

WATER PERMIT NO. 6632-3

Name of Applicant: Prairie Gold Dairy LLC

Address: 48188 221 st St, Elkton SD 57026 Phone: 559 757-1001

Amount of Water Claimed: 1.78 cfs Total Acres: NA

Source of Water Supply: groundwater (2 wells)

Water to be used for: commercial County: Moody

Type of Waste Disposal System:

Location: 5 miles northwest of Flandreau

PRIORITY Date Received: 6-10-05 Application/License Fee: \$500

Corrected Application Received: Period of Annual Use: January 1 – December 31

Remarks:

Diversion Point: NE ¼ NE ¼ Sec 25-T108N-R49W

Land to be Irrigated: NA

Depth of Well: 30 and 32 feet deep

Well Driller: Lacey Well Drilling

Remarks:

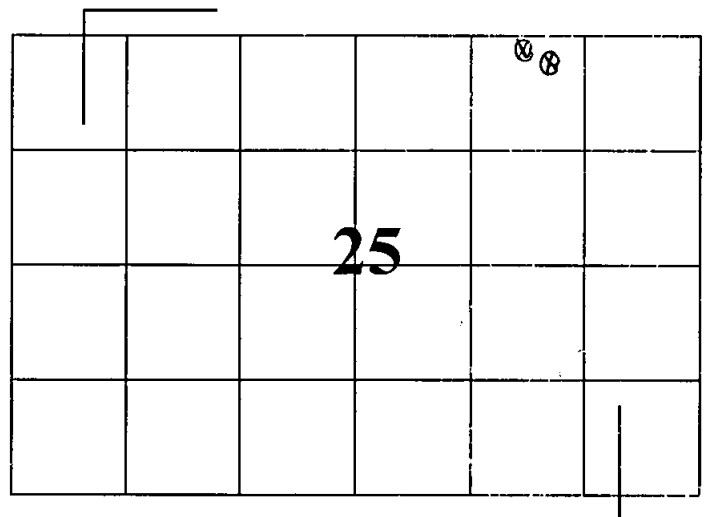
Type of Map: topo

Prepared by: Joe Knippling, Moody Co FSA

Reviewed and the Number Assigned on: 6-10-05

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>6632-3</u> (office use only) Hydrologic Unit <u>10170203</u>
	Basin <u>Sioux River</u>
	Newspaper <u>Moody Co. Enterprise, Flandreau</u>

RECEIVED
JUN 10 2005
AIR QUALITY
PROGRAM

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.) _____

- Name of Applicant Prairie Gold Dairy, LLC Phone 559 757-1001
(check one) Owner Tenant/lessee
Mailing Address 49188 221st Street Elkton State SD 57026
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.78 *CFS or 800 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply B1 & SIOUX AQUIFER
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 2 wells in
NE 1/4 NE 1/4 Section 25-T108N-R49W
County Moody
- County or counties where water will be used Moody
- Annual period during which water is to be used all Jan 1-Dec 31
- 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)

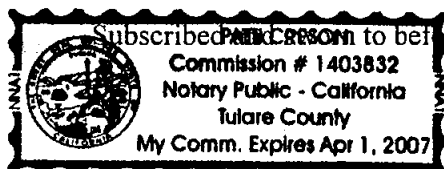
Dairy Farm

California
STATE OF SOUTH DAKOTA)
County of Tulare 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, Ray Nakarant, 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 Ray Nakarant



Subscribed and sworn to before me this 12 day of May 2005
Patti Chapman
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 6632-3**

Date of first receipt of application June 10, 2005.

The Water Management Board approved Water Permit No. 6632-3 on December 7, 2005 for Prairie Gold Dairy LLC, 48188 221st St, Elkton SD 57026 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. 6632-3 appropriates 1.78 cubic feet of water per second from two wells completed into the Big Sioux:Moody Aquifer (30 and 32 feet deep) located in the NE ¼ NE ¼ Section 25-T108N-R49W.
2. The water appropriated shall be used for the purpose of commercial use in a dairy 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 June 10, 2005.
5. One-fifth of the construction is to be completed on or before June 7, 2008.
6. All construction is to be completed on or before December 7, 2010.
7. Water is to be put to beneficial use on or before December 7, 2014.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. 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. 6632-3 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. 6632-3 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

APR 07 2006

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction NORTH WELL

- a) Drill Hole Diameter 20" Depth 30'
- b) Casing Type STEEL Diameter 12" Thickness 50 lb/foot
- c) Screen Type STAINLESS STEEL Diameter 12" Thickness NA
- d) Gravel Pack QUARTZ PEA-ROCK Length of Gravel Pack 22'
- e) Depth to Top of Water Bearing Material 1.5 FEET
- f) Depth to Water (ground surface to water level) 8'
- g) Distance to nearest existing domestic well:
- On applicants property NA On property owned by others > 1 MILE

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 _____

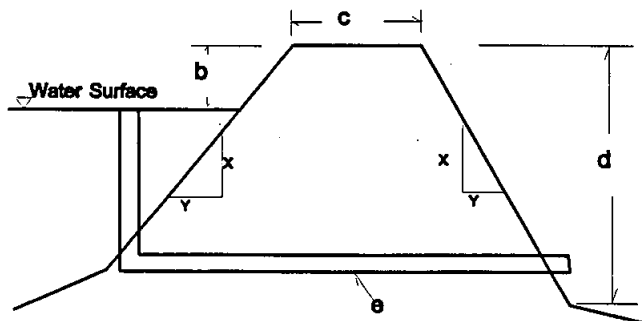
3. Dugout Information

- 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

SOUTH WELL

- a) Drill Hole Diameter 20" Depth 32' 8"
- b) Casing Type STEEL Diameter 12" Thickness 5016/FT
- c) Screen Type STAINLESS STEEL Diameter 12" Thickness NA.
- d) Gravel Pack QUARTZ PEA-ROCK Length of Gravel Pack 25'
- e) Depth to Top of Water Bearing Material 2 FOOT
- f) Depth to Water (ground surface to water level) 7 FEET
- g) Distance to nearest existing domestic well:
- On applicants property NA On property owned by others > 1 MILE

