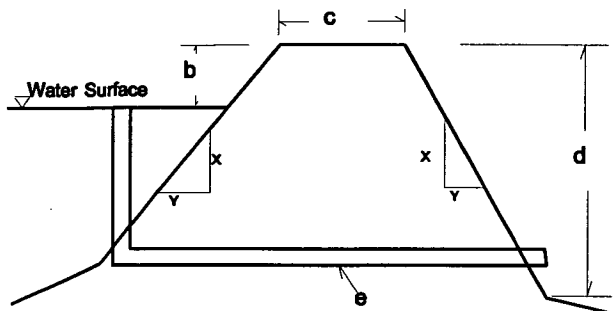
3. Dugout Information

- 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

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

oldest well

- a) Drill Hole Diameter _____ Depth 1,000 feet
- b) Casing Type _____ Diameter _____ Thickness Unknown
- c) Screen Type _____ Diameter _____ Thickness Unknown
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

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- a) Type of System (i.e. septic tank, drain field) _____
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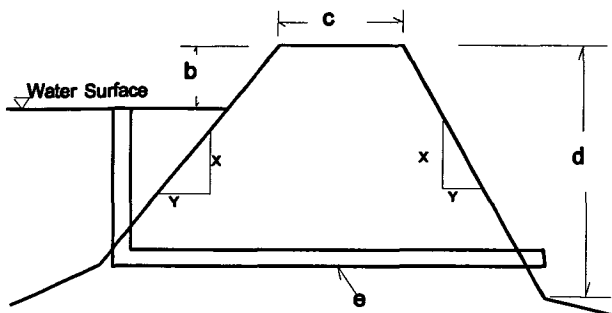
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Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 31, 20 05

RECEIVED OF David Fremark, 36470 US Hwy 14, E St. Lawrence SD 57373

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

Fee for Application for Permit No. <u>6581-3</u> to Appropriate Water, to construct and to put water to beneficial use	225	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>6581-3</u>	50	00
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	275.00

No. 001719

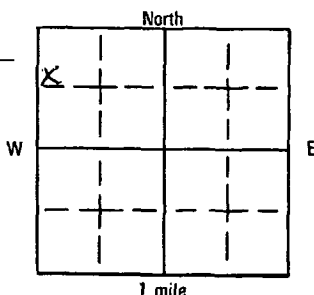
By Darland Erbe
Chief Engineer *gm*

SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location NW 1/4 NW 1/4 Sec 15 Twp 112 Rg 69County Hand

Please mark well location with an "X"

Well Completion Date 11-6-91

PROPOSED USE:

- ☐ Domestic ☐ Municipal ☐ Test Holes
☐ Irrigation ☐ Industrial ☒ Stock

Method of Drilling:

Forward Rotary

CASING DATA:

- ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT <u>5</u>	IN <u>5</u>	FT <u>0</u>	FT <u>300</u>	IN <u>7 7/8</u>
LB/FT <u>2</u>	IN <u>3 3/8</u>	FT <u>1160</u>	FT <u>1340</u>	IN <u>4 1/4</u>
LB/FT <u>2 1/2</u>	IN <u>1 1/2</u>	FT <u>1340</u>	FT <u>1340</u>	IN <u>4 1/4</u>
LB/FT _____	IN _____	FT _____	FT _____	IN _____

GROUT:

Was the well grouted? ☐ YES ☒ NO

To what depth? _____ FEET

What is grouting material? _____

If cement, number of sacks? _____

Describe grouting procedure _____

What was grout weight? _____ LB/GAL

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 2 1/2 IN Length 180 FEETMaterial Br.Slot Size 0.16 Set From 1160 Feet To 1340 Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Other information _____

Was a packer or seal used? ☒ YES ☐ NOIf so, what material? rubberDescribe packer(s) and location? shale Cug @ 1160 ft.Was well disinfected upon completion? ☐ YES ☒ NO

Explain _____

Bacteriological analysis ☐ YES ☒ NO

Laboratory sent to _____

Well Owner:

Name David FremarkAddress HC 73 Box 94 St. Lawrence, SD

Well Log:

Depth 57373

Formation

Formation	From	To
<u>Yellow Clay</u>	<u>0</u>	<u>32</u>
<u>Blue Clay w/ streaks gravel</u>	<u>32</u>	<u>40</u>
<u>Blue Clay</u>	<u>40</u>	<u>60</u>
<u>Blue Clay w/ streaks med. sand</u>	<u>60</u>	<u>100</u>
<u>Blue Clay</u>	<u>100</u>	<u>148</u>
<u>Med. Sand</u>	<u>148</u>	<u>149</u>
<u>Shale</u>	<u>149</u>	<u>200</u>
<u>Codell</u>	<u>200</u>	<u>220</u>
<u>Chalk</u>	<u>220</u>	<u>280</u>
<u>Shale</u>	<u>280</u>	<u>1080</u>
<u>Hard Sand</u>	<u>1080</u>	<u>1280</u>
<u>Shale</u>	<u>1280</u>	<u>1290</u>
<u>Good Sand</u>	<u>1290</u>	<u>1340</u>
<u>TD 1340</u>		

STATIC WATER LEVEL 5 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other; specify _____

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped☐ BailedDescribe: air compressor☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

REMARKS:

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm Pullman Well Drilling

Signature of License Representative:

R. E. Kuehl

Signature of Well Owner:

Date 12-30-91

1726

WELL REPORT

HURON
DRILLING CO.
Huron, S. D.Wilbur Frank
OWNER

15-112-67

Nov. 6, 1968

DESCRIPTION

DATE

SCHEDULED - IN COMPUTER

112-67-15bed b
bed 1525

HURON DRILLING INC. DRILLERS LOG

PAGE NO.

JOB NAME

LOCATION

DATE

RIG NO.