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 _____

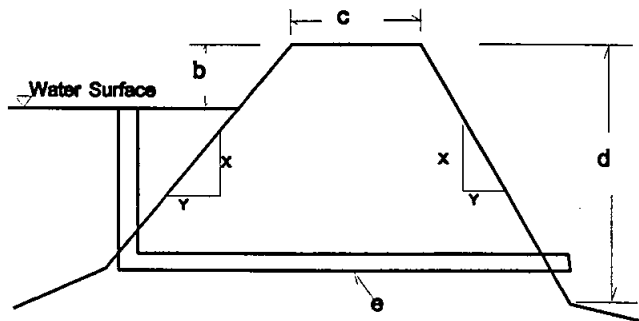
3. Dugout Information

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

4. Water Storage Dams

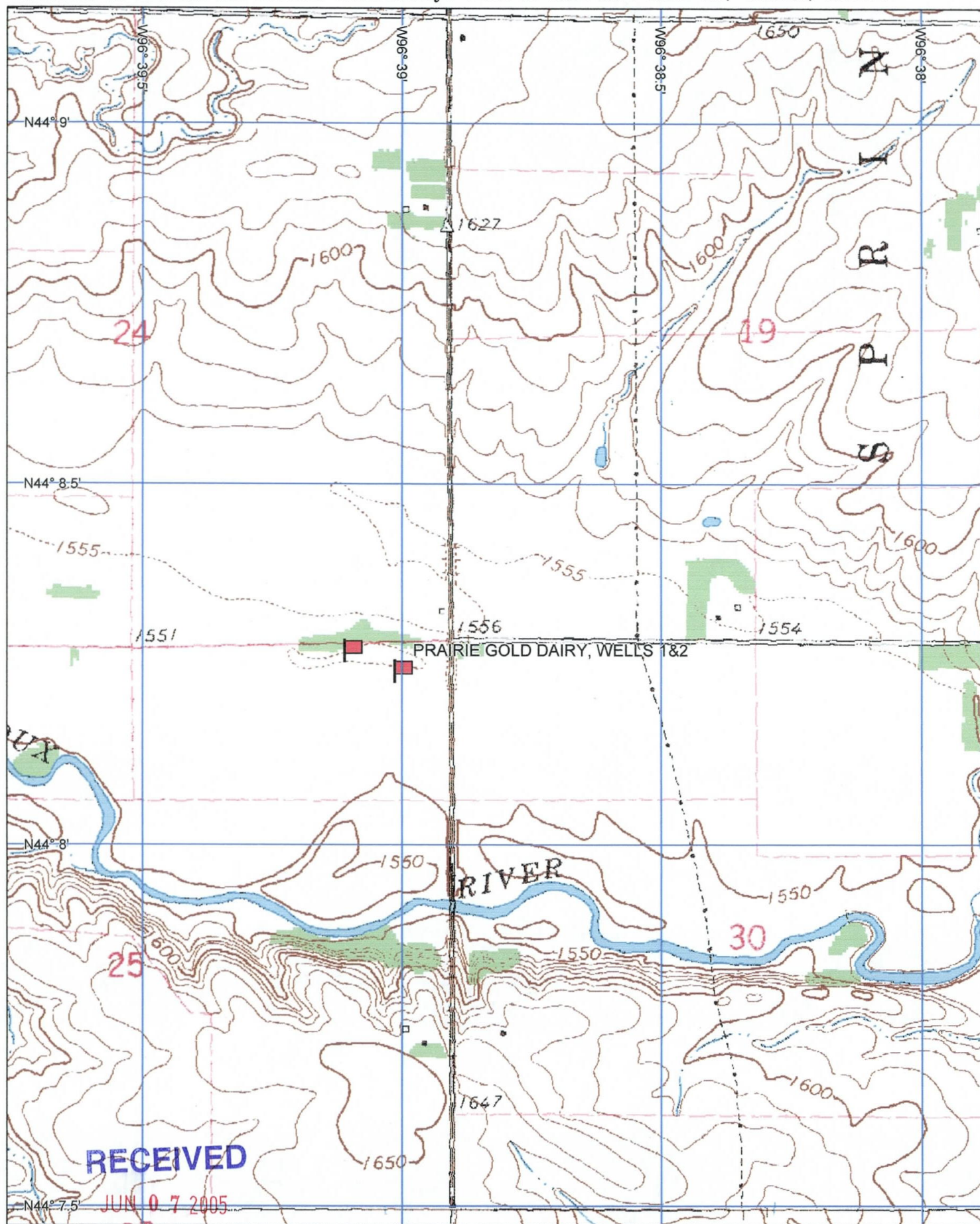
If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- 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

Location of 2 wells for Prairie Gold Dairy: both in N/E N/E Sec. 25, T108N, R49W.



MOODY Co. FSA

DeKoply FSA

66632-3

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 9, 20 05

RECEIVED OF Big Sioux Community Water, Inc., Box 158, Egan SD 57024-0158

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

Fee for Application for Permit No. <u>6632-3</u> to Appropriate Water, to construct and to put water to beneficial use	8	33
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
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	8.33

No.

By

Marland Erbeley
Chief Engineer

001800

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 9, 20 05

RECEIVED OF Prairie Gold Dairy, LLC, 12718 Road 144, Tipton CA 93272

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

Fee for Application for Permit No. <u>66632-3</u> to Appropriate Water, to construct and to put water to beneficial use	441	67
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>66632-3</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	491.67

No.

001381

By

Harland Erbely

Chief Engineer

1155

North well

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 25 Twp 108 Rg 49

County

North

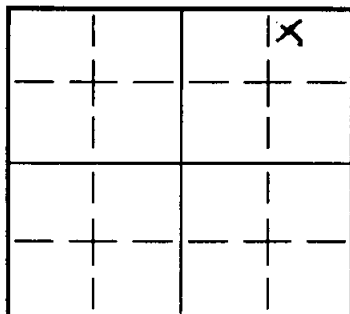
Moody

Please mark well location with an "X"

W

E

Well Completion Date

8-12-104

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 1000 ft. from River (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

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

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>50 LB/FT</u>	<u>12" IN</u>	<u>16</u> FT	<u>23</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>	<u>22 Bags</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 7' FEETMaterial Stainless SteelSlot Size 060 Set From 23 Feet to 30' 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: _____☐ NO, Why Not? _____

Laboratory sent to for water quality analysis

Brookings - Big SpringWell Owner: PRAIRIE GOLF DORY

Business Name: _____

Address: 48118 221st St.
Elkton, S.Dak. 57026

WELL LOG:

DEPTH

FORMATION	DEPTH	
	FROM	TO
<u>Black Topsoil</u>	<u>0</u>	<u>1 1/2</u>
<u>Sand + Gravel</u>	<u>1 1/2</u>	<u>20</u>
<u>Uniform Medium Sand</u>	<u>20</u>	<u>30</u>

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

9'2" ft. After 3 Hrs. pumped 200 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 111

And this report is true and accurate.

Drilling firm LACEY WELL DRILLING, Inc.

Signature of License Representative:

Jean Redd Lacey

Signature of Well Owner or Equitable Property Holder:

Date: _____

South

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location NE 1/4 NE 1/4 Sec 25 Twp 108 N Rg 49 W

County

North

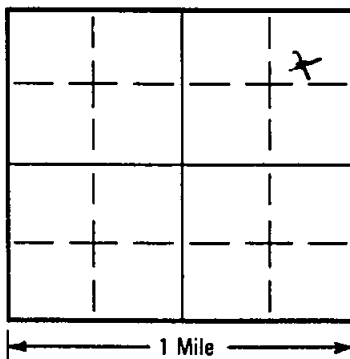
Moody

Please mark well location with an "X"

W

E

Well Completion Date

12-1-04Well Owner: PRairie Gold Dairy

Business Name:

Address: 48118 221st St.
Elkton, So Dak. 57026

WELL LOG:

DEPTH

FORMATION	DEPTH	
	FROM	TO
<u>Black Topsoil</u>	<u>0</u>	<u>2</u>
<u>Gravel Uniform</u>	<u>2</u>	<u>29</u>
<u>Coarse Gravel</u>	<u>29</u>	<u>32'8"</u>

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 300 ft. from River (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>16</u> FT	<u>25'8"</u> FT	<u>20</u> IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Concrete</u>	<u>22 Bags m.w.</u>	lb./gal	<u>0</u> ft	<u>7</u> ft

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☒ ManufacturedDiameter 12 IN Length 7 FEETMaterial Stainless SteelSlot Size 060 Set From 25'8" Feet to 32'8" 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: _____☐ NO, Why Not? _____

Laboratory sent to for water quality analysis

Brickings & B. & S. Inc.STATIC WATER LEVEL 7' 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

20' ft. After 12 Hrs. pumped 600 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 111

And this report is true and accurate.

Drilling firm Lacey Well Drilling Inc.

Signature of License Representative:

Jean Beckler Lacey

Signature of Well Owner or Equitable Property Holder:

Date: _____

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 6632-3,)
PRAIRIE GOLD DAIRY, LLC)

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate 1.78 cfs (800 gpm) of water from two wells completed to a depth of thirty and thirty-two feet in Moody County. The proposed use is for commercial purposes in a dairy operation.

2. The proposed source of water is the Big Sioux Moody Management Unit. The aquifer is a surficial outwash of sand and gravel that is under water table conditions. The aquifer underlies fifty-eight square miles and contains an estimated 163,000 acre feet of water in storage in Moody County.

3. The rate of recharge is estimated by the State's expert to be 6.5 inches per year or 20,000 acre feet per year in Moody County. The estimate is not contested. The State expert's estimate is based on study conducted by the United States Geological Survey and reported in 1988 as 'Appraisal of the Water Resources of the Big Sioux Moody Aquifer, Moody County, South Dakota.'

4. The Applicant has drilled and tested two wells. Both have been completed in accordance with South Dakota Well Construction Standards. The well known as the south well is thirty feet deep. A pumping test demonstrated that it could produce 200 gallons per minute with a drawdown of 1.17 feet. The south well is 32.67 feet deep. A test demonstrated it was capable of producing 600 gallons per minute with thirteen feet of drawdown.

5. An observation well roughly one quarter mile to the east of the Applicant's wells has recorded water levels from 1982. Water levels for this observation well show good response to climatic conditions. During wet years, the well level rises and the aquifer is recharged; during dry years, water levels gradually decline. The hydrograph indicates little or no effect from pumping on the aquifer, which itself indicates that the aquifer is easily capable of sustaining additional withdrawals.

6. The nearest well owner is Dakota Layers Coop which has a well located one-half mile to the east of the Applicant's wells. It claims a diversion rate of .39 cfs.