FOREMAN

REMARKS

DEPTH	TIME	REMARKS
20	2:30 PM	Full (C)
40	2:55	1/2" clay @ 20' - big hole
60	3:10	" " " " " "
80	3:20	" " " " " "
100	3:30	" " " " " "
120	3:45	" " " " " "
140	4:15	" " " " " "
160	4:25	" " " " " "
180	4:30	" " " " " "
200	4:50	" " " " " "
220	4:56	" " " " " "
240	5:05	" " " " " "
260	5:10	" " " " " "
280	5:20	" " " " " "
300	5:30	" " " " " "
320	5:40	" " " " " "
340	5:55	" " " " " "
360	6:10	" " " " " "
380	6:40	" " " " " "
400	6:50	" " " " " "
420	7:10	" " " " " "
440	7:15	" " " " " "
460	7:20	" " " " " "
480	7:30	" " " " " "
500	7:40	" " " " " "
520	7:50	" " " " " "
540	8:00	" " " " " "
560	8:10	" " " " " "
580	8:20	" " " " " "
600	8:30	" " " " " "
620	8:40	" " " " " "
640	8:50	" " " " " "
660	9:00	" " " " " "
680	9:10	" " " " " "
700	9:20	" " " " " "
720	9:30	" " " " " "
740	9:40	" " " " " "
760	9:50	" " " " " "
780	10:00	" " " " " "
800	10:10	" " " " " "
820	10:20	" " " " " "
840	10:30	" " " " " "
860	10:40	" " " " " "
880	10:50	" " " " " "
900	11:00	" " " " " "
920	11:10	" " " " " "
940	11:20	" " " " " "
960	11:30	" " " " " "
980	11:40	" " " " " "
1000	11:50	" " " " " "



**DeHaan, Grabs
& Associates, LLC**
Consulting Engineers

PO Box 522, Mandan, ND 58554
(701) 663-1116, Fax: (701) 667-1356
www.dgaengineering.com

Eric Gronlund
Water Rights Program
Joe Foss Building
523 E Capital
Pierre, SD 57501-3181

January 21, 2005

Dear Eric,

Enclosed you will find an *Application For Permit To Appropriate Water Within The State of South Dakota* for Fremark Feedlot near St. Lawrence in Hand County.

Please let me know if you need any additional information to process this application.

Sincerely,

Greg Grabs, PE
Vice-President

RECEIVED

JAN 25 2005

WATER RIGHTS
PROGRAM



January 25, 2005

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

Fremark Feedlot
36470 US Highway 14
St. Lawrence SD 57353

Dear Sir:

Thank you for submitting the *Application for a Permit to Appropriate Water* for commercial use in a cattle feedlot. In order to complete the application the following is required.

- The application filing fee will be \$275.00.
- Item No. 4 of the application indicates the wells are located in the NW ¼ NW ¼ Section 15-T112N-R67W. The location of the wells as indicated on the map are located in the SW ¼ NW ¼ Section 15-T112N-R67W. Please clarify the well location.

If you have any questions, please contact me.

Sincerely,

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

c: Greg Grabs, PE

Water Rights Program - File Documentation

NAME: Fremark Feedlot

ADDRESS: St. Lawrence SD

DATE: 1-28-05 **COUNTY:** HD **TELEPHONE:** XX

RE: Pending application

COMMENTS:

Dave Fremark called concerning my letter. He stated the legal description on the application should be the SW 1/4 NW 1/4 Section 15-T112N-R67W.

In answer to a question, I told Mr. Fremark that if they wanted a 3rd well for more water in the future, they would have to submit another application.

He stated he would be sending the fee.



Karen Schlaak
Environmental Scientist

Schlaak, Karen

From: Nathan [nathanpdga@btinet.net]
Sent: Wednesday, February 02, 2005 2:19 PM
To: Karen.Schlaak@state.sd.us
Subject: Fremark Feedlot

Dear Karen,

I am writing in regards to the changes that need to be made with the Fremark Feedlot water appropriation permit. The wells are located in the SW 1/4 of the NW 1/4, Section 15, T 112 N, R 67 W as you stated in your letter dated January 25, 2005. Please let me know how to proceed.

Nathan Pesta
Project Engineer
DeHaan, Grabs & Associates

REPORT ON WATER PERMIT APPLICATION NO. 6581-3
For Fremark Feedlot
February 15, 2005

Application No. 6581-3 proposes to appropriate 0.184 cfs (83 gpm) from two wells approximately 1,175 and 1,340 feet deep located in the SW ¼ NW ¼ of section 15, T112N R67W in Hand County. The water is for commercial use in a cattle feedlot operation.

AQUIFER – DAKOTA FORMATION (DKOT)

The Dakota is a buried sand, shale, sandstone and silt that is under artesian conditions at this site. The aquifer underlies 1,426 square miles and contains an estimated 22.245 million acre-feet of recoverable water in storage in Hand County (Hedges, 1982). The aquifer extends into Beadle and Spink Counties to the east, Hyde County to the west, Buffalo and Jerauld Counties to the south and Faulk County to the north. The direction of ground water movement is basically from west to east across Hand County and in the area north and east of this application most of the Dakota wells are free flowing at the land surface (Koch, 1980).

The well information for these two wells is good. The newer well (Pullman drilling in 1991) is completed to a depth of 1,340 feet had a static water level of five feet below land surface and was capable of producing 70 gpm using air to develop. This well was completed in accordance with well standard 74:02:04:35 (“slim hole” well) and would not comply with existing standards for a commercial well. The older well is approximately 1,175 feet deep had a water level one foot about land surface as measured in 1974 (Neitzert, 1987) and was drilled by Huron Drilling in 1968. Although the information is sketchy it appears that this well was also drilled as a “slim hole” type well.

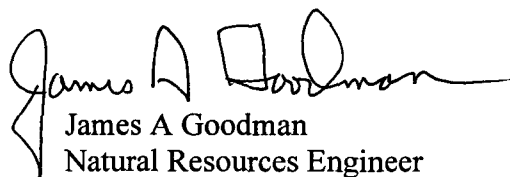
The Water Rights Program monitors a Dakota aquifer observation well HD-87A (Rose Hill Well) located about 15 miles southeast of this application. Water levels for this observation well have been declining since the well was drilled. This observation wells is declining at a rate of about 1.05 feet per year (Water Rights, 2005). A hydrograph of the observation well record is included with this report. Koch reported that water levels in the Miller area has declined about 308 feet since 1906 and he reported a rate of about one foot for the last 16 years for Hand County (from about 1960 to 1976) (Koch, 1980). Recharge to the Dakota aquifer is by subsurface inflow from the west and by upward leakage from deeper aquifer (Koch, 1980). Most of the decline can be attributed to wells allowed to flow uncontrolled or to waste. The rate of decline has gradually diminished over time which makes sense hydraulically and this trend will continue until outflow and inflow come to a balance. In some other areas of the state this balance has been achieved. In fact some areas have had water levels recover somewhat.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other Dakota aquifer permits/rights in this area. There are numerous domestic wells in the area that obtain water from the Dakota Formation. The nearest Dakota aquifer right is for the City of Miller located about five and one-half miles west of this application. The city of Miller is now served by Mid Dakota RWS and their existing Dakota wells are used as a backup water supply. Interference is not a concern.