7. An opponent opposes the grant of the permit based upon a concern that the Big Sioux River may be going dry. The opponent of Prairie Gold testified that the Big Sioux River was

in fact dry in 1976 and that in the last month he could take a three-wheeler across the Big Sioux.

8. The Board finds that there is insufficient evidence in the record to find that the aquifer at issue is recharging the Big Sioux River; there is, moreover, no evidence in the record with regard to any rate of recharge or with regard to how this permit would affect the hypothetical rate of recharge. The Board finds that there is insufficient evidence in the record to deny the permit based upon a generalized concern about the Big Sioux River.

9. The opponent of the permit, on questioning the Applicant, demonstrated that the Applicant was pumping water for the use of the dairy operation at the time of the hearing, even though no permit has yet been granted. The opponent to the permit did not argue to the Board that this pumping should disqualify the Board from granting the permit in this case.

10. Plans and specifications for this facility have been approved by the Department.

11. After this Board completed testimony and closed its hearing regarding this permit application, Senator Frank Kloucek approached the Board and attempted to offer additional comments concerning the water permit at issue. The additional evidence concerned a Notice of Violation that had been issued by the

South Dakota Department of Environment and Natural Resources. The Board cut off the discussion because all the parties were not present and had no notice that such additional comments would be presented to the Board. At that time, this Board issued a procedural ruling that such additional testimony would not be proper and should not be considered by the Board. This Finding confirms that the Board did not consider the late testimony offered by Senator Kloucek, who was not a party to this proceeding.

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. This Conclusion is based on the amount of water in the aquifer, the rate of recharge, the analysis of the nearby observation well, and the testimony of the State's expert. The non-expert speculations of the opponent do not change the conclusion of the Board.
3. The proposed diversion can be developed without unlawful impairment of existing rights if conditioned as set forth in the Final Decision.
4. The proposed use for commercial use in a dairy operation is a beneficial use.

5. The proposed use is in the public interest when qualified as set forth below.

6. The Board concludes that, while the use of water by an applicant prior to the approval of a permit could be so flagrant or harmful that the Board would be justified in denying a permit on that grounds under the public interest criterion, no such evidence appears in this case.

7. The Board concludes that testimony offered by Senator Kloucek after closure of hearing on the permit should not and cannot be considered as part of this matter because they were offered by a nonparty and in the absence of parties to the case.

FINAL DECISION

The application for Water Permit No. 66323 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 6632-3 is subject to compliance with requirements of the Department' Water Pollution Control Permit

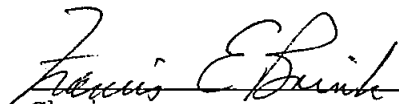
issued Pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.

3. Permit No. 6632-3 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 27th day of December, 2005.

BY THE BOARD:


Chairman



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 5, 2005

Praire Gold Dairy
48118 221st St
Elkton SD 57026

Dear Sir:

Well driller's reports filed by Lacey Well Drilling, Inc. show they completed two new wells for Praire Gold Dairy located in NE ¼ NE ¼ Section 25-T108N-R49W on December 1, 2004. The reports indicate the wells produced 600 and 200 gallons per minute. I am writing to ensure that you are aware of the water right permit requirements in South Dakota.

State law requires that a water right permit be obtained if the amount of water for all uses from the well at the site exceed 25,920 gallons per day or if the maximum pump rate is greater than 25 gallons per minute. I want to emphasize that these criteria are not based on gallons per day or pump rate averaged over a week, month or year. The standards in determining whether a permit is required is the amount of water used on a peak day and the peak pump rate.

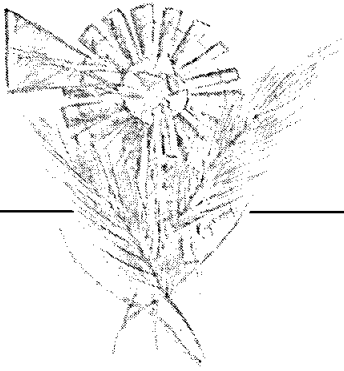
It appears that this water use may exceed the criteria set forth above. Enclosed are water right permit application forms. If you have questions about the water right permitting requirements, the permitting process or do not believe a permit is needed for the intended use, please contact Eric Gronlund or me.

Sincerely,

Karen Schlaak

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

enclosures



Big Sioux

Community Water System, Inc.

BOX 158 • EGAN, SOUTH DAKOTA 57024 • (605) 997-2098

Mr. Eric Gronland
Water Rights Program
Joe Foss Bldg.
523 E. Capitol
Pierre, SD 57501-3628

RECEIVED

JUN 10 2005

AIR QUALITY
PROGRAM

June 7th, 2005

Dear Mr. Gronland,

Enclosed please find a water-rights application for Prairie Gold Dairy. As they do not have an office yet attached to the Dairy, I will take care of the application requirements on their behalf. Therefore please send back the public notice requirements to the address above. They requested a water-right for 800 gpm. but by my calculations they underpaid. I have enclosed the difference in another check.

Any questions, please contact me at the number listed above,

Sincerely,

Martin Jarrett
Manager
Big Sioux Community Water System, Inc.

REPORT ON WATER PERMIT NO. 6632-3
For Prairie Gold Dairy, LLC.
July 13, 2005

Application No. 6632-3 proposes to appropriate 1.78 cfs (800 gpm) from two wells completed to a depth of 30 and 32 feet and located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 25, T108N R49W in Moody County. The water is for commercial use in a dairy operation.

AQUIFER – BIG SIOUX MOODY (BS-M)

The Big Sioux Moody is a surficial outwash (sand and gravel) that is under water table conditions in this area. The aquifer underlies 58 square miles and contains an estimated 163,000 acre-feet of water in storage in Moody County (Hansen, 1986). Ground water movement is from probably from north to south and locally toward the Big Sioux River in the area of this application (Hansen, 1986). The aquifer is hydraulically connected to the Big Sioux River and the rate of recharge has been estimated at 6.5 inches per year using a specific yield of 20 % (Hansen, 1988). The aquifer is relatively thin (averages about 22 feet in thickness) and almost exclusively limited to the area underlying the floodplain of the Big Sioux River.

Two wells have been drilled for this facility. Both have been completed in accordance with SD Well Construction Standards. The north well is 30 feet deep, with sand and gravel from 1.5 feet to 30 feet. The well had a static water level of eight feet below land surface and was capable of producing 200 gpm with 1.17 feet of drawdown. The south well is 32.67 feet deep with a static water level of seven feet below land surface. This well was capable of 600 gpm with 13 feet of drawdown. The specific capacity of the north well is about 170 gpm/ft of drawdown and for the south well is 46 gpm/ft of drawdown. Nearby wells for Dakota Layers Cooperative (just to the east about one-half mile) reported specific capacities of about 37 gpm/ft of drawdown and 22 gpm/ft of drawdown for their two wells.

The Water Rights Program monitors an observation well MY-82A located within one-quarter mile to the east of the wells for this application. Water levels for this well 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 pumping has very little effect on the aquifer (what would be expected) and that recharge is sufficient to maintain additional diversions. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2005).

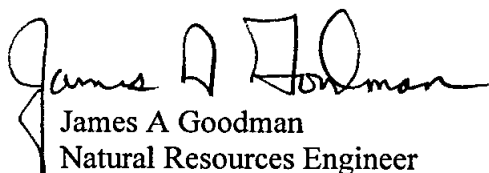
REVIEW OF EXISTING WATER PERMITS/RIGHTS

The nearest permitted user is Dakota Layers Coop. (two wells about one-half mile to the east with a diversion rate of 0.39 cfs). Interference is not expected to be a concern. Drawdown created by pumping does not extend very far from individual production wells. The aquifer is very productive in this area as shown by the relatively high specific

capacities of the production wells. The major concern would be an extended drought which could lower the overall static water level in the aquifer and thus potentially diminishing well yields.

CONCLUSIONS

1. Water is available from the Big Sioux Moody aquifer.
2. The aquifer is under water table conditions in this area. The wells are very productive in this area. Tests along with long term water level records indicate drawdown should not be a concern. Interference should not be a problem.
3. These wells have been constructed in accordance with SD Well Construction Standards.
4. Plans and specifications for this facility have been approved by the Department. The well field is located about four miles southwest of the facility which is located in SE ¼ of section 3, T108N R48W also in Moody County.