CONCLUSIONS

1. Water is available from the Dakota aquifer.
2. The aquifer is under artesian conditions. In fact there are free flowing wells in the immediate area to the north and east of this site. Interference is not a concern. These are existing wells and have been in use for many years. It may become necessary for pumps to be installed or lowered in existing Dakota aquifer wells.
3. Neither of these wells appear to be constructed in accordance with existing well construction requirements for commercial use. If a new well is drilled or an existing one replaced the SD Well Construction Standards would have to be complied with.
4. The applicant indicates the Mid Dakota RWS serves as a backup supply for this facility.
5. Plans and specifications for this facility have been submitted to and were approved in February of 2005 by the department.

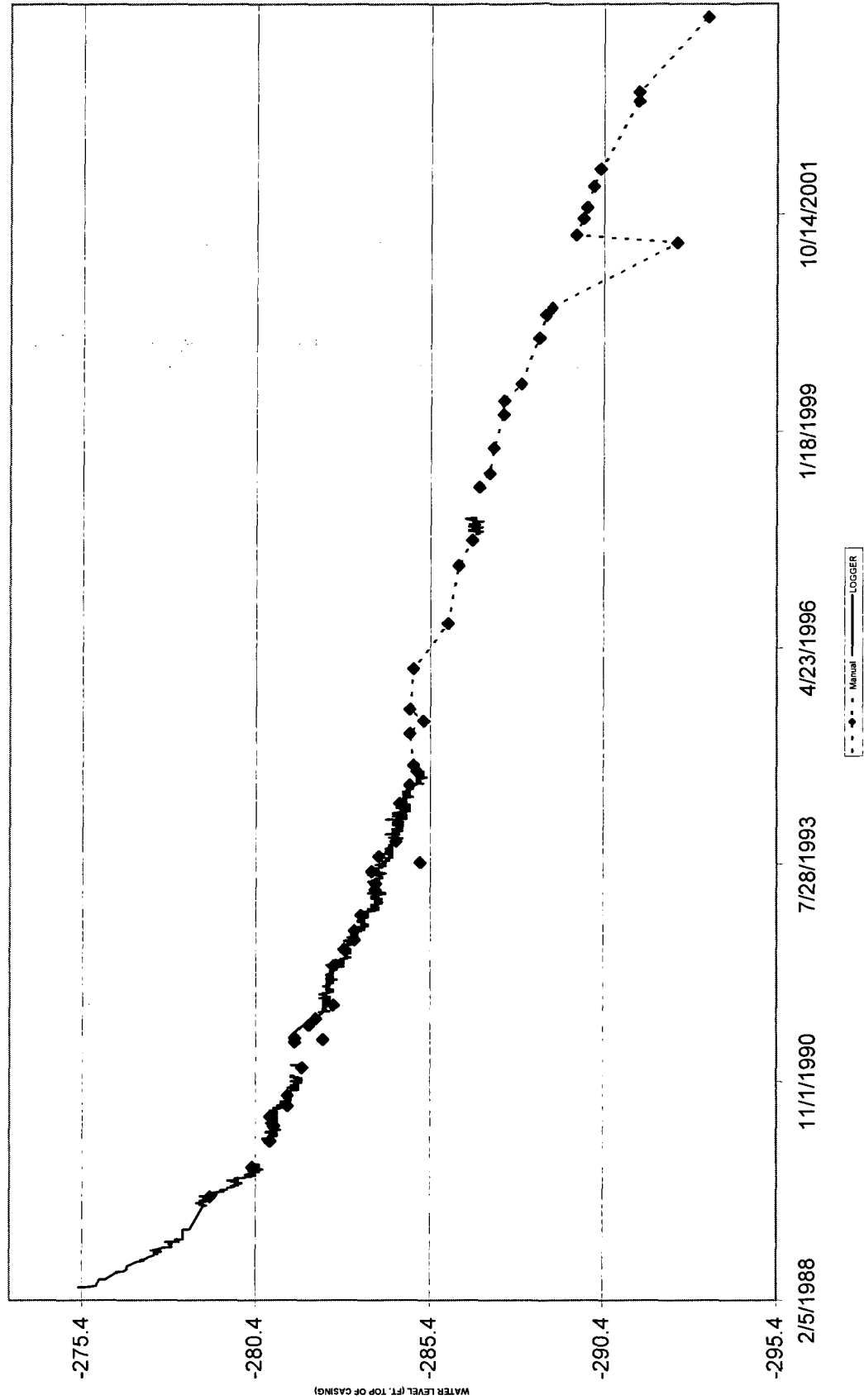


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hedges, L.S., and others, 1982, Evaluation of Ground-Water Resources Eastern South Dakota and Upper Big Sioux River South Dakota and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Koch, N.C., 1980, Geology and Water Resources of Hand and Hyde Counties, South Dakota, Bulletin 28, Part II Water Resources, SD DENR, SDGS, Vermillion, SD, 57069.
- Nietzert K.M., N.C. Koch, 1987, Records of Wells and Chemical Analyses of Ground Water in Hand and Hyde Counties, South Dakota, Open-File Report 87-684, USGS, Huron, SD, 57350.
- Water Rights, 2005, Unpublished Observation Well Data for the Dakota Formation, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL
HD-87A





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
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. 6581-3, Fremark Feedlot**

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. 6581-3, Fremark Feedlot, c/o David Fremark, 36470 US Highway 14, St. Lawrence SD 57353.

The Chief Engineer is recommending APPROVAL of Application No. 6581-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been 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. 6581-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
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 - 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.