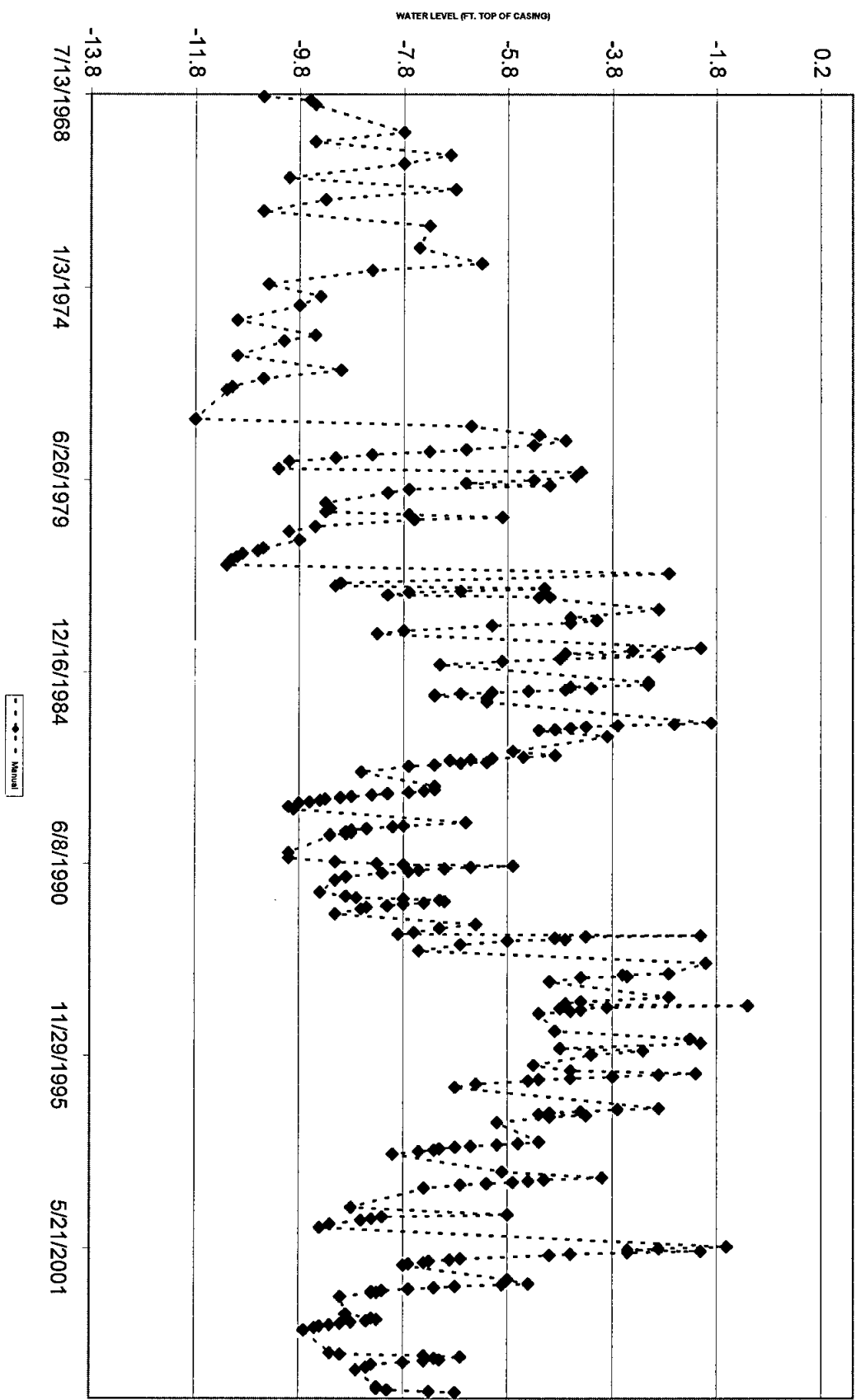


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Hansen, D.S., 1988, Appraisal of the Water Resources of the Big Sioux Moody Aquifer, Moody County, South Dakota, Water Resources Investigations Report 87-4057, USGS, Huron, SD, 57350.
- Hansen, D.S., 1986, Water Resources of the Lake and Moody Counties, South Dakota, Water-Resources Investigations 84-4209, USGS, Huron, SD, 57350.
- Water Rights, 2005, Unpublished Observation Well Records for the Big Sioux Aquifer, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL
MY-82A





**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. 6632-3, Prairie Gold Dairy LLC**

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. 6632-3, Prairie Gold Dairy LLC, c/o Rex Nederand, 48188 221st Street, Elkton SD 57026.

The Chief Engineer is recommending APPROVAL of Application No. 6632-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Permit No. 6632-3 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. 6632-3 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

See report on application for additional information.

Garland Erbele, Chief Engineer
July 29, 2005

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Moody)

I, Angela Nibbelink

certify that the attached printed Notice was taken

from the Moody County
Enterprise

printed and published in Flandreau

County of Moody and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

August 10, 2005

August 17, 2005

Cost of Printing ^{\$}40.77

Angela Nibbelink
(Signature)

Bookkeeper
(Title)

Aug. 17, 2005
(Date Signed)

**NOTICE OF APPLICATION NO. 6632-3
to Appropriate Water**

Notice is given that Prairie Gold Dairy LLC, 48188 221st St, Elkton SD 57026 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells completed into the Big Sioux: Moody Aquifer (30 and 32 feet deep) located in the NE 1/4 NE 1/4 Section 25-T108N-R49W. The water is for commercial use in a dairy operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6632-3 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 August 29, 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. Pimer, Secretary,
Department of Environment
and Natural Resources.

(Aug. 10 & 17, 2005)

RECEIVED
AUG 19 2005
WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

August 1, 2005

Prairie Gold Dairy LLC
% Rex Nederand
48188 221st St
Elkton SD 57026

Martin Jarrett Manager
Big Sioux Community Water System
Box 158
Egan SD 57024

Dear Mr. Nederand and Mr. Jarrett:

Water Permit Application No. 6632-3 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 Mood Co. Enterprise printed at Flandreau SD (Ph # 605-997-3725). 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

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.

Instruction to Newspaper - Publish first Notice on August 10, 2005 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 6632-3 to Appropriate Water

Notice is given that Prairie Gold Dairy LLC, 48188 221st St, Elkton SD 57026 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from two wells completed into the Big Sioux:Moody Aquifer (30 and 32 feet deep) located in the NE ¼ NE ¼ Section 25-T108N-R49W. The water is for commercial use in a dairy operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6632-3 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 August 29, 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

August 1, 2005

Moody Co Enterprise
PO Box 71
Flandreau SD 57028-0071

ATTENTION: Legal Public Notice

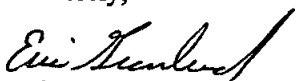
Enclosed is a Notice on Application No. 6632-2 to Appropriate Water to be published twice. Please publish the first notice on August 10, 2005 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Prairie Gold Dairy LLC, 48188 221st St., Elkton SD (Ph # 559-757-1001).

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. 6632-3

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

Date _____

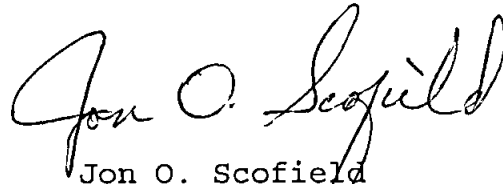
We are in receipt of your letter of August 1, 2005 enclosing Notice to Appropriate Water by Application No. 6632-3 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

PETITION

I am concerned about the selling of appropriated water for ag use other than for irrigation. My father and I live one (1) mile from the wells. My father has an irrigation permit and used it prior to placing his land in CRP. In 1976 we were shut off because of the drought. At that time the State indicated that the first ones off were irrigators, livestock operators, and finally human consumption. I question if this large dairy takes precedence over all existing irrigators and livestock producers. At the present time the Big Sioux River is shallow and barely running one-half mile south of these wells. I can't see where the pumping of this water is beneficial to anyone but the existing land owners. If the river dries up anyone with livestock will be short of water as will the existing irrigators.



Jon O. Scofield
22355 477th Avenue
Flandreau, SD 57028

RECEIVED
AUG 24 2005
WATER RIGHTS
PROGRAM



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 24, 2005

NOTICE

TO: Rex Nederand
Prairie Gold Dairy LLC
48118 221st Street
Elkton SD 57026

Jon O. Scofield
22355 477th Avenue
Flandreau SD 57028

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

SUBJECT: Notice of Hearing on Water Permit Application No. 6632-3, Prairie Gold Dairy LLC

Mr. Scofield has submitted a petition in opposition to Water Permit Application No. 6632-3 filed by Prairie Gold Dairy LLC. The petition was filed in response to the Notice of Application to appropriate water published in the Moody County Enterprise. A copy of the petition is enclosed. This notice schedules a hearing before the Water Management Board to consider this application.

Application No. 6632-3 proposes to appropriate 1.78 cubic feet of water per second from two wells completed into the Big Sioux:Moody Aquifer (30 and 32 feet deep) located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25-T108N-R49W. The water is for commercial use in a dairy operation.

The Water Management Board will conduct a hearing to consider Application No. 6632-3 at 10:00 AM on Tuesday, October 4, 2005 in the Conference Room at the Pierre Chamber of Commerce Building, 800 West Dakota Avenue, Pierre SD. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 6632-3 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 October 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 September 26, 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 September 26, 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, 46-5-31, 46-6-3, 46-6-3.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352.

Enclosure

c: Diane Best, Assistant Attorney General
Martin Jarrett, Manager, Big Sioux Community Water System, Box 158, Egan SD 57024

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 September 26, 2005.

CERTIFICATION

I hereby certify that on August 24, 2005 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 24, 2005 regarding Notice of Hearing on Water Permit Application No. 6632-3 addressed as stated below:

Rex Nederand
Prairie Gold Dairy LLC
48118 221st Street
Elkton SD 57026

Jon O Scofield
22355 477th Avenue
Flandreau SD 57028

Martin Jarrett Manager
Big Sioux Community Water System
Box 158
Eagan SD 57024

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

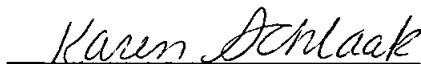
Diane Best, Assistant Attorney General, Capitol Building



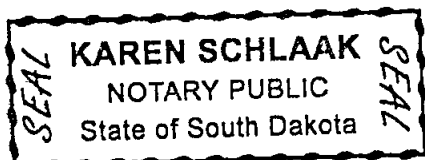
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

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



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 6, 2005

NOTICE

TO: Rex Nederand
Prairie Gold Dairy LLC
48118 221st Street
Elkton SD 57026

Jon O. Scofield
22355 477th Avenue
Flandreau SD 57028

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. 6632-3 filed by Prairie Gold Dairy, LLC. The Board will consider adoption of Findings, Conclusions and Final Decision at 8:45 AM, on December 7, 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 November 17, 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 November 28, 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 December 7, 2005. The public hearing was completed on October 4, 2005. No additional testimony will be received on December 7, 2005.

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

Enclosure

c: Diane Best, Assistant Attorney General
Martin Jarrett, Manager, Big Sioux Community Water System, Box 158, Egan SD 57024

WATER MANAGEMENT BOARD MEMBERS

Francis E. Brink, Chairman
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, Secretary
219 42nd Street
Rapid City, SD 57702-0240

Dwayne Rollag
320 Lincoln Lane S
Brookings SD 57006-2741

James Hutmacher, Vice Chairman
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

CERTIFICATION

I hereby certify that on October 6, 2005 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 6, 2005 regarding Notice of Preparation of Findings of Fact, Conclusions of Law and Final Decision addressed as stated below:

Rex Nederand
Prairie Gold Dairy LLC
48118 221st Street
Elkton SD 57026

Jon O Scofield
22355 477th Avenue
Flandreau SD 57028

Martin Jarrett Manager
Big Sioux Community Water System
Box 158
Eagan SD 57024

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

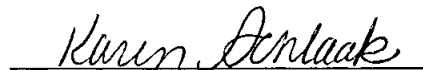
Diane Best, Assistant Attorney General, Capitol Building



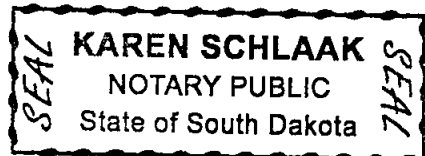
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of October, 2005.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX (605) 773-4106
www.state.sd.us/atg

LARRY LONG
ATTORNEY GENERAL

MARK BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

October 27, 2005

Rex Nederand
Prairie Gold Dairy LLC
48118 221st St.
Elkton, SD 57026

Jon O. Scofield
22355 477th Avenue
Flandreau, SD 57028

RE: Prairie Gold Dairy Water Permit Application

Gentlemen:

I represent the South Dakota Department of Environment and Natural Resources, Water Rights Program. In that capacity, I appeared at the Water Management Board hearing regarding Prairie Gold Dairy, LLC. This hearing, held on October 4, 2005, concerned the question of whether the South Dakota Water Management Board should grant a water permit to Prairie Gold Dairy, LLC to appropriate water for its operation in Moody County. The Water Management Board heard testimony from the parties and made an oral decision to grant the permit. The next step in this process is Board consideration of written Findings of Fact and Conclusions of Law. The Water Board has set December 7, 2005, for consideration of those Findings of Fact and Conclusions of Law. You likely have already received notice of that procedure.

In addition to the foregoing, there is another matter. After consideration of the above-referenced water permit matter, the Water Board took up additional business and completed its agenda items. As the Board closed for the day, a member of the audience approached the Board and attempted to intervene and offer additional comments concerning the Prairie Gold Water Rights issue. The additional evidence concerned a notice of violation that had been issued by the South Dakota Department of Environment and Natural Resources. The total comments were very short since the Board cut off the discussion because all the parties were not present and had no notice that such additional comments would be presented to the Board. I am enclosing a copy of the transcript.

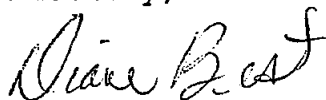
Rex Nederand
Jon Scofield
October 27, 2005
Page 2

As stated, the Board held that such additional testimony would not be proper at the time. Nonetheless, a few minutes of comment did occur before the Board shut down the testimony. In fairness to all parties, I am, therefore, advising you of this circumstance.

As stated above, Findings of Fact and Conclusions of Law are already scheduled for December 7. I will also ask that the Board take additional time on December 7 to determine whether the case should be reopened to allow for additional comment from either of you concerning the NOV and to hear any additional motions on the question. This letter is to advise you in advance so you have an opportunity to file motions if you believe it is warranted. I expect failure to file a motion would be considered a waiver of any legal issues arising from this situation.

Because I am an attorney and I was present to observe this conduct, I feel the obligation to advise you of this circumstance. Further, this letter is to advise you that I have consulted with the Water Rights Program and am authorized to state that its recommendation to grant the permit does not change as a result of the recently issued NOV. Although the NOV is a matter that the DENR considers to be important, it is being handled through a separate process.

Sincerely,



Diane Best
Assistant Attorney General

DB:dp

Enclosure

cc: Senator Frank Kloucek
29966 423rd Ave.
Scotland, SD 57059

Martin Jarrett, Manager
Big Sioux Community Water System
Box 158
Egan, SD 57024

STATE OF SOUTH DAKOTA

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER MANAGEMENT BOARD

COMMENTS BY SENATOR
FRANK KLOUCEK

PARTIAL TRANSCRIPT OF PROCEEDINGS

PROCEEDINGS: Tuesday, October 4, 2005;
11:30 a.m.; 800 West Dakota Ave.,
Pierre, South Dakota

APPEARANCES:

On Behalf of the Department
of Environment and Natural
Resources:

MS. DIANE BEST
Assistant Attorney General
500 East Capitol
Pierre, SD 57501

COPY

TUESDAY, OCTOBER 4, 2005

SENATOR KLOUCEK: I would like to offer some general testimony on an observation I made. Is that possible? Just two minutes is all it will take. I don't know if I need to be sworn in or sworn at but probably should. Or don't you need that?

CHAIRMAN BRINK: What are you going to address?

SENATOR KLOUCEK: I wanted to talk about the dairies on the I-29 corridor and that Prairie Gold Dairy. Specifically there was something brought to my attention the board didn't know about. I would like to be listed as an opponent after finding out this information.

CHAIRMAN BRINK: We approved that one.

SENATOR KLOUCEK: The information I have is they went six months early on their -- they pumped the water, the cattle drank the water before they got the permit and they are going to receive a penalty, but is this the normal operation for the board, where they approve something where they are willingly breaking, they are not getting -- they are giving their animals before they do it? It seems to happen, it's happened several times in my area, too, they build them, they put the things out there and then they come to you for the permits after they are drinking the water already.