Garland Erbele, Chief Engineer
February 28, 2005

FPNO 29 LPNO 30

Instruction to Newspaper - Publish first Notice on March 9, 2005 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6581-3 to Appropriate Water

Notice is given that Fremark Feedlot, David Fremark, 36470 US Highway 14, St. Lawrence SD 57353 has filed an application for a water permit to appropriate 0.184 cubic feet of water per second from two wells completed into the Dakota Formation (1,175 and 1,340 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15-T112N-R67W. The water is for commercial use in a cattle feedlot operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6581-3 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 March 28, 2005.

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**

PMB 2020
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.**

March 1, 2005

Fremark Feedlot
% David Fremark
36470 US Highway 14
St. Lawrence SD 57353

Dear Mr. Fremark:

Water Permit Application No. 6581-3 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Miller Press printed at Miller, SD (Ph # 605-853-3575). 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 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. 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: Greg Grabs, PE, DeHaan Grabs & Associates LLC, PO Box 522, Mandan ND 58554

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

March 1, 2005

Miller Press
PO Box 196
Miller SD 57362-0196

ATTENTION: Legal Public Notice

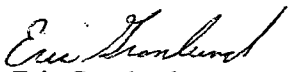
Enclosed is a Notice on Application No. 6581-3 to Appropriate Water to be published twice. Please publish the first notice on March 9, 2005 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Fremark Feedlot, % David Fremark, 36470 US Highway 14, St Lawrence SD 57353 (Ph # 605-853-3246).

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. 6581-3

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

Date _____

We are in receipt of your letter of March 1, 2005 enclosing Notice to Appropriate Water by Application No. 6581-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Opposition Petition
Robert Speck
36370 197 St.
St. Lawrence, SD. 57373

RECEIVED

MAR 25 2005

WATER RIGHTS
PROGRAM

In regard to the water permit application submitted by David Fremack, I would like to go on record opposing it because the way the crow flies, we live about $1\frac{1}{4}$ miles from the feed yard. They have a well on the 1340' vein that he is currently using. If he has heavy demand for water for his expanded feed yard, it will cause my well to have a depleted supply which will necessitate extra expense for me to maintain my water supply or possibly cause me to lose my well.

Robert Speck



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 28, 2005

NOTICE

TO: David Fremark
Fremark Feedlot
36470 US Highway 14
St. Lawrence SD 57373

Robert Speck
36370 197th Street
St. Lawrence SD 57373

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Notice of Hearing on Water Permit Application No. 6581-3, Fremark Feedlot

A petition has been submitted in opposition to issuance of Water Permit Application No. 6581-3 filed by Fremark Feedlot. The petition was filed in response to the Notice of Application to appropriate water published in the Miller Press. This notice schedules a hearing for the Water Management Board to consider the application.

Application No. 6581-3 proposes to appropriate 0.184 cubic feet of water per second (83 gallons per minute) from two wells completed into the Dakota Formation (1,175 and 1,340 feet deep) located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 15-T112N-R67W. The water is for commercial use in a cattle feedlot operation.

The Water Management Board will conduct a hearing to consider Application No. 6581-3 at 9:30 AM, Wednesday, May 4, 2005, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD 57501. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The hearing time is an estimate and may be delayed due to prior agenda items. Future notice will be provided to all parties if there is a change in the hearing date or time.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6581-3 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. 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 the application based on the evidence presented at the public hearing.

The May 4, 2005, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any party of record opposing the application. The request for an automatic delay must be filed by April 22, 2005.

This hearing may be an adversarial proceeding. Any party of record 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.

Notice is further given to persons with disabilities that this hearing is being held in a physically accessible place and that interpreter services will be provided, upon request, during the hearing. Please notify Eric Gronlund at (605) 773-3352 by April 22, 2005, if you have any questions about the hearing process or have special needs for which the department will make arrangements.

The 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-23; 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, 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

c: Diane Best, Assistant Attorney General
Greg Grabs, DeHaan, Grabs & Associates, PO Box 522, Mandan ND 58554

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by April 22, 2005.

CERTIFICATION

I hereby certify that on March 28, 2005 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 28, 2005 regarding Notice of Hearing on Water Permit Application No. 6581-3 addressed as stated below:

David Fremark
Fremark Feedlot
36470 US Highway 14
St Lawrence SD 57373

Robert Speck
36370 197th Street
St Lawrence SD 57373

Greg Grabs
DeHaan Grabs & Associates
PO Box 522
Mandan ND 58554

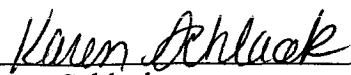
A copy of the above described Notice was sent Inter-office to:

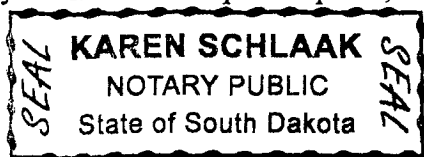
Diane Best, Assistant Attorney General, Capitol Building


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 29th day of March, 2005.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



JAMES A GOODMAN

EDUCATION

B.S. Geological Engineering , SDSM&T in 1971.
35 Graduate Credit Hours of Study at SDSM&T in 1974 and 1975.

REGISTRATIONS AND PROFESSIONAL SOCIETIES

Registered Professional Engineer in South Dakota (# 3587)
Member National Society of Professional Engineers
Member National Ground Water Association / Association of Ground Water Scientists and Engineers
Member South Dakota Association of Environmental Professionals

CAREER EXPERIENCE

From 1999 to Present - Title: Natural Resources Engineering Director (DENR - Water Rights)
Responsibilities: Conducting ground water investigations and investigating complaints, managing the Observation Well Network, compiling water well data, preparing and reviewing reports for new ground water permit applications, providing technical assistance to the Chief Engineer and providing expert testimony to the Water Management Board on contested water permit applications.

From 1989 to 1999: Natural Resources Engineer IV (DENR - Water Rights)
Responsibilities: Supervising the ground water section, developing well construction standards and well driller licensing, preparing reports for new water permit applications, investigating complaints, providing testimony to the Water Management Board.

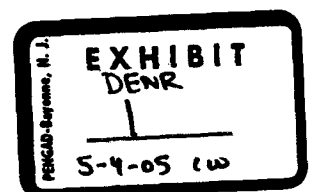
From 1980 to 1989: Hydrologist III (DWNR - Water Rights)
Responsibilities: Ground water investigations, supervise observation well maintenance and data collection, developing well construction rules and licensing water well drillers and investigating complaints.

From 1978 to 1980: Hydrologist II (DWNR - SDGS)
Responsibilities: Ground water investigations, observation well drilling, water sampling, surveying, preparing ground water assessments for the Water Rights Commission.

From 1976 to 1978: Engineer I (DWNR - Water Rights)
Responsibilities: Well complaints, ground water problems investigations, observation well drilling, and basic hydrologic data collection.

MISCELLANEOUS- Testimony to Water Management Board for the following water permit applications (since July of 1999).

No. 6540-3, for Roger Mohr, irrigation use above Watertown Future Use Area
No. 6476-3, for Morris Inc, industrial use
Nos. 6460-3, 6461-3, 6462-3, 6463-3 for Gary Marshall, irrigation (deferral)
No. 6201A-3 (and 6334C-3) for Peterson Farms, irrigation
No. 6445-3 for Spink Colony, irrigation use, recommend denial
No. 6456-3 for South Lincoln Rural Water System, rural water use, Dakota formation
No. 6407-3 for Marshall Brothers, commercial use for an existing cattle feedlot
No. 6437-3 for Crosswinds Jerseys, commercial use for a dairy
No. 6439-3 for Norway Dakota, commercial use for an existing cattle feedlot
No. 6435-3 for South Lincoln Rural Water System, rural water use including the ethanol plant at Chancellor
No. 6403-3 for Rick Even, irrigation
No. 6414-3 for Andy Weber, irrigation
No. 6431-3, Philip Hines, irrigation
No. 6399-3 for Keith and Kip Krull, irrigation
No. 6425-3 for Harry Thomas, irrigation
No. 6382-3 for William St. Clair for irrigation
Nos. 6306-3 and 6416-3 for Haverhals Feedlot Inc., cattle feedlot
No. 6395-3 for Hutterville Hutterian Brethern, irrigation of garden
No. 6394-3 for Hutterville Hutterian Brethern, livestock and domestic use
No. 6386-3 for Tim Pazour, cattle feedlot
No. 6385-3 for SDAPV Dairy Development, LLC., dairy operation



No. 2729A-3 for Harvey Wollman, irrigation transfer
Nos. 5837A-3 and 5850A-3 for Taylor Properties, Inc., suburban housing development
No. 6339A-3 for Allen Gatzke, irrigation
No. 6341-3 for Jeffrey Gatzke, irrigation
No. 6374-3 for Bixler Farms, irrigation
Nos. 6376-3 and 6377-3, LDL cattle feedlot, commercial use
Tulare Western Spink, Tulare Hitchcock, irrigation report (22 applications)
No. 6341-3 for Jeffrey Gatzke, irrigation
No. 6362-3 for Rodney Zemlicka, irrigation
No. 6358-3 for Michael Johnson, commercial use (cattle)
No. 6342-3 for Ivan Sjoval, commercial use (cattle)
No. 4612A-3 for Oscar Inc., irrigation transfer
No. 6325-3 for VeraSun Energy, industrial use
No. 6287-3 for Oscar Inc., irrigation use
No. 6281-3 for Dakota Value Capture Cooperative, commercial use
No. 6260-3 for Heine Farms, commercial use
No. 6258-3 for Larry Krause and James Cremer, irrigation use.
No. 6257-3 for Thunderbird Colony, domestic use.
No. 6264-3 for Yankton Livestock Auction Market and Feedlot, commercial use.
No. 6255-3 for Turner County Dairy, LLP, commercial use.
No. 6252-3 for Haverhals Feedlot, Inc., commercial use.
No. 6227-3 for Goodwin Heritage Cattle, LLC, commercial use.
No. 6242-3 for Gary D Wipf, irrigation use.
No. 6228-3 for Sunburst (David Meyer), commercial use (swine).
No. 6212-3 for John Ulmer, irrigation and a small dam.
No. 6230-3 for Milbank Community Foundation, commercial use (dairy).
No. 6185-3 for Blumengaard Colony, domestic and commercial use (dairy).
No. 6158-3 for Ringling Cattle Company, commercial feedlot.
No. 6167-3 for Pearl Creek Hutterian Brethern, commercial use (turkeys).
No. 6150-3 for Classic Farms, LLC, commercial use (swine).
No. 6129-3 for Spring Tree AWMS, commercial use (swine).
No. 6128-3 for Deerfield Hutterian Brethern, Inc., domestic and commercial use.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 5, 2005

NOTICE

TO: David Fremark
Fremark Feedlot
36470 US Highway 14
St. Lawrence SD 57373

Robert Speck
36370 197th Street
St. Lawrence SD 57373

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

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

The Water Management Board directed John Guhin, Assistant Attorney General, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the approval of Water Permit Application No. 6581-3 filed by Fremark Feedlot. The Board will consider adoption of Findings, Conclusions and Final Decision at 1:00 PM, on July 6, 2005, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by June 16, 2005. 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) by June 27, 2005.

At the Board's discretion, oral arguments by parties who timely filed 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 July 6, 2005. The public hearing was completed on May 4, 2005. No additional testimony will be received on July 6, 2005.

If either parties has questions about the findings process, please contact Eric Gronlund at (605) 773-3352.

Enclosure

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

CERTIFICATION

I hereby certify that on May 5, 2005, I personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 6, 2005, regarding a consideration of findings of fact, conclusions of law and final decision in the matter of Water Permit Application No. 6581-3, Fremark Feedlot, addressed as stated below.