CHAIRMAN BRINK: I think in fairness, part of that process, they have to prove a well's performance before they

1 actually --

2 SENATOR KLOUCEK: They are meeting the criteria for
3 the output.

4 CHAIRMAN BRINK: Is that right, Jim? Somewhere along
5 the line they have to validate what they are making --

6 SENATOR KLOUCEK: I'm very concerned about the I-29
7 corridor and the water and the quality of the water on that
8 issue. That's it.

9 CHAIRMAN BRINK: I think we are in a general question
10 and answer period here. I don't want to point this one
11 directly at any particular individuals, but what is the
12 process, Jim, of approving a well in general?

13 MR. GOODMAN: Well, they make an application and we go
14 through the process, the paperwork, and they are supposed to do
15 some test hole drilling and do some testing, but they make that
16 application, we write the report, we advertise it and we get to
17 a public hearing. In this particular case, you would like to
18 have all this done up front, but it's not unusual to have
19 somebody get started with either developing the well or before
20 the application or something. But technically until you issue
21 that permit, they couldn't use water in these facilities. Now,
22 it's my understanding that they had. The rural water system
23 people were here and the applicant was here, they did not test
24 it. My understanding was they have cattle at the facility.
25 The number I was given was 3,000 head that they had brought in

1 brought in early. Now, it's also my -- although Kent
2 Woodmansey isn't here and I don't want to speak for him, he was
3 here to address if that came up. The department has issued an
4 NOV against this facility already and they have --

5 MR. GUHIN: There has been a hearing on this thing,
6 the hearing got closed, they are going to have findings of fact
7 and conclusions of law. If somebody wants to reopen the matter
8 or move to reopen the matter and bring this before the board,
9 they can, but this is getting pretty far beyond what the board
10 should consider without a motion and allowing the other side to
11 be here and say no, that's not true or this is true.

12 CHAIRMAN BRINK: I have to agree, that we are into
13 kind of a judicial area.

14 SENATOR KLOUCEK: I agree with you, but I would want
15 the same discretion of a six-month waiting period for a 50-head
16 feedlot or a small family farm not be penalized or slightly
17 penalized or whatever, be allowed to feed their animals that
18 water for six months prior to getting a permit, too, that same
19 leeway and discretion.

20 CHAIRMAN BRINK: They probably have. Does the
21 division have anything else? If not, we are adjourned.

22 (Whereupon, the proceedings were concluded at 11:35
23 a.m.)

24

25

C E R T I F I C A T E

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF HUGHES)

I, Carla A. Bachand, RMR, Freelance Court Reporter
for the State of South Dakota, residing in Pierre, South
Dakota, do hereby certify:

That I was duly authorized to and did report the
testimony and evidence in the above-entitled cause;

I further certify that the foregoing pages of this
transcript represents a true and accurate transcription of my
stenotype notes.

IN WITNESS WHEREOF, I have hereunto set my hand on
this the 18th day of October 2005.

Carla A. Bachand, RMR
Freelance Court Reporter
Notary Public, State of South Dakota
Residing in Pierre, South Dakota.

My commission expires: June 10, 2006.

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX (605) 773-4106
www.state.sd.us/atg

LARRY LONG
ATTORNEY GENERAL

MARK BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

MEMORANDUM

RECEIVED
NOV 17 2005
WATER RIGHTS
PROGRAM

TO: Members of the Water Management Board and Interested Parties

FROM: John P. Guhin 
Assistant Attorney General

SUBJECT: Proposed Findings of Fact, Conclusions of Law and Final Decision in Water Permit No. 6632-3, Prairie Gold Dairy, LLC

DATE: November 16, 2005

Pursuant to the direction of the Board, I am herewith enclosing proposed Findings of Fact, Conclusions of Law and a Final Decision in the above-entitled matter. Please see the Notice of the Chief Engineer dated October 6, 2005, for further information. Furthermore, a letter from Board attorney Diane Best dated October 27, 2005, may also be of interest.

JPG:dp

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	FINDINGS OF FACT,
APPLICATION NO. 6632-3,)	CONCLUSIONS OF LAW AND
PRAIRIE GOLD DAIRY, LLC)	FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate 1.78 cfs (800 gpm) of water from two wells completed to a depth of thirty and thirty-two feet in Moody County. The proposed use is for commercial purposes in a dairy operation.
2. The proposed source of water is the Big Sioux Moody Management Unit. The aquifer is a surficial outwash of sand and gravel that is under water table conditions. The aquifer underlies fifty-eight square miles and contains an estimated 163,000 acre feet of water in storage in Moody County.
3. The rate of recharge is estimated by the State's expert to be 6.5 inches per year or 20,000 acre feet per year in Moody County. The estimate is not contested.
4. The Applicant has drilled and tested two wells. Both have been completed in accordance with South Dakota Well Construction Standards. The well known as the south well is thirty feet deep. A pumping test demonstrated that it could produce 200 gallons per minute with a drawdown of 1.17 feet. The south well is 32.67 feet deep. A test demonstrated it was capable of producing 600 gallons per minute with thirteen feet of drawdown.
5. An observation well roughly one quarter mile to the east of the Applicant's wells has recorded water levels from 1982. Water levels for this observation well show good response to climatic

conditions. During wet years, the well level rises and the aquifer is recharged; during dry years, water levels gradually decline. The hydrograph indicates little or no effect from pumping on the aquifer, which itself indicates that the aquifer is easily capable of sustaining additional withdrawals.

6. The nearest well owner is Dakota Layers Coop which has a well located one-half mile to the east of the Applicant's wells. It claims a diversion rate of .39 cfs.

7. The representative Dakota Layers Coop opposes the grant of the permit based upon a concern that the Big Sioux River may be going dry. The representative of Prairie Gold testified that the Big Sioux River was in fact dry in 1976 and that in the last month he could take a three-wheeler across the Big Sioux.

8. The Board finds that there is insufficient evidence in the record to find that the aquifer at issue is recharging the Big Sioux River; there is, moreover, no evidence in the record with regard to any rate of recharge or with regard to how this permit would affect the hypothetical rate of recharge. The Board finds that there is insufficient evidence in the record to deny the permit based upon a generalized concern about the Big Sioux River.

9. The opponent of the permit, on questioning the Applicant, demonstrated that the Applicant was pumping water for the use of the dairy operation at the time of the hearing, even though no permit has yet been granted. The opponent to the permit did not argue to the Board that this pumping should disqualify the Board from granting the permit in this case.

10. Plans and specifications for this facility have been approved by the Department.

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. This Conclusion is based on the amount of water in the aquifer, the rate of recharge, the analysis of the nearby observation well, and the testimony of the State's expert. The non-expert speculations of the opponent do not change the conclusion of the Board.

3. The proposed diversion can be developed without unlawful impairment of existing rights if conditioned as set forth in the Final Decision.

4. The proposed use for commercial use in a dairy operation is a beneficial use.

5. The proposed use is in the public interest when qualified as set forth below.

6. The Board concludes that, while the use of water by an applicant prior to the approval of a permit could be so flagrant or harmful that the Board would be justified in denying a permit on that grounds under the public interest criterion, no such evidence appears in this case.

FINAL DECISION

The application for Water Permit No. 66323 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 wter rights..

2. Permit 6632-3 is subject to compliance with requirements of the Department' Water Pollution Control Permit issued Pursuant to SDCL 34A-2-36 or 34A-2-112 for concentrated animal feeding operations.

3. Permit No. 6632-3 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 _____ day of November, 2005.

BY THE BOARD:

Chairman

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Permit Application No. 6632-3 was served by United States mail, first class, postage prepaid, upon the following this 16th day of November, 2005.

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

Leo Holzbauer
29416 395th Ave.
Wagner, SD 57380-6959

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

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

James Hutmacher
802 E. Seventh St.
Oacoma, SD 57365

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

Everett Hoyt
4422 Carriage Hills Dr.
Rapid City, SD 57702-6874

Rex Nederand
Prairie Gold Dairy LLC
48118 221st Street
Elkton, SD 57026

Martin Jarrett, Manager
Big Sioux Community Water
System
Box 158
Egan, SD 57024

Jon O. Scofield
22355 477th Ave.
Flandreau, SD 57028

By Inter-Office to:

Garland Erbele, Chief Engineer
Dept. of Environment and
Natural Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

By Hand Delivery to:

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


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



OFFICE OF ATTORNEY GENERAL

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX (605) 773-4106
www.state.sd.us/atg

LARRY LONG
ATTORNEY GENERAL

MARK BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

MEMORANDUM

November 29, 2005

TO: Members of the Water Management Board and
Interested Parties

FROM: Diane Best, Assistant Attorney General *OB*

RE: DENR's Proposed Findings of Fact, Conclusions of Law
and Final Decision, In the Matter of Water Permit
Application No. 6632-3, Prairie Gold Dairy, LLC

I am enclosing the DENR response to proposed Findings of Fact, Conclusions of Law, and a Final Decision in the above-entitled matter. This is filed one day late due to the blizzard. I ask the Board's indulgence and request that these comments be considered anyway.