David Fremark
Fremark Feedlot
36470 US Highway 14
St. Lawrence SD 57373

Robert Speck
36370 197th Street
St. Lawrence SD 57373

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

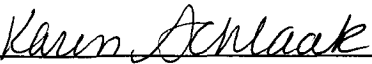
John Guhin, Assistant Attorney General
Diane Best, Assistant Attorney General



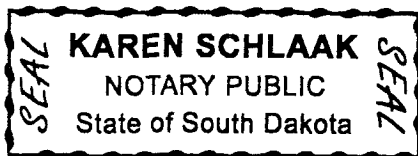
Eric Gronlund
Natural Resource Engineer
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of May, 2005.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



WATER MANAGEMENT BOARD MEMBERS

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

Leo Holzbauer
29416 395TH Avenue
Wagner, SD 57380

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

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

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

Dwayne Rollag
320 Lincoln Lane S
Brookings SD 57006-2741

James Hutmacher
802 East 7th Street
Oacoma SD 57365

BOARD ATTORNEY

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

WATER RIGHTS PROGRAM

Department of Environment and
Natural Resources

Garland Erbele, 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 Resources Section
State Capitol Building
Pierre, SD 57501



**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 11, 2005

NOTICE

TO: David Fremark
Fremark Feedlot
36470 US Highway 14
St. Lawrence SD 57373

Robert Speck
36370 197th Street
St. Lawrence SD 57373

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

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 July 6, 2005, by the Water Management Board approving Water Right Permit No. 6581-3 filed by Fremark Feedlot. 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, Assistant Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on July 5, 2005, I personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 11, 2005, regarding a adoption of findings of fact, conclusions of law and final decision in the matter of Water Permit No. 6581-3, Fremark Feedlot, addressed as stated below.

David Fremark
Fremark Feedlot
36470 US Highway 14
St. Lawrence SD 57373

Robert Speck
36370 197th Street
St. Lawrence SD 57373

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

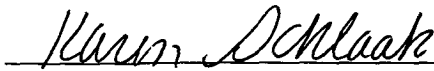
John Guhin, Assistant Attorney General
Diane Best, Assistant Attorney General



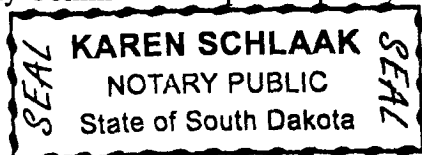
Eric Gronlund
Natural Resource Engineer
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of July, 2005.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	FINDINGS OF FACT,
APPLICATION NO. 6581-3,)	CONCLUSIONS OF LAW AND
FREMARK FEEDLOT.)	FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate 0.184 cfs (83 gpm) from two wells approximately 1175 and 1340 feet deep in Hand County. The proposed use under the application is commercial use in a cattle feedlot operation.

2. The permit is sought for two existing wells. At least one of the wells has been used for over thirty years in the cattle feeding operation. A second well was added to the operation in 1991.

3. The necessity for obtaining water rights apparently arose when the Applicant sought a state permit to operate a feedlot.

4. The feedlot is already in existence and has held from 3500 to 4700 head of cattle in the past. The Applicant states that he may expand to 6000 head of cattle.

5. The Applicant at this time pumps water with a one-half horsepower pump and states that no water is dumped.

6. The proposed source of water is the Dakota Formation, a buried sand, shale, sandstone and silt aquifer under artesian conditions at this site. The aquifer underlies 1426 square miles and contains an estimated 22.245 million-acre feet of recoverable water in Hand County.

7. The top of the formation is, at the point of the application, approximately 700 to 800 feet below ground level. The artesian pressure in the formation is sufficient to force water approximately to ground level.

8. Prior to and around the turn of the century, a large number of uncontrolled wells were drilled into the Dakota Formation. Because the formation was under pressure, a large number of wells flowed freely and a large amount of water was wasted. Through the efforts of the Water Rights Program and its predecessors, many of these wells have now been capped. Moreover, because artesian head pressure no longer brings water, at many of these locations, to a point above ground level, many wells which formerly flowed no longer do so. Expert evidence thus indicates that the decline in water level will continue to decrease and is likely to level off. In a situation similar to that confronted now by the Board, the city of Redfield stopped pumping its Dakota wells. Nearby wells began flowing a few years thereafter.

9. It is likely that artesian head pressure in the Dakota Formation will stabilize in the next few years. In any event, the evidence of head pressure bringing water from a formation 700 to 800 feet below the surface to ground level indicates the availability of a vast amount of water.

10. The opponent to the application is concerned because, he reports, water in his well has declined roughly two feet, from a level roughly two feet above the surface to ground level, in the last few months.

11. Because of the huge amount of water in the Dakota Formation, however, the opponent will have water available to him if this application is allowed.

12. Moreover, given the hydrological characteristics of the Dakota Aquifer, it is likely that any decrease in head pressure in the opponent's well will be small.

13. The Applicant has submitted Plans and Specifications for manure management to the Department of Environment and Natural Resources and these were approved in February of 2005.

14. The Applicant has received a letter from the Hand County Board of Commissioners which indicates that his operation is "grandfathered" and would not need a zoning variance. The Applicant frankly admitted that he had been informed that the Board of Commissioners is now uncertain about the effect and validity of its own letter. The Water Management Board has in the past, however, not demanded that all zoning questions be resolved before a water right is granted and sees no reason to deviate from that stance, especially when the opponent to the application does not raise the argument.

15. Use of water for a cattle feedlot is a beneficial use.

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 has been developed without unlawful impairment of existing rights and the additional

diversion requested can be developed without unlawful impairment of existing rights.

4. The proposed use is a beneficial use. It is in the public interest to grant the permit as qualified in the Final Decision.

FINAL DECISION

Application No. 6581-3 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. 6581-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-1-112 for concentrated animal feeding operations.

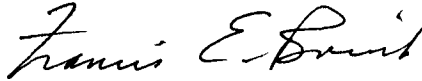
3. Permit No. 6581-3 is subject to compliance with all existing and applicable Water Management Board Rules including but not limited to:

- 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.

Dated this 6 day of July, 2005.

BY THE BOARD



Rodney Freeman, Jr., Chairman

p1d.jpg (Findings of Fact Permit No. 6581-3...) (jmm)

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6581-3,) CERTIFICATE OF SERVICE
FREMARK FEEDLOT.)