Also this memo is to request Board action on procedure involved in this matter. The Board has set December 7, 2005, for consideration of the Findings of Fact and Conclusions of Law. In addition, the DENR proposes that the Board take additional time on December 7 to hear any motions relating to an attempt to provide testimony to the Board of October 4, 2005, after the Board had already closed hearing in this matter.

Because the attempted testimony was offered after some of the participants in the hearing had already left the room, I sent a letter to the participants on October 27, 2005, advising them of the situation and providing a transcript accordingly.

By suggesting that the Board allow the parties an opportunity to bring motions arising from such late comments, the DENR is not

Members of Water Management Board and Interested Parties
November 29, 2005
Re: Water Permit No. 6632-3, Prairie Gold Dairy, LLC
Page 2

intending to suggest that any impropriety occurred or that the proceeding necessarily ought to be reopened. Please note that the DENR recommendation does not change. The Chief Engineer continues to recommend that the permit be granted. Ultimately, the DENR suggests that time be allowed for any additional motions, but the DENR does not intend to make any such motions.

DB/jmm

Enclosure

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	DENR'S RESPONSE TO PROPOSED
APPLICATION NO. 6632-3,)	FINDINGS OF FACT
PRAIRIE GOLD DAIRY, LLC)	CONCLUSIONS OF LAW AND
)	FINAL DECISION

COMES NOW, the South Dakota Department of Environment and Natural Resources, Water Rights Program (DENR) and makes its response to the proposed Findings of Fact, Conclusions of Law and Final Decision drafted by Board counsel.

1. Finding of Fact 3 refers to the rate of recharge. The DENR proposes that an additional sentence be added to this Finding of Fact which would read: "The State expert's estimate is based on study conducted by the United States Geological Survey and reported in 1988 as 'Appraisal of the Water Resources of the Big Sioux Moody Aquifer, Moody County, South Dakota.'"

2. Finding of Fact 7 refers to "Dakota Layers Coop." The testimony at hearing was provided by an individual citizen named Jon Scofield. He did not identify himself as a representative of Dakota Layers Co-op. Dakota Layers Co-op was not a party.

3. The DENR also proposes a change in Finding of Fact 9. The DENR would amend the initial sentence by stating "The opponent of the permit, ~~on questioning the Applicant,~~ ~~demonstrated that~~ testified the Applicant was pumping water for

the use of the dairy operation at the time of the hearing, even though no permit has yet been granted." The opponent directly testified as to pumping water, rather than eliciting such testimony from the Applicant during examination.

4. Senator Kloucek approached the Board following hearing. His comments were not allowed into evidence. The DENR requests a finding on the Board's evidentiary ruling in that regard. Although the DENR respects Senator Kloucek's position, it is clear as a matter of law that the comments cannot be considered under SDCL ch. 1-26. The DENR proposes that an additional Finding of Fact should be included which would read at follows:

After this Board completed testimony and closed its hearing regarding this permit application, Senator Frank Kloucek approached the Board and attempted to offer additional comments concerning the water permit at issue. The additional evidence concerned a Notice of Violation that had been issued by the South Dakota Department of Environment and Natural Resources. The Board cut off the discussion because all the parties were not present and had no notice that such additional comments would be presented to the Board. At that time, this Board issued a procedural ruling that such additional testimony would not be proper and should not be considered by the Board. This Finding confirms that the Board did not consider the late testimony offered by Senator Kloucek, who was not a party to this proceeding.

5. The DENR proposes an additional Conclusion of Law which would state as follows:

The Board concludes that testimony offered by Senator Kloucek after closure of hearing on the permit should not and cannot be considered as part of this matter because they were offered by a nonparty and in the absence of parties to the case.

6. The DENA also suggests a minor change to the Final Decision, paragraph 1. The word "water" is misspelled in the last sentence of paragraph 1.

A handwritten signature in cursive script, reading "Diane Best", is written over a horizontal line.

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Permit Application No. 6632-3 was served by United States mail, first class, postage prepaid, upon the following this 29th day of November, 2005.

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

Leo Holzbauer
29416 395th Ave.
Wagner, SD 57380-6959

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

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

James Hutmacher
802 E. Seventh St.
Oacoma, SD 57365-6502

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

Everett Hoyt
4422 Carriage Hills Dr.
Rapid City, SD 57702-6874

Rex Nederand
Prairie Gold Dairy LLC
48118 221st Street
Elkton, SD 57026

Martin Jarrett, Manager
Big Sioux Community Water
System
Box 158
Egan, SD 57024

Jon O. Scofield
22355 477th Ave.
Flandreau, SD 57028

By Inter-Office to:

Garland Erbele, Chief Engineer
Dept. of Environment and
Natural Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

By Hand Delivery to:

John P. Guhin
Assistant Attorney General
500 East Capitol
Pierre, SD 57501-5070



Diane Best
Assistant Attorney General

pld.db Response to Findings of Fact...(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

December 29, 2005

NOTICE

TO: Rex Nederand John. O Scofield
Prairie Gold Dairy LLC 22355 477th Avenue
48118 221st Street Flandreau SD 57028
Elkton SD 57026

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

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 December 7, 2005, by the Water Management Board approving Water Right Permit No. 6632-3 filed by Prairie Gold Dairy LLC. 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
Martin Jarrett, Big Sioux Community Water System, Box 158, Egan SD 57024

CERTIFICATION

I hereby certify that on December 29, 2005, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 29, 2005 regarding Adoption of Findings of Fact, Conclusions of Law and Final Decision addressed as stated below:

Rex Nederand
Prairie Gold Dairy LLC
48118 221st Street
Elkton SD 57026

John O Scofield
22355 477th Avenue
Flandreau SD 57028

Martin Jarrett
Big Sioux Community Water System
Box 158
Egan SD 57024

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

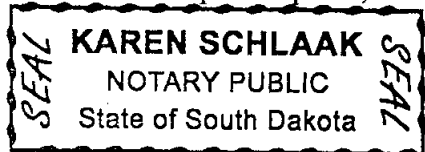
Diane Best, Assistant Attorney General, 1302 E Highway 14
John Guhin, Assistant Attorney General, 1302 E Highway 14


Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

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


Karen Schlaak
Notary Public
My Commission expires April 1, 2007





APR 07 2008

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Prairie Gold Dairy LLC
% Rex Nederand
48188 221st St
Elkton SD 57026

Dear Mr. Nederand:

Enclosed is Water Permit No. 6632-3 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

RECEIVED

OCT 22 2014

WATER RIGHTS
PROGRAM

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 6632-3Date: 7/2/14I/We request that Water Right/Permit No. 6632-3 formerly owned by:Prairie Gold Dairy, LLC

be transferred to:

New Owner Name: Golden Dakota Farms, LLCAddress: 48188 221st StCity, State, Zip Elkton SD 57026Telephone No. (605) 864-1422

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

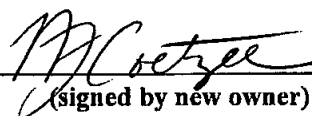
N 1/2 of the NE 1/4 Sec. 25, T108N, R49W

☒ I understand that the validity of Water Right/Permit No. 6632-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Golden Dakota Farms, LLC, the new owner, certify that the above information is true and correct.


(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 10/22, 20 14

RECEIVED OF Golden Dakota Farms LLC 48188 221st St Elkton SD 57026

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>6632-3</u>	50	00
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06969**

By

Jaime Hochman
Chief Engineer



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



October 23, 2014

6632-3

Nico Coetzee
Golden Dakota Farms LLC
48188 221st St
Elkton SD 57026

Dear Mr. Coetzee:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Permit No. 6632-3.

The ownership change has been completed. Water Permit No. 6632-3, formerly held by Prairie Gold Dairy LLC is now listed in the name of Golden Dakota Farms LLC.

Enclosed for your records is Receipt No. 06969 in the amount of \$50 which you paid for filing the ownership change. If I can answer any questions for you, please let me know.