The undersigned hereby certifies that true and correct copies of proposed Findings of Fact, Conclusions of Law and Final Decision In the Matter of Water Permit Application No. 6581-3, Fremark Feedlot, were served upon each of the following by enclosing the same in envelopes with first class postage, prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 14th day of June 2005:

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

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

Leo Holzbauer
29416 395th Avenue
Wagner, SD 57380-9681

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

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

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

James Hutmacher
802 East 7th Street
Oacoma, SD 57365

David Fremark
Fremark Feedlot
36470 US Highway 14
St. Lawrence, SD 57373

Robert Speck
36370 197th Street
St. Lawrence, SD 57373

By interoffice to:

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources
Foss Building
523 East Capitol
Pierre, SD 57501

By hand delivery to:

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


John P. Guhin
Assistant Attorney General
500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215

pld.jpg (Certificate of Service Freemark Feedlot) (jmm)



**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 22 2005

Fremark Feedlot
% David Fremark
36470 US Highway 14
St. Lawrence SD 57373

Dear Sir:

Enclosed is Water Permit No. 6581-3 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Sincerely,

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

enclosures



6581-3

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 18, 2007

David Fremark
36470 US Hwy 14
St Lawrence SD 57373

Dear Mr. Fremark:

I am writing in regard to a well driller's report filed by Hutmacher Drilling, Inc. The report shows a new well was completed for you on August 6, 2007 located in the NW ¼ SW ¼ Section 15-T112N-R67W.

A review of our files indicates that Fremark Feedlot holds Water Permit No. 6581-3 for 83 gallons per minute (gpm) from two wells, approximately 1,175 and 1,340 feet deep located in the SW ¼ NW ¼ Section 15-T112N-R67W.

Mr. Fremark, is this well a replacement well or an additional well which does not increase the total appropriation of 83 gpm? If the authorized diversion rate is to be increased, a new water permit will need to be obtained. Once we know this information we can determine what additional action, if any, needs to be taken to ensure your water rights accurately reflect the feedlot's water supply system.

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

Sincerely,

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

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 15 Twp 112 Rg 67

County

Hand

North

Please mark well
location with an "X"

W

E

Well Completion Date

8/6/2007

1 Mile

Distance to nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

? 120.0 ft. from feedlot (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
17.0 LB/FT	5.00 IN	0.0 FT	300.0 FT	8.75 IN
80.0 LB/FT	3.00 IN	300.0 FT	1,300.0 FT	7.83 IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Bentonite	85	9.2 Lb/gal	0.0 Ft	1,260.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure
pressure thru tremie

SCREEN:

☐ Perforated pipe ☒ Manufactured
 Diameter 3.00 Inches Length 40.0 Feet
Material Stainless SteelSlot Size .025 Set From 1,300.0 Feet to 1,340.0 FeetOther information Sand Pack 1260-1340

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

State

Well Owner: David J. Hark

Business Name:

Address:

City, State, Zip:

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Clay	0	243
Pierre	243	427
Niobrara	427	686
Carlile	686	1031
Greenhorn	1031	1092
Graneros	1092	1265
Dakota	1265	1340

STATIC WATER LEVEL 30.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe: developed by air
☐ Bailed
☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

water permit in place

RECEIVED

DEC - 7 2007

WATER RIGHTS
PROGRAMThis well was drilled under license # 213

And this report is true and accurate.

Drilling firm: Hutmacher Drilling, Inc.

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date:

Water Rights Program - File Documentation

NAME: Dave Fremark

ADDRESS: St. Lawrence SD

DATE: 12-19-07 **COUNTY:** Hand **TELEPHONE:**

RE: Well Log

COMMENTS:

Dave Fremark called regarding my letter dated December 18, 2007. Mr. Fremark indicated the new well was a replacement well for the old 1,175 feet deep well. It is located about 300 feet from the existing well and they are not using any more water than originally permitted.

Karen Schlaak

Karen Schlaak
Environmental Scientist

Water Permit No. 6581-3
James River - Water District

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

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

I have this day, September 3, 2015, made a thorough examination of the water use system constructed by Fremark Feedlot of 36470 US Highway 14, St. Lawrence, SD 57353 holder of Permit No. 6581-3, bearing the priority of January 25, 2005 authorizing the diversion of 0.184 cu. ft. per second (cfs) of water from the Dakota Formation for Commercial use purposes, in Hand County.

Inspection contact & relationship
to permit holder, if applicable:

A. Works used to divert the water:

Well 1:

- 1) Well Drilling Firm: Pullman Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 1,340 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 5 and 2 inches
- 2) Length 300 and 860 feet
- 3) Type Plastic

Screen:

- 1) Type PVC
- 2) Length 180 feet
- 3) Static water level 5 feet

Pump:

- 1) Make Goulds
- 2) Model 55GS-50
- 3) Size 5 hp
- 4) Capacity 55 GPM

Well 2:

- 1) Well Drilling Firm: Hutmacher Drilling, Inc
- 2) No. of Wells 1
- 3) Depth(s) 1,340 feet
- 4) Well log is available Y

Casing:

- 1) Diameter 5 and 3 inches
- 2) Length 300 and 1,000 feet
- 3) Type Plastic

Screen:

- 1) Type Stainless Steel
- 2) Length 40 feet
- 3) Static water level 30 feet

Pump:

- 1) Make Goulds
- 2) Model 55GS-50-L432
- 3) Size 5 hp
- 4) Capacity 55 GPM

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

- 1) Type Buried pipe

C. 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 point(s) of diversion located as follows:

Well 1: Approximately 1,890 feet south and 85 feet east of the NW corner of Section 15-T112N-R67W (N 44.51003, W -98.88331) (SW ¼ NW ¼)

Well 2: Approximately 2,075 feet south and 460 feet east of the NW corner of Section 15-T112N-R67W (N 44.50954, W -98.88187) (SW ¼ NW ¼)

The works are capable of diverting and conveying to the place of use 0.122 cfs of water which is to be used for Commercial Use in a Cattle Feedlot Operation.

The license should be issued for 0.122 cfs.

All structures, wells and lands on map Y

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

Water Permit No. 6581-3 authorizes 0.184 cfs of water from two wells completed into the Dakota Formation located in the SW ¼ NW ¼ Section 15-T112N-R67W for commercial use in a cattle feedlot operation.

At the time of the licensing inspection, both wells were capable of supplying 0.122 cfs of water to the feedlot operation. However, the water distribution system shared by both wells is limited, and is not capable of delivering water from both wells simultaneously. The water delivered to the feedlot is controlled by a valve, directing water to the system separately from each well to the feedlot dependent upon which well is being used at the time.

Well 2 listed above is a replacement well for the 1,175 feet deep well authorized by this permit and is also a Dakota Formation well.

This facility has been permitted by the department as a 6,000 head cattle feedlot.

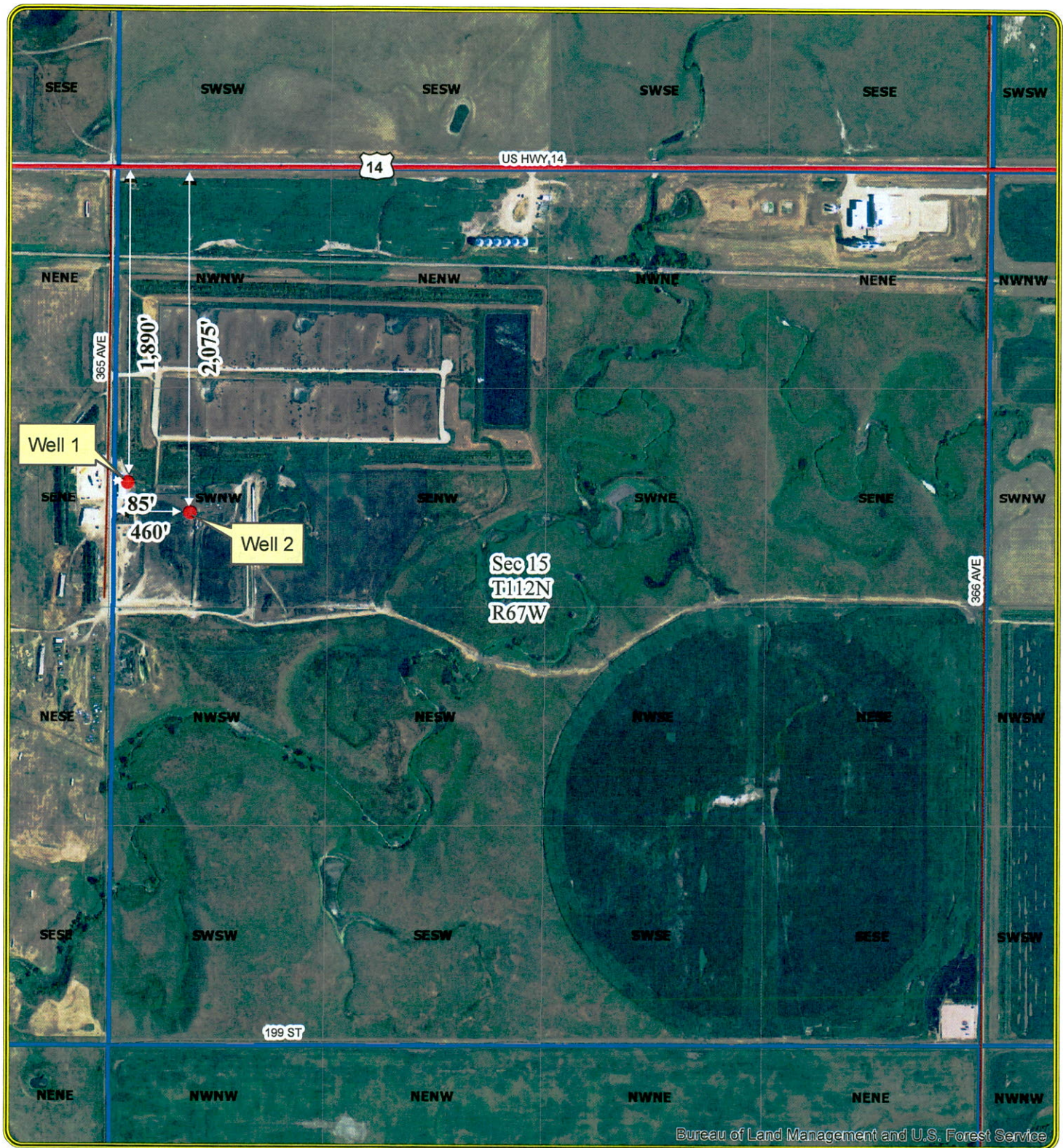


Mike DeFea
Natural Resources Engineer II
DENR, Water Rights Program

Date report completed: March 7, 2016

Fremark Feedlot

Water Permit No. 6581-3



Bureau of Land Management and U.S. Forest Service

0 0.125 0.25 0.5 Miles

Mike DeFea

Mike DeFea
Natural Resources Engineer
DENR, Water Rights Program
March 2, 2016





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

6581-3

MAY 02 2016

Fremark Feedlot
David Fremark
36470 US Hwy 14
Saint Lawrence SD 57373

Dear Mr. Fremark:

Enclosed is Water License No. 6581-3. 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.

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

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6581-3

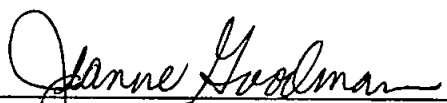
(1) Fremark Feedlot, c/o David Fremark, 36470 US Hwy 14, St. Lawrence SD 57373 made Application No. 6581-3, January 25, 2005 for a water permit to divert 0.184 cubic feet of water per second from two wells – Dakota Formation, Hand County, South Dakota for commercial use purposes. Permit No. 6581-3, with a priority date of January 25, 2005 was approved July 6, 2005 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

(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. 6581-3 is issued a license, bearing a priority date of January 25, 2005 to appropriate 0.122 cubic feet of water per second from two wells – Dakota Formation for commercial use purposes in a cattle feedlot operation.

The diversion points are located: Well #1 – 1,890 feet south and 85 feet east of the NW corner of Section 15-T112N-R67W (SW 1/4 NW 1/4) Well #2 – 2,075 feet south and 460 feet east of the NW corner of Section 15-T112N-R67W (SW 1/4 NW 1/4)

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 6581-3 including the following 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. 6581-3 is subject to compliance with requirements of the Department's Water Pollution Control Permit issued pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.
- Permit No. 6581-3 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.



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

MAY 02 2016

date