Sincerely,

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

enclosure

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 6632-3

I have this day, 30 October 2014, made a thorough examination of the water use system constructed by Prairie Gold Dairy LLC. now owned by Golden Dakota Farms, LLC., 48188 221st St, Elkton, SD 57026 holder of Permit No. 6632-3, bearing the priority of 10 June, 2005 authorizing the diversion of 1.78 cu. ft. per second of the waters of the Big Sioux Moody aquifer for commercial use in a dairy operation, in Moody County.

Inspection contact & relationship **Randy Gross, general manager**
to permit holder, if applicable:

A. Works used to divert the water:

Well₁ (north well) Information:

- 1) Well Drilling Firm: Lacey Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 30 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 12 inches
- 2) Length 23 feet
- 3) Type steel

Screen:

- 1) Type stainless steel
- 2) Length 7 feet
- 3) Static water level 8 feet (12 Jan. 2004)

Pump:

- 1) Make Grundfos
- 2) Model 325S-150-5
- 3) Size 15 HP
- 4) Capacity 300 GPM

Well₂ (south well) Information:

- 1) Well Drilling Firm: Lacey Well Drilling
- 2) No. of Wells 1
- 3) Depth(s) 32 feet 8 inches
- 4) Well log is available Yes

Casing:

- 1) Diameter 12 inches
- 2) Length 25 feet 8 inches
- 3) Type steel

Screen:

- 1) Type stainless steel
- 2) Length 7 feet
- 3) Static water level 7 feet (1 Jan. 2004)

Pump:

- 1) Make Grundfos
- 2) Model 325S-150-5
- 3) Size 15 HP
- 4) Capacity 300 GPM

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

- 1) Type PVC
- 2) Size 6 inches
- 3) Length ≈7 miles

Comments: **Buried 6-inch PVC lines from each well tee together at the meter pit located at Lat/Lon: 44.13771/-96.64879 from the meter pit, water is transported to 2-20,000**

gallon and 1-10,000 gallon storage tanks at the dairy, located in Sec. 3, T108N-R48W (Lat /Lon: 44.18771/-96.57389)

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes

If no, describe: na

- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period na

List any extended period of nonuse: na

- 3) Exceptions to compliance are: na

E. Condition and Location:

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

Well No. 1: 300 feet south and 630 feet west of the NE corner of Sec. 25, T108N-R49W (Lat/Lon: 44.13726/-96.65097) (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec.25, T108N-R49W.

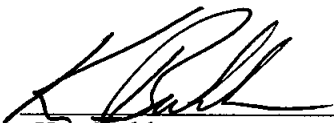
Well No. 2: 660 feet south and 540 feet west of the NE corner of Sec. 25, T108N-R49W (Lat/Lon: 44.13625/-96.65059) (SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec.25, T108N-R49W.

2. The works are capable of diverting and conveying to the place of use 1.34 cu. ft. per second of water water which is to be used for commercial use in a dairy operation.

The license should be issued for 1.33 cfs.
1.34

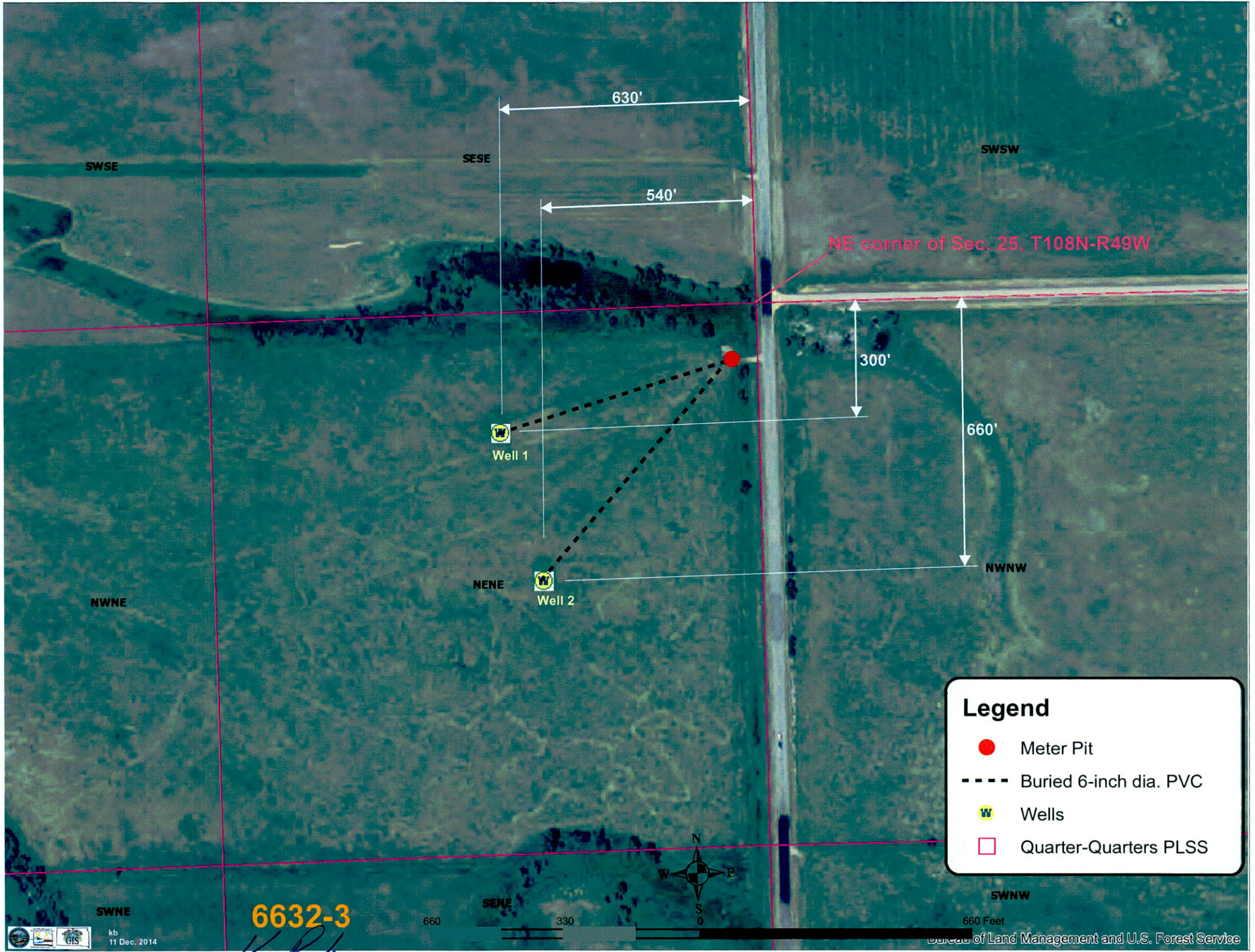
3. All structures, wells and lands on map Yes

If no, describe: na


Ken Buhler

DENR, Water Rights Program

Date report completed: 11 December 2014



Legend

- Meter Pit
- Buried 6-inch dia. PVC
- W Wells
- Quarter-Quarters PLSS



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

MAR 19 2015

6632-3

Nico Coetzee
Golden Dakota Farms LLC
48188 221st St
Elkton SD 57026

Dear Mr. Coetzee:

Enclosed is Water License No. 6632-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field 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. 6632-3, 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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 6632-3**

(1) Prairie Gold Dairy LLC made Application No. 6632-3, June 10, 2005 for a water permit to divert 1.78 cubic feet of water per second from ground water (two wells, Big Sioux Moody Aquifer), Moody County, South Dakota for commercial purposes in a dairy operation. Permit No. 6632-3, with a priority date of June 10, 2005 was approved December 7, 2005 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 7, 2010 and for the application to beneficial use of said water on or before December 7, 2014.

On October 22, 2014, Water Permit No. 6632-3 was transferred to Golden Dakota Farms LLC.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.34 cubic feet of water per second for beneficial use. The location of the diversion points are:

- Well No. 1 – 330 feet S and 630 feet W of the NE corner of Section 25, T108N, R49W (NE ¼ NE ¼);
- Well No. 2 – 660 feet S and 540 feet W of the NE corner of Section 25, T108N, R49W (NE ¼ NE ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Golden Dakota Farms, LLC, 48188 221st St, Elkton SD 57026 the holders and/or owners of Water Right No. 6632-3 are issued a license to appropriate water, the right to use 1.34 cubic feet of water per second from ground water (two wells, Big Sioux Moody Aquifer) with a priority date of June 10, 2005 from the locations specified in (2) of this license for commercial purposes in a dairy operation.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 6632-3 and subject to 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. 6632-3 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. 6632-3 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

MAR 19 2015

date

